



SEESAW LEARNING, INC. MUTUAL NONDISCLOSURE AGREEMENT

THIS MUTUAL NONDISCLOSURE AGREEMENT (this "Agreement") is made by and between _____ ("Third Party") and Seesaw Learning, Inc., located at 180 Montgomery Street Suite 750 San Francisco, CA 94104 ("Recipient").

In consideration for the parties' agreement to participate in the activities described below, the parties agree:

1. Confidential Information. In connection with a contract between Third Party and Recipient (the "Contract") either party may find it beneficial to disclose to the other, certain information that the disclosing party considers to be proprietary and/or confidential (hereinafter referred to as "Confidential Information"), which may include, but is not limited to, trade secrets, discoveries, ideas, concepts, know-how, techniques, designs, specifications, drawings, diagrams, data, computer programs, business activities and operations, reports, studies and other technical and business information. Confidential Information shall also include descriptions of the existence or progress of the above-described Contract.

2. Protection of Confidential Information. Each party acknowledges that the other party claims its Confidential Information as a special, valuable and unique asset. For itself and on behalf of its officers, directors, agents, employees, partners and affiliates, each party agrees that it will keep in confidence all Confidential Information and that it will not directly or indirectly disclose to any third party or use for its own benefit, or use for any purpose other than the Contract, any Confidential Information it receives from the other party. Each party agrees to use reasonable care to protect the Confidential Information, and in no event less than the same degree of care to protect the Confidential Information as it would employ with respect to its own information of like importance which it does not desire to have published or disseminated. Any information exchanged by the parties and entitled to protection under this Agreement shall be identified as such by appropriate markings on any documents exchanged, or, if the disclosure has been made orally, then the disclosing party shall identify the information as "confidential" at the time the disclosure is made and, within two (2) weeks of the disclosure, shall confirm in writing the confidential nature of the oral communication.

3. Limitations on Confidential Information. Confidential Information shall not include the disclosing party's information which:

- a. The receiving party knows at the time of disclosure, free of any obligation to keep it confidential, as evidenced by written records;
- b. Is or becomes publicly available through authorized disclosure;
- c. Is independently developed by the receiving party without the use of any

MUTUAL NONDISCLOSURE AGREEMENT

Confidential Information; or

d. The receiving party rightfully obtains from a third party who has the right to transfer or disclose it.

If any portion of any Confidential Information falls within any of the above exceptions, the remainder of the Confidential Information shall continue to be subject to the requirements of this Agreement.

4. Compelled Disclosure. Should the receiving party be faced with legal action to disclose Confidential Information received under this Agreement, the receiving party shall promptly notify the furnishing party and, upon the request of the latter, shall cooperate with the furnishing party in contesting such a disclosure. Except in connection with failure to discharge the responsibilities set forth in the preceding sentence, neither party shall be liable in damages for any disclosures pursuant to such legal action.

5. Return of Confidential Information. All information furnished under this Agreement shall remain the property of the furnishing party and shall be returned to it or destroyed promptly at its request together with all copies made of such information by the receiving party. All documents, memoranda, notes and other writings whatsoever prepared by the receiving party based on Confidential Information shall be destroyed upon request of the furnishing party and such destruction shall be certified in writing to the furnishing party by an authorized officer of the receiving party.

6. No License. No license under any patents, copyrights or mask rights is granted or conveyed by one party's transmitting Confidential Information or other information to the other party under this Agreement, nor shall such a transmission constitute any representation, warranty, assurance, guaranty or inducement by the transmitting party to the other party with respect to infringement of patent or other rights of others.

7. No Warranty. Each party acknowledges that the disclosing party has not made and will not make any representation or warranty as to the accuracy or completeness of its Confidential Information or of any other information provided in connection with the Contract, and each agrees that the disclosing party shall have no liability resulting from the use of the Confidential Information or such other information.

8. No Commitment. Confidential Information provided by one party to the other does not, and is not intended to represent a commitment by either party to enter into any business relationship with the receiving party or with any other entity. If the parties desire to pursue business opportunities, the parties will execute a separate written agreement to govern such business relationship.

9. Independent Development. Each party understands that the receiving party may currently or in the future be developing information internally, or receiving information from other parties that maybe similar to the furnishing party's information. Accordingly, nothing in this Agreement will be construed as a representation or inference that the receiving party will not develop products, or have products developed for it, that, without violation of this Agreement, compete with the products or systems contemplated by the furnishing party's

MUTUAL NONDISCLOSURE AGREEMENT

Confidential Information.

10. Equitable Relief. Each party acknowledges that its breach of this Agreement may result in immediate and irreparable harm to the disclosing party, for which there will be no adequate remedy at law, and the disclosing party shall be entitled to equitable relief to compel the receiving party to cease and desist all unauthorized use and disclosure of the disclosing party's Confidential Information.

11. Notices. All notices under this Agreement shall be deemed to have been duly given upon the mailing of the notice, postpaid, to the party entitled to such notice at the address set forth above.

12. Export Regulations. Notwithstanding any other provision of this Agreement, neither party shall export any technical Confidential Information acquired under this Agreement or any commodities using such Confidential Information to any country to which the United States government forbids export or, at the time of export, requires an export license or approval, without first obtaining such license or approval.

13. Effective Date and Termination. This Agreement shall be effective from the date the last signature is affixed to this Agreement and shall apply to discussions taking place about the Contract. This Agreement and Recipient's duty to hold Disclosing Party's Confidential Information in confidence shall remain in effect until the Confidential Information no longer qualifies as a trade secret or until Disclosing Party sends Receiving Party written notice releasing Receiving Party from this Agreement, whichever occurs first.

14. Severability. Should any provisions of this Agreement be found unenforceable, the remainder shall still be in effect.

15. No Waiver. The failure of any party to require performance by another party of any provision of this Agreement shall in no way affect the full right to require such performance at any time thereafter.

16. Entire Agreement. This Agreement embodies the entire understanding between the parties respecting the subject matter of this Agreement and supersedes any and all prior negotiations, correspondence, understandings and agreements between the parties respecting the subject matter of this Agreement. This Agreement shall not be modified except by a writing duly executed on behalf of the party against whom such modification is sought to be enforced.

17. Binding Effect. This Agreement shall benefit and be binding upon the parties to this Agreement and their respective successors and assigns.

18. Construction of Agreement. This Agreement has been negotiated by the parties and their respective attorneys, and the language of this Agreement shall not be construed for or against either party.

19. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

MUTUAL NONDISCLOSURE AGREEMENT

20. Counterparts. Either the original or copies, including facsimile transmissions, of this Agreement, may be executed in counterparts, each of which shall be an original as against any party whose signature appears on such counterpart and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have caused their respective duly authorized representatives to execute and deliver this Agreement.

_____:

Signature: _____

Name: _____

Email: _____

Date: _____

Seesaw Learning, Inc.:

Signature: _____

Name: _____

Email: _____

Date: _____