



8615 3rd Drive Southeast, Everett, WA 98208 • (425) 308-0655 • jim.kramer@jdkds.com

Non-Disclosure Agreement (version 1.1, June 15, 2009)

Usherwood Publishing (hereinafter referred to as 'UP')

DBA James D. Kramer design services (hereinafter referred to as 'DS')

This Agreement (the "Agreement") is made between James D. Kramer design services, a Washington state sole proprietorship ("DS"), and ("DISCLOSEE"), and entered into on this day of June 15, 2009.

In consideration of the mutual promises and covenants contained in this Agreement and for other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. Confidential Information and Confidential Materials

- a. "Confidential Information" means nonpublic information that DS designates as being confidential or which, under the circumstances surrounding disclosure, ought to be treated as confidential. "Confidential Information" includes, without limitation, information relating to released or unreleased DS products, the marketing or promotion of any DS product, DS business policies or practices, DS prospective licensees, game designs, rules, and playing strategies, financial information, and information received from others that DS is obligated to treat as confidential.
- b. "Confidential Information" shall not include: (i) any information that is or subsequently becomes available to the public without DISCLOSEE's breach of any obligation owed DS; or (ii) any non-confidential information that became known to DISCLOSEE from a source other than by breach of an obligation of confidentiality owed to DS.
- c. "Confidential Materials" means all tangible materials containing Confidential Information, including without limitation written or printed documents, product samples, promotional items, or other game related items.

2. Disclosee's Promise of Secrecy

- a. DISCLOSEE agrees to keep strictly confidential all Confidential Information and Confidential Materials governed by this Agreement. DISCLOSEE agrees not to disclose such Confidential Information and Material to any person, organization, representative, entity, business, manufacturer, designer or corporation other than those individuals reasonably necessary for the purpose DS is using DISCLOSEE.
- b. DISCLOSEE agrees it does not intend nor will it, directly or indirectly, export any Confidential Information or Materials or products to any person, entity, business, manufacturer, designer or corporation who DISCLOSEE knows or has reason to know will utilize them in the design, development or production of game products.
- c. DISCLOSEE shall not disclose or through knowing inaction fail to prevent disclosure of any confidential Information to third parties during the later of (1) the course of any resulting contractual relationship and for 2 years following the date of its termination, or (2) for 2 years following the date of disclosure from DS to DISCLOSEE. However, DISCLOSEE may disclose Confidential Information in accordance with judicial or other governmental orders, provided DISCLOSEE shall give DS reasonable notice prior to such disclosure and shall comply with any applicable protective order or equivalent issued on behalf of DS.

3. Security of Confidential Information and Materials

- a. DISCLOSEE shall take reasonable security precautions to keep confidential the Confidential Information. DISCLOSEE may disclose Confidential Information or Confidential Materials only to DISCLOSEE's consultants on a need to know basis. DISCLOSEE shall execute appropriate written agreements with its consultants sufficient to enable it to comply with all the provisions of this Agreement.
- b. Confidential Information and Confidential Materials may be disclosed, reproduced, summarized or distributed only in pursuance of DISCLOSEE's actual use of such information or material. Such information or material, if distributed, must be collected and securely contained by DISCLOSEE after playtesting with other participants.

4. Rights and Remedies

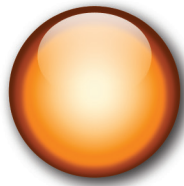
- a.** DISCLOSEE shall notify DS immediately upon discovery of any unauthorized use or disclosure of Confidential Information and/or Materials, or any other breach of this Agreement by DISCLOSEE, and will cooperate with DS in every reasonable way to help DS regain possession of the Confidential Information and/or Materials and prevent its further unauthorized use.
- b.** DISCLOSEE acknowledges that monetary damages may not be a sufficient remedy for unauthorized disclosure of Confidential Information and that DS shall be entitled, without waiving any other rights or remedies, to such injunctive or equitable relief as may be deemed proper by a court of competent jurisdiction.

5. Miscellaneous

- a.** All Confidential Information and Materials are and shall remain the property of DS. By disclosing information to DISCLOSEE, DS does not grant any express or implied right to DISCLOSEE to or under DS patents, copyrights, trademarks, or trade secret information. Further, the delivery and disclosure of Confidential Information and Materials does not constitute a License permitting DISCLOSEE to use said Information and/or Materials for any purpose other than testing the play of the subject games.
- b.** This Agreement constitutes the entire agreement between the parties with respect to subject matter hereof and merges all prior discussions between them as Confidential Information. It shall not be modified except by a written agreement dated subsequent to the date of this Agreement date and signed by both parties.
- c.** None of the provisions of this Agreement shall be deemed to have been waived by any act or acquiescence on the part of DS, its agents, or employees, but only by an instrument in writing signed by an authorized agent of DS. No waiver of any provision of this Agreement shall constitute a waiver of any other provision(s) or of the same provision on another occasion.
- d.** If either DS or DISCLOSEE employs attorneys to enforce any rights arising out of or relating to this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees. This Agreement shall be constructed and controlled by the laws of the State of Washington, and DISCLOSEE further consents to jurisdiction by the state and federal courts sitting in Snohomish County in the State of Washington. Process may be served on either party by U.S. Mail, postage prepaid, certified or registered return receipt requested, or by such other method as is authorized by the Washington Long Arm Statute.
- e.** Subject to the limitations set forth in this Agreement, this Agreement will inure to the benefit of and be binding upon the parties, their successors and assigns.
- f.** If any provisions of this Agreement shall be held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect.
- g.** All obligations created by this Agreement shall survive change or termination of the parties' business relationship.

6. Suggestions and Feedback

DS may from time to time request suggestions, feedback or other information from DISCLOSEE concerning Confidential Information or concerning released DS products. Any suggestions, feedback or other disclosures made by DISCLOSEE are and shall be entirely voluntary on DISCLOSEE's part and shall not create either any obligations on the part of DS or a confidential relationship between DISCLOSEE and DS. DS shall be free to disclose and use DISCLOSEE's suggestions, feedback, or other information as DS sees fit, entirely without obligation of any kind to DISCLOSEE.



James D. Kramer design services

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

DISCLOSEE:

Printed Name

Address

Signature/Date

For DS:

James D. Kramer

owner

James D. Kramer design services

8615 3rd Drive SE

Everett, WA 98208

Signature/Date

June 15, 2009

EXAMPLE FORM

COPY THIS FORM AS NEEDED. RETAIN A COPY FOR YOUR REFERENCE.