# Mutual Non-disclosure Agreement

This Mutual Confidentiality and Non-Disclosure Agreement (“Agreement”) is entered into as of the date of the last signature below (“Effective Date”) by and between Square 1 Industries, Inc.: DBA Square 1 (“Square 1”), and the undersigned company or individual (“Company”).

The parties therefore agree as follows:

## PURPOSE.

Both parties have agreed to enter this relationship in order to explore the potential application of their resources to the various products, systems and services the other has or will have for both parties’ mutual benefit.

## CONFIDENTIAL INFORMATION.

It is recognized and understood by both parties that such a relationship may require each to disclose and disseminate to the other various information, whether intentionally or inadvertently, of a confidential nature. For purposes of this Agreement, the term “Confidential Information” shall mean all information, materials or concepts including but not limited to all confidential, proprietary and/or trade secrets of a party (“disclosing party”) relating to its business or customers which is received or learned by the other party (“receiving party") or any of receiving party's employees, officers, directors, representatives or agents (collectively. “Representatives”) through or as a result of the receiving party's relationship with the disclosing party or access to the disclosing party's premises or personnel. Confidential Information includes, but is not limited to the following types of information and other information of a similar nature (whether received in writing, orally, visually, electronically or by any other means), patents, patent applications, trade secrets, inventions, discoveries, ideas, concepts, methods, techniques, know-how, processes, procedures, designs, devices, drawings, materials, specifications, algorithms, software programs, software source documents, models, studies, data, documentation, diagrams, research, improvements, development plans, products, customer lists, pricing, sales and marketing plans, business forecasts, and financial information of or relating to the disclosing party or similar information provided by disclosing party relating to a third party, as well as all copies summaries, analyses, compilations, forecasts, studies or other documents prepared by receiving party or its Representatives in connection with the Relationship which contain or reflect any such information.

## PERMITTED USE.

The parties shall use the Confidential Information only in furtherance of a Permitted Purpose or as otherwise directed in writing by the Disclosing Party. Each Receiving Party shall treat all Confidential Information of the Disclosing Party with at least the same degree of care it accords its own Confidential Information of like nature but in no event less than reasonable care. Each Receiving Party will take (and will cause its employees and agents to take) commercially reasonable steps required to avoid inadvertent disclosure of Confidential Information in its possession.

## EXCLUDED INFORMATION.

Notwithstanding any provision of this Agreement, Confidential Information shall not include information of the Disclosing Party that:

1. was in the public domain at the time it was disclosed;
2. enters the public domain other than by breach of this Agreement by the Receiving Party;
3. is known to the Receiving Party at the time of its disclosure by the Disclosing Party;
4. is disclosed to the Receiving Party by a third party who has the right to do so; and
5. is developed by the Receiving Party independently of any disclosure by the Disclosing Party hereunder (as established by the Receiving Party’s business records).

## OBLIGATIONS OF THE PARTIES.

In order to protect the Confidential Information proprietary to each respective party, both during the term of this Agreement and after the expiration or termination thereof, each party, in exchange for the mutual covenants contained herein, agrees as follows:

1. Both parties shall maintain in strictest confidence and not disclose to any third party any Confidential Information received from the other, or to which either party may have access through any form of communication. Neither party shall have the right to duplicate, reproduce, copy, distribute, disclose, or disseminate Confidential Information except to further the purposes expressed herein.
2. Both parties represent and warrant to each other that they shall take all reasonable precautions to ensure against any breach of confidentiality and will advise their employees, officers, directors, representatives, or agents, who might have access to such Confidential Information of the confidential nature thereof. No Confidential Information shall be disclosed to any employee, director, officer, representative, or agent of either party who does not have a need for such information.

## TERM.

The agreement to disclose Confidential Information shall become effective as of the date indicated below (Page 5, “Effective Date”), and shall remain effective for a period of one (1) year to cover any and all Confidential Information disclosed by either party during such period, unless such period is extended by written mutual agreement of the parties.

## INDEPENDENT DEVELOPMENT.

The parties acknowledge that each party may be independently developing, designing, manufacturing, or selling products that incorporate technologies similar to those of the other party. Except as otherwise provided for in this Agreement, nothing in this Agreement shall restrict either party from continuing to develop, manufacture, and sell such products so long as it does not use the other party's Confidential Information, in whole or in part.

## NO LICENSE.

All Confidential Information disclosed by the Disclosing Party shall at all times remain the property of the Disclosing Party. The Disclosing Party is not hereby granting or extending to the Receiving Party any rights of any kind under any patent, copyright, trademark, trade secret or other intellectual property rights which the Disclosing Party may now have or may hereby obtain with respect to the Confidential Information.

## WARRANTY AND EXCLUSIONS.

Each party warrants that it has the right to make the disclosure of the Confidential Information contemplated by this Agreement. In providing the Confidential Information under this Agreement, the Disclosing Party makes no representation, either express or implied, as to its adequacy, sufficiency, or freedom from defect of any kind including freedom from any patent or other intellectual property infringement that may result from the use of such Confidential Information and the disclosing party shall not incur any responsibility or obligation whatsoever by reason of such Confidential Information.

## REMEDIES.

It is further understood and agreed that money damages may not be a sufficient remedy for any breach of this Agreement and that the Disclosing Party shall be entitled to seek specific performance and injunctive or other equitable relief as a remedy for any such breach (or threatened breach). Such remedy shall not be deemed to be the exclusive remedy for breach of this Agreement but shall be in addition to all other remedies available at law or in equity.

## ASSIGNEMNT.

Neither party shall have the right to assign this Agreement without the prior written consent of the other party. Any assignment without such consent shall be void and is a material breach hereof.

## COMPELLED DISCLOSURES.

The Receiving Party shall be permitted to disclose Confidential Information in connection with a judicial or administrative proceeding to the extent that such disclosure is required under applicable law or court order, provided the Receiving Party shall (to the extent permitted by applicable law) provide the Disclosing Party prompt written notice of any such proceeding and offer reasonable cooperation in an effort to obtain a protective order.

## GOVERNING LAW.

This Agreement shall be construed and interpreted in accordance with the laws of the State of Florida, without regard to conflict of laws principles.

## SEVERABILITY

If any provision of this Agreement is held invalid or unenforceable, the balance of this Agreement shall remain in effect.

## RETURN OF CONFIDENTIAL INFORMATION

The Receiving Party will, upon the written request of the Disclosing Party (a) promptly deliver to the Disclosing Party all Confidential Information, including all copies, reproductions, summaries, analyses or extracts thereof or based thereon; or (b) destroy all Confidential Information in the Receiving Party’s possession or control and certify to the Disclosing Party the destruction thereof in a written certification signed by an authorized officer of the Receiving Party. This obligation to return or destroy materials or copies thereof does not extend to automatically generated computer back-up or archival copies generated in the ordinary course of the Receiving Party’s information systems policies, provided that the Receiving Party shall make no further use of such copies.

[SIGNATURE PAGE FOLLOWS]

# Approvals

If this Agreement accurately sets forth our understanding, kindly execute the enclosed copy of this letter and return it to the undersigned.

|  |  |
| --- | --- |
| **Client Accepted and Agreed:** | |
| Company Name: |  |
| Address: |  |
| Signee Name: |  |
| Signature: |  |
| Title: |  |
| Date: |  |

|  |  |
| --- | --- |
| **Square 1 Industries, Inc. Accepted and Agreed:** | |
| Company Name: |  |
| Address: |  |
| Signee Name: |  |
| Signature: |  |
| Title: |  |
| Date: |  |