

## AGREEMENT FOR USE AND NON-DISCLOSURE OF INFORMATION

**THIS AGREEMENT FOR USE AND NON-DISCLOSURE OF INFORMATION** (this "Agreement") is made as of \_\_\_\_\_, 20\_\_ (the "Effective Date"), by and between **STAPLES THE OFFICE SUPERSTORE, LLC**, a Delaware limited liability company with its principal executive offices at 500 Staples Drive, Framingham, Massachusetts 01702 ("Staples"), and \_\_\_\_\_, [a \_\_\_\_\_ corporation with its principal executive offices] OR [an individual with a principal residence] at \_\_\_\_\_ ("Inventor"); with each of Staples and Inventor hereinafter a "Party" and collectively, the "Parties"), to assure the protection and preservation of certain information to be disclosed or made available by the Parties to each other in connection with the evaluation by Staples of a new product idea submitted by Inventor (the "Concept").

For good and valuable consideration, the receipt and sufficiency of which the Parties hereby acknowledge, the Parties agree as follows:

**1. Proprietary Information.** "Proprietary Information" shall mean all confidential and proprietary information or data provided by either Party (the "Disclosing Party") to the other Party (the "Receiving Party") after the date hereof, which, in the case of written, recorded, graphical or electronically communicated or stored information, or any other information in tangible form, the Receiving Party should reasonably understand to be considered Proprietary Information by the Disclosing Party because of written markings, or, in the case of oral information, the Receiving Party should reasonably understand to be considered Proprietary Information by the Disclosing Party because of a written communication from the Disclosing Party to the Receiving Party that is delivered within 5 days of the initial oral communication. Notwithstanding the foregoing, and even if such information is not marked to indicate it is proprietary or confidential, Proprietary Information shall include all information disclosed by Staples to Inventor regarding Staples' business including, without limitation, any data or information regarding Staples and its customers, employees and suppliers, pricing information and models, product and service information, planning information, marketing strategies, strategic plans, financial or operational data, sales projections or forecasts, business plans, business relationships, internal performance results and other information relating to past, present or future business activities.

**2. Use.** The Parties agree to use the Proprietary Information received from each other only for the limited purpose of this Agreement. Without limiting any restriction, prohibition, term or condition contained herein, under no circumstances shall the Receiving Party provide Proprietary Information to the Disclosing Party's competitors. The Receiving Party agrees not to copy or reverse engineer, or attempt to derive the composition or underlying information, structure or ideas of any Proprietary Information.

**3. Care.** The Receiving Party agrees that it shall hold confidential and not disclose to any third party the Proprietary Information. Notwithstanding the foregoing, the Receiving Party may disclose Proprietary Information to its partners, officers, directors, employees, affiliates, subsidiaries, agents, advisors, manufacturers, and representatives that have a bona fide need to know such Proprietary Information for the purposes of carrying out the Concept or the Receiving Party's obligations pursuant to this Agreement or investigating the commercialization of the Concept (the "Permitted Parties"). The Receiving Party represents that it exercises reasonable care and adequate measures to protect its own Proprietary Information and that it shall exercise no less degree of care to safeguard the Disclosing Party's Proprietary Information. Notwithstanding the foregoing, the Receiving Party may disclose Proprietary Information as required under applicable law or legal process provided that such requirement does not arise due to a violation of this Agreement by the Receiving Party. In the event that the Receiving Party is required by law to make any disclosure of any of the Proprietary Information, the Receiving Party shall first give prompt written notice of such requirement to the Disclosing Party, shall permit the Disclosing Party to intervene in any proceedings to protect its interests in the Proprietary Information, and shall provide reasonable cooperation to the Disclosing Party, at the Disclosing Party's expense, in seeking to obtain such protection. If the Disclosing Party is not successful in such efforts, the Receiving Party shall furnish only that portion of the Proprietary Information which it in good faith reasonably considers to be legally required and shall exercise reasonable efforts to obtain reliable assurances that confidential treatment will be accorded the Proprietary Information.

**4. Ownership.** All Proprietary Information, unless otherwise specified in writing, shall remain the property of the Disclosing Party; even if such Proprietary Information is not returned. No rights, and particularly licenses, to trademarks, inventions, copyrights, patents, mask work protection rights, or any other intellectual property rights are implied or granted under this Agreement or by the delivery of Proprietary Information.

**5. Relief.** The Parties agree that money damages may be difficult to ascertain and may be inadequate and that a breach of this Agreement by either Party may cause irreparable injury to the other Party, and that in the event of a violation of this Agreement, without limiting a Party's other rights and remedies, the Disclosing Party shall be entitled to seek an injunction and other equitable relief, including but not limited to specific performance, against the Receiving Party for breaching or threatening to breach this Agreement.

**6. Term.** This Agreement shall continue in full force and effect for a period of one (1) year from the Effective Date of this Agreement. Notwithstanding the termination or expiration of this Agreement, the Receiving Party agrees not to disclose the Proprietary Information for a period of two (2) years from the date of disclosure. Notwithstanding anything to the contrary in this Section, Proprietary Information regarding customers, clients, suppliers and employees shall be treated indefinitely by the Receiving Party as Proprietary Information and the Receiving Party shall remain subject to its obligations under this Agreement with respect to such information. This Agreement may be terminated at any time on ten (10) days written notice to the other Party; provided, however, termination of this

Agreement shall not relieve the Receiving Party of its obligations under this Agreement with respect to Proprietary Information delivered to the Receiving Party prior to the effective date of termination.

**7. Indemnity.** Each party shall indemnify, defend and hold harmless the other from and against any and all losses, liabilities, claims, actions, lawsuits, demands, damages, costs, money judgments and expenses (including reasonable attorneys' fees) arising out of a breach of this Agreement by the indemnifying party. The Disclosing Party warrants that it has all rights necessary to provide the Proprietary Information to the Receiving Party. The Disclosing Party shall indemnify, defend and hold harmless the Receiving Party and its Permitted Parties from and against any and all losses, liabilities, claims, actions, lawsuits, demands, damages, costs, money judgments and expenses (including reasonable attorneys' fees) arising out of a breach of this warranty as long as they do not arise out of a breach of this Agreement by the Receiving Party. Except in connection with each Party's indemnity obligations hereunder, neither Party shall be liable for indirect, incidental, consequential, or punitive damages of any nature or kind resulting from or arising in connection with this Agreement, even if the Party has been advised of the possibility of such damages.

**8. Publicity.** Neither Party shall advertise, market or otherwise make any public announcement or disclosure of any information relating to this Agreement or its subject matter or existence, including mentioning or implying the name of the other Party, or any of its personnel, without the prior written consent of the other Party, which consent may be given or withheld in the other Party's sole discretion and which consent shall be valid only if such consent contains a defined scope and term for such disclosure.

**9. Entire Agreement; Amendments; Waivers; Severability; Assignment.** This Agreement represents the entire understanding and agreement of the Parties and supersedes all prior communications, agreements and understandings, if any, between the Parties relating to the subject matter hereof. This Agreement may not be modified, amended or waived except by a written instrument duly executed by both Parties. No failure or delay in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder. If any clause or provision herein shall be adjudged invalid or unenforceable, it shall not affect the validity of any other provision, which shall remain in full force and effect. Neither Party shall assign its respective rights or duties under this Agreement to a third party without the prior written consent of the other Party, except to a successor in interest to substantially all of the business of the assignor.

**10. Governing Law.** This Agreement is made subject to, and shall be construed in accordance with, the laws of the Commonwealth of Massachusetts (without regard to its conflict of laws provisions). The Parties agree to sole venue in the state or federal courts located in the Commonwealth of Massachusetts and each Party hereby consents to the jurisdiction of such courts over itself in any action relating to this Agreement.

**11. Notices.** Any notice or other communication required or permitted hereunder shall be given in writing to the other Party at the address set forth beneath the Party's signature below or at such other address as shall be given by either Party to the other in writing. Such notice shall be deemed to have been given or made when received or refused, whether by hand delivery, by nationally recognized overnight courier (with evidence of receipt or refusal) or by U.S. Mail (certified mail, return receipt requested).

**12. Counterparts; Facsimile Copies.** This Agreement may be executed in two or more counterparts, each of which shall be considered an original, but all of which together shall constitute the same instrument. The Parties acknowledge and agree to accept and be bound by facsimile transmitted copies of this Agreement and its counterparts.

**13. Obligation to Proceed.** The preparation, revision or delivery of this Agreement for examination and discussion shall in no event be deemed to be an offer to enter into this Agreement but shall be merely a part of the negotiations between Staples and Inventor. Neither Party hereto shall have any obligation or liability to the other whatsoever at law or in equity (including any claims for detrimental reliance or promissory estoppel) unless and until such time as both Parties shall have executed and delivered this Agreement.

**IN WITNESS THEREOF**, the Parties have executed this Agreement under seal as of the Effective Date.

**Inventor:**

**Staples:**

\_\_\_\_\_

**STAPLES THE OFFICE SUPERSTORE, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Notice Address:

Notice Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_

Staples the Office Superstore, LLC  
500 Staples Drive  
Framingham, MA 01702  
Attention: VP Product Development Sourcing and Operations  
with a copy to General Counsel