MUTUAL NON-DISCLOSURE AGREEMENT (MNDA)

This Mutual Non-Disclosure Agreement (“Agreement”), dated as of DD Month 2013 (the “Effective Date”), is entered into by and between [company] a/an [state] corporation (“Company”), having a principal place of business at [address], and e‑SubmissionsSolutions.com (“Consultant”), a California corporation, having a principal place of business at 3519 Eugene Place, San Diego, CA 92116-1930.

WHEREAS Company and Consultant each possesses proprietary and confidential information, data and experience relating to its respective business (collectively, “Confidential Information”); and

WHEREAS Company and Consultant wish to engage in discussions regarding their respective businesses, including the evaluation of whether or not they wish to enter into a business relationship, which discussions may require the disclosure of Confidential Information; and

WHEREAS Company and Consultant have entered into this Agreement in order to assure the protection of such Confidential Information in accordance with the terms of this Agreement.

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

1. Disclosing Party; Receiving Party. As used in this Agreement, the party disclosing Confidential Information is referred to as the "Disclosing Party", and the party receiving such Confidential Information is referred to as the "Receiving Party ".
2. Confidential Information. The term "Confidential Information" as used herein shall mean any and all information provided in writing, orally, visually, electronically or otherwise, disclosed at any time prior to, on, or after the Effective Date by the Disclosing Party to the Receiving Party, including, without limitation, all information, data, and experience, whether of a technical, non-technical, operational or economic nature, relating to the Disclosing Party’s business, and may include without limitation, information relating to the Disclosing Party’s product research and development, marketing plans or techniques, client lists, and any scientific or technical information, trade secrets, process, design, procedure, plan, formula or know-how (whether or not patentable), financial data, and employee, business and contractual relationships.
3. Disclosure of Confidential Information. The Receiving Party may disclose Confidential Information received by it under this Agreement only to persons within its organization, or to independent contractors, consultants or agents, who have a need to know such Confidential Information in the course of the performance of their duties in connection with this Agreement, and who are bound to protect the confidentiality of such Confidential Information on comparable terms and conditions as herein defined (collectively, “Authorized Users”). Notwithstanding the foregoing, the Receiving Party and its Authorized Users shall hold the Confidential Information in confidence in a manner consistent with Receiving Party’s treatment of its own Confidential Information, but in no event shall Receiving Party treat such information with less than reasonable care and diligence. The Receiving Party shall use such Confidential Information only for the purpose for which it was disclosed and shall not use or exploit such Confidential Information for its own benefit, or the benefit of another, without the prior written consent of the Disclosing Party. Under no circumstances may Receiving Party or its Authorized Users disclose, duplicate, reverse engineer, or otherwise reproduce, directly or indirectly, the Disclosing Party’s Confidential Information, in whole or in part, or any materials relating thereto, without the prior express written consent of the Disclosing Party.
4. Limitation of Obligations. The obligations of the Receiving Party specified in Section 3 above shall not apply to, and the Receiving Party shall have no further obligations with respect to, any Confidential Information to the extent that such Confidential Information:
   1. is generally known to the public at the time of disclosure or becomes generally known through no wrongful act on the part of the Receiving Party;
   2. is shown by contemporaneous documentation of Receiving Party to have been in the Receiving Party's rightful possession at the time of disclosure otherwise than as a result of Receiving Party's breach of any legal obligation;
   3. becomes known to the Receiving Party through disclosure by sources other than the Disclosing Party having the legal right to disclose such Confidential Information;
   4. is disclosed to others by the Disclosing Party without restriction;
   5. is independently developed by the Receiving Party without reference to, or reliance upon, the Confidential Information; or
   6. is required to be disclosed by the Receiving Party in order to comply with applicable laws, governmental regulations; provided that the Receiving Party provides prior written notice of such disclosure to the Disclosing Party and takes reasonable and lawful actions to avoid and/or minimize the extent of such disclosure, including, but not limited to, providing, to the extent possible, the Disclosing Party the opportunity to object to such disclosure.
5. Duration of Obligations. Each party’s obligations hereunder shall be in effect for a period of five (5) years from the date of this Agreement; provided, however, that such obligations shall remain in effect to the extent that, and for as long as, certain Confidential Information constitutes one or more trade secrets under applicable law.
6. Ownership of Confidential Information. The Receiving Party agrees that the Disclosing Party is, and shall remain, the exclusive owner of its Confidential Information, and all patent, copyright, trade secret, trademark, and other intellectual property rights therein. No license or conveyance of any such rights to the Receiving Party is granted or implied under this Agreement.
7. Return of Documents. The Receiving Party shall, upon the request of the Disclosing Party, certify in writing that it has destroyed, or shall return to the Disclosing Party at the Receiving Party's expense, all drawings, documents, notes, notebooks, files, records, tapes, disks, reports, blueprints, letters, procedures, forms, papers, data, lists, plans, documentation and other tangible manifestations of Confidential Information received by the Receiving Party pursuant to this Agreement (and all copies and reproductions thereof); provided, however, that the Receiving Party may retain one copy of any writings or other records necessary for its files.
8. Miscellaneous.
   1. Disclosing Party makes no warranties, express, statutory or implied regarding the sufficiency of any information disclosed for any purpose, including, but not limited to, any warranties regarding copyright, trademark, or trade secret infringement that may arise from the use of such information.
   2. This Agreement supersedes all prior agreements, written or oral, between the Disclosing Party and the Receiving Party relating to the subject matter of this Agreement. This Agreement may not be modified, changed, or discharged, in whole or in part, except by an agreement in writing signed by the Disclosing Party and the Receiving Party.
   3. This Agreement will be binding upon and inure to the benefit of the parties hereto and each party’s respective heirs, successors and assigns. Neither party may assign this Agreement without the prior written consent of the other party.
   4. No delay or omission on the part of either party to this Agreement in requiring performance by the other party or in exercising any right hereunder shall operate as a waiver of any provision or of any right or rights; and the waiver, omission or delay in requiring performance or exercising any right on any one occasion shall not be construed as a bar to, or waiver of, such performance or right on any future occasion.
   5. This Agreement shall be construed and interpreted in accordance with the laws of the State of California and disputes, if any, shall be subject to the jurisdiction of Federal and State Courts in California.
   6. The provisions of this Agreement are necessary for the protection of the business and goodwill of the parties and are considered by the parties to be reasonable for such purpose. Each party agrees that any breach of this Agreement may cause the Disclosing Party substantial and irreparable damages, and, therefore, in the event of any such breach, in addition to other remedies that may be available, the Disclosing Party shall have the right to seek specific performance and other injunctive and equitable relief. Notwithstanding the foregoing, in no event shall either of the parties hereto be liable to the other for the payment of any consequential, indirect, or special damages, including lost profits.
   7. If any provision of this Agreement is found to be invalid or unenforceable, the remainder of the Agreement shall not be affected thereby, and any such invalid or unenforceable provision shall be reformed so as to be valid and enforceable to the fullest extent permitted by law.
   8. This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.
   9. In the event of any dispute arising out of this Agreement, the prevailing party shall be entitled to the payment of reasonable attorney’s fees and costs incurred in the enforcement of this Agreement.

*Signature page follows immediately hereafter*

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed as of the Effective Date.

COMPANY

[company]  
a/an [state] corporation

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

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
 Name

Its: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**CONSULTANT**

e-SubmissionsSolutions.com  
a California corporation

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
 Antoinette Azevedo

Its: President & CEO