

MSM

Mainframe Software Management, Inc.

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EXAMPLE NON-DISCLOSURE AGREEMENT

(If this NDA doesn't suit you, please supply your own.)

Mainframe Software Management, Inc., ("Contractor") is engaged in discussions relating to the provision of certain services to _____ (Client) and its subsidiaries and affiliates (collectively "Client"). In connection with such discussions, Contractor may receive from Client and Client may otherwise disclose to Contractor proprietary technical, business and financial information, such as, but not limited to Client's technical and business requirements, contract, business structure and initiatives, and other non-public information, all of which Client considers to be proprietary (collectively the "Confidential Information").

NOW, THEREFORE, the parties agree:

1. In disclosing such Confidential Information to Contractor, it is intended by the parties that such Confidential Information be used solely in connection with the proposal or provision of services to Client and for no other purpose.
2. The Confidential Information, in whatever form provided, shall remain the exclusive property of Client. Nothing contained in this Agreement shall be construed as granting or conferring any rights to Contractor, by license or otherwise, in any Confidential Information disclosed.
3. With respect to the use and disclosure of the Confidential Information, Contractor shall:
 - a. Restrict disclosure solely and to those of its employees with a need to know in order to fulfill the objectives stated above;
 - b. Prohibit disclosure or use of the Confidential Information in any other way or for any purpose other than as stated above;
 - c. Secure prior written approval of an authorized officer of Client before duplicating or disclosing Confidential Information to any third party;
 - d. Advise all employees of Contractor with access to Confidential Information of the existence and terms of this Agreement and of the confidentiality and non-use obligations contained herein;
 - e. Use and require all its employees to use the same degree of care to protect the Confidential Information as is used to protect Contractor's proprietary information but in no case less than strictly preserving the secrecy of all Confidential Information;
 - f. Immediately notify Client in the event Contractor becomes aware of any loss, unauthorized use or disclosure of Confidential Information;
4. The foregoing obligations shall not apply to any portion of the Confidential Information which:
 - a. is or becomes known publicly through no fault of Contractor; or
 - b. is learned by Contractor from a third party entitled to disclose it; or
 - c. is independently developed by Contractor, as shown by Contractor's written records; or

- d. must be disclosed by operation of law. Contractor shall promptly notify Client of any such request for disclosure in order to allow Client full opportunity to seek the appropriate protective orders.
5. Contractor shall, within five (5) business days of a written request by Client, return to Client all Confidential Information received from Client in any form, including electronic versions and hard copies, reproductions or any other materials containing Confidential Information. Any Confidential Information stored on Contractor's computer systems shall also be deleted.
6. The obligation to protect the confidentiality of Confidential Information shall survive the termination of any business relationship between the parties.
7. Contractor agrees that Client would be irreparably injured by a breach of this Agreement by Contractor and that Client shall be entitled to equitable relief, including injunctive relief and specific performance, in the event of any breach of the provisions of this Agreement. The parties waive the requirement of any bond being posted as security for equitable relief. Such remedies shall not be deemed to be the exclusive remedies for a breach of this Agreement, but shall be in addition to all other remedies available at law or in equity. Contractor also waives the requirement of any bond being posted as security for such equitable relief.
8. Should it be necessary for any party to this Agreement to initiate and/or maintain any action or proceeding related in any way to this Agreement, the party prevailing in such action or proceeding shall be entitled to an award of reasonable attorneys fees, costs, and disbursements against such other party in addition to any other relief to which such prevailing party may be entitled.
9. This Agreement shall be governed by the laws of the State of Illinois without giving effect to principles of Conflict of Laws and shall benefit and be binding upon the parties hereto and their respective successors and assigns. The parties hereby consent to jurisdiction in the State of Illinois and agree that the courts within Illinois shall have exclusive jurisdiction over any issues regarding the enforcement of this Agreement.

IN WITNESS WHEREOF, Contractor by its duly authorized representative has signed and sealed this Agreement.

Mainframe Software Management, Inc. (Contractor)

(Client)

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____