

NON-DISCLOSURE AGREEMENT

THIS NON-DISCLOSURE AGREEMENT (the “*Agreement*”) is made effective as of _____, 20__, by and between VON HUBER LLC (the “*Discloser*”), and _____ (the “*Recipient*”).

WHEREAS, the Recipient has or will be receiving certain confidential or Proprietary Information concerning the Discloser for the purpose of evaluating a possible prototyping work or other business relationship with the Discloser (hereinafter “*Purpose*”). Particularly, the above referenced confidential or Proprietary Information relates to _____

WHEREAS, Recipient acknowledges that such information may be proprietary or constitute commercially sensitive matters the use, disclosure or release of which could harm or disadvantage the Discloser.

NOW THEREFORE, in consideration of the furnishing to Recipient the Proprietary Information, Recipient agrees as follows:

1. Subject to the limitations set forth in Section 2, all information disclosed by the Discloser to the Recipient, whether in oral, written, graphic or electronic form shall be deemed to be “*Proprietary Information*.” In particular, Proprietary Information shall include, without limitation, trade secrets, know-how, inventions, ideas, tangible and intangible information, including, where applicable, formulations, compounds, products, processes, designs, formulas, methods, techniques, programs, software models, algorithms, developmental or experimental work, test data and results, compilations of data, other works of authorship, improvements, discoveries, information regarding plans for research and development, new products, marketing and selling, business plans, budgets and unpublished financial statements, licenses, prices and costs, suppliers, customers, licensees and strategic partners, the existence and terms of any business discussions, negotiations or agreements to which the Discloser is a party and information regarding the skills and compensation of other employees or consultants of the Discloser. For purposes of this Agreement, Proprietary Information shall include any derivative, modification, improvement upon or variation of any Proprietary Information.

2. The term “*Proprietary Information*” shall not include information which the Recipient can demonstrate by competent written proof: (a) was legally in the Recipient's possession before receipt from the Discloser; (b) is or becomes a matter of public knowledge through no fault of the Recipient; (c) is rightfully received by the Recipient from a third party without a duty of confidentiality; or (d) is independently developed by Recipient without reference to or any use whatsoever of any Proprietary Information.

3. The Recipient shall maintain all Proprietary Information in trust and confidence and shall not disclose any Proprietary Information to any third party or use any Proprietary Information for any unauthorized purpose. In particular, the Recipient shall not file or cause the filing of any patent application directed to any subject matter derived from any Proprietary Information (including subject matter that would be a modification or improvement upon the Proprietary Information) or otherwise use any Proprietary Information in order to develop any intellectual property. Recipient hereby assigns ALL of Recipient's rights in any patent application(s) (and patents maturing therefrom) that disclose Proprietary Information (“*Patent Applications*”). At the very least, Recipient hereby assigns ALL of Recipient's rights in any patent application(s) (and patents maturing therefrom) that disclose any

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confidential information of the Discloser, "confidential information" being the Proprietary Information that Recipient would not otherwise be aware of but for the fact that Discloser had provided that Proprietary Information to Recipient. Further, Recipient agrees that if Discloser files patent application(s) where Recipient must be listed as an inventor under U.S. patent law, then Recipient hereby assigns ALL of Recipient's rights in the Patent Applications to the Discloser. At the very least, Recipient agrees that if Discloser files patent application(s) where Recipient must be listed as an inventor under U.S. patent law, then Recipient hereby assigns ALL of Recipient's rights in the Patent Applications to the Discloser if those patent applications contain any confidential information of the Discloser, "confidential information" being the Proprietary Information that Recipient would not otherwise be aware of but for the fact that Discloser had provided that Proprietary Information to Recipient. The consideration for said assignment of ALL of Recipient's rights to Patent Applications that disclose Proprietary Information (including any improvements thereto by Recipient) is acknowledged and is fully satisfied at least by Discloser's agreement to disclose said Proprietary information to Recipient. Also, the consideration for said assignment of ALL of Recipient's rights to Patent Applications that disclose confidential information is acknowledged and is fully satisfied at least by Discloser's agreement to disclose said Proprietary Information to Recipient.

4. The Recipient may use such Proprietary Information only to the extent required to accomplish the Purposes of this Agreement hereto and for no other purpose.

5. No rights or licenses to trademarks, inventions, copyrights, patents or any other intellectual property rights are implied or granted under this Agreement. Nothing in this Agreement grants the Recipient the right to retain, distribute or commercialize any Proprietary Information, or to use it in any other manner other than the limited manner set forth above.

6. The Recipient agrees that it will not in any way attempt to obtain, either directly or indirectly, any information regarding the Proprietary Information from any third party who has been employed by, provided consulting services to, or received in confidence information from, the Discloser.

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

8. The Recipient shall advise its employees who might have access to Proprietary Information of the confidential nature thereof and agrees and warrants that its employees shall be bound by the terms of this Agreement. The Recipient shall not disclose any Proprietary Information to any employee who does not have a need for such information. The Recipient shall not disclose any Proprietary Information to any third party without the Discloser's written consent.

9. All Proprietary Information (including all copies thereof) shall at all times remain the property of the Discloser and shall be returned to the Discloser after the Recipient's need for it has expired, or upon request of the Discloser, and in any event, upon completion or termination of this Agreement.

10. Notwithstanding any other provision of this Agreement, disclosure of Proprietary Information shall not be precluded if such disclosure is in response to a valid order of a court or other governmental body of competent jurisdiction of the United States or any political subdivision thereof or is otherwise required by law or regulation; *provided, however*, that the Recipient shall first have given notice to the Discloser and shall have made a reasonable effort to obtain a protective order requiring that the Proprietary Information so disclosed be used only for the purposes for which the order was issued or the law or regulation required or to seek other confidential treatment of such information.

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11. This Agreement shall continue in full force and effect so long as the Discloser continues to disclose Proprietary Information to the Recipient. This Agreement may be terminated by either party at any time upon 30 days' written notice to the other party. The termination of this Agreement shall not relieve the Recipient of the obligations imposed by Sections 3 through 22 of this Agreement which shall survive any such termination and continue for a period of five (5) years from the date of such termination.

12. Any notices required or permitted hereunder shall be given to the appropriate party at the address specified below or at such other address as the party shall specify in writing. Such notice shall be in writing and shall be deemed given (i) upon personal delivery to the appropriate address, (ii) upon delivery by facsimile transmission with receipt confirmed, (iii) if sent by certified or registered mail, postage prepaid, three (3) days after the date of mailing, or (iv) if sent by overnight courier, the next business day such courier regularly makes deliveries.

13. This Agreement will be governed by and construed according to the laws of the State of California, excluding its conflicts of laws principles.

14. The Recipient hereby acknowledges and agrees that in the event of any breach of this Agreement by the Recipient, including, without limitation, the actual or threatened disclosure or unauthorized use of Proprietary Information without the prior express written consent of the Discloser, the Discloser would suffer an irreparable injury such that no remedy at law would adequately protect or appropriately compensate the Discloser for such injury. Accordingly, the Recipient agrees that the Discloser shall have the right to enforce this Agreement and any of its provisions by injunction, specific performance or other equitable relief, without bond and without prejudice to any other rights and remedies that the Discloser may have for a breach of this Agreement.

15. This Agreement contains the final, complete and exclusive agreement of the parties relative to the subject matter hereof and supersedes all prior and contemporaneous understandings and agreements relating to said subject matter. This Agreement may not be changed, modified, amended or supplemented except by a written instrument signed by both parties.

16. If any provision of this Agreement shall be declared invalid, illegal or unenforceable, such provision shall be severed and all remaining provisions shall continue in full force and effect.

17. The parties' rights and obligations under this Agreement will bind and inure to the benefit of their respective successors, heirs, executors and administrators and permitted assigns. The Recipient shall not assign or delegate its obligations under this Agreement either in whole or in part without the prior written consent of the Discloser.

18. The waiver from time to time by the Discloser of any of its rights or the Discloser's failure to exercise any remedy shall not operate or be construed as a continuing waiver of same or of any other of the Discloser's rights or remedies provided in this Agreement.

19. This Agreement may be executed in any number of counterparts, each of which, when executed, shall be deemed to be an original and all of which together shall constitute one and the same document.

20. The Recipient agrees not to export, directly or indirectly, any U.S. source technical data acquired from the Discloser or any products utilizing such data to countries outside the United States, which export may be in violation of the United States export laws or regulations.

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21. The parties hereto confirm their agreement that this Agreement, as well as any amendment hereto and all other documents related hereto, including legal notices, shall be in the English language only.

22. If any dispute arises between the parties with respect to the matters covered by this Agreement which leads to a proceeding to resolve such dispute, the prevailing party in such proceeding shall be entitled to receive its reasonable attorneys' fees, expert witness fees and out-of-pocket costs incurred in connection with such proceeding, in addition to any other relief it may be awarded.

IN WITNESS WHEREOF, the parties have, by duly authorized persons, executed this Agreement, as of the date first above written.

RECIPIENT

Signature: _____

Print Name: _____

DISCLOSER

Signature: _____

Print Name: _____

For Von Huber LLC

Initial ____/____