

# NON-DISCLOSURE AGREEMENT (NDA)

**1. THE PARTIES.** This Non-Disclosure Agreement (“Agreement”), created on the undersigned date, is by and between:

Disclosing Party: PCRE

Disclosing Party: HP WEST LLC

Receiving Party: \_\_\_\_\_

The Disclosing Party and the Receiving Party are referred to herein as a “Party” and, collectively, as the “Parties.”

This Agreement is made by the Parties to prevent the unauthorized disclosure of confidential and proprietary information. The Parties agree as follows:

## 2. TYPE OF NDA.

**Unilateral.** This Agreement shall be considered unilateral. Therefore, the Disclosing Party shall have sole ownership of the Confidential Information, while the Receiving Party shall be prohibited from disclosing confidential and proprietary information.

**3. PURPOSE.** The purpose of this Agreement is for: Sale of a Business

**4. CONFIDENTIAL INFORMATION.** For the purposes of this Agreement, the term “Confidential Information” shall include, but not be limited to, documents, records, information and data (whether verbal, electronic or written), drawings, models, apparatus, sketches, designs, schedules, product plans, marketing plans, technical procedures, manufacturing processes, analyses, compilations, studies, software, prototypes, samples, formulas, methodologies, formulations, product developments, patent applications, know-how, experimental results, specifications and other business information, relating to the Party’s business, assets, operations or contracts, furnished to the other Party and/or the other Party’s affiliates, employees, officers, owners, agents, consultants or representatives, in the course of their work contemplated in this Agreement, regardless of whether such Confidential Information has been expressly designated as confidential or proprietary. Confidential Information also includes any and all work products, studies, and other material prepared by or in the possession or control of the other Party, which contain, include, refer to, or otherwise reflect or are generated from any Confidential Information.

However, Confidential Information does not include:

- (a) information generally available to the public;
- (b) widely used programming practices or algorithms;
- (c) information rightfully in possession of the Parties prior to signing this Agreement; and
- (d) information independently developed without the use of any of the provided Confidential Information.

**5. OBLIGATIONS.** The obligations of the Parties shall be to always hold and maintain the Confidential Information in the strictest of confidence and to their agents, employees, representatives, affiliates, and any other individual or entity that is on a “need to know” basis. If any such Confidential Information shall reach a third (3<sup>rd</sup>) party, or become public, all liability will be on the Party that is responsible. Neither Party shall, without the written approval of the other Party, publish, copy, or use the Confidential Information for their sole benefit. If requested, either Party shall be bound to return any and all materials to the Requesting Party as soon as possible.

This Section shall not apply to the Disclosing Party if this Agreement is Unilateral as marked in Section II.

**6. TIME PERIOD.** The bounded Party’s(ies’) duty to hold the Confidential Information in confidence shall remain in effect until such information no longer qualifies as a trade secret or written notice is given releasing such Party from this Agreement.

**7. INTEGRATION.** This Agreement expresses the complete understanding of the Parties with respect to the subject matter and supersedes all prior proposals, agreements, representations, and understandings. This Agreement may not be amended except in writing with the acknowledgment of the Parties.

**8. SEVERABILITY.** If a court finds that any provision of this Agreement is invalid or unenforceable, the remainder of this Agreement shall be interpreted so as to best affect the intent of the Parties.

**9. ENFORCEMENT.** The Parties acknowledge and agree that due to the unique and sensitive nature of the Confidential Information, any breach of this Agreement would cause irreparable harm for which damages and/or equitable relief may be sought. The harmed Party in this Agreement shall be entitled to all remedies available at law.

**10. GOVERNING LAW.** This Agreement shall be governed under the laws in the State of California.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date written below.

Disclosing Party Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Print Name: PCRE

Disclosing Party Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Print Name: HP WEST LLC

Receiving Party Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Print Name: \_\_\_\_\_