

# Mutual Nondisclosure Agreement

This Mutual Nondisclosure Agreement is entered into as of the last date below (the "Effective Date") by and between FlexSoftware Inc, a Texas corporation with an address at 5100 Westheimer Road, Suite 200, Houston TX 77056 ("FlexSoftware") and the party below ("Company").

In consideration of the parties' discussions and any access of to Proprietary Information (as defined below), the parties hereby agree as follows:

1. Each party (the "Receiving Party") understands that the other party (the "Disclosing Party") has disclosed or may disclose nonpublic information relating to the Disclosing Party's business ("Proprietary Information"). Company Proprietary Information includes nonpublic information regarding Company's customers. FlexSoftware Proprietary Information includes, without limitation, FlexSoftware current and future product information, computer programs, algorithms, technical drawings, development plans, forecasts, strategies and financial information. Nothing else will be considered "Proprietary Information" of the Disclosing Party unless either (a) it is or was disclosed in tangible form and is conspicuously marked "Confidential", "Proprietary" or the like or (b) it is or was disclosed in non-tangible form, identified as confidential at the time of disclosure.
2. The Receiving Party agrees (i) to hold the Disclosing Party's Proprietary Information in confidence and to take reasonable precautions to protect such Proprietary Information (including, without limitation, all precautions the Receiving Party employs with respect to its own confidential materials), (ii) not to divulge any such Proprietary Information or any information derived therefrom to any third person, (iii) not to make any use whatsoever at any time of such Proprietary Information except to evaluate internally the proposed business relationship with the Disclosing Party, (iv) not to copy, decompile, disassemble or reverse engineer any such Proprietary Information and (v) not to export or re-export (within the meaning of U.S. or other export control laws or regulations) any such Proprietary Information or product thereof. Without granting any right or license, the Disclosing Party agrees that the foregoing shall not apply with respect to any information that the Receiving Party can document (i) is or becomes (through no improper action or inaction by the Receiving Party or any affiliate, agent, consultant or employee) generally available to the public, or (ii) was in its possession or known by it without restriction prior to receipt from the Disclosing Party, or (iii) was rightfully disclosed to it by a third party or (iv) was independently developed without use of any Proprietary Information of the Disclosing Party. The Receiving Party may make disclosures required by law or court order provided the Receiving Party uses all reasonable efforts to limit disclosure and to obtain confidential treatment or a protective order and has allowed the Disclosing Party to participate in the proceeding.
3. Immediately upon a request by the Disclosing Party at any time, the Receiving Party will turn over to the Disclosing Party all Proprietary Information of the Disclosing Party and all documents or media containing any such Proprietary Information and any and all copies or extracts thereof. The Receiving Party understands that nothing herein (i) requires the disclosure of any Proprietary Information of the Disclosing Party or (ii)

requires the Disclosing Party to proceed with any transaction or relationship.

4. The term of this Agreement shall continue until terminated by either party upon 30 days prior written notice. This Agreement will apply to disclosures made prior to termination for a period of 3 years after disclosure of the Proprietary Information. The Receiving Party acknowledges and agrees that due to the unique nature of the Disclosing Party's Proprietary Information, there can be no adequate remedy at law for any breach of its obligations hereunder, which breach may result in irreparable harm to the Disclosing Party, and therefore, that upon any such breach or any threat thereof, the Disclosing Party shall be entitled to appropriate equitable relief, in addition to whatever remedies it might have at law. In the event that any of the provisions of this Agreement shall be held by a court or other tribunal of competent jurisdiction to be illegal, invalid or unenforceable, such provisions shall be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect. This Agreement shall be governed by the law of the State of Texas without regard to the conflicts of law provisions thereof. This Agreement supersedes all prior discussions and writings and constitutes the entire agreement between the parties with respect to the subject matter hereof. The prevailing party in any action to enforce this Agreement shall be entitled to costs and attorneys' fees. No waiver or modification of this Agreement will be binding upon a party unless made in writing and signed by a duly authorized representative of such party and no failure or delay in enforcing any right will be deemed a waiver.

**Company**

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

Printed (Name, Title) \_\_\_\_\_

Date \_\_\_\_\_

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

**FlexSoftware Inc**

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

Printed (Name, Title) \_\_\_\_\_

Date \_\_\_\_\_

Address: 5100 Westheimer Road, Suite 200, Houston TX 77056