

3. To maintain all of the Confidential Information in confidence and not to disclose any portion of the Confidential Information to any person or entity not authorized hereunder without the prior written consent of Company.
 4. That any dissemination of Confidential Information shall be only in connection with the Authorized Purpose, and shall be only to the employees, agents or affiliates of Contact who have a need to know said Confidential Information in order for Contact to carry out proper purposes and responsibilities related to Contact's discussions with Company and the Authorized Purpose and who have been advised of the confidential nature of such information. Further, that Contact shall cause such employees, agents and affiliates who have access to the Confidential Information to comply with the terms and provisions of this Agreement in the same manner as each party is bound hereby, with Contact remaining responsible for the actions and disclosures of such representatives.
 5. That, upon termination of the discussions between the parties or upon Company's request, all records, any compositions, articles, documents and other items which contain, disclose and/or embody any Confidential Information (including, without limitation, all copies, reproductions, summaries and notes of the contents thereof), regardless of the person causing the same to be in such form, shall be returned to Company or destroyed by Contact, and Contact will certify that the provisions of this paragraph have been complied with.
- C. The obligations pursuant to Section B above shall not apply to information which:
1. Is or becomes a part of the public domain through no act or omission of Contact;
 2. Can be shown to be already possessed by Contact as of the date of disclosure;
 3. Shall be made available to Contact on a nonconfidential basis by a third party having a right to do so;
 4. Is disclosed by order of a court of competent jurisdiction; or
 5. Company authorizes, in writing, for release.
- D. In the event that Contact or its representatives receives a request to disclose all or any part of the Confidential Information under the terms of a valid and effective subpoena or order issued by a court of competent jurisdiction or by a governmental body, the receiving party agrees to:
1. Immediately notify Company of the existence, terms and circumstances surrounding such a request, so that it may seek an appropriate protective order and/or waive Contact's compliance with the provisions of this Agreement; and
 2. If disclosure of such Confidential Information is required in the opinion of Contact's counsel, to the extent possible cooperate with Company in obtaining reliable assurances that confidential treatment will be accorded to the disclosed Confidential Information.
- E. The parties hereto acknowledge that the Confidential Information is the property of Company and the disclosure of the Confidential Information to Contact does not convey any right, title or license in the Confidential Information to Contact. Contact shall not appropriate the Confiden-
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tial Information to its own use or to the use of any third party and shall only use the Confidential Information for the exclusive benefit of Company except to the extent otherwise authorized in writing by Company.

- F. It is further understood and agreed that no failure or delay by Company in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder.
- G. The termination of the discussions or relationship between the parties shall not relieve Contact or its employees, agents or affiliates of the obligations of nonuse or nondisclosure hereunder or the obligation to return or destroy certain materials.
- H. The parties agree that money damages would not be sufficient remedy for any breach of this Agreement, and the nonbreaching party shall be entitled to enforce this Agreement by injunctive and other available relief, including without limitation specific performance.
- I. This Agreement shall be governed by and construed and interpreted in accordance with the substantive laws of the State of *[governing law]*. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision hereof shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement. All obligations of the receiving party and rights of the disclosing party expressed herein shall be in addition to, and not in limitation of, those provided by applicable law. This Agreement may be modified or waived only by a separate writing by Contact and Company expressly so modifying or waiving such. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument. References to Company and Contact shall be deemed to include each of their affiliates, if any. Any disputes arising out of this Agreement shall be venued in federal or state district court in the State of *[governing law]*, and each party hereby consents to the jurisdiction of such court. This Agreement shall be binding upon the parties hereto and their successors and assigns.

IN WITNESS WHEREOF, the parties acknowledge their agreement to the foregoing as of the date first set forth above by execution of the Agreement by their respective authorized representatives.

[NAME OF COMPANY]

CONTACT: _____
(Print name)

By (signature)

By (signature)

Name of Signatory

Name of Signatory

Title

Title

Date

Date