

NON-DISCLOSURE AGREEMENT

This Non-Disclosure Agreement (“Agreement”) is made and entered into by and Apogee Telecom, Inc. (“Apogee”) and _____. This agreement shall become effective on the date it is executed by Apogee.

1. **CONFIDENTIAL INFORMATION.** The parties hereto agree to transmit to each other Confidential Information solely for evaluation purposes related to a proposed business relationship between the parties. Confidential Information is defined as information of any kind which is disclosed by either party hereto in oral, written, graphic, machine recognizable and/or sample form and which is not excluded from any obligation of confidentiality by Section 3 below. Without limiting the generality of the foregoing, all information relating to the proposed business relationship between the parties, together with any intellectual property related thereto, including without limitation all patents, inventions, copyrightable works (including all computer code), trade secrets and proprietary information of any kind or character, whether developed now or in the future, is specifically included within the definition of Confidential Information.

2. **CONFIDENTIALITY.** Each party hereto will hold in confidence and not use or disseminate the Confidential Information except to its employees or contractors with a need to know who will be directly involved in the evaluation and analysis of the Confidential Information, and then only in the event that such employees or contractors agree in writing to be bound by the terms and conditions of this Agreement. Each party hereto will use its best efforts to avoid disclosure or unauthorized use of the Confidential Information. Each party hereto will keep the Confidential Information in strictest confidence and, in addition, protect such Confidential Information by no less stringent security measures as it takes to protect its own Confidential Information (but in no event shall either party use less than commercially reasonable security measures). The parties further agree that they will not use any Confidential Information for any purpose other than in connection with the proposed business relationship between the parties.

3. **NONCONFIDENTIAL INFORMATION.** Neither party hereto shall have any obligation with respect to disclosure and use of information to the extent such information:

- A. is or becomes generally available to the public other than as a consequence of a breach of an obligation of confidentiality hereunder; or
- B. is made public by the disclosing party; or
- C. is received from a third party independent of the disclosing party without any breach by any party of an obligation of confidentiality; or
- D. is required to be disclosed by operation of law or court order.

Prior to making any disclosure of any Confidential Information pursuant to operation of law, or court order, the party proposing to make any such disclosure will provide as much advance written notice of the proposed disclosure as is practicable. The party from whom such Confidential Information was obtained will then have the opportunity to challenge such disclosure through appropriate proceedings, at such party’s sole cost and expense. The party required to make such disclosure shall cooperate in any such proceedings at the expense of the party from whom such Confidential Information was obtained.

4. **OWNERSHIP OF INFORMATION.** All information furnished to one party by the other hereunder shall, unless otherwise specified in writing by the disclosing party, remain the property of the disclosing party; and the written information, and any copies thereof, shall either be promptly returned to the disclosing party upon its written request or destroyed at the disclosing party’s option.

5. **NO LICENSE OR INTELLECTUAL PROPERTY RIGHTS.** Nothing contained in this Agreement shall be construed as granting any license or right to either party under any patent, trademark, copyright, trade secret or invention in the United States or a foreign country or otherwise.

6. **REMEDIES.** Each party recognizes that the remedy at law for any breach of its obligations under the Agreement will be inadequate, and, hence, each party agrees that the other shall be entitled to equitable remedies, including injunction and specific performance, in the event of breach by either party hereto.

7. **GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws (excluding conflict of laws principles) of the United States and the State of Texas. The parties hereby submit to jurisdiction and venue for any dispute arising under this Agreement in the state and federal courts located in Travis County, Texas.

8. **NO ASSIGNMENT.** Neither party may assign this Agreement or any rights hereunder without the prior written consent of the other party.

ACCEPTED AND APPROVED AS OF:

Date: _____

APOGEE TELECOM, INC.

By: _____

Name: Robert L. Foster

Title: Division Manager

Date: _____

Fax: 512-4788873

Address for Formal Notices:

Apogee Telecom, Inc.
Attn: Charles Brady
715 W 23rd Ste M
Austin, TX 78705

By: _____

Name: _____

Title: _____

Title: _____

Address for Formal Notices:

