



## MUTUAL NON-DISCLOSURE AGREEMENT

This MUTUAL NON-DISCLOSURE AGREEMENT (the “Agreement”) is entered into, by and in between MULTIVOICE, LLC — formerly (and occasionally dba Multi-Voice Radio) — (MULTIVOICE) a Utah limited liability company, and \_\_\_\_\_, (individually, a “Party” and collectively, the “Parties”) on (insert date: \_\_\_\_\_), the “Effective Date.”

The Parties would like to exchange/provide certain information that may be considered proprietary and confidential. In connection with their mutual interest, each undersigned Party understands and acknowledges that the other Party has disclosed or may disclose certain information and documents which are non-public, confidential, and/or proprietary in nature, for the designated purpose of evaluating certain prospects, possible business arrangements, and/or opportunities (“**Authorized Purpose**”). To ensure the protection of such information and in consideration of the agreement to exchange said information, the Parties enter into this Agreement.

NOW THEREFORE, in consideration for permitting to receive or acquire the information and documents which are non-public, confidential, and/or proprietary in nature, the Parties agree as follows:

1. **Confidential Information.** As used herein, “**Confidential Information**” shall mean and include: Technical and business information relating to proprietary ideas, patentable ideas and/or trade secrets, existing and/or contemplated products and services, research and development, production, costs, profit and margin information, finances and financial projections, customers, clients, accounts, marketing information, marketing strategies, current or future business plans and models, forms, risk management, and other like information provided, whether or not in a tangible form and regardless of whether such information is designated as “Confidential Information” at the time of its disclosure. “Confidential Information” shall further include any written or oral, tangible, intangible data, including computer or machine readable code, notes, analyses, studies, along with non-public information, together with analyses, compilation, studies or other documents prepared by the Parties, on or after the Effective Date hereof relating to the Authorized Purpose and shall include each, every, and all communications or documents, whether written, electronic or otherwise recorded in a tangible form, relating to any Party. Additionally, the contents or existence of discussions, negotiations related to the Authorized Purpose shall further constitute Confidential Information. Parties agree that unless expressly informed by an authorized representative of any Party, the Parties shall assume that any information provided by either Party is protected under and subject to the covenants and conditions of this Agreement.
2. **Disclosing/Receiving Party.** The Party disclosing any such Confidential Information shall be referred to herein as the “**Disclosing Party**” and the other Party shall be referred to herein as the “**Receiving Party**.”
3. **Time Period for Evaluation of Confidential Information.** Unless terminated earlier by either Party, the period of time a Receiving Party is permitted to review the Confidential Information for the Authorized Purpose established by this Agreement shall terminate six (6) months after the Effective Date of this Agreement, upon which time any review or use of any Confidential Information is prohibited (subject to a six-month (6-month) extension

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if the Parties are still discussing and considering the Authorized Purpose at the end of the initial six-month (6-month) term. Notwithstanding, all of the Receiving Party's obligations under this Agreement shall survive beyond the termination date of this Agreement and shall remain effective until the Confidential Information becomes publicly available (either to the general public or to any relevant trade or industry group), other than as a result of a breach of this Agreement by the Receiving Party or its Representatives.

4. **Non-Disclosure.** In consideration of the disclosures referenced above, the Parties covenant and agree that:
- a. The information and documentation constituting the Confidential Information constitute a valuable, secret, special and unique asset of the Disclosing Party and will not be used by the Receiving Party except in connection with the evaluation of the Authorized Purpose. Any other use of the Confidential Information is strictly forbidden. The Receiving Party shall not disclose any Confidential Information or any information derived therefrom to any third person or other party not specifically identified under this Agreement. Parties agree and acknowledge that the breach of any of the provisions of this Agreement will cause the Disclosing Party irreparable damage, that the remedy at law for any such breach could be inadequate the actual or potential value of the Confidential Information is not readily ascertainable, and that the Disclosing Party, in addition to any other relief available to it, shall be entitled to appropriate temporary and permanent injunctive relief restraining the Receiving Party from committing or continuing such breach, without the necessity of proving actual damages. The Receiving Party agrees to pay all costs and attorneys' fees incurred by the Disclosing Party in obtaining such injunctive or other relief.
  - b. The Confidential Information shall be kept in strict confidence and the Receiving Party shall take all reasonable precautions to protect such Confidential Information (including, without limitation, all precautions the Receiving Party employs with respect to its own confidential materials) and shall not copy, modify, alter, decompile, disassemble, or reverse engineer any Confidential Information. Except as authorized under this Agreement, the Receiving Party shall never use nor employ for any purpose or disclose to any other individual or entity any Confidential Information.
  - c. The Receiving Party shall be entitled to disclose the Confidential Information without the Disclosing Party's prior written consent to the following persons (the "**Representatives**"), to the extent the Representatives need to know such Confidential Information for the purpose of assisting with the evaluation of the Authorized Purpose, are informed by the Receiving Party of its confidential nature, and who will have agreed to act in accordance with the terms and conditions of this Agreement: (i) employees, officers and directors of the Receiving Party; and (ii) any professional consultant or agent retained by the Receiving Party for the purpose of evaluating the Authorized Purpose. The Receiving Party shall be responsible for ensuring that all Representatives to whom the Confidential Information is disclosed, or who have access to any Confidential Information, have consented to a nondisclosure or similar agreement to keep such information confidential in accordance with the terms of this

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Agreement and shall not disclose, divulge or use such Confidential Information in violation of this Agreement. The Receiving Party shall be responsible to the Disclosing Party for any breach of this Agreement by the Representatives of the Receiving Party.

- d. Except as required by Applicable Law (as defined below), all Confidential Information will be kept confidential and will not be disclosed by the Receiving Party or by the Receiving Party's Representative(s), and will not be used by the Receiving Party or its Representative other than in connection with the Authorized Purpose. The Receiving Party and its Representative(s) shall take all reasonable steps to preserve the confidential nature of the Confidential Information, and shall exercise such care in preserving the confidential nature of the Confidential Information as the Receiving Party or its Representative(s) would employ to protect its own Confidential Information of like importance and sensitivity.
5. **Identification of Confidential Information.** Notwithstanding the fact that all information provided by a Disclosing Party shall be presumed protected under and subject to the covenants and conditions of this Agreement, the Parties, in administering their duties pursuant to this Agreement, shall identify all confidential and/or sensitive information as such in writing and marked as confidential (or with other similar designation) at the time of disclosure; and/or identify as confidential in a written memorandum delivered within thirty (30) days of the disclosure.
6. **Disposition of Confidential Information.** The Confidential Information shall remain the property of the Disclosing Party, and the Disclosing Party may demand the return thereof at any time upon giving written notice to the Receiving Party. Immediately upon the written request by the Disclosing Party at any time, the Receiving Party shall return all of the original Confidential Information and all documents or media containing such Confidential Information, as well as all copies, reproductions or extracts (including tangible, intangible, written or electronic means) in its possession and in the possession of any Representatives to whom it was disclosed, including notes and work papers containing Confidential Information. Where the Confidential Information is in a form incapable of return or has been copied, transcribed into, or incorporated into another document or media, it shall be destroyed or erased, as appropriate. The destruction or erasure of such Confidential Information shall be certified by the Receiving Party to the Disclosing Party promptly following completion of the destruction of such Confidential Information.
7. **No Rights Conveyed.** This Agreement shall not be construed as creating, conveying, transferring, granting or conferring upon either party any rights, license or authority in or to the information exchanged, except the limited right to use Confidential Information to evaluate any Authorized Purpose as specified in this agreement. Furthermore and specifically, no license or conveyance of any intellectual property rights is granted or implied by this Agreement.
8. **Disclosure Pursuant to Applicable Law.** If the Receiving Party becomes legally compelled to disclose any of the Confidential Information, whether by court order, decree, subpoena, or other process or requirement of law ("**Applicable Law**"), the Receiving Party will provide the Disclosing Party with prompt notice so that the

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Disclosing Party may seek a protective order or other appropriate remedy, and/or waive compliance with the provisions of this Agreement. If such protective order or other remedy is not obtained, the Receiving Party will furnish only that portion of the Confidential Information which is legally required, pursuant to Receiving Party's opinion of legal counsel, and the Receiving Party will cooperate with the Disclosing Party's counsel to enable the Disclosing Party to obtain a protective order or other reliable assurance that confidential treatment will be accorded the same.

9. **Non-Confidential Information.** Notwithstanding the terms of this Agreement and without granting any right or license and any information will not be considered confidential and may be disclosed if the Receiving Party can document: (i) such information is or has become (through no improper action or inaction by the Receiving Party or any affiliate, agent, consultant or employee) generally available to the public; (ii) was in its possession or known by Receiving Party prior to receipt from the Disclosing Party as evidenced in writing, except to the extent that such information was unlawfully appropriated; or (iii) was autonomously developed without use of any Confidential Information of the Disclosing Party.
10. **Non-Contravention.** For a three-year (3-year) period commencing immediately upon the disposition of the Confidential Information from the Receiving Party to the Disclosing Party, the Receiving Party agrees not to directly or indirectly hire, employ, engage, or solicit any employees or Representatives of the Disclosing Party or its affiliates to work for the Receiving Party or any person or business entity that competes with the Disclosing Party.
11. **Non-Circumvention Agreement.** For a period of eighteen (18) months after the Effective Date of this Agreement, all Parties agree not to be or to become the direct or indirect owner of an equity ownership interest in any business that is the same as that operated by the Disclosing Party in the United States, without the express written consent of the Disclosing Party. All Parties agree further that they will not, and it will not permit any of its controlled affiliates, to directly or indirectly pursue an Authorized Purpose in any business that is the same as that operated by the Disclosing Party other than that of the Disclosing Party for a twelve-month (12-month) period from the Effective Date of this Agreement.
12. **Representations; Warranties.** Each party further acknowledges and confirms to the other party that no representation or warranty, express or implied, is or will be made, and no responsibility or liability is or will be accepted by either party, or by any of its respective directors, officers, employees, agents or advisers, as to, or in relation to, the accuracy of completeness of any Confidential Information made available to the other party or its advisers; it is responsible for making its own evaluation of such Confidential Information.
13. **Non-Piracy Covenant.** For a period of two (2) years after the date of this Agreement, the Receiving Party agrees not to solicit, divert, accept business from, nor service, directly or indirectly, as owner, agent, shareholder, promoter, consultant, manger, or otherwise, any customer base, business associates, clients, and other third party vendors introduced through the Disclosing Party.

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14. **Waiver of Rights.** The failure of either party to enforce its rights under this Agreement at any time for any period shall not be construed as a waiver of such rights. If any part, term or provision of this Agreement is held to be illegal or unenforceable neither the validity, nor enforceability of the remainder of this Agreement shall be affected. Neither Party shall assign or transfer all or any part of its rights under this Agreement without the consent of the other Party. This Agreement may not be amended for any other reason without the prior written agreement of both Parties. This Agreement constitutes the entire understanding between the Parties relating to the subject matter hereof unless any representation or warranty made about this Agreement was made fraudulently and, save as may be expressly referred to or referenced herein, supersedes all prior representations, writings, negotiations or understandings with respect hereto.
15. **Severability; Reformation.** In the event that any of the covenants contained herein are held to be invalid or void in any court of competent jurisdiction, none of the other provisions contained herein shall be affected. In the event that any provision of this Agreement should be deemed or adjudged by a court of competent jurisdiction to exceed the limitations permitted by law as to duration, geographical scope or otherwise, then such provisions shall nevertheless be valid and enforceable to the extent necessary for such protection as determined by the court, and this Agreement shall be reformed to the extent necessary to provide such protection as determined by the court.
16. **Governing Law.** This Agreement shall be construed and enforced in accordance with, and shall be governed by, the laws of the State of Utah, without regard in its choice of law.
17. **Choice of Venue; Consent to Jurisdiction.** The Parties agree that the proper venue for any action brought under or related to this Agreement shall be in the Utah County, Utah Court, or in the United States District Court for the District of Utah. The Parties agree that these courts shall have exclusive jurisdiction over these matters. Parties hereby waive any objection to the jurisdiction of said courts in any litigation arising hereunder on the basis that such court is an inconvenient forum or otherwise.
18. **Counterparts.** This Agreement may be signed in any number of counterparts (including by fax or PDF) with the same effect as if the signatures to each counterpart were upon a single instrument, and all such counterparts together shall be deemed an original of this Agreement. This Agreement shall become effective when, and only when, each party hereto shall have received a counterpart hereof signed by the other party hereto.
19. **Headings.** The headings and captions of various paragraphs of this Agreement are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provision hereof.
20. **Pronouns and Plurals.** Whenever the contents may require, any pronoun used herein shall include the corresponding masculine, feminine, or neuter forms and the singular form of nouns, pronouns, and verbs shall include the plural, and vice versa.
21. **No Further Undertaking.** Nothing contained herein is intended to create a joint venture, partnership or other type of business undertaking or entity between the Parties, to require either Party to provide any information with regard to the Authorized Purpose, or to confer upon either Party the right to participate in any Authorized Purpose. Nothing



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herein shall obligate either Party to proceed with any transaction between them and each Party reserves the right, in its sole discretion, to terminate the discussions contemplated by this Agreement concerning the Authorized Purpose.

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

**MULTIVOICE**

**Other Party:** \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

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

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

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

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

Address: 505 East 1860 South  
Provo, UT 84606

Address: \_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_