

NONDISCLOSURE & CONFIDENTIALITY AGREEMENT

This NONDISCLOSURE & CONFIDENTIALITY AGREEMENT (this “Agreement”), dated as of _____, 20____, is between RainShadow Labs, Inc., an Oregon corporation (“RSL”) and _____, a _____ corporation (“Company”).

RECITALS

A. RSL and Company wish to explore a business relationship pursuant to which both parties may disclose Confidential Information.

AGREEMENT

Both parties agree as follows:

SECTION 1. CONFIDENTIAL INFORMATION DEFINED

As used in this Agreement, the term *Confidential Information* means (a) proprietary information of either party, (b) information marked or designated by either party as confidential, (c) information, whether or not in written form and whether or not designated as confidential, that is known to me as being treated by either party as confidential, and (d) information provided to either party by third parties that either party is obligated to keep confidential. Confidential Information includes, but is not limited to, discoveries, ideas, designs, drawings, specifications, techniques, models, data, programs, documentation, processes, know-how, customer lists, marketing plans, and financial and technical information.

SECTION 2. OWNERSHIP

Both parties acknowledge that all Confidential Information is and shall continue to be the exclusive property of the other party, whether or not disclosed or entrusted to me in connection with the business relationship.

SECTION 3. ACKNOWLEDGMENT OF RECEIPT OF CONFIDENTIAL INFORMATION

Both parties acknowledge that in the course of the business relationship, both parties will have access to Confidential Information, the ownership and confidential status of which are highly important to both parties, and both parties agree, in addition to the specific covenants contained in this Agreement, to comply with all of the other parties’ policies and procedures for the protection of Confidential Information.

SECTION 4. ACKNOWLEDGMENT OF IRREPARABLE HARM

Both parties acknowledge that any disclosure of Confidential Information will cause irreparable harm to the other party.

SECTION 5. COVENANT OF NONDISCLOSURE

Both parties agree not to disclose Confidential Information, directly or indirectly, under any circumstances or by any means, to any third person without the express written consent of the other party.

Both parties agree not to disclose Confidential Information within its organization except to persons specifically authorized by the Company and only after having notified those persons of the confidential nature of the information and having placed them under similar covenants of nondisclosure and nonuse

SECTION 6. COVENANT OF NONUSE

Both parties agree not to copy, transmit, reproduce, summarize, quote, or make any commercial or other use whatsoever of Confidential Information, except as may be necessary to the business relationship.

SECTION 7. SAFEGUARD OF CONFIDENTIAL INFORMATION

Both parties agree to exercise the highest degree of care in safeguarding Confidential Information against loss, theft, or other inadvertent disclosure, and agree generally to take all steps necessary to ensure the maintenance of confidentiality.

Both parties agree to notify the other party immediately upon lost or improperly disclosed Confidential Information and to take all steps reasonably necessary to retrieve the lost or improperly disclosed Confidential.

SECTION 8. EXCLUSIONS; REPRESENTATIONS

Notwithstanding any other provisions of this Agreement, the confidentiality obligations of this Agreement shall not apply to any information that the recipient demonstrates by clear and convincing documentary evidence (a) is now or becomes generally known to the public by lawful means and without breach of any confidentiality obligation, (b) is disclosed by the recipient with the party's prior written consent to unrestricted disclosure, (c) was known to and reduced to writing by the recipient before the date of this Agreement, (d) is independently developed by the recipient without use of any Confidential Information, or (e) is lawfully obtained by the recipient from any third party who did not obtain the information, directly or indirectly, from the party. Confidential Information will not be deemed to be generally known to the public merely by reason of having been included in a patent application filed in a country where patent applications are not kept confidential or are published as part of the patenting process. The term *generally known to the public* refers to information that is generally known to the public in the country in which the Confidential Information is sought to be used, and the term does not include information that can be derived only through significant expenditure of time or effort to assemble, compile, or reconstruct, even though individual portions of the information may be publicly available.

Both parties make no representation, express or implied, regarding the adequacy, sufficiency, or freedom from defect of any kind of the Confidential Information and the Parties specifically disclaim any implied warranties of merchantability or fitness for a particular purpose.

SECTION 9. RETURN OF CONFIDENTIAL INFORMATION

On termination of the business relationship, or otherwise as requested, both parties will deliver promptly to the other party all Confidential Information, in whatever form, that may be in possession or under the other party's control.

SECTION 10. SUBPOENAS

If either party is served with any subpoena or other compulsory judicial or administrative process calling for production of Confidential Information, the party served will immediately notify the other party so that it may take such action as it deems necessary to protect its interests.

SECTION 11. REMEDIES

If either party fails to abide by this Agreement, the other party will be entitled to (a) specific performance, including immediate issuance of a temporary restraining order or preliminary injunction enforcing this Agreement, (b) a judgment for damages caused by my breach, and (c) any other remedies provided by applicable law.

SECTION 12. DURATION

The obligations set forth in this Agreement will continue beyond the term of the business relationship and for as long as either party possesses Confidential Information.

SECTION 13. MISCELLANEOUS PROVISIONS

13.1 Binding Effect. This Agreement shall be binding on and inure to the benefit of the parties and their respective heirs, personal representatives, successors, and permitted assigns.

13.2 Assignment. Neither this Agreement nor any of the rights, interests, or obligations under this Agreement shall be assigned by any party without the prior written consent of the other parties.

13.3 Amendments. This Agreement may be amended only by an instrument in writing executed by all the parties, which writing must refer to this Agreement.

13.4 Waiver. Any provision or condition of this Agreement may be waived at any time, in writing, by the party entitled to the benefit of such provision or condition. Waiver of any breach of any provision shall not be a waiver of any succeeding breach of the provision or a waiver of the provision itself or any other provision.

13.5 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, without regard to conflict-of-laws principles.

13.6 Attorney Fees. If any arbitration, suit, or action is instituted to interpret or enforce the provisions of this Agreement, to rescind this Agreement, or otherwise with respect to the subject matter of this Agreement, the party prevailing on an issue shall be entitled to recover with respect to such issue, in addition to costs, reasonable attorney fees incurred in preparation or in prosecution or defense of such arbitration, suit, or action as determined by the arbitrator or trial court, and if any appeal is taken from such decision, reasonable attorney fees as determined on appeal.

13.7 Injunctive and Other Equitable Relief. The parties agree that the remedy at law for any breach or threatened breach by a party may, by its nature, be inadequate, and that the other parties shall be entitled, in addition to damages, to a restraining order, temporary and permanent injunctive relief, specific performance, and other appropriate equitable relief, without showing or proving that any monetary damage has been sustained.

13.8 Venue. Any action or proceeding seeking to enforce any provision of, or based on any right arising out of, this Agreement shall be brought against any of the parties in Multnomah County District Court of the State of Oregon, or, subject to applicable jurisdictional requirements, in the United States District Court for the District of Oregon, and each of the parties consents to the jurisdiction of such courts (and of the appropriate appellate courts) in any such action or proceeding and waives any objection to such venue.

13.9 Entire Agreement. This Agreement (including the documents and instruments referred to in this Agreement) constitutes the entire agreement and understanding of the parties with respect to the subject matter of this Agreement and supersedes all prior understandings and agreements, whether written or oral, among the parties with respect to such subject matter.

RainShadow Labs, Inc.

[Company Name]

By: _____
Tim Johansson, President

By: _____