

APPENDIX 1A

NONDISCLOSURE AGREEMENT

This Nondisclosure Agreement ("Agreement") is entered into as of _____
____, 2000 ("Effective Date"), by and between:

XXXXX, a **[insert state] [insert type of business entity]** ("Disclosing Party"), and

YYYYY, a **[insert state] [insert type of business entity]** ("Receiving Party"),

for the purpose of preventing unauthorized disclosure of Confidential Information about Disclosing Party that Disclosing Party may disclose to Receiving Party for the purposes set forth in Section 2 below.

Confidential Information means all information relating to Disclosing Party's past, present or future business plans, computer programs and codes, customer lists, data bases, designs, developmental or experimental work, financial information, formulas, intellectual property and information, know-how, marketing plans, original works of authorship, processes, products or product plans, technology

and technical information, trade secrets, and other subject matter pertaining to the business of Disclosing Party.

Each party hereby agrees:

1. Confidential Information is a valuable asset of Disclosing Party. Consequently, Receiving Party shall hold and maintain Confidential Information in strictest confidence and in trust for the sole and exclusive benefit of Disclosing Party.

2. Confidential Information is being disclosed to allow Receiving Party to consider **[insert description of purpose]**. Disclosing Party shall determine the scope of disclosure in its sole discretion. Disclosing Party shall not be obligated to make any further disclosure, and neither party shall be obligated to enter into any other agreement.

3. Receiving Party shall not, without prior written approval of Disclosing Party, use, reproduce, publish or disclose to others (or permit use, reproduction, publication or disclosure by others) of Confidential Information. Receiving Party is not granted a license or other interest in Confidential Information.

4. Receiving Party shall carefully restrict access to Confidential Information to its officers, directors, agents, representatives, affiliates, consultants and

employees (a) who clearly need access for the purposes described in Section 2 above and (b) who agree in writing to be bound by the terms of this Agreement or are under an existing written contractual obligation to Receiving Party to respect Receiving Party's obligations under an agreement of this nature. Receiving Party warrants it will advise all persons to whom it provides access to Confidential Information that they are strictly prohibited from using, reproducing, publishing or disclosing (or permitting others to use, reproduce, publish or disclose) Confidential Information for their benefit or to the detriment of Disclosing Party.

5. Receiving Party shall take all necessary action to protect the confidentiality, and Disclosing Party's ownership, of Confidential Information.

6. This Agreement shall continue in full force and effect for two years after the later to occur of the Effective Date or the last date on which any disclosure of Confidential Information was made to Receiving Party. Receiving Party's obligations do not extend to Confidential Information that Receiving Party can demonstrate (a) was in the public domain through no fault of Receiving Party, whether direct or indirect; (b) becomes generally available to the public other than as a result of disclosure by or on account of Receiving Party; (c) was in response to a valid order by a court or other governmental body, provided that Disclosing Party is given sufficient prior written notice in order to seek a valid protective order from a court of competent jurisdiction; or (d) becomes available to Receiving Party on a non-confidential basis from a source other than

Disclosing Party, provided that such source is not bound by a confidentiality agreement with, or other obligation of secrecy to, Disclosing Party or another party.

7. Receiving Party acknowledges that any disclosure, use or misappropriation of Confidential Information in violation of this Agreement may cause Disclosing Party irreparable harm, the amount of which may be difficult to ascertain, and, therefore, agrees that Disclosing Party shall have the right to apply to a court of competent jurisdiction for an order restraining any further disclosure or misappropriation and for such other relief as Disclosing Party shall deem appropriate. Such right of Disclosing Party is in addition to the remedies otherwise available to Disclosing Party at law or in equity.

8. Immediately on written request of Disclosing Party, Receiving Party shall destroy or return to Disclosing Party, at Disclosing Party's option, any and all records, notes and other written, printed or tangible materials containing or extrapolated from Confidential Information.

9. This Agreement and Receiving Party's obligations hereunder shall be binding on the representatives, assigns and successors of Receiving Party and shall inure to the benefit of the representatives, assigns and successors of Disclosing Party. The provisions of Sections 5 and 7 shall survive the termination of this Agreement.

10. This Agreement constitutes the entire agreement between Disclosing Party and Receiving Party regarding the subject matter hereof and supersedes all prior discussions and writings between the parties. This Agreement can only be amended in writing. If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable, invalid or void, the remaining provisions shall remain in full force and effect. This Agreement is entered into and to be performed in **[insert city and state]**, and shall be governed by and construed in accordance with the laws of the **[insert state]**. Receiving Party irrevocably submits to the jurisdiction of the federal and state courts of **[insert county], [insert state]**, United States of America.

11. If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the prevailing party in such action shall be entitled to reasonable attorneys' fees.

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the date first written above.

Disclosing Party:

XXXXX

a **[insert state] [insert type of business entity]**

By:_____

Name:_____

Its:_____

Receiving Party:

YYYYY

a **[insert state] [insert type of business entity]**

By:_____

Name:_____

Its:_____