



MUTUAL NONDISCLOSURE AND CONFIDENTIALITY AGREEMENT

This MUTUAL NONDISCLOSURE AND CONFIDENTIALITY AGREEMENT (the “Agreement”) is entered into as of DATE by and between APPLICANT NAME of APPLICANT COMPANY/PRODUCT and Inventors Only through Esino USA Corporation, a privately held company and its affiliates, subsidiaries, directors and other related parties (the “Receiving Party,” as the case may be), on the one hand, CLIENT (“COMPANY” or the “Disclosing Party”), on the other hand, for the purposes of defining and restricting the dissemination of Confidential Information and Trade Secrets (as defined below) of the Disclosing Party which may be disclosed to the Receiving Party in connection with one (1) or more proposed transactions involving COMPANY (the “Transactions”).

For purposes of this Agreement, the “Confidential Information” of Disclosing Party shall mean any valuable, sensitive financial data and other information including, but not limited to, (a) matters of an artistic nature including, but not limited to, artists, concepts and properties intended for development and/or production; and (b) matters of the business of Disclosing Party, or any subsidiary, affiliate or division thereof, including but not limited to, any information or material pertaining to such business, financial projections, clients, customer lists, shareholders, partners, contracts, assets, liabilities or other financial information about Disclosing Party or any of its principals, subsidiaries, affiliates or divisions. “Trade Secrets” shall mean information or data, including, but not limited to, technical or non-technical data, formulas, patterns, compilations, programs, devices, methods, techniques, drawings, processes, financial data, financial plans, product plans or lists of actual or potential customers that (a) derive economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by unrelated parties who can obtain economic value from their disclosure or use; and (b) are subject to efforts that are reasonable under the circumstances to maintain their secrecy. To the extent that the foregoing definition is inconsistent with the definition of “trade secrets” mandated under applicable law, the latter definition shall govern for the purposes of interpreting Receiving Party’s obligations under this agreement.

In consideration of the Disclosing Party’s disclosure of Confidential Information and Trade Secrets to the Receiving Party, the parties hereby agree as follows:

- 1) The Receiving Party acknowledges that the Confidential Information and Trade Secrets is/are the proprietary property of the Disclosing Party.
- 2) The Receiving Party shall hold and maintain the Confidential Information and Trade Secrets in confidence, and shall not provide or disclose the Confidential Information and Trade Secrets to any person or entity not a party to this Agreement except for disclosure required by law or the rules of any relevant securities exchange, or to the Receiving Party’s legal, accounting and financial advisors (the persons to whom such



disclosure is permissible being collectively referred to herein as “Receiving Party’s Representatives”) who need to know such Confidential Information and Trade Secrets for the sole purpose of advising the Receiving Party in connection with the Transactions, provided that such discussions or disclosures shall be conditioned upon the written agreement of the person to whom the terms are disclosed to maintain the confidentiality of such terms on the same basis as set forth herein.

- 3) The Receiving Party shall not, without prior written approval of the Disclosing Party, use, reproduce, publish or otherwise disclose to others, or permit the use by others for their benefit or to the detriment of the Disclosing Party of the Confidential Information and Trade Secrets to anyone other than its Representatives, provided, however, that the disclosure and use of the Confidential Information and Trade Secrets by the Receiving Party’s Representatives for the purpose of review and evaluating the Transactions is permitted, provided that such use is conditioned upon the written agreement of the Receiving Party’s Representatives to maintain the confidentiality of the information on the same basis as set forth herein.
- 4) The Receiving Party shall take all action reasonably necessary to protect the confidentiality of the Confidential Information and Trade Secrets, and hereby agrees to indemnify, hold harmless and defend the Disclosing Party from and against any and all claims or expenses, including, without limitation, reasonable attorney’s fees and costs, incurred or suffered by the Disclosing Party as a result of the Receiving Party’s breach of this Agreement.
- 5) The nondisclosure and confidentiality obligations pursuant to this Agreement shall continue in full force and effect in perpetuity unless otherwise waived in writing by the parties hereto.
- 6) The Receiving Party understands and acknowledges that any disclosure or misappropriation of any of the Confidential Information and Trade Secrets in violation of this Agreement may cause the Disclosing Party irreparable harm, the amount of which may be difficult to ascertain and, therefore, agrees that the Disclosing Party shall have the right to apply to a court of competent jurisdiction for an order enjoining Receiving Party from any further disclosure or misappropriation and for such other relief as the Disclosing Party shall deem appropriate. Such right of the Disclosing Party is to be in addition to any other remedies otherwise available to the Disclosing Party at law or in equity.
- 7) The Receiving Party shall return to the Disclosing Party (or at the Disclosing Party’s option send a written confirmation signed by an officer of Receiving Party that it has destroyed) any and all records, notes and other written, printed or tangible materials pertaining to the Confidential Information and Trade Secrets immediately on the written request of the Disclosing Party.



- 8) This Agreement and the Receiving Party's obligations hereunder shall be binding on the representatives, assigns and successors of the Receiving Party and shall inure to the benefit of the assigns and successors of the Disclosing Party.
- 9) Notwithstanding any other provision in this Agreement, nothing shall prohibit or limit the Receiving Party or its Representatives' use of any information, or any portion thereof, which: (a) is disclosed with Disclosing Party's express written consent; (b) which either party knew prior to the disclosure of such information by the other party; (c) which has become publicly known through no wrongful act of either party; (d) which was independently developed by the Receiving Party, without reference to Confidential Information received hereunder and not in breach of this Agreement; (e) is disclosed pursuant to law, governmental, judicial, administrative or other validly enforceable subpoena, summons, order or similar process, or professional or regulatory standards; (f) is disclosed by Receiving Party in connection with any judicial or other proceeding involving the Transactions, Disclosing Party or Receiving Party or any partners, principals, agents, consultants or employees of Receiving Party or Disclosing Party (whether or not such proceeding involves any third parties).

If the Receiving Party or the Receiving Party's Representatives are requested in any proceeding to disclose any Confidential Information and Trade Secrets, then the Receiving Party or the Receiving Party's Representatives will give the Disclosing Party prompt notice of such request so that the Disclosing Party may seek an appropriate protective order. If the Receiving Party or the Receiving Party's Representatives are nonetheless compelled to disclose such Confidential Information and Trade Secrets, such Receiving Party or Receiving Party's Representatives, as the case may be, may disclose such information to the extent compelled to do so in such proceeding without liability hereunder, provided, however, that the Disclosing Party is given written notice of the information to be disclosed as far in advance of its disclosure as is practicable and best efforts are used to obtain assurances that confidential treatment will be accorded to such information.

- 10) The Receiving Party shall not disclose to any person (including, without limitation, the customers or clients of the Disclosing Party and the media) either the fact that any investigations, discussions or negotiations are taking place between the Disclosing Party and the Receiving Party concerning the Transactions, or that the Receiving Party has received Confidential Information and Trade Secrets from the Disclosing Party, or any of the terms, conditions or other facts with respect to the Transactions or the services provided thereunder, including the status of this Agreement.
- 11) This Agreement shall be governed and construed in accordance with the laws of the State of California applicable to contracts to be wholly performed therein.



- 12) If any action at law or in equity is brought to enforce or interpret the provisions of the Agreement, the prevailing party in such action, whether or not pursued to judgment, shall be entitled to recover reasonable outside attorneys 'fees.
- 13) This Agreement constitutes the sole understanding of the parties about the subject matter hereof and may not be amended or modified, except in writing signed by each of the parties to this Agreement.

IN WITNESS WHEREOF, the undersigned have executed this Non-Disclosure and Confidentiality Agreement (which may be executed in counterparts) on the dates set forth below with effect as of the date set forth above.

By: _____
 Name: _____
 Date: _____
 Signature: _____

By: Esino USA Corporation
 Name: _____
 Date: _____
 Signature: _____