

## **MUTUAL CONFIDENTIALITY and NON-DISCLOSURE AGREEMENT**

This CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT ("Agreement") is made and entered into as of \_\_\_\_\_, 201\_ ("Effective Date") by and between Margo Benge, dba Miracles, (hereinafter referred to as "Miracles" and \_\_\_\_\_, (hereinafter referred to as "Agent"). This Agreement expires thirty years after its execution.

WHEREAS, the Agent wishes to work with Miracles either as a licensee , contractor or employee, the Agent must have available certain proprietary techniques regarded by Miracles as trade secrets. The Agent must also respect confidentiality in other areas as well.

THEREFORE, the parties agree to enter into a confidential relationship with respect to the disclosure of certain information.

Each Agent desiring to be considered for association as a contractor, employee or licensee must detail exactly which methodologies are known prior to disclosure of information on techniques relevant to disclosure.

### 1. Definitions.

(a) "Confidential Information" includes all information, methodologies, technical data, or know-how, including, but not limited to, that which relates to a disclosing party's research, products, hardware, software, designs, inventions, ideas, processes, drawings, business plans, product implementations, financial information, marketing techniques, business operation and systems, pricing policies, information concerning employees, customers, and/or vendors disclosed by one party to another in writing, orally, by inspection, or otherwise. Confidential Information does not include information that the receiving party can demonstrate: (i) was in the receiving party's possession prior to its being furnished to the receiving party under the terms of this Agreement, provided the source of that information was not known by the receiving party to be bound by a confidentiality agreement with, or other continual, legal or fiduciary obligation of confidentiality, to the disclosing party; such determination shall be made by the written affidavit of the Agent, and shall be Attachment A to this agreement. (ii) is now, or hereafter becomes, through no act or failure to act on the part of either party, generally known to the public; (iii) is rightfully obtained by the receiving party from a third party, without breach of any obligation to the disclosing party. Proof of the knowledge of the third party must be produced at the time the information is received.

Confidential Information shall include all information of which unauthorized disclosure could be detrimental to the interests of the disclosing party whether or not such information is identified as Confidential Information by the disclosing party.

(b) "Representative" is not acceptable under the terms of this disclosure, since each Agent cannot release any information without written permission.

## 2. Confidentiality.

(a) The receiving party shall not disclose any Confidential Information to third parties, in any manner whatsoever, except as provided in paragraphs 3 and 4 of this Agreement, and shall protect the Confidential Information for thirty (30) years following the date of its disclosure.

(b) The Agent shall take all measures reasonably necessary to protect the Confidential Information received from Miracles. The Agent shall segregate all Confidential Information from Miracles from the confidential information of others in order to prevent commingling.

## 3. Permitted Disclosures.

The Agent cannot disclose ANY information without written permission from Miracles.

## 4. Required Disclosures.

The receiving party may disclose Confidential Information in accordance with a judicial or other governmental order, provided that the receiving party shall give the disclosing party reasonable notice prior to such disclosure and reasonable opportunity to obtain a protective order or the equivalent.

## 5. Use and Disclaimers.

(a) The receiving party shall use the Confidential Information solely for the purpose of either a contractual, employment or licensee relationship with the disclosing party and shall not in any way use the Confidential Information to the detriment of the disclosing party. This shall include teaching, marketing, or dissemination in any form. The receiving party shall comply with all applicable United States and foreign export laws and regulations. This contract is executed under the laws of the State of Texas, in the United States, and is enforceable in the State of Texas. It applies to international countries under any language of communication.

(b) Nothing in this Agreement is intended to grant or imply any rights, by license or otherwise, to the Agent under any patent, copyright, trade secret, or other intellectual property right, nor shall this Agreement grant or imply to the Agent any rights in or to the other party's Confidential Information, except the limited right to review such Confidential Information solely for the purposes of consideration of a possible transaction or relationship between the parties. No Agent shall reverse engineer, decompile or disassemble any hardware or software received from Miracles for any purpose.

(c) THE DISCLOSING PARTY PROVIDES INFORMATION SOLELY ON AN "AS IS" BASIS. The Agent hereby agrees to indemnify the disclosing party against any and all losses, damages, claims, expenses, and attorneys' fees incurred or suffered by the disclosing party as a result of a breach of this Agreement by the receiving party or its Representatives. Furthermore, the Agent agrees to maintain a professional liability insurance policy with a reasonable degree of coverage, such as that offered by the

American Massage Therapy Association, or by the Associated Bodywork and Massage Professionals.

#### 6. Return of Documents.

(a) The receiving party shall return to the disclosing party any and all records, notes, and other written, printed or other tangible materials in its possession pertaining to the Confidential Information immediately on the written request of the disclosing party or upon termination of this Agreement. The returning of materials shall not relieve the receiving party from compliance with other terms and conditions of this Agreement.

(b) The receiving party shall make no copies of any of the disclosing party's Confidential Information without the prior written consent of the disclosing party and shall return to the disclosing party, upon request or upon termination of the relationship between the parties, all copies made thereof.

#### 7. No Additional Agreements.

(a) Neither the holding of discussions nor the exchange of material or information shall be construed as an obligation of the either party to perform any work, enter into any license, business engagement or other agreement with the other party. Nothing in this Agreement shall prohibit a party from providing its own Confidential Information to third parties and entering into agreements with third parties.

(b) Each party reserve the right, in its sole discretion, to reject any and all proposals made by the other party or its Representatives with regard to a transaction between the parties and to terminate discussions and negotiations at any time. Additional agreements of the parties, if any, shall be in a signed writing.

#### 8. Irreparable Harm.

The Agent understands and acknowledges that any disclosure or misappropriation of any of the Confidential Information in violation of this Agreement may cause Miracles and others irreparable harm, the amount of which may be difficult to ascertain, and therefore agrees that the disclosing party shall have the right to apply to a court of competent jurisdiction for specific performance and/or an order restraining and enjoining any such further disclosure or breach and for such other relief as the disclosing party shall deem appropriate. Such right of the disclosing party is to be in addition to the remedies otherwise available to the disclosing party at law or in equity. The receiving party expressly waives the defense that a remedy in damages will be adequate and any requirement in an action for specific performance or injunction for the posting of a bond by the disclosing party.

#### 9. Assignment.

This Agreement, or any right or interest under this Agreement, shall not be assigned, nor shall any work or obligation to be performed under this Agreement (an "assignment") be delegated, voluntarily, by operation of law or otherwise, without Miracles' prior written consent. Any attempted assignment in contravention of this Section 9 shall be void and ineffective. The terms of this Agreement shall be binding

upon and inure to the benefit of and be enforceable by the permitted respective successors and assigns of the parties hereto.

#### 10. Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without regards to conflicts of laws principles. The parties hereby irrevocably consent to the jurisdiction of the state and federal courts the State of Texas, in any action arising out of or relating to this Agreement, and waive any other venue to which either party may be entitled by domicile or otherwise.

#### 11. Attorney's Fees.

If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, Miracles will not be liable for fees and costs incurred to the Agent, but may seek legal fees.

#### 12. Counterparts and Right.

(a) This Agreement may be signed in counterparts, which together shall constitute one agreement. If this Agreement is signed in counterparts, no signatory hereto shall be bound until both parties named below have duly executed, or caused to be duly executed, a counterpart of this Agreement.

(b) The persons signing represents that he or she has the right and power to execute this Agreement, and such agreement has not been coerced.

#### 13. Entire Agreement.

This Agreement expresses the full and complete understanding of the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous proposals, agreements, representations and understandings, whether written or oral, with respect to the subject matter. This Agreement shall not limit any rights that either party may have under trade secret, copyright, patent or other laws that may be available. This Agreement may not be modified or amended except by a writing that explicitly refers to the amendment of this Agreement and that is signed by authorized representatives of both parties.

#### 14. Miscellaneous.

(a) None of the provisions of this Agreement shall be deemed to have been waived by any act, omission, or acquiescence on the part of the disclosing party without a written instrument signed by the disclosing party. No waiver by a party of any breach shall be effective unless in writing, and no waiver shall be construed as a waiver of any succeeding breach, whether or not of the same or a different term or condition;

(b) This Agreement shall be construed as to its fair meaning and not strictly for or against either party.

(c) The headings hereof are descriptive only and not to be construed in interpreting the provisions hereof.

IN WITNESS WHEREOF, the parties have caused their authorized representatives to execute this Agreement as of the date first set forth above.

Signed and agreed to by Party One:  
Margo Bengé, Sole Proprietor, dba  
Miracles

Signed and agreed to by Agent:

\_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: Margo Bengé  
Owner

Printed Name: \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

Witness Signature \_\_\_\_\_

Witness Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

State of Texas  
County of \_\_\_\_\_

Before me, \_\_\_\_\_, Notary Public, on this day personally appeared \_\_\_\_\_, (Referred to as Party Two in the subject document), known to me (or proved to me through \_\_\_\_\_ to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that (s)he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Notary Seal

\_\_\_\_\_  
Notary Public's Signature