

MUTUAL NONDISCLOSURE AGREEMENT

This Mutual Nondisclosure Agreement (the "Agreement") is by and between HEADSET, LLC , a Limited Liability Company having a principal place of business located in Birmingham, Alabama, and _____ having a principal place of business located in _____ (each a "Party" and collectively the "Parties").

The Parties desire to assure the protection and preservation of the confidential and/or proprietary nature of information, which may be disclosed or made available to each other for the limited purpose of internally evaluating and discussing a prospective merger, acquisition, or funding of the Party or Parties (the "**Purpose**"). In the course of the Parties' discussions relating to the Purpose, the Parties expect that each is or may become a recipient of the other Party's Confidential Information, as defined below. The Parties intend by this Agreement, among other things, to limit the manner and extent to which each recipient may use or disclose the other Party's Confidential Information.

1. Confidential Information. "**Confidential information**" means any non-public information or material, as well as any original, non-public compositions of publicly available information, relating to either Party's existing or prospective business.

Confidential Information includes, but is not limited to, a Party's confidential product information, business and marketing plans, financial information, employee or contractor information, customer-related data, strategies, plans, software, techniques, drawings, designs, processes, specifications, technical data, research and development, inventions, intellectual property, and know-how. Each disclosing Party shall affix to or incorporate in any written Confidential Information it discloses a statement identifying the information as the disclosing Party's Confidential Information, such as "[name of Party] Confidential Information" or words of like meaning, or shall send the its Confidential Information under cover correspondence or cover page containing such a statement. If the Confidential Information is orally disclosed, the disclosing Party must indicate the confidential nature of the information at the time of disclosure. Notwithstanding the foregoing, Confidential Information shall be deemed to include information that would reasonably be understood to be of a confidential nature, given the circumstances surrounding the disclosure and nature of the information.

2. Obligations of Confidence. Except as expressly permitted or further restricted by Section 3 below, each Party agrees as recipient of a disclosing Party's Confidential Information that it will: (a) not disclose such Confidential Information to any third parties, and (b) exercise the same degree of care to protect such Confidential Information from any possession, use or disclosure not expressly permitted by this Agreement that the recipient Party generally uses to protect its own information of similar nature, but no less than a reasonable standard of care.

3. Permitted Use and Disclosure. Each disclosing Party's Confidential Information may be possessed, used, and disclosed by the recipient Party only as follows:

a. **Possession and Use:** The recipient Party may possess, use, and reproduce such Confidential Information solely for the Purpose defined above. The Purpose shall not include disclosure except as expressly permitted below. Recipient shall not use the Confidential Information for any other purpose. Recipient shall not disassemble, decompile, or otherwise reverse engineer any samples, prototypes, software, or other tangible objects provided by the disclosing Party hereunder.

b. **Disclosure:** The recipient Party may disclose such Confidential Information to its, or its Affiliates', employees, legal and financial advisors, and consultants on a strict "need to know" basis and solely for the Purpose, provided that each such person to whom such disclosure is made is notified of the confidential nature of the disclosure and is under an obligation to hold the Confidential Information in confidence under terms and conditions at least as restrictive as the terms and conditions of this Agreement.

"Affiliate" means a Party's parent or subsidiary company or a corporate affiliate that controls, is controlled by or under common control with such Party. Recipient Party shall be jointly and severally responsible for any breach by its Affiliates of the terms set forth in this Agreement.

c. **Legally Required Disclosure:** Disclosure of any Confidential Information by a Party hereunder shall not be precluded if such disclosure is required by the recipient Party pursuant to court or administrative order, but only to the extent required and provided that the recipient Party in each instance before making such disclosure first (i) promptly upon receipt of a request for the Confidential Information discloses that request to the other Party; (ii) reasonably cooperates with the other Party in making, if available under applicable law, a good faith and timely effort to obtain a protective order or other appropriate determination against or limiting disclosure or use of the Confidential Information, at no cost to the recipient Party; and (iii) promptly upon receipt of a court or administrative order requiring disclosure of the other Party's

Confidential Information, notifies the other Party of such order.

4. Return or Destruction of Confidential Information.

Upon the earlier of: the expiration of this Agreement or the request (at any time) of the disclosing Party, the recipient Party shall, at the disclosing Party's option, either: (a) promptly destroy or order and confirm the destruction of all copies of the written Confidential Information in the possession, custody, or control of the recipient Party, or its Affiliates', employees, legal and financial advisors, or consultants, and confirm such destruction to the disclosing Party in writing, or (b) promptly deliver to the disclosing Party all copies of the written Confidential Information in the possession, custody, or control of the recipient Party, or its Affiliates', employees, legal and financial advisors, or consultants.

5. Exceptions to Confidentiality. Notwithstanding any other provisions of this Agreement, each Party acknowledges that Confidential Information shall not include any information which:

- is now or becomes part of the public domain through no fault or omission of the recipient Party;
- is already known by the recipient Party prior to the disclosure without restriction on disclosure, which is evidenced by appropriate documentation of such prior knowledge;
- is lawfully received, without obligation of confidentiality, by the recipient Party from others; or
- is independently developed by or for the recipient Party without use of or reference to the disclosing Party's Confidential Information, which is evidenced by appropriate documentation of such independent development.

6. Right to Disclose; No Other Warranties. Each Party represents that it has the right to disclose all Confidential Information provided under this Agreement. Except for the foregoing, the Parties agree that the Confidential Information provided by either Party to the other Party is provided "as is." No other representations or warranties with respect to Confidential Information, either express or implied, are made by either Party.

7. Term; Term of Confidentiality. This Agreement shall be effective as of the date the Agreement is fully executed and shall continue for a period of one (1) year thereafter unless terminated earlier by written notice from one Party to the other. Either Party may terminate this Agreement at any time with or without cause upon thirty (30) days written notice to the other Party.

Notwithstanding the expiration or termination of this Agreement, all provisions of this Agreement relating to the rights and obligations concerning Confidential Information disclosed prior to the expiration or termination of this Agreement shall continue for a period of three (3) years from the date of expiration or termination of this Agreement ; *provided, however*, that any technical information disclosed hereunder by a disclosing Party (including, without limitation, parties proprietary software application(s), systems architecture, trade secret processes, and information related to parties proprietary software application(s), systems architecture, trade secret processes) shall be treated as Confidential Information indefinitely until it becomes part of the public domain through no fault or omission of recipient Party.

8. Disclaimers. Nothing in this Agreement shall operate to create or transfer an ownership or other interest in any Confidential Information, nor require the disclosure by a disclosing Party of any of its Confidential Information, nor restrict, inhibit or encumber any disclosing Party's right or ability to dispose of, use, distribute, disclose or disseminate in any way its own Confidential Information. Neither Party acquires any patent, copyright, mask work or trademark rights under this Agreement. Nothing herein shall obligate either Party to (a) enter into any business arrangements or agreements with the other Party, or (b) reimburse the other Party for costs and expenses for any effort expended by such Party. Each Party shall bear its own costs and expenses in connection with this Agreement and the Purpose, except that a Party that establishes the other Party's breach of this Agreement through legal action shall be entitled to seek and recover its' reasonable and necessary

attorneys' fees and costs incurred in that endeavor.

9. Independent Development. The Parties acknowledge and agree that this Agreement shall not preclude a Party from independently developing and marketing products or services involving technology or ideas similar to those disclosed, provided that the receiving Party does not violate any of its obligations under this Agreement in connection with such activities. The provisions herein prohibiting reverse engineering, decompilation, and disassembly shall continue indefinitely despite termination of this Agreement. The Parties agree that nothing in this Agreement prohibits competition of the Parties in the marketplace.

10. Miscellaneous.

a. The recipient Party acknowledges that remedies at law may be inadequate to protect the disclosing Party against any actual or threatened breach of this Agreement by the recipient Party or its representatives and, without prejudice to any other rights and remedies otherwise available to the disclosing Party, recipient Party agrees to the granting of injunctive or other equitable relief in the disclosing Party's favor, without proof of actual damages or the requirement of posting a bond or other security.

b. Neither Party may disclose the terms of this Agreement without the prior express written consent of the other Party.

c. Each Party certifies and warrants that such Party will not export, directly or indirectly, the other Party's Confidential Information or any portion thereof in violation of any relevant law or

regulation, including, without limitation, any law or regulation of the United States government or any agency thereof.

d. Should any provision of this Agreement be deemed illegal or otherwise unenforceable, that provision shall be severed and the remainder of this Agreement shall remain in full force and effect.

e. Neither Party may assign or otherwise transfer its rights, duties or obligations under this Agreement to any other person or entity, in whole or in part, without the prior written consent of the other Party. This Agreement binds and inures to the benefit of the Parties and their permitted successors and assigns.

f. This Agreement shall be governed by the laws of the State of Alabama, U.S.A., without reference to conflict of laws principles or provisions.

g. No waiver or modification of this Agreement will be binding upon either Party unless made in writing and signed by a duly authorized representative of each Party.

h. The signatories hereto warrant and represent that they are duly authorized to bind their respective entities and to execute this Agreement.

i. This Agreement contains the sole and entire agreement between the Parties related to the subject matter hereof, and supersedes all prior and contemporaneous understandings and agreements relating thereto. This Agreement may not be modified except by a written agreement signed by authorized representatives of both Parties.

IN WITNESS WHEREOF, authorized representatives of the Parties have executed this Agreement, effective as of the later of the dates below.

Company: _____

Headset, LLC

Signed: _____

Name: _____

Philip Andrews
CEO / Senior UX/CX Designer

Title: _____

Will sign and date on return receipt.

Dated: _____