

NON-DISCLOSURE AND RESTRICTED USE AGREEMENT

AN AGREEMENT, effective as of _____ between

(hereinafter referred to as “client”)

and

James Grant, dba
austinCADworks
PO Box 66393
Austin, TX 78766-0393

(hereinafter referred to as “recipient”)

RECITALS

1. Recipient wishes to have access to certain information relating to client customers and potential customers and their potential and existing manufacturing processes which client considers confidential, proprietary and valuable, and
2. Client is willing to disclose such information as client deems appropriate, and recipient is willing to receive such information, for the Purpose (as defined herein) on the following terms and conditions.

NOW THEREFORE IT IS AGREED AS FOLLOWS:

1. The following expressions shall have the meanings specified in this clause.
 - a. “Affiliate of client” means client and any company or entity which is directly or indirectly affiliated with client.
 - b. “Client information” is information related to any process being developed by client and affiliates of client, including but not limited to designs, materials, locations for potential projects, timing for potential projects, and business plans, received or obtained by recipient either directly or indirectly from client and/or any affiliate of client.
 - c. “Purpose” means work to be carried out by recipient regarding the various projects and designs of client or affiliates thereof.
2. In consideration of the disclosure of client information to recipient, recipient agrees that
 - a. save as set forth in Clause (3), not to disclose any client information to any third party;
 - b. not to use client information except for the purpose; and
 - c. not to make known or cause to be made known to any third party any correlation or identity which may exist between client information and technical information or know-how made available to recipient from any other source.

3. Notwithstanding the provisions of Clause (2), recipient may disclose such client information as is reasonably necessary to carry out the purpose to those employees of recipient who (i) have a reasonable need to know and use such information in furtherance of completing the purpose; (ii) have been informed of the confidential nature of the client information in question; and (iii) have signed an acknowledgment of this agreement and agreed to be bound by terms of secrecy and non-use at least as restrictive as those of this agreement, an acceptable form of such acknowledgment being attached as Addendum 1.
4. The provisions of Clause (2) above shall not apply to any client information which, at the time it is received or obtained by recipient,
 - a. is lawfully known to recipient without binder of secrecy or
 - b. is publicly available

and shall cease to apply to any client information which, after it is received or obtained by recipient,

- c. is received or obtained by recipient without restriction on disclosure from a source free to disclose it other than client or an agent or affiliate of recipient; or
- d. becomes publicly available through no act or omission on the part of recipient, or
- e. is developed by recipient independently of any disclosure hereunder.

The foregoing exceptions shall only be effective to the extent that recipient can prove the facts.

Specific disclosures made hereunder shall not be deemed to be subject to any of the above exceptions merely because they are embraced by general disclosures in the public knowledge or literature or in the possession of recipient, and any combination of features disclosed hereunder shall not be deemed subject to the above exceptions merely because individual features are in the public knowledge or literature or in the possession of recipient.

5. Recipient shall have the right to make copies of client information to the extent necessary to carry out the purpose.
6. At the request and option of client, recipient shall either destroy or return promptly to client, or its nominee, all tangible records containing client information or excerpts or portions thereof or other information derived from the tangible records which are in the possession of recipient. Provided, however, recipient shall be allowed to retain (1) archival copy of client information.
7. Nothing in this agreement shall be construed as granting recipient a license under intellectual property rights of client or an affiliate of client, or any rights in respect of client information, other than those specifically set out herein. Furthermore, recipient shall have no right to make any copies, changes, modifications or enhancements to client information, or to create any derivative work from such client information other than that to the extent necessary to carry out the purpose.

8. Recipient acknowledges that it is familiar with the United States of America regulations concerning the export or re-export of USA source technical data, or the direct product thereof, to unauthorized destinations, and recipient agrees to abide by all such regulations, where applicable, in respect of all client information supplied by, or on behalf of, client hereunder. This paragraph shall survive any termination of this agreement.
9. Recipient shall not assign any of its rights or obligations arising from this agreement without the prior written consent of client.
10. The duration of this Agreement is five years from date of signature, or as otherwise indicated in writing and attached as an addendum
11. Each party's obligations shall be binding on the representatives, assigns and successors of such party.
12. Any controversy or claim of whatever nature arising out of, or relating to, this agreement or breach thereof shall be governed by the laws of the state of Texas without regard to conflict of law provisions. Each party hereby irrevocably agrees that the courts of Texas and US Federal courts located in Texas shall have exclusive jurisdiction to resolve any controversy or claim of whatever nature arising out of, or relating to, this agreement or breach thereof.

AS WITNESS WHEREOF, the parties have caused this agreement to be executed in duplicate original on the dates indicated below, signed by authorized representatives.

austinCADworks

Name: _____

Title: _____

Date: _____

CLIENT

Name: _____

Title: _____

Date: _____