

## XXX MUTUAL NON-DISCLOSURE AGREEMENT

**AGREEMENT**, made effective this day of \_\_\_\_ 200x is by and between  
- **XXX, Inc.**, an Arizona corporation, having its principal offices at xxx xxx, Arizona  
xxx (hereinafter referred to as “XXX”)  
**and**  
- \_\_\_\_\_, a \_\_\_\_\_ corporation, having  
its principal offices in \_\_\_\_\_, \_\_\_\_\_ (hereinafter referred to as  
“PARTY”).

The parties to this Agreement desire that certain confidential information be disclosed to each other in connection with the following product(s) and/or activity(ies):

- business records and plans, including strategic plans
- financial statements
- customer lists and records
- trade secrets
- technical information
- products
- inventions
- product design information
- pricing structure, discounts, costs
- computer programs and listings, source code and/or object code
- employees, including names, positions, and capabilities

as well as other intellectual property rights and any and all other proprietary information.

PARTY’s confidential and proprietary information includes but is not limited to customer pricing, customer account list, marketing plans, products, manufacturing processes, business methods, sales processes, sales information, and business plans.

1. All information disclosed in oral, written, graphic, photographic, recorded, or in any other form by one party to the other party shall be deemed to be “Proprietary Information”, provided that such information is clearly designated, labeled, or marked in a conspicuous place as confidential and dated as of the date of disclosure.

2. All information deemed to be confidential or proprietary shall be clearly marked as such (if in tangible form). In order for information disclosed orally to be considered confidential it shall be confirmed in writing and clearly marked as such by the disclosing party within thirty (30) days after such oral disclosures.

3. This Agreement shall continue in full force and effect from the date of last disclosure for a period of time equal to the life of the business relationship between XXX and PARTY plus three (3) years thereafter.

4. The parties will use their best efforts to restrict dissemination of Proprietary Information to only those persons with a need to know and who are directly involved in the business/consulting relationship between the parties. Such relationship may include, but is not limited to, the following activities: evaluation of products or information; market research; procurement; the pursuit of patents

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**Comment:** Sembra un periodo molto lungo considerando che non c'è neanche un Expiration Date. Potremmo proporre un (1) anno. Ma non mi pare un aspetto importante nel complesso

including patent searches; technology including products, software design, devised systems, subsystems, or processes; and business, operation, marketing or cost information.

5. Each party agrees to maintain all such Proprietary Information confidential and, as a minimum, treat this Proprietary Information in the same confidential manner it would treat its own Proprietary Information, and shall not disclose it to others or use it for any purpose except as required to accomplish the intent of this Agreement provided that the Receiving Party only for the above mentioned purpose may disclose such Information: to an Affiliate of such Receiving Party and such Affiliate's employees, directors, contractors and advisors .

5.1 Furthermore, Party may not disclose Proprietary Information to (1) its parent company or employees of its parent company or (2) a wholly-owned subsidiary of its parent company or employees of a wholly-owned subsidiary of its parent company.

5.2. For the purposes of this Agreement "Affiliate" shall mean any holding company or subsidiary company of a Receiving Party or any company which is a subsidiary company of the holding company of such Receiving Party and the expressions "holding company" and "subsidiary" shall have the meanings respectively ascribed thereto by art.2359 Italian Civil Code;

6. Each party may use the Proprietary Information received from the other party only to the extent required to accomplish the intent of this Agreement. No other rights, and particularly licenses, to trademarks or to inventions or to copyrights or to patents are implied or granted under this Agreement.

7. Proprietary Information supplied shall not be reproduced in any form except as required to accomplish the intent of this Agreement.

8. Unless otherwise specified in writing, all documents and materials containing any confidential Proprietary Information shall remain the property of the disclosing party. Upon request of the disclosing party, the receiving party agrees to return all documents, materials, software disks and CD's containing any Proprietary Information of the disclosing party, as well as all copies thereof.

9. During the term of this Agreement and notwithstanding the other provisions stated herein, the parties shall not be required to maintain such Proprietary Information confidential if the Proprietary Information:

- a) is now, or which hereafter, through no act or failure to act on the part of the receiving party, becomes generally known or available to the public without breach of this Agreement;
- b) is known to the receiving party at the time of disclosure of such Proprietary Information provided that the receiving party promptly notifies the disclosing party in writing of this prior knowledge within thirty (30) days of receipt;

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**Comment:** Potrebbe essere sufficiente, in chiave di trattativa anche, semplicemente, chiedere di eliminare da "Furthermore [...] fino a "company" senza aggiungere nulla

c) Reserved;

d) is hereafter furnished to the receiving party by a third party, as a matter of right and without restriction on disclosure provided that the receiving party promptly notifies the disclosing party in writing of this third party disclosure after receipt thereof;

e) is independently developed by the receiving party, provided that the person or persons developing same have not had access to, either directly or indirectly, the same Proprietary Information received;

f) is made public by the disclosing party, either by sale or by printed publications provided that the receiving party promptly notifies the disclosing party in writing of this prior knowledge within thirty (30) days of receipt;

g) is disclosed with the written approval of the other party;

h) is required to be disclosed pursuant to and applicable law, regulation, or legal order, is provided that the receiving party has notified the disclosing party immediately upon learning of the possibility that disclosure could be required pursuant to any such law, regulation, or legal order and has given the disclosing party a reasonable opportunity to conxxxxt or limit the scope of such required disclosure and has cooperated with the disclosing party toward this end.

11. This Agreement is deemed to be made under and shall be construed according to the laws of the State of Arizona.

11.1 Whenever possible, any differences or disputes between the Parties concerning or arising from this Agreement shall be settled by negotiations. An attempt to arrive at a settlement shall be deemed to have failed, for any reason, as soon as one of the Parties so notifies the other Party in writing.

12. Except as provided in art.11.1 above the parties stipulate that any dispute arising between the parties hereto shall be finally settled in a court of competent jurisdiction in Tucson, Pima County, Arizona.

13. Each party represents that it has the right to disclose the Proprietary Information disclosed under this Agreement to the other party for use in evaluating the proprietary Information.

14. This Agreement, and the rights and obligations hereunder, may not be transferred or assigned by one party without the prior written approval of the other party hereto.

15. The receiving party shall be liable only for gross negligence or willful misconduct. In this case the disclosing party may be entitled, in addition to and without limitation of all other remedies it may have, to seek injunctions or other appropriate orders to restrain any such breach.

15.1 Notwithstanding anything to the contrary in this Agreement, neither party, nor its representatives, shall be liable for any indirect, incidental,

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**Comment:**

Non capisco il senso. Possiamo chiedere una spiegazione?

consequential, exemplary or punitive damages howsoever arising under this Agreement.

16. This agreement contains the entire understanding between the parties relative to the protection of Proprietary Information and supersedes all prior and collateral understandings between the parties in respect thereto. No change, modification, alteration, or addition to any provision hereof shall be binding unless in writing and signed by authorized representatives of both parties. This Agreement shall be binding upon each party, its affiliates, respective employees, agents, representatives, successors, and assigns.

We, the undersigned as duly authorized representatives, agree to all terms and conditions stated above and, by our signatures place this Agreement into full effect as of the date first written above.

**AGREED:**

**AGREED:**

XXX xxx, Inc.

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—  
Signature

—  
Signature

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Typed or Printed Name

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Typed or Printed Name