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**This sample document was drafted for Pillar’s startup community by Company Counsel, LLC. This document is intended to serve as a starting point only, and should be tailored to meet your specific requirements. This document should not be construed as legal advice for any particular facts or circumstances.**

**Companies should take care to have a form of this agreement on file with all service providers (whether consultants, employees, advisors or founders) who will be contributing proprietary information.**

**[COMPANY NAME]**

**Proprietary Information & Inventions Agreement**

As a condition to my employment by [COMPANY NAME], Inc. (together with its subsidiaries, affiliates, successors or assigns, the "Company"), of which I will be a beneficiary, and in consideration of the compensation now and hereafter paid to me, I agree to the following:

**1. Maintaining Confidential Information.**

**(a) Company Information.** At all times during the term of my relationship and thereafter, I shall hold in strictest confidence, and not use, except for the benefit of the Company, or disclose to any person, firm or corporation, without the written authorization of the Board of Directors of the Company, any trade secrets, confidential knowledge, data or other proprietary information of the Company. By way of illustration and not limitation, such shall include information relating to products, processes, know-how, designs, formulas, methods, samples, prototypes, developmental or experimental work, improvements, discoveries, plans for research, new products, marketing and selling, business plans, budgets and unpublished financial statements, licenses, prices and costs, suppliers and customers, and information regarding the skills and compensation of any employees of the Company.

**(b) Other Company Information.** I shall not, during the term of my relationship with the Company, improperly use or disclose any proprietary information or trade secrets of my former or concurrent employers or companies for which I have provided services, if any, and shall not bring onto the premises of the Company any unpublished documents or any property belonging to such employers or companies unless previously and specifically consented to in writing by said parties.

**(c) Third-Party Information.** I recognize that the Company has received and in the future will receive confidential or proprietary information from third parties subject to a duty on the Company's part to maintain the confidentiality of such information and, in some cases, to use it only for certain limited purposes. During the term of my relationship and thereafter, I shall hold all such confidential or proprietary information in the strictest confidence and not disclose it to any person, firm or corporation (except in a manner that is consistent with the Company's agreement with the third party) or use it for the benefit of anyone other than the Company or such third party (consistent with the Company's agreement with the third party), unless expressly authorized to act otherwise by an officer of the Company.

**2. Assignment of Inventions and Original Works.**

1. **Inventions and Original Works Retained by Me.** I have attached hereto as Exhibit A, a complete disclosure of all inventions, original works of authorship, developments, improvements, and trade secrets that I have, alone or jointly with others, conceived, developed or reduced to practice or caused to be conceived, developed or reduced to practice prior to the commencement of my relationship with the Company that are usable by or may be incorporated into the Company’s products or contemplated products, that I consider to be my property or the property of third parties and that I wish to have excluded from the scope of this Agreement (the “Excluded Technology”). If disclosure of an item on Exhibit A would cause me to violate any prior confidentiality agreement, I understand that I am not to disclose such on Exhibit A but, in the applicable space on Exhibit A, I am only to disclose a cursory name for each such invention, a listing of the party(ies) to whom it belongs and the fact that full disclosure as to such inventions has not been made for that reason. In the event that an Exhibit A is attached, I hereby grant to Company a perpetual, nonexclusive, royalty free and worldwide right to use and sublicense the use of Excluded Technology to the extent I use it in connection with my services or otherwise incorporate it into the Company’s products or contemplated products. A space is provided on Exhibit A for such purpose. If no disclosure is attached, I represent that there are no such inventions. The parties agree that this Exhibit may be amended from time to time after the date hereof upon mutual written agreement.
2. **Inventions and Original Works Assigned to the Company.** I hereby assign to the Company free and clear of claims or rights of any other person, all my right, title and interest in and to any ideas, inventions, original works of authorship, developments, improvements, trade secrets or know how held by me that are used or incorporated into the Company’s products or contemplated products and which is unique or proprietary. Further, I shall make prompt written disclosure to the Company, will hold in trust for the sole right and benefit of the Company, and hereby assign, without further compensation, to the Company all my right, title and interest in and to any ideas, inventions, original works of authorship, developments, improvements, trade secrets or know how which I may solely or jointly conceive or reduce to practice, or cause to be conceived or reduced to practice, while performing services for the Company.

All original works of authorship which are made by me (solely or jointly with others) within the scope of my relationship with the Company and which are protectable by copyright are "works made for hire," as that term is defined in the United States Copyright Act (17 U.S.C., Section 101).

1. **Inventions Made by an Employee.** Section (2b) shall not apply to an invention that I developed entirely on my own time without using the Company’s equipment, supplies, facilities, trade secrets or confidential information except for those inventions that either:
	1. Relate at the time of conception or reduction to practice of the invention to the Company’s business, or actual or demonstrably anticipated research or development of the Company; or
	2. Result from any work performed by me for the Company.
2. **Inventions and Original Works Assigned to the United States.** I hereby assign to the United States government all my right, title and interest in and to any and all inventions, original works of authorship, developments, improvements or trade secrets whenever full title to same is required to be in the United States by a contract between the Company and the United States or any of its agencies.
3. **Obtaining Letters Patent, Copyright Registrations and Other Protections.** I shall assist the Company in every proper way to obtain and enforce United States and foreign proprietary rights relating to any and all inventions, original works of authorship, developments, improvements or trade secrets of the Company in any and all countries. To that end, I shall execute, verify and deliver such documents and perform such other acts (including appearing as a witness) the Company may reasonably request for use in applying for, obtaining, perfecting, evidencing, sustaining and enforcing such proprietary rights and the assignment thereof. In addition, I shall execute, verify and deliver assignments of such proprietary rights to the Company or its designee. My obligation to assist the Company with respect to proprietary rights in any and all countries shall continue beyond the termination of my relationship with the Company, but the Company shall reimburse me after my termination for the reasonable out-of-pocket expenses actually spent by me at the Company's request on such assistance.

In the event the Company is unable for any reason, after reasonable effort, to secure my signature on any document needed in connection with the actions specified in the preceding paragraph, I hereby irrevocably designate and appoint the Company and its duly authorized officers and agents as my agent and attorney-in-fact, to act for and in my behalf to execute, verify and file any such documents and to do all other lawfully permitted acts to further the purposes of the preceding paragraph with the same legal force and effect as if executed by me. I hereby waive and quit claim to the Company any and all claims of any nature whatsoever which I now or may hereafter have for infringement of any proprietary rights assigned to the Company.

**(e) Obligation to Keep the Company Informed.** In addition to my obligations under paragraph 2(b) above, during the term of my relationship with the Company and for one (1) year after termination of my relationship for any reason, I shall promptly disclose to the Company fully and in writing all patent applications filed by me or on my behalf. At the time of each such disclosure, I shall advise the Company in writing of any inventions that I believe are not required to be assigned to the company under Section (2b); and I shall at that time provide to the Company in writing all evidence necessary to substantiate that belief. I understand that the Company will keep in confidence and will not disclose to third parties without my consent any proprietary information disclosed in writing to the Company pursuant to this Agreement relating to inventions that are not required to be assigned to the Company under the provisions of Section 2(b). I shall preserve the confidentiality of any such invention that is required to be assigned to the Company under Section 2(b). I shall keep and maintain adequate and current records (in the form of notes, sketches, drawings and in any other form that may be required by the Company) of all proprietary information developed by me and all inventions made by me during the term of my relationship with the Company, which records shall be available to and, if assigned under Section 2(b), remain the sole property of the Company at all times.

**3. Appearance in Marketing, Instructional Media and Other Materials.**

I hereby grant to the Company the right to photograph or videotape me and to record my voice in connection with creating instructional media and with promoting the Company’s products and services and to reproduce (whether by film, video, DVD, still photography or otherwise) my appearance, name and voice and to exhibit, distribute, transmit, and otherwise exploit any and all of the foregoing as the Company sees fit by any means, on its web site and otherwise, and in advertising and/or publicity in connection therewith and all such rights are granted in perpetuity on a worldwide basis.

I understand and agree that, to the extent that any photograph or recording captures me and/or my voice during my scheduled work hours with the Company, I will not receive any additional compensation or any fee relating to those photographs or recordings. I further understand that there may be instances where the Company arranges for photography, videography, or other recording outside my scheduled work hours and that the Company may offer to me a fee for my participation in those photography/recording sessions. I acknowledge and agree that my participation in those photography/recording sessions will be completely voluntarily, and that any time spent participating in those photography/recording sessions is not to be treated as hours worked for overtime compensation purposes.

**4. No Conflicting Relationship; No Competition; No Inducement of Company Employees or Consultants; No Solicitation of Customers.**

During the term of my relationship with the Company, I shall not, without the Company's express written consent engage in any employment or business activity directly related to the business in which the Company is now involved or becomes involved, nor shall I engage in any other activities which conflict with my obligations to the Company. For a period of one (1) year after the termination or cessation of my relationship with the Company for any reason, I shall not, directly or indirectly, alone or as a partner, officer, director, employee, consultant, agent, independent contractor, or stockholder of any company or business organization, engage in any business activity which is directly or indirectly in competition with the products or services being developed, marketed, sold or otherwise provided by the Company, or which is directly or indirectly detrimental to the Company’s business (“Competitive Activity”). Further, during the Restricted Period, I shall not in any capacity, either separately, jointly or in association with others, directly or indirectly, (i) solicit or contact in connection with, or in furtherance of, a Competitive Activity any of the consultants, agents, suppliers, customers or prospects that were such with respect to the Company at any time during the one year immediately preceding the date of the termination of my relationship or that become such with respect to the Company at any time during the one (1) year immediately following the date of my termination or (ii) solicit, hire or otherwise employ any of the Company’s employees or independent contractors that were such with respect to the Company at any time during the one (1) year immediately preceding the date of the termination of my relationship or that become such with respect to the Company at any time during the one (1) year immediately following the date of my termination. My obligations under this Section 3 shall survive the termination or cessation of my relationship with the Company.

I have carefully read and considered the provisions hereof and, having done so, agree that the restrictions set forth in this Section 4 (including, but not limited to, the time periods of restriction) are fair and reasonable and are reasonably required for the protection of the interests of Company. If any restriction set forth in this Section is found by any forum of competent jurisdiction to be unenforceable because it extends for too long a period of time or over too great a range of activities or in too broad a geographic area, it shall be interpreted to extend only over the maximum period of time, range of activities or geographic area that are reasonable in light of the circumstances as they then exist and as are necessary to assure Company of the intended benefit of this Section. I hereby agree that the Restricted Period shall be tolled for any period(s) of time in which I am in violation of the covenants of this Section 4.

**5. No Conflicting Obligations.**

The terms of this Agreement and my relationship with the Company does not and will not breach any agreement or obligation of mine relating to any time prior to the commencement of my relationship with the Company. I have not entered into, and I shall not enter into, any agreement either written or oral in conflict herewith.

**6. Return Of Company Documents.**

When the relationship with my Company terminates, for any reason or for no reason, I shall deliver to the Company (and shall not keep in my possession, recreate or deliver to anyone else) any and all devices, records, data, notes, reports, proposals, lists, correspondence, specifications, drawings, blueprints, sketches, materials, equipment, other documents or property, together with all copies thereof (in whatever medium recorded) belonging to the Company, its successors or assigns whether kept at the Company, home or elsewhere. I further agree that any property used for Company business, situated on the Company's premises and owned by the Company, including computers, phones, disks and other storage media, filing cabinets or other work areas, is subject to inspection by Company personnel at any time with or without notice. Prior to leaving, I shall cooperate with the Company in completing and signing the Company's termination statement for technical and management personnel confirming the above and my obligations under this Agreement.

**7. Notification of Obligations.**

In the event that I provide services to or obtain employment from another party, I hereby consent to the notification of such party or its officers, directors or affiliates of my rights and obligations under this Agreement.

**8. Legal and Equitable Remedies.**

Because my services are personal and unique and because I may have access to and become acquainted with the proprietary information of the Company, the Company shall have the right to enforce this Agreement and any of its provisions by injunction, specific performance or other equitable relief, without bond and without prejudice to any other rights and remedies that the Company may have for a breach of this Agreement.

**9. General Provisions.**

1. **Not an Employment Contract.** Nothing in this Agreement shall confer any right with respect to continuation of my relationship with the Company, nor shall it interfere in any way with my right or the Company's right to terminate my relationship with the Company at any time, for any reason or for no reason
2. **Governing Law; Dispute Resolution; Jurisdiction; Venue.** This Agreement shall be governed by and construed according to the laws of [STATE WHERE COMPANY IS LOCATED], excluding conflicts of laws principles. Any dispute arising out of or relating to this Agreement, or breach thereof, may only be finally resolved (i) in any court of law having jurisdiction that is venued in [STATE], or (ii) by arbitration, administered by the American Arbitration Association under its Employment Arbitration Rules. Any arbitration will be conducted by one arbitrator in [STATE] in accordance with the United States Arbitration Act. The costs of arbitration shall be borne equally by the parties to the arbitration. Judgment upon an award rendered by the arbitrator may be entered in any court having jurisdiction. In any action or proceeding to enforce or interpret this Agreement, the prevailing party will be entitled to recover from the other party its costs and expenses (including reasonable attorneys' fees) incurred in connection with such action or proceeding and enforcing any judgment or order obtained.
3. **Entire Agreement.** This Agreement, hereby incorporated herein, sets forth the final, complete and exclusive agreement and understanding between the Company and me relating to the subject matter hereof and supersedes all prior and contemporaneous understandings and agreements relating to its subject matter. No modification of or amendment to this Agreement, nor any waiver of any rights under this Agreement, shall be effective unless in writing and signed by both the Company and me. Any subsequent change or changes in my responsibilities or compensation shall not affect the validity or scope of this Agreement.
4. **Severability.** If one or more of the provisions in this Agreement are deemed unenforceable by law, then the remaining provisions shall continue in full force and effect.
5. **Successors and Assigns.** This Agreement shall be binding upon my heirs, executors, administrators and other legal representatives and shall be for the benefit of the Company, its successors and its assigns. This Agreement and any rights or obligations hereunder may be assigned by the Company, in whole or in part, in connection with any sale of the Company or any of its stock or the sale or transfer of any of its assets or any merger or consolidation involving the Company, and thereafter shall inure to the benefit of the purchaser or surviving company, as the case may be, in such transaction as fully as if it were the Company. Notwithstanding the foregoing, if the Company is merged with or into a third party which is engaged in multiple lines of business, or if a third party engaged in multiple lines of business succeeds to the Company’s assets or business, then for purposes of this Agreement, the term “Company” shall mean and refer to the business of the Company as it existed immediately prior to such event and as it subsequently develops and not to the third party’s other businesses. I acknowledge that all of the covenants and agreements made by me in this Agreement, including without limitation, those contained in Section 1 (Maintaining Confidential Information), Section 2 (Assignment of Inventions and Original Works) and Section 4 (No Conflicting Relationships; No Competition; No Inducement of Company Employees or Consultants; No Solicitation of Customers) are and shall remain my binding obligations irrespective of any changes of my status, title, duties or responsibilities while in the employment of the Company.
6. **Survival.** The provisions of this Agreement shall survive the termination of my relationship and the assignment of this Agreement by the Company to any successor in interest or other assignee.
7. **Waiver.** No waiver by the Company of any breach of this Agreement shall be a waiver of any preceding or succeeding breach. No waiver by the Company of any right under this Agreement shall be construed as a waiver of any other right. The Company shall not be required to give notice to enforce strict adherence to all terms of this Agreement.
8. **Notice.** Any notices required or permitted hereunder shall be given to the appropriate party at the address specified below or at such other address as the party shall specify in writing. Such notice shall be deemed given upon personal delivery, or sent by certified or registered mail, postage prepaid, three (3) days after the date of mailing. This Agreement shall be effective as of the first day that I provide services to the Company.

I understand that this Agreement affects my rights to inventions I make during my relationship with the Company, and restricts my right to disclose or use the Company's proprietary information during or subsequent to the termination of my relationship. I have read this Agreement carefully and understand its terms. To the extent attached, I have completely filled out Exhibit A to this Agreement.

Dated: \_\_\_\_\_\_\_\_\_\_, 20[XX].

 Signature

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

Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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**Exhibit A**

List of prior inventions and original works (if any):