



### **Mutual Non-Disclosure Agreement**

Omni Consultants, LLC, a Delaware Limited Liability Company having its principal office at 709 N 2nd St Ste 400 Philadelphia, PA 19123, and \_\_\_\_\_, a \_\_\_\_\_ corporation having its principal office at \_\_\_\_\_, in consideration of the mutual covenants of this Agreement, hereby agree as follows:

1. In connection with discussions and information regarding potential future business arrangements and transactions (hereinafter "Subject Matter"), each party to this Agreement may wish to disclose its (or its affiliates') proprietary information (hereinafter "Information") to the other party on a confidential basis. The Disclosing Party may consider such information proprietary under this Agreement either because it has developed the information internally, or because it has received the information subject to a continuing obligation to maintain the confidentiality of the Information, or because of other reasons.
2. When information deemed to be proprietary is furnished in a tangible form, the Disclosing Party shall mark the information in a manner to indicate that it is considered proprietary or confidential or otherwise subject to limited distribution as provided herein. When information is provided orally, the Disclosing Party shall, at the time of disclosure, clearly identify the information as being proprietary or confidential or otherwise subject to limited distribution as provided herein. In addition, the existence and terms of this Agreement, and the fact and substance of discussions and correspondence between the parties concerning the Subject Matter, shall be deemed Information. All information directly related to an AppExchange product or directly related to a client project, is always considered proprietary.
3. With respect to information disclosed under this Agreement, the party to whom the information is disclosed, its employees, and employees of its affiliated companies (the "Receiving Party") shall:
  - a. hold the information in confidence, exercising a degree of care not less than the care it uses to protect its own proprietary or confidential information, but in any event, not less than a reasonable standard of care;
  - b. restrict disclosure of the information solely to those directors, officers, employees and/or agents/consultants with a need to know and not disclose it to any other person;
  - c. advise those persons to whom the information was disclosed of their obligations with respect to the Information; and
  - d. use the information only in connection with continuing correspondence and discussions by the parties concerning the Subject Matter, except as may otherwise be mutually agreed upon in writing.

4. The information shall be deemed the property of the Disclosing Party and, upon request, the Receiving Party will return all information received in tangible form to the Disclosing Party or will destroy all such information at the Disclosing Party's direction. If either party loses or makes an unauthorized disclosure of the other party's Information, it shall notify such other party immediately and use reasonable efforts to retrieve the lost or wrongfully disclosed Information.

5. The Receiving Party shall have no obligation to preserve the proprietary nature of any information which:

a. was previously known to such party free of any obligation to keep it confidential; or

b. is or becomes generally available to the public by other than unauthorized disclosure; or

c. is developed by or on behalf of such party independent of any information furnished under this Agreement; or

d. is received from a third party whose disclosure does not violate any confidentiality obligation; or

e. is required to be disclosed by law or by any governmental agency having jurisdiction pursuant to an order to produce or in the course of a legal proceeding pursuant to a lawful request for discovery, provided, however, that if a party is so required to disclose the information such party shall promptly notify the other party of the order or request in discovery and reasonably cooperate with such other party if it elects (at its expense) to seek to limit or avoid such disclosure by any lawful means.

6. Neither this Agreement, nor the disclosure of information under this Agreement, nor the ongoing discussions and correspondence between the parties, shall constitute or imply a commitment or binding obligation between the parties or their respective affiliated companies, if any, regarding the Subject Matter. If, in the future, the parties elect to enter into binding commitments regarding the Subject Matter, such commitments will be explicitly stated in a separate written agreement executed by both parties, and the parties hereby affirm that they do not intend their discussions, correspondence, and other activities to be construed as forming a contract regarding the Subject Matter or any other transaction between them without execution of such separate written agreement.

7. Neither party is responsible or liable for any business decisions made or inferences drawn by the other party in reliance on this Agreement or in reliance on actions taken or disclosures made pursuant to this Agreement. Neither party makes any warranty, express or implied, with respect to the Information. Neither party shall be liable to the other hereunder for amounts representing loss of profits, loss of business, or indirect, consequential, or punitive damages of the other

party in connection with the provision or use of the information hereunder.

8. **Non-Solicitation Clause:** During the term of this Agreement and for 1 year thereafter, neither party shall, without the prior written consent of the other party, directly or indirectly, solicit, induce, recruit, encourage, or take any other actions that may cause any prospects, clients, customers, or employees of the other party to terminate or diminish their relationship with such other party. This restriction shall apply to prospects, clients, or employees with whom the party has had material contact or about whom confidential information has been received under the terms of this Agreement.

9. **Proprietary Rights and Inventions Clause:** All software inventions, including but not limited to programs, algorithms, features, and related intellectual property conceived, developed, or contributed to by either party, individually or in collaboration with others, during the term of this Agreement, shall remain the sole and exclusive property of the hiring party and/or the hiring party's client. The receiving party agrees not to copy, modify, distribute, sell, or otherwise exploit any such software inventions without the prior written consent of the originating party. Any attempt to develop derivative works or to bring to market any software or product that uses, incorporates, or is based upon the software inventions of the hiring party without its express written permission is strictly prohibited. The receiving party acknowledges and agrees that any such unauthorized action would constitute a breach of this Agreement and infringement of proprietary rights, entitling the originating party to seek all applicable legal remedies, including injunctive relief and damages.

10. This Agreement shall be binding upon the parties hereto and their respective successors and assigns.

11. This Agreement shall become effective as of the date set forth below ("Effective Date"). The period of time following the Effective Date during which Disclosures of information may take place under this Agreement shall be referred to as the "information Disclosure Period". The obligations of the parties regarding disclosure of information shall survive and continue beyond the expiration of the information Disclosure Period for a period of two (2) years.

12. The parties acknowledge that in the event of an unauthorized disclosure of a party's Information, the damages incurred by such party may be difficult if not impossible to ascertain, and that such party may seek injunctive relief as well as monetary damages against a party that breaches this Agreement.

13. The parties acknowledge and understand that this Agreement does not limit or restrict the ability of either party to engage in its respective business, nor does it limit either party's use or application of any information or knowledge acquired independently of the other without breach of this Agreement during such business.

14. This Agreement shall be governed by and construed in accordance with the internal laws of the Commonwealth of Pennsylvania without giving effect to any choice of law or conflict of law provision or rule (whether of the Commonwealth of Pennsylvania or any other jurisdiction) that



would cause the application of the laws of any jurisdiction other than the Commonwealth of Pennsylvania. All litigation shall be subject to the exclusive jurisdiction of any state or federal courts located in the Commonwealth of Pennsylvania as Company and/or its successors and assigns designate, and in the absence of such designation, the situs of jurisdiction and venue shall be in any state court located in the County of Lancaster, Pennsylvania. Any of the foregoing courts shall have personal jurisdiction over Consultant and jurisdiction over matters arising out of this Agreement.

15. This Agreement constitutes the entire understanding between the parties with respect to the information provided hereunder. No amendment or modification of this Agreement shall be valid or binding on the parties unless made in writing and executed on behalf of each party by its duly authorized representative.

16. **IN WITNESS WHEREOF**, the parties hereto have caused their duly authorized representatives to execute this Agreement with an Effective Date of \_\_\_\_\_.

Company: \_\_\_\_\_

Company: OMNI CONSULTANTS, LLC

By:

By:

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

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

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

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

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

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

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