

Brand Messaging Strategist Loren Weisman

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NON-DISCLOSURE AGREEMENT AND CONFIDENTIALITY NOTICE.

This Nondisclosure Agreement (this "Agreement") is made and entered into as of _____

(the "Effective Date"), by _____

with its mailing address : _____ ("Disclosing Party")

and _____

with its mailing address: _____ ("Receiving Party").

BACKGROUND

All parties (each, a "Party", and collectively, the "Parties") desire to explore possible business arrangements (the "Purpose"). In connection with this exploration, Disclosing Party may need to disclose certain of its confidential and proprietary information and materials to Receiving Party. The Parties wish to enter into this Agreement to provide for the protection of such information and materials and to restrict the use and disclosure of such information and materials by the Receiving Party.

Now, therefore, in consideration of the mutual promises and obligations contained herein and for other good and valuable consideration, the receipt, adequacy, and sufficiency of which is hereby acknowledged, the Parties mutually agree as follows:

1. Definition of Confidential Information.

For purposes of this Agreement, "Confidential Information" means:

- (a) all information and materials transmitted to, received by, or otherwise identified by the Receiving Party to this Agreement;
- (b) confidential and/or proprietary information and materials disclosed orally or in writing during the term of this Agreement;
- (c) any modifications or derivatives prepared by the Receiving Party that contain or are based upon any Confidential Information obtained from the Disclosing Party, including any analysis, reports, or summaries of the Confidential Information;
- (d) any other information and materials as may be set forth on Exhibit A attached hereto and incorporated herein by express reference.

2. Purpose Shall Remain Confidential.

Receiving Party shall not—and will cause its owners, officers, directors, employees, agents, and representatives not to—disclose to any person or entity that discussions or negotiations are taking place concerning the Purpose or any of the terms, conditions, or facts with respect to the Purpose, including the status thereof.

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3. Term.

This Agreement will commence on the Effective Date and expire on the earlier of the:

(i) thirty-sixth-month anniversary thereof; and (ii) consummation of a transaction between the parties; provided that the obligations of confidentiality and use hereunder shall survive with regard to the Confidential Information.

4. Limitations of Use.

Unless the Disclosing Party expressly authorizes otherwise in advance of such use, the Receiving Party must only use the Confidential Information in connection with the Purpose. Receiving Party may not reverse engineer, decompile, or circumvent the Confidential Information.

5. Protection of Confidential Information.

Receiving Party will protect the confidentiality of the Confidential Information with no less care than it protects the confidentiality of its own proprietary and confidential information and materials of like kind, but in no event will the Receiving Party protect the confidentiality of the Confidential Information with less than a commercially reasonable standard of care.

Receiving Party will take (and will instruct its employees and agents to take) any commercially reasonable steps required to avoid inadvertent disclosure of materials in Receiving Party's possession. Confidential Information shall not be reproduced in any form except as required to accomplish the intent of this Agreement. Any reproduction of any Confidential Information by Receiving Party shall remain the property of Disclosing Party unless otherwise authorized in writing by Disclosing Party.

6. Access to Confidential Information.

Receiving Party shall disclose Confidential Information only to such officers, employees, consultants, vendors, co-providers, customers and professional advisors ("Representatives") of the Receiving Party who need to know such Confidential Information for the purpose of evaluating the information disclosed by the Disclosing Party, who have been informed of the confidential nature of such Confidential Information and are under written obligations with respect thereto substantially as protective as those contained herein and for whom the Receiving Party shall be responsible in the event of such person's or entity's violation of the terms of this Agreement (whether or not such person or entity is a party hereto).

7. No Other License.

All Confidential Information and any Derivatives thereof shall remain the property of the Disclosing Party in all respects, and no license or other rights to Confidential Information is granted or implied by this Agreement. Without limiting the foregoing, no license to use any trademarks, patents, copyrights, or other rights is granted under this Agreement or by any disclosure of Confidential Information under this Agreement.

The Confidential Information is disclosed "AS IS," "WHERE IS," and "WITH ALL FAULTS"; no representations are made as to the accuracy or content of the Confidential Information;

AND NO EXPRESS OR IMPLIED WARRANTIES ARE MADE, OF ANY KIND WHATSOEVER, AND DISCLOSING PARTY DISCLAIMS ALL SUCH WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT OF THIRD PARTIES' RIGHTS, AND ALL OTHER WARRANTIES OF ANY KIND OR NATURE.

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For the purpose of this Agreement, "Derivatives" shall mean anything that is derived from use, possession, or knowledge of any Confidential Information, including, without limitation:

(a) for copyrightable or copyrighted material, any translation, abridgment, revision, or other forms in which an existing work may be recast, transformed, or adapted;

(b) for patentable or patented material, any improvement thereon; and

(c) for material or information which is a trade secret or is otherwise proprietary, any new material or information derived from such existing trade secret or proprietary material, including any new material or information which may be copyrightable, patentable, and/or capable of being protected as a trade secret or proprietary information.

8. No Commitment.

This Agreement does not represent or imply any agreement or commitment to enter into any business relationship, beyond this Agreement, or to expend funds or other resources in the development of products or services. No obligation or commitment relating to the Purpose shall arise between the Parties except as may be set forth in a written agreement duly executed by authorized representatives of each Party. This Agreement does not create any employment, agency, or partnership relationship between the Parties or authorize a Party to use the other Party's name or trademarks. Subject to the obligations of this Agreement, neither Party is precluded from independently pursuing any activities similar to or in competition with the Purpose contemplated herein.

9. Return of Confidential Information.

All Confidential Information made available under this Agreement, including copies of Confidential Information, must be returned to the Disclosing Party, or destroyed, upon the first to occur of:

(a) termination of discussions concerning the Purpose and/or a possible transaction between the Parties; or

(b) upon the request of the Disclosing Party. Any materials prepared by the Receiving Party—which include any Confidential Information of the Disclosing Party, including summaries or extracts thereof—must be destroyed, and written certification of such destruction provided to the Disclosing Party.

10. Loss of Confidential Status.

Specific items of Confidential Information shall not lose its Confidential Information status merely because it is embraced by the more general public. Further, any combination of Confidential Information shall not lose its Confidential Information status merely because specific items lose their Confidential Information status.

11. Judicial Disclosures.

If Receiving Party receives a subpoena or other validly issued administrative or judicial process demanding Confidential Information, Receiving Party shall promptly notify Disclosing Party unless otherwise restricted from doing so. If requested by the Disclosing Party, Receiving Party will reasonably cooperate (at the expense of the Disclosing Party) in the defense of a demand and only respond to such subpoena to the limited extent necessary (as determined by Receiving Party's counsel) to comply with such demand.

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12. Assignment Successors and Assigns.

Neither Party shall assign or delegate all or any part of its rights or obligations hereunder, other than in connection with a reorganization or a sale of substantially all of the assets or stock of the company, without the written consent of the other. Any attempt to do so shall be null and void and of no force or effect. However, if assigned, this Agreement is and will be binding upon the Parties and each of their respective affiliates, and upon their respective heirs, successors, representatives, and assigns, as applicable.

13. Injunctive Relief.

The Parties recognize and agree that serious, immediate, and irreparable injury will result to the Disclosing Party and its business if the Receiving Party breaches its obligations under this Agreement, for which the Disclosing Party will not have an adequate remedy at law. Therefore, Receiving Party agrees that the Disclosing Party shall be entitled to a restraining order, injunction, and/or other equitable relief, without posting of a bond (the requirement of which is hereby waived), if Receiving Party breaches its obligations under this Agreement, in addition to any other remedies and damages that would be available at law or equity to the Disclosing Party.

14. Indemnification.

Receiving Party agrees to defend, indemnify, and hold Disclosing Party and its members, managers, directors, employees, agents, parents, subsidiaries, affiliates, insurers, representatives, successors, and assigns, as applicable, harmless from and against any claims, actions, demands, injuries, liabilities, costs, expenses, and damages, of any kind or nature, known or unknown, suspected or unsuspected, disclosed or undisclosed, including, without limitation, reasonable attorneys' fees and costs, arising out of, resulting from, or in any way related to Receiving Party's breach of any of Receiving Party's agreements, representations, warranties, and/or covenants contained in this Agreement; violation of any law or regulation or any rights of a third person or entity; and misuse of any of Disclosing Party's Confidential Information hereunder.

15. Advertising and Publicity.

Neither Party may use the name of the other in connection with any advertising or publicity materials or activities concerning the Parties' relationships without the prior written consent of the other Party.

16. Governing Law.

The validity, performance, construction, and effect of this Agreement will be governed by the laws of the State of Florida, without regard to its conflicts of laws principles.

17. Entire Agreement.

This Agreement constitutes the entire agreement between the Parties concerning the confidentiality and nondisclosure obligations discussed herein and may not be modified or amended other than by a written instrument executed by both Parties. The Parties represent that they have read this Agreement, understand it, and agree to be bound by its terms and conditions. There are no understandings or representations, express or implied, which are not expressed herein. No provision herein is to be construed against or in favor of any Party on the basis of authorship.

18. Waiver.

Except as otherwise provided herein, the waiver, express or implied, by any Party of any of its rights arising under this Agreement, shall not constitute or be deemed an ongoing waiver or a waiver of any other right hereunder, whether of a similar or dissimilar nature.

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19. Benefit.

Nothing in this Agreement shall be construed to give any person or entity, other than the Parties to this Agreement, any right or benefit.

20. Captions.

The titles and captions contained in this Agreement are inserted herein only as a matter of convenience and for reference and in no way define, limit, extend, or describe the scope of this Agreement or the intent of any provision hereof.

21. Severability.

Each provision of this Agreement is independent, and if any term, covenant, or condition in this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement and the covenants herein contained shall not be affected thereby and the residue shall be valid and enforceable to the fullest extent permitted by law.

22. Facsimile Signature, Email Signature and Counterparts.

The Parties hereby agree that signatures transmitted and received via facsimile or electronic transmittal are true and valid signatures for all purposes hereunder and shall bind the Parties to the same extent as that of an original signature.

The Parties may also execute this Agreement in counterparts, each of which will constitute an original.

IN WITNESS WHEREOF, the Parties have executed this Agreement, effective as of the Effective Date.

DISCLOSING PARTY:

By:
Loren Weisman or Loren Weisman Representative

By:

[Signature]

[Printed Name]

[Date]

RECEIVING PARTY:

By:

[Signature]

[Printed Name]

[Date]

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Exhibit A:

Partial Listing of Confidential Information

Confidential information will include:

- 1. Any and all information whether in oral, visual, written, graphic or electronic form, including but not limited to, data, know-how and patentable subject matter pertaining to Disclosing Party's research, inventions, development, materials, technology, trade secrets, work in process, business plans, scientific, engineering and/or manufacturing processes, and any other elements of Disclosing Party's business which Disclosing Party considers to be of value (or which Disclosing Party is required to keep confidential on behalf of a third party), including its present or future products, sales, customers, employees, investors, and contractual relationships and data;*
- 2. All application, operating system, database, communications, and other computer software, whether now or hereafter existing, and all modifications, enhancements, and versions thereof and all options with respect thereto, and all future products developed or derived therefrom;*
- 3. Marketing and product plans, customer lists, prospect lists, pricing information (other than published price lists);*
- 4. Financial information and reports, including estimates and forecasts; and*
- 5. Research and development plans and results, including without limitation, technical or non-technical data, formula, pattern, compilation, program, device, method, technique, drawing, process, or models.*