

Remote Connection/Data Transfer NDA

MUTUAL NONDISCLOSURE AGREEMENT

This mutual nondisclosure agreement is between **OFFICE TOOLS and AFFILIATES**, and the **END USER**—that is, any individual with authorized access to a Workspace database operating under a valid software license agreement.

Each party has developed certain confidential information that it may disclose to the other party for the purpose of **Technical Support Remote Session and/or Online Training**, as defined in the software license agreement.

Each party, during the course of the Remote Session, may review, examine, inspect, or obtain the other party's confidential information only for the above-described purposes, and to otherwise maintain the confidentiality of that information pursuant to this agreement.

In the course of the Remote Session it becomes necessary for Office Tools to obtain a copy of any confidential information belonging to the End User, and transfer said confidential information from the End User's system to Office Tools Professional's internal network for further analysis, any and all transferred information is governed and protected by this agreement. Office Tools agrees to take all reasonable precautions, as outlined in our Data Security Policy, to prevent its disclosure.

The parties therefore agree as follows:

1. CONFIDENTIAL INFORMATION

Each party (in such capacity, a "**Disclosing Party**") may (but is not required to) disclose certain of its confidential and proprietary information to the other party (in such capacity, a "**Receiving Party**"). "**Confidential Information**" means:

- (a) information relating to the Disclosing Party or its current or proposed business, including financial statements, budgets and projections, customer identifying information, potential and intended customers, employers, products, computer programs, specifications, software, analyses, strategies, and other confidential information, whether provided orally, in writing, or by any other media, that was or will be:
 - (i) provided or shown to the Receiving Party or its directors, officers, employees, agents, and representatives (each a "**Receiving Party Representative**") by or on behalf of the Disclosing Party or any of its directors, officers, employees, agents, and representatives (each a "**Disclosing Party Representative**"); or

(ii) obtained by the Receiving Party or a Receiving Party Representative from review of documents or property of, or communications with, the Disclosing Party or a Disclosing Party Representative; and

(b) all notes, analyses, compilations, studies, summaries, and other material, whether provided orally, in writing, or by any other media, that contain or are based on all or part of the information described in subsection (a) (the "**Derivative Materials**").

The Disclosing Party shall identify Confidential Information disclosed orally within 1 day of disclosure. The Disclosing Party's failure to identify information as Confidential Information is not an acknowledgment or admission by the Disclosing Party that that information is not confidential, and is not a waiver by the Disclosing Party of any of its rights with respect to that information.

2. OBLIGATION TO MAINTAIN CONFIDENTIALITY

(a) Confidentiality. The Receiving Party shall, and shall ensure that each Receiving Party Representative, keep the Confidential Information confidential. Except as otherwise required by law, the Receiving Party and Receiving Party Representatives may not:

- (i) disclose any Confidential Information to any person or entity other than:
 - A. Receiving Party Representative who needs to know the Confidential Information for the purposes of its business with the Disclosing Party; and
 - B. a Receiving Party Representative who signs a confidentiality agreement; and
 - C. with the Disclosing Party's prior written authorization; or
- (ii) use the Confidential Information for any purposes other than those contemplated by this agreement.

(b) **Term.** The Receiving Party shall, and shall require each Receiving Party Representative to, maintain the confidentiality and security of the Disclosing Party's Confidential Information in perpetuity.

3. EXCLUSIONS

The obligations and restrictions of this agreement do not apply to that part of the Confidential Information that the Receiving Party demonstrates:

- (a) was or becomes generally publically available other than as a result of a disclosure by the Receiving Party in violation of this agreement;
- (b) was or becomes available to the Receiving Party on a nonconfidential basis before its disclosure to the Receiving Party by the Disclosing Party or a Disclosing Party Representative, but only if:

- (i) the source of such information is not bound by a confidentiality agreement with the Disclosing Party or is not otherwise prohibited from transmitting the information to the Receiving Party or a Receiving Party Representative by a contractual, legal, fiduciary, or other obligation; and
 - (ii) the Receiving Party provides the Disclosing Party with written notice of such prior possession either (A) before the execution and delivery of this agreement or (B) if the Receiving Party later becomes aware (through disclosure to the Receiving Party) of any aspect of the Confidential Information as to which the Receiving Party had prior possession, promptly on the Receiving Party so becoming aware; or
- (c) is requested or legally compelled (by oral questions, interrogatories, requests for information or documents, subpoena, civil or criminal investigative demand, or similar process), or is required by a regulatory body, to be disclosed. However, the Receiving Party shall:
- (i) provide the Disclosing Party with prompt notice of any such request or requirement before disclosure so that the Disclosing Party may seek an appropriate protective order or other appropriate remedy; and
 - (ii) provide reasonable assistance to the Disclosing Party in obtaining any such protective order.

If a protective order or other remedy is not obtained or the Disclosing Party grants a waiver under this agreement, then the Receiving Party may furnish that portion (and only that portion) of the Confidential Information that, in the written opinion of counsel reasonably acceptable to the Disclosing Party, the Receiving Party is legally compelled or otherwise required to disclose. The Receiving Party shall make reasonable efforts to obtain reliable assurance that confidential treatment will be accorded any part of the Confidential Information so disclosed; or

- (d) was developed by the Receiving Party independently without breach of this agreement.

4. OWNERSHIP RIGHTS

Each party acknowledges that the Confidential Information is, and at all times will be, the Disclosing Party's sole property, even if suggestions made by a Receiving Party are incorporated into the Confidential Information. Neither party obtains any rights, by license or otherwise, in the other party's Confidential Information. Neither party solicits any change in the other party's organization, business practice, service, or products, and the disclosure of the Confidential Information may not be construed as evidencing any intent by a party to purchase any products or services of the other party or as an encouragement to expend funds in development or research efforts. The Confidential Information may pertain to prospective or unannounced products. Neither party may use the other party's Confidential Information as a basis on which to develop or have a third party develop a competing or similar plan or undertaking.

5. NO OBLIGATION

Nothing in this agreement obligates either party to proceed with any transaction between them, and each party reserves the right, in its sole discretion, to terminate the discussions contemplated by this

agreement, and to cease further disclosures, communications, or other activities under this agreement on written notice to the other party. Any commitment to proceed with a transaction will be set forth in a separate agreement signed by the parties.

6. NOWARRANTY

ALL CONFIDENTIAL INFORMATION IS PROVIDED "AS IS." NEITHER PARTY MAKES ANY WARRANTIES, EXPRESS, IMPLIED, OR OTHERWISE, REGARDING THE ACCURACY, COMPLETENESS, OR PERFORMANCE OF ANY SUCH INFORMATION.

7. GOVERNING LAW; ATTORNEYS' FEES; EQUITABLE RELIEF.

- (a) **Choice of Law.** The laws of the state of California govern this agreement (without giving effect to its conflicts of law principles).
- (b) **Choice of Forum.** Both parties consent to the personal jurisdiction of the state and federal courts in Los Angeles, California.
- (c) **Attorneys' Fees.** If either party employs attorneys to enforce any rights arising out of or relating to this agreement, the losing party shall reimburse the prevailing party for its reasonable attorneys' fees and costs.
- (d) **Equitable Relief.** The parties acknowledge that a breach of this agreement will cause irreparable harm to the Disclosing Party and monetary damages may not be a sufficient remedy for an unauthorized disclosure of the Confidential Information. If a Receiving Party discloses the Confidential Information in violation of this agreement, a Disclosing Party may, without waiving any other rights or remedies and without posting a bond or other security, seek an injunction, specific performance, or other equitable remedy to prevent competition or further disclosure, and may pursue other legal remedies.

8. AMENDMENTS

No amendment to this agreement will be effective unless it is in writing and signed by a party or its authorized representative.

9. ASSIGNMENT AND DELEGATION

- (a) **No Assignment.** Neither party may assign any of its rights under this agreement, except with the prior written consent of the other party, which consent may not be unreasonably withheld. All voluntary assignments of rights are limited by this subsection.
- (b) **No Delegation.** Neither party may delegate any performance under this agreement, except with the prior written consent of the other party, which consent may not be unreasonably withheld.

- (c) **Enforceability of an Assignment or Delegation.** If a purported assignment or purported delegation is made in violation of this section 12, it is void.

10. COUNTERPARTS; ELECTRONIC SIGNATURES

- (a) **Counterparts.** The parties may execute this agreement in any number of counterparts, each of which is an original but all of which constitute one and the same instrument.
- (b) **Electronic Signatures.** This agreement, agreements ancillary to this agreement, and related documents entered into in connection with this agreement are signed when a party's signature is delivered by facsimile, email, or other electronic medium. These signatures must be treated in all respects as having the same force and effect as original signatures.

11. SEVERABILITY

If any provision in this agreement is, for any reason, held to be invalid, illegal, or unenforceable in any respect, that invalidity, illegality, or unenforceability will not affect any other provisions of this agreement, but this agreement will be construed as if the invalid, illegal, or unenforceable provisions had never been contained in this agreement, unless the deletion of those provisions would result in such a material change that would cause completion of the transactions contemplated by this agreement to be unreasonable.

12. NOTICES

- (a) **Writing; Permitted Delivery Methods.** Each party giving or making any notice, request, demand, or other communication required or permitted by this agreement shall give that notice in writing and use one of the following types of delivery, each of which is a writing for purposes of this agreement: personal delivery, mail (registered or certified mail, postage prepaid, return-receipt requested), nationally recognized overnight courier (fees prepaid), facsimile, or email.
- (b) **Addresses.** A party shall address notices under this section 15 to a party at the following addresses:

If to Office Tools Professional
Michael Giardina, CEO
514 Commerce Avenue
Suite D
Palmdale, CA 93551
info@officetools.com

If to End User, Office Tools will use the street address and email provided by the End User's firm or their original order form unless otherwise updated or instructed by the End User.

- (c) Effectiveness. A notice is effective only if the party giving notice complies with subsections (a) and (b) and if the recipient receives the notice.

13. WAIVER

No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this agreement will be effective unless it is in writing and signed by the party waiving the breach, failure, right, or remedy. No waiver of any breach, failure, right, or remedy will be deemed a waiver of any other breach, failure, right, or remedy, whether or not similar, and no waiver will constitute a continuing waiver, unless the writing so specifies.

14. ENTIRE AGREEMENT

This agreement constitutes the final agreement of the parties. It is the complete and exclusive expression of the parties' agreement with respect to the subject matter of this agreement. All prior and contemporaneous communications, negotiations, and agreements between the parties relating to the subject matter of this agreement are expressly merged into and superseded by this agreement. The provisions of this agreement may not be explained, supplemented, or qualified by evidence of trade usage or a prior course of dealings. Neither party was induced to enter this agreement by, and neither party is relying on, any statement, representation, warranty, or agreement of the other party except those set forth expressly in this agreement. Except as set forth expressly in this agreement, there are no conditions precedent to this agreement's effectiveness.

15. HEADINGS

The descriptive headings of the sections and subsections of this agreement are for convenience only, and do not affect this agreement's construction or interpretation.

16. EFFECTIVENESS

This agreement will become effective when all parties have signed it. The date this agreement is signed by the last party to sign it (as indicated by the date associated with that party's signature) will be deemed the date of this agreement.

17. NECESSARY ACTS; FURTHER ASSURANCES

Each party and its officers and directors shall use all reasonable efforts to take, or cause to be taken, all actions necessary or desirable to consummate and make effective the transactions this agreement contemplates or to evidence or carry out the intent and purposes of this agreement.

The here signed OT representative(s) has done so on the date indicated next to their signature.

Name: _____

Title: _____

Date: _____

Signature: _____