



NON-DISCLOSURE AGREEMENT

THIS NON-DISCLOSURE AGREEMENT ("Agreement") is effective as of _____, 20__ between Acutrack, Inc., a California corporation (the "Company"), and _____ (the "Covenantor").

1. **Definition of Confidential Information.** As used in this Agreement, the term "Confidential Information" shall mean any information, matter, or thing of a secret, confidential, or private nature connected with or related to the Company, its parents, subsidiaries, and affiliates, or any of its suppliers or customers. Included within the meaning of Confidential Information are matters of a technical or scientific nature (including, but not limited to, inventions, copyrightable material, formulae, manuals, computer programs, algorithms, concepts, developments, experiments, contributions, devices, discoveries, software and documentation, object and machine readable code, flow charts, diagrams, secret techniques, trade secrets, processes or machines, including any improvements thereof and know-how related thereto, whether or not patentable or copyrightable), matters of a financial or business nature (such as information about strategy, budgets, contracts, marketing plans, grants, costs, profits, markets, sales, distribution systems, customers, potential customers, suppliers, service providers, manufacturing, purchasing, and accounting methods), plans for further development, and any other information of a similar nature not available to the public. Confidential Information shall not include: (a) information that is now or later becomes part of the public knowledge or literature, unless such information becomes public knowledge as the result of any improper action or inaction on the part of Covenantor; (b) information received by Covenantor from a third party, unless such third party has been directed by the Company not to reveal such information or to reveal such information only on a confidential basis; or (c) information which Covenantor is obligated to disclose by court order or governmental agency requirement; provided, that Covenantor shall first have given written notice of such required disclosure to the Company, and permitted the Company a reasonable opportunity to protect such information from public disclosure.
2. **Disclosure and Use of Confidential Information.** Covenantor shall not disclose any Confidential Information to any third party without the prior written consent of the Company, such consent to be given or withheld by the Company in the exercise of the Company's absolute discretion. If Covenantor is in doubt as to whether any particular information may be disclosed, Covenantor shall consult with the Company's senior management as to the permissibility of such disclosure and shall obtain the express consent of the Company's senior management prior to disclosing such information. Covenantor shall hold all Confidential Information in strictest confidence and shall protect such Confidential Information from disclosure to those who do not, or should not, have access to such Confidential Information, including the general public. Covenantor acknowledges and agrees that the provisions of this Section 2 shall apply to Covenantor in perpetuity. Covenantor shall notify Company immediately upon discovery of any unauthorized disclosure or use of any Confidential Information, and shall fully cooperate with Company to help regain possession of such Confidential Information and prevent any future unauthorized disclosure or use of such Confidential Information.
3. **Ownership; Return of Information.** Covenantor agrees that the Company is the sole and exclusive owner of all of the Company's Confidential Information, and Covenantor has no ownership or property rights or interests in or to such Confidential Information. At any time as the Company may request, Covenantor shall return all Confidential Information, including all notes, memoranda, reports, drawings, blueprints, manuals, materials, data, and other papers and records of every kind which pertain to Confidential Information, and shall delete, destroy, and expunge all electronic copies of the same.

4. Miscellaneous. This Agreement contains the entire agreement between the Company and Covenantor with respect to the subject matter hereof, superseding all prior negotiations and agreements, whether written or oral. This Agreement may be amended or modified only by a written instrument executed by the parties hereto. This Agreement shall be binding upon and shall inure to the benefit of the successors, executors, administrators, heirs, representatives, and assigns of the parties. Covenantor may not assign any of Covenantor's rights or obligations under this Agreement. The Company may assign this Agreement without any obligation to provide notice to, or obtain the consent of, Covenantor. This Agreement resulted from negotiations between the parties, and neither party shall be deemed to be the drafter hereof. This Agreement may be executed in counterparts, each of which shall be deemed an original, but both of which together shall be considered one and the same instrument. This Agreement shall be construed under and governed by the laws of the State of California without regard to its choice of law provisions. The parties hereto acknowledge and agree that the extent of damage to the Company in the event of a breach by Covenantor of any of the covenants contained in this Agreement would be difficult or impossible to ascertain and that there would be no adequate remedy at law available to the Company in the event of such breach. Consequently, Covenantor agrees that, in the event of such breach, the Company, in addition to receiving damages for the breach, shall be entitled to enforce any or all of the covenants contained in this Agreement by preliminary and permanent injunctive or other equitable relief without the necessity of proving actual damages. The parties agree that the prevailing party in any action or proceeding brought to enforce or interpret this Agreement shall be entitled to reasonable attorneys' fees and costs in addition to all other relief to which such party may be entitled.

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

Acutrack, Inc.
By: _____
Name: _____
Title: _____
Date: _____

Covenantor: _____
By: _____
Name: _____
Title: _____
Date: _____