

## NON-DISCLOSURE AGREEMENT

This Non-Disclosure Agreement (the "**Agreement**") is entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2005 (the "**Effective Date**"), by and between, (collectively referred to as the "**Parties**"), Idea Mill L.L.C. ("**Recipient**"), and the individual or entity identified below as the "**Discloser**".

WHEREAS, Discloser possesses confidential information relating to its business (the "**Project**") that it desires to disclose to Recipient in connection with potential funding sources or business development, and Recipient is willing to accept Discloser's information confidentially subject to the terms of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, by the parties agree as follows:

1. "**Confidential Information**" Confidential Information includes, without limitation, information in whatever form relating to the business of the Discloser, contract terms, financial information, business procedures, processes, techniques, methods, ideas, discoveries, inventions, processes, developments, records, product designs, product specifications, source code, product planning, trade secrets, and any other communications or information that a reasonable person would recognize from the facts and circumstances surrounding disclosure to be confidential.  
by the Recipient or for it and that was not obtained, in whole or in part, from the Discloser or from Confidential Information of the Discloser. For purposes of Paragraph 3, it is agreed that specific Confidential Information which Recipient may obtain hereunder shall not be free of the obligations set forth in that Agreement merely because individual features or parts of the Confidential Information are embraced within the scope of more general information known to Recipient, available to the public generally, or obtained from other sources.
2. The Recipient will use the Confidential Information of the Discloser only in connection with the Project, and will make no use of the Confidential Information of the Discloser, in whole or in part, for any other purposes. The Recipient agrees to refrain from disclosing Confidential Information of the Discloser to third parties, unless the Discloser has given prior its written authorization. However, Recipient may disclose Confidential Information to its officers, employees and agents who have a need to know the same who have signed a non-disclosure agreement or otherwise have obligations of confidentiality to Recipient. The Recipient further agrees to keep confidential all Confidential Information of the Discloser and to take all reasonable steps to preserve the confidential and proprietary nature of the Confidential Information in accordance with practices it normally follows to prevent disclosure of its own confidential information of similar character, but in no event what is less than reasonable in the circumstances.
3. Notwithstanding any other provisions of this Agreement, each party acknowledges that Confidential Information will not include any information that the Recipient can demonstrate: (a) was publicly available at the time of disclosure, or later became publicly available through no act or omission of the Recipient; (b) was in its possession at the time of disclosure; (c) was rightfully received by the Recipient from a third party without any obligation of confidentiality, who is rightfully in possession of such Confidential Information, and did not receive such Confidential Information, directly or indirectly from Discloser; or (d) was independently developed  
4. In the event that the Recipient is requested or required by subpoena or other court order to disclose any Confidential Information of the Discloser, the Recipient will provide immediate notice of such request to the Discloser and will use reasonable efforts to resist disclosure, until an appropriate protective order may be sought, or a waiver of compliance with the provisions of this Agreement granted. If, in the absence of a protective order or the receipt of a waiver hereunder, the Recipient is nonetheless, in the written opinion of its counsel, legally required to disclose Confidential Information of the Discloser, then, in such event, the Recipient may disclose such information without liability hereunder, provided that the Discloser has been given a reasonable opportunity to review the text of such disclosure before it is made and that the disclosure is limited to only the Confidential Information specifically required to be disclosed.
5. The Discloser may elect at any time to terminate further access to its Confidential Information. Upon written request, the Recipient will return to the Discloser all Confidential Information in any form and promptly destroy any and all material or information derived from the Confidential Information, including any copies, except that one copy of the same may be retained for archival and evidence purposes only.
6. Nothing contained in this Agreement will be construed as granting or conferring any rights by license or otherwise, express or implied, or otherwise for any patents, copyrights, trademarks, know-how or other

proprietary rights of either party acquired prior to or after the date of this Agreement.

- 7. Regardless of the termination of any business relationship or negotiations between the parties, the obligations and commitments established by this Agreement will remain in full force and effect for two (2) years after the Effective Date, or such longer time as the parties may agree in writing.
- 8. The Confidential Information protected by this Agreement is of a special character, such that money damages would not be sufficient to avoid or compensate for any unauthorized use or disclosure of the Confidential Information. The parties agree that injunctive and other equitable relief would be appropriate to prevent any such actual or threatened unauthorized use or disclosure. The remedy stated above may be pursued in addition to any other remedies available at law or in equity, and the Recipient agrees to waive any requirement for the securing or posting of any bond in connection with such remedy. In the event of litigation to enforce any provision hereof, the prevailing party will be entitled to recover all costs, including its reasonable attorneys fees and costs, incurred in connection with the litigation.
- 9. This Agreement is not and will not be construed as any form of a letter of intent or agreement to enter into any type of transaction. This Agreement is to evidence the parties' agreement to maintain the confidentiality of the Confidential Information, and will not constitute any commitment or obligation on the part of either party to enter into any specific contractual arrangement of any nature whatsoever.
- 10. The Discloser does not make any representations or warranties as to the accuracy, completeness or

fitness for a particular purpose of any information disclosed to the Recipient hereunder. Neither the Discloser nor its representatives will have any liability or responsibility to the Recipient (except as pursuant to this Agreement) or to any other person or entity resulting from the use of any information so furnished or otherwise provided.

- 11. California law will govern the interpretation of this Agreement, without reference to rules regarding conflicts of law. Any dispute arising out of this Agreement will be submitted to a state or federal court sitting in Los Angeles, California, which will have the exclusive jurisdiction regarding the dispute and to whose jurisdiction the parties irrevocably submit.
- 12. No waiver of any term, provision or condition of this Agreement, whether by conduct or otherwise, in any one or more instances, will be deemed to be or be construed as a further or continuing waiver of any such term, provision or condition or as a waiver of any other term, provision or condition of this Agreement.
- 13. If any provision of this Agreement is determined by any court of competent jurisdiction to be invalid or unenforceable, such provision shall be interpreted to the maximum extent to which it is valid and enforceable, all as determined by such court in such action, and the remaining provisions of this Agreement will, nevertheless, continue in full force and effect without being impaired or invalidated in any way.
- 14. This Agreement constitutes the parties' entire Agreement with respect to the subject matter hereof and supersedes any and all prior statements or agreements, both written and oral. This Agreement may not be amended except by a writing signed by the parties.

IN WITNESS WHEREOF the parties have caused this Agreement to be executed by their duly authorized representatives.

**DISCLOSER**

\_\_\_\_\_  
Individual / Entity ~ Legal Name

\_\_\_\_\_  
Address

\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_  
City State Zip Code

\_\_\_\_\_  
Signature Title

\_\_\_\_\_  
Date

**RECIPIENT**

Idea Mill L.L.C.  
5144 Commerce Avenue, Unit C  
Moorpark, CA 93021

\_\_\_\_\_  
George Tarrab / Chris Lessel ~ Principals

\_\_\_\_\_  
Date