

CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement (this “Agreement”) is entered into as of the [DAY] day of [MONTH], [YEAR], by and between [COMPANY NAME], [ENTITY TYPE AND STATE OF FORMATION] (the “Company”) and [NAME OF EMPLOYEE] (“Employee”). In consideration of Employee's continued employment with the Company and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Company and Employee hereby agrees as follows:

1. **Background.** The Company is engaged in the business of [DESCRIPTION OF BUSINESS] (the “Company’s Business”). The Company owns, controls and has exclusive access to Confidential and Proprietary Information (hereinafter defined) concerning its operations, methods and accumulated experience incidental to the operations and development of the Company’s Business. Employee acknowledges that by executing this Agreement and by reason of Employee’s employment by the Company, Employee may come into possession of, have knowledge of or contribute to Confidential and Proprietary Information and may establish substantial goodwill on behalf of the Company. Employee further acknowledges and agrees that the Company’s Confidential and Proprietary Information is valuable, is not known to others in the relevant industry and gives the Company a substantial competitive advantage.
2. **Definition of Confidential and Proprietary Information.** The term “Confidential and Proprietary Information” shall mean any and all confidential and/or proprietary knowledge, data or information of the Company. By way of illustration but not limitation, Confidential and Proprietary Information includes tangible and intangible information relating to formulations, products, processes, know-how, designs, formulas, methods, developmental or experimental work, data, drawings, worksheets, blueprints, concepts, samples, inventions, improvements, discoveries, research, marketing plans, business plans, budgets, unpublished financial statements, licenses, prices, costs, suppliers, customers and personnel. All Confidential and Proprietary Information owned, developed, or acquired by the Company shall remain the sole and exclusive property of the Company. Confidential and Proprietary Information also includes any information described above that the Company obtains from its clients or any other third party and that the Company treats as confidential, whether or not owned or developed by the Company.
3. **Non-Disclosure of Confidential and Proprietary Information.**
 - a. **Non-Disclosure.** At all times during Employee's employment with the Company and at all times thereafter, Employee will hold in strictest confidence and will not disclose, use, lecture upon or publish any of the Company's Confidential and Proprietary Information, except as such disclosure, use, or publication may be required in connection with Employee's work for the Company, or unless an officer of the Company expressly authorizes such in writing. Employee hereby

assigns to the Company any rights Employee may have or acquire in such Confidential and Proprietary Information and recognizes that all Confidential and Proprietary Information is and shall be the sole property of the Company and its assigns.

- b. **Return of Company Documents.** Upon termination of Employee's employment with the Company, or upon the Company's earlier request, Employee will promptly (1) deliver to the Company any and all drawings, notes, memoranda, specifications, devices, formulas, and documents, together with all copies thereof, and any other material (whether in hard copy, digitally stored, or in any other format or medium) containing or disclosing any Confidential and Proprietary Information of the Company (and will cooperate with the Company to ensure that no electronic copies thereof have been retained in or are retrievable from any personal property not belonging to the Company), and (2) return all Company property issued to Employee or otherwise in Employee's possession or control, including, without limitation, computers and computer equipment, phones and other mobile devices, and digital storage devices. Employee further agrees that any property situated on the Company's premises and owned by the Company, including, but not limited to, disks and other storage media, filing cabinets or other work areas, is subject to inspection by the Company personnel at any time with or without notice. Prior to leaving, Employee will cooperate with the Company in completing and signing the Company's termination statement.
 - c. **Legal Compelled Disclosure.** Nothing in this Agreement is intended to prohibit disclosure by Employee of information that is required to be disclosed pursuant to any applicable law, court order, or other governmental body or administrative or other agency. Employee agrees to notify the Company as promptly as reasonably practicable after Employee receives a request for any such disclosure of Confidential and Proprietary Information and agrees, upon request by the Company, to reasonably cooperate (at the Company's expense) with the Company's lawful efforts to challenge or limit such disclosure.
4. **Legal and Equitable Remedies.** Employee hereby agrees and acknowledges that any breach or threatened breach of this Agreement by Employee will result in irreparable harm to the Company for which there will be no adequate remedy at law. Consequently, in the event of such breach or attempted breach, the Company shall be entitled to receive an injunction, without bond and without proof of actual damages, to prevent any further breach of this Agreement by Employee and/or obtain other specific performance or equitable relief necessary to enforce the Company's rights under this Agreement, to the fullest extent permissible under applicable law, in addition to all other remedies available in law or at equity.

5. **Miscellaneous.**

- a. **Governing Law.** The validity, interpretation, construction and performance of this Agreement is governed by the laws of [STATE]. Employee hereby expressly consents to the personal jurisdiction of the state and federal courts located in [COUNTY, STATE] for any lawsuit filed there against Employee by the Company arising from or related to this Agreement.
- b. **Waiver.** A failure to enforce any provision of this Agreement shall not be deemed a waiver of that provision or any other provision. No waiver by either party at any time of any breach of this Agreement by the other party will be deemed a waiver of any preceding or succeeding breach nor shall it be construed as a waiver of any other provisions or conditions of this Agreement. No waiver of any provision of this Agreement shall be effective unless made in writing signed by Employee and, on behalf of the Company, by Shane Thompson or his designated representative, and such waiver shall be effective only in the specific instance and for the specific purpose stated in the writing. The Company shall not be required to give notice to enforce strict adherence to all terms of this Agreement.
- c. **Entire Agreement.** This Agreement sets forth the final, entire, and exclusive understanding of the parties with respect to the subject matter hereof and supersedes and merges all prior agreements of the parties, whether oral or written. No provision of this Agreement may be amended, modified, waived or discharged unless such amendment, modification, waiver or discharge is agreed to in writing, and is signed by Employee and, on behalf of the Company, by [NAME OF OWNER] or his/her designated representative.
- d. **Severability.** If any provision, term, covenant or obligation of this Agreement, or its application, is held invalid, unenforceable, or unlawful, such invalidity, unenforceability or unlawfulness, shall not affect the other provisions, terms, covenants or obligations of this Agreement, or their application, which all shall remain valid and enforceable in full force and effect to the extent permitted by law. Further, if a court or other adjudicative body finds any covenant of this Agreement to be unenforceable with respect to a jurisdiction, the parties agree that the court shall amend such obligations for the protection of Company's business to the minimum extent necessary to render the provision enforceable and that the Agreement shall be enforced within such jurisdiction as so amended.
- e. **No Right to Employment.** Nothing in this Agreement shall be interpreted to confer to Employee any right to be employed by the Company or otherwise interfere in any way with Employee's or Company's right to terminate Employee's employment for any reason or no reason, with or without cause, in accordance with any applicable agreement and governing law.

- f. **Successors and Assigns.** This Agreement will be binding upon Employee's heirs, executors, administrators, and other legal representatives and will be for the benefit of the Company, its successors, and its assigns.
- g. **Survival.** The provisions of this Agreement shall survive the assignment of this Agreement by the Company to any successor in interest or other assignee.
- h. **Section Headings.** The section headings appearing in this Agreement have been inserted for the purpose of convenience and reference only and shall not limit or affect the meaning or interpretation of this Agreement in any way whatsoever.
- i. **Notices.** Any notices required or permitted hereunder shall be given to the appropriate party at the address specified below (or such other address as the party shall specify in writing by notice delivered in accordance with this section. Such notice shall be deemed given upon personal delivery to the appropriate address or, if sent by certified or registered mail, 3 days after the date of mailing.

If to Company:

[NAME]

[ATTN: NAME]

[ADDRESS]

If to Employee:

[NAME]

[ADDRESS]

- j. **Notification of New Employer.** In the event that Employee leaves the employ of the Company, to the extent permitted by law, Employee hereby consents to the notification of Employee's new employer of Employee's rights and obligations under this Agreement and acknowledges that the Company may send a copy or a redacted copy of this Agreement to Employee's new employer.

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first written above.

[COMPANY]

By: _____

Name:

Title:

[EMPLOYEE]

Signature: _____

[Signature Page to Confidentiality Agreement- **[EMPLOYEE NAME]]**