

PROPRIETARY INFORMATION AND INVENTIONS AGREEMENT

This agreement effective _____ is between **JOHN SMITH** (“Inventor”) and **JANE DOE** (“Contractor”) located at _____.

Contractor hereby assigns all right, title, and interest to Inventor for the invention described in subsection 1.2 below. Contractor hereby also relinquishes any right, title, and interest in derivative works associated with the invention described in section 1.2 below to the Inventor.

Contractor and Inventor desire that Contractor provide services to Inventor which will require the disclosure by Inventor of confidential and proprietary information to Contractor. In consideration of Inventor’s willingness to retain the services of Contractor and disclose such information, the Contractor is willing to enter into this agreement concerning the protection and ownership of such information and any further developments or inventions.

Accordingly, the parties agree as follows:

Article 1: Definitions

1.1 Existing Application

“Existing Application” means any and all Patent Applications prepared for filing in any U.S. or foreign jurisdiction by Inventor, whether or not such Patent Applications are actually filed by Inventor.

Existing Applications is to be given the broadest interpretation judicially permissible, and may include documents that do not provide for a filing date, such as Document Disclosures and the like.

1.2 Subject Technology

“Subject Technology” means the ideas, methods, inventions, technology, techniques, and know-how heretofore developed by Inventor or hereafter developed by Inventor or by others for Inventor as they shall relate to the _____, and all modifications and improvements thereon. Subject Technology shall include, without limitation, all rights arising under any Patents and Patent Applications, and all other proprietary rights relating to the Subject Technology, such as those rights arising under the laws of trade secrecy, patent, copyright, and trademark.

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1.3 Patent Application

“Patent Application” means any Existing Application(s) and any application, including a provisional, utility, design, continuation, continuation in part, divisional, or reissue application, filed by or on behalf of Inventor (alone or jointly with others) or Inventor’s employees and/or agents and/or contractors, at any time during the term of this agreement or thereafter which discloses and claims Subject Technology or any matter disclosed, claimed, or derived from the contents of the Existing Application.

1.4 Patent

“Patent” means any patent, United States or Foreign, including any reissue patent, which may issue from a Patent Application.

1.5 Proprietary Information

“Proprietary Information” means the Subject Technology and all items and materials which in any way are used in connection with or relate to the Subject Technology, including, but not limited to, trade secrets, designs, models, samples, plans, technological advancements, configurations, processes, formulas, data, know-how, software programs, applications, manuals, guides, improvements, inventions, techniques, marketing plans, strategies, forecasts, computer programs, financial information, personnel information, copyrightable material, customer lists, and prospective customer lists (whether or not reduced to writing and whether or not patentable or protectable by copyright).

1.6 Improvements

“Improvements” means all improvements, inventions, formulas, ideas, designs, configurations, processes, techniques, know-how, modifications, derivative works, and data, whether or not patentable or copyrightable, made or conceived or reduced to practice or learned by Contractor, either alone or jointly with others, during or after the term of this agreement that relate in any way directly, or indirectly, to the Subject Technology.

Improvements include, but are not limited to, any of the foregoing that are developed by Contractor

- (a) using equipment, supplies, or facilities of Inventor or Proprietary Information, or
- (b) during the hours for which Contractor is compensated by Inventor, or
- (c) relating to the business of Inventor or to Inventor’s actual or anticipated research and development, or
- (d) resulting, in whole or in part, from work performed by Contractor or Inventor.

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Article 2: Ownership

All Proprietary Information and all rights relating thereto are the exclusive property of Inventor, and Inventor has not granted any rights to Contractor to use or disclose the Proprietary Information without the prior written consent of Inventor. If and to the extent Contractor may now have or may hereafter acquire any interest in the Proprietary Information, Contractor hereby assigns to Inventor any and all such rights.

Article 3: Confidentiality

3.1 Disclosure

Contractor agrees not to copy, disclose or use, directly or indirectly, any of the Proprietary Information without the prior written consent of Inventor.

3.2 Authorization

In connection with Contractor's performance of services for Inventor, Contractor shall only transmit Confidential Information to those of its employees or agents that are approved in advance in writing by Inventor.

3.3 Agency

Contractor agrees to cause each employee or agent of Contractor to whom Inventor permits disclosures of Proprietary Information to sign an agreement in form reasonably satisfactory to Inventor obligating such employee or agent to be bound by the terms of this agreement.

3.4 Transfer Liability

Contractor agrees to be responsible for any unauthorized disclosure or use of Proprietary Information by its employees or agents.

3.5 Scope

The provisions of this section shall not apply to information which is already in the public domain or which later enters into the public domain, in each case, other than through breach of this agreement or any other confidentiality agreement.

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3.6 Notice

If Contractor is required to disclose Proprietary Information pursuant to court order or governmental law or regulation, Contractor may make such disclosure provided that Contractor give Inventor prompt notice of any such requirement prior to disclosure and provides reasonable cooperation to Inventor at Inventor's expense, to attempt to limit such disclosure.

Article 4: Delivery of Property

All documents, records, apparatus, equipment and other physical property and materials, whether or not pertaining to or constituting Proprietary Information, furnished to Contractor by Inventor or produced by Contractor or others in connection with services performed for Inventor shall be and remain the sole property of Inventor and shall be returned to Inventor immediately as and when requested by Inventor.

Even if Inventor does not so request, Contractor shall promptly return and deliver all such property upon termination of Contractor's services for Inventor for any reason and Contractor will not retain any such property or any reproduction of such property upon such termination.

Article 5: Disclosure of Improvements

Contractor will promptly disclose to Inventor, or any persons designated by him, all Improvements related to, or directly involved with, the subject matter of this contract, whether created by the Contractor or other parties.

Article 6: Works Made For Hire

6.1 Ownership

Contractor agrees that all Improvements and other items produced by Contractor in the performance of its services for Inventor are "works made for hire" and shall be the sole property of Inventor, and Inventor shall be the sole owner and/or author of all Patents, copyrights, mask work registrations, and all other rights in connection therewith.

6.2 Assignment

If and to the extent Contractor acquires any rights in Improvements, Contractor hereby assigns to Inventor all such rights.

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6.3 Judicial Encumbrances

Contractor hereby agrees to notify Inventor of any judicial action (whether pending, proposed, or actual) that would impact or impair Contractor's right or ability to assign rights in Improvements to Inventor. Such judicial acts include but are not limited to marriage, divorce, bankruptcy, and lawsuit of the Contractor by a third party.

6.4 Assistance

Contractor further agrees as to all Improvements to assist Inventor in every proper way (but at Inventor's expense) to obtain and from time to time enforce Patents, copyrights or other rights on Improvements in any and all countries, and to that end Contractor will execute all documents for use in applying for and obtaining such Patents and copyrights thereon and enforcing same, as Inventor may desire, together with any assignments thereof to Inventor or persons designated by it.

6.5 Enforcement

Contractor's obligation to assist Inventor in obtaining and enforcing Patents, copyrights, trademarks or other rights for Improvements in any and all countries shall continue beyond the termination of services being provided by Contractor to Inventor, but Inventor shall compensate Contractor at a reasonable rate after such termination for time actually spent by Contractor at Inventor's request on such assistance.

6.6 Power of Attorney

In the event that Inventor are unable for any reason whatsoever to secure Contractor's signature to any lawful and necessary document required to apply for or execute any Patent, copyright, trademark or other application with respect to Improvements (including renewals, extensions, continuations, divisions or continuations in whole or in part thereof), Contractor hereby irrevocably designates and appoints Inventor and its duly authorized officers and agents, as Contractor's agents and attorneys-in-fact to act for and on Contractor's behalf and instead of Contractor, to execute and file any such application and to do all other lawfully permitted acts to further the prosecution and issuance of Patents, copyrights, trademarks or other rights thereon with the same legal force and effect as if executed by Contractor.

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Article 7: Excluded Matters

As a matter of record Contractor attaches hereto a complete list of all inventions or Improvements relevant to the Subject Technology which have been made or conceived or first reduced to practice by Contractor alone or jointly with others prior to this agreement that Contractor desires to remove from the operation of this agreement, and Contractor covenants that such list is complete. If no such list is attached to this agreement, Contractor represents that Contractor has no such inventions and Improvements at the time of signing this agreement.

Article 8: Conflicts

Contractor represents that Contractor's performance of all the terms of this agreement will not breach any agreement to keep in confidence proprietary information acquired by Contractor in confidence or in trust prior to this agreement. Contractor has not entered into, and Contractor agrees Contractor will not enter into, any agreement (either written or oral) in conflict herewith. Contractor represents that neither Contractor's execution of this agreement, nor Contractor's performance of services for Inventor, nor Contractor's performance of duties under this Agreement will violate any obligations Contractor may have to any other party.

Article 9: Non-Competition

As an independent covenant, Contractor further agrees that, without the express written consent of Inventor, Contractor will refrain during its services to Inventor from consulting with or otherwise associating with or working for any business which competes with the business of Inventor and from otherwise planning the formation of a new business or enterprise which proposes to compete with the business of Inventor.

If any such activities are engaged in by Contractor, after having obtained the written consent of Inventor, Contractor agrees to promptly disclose to Inventor the full nature and extent of such activities.

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Article 10: Miscellaneous

10.1 Effective Date

This agreement shall be effective as of the first day of Contractor's services by Inventor and shall survive the termination of such services for any reason.

10.2 Assignment

This agreement shall be binding upon Contractor, and its heirs, executors, assigns, successors, and administrators and shall inure to the benefit of Inventor, and his heirs, executors, assigns, and administrators.

Contractor agrees not to assign rights or delegate duties associated with this contract to third parties without the express prior written consent of Inventor.

10.3 Entire Agreement

This Agreement states the entire agreement between the parties, supersedes all prior agreements and may be amended only in a writing signed by both parties.

10.4 Damages Inadequate

It is understood and agreed that money damages would not be a sufficient remedy for any breach of this agreement by Contractor or its employees, officers, directors, representatives or agents and that Inventor shall be entitled to specific performance as a remedy for any such breach.

Such remedy shall not be deemed the exclusive remedy for any such breach of this agreement but shall be in addition to all other remedies available at law or in equity to Inventor.

10.5 Waiver

No waiver of any default, condition provision or breach of this agreement shall be deemed to imply or constitute a waiver of any other like default, condition, provision or breach of this agreement.

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10.6 Notice

Any notice or communication required or permitted to be given by either party hereunder shall be deemed given if delivered in person or to the party to whom notice is given if mailed by first class mail, postage prepaid or by recognized overnight courier, addressed as follows or to such other addresses as either party shall have designated by notice in writing to the other party hereto:

IF TO INVENTOR: JOHN SMITH

IF TO CONTRACTOR: JANE DOE

10.7 Governing Law

This agreement shall be governed by and construed in accordance with the laws of the State of Texas.

10.8 Venue

Any dispute arising out of this agreement shall be adjudicated within the State of Texas unless Inventor agrees to venue in another jurisdiction. Contractor agrees to be subject to venue in which either Inventor may reside at the time that any civil action is filed by either party.

**Article 11:
Signatures**

IN WITNESS WHEREOF the parties have executed this agreement as of the date first above written.

Contractor	
_____	_____
JANE DOE	Date

Inventor	
_____	_____
JOHN SMITH	Date