



CONFIDENTIAL NONDISCLOSURE AGREEMENT

Effective Date: _____, 20____

Re-Play Athletics (the "Company") and the "Participant" identified below have entered into this Confidential Nondisclosure Agreement (the "Agreement") to enable them to exchange certain confidential, proprietary and/or trade secret information in connection with the evaluation and/or establishment or continuation of a business relationship between them (the "Purpose"). In return for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound, the parties hereby agree as follows:

1. As used herein, the term "Discloser" refers to that party which provides to the other Confidential Information (as defined below) and the "Recipient" refers to that party to which Confidential Information is provided hereunder.
2. The "Participant" is: _____
3. The confidential, proprietary and/or trade secret information ("Confidential Information") to be disclosed under this Agreement is that information which is (a) disclosed by the Discloser in writing and is marked as confidential at the time of disclosure, or which is (b) disclosed by the Discloser in any other manner and is identified as confidential at the time of disclosure and is also summarized and designated as confidential in a written memorandum delivered to the Recipient's authorized representative who has executed this Agreement or his or her designee:
4. For clarification of the terms of this Agreement, the "Purpose" warranting disclosure under this Agreement is described as:

5. Recipient shall make no commercial use of such Confidential Information and shall use the Confidential Information only for the Purpose.
6. Recipient shall protect the Confidential Information by using the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorized use, dissemination or publication of the confidential information as the Recipient uses to protect its own confidential information of a like nature. A Recipient will not disclose any of the Confidential Information to any employees or to any third parties except to directors, employees, officers, and professional advisors of the Recipient, its parent company (if any) and majority-owned subsidiaries who have a need to know and who agree to abide by nondisclosure terms at least as comprehensive as those set forth herein (collectively, the "Authorized Persons"); provided that the Recipient will be liable for breach by any such person. A Recipient will not make any

copies of the Confidential Information except as necessary for the use of Authorized Persons in connection with the Purpose. Any copies which are made will be identified as belonging to the Discloser and marked "confidential" or "proprietary."

7. Discloser will not assert any claims of breach of the Agreement or misappropriation of trade secrets against the Recipient arising from the Recipient's disclosure of Discloser's Confidential Information made more than three (3) years from the date of disclosure.
8. This Agreement imposes no obligation upon a Recipient with respect to Confidential Information which the Recipient can demonstrate by written record (a) was the Recipient's rightful possession without any limitation on use or disclosure before receipt from the Discloser; (b) is or becomes a matter of public knowledge through no fault of the Recipient; (c) is rightfully received by the Recipient from a third party without a duty of confidentiality; or (d) is independently developed by employees of the Recipient who did not have access to the Confidential Information.
9. In the event that Recipient (i) is threatened or served with an action or motion to force disclosure of all or any portion of the Confidential Information, or (ii) is compelled to disclose all or any portion of the Confidential Information by valid order of a court or other governmental entity with the authority to compel such disclosure, Recipient shall notify Discloser in writing, as promptly as possible (and prior to complying with such disclosure requirements if at all possible), in order to provide Discloser the opportunity to intervene and object to, or seek restrictions on the disclosure of such Confidential Information. If Confidential Information disclosure is compelled by the aforementioned legal processes despite Discloser's intervention efforts, Recipient shall limit its disclosure to only that portion of the Confidential Information legally required to be disclosed.
10. The title to, and/or the right to possess, Confidential Information as between the parties will remain with the Discloser. This Agreement does not constitute, and shall not be construed as, a license to use or to exploit in any way, any Confidential Information of the Discloser.
11. Neither party has any obligation to disclose Confidential Information to the other party. Either party may terminate this Agreement at any time without cause upon written notice to the other party; provided that each party's obligations with respect to information disclosed by the other party prior to any termination of this Agreement will survive any such termination. A Discloser may, at any time: (a) cease giving Confidential Information to the Recipient without any liability, and/or (b) request in writing the return or destruction of all or part of its Confidential Information previously disclosed (in any tangible form and including, without limitation, all summaries, copies and excerpts of Confidential Information), and the Recipient will promptly comply with such request, and provide written certification of its compliance with the provisions of this paragraph 11 executed by a corporate officer of Recipient.
12. It is acknowledged that a party's breach of this Agreement will cause the other party irreparable and continuous damage for which it will have no adequate remedy at law. Consequently, in the event of a breach of this Agreement the non-breaching party will be entitled to injunctive relief or decrees for specific performance, or both (without having to post any bond or show any actual damages, unless the statute requiring such bond and/or

showing of damages expressly prohibits waiver of these requirements), as well as any other relief as may be available, subject only to the limitation that no party to this Agreement shall be entitled to seek or collect punitive damages from the other party. In the event that either party initiates a formal legal proceeding in which it asserts the breach of this Agreement by the other party, then the prevailing party in such proceeding shall be entitled to collect, in addition to costs of such action, its reasonable attorneys fees incurred in connection with such legal proceeding.

13. The failure of either party to enforce any right resulting from breach of any provision of this Agreement by the other party will not be deemed a waiver of any right relating to a subsequent breach of such provision or of any other right hereunder.
14. Each Discloser warrants that it has the right to disclose the Confidential Information provided to the Recipient under this Agreement.
15. Neither party acquires any intellectual property rights under this Agreement except the limited right to use set out in paragraph 3 above.
16. Neither party has an obligation under this Agreement to enter into a business relationship or to purchase any service or item from the other party.
17. Neither party has an obligation under this Agreement to offer for sale products using or incorporating the Confidential Information. The Discloser may, at its sole discretion, offer such products for sale and may modify them or discontinue sale at any time.
18. Recipient shall adhere to the U.S. Export Administration Laws and Regulations and shall not export or re-export any technical data or products received from the Discloser or the direct product of such technical data to any proscribed country listed in the U.S. Export Administration Regulations unless properly authorized by the U.S. Government.
19. The parties do not intend that any agency, joint venture or partnership relationship be created between them by this Agreement.
20. All amendments, waivers, additions or modifications to this Agreement must be made in writing and must be signed by both parties.
21. This Agreement is made under and shall be construed according to the laws of the State of California, without reference to conflicts of law principles.

Re-Play Athletics

Signature: _____

Name: _____

Title: _____

Participant

Signature: _____

Name: _____

Title: _____