

## NON-DISCLOSURE AGREEMENT

THIS NON-DISCLOSURE AGREEMENT (the "Agreement"), made and entered into the date of the last signature below between MegaplanIT Holdings, Inc., and ("MegaplanIT"), and \_\_\_\_\_ ("Company").

WHEREAS, the parties desire to enter into confidential discussions and negotiations with respect to potential contract and/or business relationships or opportunities; and

WHEREAS, in order to pursue such discussions, the parties recognize that there is a need for each party to disclose to the other party certain of its confidential information to be used only for business discussions and a need for the party receiving such information (the "Receiving Party") to protect the information of the party disclosing such information (the "Disclosing Party") from unauthorized use and disclosure.

NOW THEREFORE, the parties agree as follows:

1. **Confidential Information.** As used herein, "Confidential Information" shall mean any information, technical data or know-how (or compilation of the same) of the Disclosing Party that is not generally known or that is designated or treated as confidential or proprietary to the Disclosing Party's business, operations or prospects, including, without limitation, financial data, business and marketing plans and strategies, business operations and systems, intellectual property, databases, information concerning sales representatives, employees, customers and vendors, or technology, such as systems, discoveries, inventions, improvements, research, development, know how, designs, product specifications, software, object code, source code, flow charts, schematics, blue prints, prototypes, devices, hardware, technical documentation and manufacturing processes. Confidential Information shall also mean the negotiations of, and the existence of, this Agreement. All Confidential Information provided by the Disclosing Party to the Receiving Party shall be treated as Confidential Information irrespective of its source.

2. **Receiving Party's Obligations.** Receiving Party represents, warrants and covenants to Disclosing Party, that the Receiving Party shall hold any and all Confidential Information in the strictest confidence and will not disclose, disseminate or publish any Confidential Information to any person or entity whatsoever and will not use any Confidential Information other than in the course of and to further the business discussions, absent the prior express written consent of Disclosing Party. Receiving Party shall take all steps necessary to ensure that all Confidential Information is held in the strictest confidence and that the terms and conditions of this Agreement are strictly adhered to by Receiving Party and its directors, officers, counsel, and employees ("Representatives"). Receiving Party may provide access to the Confidential Information to its authorized Representatives on, and only on, a need-to-know basis that is directly and solely for the authorized purposes under this Agreement. Receiving Party shall inform such Representatives of this Agreement and shall ensure that such persons either agree to be bound hereunder or are subject to an agreement with Receiving Party which obligates the Representative to maintain the confidentiality of a third party's Confidential Information. Receiving Party shall be responsible for any breach of the Agreement by its Representatives.

3. **Exclusions.** Receiving Party shall have no liability to Disclosing Party under this Agreement with respect to the disclosure and/or use of any Confidential Information that it can establish:

- 3.1 has become generally known or available to the public without breach of this Agreement by Receiving Party;
- 3.2 was known or obtained by proper means by Receiving Party prior to receiving such information from Disclosing Party;

- 3.3 has become known by or generally available to Receiving Party from a source other than Disclosing Party, without any breach of any obligation of confidentiality owed to Disclosing Party, subsequent to disclosure of such information to it by Disclosing Party;
- 3.4 has been independently developed by Receiving Party without use of or reference to the Confidential Information by persons who had no access to the Confidential Information;
- or
- 3.5 has been approved for release or use by written authorization of Disclosing Party.

4. **Required Disclosures.** Receiving Party may disclose the Confidential Information if and to the extent that such disclosure is required by applicable law or regulatory agency, provided that Receiving Party uses reasonable efforts to limit the disclosure by means of a protective order or a request for confidential treatment and if permitted by law, provides Disclosing Party a reasonable opportunity to review the disclosure before it is made and to interpose its own objection to the disclosure. In the event Receiving Party discloses Confidential Information as permitted by this Section 4, it shall limit its disclosure to that portion of the Confidential Information, which the Receiving Party is advised by the written opinion of its counsel is legally required to be disclosed.

5. **Return of Confidential Information.** Upon Disclosing Party's request, Receiving Party will promptly return to Disclosing Party all tangible forms of the Confidential Information, and will destroy all notes, abstracts and other documents or any medium that contain Confidential Information. Notwithstanding the foregoing, Receiving Party shall (i) be permitted to retain a copy of the Confidential Information to the extent required to comply with applicable law or regulatory authority or written and established internal document retention policies and (ii) not be required to destroy, delete, or modify any backup tapes or other media pursuant to automated archival processes in the ordinary course of business, provided in each case (i) and (ii) herein, any such Confidential Information retained shall remain subject to the confidentiality obligations of this Agreement for so long as such Confidential Information is retained.

6. **No Representations as to Accuracy.** Disclosing Party warrants that it has the right to make the disclosure of Confidential Information contemplated by this Agreement. In providing the Confidential Information under this Agreement, Disclosing Party makes no representation, either express or implied, as to its adequacy, sufficiency or freedom from defect of any kind.

7. **Ownership of Confidential Information and Developments.** Receiving Party acknowledges that Disclosing Party is the sole owner of the Confidential Information and that this Agreement does not grant Receiving Party a right or license to use the intellectual property of Disclosing Party. All developments, designs, improvements, and inventions made or developed by Receiving Party or its agents that are based on or incorporate the Confidential Information shall be the sole property of Disclosing Party. Disclosing Party retains all rights and remedies with respect to the Confidential Information afforded it under the patent and other laws of the United States and the States, both during and after the term of this Agreement, including, without limitation, any trade secret or other laws designed to protect proprietary or Confidential Information.

8. **Term of Agreement; Survival.** This Agreement shall terminate two (2) years after the Effective Date, or may be terminated by either Party at any time upon thirty (30) days written notice to the other Party. Each Party's obligations under this Agreement will survive termination of this Agreement and will be binding upon such Party's heirs, successors, and assigns. Receiving Party's obligations of confidentiality and non-use of Disclosing Party's Confidential information shall continue (a) for five (5) years after this Agreement is terminated or (b) if the Confidential Information is a trade secret for as long as such information is considered a trade secret under applicable law. Each Party acknowledges that the

return or destruction of the Confidential Information shall not terminate the obligations of the parties hereunder.

9. **Public Announcement.** All public announcements or other statements to third parties related to the discussions referred to in the recitals of this Agreement by either of the parties shall be subject to prior approval by the other Party, except for such statements as may be necessary, in the opinion of their respective counsel, to comply with the requirements of any law or governmental order or regulation.

10. **Rights and Remedies.** Receiving Party shall notify Disclosing Party in writing promptly upon discovery by Receiving Party of any unauthorized use or disclosure of Confidential Information, and will cooperate with Disclosing Party in every reasonable way to regain possession of the Confidential Information and prevent its further unauthorized use. Receiving Party acknowledges that the unauthorized use or disclosure of the Confidential Information would cause irreparable harm to Disclosing Party. Accordingly, Receiving Party agrees that Disclosing Party will have the right to seek an immediate injunction against any breach or threatened breach of this Agreement, without the need to post any bond or other security, as well as the right to pursue any and all other rights and remedies available at law or in equity for such a breach.

11. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the United States of America and the State of Arizona without regard to choice of law provisions that would cause the application of the law of another jurisdiction. The parties agree that any legal action or proceeding with respect to this Agreement (including any tort claims) will be brought either in the state or federal courts nearest to Phoenix, Arizona, and by execution and delivery of this Agreement, each Party hereby consents to the jurisdiction of the aforesaid courts solely for the purpose of adjudicating its rights with respect to this Agreement.

12. **Assignment; Successors.** Neither Party may assign their rights under this Agreement. This Agreement shall be binding on, and shall inure to the benefit of, the parties to it and their respective legal representatives, successors, and permitted assigns.

13. **Waiver.** No waiver of any obligation under this Agreement shall be effective unless in writing, and shall then be effective only for the specific instance for which such waiver was given and for no other.

14. **Severability.** If one or more of the provisions contained in this Agreement are found to be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not be affected and the invalid provision will be amended to achieve as nearly as possible the same economic effect as the original provision.

15. **Headings.** The section and subsection headings have been used in this Agreement as a matter of convenience only and shall not be used in the interpretation of any provision of this Agreement.

16. **Counterparts.** This Agreement may be executed in any number of counterparts, including facsimile, PDF, or other electronic copies, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

17. **Entire Agreement, Amendments, Prior Discussions.** This Agreement constitutes the final, exclusive, and complete statement of the parties' agreement respecting the subject matter addressed herein and supersedes all prior agreements between the parties with respect to Confidential Information disclosed on or after the effective date hereof. This Agreement may not subsequently be amended or modified except by a writing signed by the parties hereto.

IN WITNESS WHEREOF, each party has caused this Non-Disclosure Agreement to be executed by its duly authorized representative as of the last signature below.

**MEGAPLANIT HOLDINGS, INC.**

**COMPANY**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_