

## Non-Disclosure Agreement

THIS AGREEMENT entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2007, is by and between: ABC, INC., a \_\_\_\_\_ (insert state of incorporation) company, having a principal place of business at \_\_\_\_\_ (hereinafter referred to as "ABC"); and XYZ, INC., a \_\_\_\_\_ company, having a principal place of business at \_\_\_\_\_

(hereinafter referred to as "XYZ"). ABC and XYZ are sometimes referred to hereinafter collectively as the "Parties" or individually as a "Party." WHEREAS, ABC owns or possesses certain proprietary business, financial and technical information relating to \_\_\_\_\_ (hereinafter referred to as "ABC Confidential Information"); and WHEREAS, XYZ is desirous of receiving, reviewing and evaluating such information for the purpose of \_\_\_\_\_ (hereinafter referred to as "the Business Purpose"); NOW, THEREFORE, it is agreed by and between the Parties hereto as follows:

1. XYZ hereby acknowledges the existence of a confidential relationship between ABC and XYZ.
2. XYZ hereby agrees to retain the ABC Confidential Information in confidence and to use the ABC Confidential Information solely for the Business Purpose.
3. XYZ further agrees to make no other use of the ABC Confidential Information and to refrain from disclosing or revealing the ABC Confidential Information to third parties unless expressly authorized (in advance of any disclosures) by ABC.
4. XYZ shall not have any obligations under this Agreement with respect to information that:
  - a. that is generally known, or subsequently becomes known to the trade or the public without fault of XYZ; or
  - b. is in the possession of XYZ prior to its association with ABC and such prior possession can be shown by the written records of XYZ; or
  - c. was independently developed by XYZ and such independent development can be shown by the written records of XYZ; or
  - d. is received by XYZ from third parties, provided such ABC Confidential Information was not obtained by those third parties, directly or indirectly, from ABC on a confidential basis; or
  - e. XYZ is ordered to disclose by law, as confirmed by a written legal opinion.
5. The confidentiality obligation with respect to all ABC Confidential Information that XYZ will have access to extends beyond the duration of this Agreement as long as the respective ABC Confidential Information has not become publicly known.
6. XYZ acknowledges that no right or license, express or implied, has or will be granted hereunder with respect to any ABC Confidential Information or with respect to any issued patents or patents that may issue or other interests of ABC which are owned by it.

7. Upon written notice from ABC, XYZ shall (a) return all documentary materials, software, specimens and other ABC Confidential Information received under this Agreement and shall retain no copies or duplicates thereof, (b) destroy all notes and memoranda made by XYZ that contain ABC Confidential Information and, (c) certify to ABC in writing that it has fully complied with the obligations contained in 7(a) and 7(b).

8. This Agreement shall constitute the entire understanding of ABC and XYZ with respect to the ABC Confidential Information. No modification, limitation, waiver or discharge of this Agreement or any of its terms shall bind the Parties unless it is in writing and signed by XYZ and an authorized representative of ABC.

9. Company XYZ hereby acknowledges that use or disclosure by it of ABC Confidential Information except as permitted by this Agreement may cause immediate and irreparable harm to ABC for which money damages would be inadequate. Therefore, ABC may be entitled to obtain injunctive relief for XYZ's breach of any of its obligations hereunder. Such remedy shall not be deemed to be the exclusive remedy for such breach but shall be in addition to all other remedies available at law or in equity.

10. XYZ's obligations under this Agreement may not be assigned or transferred.

11. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ALL RESPECTS IN ACCORDANCE WITH THE LAWS OF THE COMMONWEALTH OF MASSACHUSETTS.

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IN WITNESS WHEREOF, the Parties thereto have executed this Agreement in duplicate through their duly appointed representatives indicated below:

ABC, Inc.	XYZ, Inc.
By: _____	By: _____
Title: _____	Title: _____
Date: _____	Date: _____