

AGREEMENT NOT TO DISCLOSE CONFIDENTIAL INFORMATION (BILATERAL)

THIS AGREEMENT made as of the _____ day of _____, 200__ (the “Agreement”).

BETWEEN:

 (“Client”)

and

Productpod idea development company
 (“Company”)

WHEREAS the parties to this Agreement wish to exchange certain confidential and proprietary information for the purpose of discussing possible sale, joint venture, partnerships, investment opportunity, management agreements or other between the Client(s) and the Company. This exchange will include, but not be limited to, products, services, management structure, operations, commission, royalties and marketing strategies.

(the “Purpose”);

NOW THEREFORE, in consideration of the mutual promises, covenants and obligations contained in this Agreement, the parties agree as follows:

1. For the purpose of this Agreement:

“**Confidential Information**” includes, but is not limited to, any information, know-how, data, patent, copyright, trade secret, process, technique, program, design, formula, marketing, advertising, financial, commercial, sales or programming matter, written materials, compositions, drawings, diagrams, computer programs, studies, work in progress, visual demonstrations, ideas, concepts, and other data, in oral, written, graphic, electronic, or any other form or medium whatsoever, which may be exchanged between the parties. The term “Confidential Information” shall not include the following:

- (i) information which is now or which hereafter becomes publicly known or available through no act or failure on the part of Recipient, whether through breach of this Agreement or otherwise;
- (ii) information which is actually known to Recipient prior to the time of receipt of such Confidential Information, which such actual knowledge can be established by evidence that would be acceptable to a Court of competent jurisdiction;
- (iii) information which is furnished to Recipient by a third party who has rightfully obtained the Confidential Information without restriction on disclosure;
- (iv) information which is independently developed by Recipient without use of or reference to the Confidential Information of Owner that does not otherwise contravene the terms and provisions of this Agreement, and which such independent development can be established by evidence that would be acceptable to a Court of competent jurisdiction; or
- (v) information which Recipient is by law, order of a Court of competent jurisdiction, or

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other legal compulsion required to disclose.

“Owner” means the party hereto which possesses the intellectual property rights in and to an item of Confidential Information, as the context requires, and includes, without limitation, an owner, possessor, developer and licensee of such Confidential Information.

“Recipient” means the party hereto who receives or is otherwise privy to, or comes into possession of, an item of Confidential Information of which it is not the Owner.

“Affiliate” means any corporation, company or entity that is affiliated with Productpod, as the term “affiliated” is defined in the *Business Corporations Act* of Nova Scotia;

2. All Confidential Information constitutes the sole and exclusive property and the Confidential Information of the Owner, which the Owner is entitled to protect. Recipient shall only use the Confidential Information strictly for the Purpose, as defined above. Recipient shall hold and maintain all confidential Information in trust and strict confidence for the Owner and shall have a fiduciary obligation to protect the Confidential Information from any harm, tampering, unauthorized access, sabotage, access, exploitation, manipulation, modification, interference, misuse, misappropriation, copying or disclosure whatsoever, except as specifically authorized by the Owner in Writing.

3. Without the prior written consent of the Owner, Recipient shall not disclose any Confidential Information to any person other than to such of its employees, officers, directors, contractors, agents and professional advisers and in such an event only to the foregoing, Recipient may disclose any Confidential Information to such of the employees, officers, directors, contractors, agents and professional advisors to the extent necessary for the Purpose described in the recital above without the prior written consent of the Owner. Recipient shall return all Confidential Information, including all records, summaries, analyses, notes or other documents and all copies thereof, to the Owner immediately upon request. The return of such documents to the Owner shall in no event relieve Recipient of its obligations of confidentiality set out in this Agreement with respect to such returned information.

4. In the event that the business relationship contemplated by this Agreement does not occur, neither party will use or permit the use of any of the Confidential Information of which it is the Recipient for its own benefit nor for the benefit of any third party.

5. Neither this Agreement nor the disclosure of any information to Recipient shall be construed as granting to Recipient any rights in, to or in respect of the Confidential Information.

6. The provisions hereof are necessary to protect the trade, commercial and financial interests of the parties. The parties acknowledge and agree that any breach whatsoever of the covenants, provisions and restrictions herein contained by either party shall cause, and shall be deemed to be, a breach of that party’s fiduciary obligations to the other party which may cause serious damage and injury to the non-breaching party which cannot be fully or adequately compensated by monetary damages. The parties accordingly agree that in addition to claiming damages, either party not in breach of this Agreement may seek interim and permanent equitable relief, in the event of any breach of this Agreement. All such rights and remedies shall be cumulative and in addition to any and all other rights and remedies whatsoever to which either party may be entitled.

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7. The parties agree that the execution of this Agreement does not in any way constitute a binding commitment on the part of either party to enter into or complete negotiations or any transaction with the other party.

8. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes and overrides any prior or other agreements, representations, warranties, understandings and explanations between the parties hereto with respect to the subject matter of this Agreement.

9. This Agreement shall be binding upon the trustees, receiver, heirs, executors, administrators, successors and assigns of the parties.

10. This Agreement shall be exclusively governed by, and construed in accordance with the laws of the province of Nova Scotia and the laws of Canada applicable therein. The Client hereby: (I) submits and attorns to the exclusive jurisdiction of the courts of the province of Nova Scotia; and (ii) waives trial by jury.

11. The invalidity or unenforceability of any provision thereof of this Agreement shall not affect the validity or enforceability of any other provision and any other remaining part which shall continue in full force and effect.

12. The parties acknowledge that their respective legal counsel has reviewed and participated in settling the terms of this Agreement, and that any rule of construction to the effect than any ambiguity is to be resolved against the drafting party shall not be applicable in the interpretation of this Agreement.

13. In this Agreement words importing the singular include the plural and vice versa and the words importing gender include all genders.

14. The parties to this Agreement have agreed that this Agreement shall be drawn up in English. Les parties on demande que cette convention soit redigee en anglais.

IN WITNESS WHEREOF Productpod and the Client have executed this Agreement as of the date first above written.

Productpod,
(idea development company)

(Productpod)
By: _____

Title: _____

(Client)
By: _____

Print: _____

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Witness: _____

Title: _____

Title: _____

Witness: _____

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Title: _____

Please Fax Signed Copy To: 902-876-0615