

NETAPP

ONE-WAY NON-DISCLOSURE AGREEMENT

This Agreement is entered into between NetApp, Inc., (NetApp) a Delaware corporation located at 495 East Java Drive, Sunnyvale, CA 94089 ("NetApp"), and _____, an individual, hereinafter ("Alternative Worker").

NetApp is considering disclosing confidential or proprietary information to Alternative Worker for the following purpose: _____

_____ (i.e specific to the scope of the project to enable the parties to clearly identify for what purposes the confidential information may be used, "business relationship").

In consideration of any disclosure and any negotiations concerning a potential business relationship, Alternative Worker agrees as follows:

1. "Confidential Information" means (1) any information disclosed by NetApp that is marked "confidential" or "proprietary" in the manner provided by this Agreement, (2) information disclosed orally or visually that is designated "confidential" or "proprietary" at the time of disclosure, and that NetApp summarizes in reasonable detail in a writing delivered to the other party within 30 days, and (3) any information whether or not marked "confidential" which is specifically designated as such by NetApp.
2. This Agreement applies to all Confidential Information disclosed in connection with the evaluation of the business relationship, beginning on the Effective Date stated herein, for a term of one (1) year. Confidential Information may only be used for the purpose identified in this Agreement.
3. Confidential Information will remain the property of the NetApp. Alternative Worker agrees that for a period of three (3) years from the date of disclosure, or indefinitely for source code, NetApp's Confidential Information will be disclosed or disseminated only to NetApp employees and consultants who have a need to know and who are under a similar written obligation limiting the use and disclosure of NetApp's Confidential Information to the same extent provided in this Agreement. Alternative Worker will NOT copy, duplicate, reverse engineer, reverse compile or attempt to derive the composition or underlying information of any Confidential Information.
4. This Agreement shall not apply to such information that Alternative Worker can document:
 - (a) is in or enters the public domain through no fault of the receiving party;
 - (b) is disclosed to the receiving party by a third party without an obligation of confidentiality;
 - (c) is independently developed by the receiving party;
 - (d) is already known to the receiving party at the time of disclosure under this Agreement;
 - (e) is required to be disclosed pursuant to any judicial or administrative proceeding, provided that the receiving party immediately after receiving notice of such action notifies the disclosing party of such action to give the disclosing party the opportunity to seek any other legal remedies to maintain such information in confidence;
 - (f) is disclosed with the prior written consent of the disclosing party.
5. If NetApp or Alternative Worker decide not to proceed with the proposed relationship or if requested by NetApp, Alternative Worker will promptly return all Proprietary Information and any and all copies.

6. Alternative Worker shall use the same degree of care to protect the confidentiality of all NetApp information it receives as Alternative Worker would use to protect its own Confidential Information. However, in no event shall such degree of care less than a reasonable degree of care. Alternative Worker will promptly notify NetApp of any unauthorized release of Proprietary Information. Alternative Worker further understands that this Agreement does not obligate NetApp to disclose any information or negotiate or enter into any other agreement or relationship.

7. Alternative Worker acknowledges and agrees that due to the unique nature of the Proprietary Information, any breach of this agreement would cause irreparable harm to NetApp and that NetApp shall therefore be entitled to equitable relief in addition to all other remedies available at law.

8. Alternative Worker acknowledges that this agreement encompasses all Proprietary Information disclosed to Alternative Worker as of the date of this agreement, and any information previously provided to Alternative Worker by NetApp that was designated or marked "Confidential" or "Proprietary". If Alternative Worker is required by applicable law, regulation or legal process to disclose any Confidential Information, Alternative Worker will notify NetApp immediately so that NetApp may seek a protective order or other appropriate remedy.

9. This agreement will be governed by the laws of the State of California, excepting its conflicts of law provisions.

Effective Date: _____

Acknowledged and agreed:

Alternative Worker:

Name: _____
(Print)

By: _____
(Signature)

Title: _____

Date: _____