

CONFIDENTIAL INFORMATION AND INVENTION ASSIGNMENT AGREEMENT

Employee Name: [●]

Effective Date: [●]

State of Delaware

In consideration of my employment or continued employment by [●], a Delaware corporation (“**Company**”), and the compensation paid to me by Company, I hereby agree to the following:

1. **Relationship.** This Confidential Information and Invention Assignment agreement (this “**agreement**”) will apply to my employment relationship with Company. Any employment or consulting relationship between the parties hereto, whether commenced prior to, upon or after the date of this agreement, is referred to herein as the “**Relationship**”.
2. **Applicability to Past Activities.** Company and I acknowledge that I may have performed work, activities, services or made efforts on behalf of or for the benefit of Company, or related to the current or prospective business of Company in anticipation of my involvement with Company, that would have been within the scope of my duties under this agreement for a period of time prior to the Effective Date of this agreement (the “**Prior Period**”). Accordingly, if and to the extent that, during the Prior Period: (i) I received access to any information from or on behalf of Company that would have been Confidential Information (as defined below) if I received access to such information during the term of this agreement; or (ii) I (a) conceived, created, authored, invented, developed or reduced to practice any item (including any intellectual property rights with respect thereto) on behalf of or for the benefit of Company, or related to the current or prospective business of Company in anticipation of my involvement with Company, that would have been an Invention (as defined below) if conceived, created, authored, invented, developed or reduced to practice during the term of this agreement; or (b) incorporated into any such item any pre-existing invention, improvement, development, concept, discovery or other proprietary information that would have been a Prior Invention (as defined below) if incorporated into such item during the term of this agreement; then any such information will be deemed “Confidential Information” hereunder and any such item will be deemed an “Invention” or “Prior Invention” hereunder, and this agreement will apply to such activities, information or item as if disclosed, conceived, created, authored, invented, developed or reduced to practice during the term of this agreement.
3. **Confidential Information.**

- (a) **Protection of Information.** I understand that during the Relationship, Company intends to provide me with certain information, including Confidential Information (as defined below), without which I would not be able to perform my duties to Company. At all times during the term of the Relationship and thereafter, I will hold in strictest confidence, and not use, except for the benefit of Company to the extent necessary to perform my obligations to Company, and not disclose to any person, firm, corporation or other entity, without written authorization from Company in each instance, any Confidential Information that I obtain, access or create during the term of the Relationship. I will not make copies of such Confidential Information except as authorized by Company or in the ordinary course of my obligations to Company under the Relationship.
- (b) **Confidential Information.** I understand that “**Confidential Information**” means any and all confidential knowledge, data or information of Company not generally known or available outside Company and information entrusted to Company in confidence by third parties. Confidential Information includes, without limitation: (i) Company Inventions (as defined below); and (ii) technical data, trade secrets, know-how, research, product or service ideas or plans, software codes and designs, algorithms, developments, inventions, patent applications, laboratory notebooks, processes, formulas, techniques, biological materials, mask works, engineering designs and drawings, hardware configuration information, agreements with third parties, lists of, or information relating to, employees and consultants of Company (including, but not limited to, the names, contact information, jobs, compensation, and expertise of such employees and consultants), lists of, or information relating to, suppliers and customers (including, but not limited to, customers of Company on whom I called or with whom I became acquainted during the Relationship), price lists, pricing methodologies, cost data, market share data, marketing plans, licenses, contract information, business plans, financial forecasts, historical financial data, budgets or other business information disclosed to me by Company either directly or indirectly, whether in writing, electronically, orally, or by observation.
- (c) **Third Party Information.** My agreements in this Section 3 are intended to be for the benefit of Company and any third party that has entrusted information or physical material to Company in confidence. During the term of the Relationship and thereafter, I will not improperly use or disclose to Company any confidential, proprietary or secret information of my former employer(s) or any other person, and I will not bring any such information onto Company’s property or place of business.
- (d) **U.S. Defend Trade Secrets Act.** Notwithstanding the foregoing, the U.S. Defend Trade Secrets Act of 2016 (“**DTSA**”) provides that an individual shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that is made (i) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (iii) in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. In addition, DTSA provides that an individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to

the attorney of the individual and use the trade secret information in the court proceeding, if the individual (A) files any document containing the trade secret under seal; and (B) does not disclose the trade secret, except pursuant to court order.

4. **Ownership of Inventions.**

- (a) **Inventions Retained and Licensed.** I have attached hereto, as Exhibit A, a complete list describing all Inventions (as defined below) that, were made by me prior to the start of the Relationship (collectively "**Prior Inventions**"); or, if no such list is attached, I represent and warrant that there are no such Inventions at the time of signing this agreement, and to the extent such Inventions do exist and are not listed on Exhibit A, I hereby irrevocably and forever waive any and all rights or claims of ownership to such Inventions.
- (b) **Use or Incorporation of Inventions.** If, during my Relationship with Company, I incorporate into a Company product a Prior Invention owned by me or in which I have an interest, Company is hereby granted a non-exclusive, royalty-free, irrevocable, perpetual, worldwide license (with the right to sublicense) to make, have made, copy, modify, make derivative works of, use, sell and otherwise distribute such Prior Invention in connection with such product, process or machine.
- (c) **Inventions.** I understand that "**Inventions**" means discoveries, developments, concepts, designs, ideas, know how, modifications, improvements, derivative works, inventions, trade secrets and/or original works of authorship, whether or not patentable, copyrightable or otherwise legally protectable. I understand this includes, but is not limited to, any new product, machine, article of manufacture, biological material, method, procedure, process, technique, use, equipment, device, apparatus, system, compound, formulation, composition of matter, design or configuration of any kind, or any improvement thereon. I understand that "**Company Inventions**" means any and all Inventions that I may solely or jointly author, discover, develop, conceive, or reduce to practice during the period of the Relationship or otherwise in connection with the Relationship, except as otherwise provided in Section 4(g) below.
- (d) **Assignment of Company Inventions.** I hereby assign to Company, or its designee, all of my right, title and interest throughout the world in and to any and all Company Inventions and all intellectual property rights and other proprietary rights therein. I hereby waive and irrevocably quitclaim to Company or its designee any and all claims, of any nature whatsoever, that I now have or may hereafter have for infringement of any and all Company Inventions. I further acknowledge that all Company Inventions that are made by me (solely or jointly with others) within the scope of and during the period of the Relationship are "works made for hire" and are compensated by my salary. Any assignment of Company Inventions hereunder includes an assignment of all "**Moral Rights**". To the extent that Moral Rights cannot be assigned under applicable law, I hereby unconditionally and irrevocably waive and agree not to enforce any and all Moral Rights. I further acknowledge and agree that

neither my successors-in-interest nor legal heirs retain any Moral Rights in any Company Inventions.

- (e) **Maintenance of Records.** I will keep and maintain adequate and current written records of all Company Inventions made or conceived by me (solely or jointly with others) during the term of the Relationship. The records may be in the form of notes, sketches, drawings, flow charts, electronic data or any other format to be required by Company. The records will be available to and remain the sole property of Company at all times. I will not remove such records from Company's place of business or systems except as expressly permitted by Company policy which may, from time to time, be revised at the sole election of Company for the purpose of furthering Company's business. I will deliver all such records (including any copies thereof) to Company at the time of termination of the Relationship as provided for in Section 5 and Section 6.
- (f) **Intellectual Property Rights.** I will assist Company, or its designee, at its expense, in every proper way in securing Company's, or its designee's, rights in Company Inventions and any intellectual property rights relating thereto in any and all countries. To that end I will disclose to Company or its designee all pertinent information and data, execute all applications, specifications, oaths, assignments, recordations, and all other instruments which Company or its designee will deem necessary in order to apply for, obtain, maintain and transfer such rights.
- (g) **Exception to Assignments.** Subject to the requirements of applicable state law, if any, I understand that Company Inventions will not include, and the provisions of this agreement requiring assignment of inventions to Company do not apply to, any invention which qualifies fully for exclusion under the provisions of applicable state law, if any. In order to assist in the determination of which inventions qualify for such exclusion, I will advise Company promptly in writing, during and for a period of twelve (12) months immediately following the termination of the Relationship, of all Inventions solely or jointly conceived or developed or reduced to practice by me during the period of the Relationship.

- 5. **Company Property: Returning Company Documents.** I acknowledge that I have no expectation of privacy with respect to Company's telecommunications, networking or information processing systems (including, without limitation, files, e-mail messages, and voice messages) and that my activity and any files or messages on or using any of those systems may be monitored or reviewed at any time without notice. I further acknowledge that any property situated on Company's premises or systems and owned by Company, including disks and other storage media, filing cabinets or other work areas, is subject to inspection by Company personnel at any time with or without notice. At the time of termination of the Relationship, I will deliver to Company (and will not keep in my possession, recreate or deliver to anyone else) any and all devices, records, data, notes, reports, proposals, lists, correspondence, specifications, drawings, blueprints, sketches, laboratory notebooks, materials, flow charts, equipment, other documents or

property, or reproductions of any of the aforementioned items developed by me pursuant to the Relationship or otherwise belonging to Company, its successors or assigns.

6. **Termination Certification.** In the event of the termination of the Relationship, I will sign and deliver the “**Termination Certification**” attached hereto as Exhibit G; however, my failure to sign and deliver the Termination Certification will in no way diminish my continuing obligations under this agreement.
7. **Notice to Third Parties.** During the periods of time during which I am restricted in taking certain actions by the terms of Section 8 of this agreement (the “**Restriction Period**”), I hereby consent to inform any entity or person with whom I may seek to enter into a business relationship of my contractual obligations under this agreement. I acknowledge that Company may, with or without prior notice to me, notify third parties of my rights and obligations under this agreement.
8. **Solicitation of Employees, Consultants and Other Parties.** As described above, I acknowledge that Company’s Confidential Information includes information relating to Company’s employees, consultants, customers and others, and I will not use or disclose such Confidential Information except as authorized by Company in advance in writing. I further agree as follows:
 - (a) **Employees, Consultants.** During the term of the Relationship, and for a period of twelve (12) months immediately following the termination of the Relationship for any reason, I will not, directly or indirectly, solicit any of Company’s employees or consultants to terminate their relationship with Company, or attempt to solicit employees or consultants of Company, either for myself or for any other person or entity.
 - (b) **Other Parties.** During the term of the Relationship, and for a period of twenty-four (24) months I will not influence any of Company’s clients, licensors, licensees or customers from purchasing Company products or services or solicit or influence or attempt to influence any client, licensor, licensee, customer or other person either directly or indirectly, to direct any purchase of products and/or services to any person, firm, corporation, institution or other entity in competition with the business of Company.
9. **At-Will Relationship.** I understand and agree that my employment with Company is at will, as defined under applicable law. Either I or Company may terminate the Relationship at any time for any reason or no reason, other than those provisions of this agreement that explicitly continue in effect after the termination of the Relationship.
10. **Duty of Loyalty During Employment.** I agree that during the period of my employment by Company, I will not, without Company’s express written consent, directly or indirectly

engage in any employment or business activity which is directly or indirectly competitive with, or would otherwise conflict with, my employment by Company.

11. Representations and Covenants.

- (a) **Facilitation of agreement.** I will execute promptly, both during and after the end of the Relationship, any proper oath, and to verify any proper document, required to carry out the terms of this agreement, upon Company's written request to do so.
- (b) **No Conflicts.** I represent and warrant that my performance of all the terms of this agreement does not and will not breach any agreement to keep in confidence proprietary information or data acquired by me prior to or during the Relationship. I will not disclose to Company or use any inventions, confidential or non-public proprietary information or material belonging to any previous client, employer or any other party. I will not induce Company to use any inventions, confidential or non-public proprietary information, or material belonging to any previous or current client, employer or any other party.
- (c) **Voluntary Execution.** I certify and acknowledge that I have carefully read all of the provisions of this agreement, that I understand and have voluntarily accepted such provisions, and that I will fully and faithfully comply with such provisions.

12. **Electronic Delivery.** Nothing herein is intended to imply a right to participate in any of Company's equity incentive plans, however, if I do participate in such plan(s), Company may, in its sole discretion, decide to deliver any documents related to my participation in Company's equity incentive plan(s) by electronic means or to request my consent to participate in such plan(s) by electronic means. I hereby consent to receive such documents by electronic delivery and agree, if applicable, to participate in such plan(s) through an on-line or electronic system established and maintained by Company or a third party designated by Company.

13. Miscellaneous.

- (a) **Governing Law.** This agreement, and all acts and transactions pursuant hereto and the rights and obligations of the parties hereto will be governed, construed and interpreted in accordance with the laws of the State of Delaware, without giving effect to principles of conflicts of law.
- (b) **Entire agreement.** This agreement sets forth the entire agreement and understanding between Company and me relating to its subject matter and merges all prior discussions between us. No modification or amendment to this agreement, nor any waiver will be effective unless in writing signed by both parties to this agreement. Any subsequent change or changes in my duties, obligations, rights or compensation will not affect the validity or scope of this agreement.
- (c) **Successors and Assigns.** This agreement will be binding upon my heirs, executors, administrators and other legal representatives, and my successors and assigns, and will be for the benefit of Company, its successors, and its assigns.

- (d) **Notices.** Any notice, demand or request required or permitted to be given under this agreement will be in writing and will be delivered personally or by overnight courier or sent by email, or through the U.S. mail as certified or registered mail with postage prepaid. Notice will be effective upon receipt or refusal of delivery. If delivered by certified or registered mail, notice will be considered to have been given five business days after it was mailed, as evidenced by the postmark. If delivered by courier, notice will be considered to have been given on the delivery date reflected by the courier receipt.
- (e) **Severability.** If one or more of the provisions in this agreement are deemed to be invalid, illegal or unenforceable in any respect, such provisions will nevertheless be enforced to the fullest extent allowed by law. The validity and force of the remainder of this agreement will not be affected. Company and I have attempted to limit my right to use, maintain and disclose Company's Confidential Information, and to limit my right to solicit employees and customers only to the extent necessary to protect Company from unfair competition. Should a court of competent jurisdiction determine that the scope of the covenants contained in Section 8 exceeds the maximum restrictiveness such court deems reasonable and enforceable, the parties intend that the court should reform, modify and enforce the provision to such narrower scope as it determines to be reasonable and enforceable under the circumstances existing at that time.
- (f) **Remedies.** I acknowledge that violation of this agreement by me may cause Company irreparable harm, and therefore I agree that Company will have the right to enforce this agreement and any of its provisions by injunction, specific performance or other equitable relief without bond or other security, in addition to and without prejudice to any other rights or remedies that Company may have for a breach of this agreement.
- (g) **Advice of Counsel.** I ACKNOWLEDGE THAT, IN EXECUTING THIS AGREEMENT, I HAVE HAD THE OPPORTUNITY TO SEEK THE ADVICE OF INDEPENDENT LEGAL COUNSEL, AND I HAVE READ AND UNDERSTOOD ALL OF THE TERMS AND PROVISIONS OF THIS AGREEMENT. THIS AGREEMENT SHALL NOT BE CONSTRUED AGAINST ANY PARTY BY REASON OF THE DRAFTING OF THIS AGREEMENT.
- (h) **Counterparts.** This agreement may be executed in any number of counterparts, each of which will be deemed an original, and all of which together will constitute one instrument. This agreement may also be executed and delivered by facsimile signature, PDF or any electronic signature.

[Signature Page Follows]

The parties have executed this Confidential Information and Invention Assignment agreement on the respective dates set forth below, to be effective as of the Effective Date first above written.

COMPANY

[•]

By: _____

Name: _____

Title: _____

Address: _____

EMPLOYEE

[•]

By: _____

Name: _____

Title: _____

Address: _____

EXHIBIT A

**LIST OF PRIOR INVENTIONS AND ORIGINAL WORKS OF AUTHORSHIP EXCLUDED
UNDER SECTION 4(a) AND CONFLICTING AGREEMENTS DISCLOSED UNDER SECTION
10(b)**

The following is a list of (i) all Inventions that, as of the Effective Date: (A) have been created by me or on my behalf, and/or (B) are owned exclusively by me or jointly by me with others or in which I have an interest, and that relate in any way to any of Company's actual or proposed businesses, products, services, or research and development, and which are not assigned to Company hereunder and (ii) all agreements, if any, with a current or former client, employer, or any other person or entity, that may restrict my ability to accept employment with Company or my ability to recruit or engage customers or service providers on behalf of Company, or otherwise relate to or restrict my ability to perform my duties for Company or any obligation I may have to Company:

<u>Title</u>	<u>Date</u>	<u>Identifying Number or Brief Description</u>
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Except as indicated above on this Exhibit, I have no inventions, improvements or original works to disclose pursuant to Section 4(a) of this agreement and no agreements to disclose pursuant to Section 10(b) of this agreement.

___ Additional sheets attached

Signature of Employee: _____

Print Name of Employee: [●]

Date: _____

EXHIBIT B

TERMINATION CERTIFICATION

This is to certify that I do not have in my possession, nor have I failed to return, any devices, records, data, notes, reports, proposals, lists, correspondence, specifications, drawings, blueprints, sketches, laboratory notebooks, flow charts, materials, equipment, other documents or property, or copies or reproductions of any aforementioned items belonging to [•], a Delaware corporation (collectively, “**Company**”).

I further certify that I have complied with all the terms of Company’s Confidential Information and Invention Assignment agreement (the “**Confidentiality agreement**”) signed by me, including the reporting of any Inventions (as defined therein), conceived or made by me (solely or jointly with others) covered by the Confidentiality agreement, and I acknowledge my continuing obligations under the Confidentiality agreement.

I further agree that, in compliance with the Confidentiality agreement, I will preserve as confidential all trade secrets, confidential knowledge, data or other proprietary information relating to products, processes, know-how, designs, formulas, developmental or experimental work, computer programs, data bases, other original works of authorship, customer lists, business plans, financial information or other subject matter pertaining to any business of Company or any of its employees, clients, consultants or licensees.

I further agree that for twelve (12) months immediately following the termination of my Relationship with Company, I will not either directly or indirectly solicit any of Company’s employees or consultants to terminate their relationship with Company, or attempt to solicit employees or consultants of Company, either for myself or for any other person or entity.

Further, I agree that I will not use any Confidential Information of Company to influence any of Company’s clients or customers from purchasing Company products or services or to solicit or influence or attempt to influence any client, customer or other person either directly or indirectly, to direct any purchase of products and/or services to any person, firm, corporation, institution or other entity in competition with the business of Company.

Date:

Employee:

[•]

(Signature)