

EMPLOYEE CONFIDENTIALITY AGREEMENT

This Employee Confidentiality Agreement (the “Agreement”) is entered into by and between Palos Verdes Peninsula Education Foundation (“PVPEF”) and (the “Employee”) in consideration of employment or continued employment by PVPEF and the compensation paid to Employee now and during employment by PVPEF. The parties agree as follows:

1. PROTECTION OF CONFIDENTIAL INFORMATION.

1.1 Nondisclosure of PVPEF’s Confidential Information. Employee understands and acknowledges that employment by PVPEF creates a relationship of confidence and trust with respect to PVPEF’s Confidential Information (as defined below) and that PVPEF has a protectable interest therein. At all times during and after employment, Employee will hold in confidence and will not disclose, use, or publish any of PVPEF’s Confidential Information, except as such disclosure, use or publication may be required in connection with Employee’s work for PVPEF, or unless an officer of PVPEF expressly authorizes such disclosure in writing. Employee recognizes that all Confidential Information is and shall always be the sole and exclusive property of PVPEF. Employee will take all reasonable precautions to prevent the inadvertent disclosure of Confidential Information. Employee agrees not to photocopy, duplicate, or send to Employee (including via electronic mail to Employee’s personal e-mail account) any Confidential Information except as may be required in connection with Employee’s work for PVPEF, or unless an officer of PVPEF expressly authorizes such disclosure in writing. Employee agrees not to publish, or cause to be published, directly or indirectly, any book, article, blog, social media post, tweet, interview, program, or other publication of any kind, whether fiction or non-fiction (including, without limitation, by television, radio, newspaper, or interactive media such as Facebook, Twitter or any other interactive social network or personal blog) that includes or makes use of any Confidential Information. Notwithstanding the foregoing, pursuant to the Defend Trade Secrets Act of 2016, codified at 18 U.S.C. Section 1833(b), Employee shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that: (a) is made in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney, for the purpose of reporting or investigating a suspected violation of the law; or (b) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.

1.2 Confidential Information. The term “Confidential Information” shall mean any and all non-public knowledge, data or information relating to PVPEF, of any kind, type, or nature, which Employee discovered or otherwise learned of in Employee’s capacity as an employee of PVPEF. By way of illustration but not limitation, “Confidential Information” includes (a) any and all of PVPEF’s products, services, methods, techniques, inventions, ideas, templates, processes, formulas, data, other works of authorship, know-how, improvements, discoveries, developments and all Intellectual Property Rights (as defined below) therein (collectively, “Inventions”); (b) any “Work Product” (as defined in [Section 2.5](#) below) of PVPEF; (c) the identity, contact information, and/or preferences of PVPEF’s prospective and current students, educators, service providers, and vendors; (d) PVPEF’s marketing and business strategies, budgets, fundraising, pricing, data, business plans, financial statements, and other financial information of PVPEF and other information concerning the methods of development and operation of PVPEF; (e) research, development, current and proposed curriculums, services, marketing and other business plans of PVPEF; and (f) any other non-public information which a competitor of PVPEF could use to the competitive disadvantage of PVPEF. Notwithstanding the foregoing, it is understood that, at all such times, Employee is free to use information which was known by Employee prior to employment with PVPEF or which is publicly available or generally known in the trade or industry through no breach of this Agreement or other act or omission by Employee, and Employee is free to discuss the terms and conditions of employment with others to the extent expressly permitted by law.

1.3 No Solicitation Using Confidential Information. Under the law, both during and after employment, an employee is prohibited from using the trade secrets of their employer or former employer to solicit business. PVPEF takes the issue of misappropriation of Confidential Information seriously, and PVPEF will protect its Confidential Information to the fullest extent permitted by law. Employee agrees that during Employee’s employment with PVPEF and following the termination of such employment by either party, Employee will not, directly or indirectly, utilize any trade secrets or Confidential Information of PVPEF to solicit any of PVPEF’s prospective or current clients for the purpose of conducting any business substantially similar to the business conducted by PVPEF. Employee understands that this restriction is reasonable and necessary to protect the confidentiality of the Confidential Information and agrees to such restriction.

1.4 No Personal Gain. Without the prior written consent of an officer of PVPEF, Employee shall not at any time, including after the termination or separation of employment with PVPEF, directly or indirectly, use or exploit the Confidential Information for Employee’s own benefit, and/or for the benefit of any other person or entity, including the competitors of PVPEF. Any gain or profit of any kind or nature that Employee obtains or derives from the use or exploitation of the Confidential Information shall be held in trust by Employee for the express benefit of PVPEF and shall be remitted thereby to PVPEF, unless such use or exploitation did not violate the terms of this Agreement.

1.5 Third Party Information. PVPEF has received, and in the future will receive, confidential and/or proprietary knowledge, data, or information from third parties (“Third Party Information”) subject to a duty on PVPEF’s part to maintain the confidentiality of such information and to use it only for certain limited purposes. During the term of Employee’s employment and thereafter, Employee will hold Third Party Information in confidence and will not disclose to anyone (other than PVPEF personnel who need to know such information in connection with their work for PVPEF) or use, except in connection with Employee’s work for PVPEF, Third Party Information unless expressly authorized by an officer of PVPEF in writing.

1.6 Protecting Confidential Information of Prior Employers and Others. During Employee’s employment with PVPEF, Employee will not improperly use or disclose confidential information or trade secrets, if any, of any former employer or any other person to whom Employee has an obligation of confidentiality, and Employee will not bring onto the premises of PVPEF, or download onto any computer, network, or technology system owned by PVPEF, any non-public documents, electronic records or any other property belonging to any former employer or any other person to whom Employee has an obligation of confidentiality unless consented to in writing by that former employer or person.

2. ASSIGNMENTS OF INVENTIONS.

2.1 Definitions. As used in this Agreement, the term “Intellectual Property Rights” means all trade secrets, copyrights, trademarks, mask work rights, patents and other intellectual property rights recognized by the laws of any jurisdiction or country; the term “Copyright” means the exclusive legal right to reproduce, perform, display, distribute and make derivative works of a work of authorship (as a literary, musical, or artistic work) recognized by the laws of any jurisdiction or country; and the term “Moral Rights” means all paternity, integrity, disclosure, withdrawal, special and any other similar rights recognized by the laws of any jurisdiction or country.

2.2 PVPEF Inventions. Inventions assigned to PVPEF or to a third party as directed by PVPEF are referred to in this Agreement as “PVPEF Inventions.” Except for Excluded Inventions set forth in **Exhibit A** and Other Inventions as defined below in **Section 2.3**, Employee hereby assigns to PVPEF all of Employee’s right, title, and interest in and to any and all PVPEF Inventions (and all Intellectual Property Rights with respect thereto) made, conceived, reduced to practice, or learned by Employee, either alone or with others, during the Employee’s period of employment with PVPEF. To the extent required by applicable Copyright laws, Employee agrees to assign in the future (when any copyrightable Inventions are first fixed in a tangible medium of expression) Copyright rights in and to such Inventions as defined in **Section 1.2**. Any assignment of PVPEF Inventions (and all Intellectual Property Rights with respect thereto) hereunder includes an assignment of all Moral Rights. To the extent such Moral Rights cannot be assigned to PVPEF and to the extent the following is allowed by the laws in any country where Moral Rights exist, Employee hereby unconditionally and irrevocably waives the enforcement of such Moral Rights, and all claims and causes of action of any kind against PVPEF with respect to such rights. Employee further acknowledges and agrees that neither Employee’s successors-in-interest nor legal heirs retain any Moral Rights in any PVPEF Inventions (and any Intellectual Property Rights with respect thereto). Employee recognizes that this Agreement will not be deemed to require assignment of any Invention that is covered under applicable law.

2.3 Excluded Inventions and Other Inventions. Attached hereto as **Exhibit A** is a list describing all existing Inventions, if any: (a) that are owned by Employee or in which Employee has an interest and were made or acquired by Employee prior to Employee’s date of first employment with PVPEF; (b) that may relate to PVPEF’s business or actual or demonstrably anticipated research or development; and (c) that are not to be assigned to PVPEF (“Excluded Inventions”). If no such list is attached, Employee represents and agrees that it is because Employee has no Excluded Inventions. For purposes of this Agreement, “Other Inventions” means Inventions in which Employee has or may have an interest, as of the commencement of Employee’s employment or thereafter, other than PVPEF Inventions (as defined below) and Excluded Inventions. Employee acknowledges and agrees that if Employee uses any Excluded Inventions or any Other Inventions in the scope of employment, or if Employee includes any Excluded Inventions or Other Inventions in any product or service of PVPEF, or if Employee’s rights in any Excluded Inventions or Other Inventions may block or interfere with, or may otherwise be required for, the exercise by PVPEF of any rights assigned to PVPEF under this Agreement, Employee will immediately so notify PVPEF in writing. Unless PVPEF and Employee agree otherwise in writing as to particular Excluded Inventions or Other Inventions, Employee hereby grants PVPEF, in such circumstances (whether or not Employee gives PVPEF notice as required above), a non-exclusive, perpetual, transferable, fully-paid and royalty-free, irrevocable and worldwide license, with rights to sublicense through multiple levels of sublicensees, to reproduce, make derivative works of, distribute, publicly perform, and publicly display in any form or medium, whether now known or later developed, make, have made, use, sell, import, offer for sale, and exercise any and all present or future rights in, such Excluded Inventions and Other Inventions. To the extent that any third parties have rights in any such Other Inventions, Employee hereby represents and warrants that such third party or parties have validly and irrevocably granted to Employee the right to grant the license stated above.

2.4 Obligation to Keep PVPEF Informed. During the period of Employee’s employment, Employee will promptly and fully disclose to PVPEF in writing all Inventions authored, conceived, or reduced to practice by Employee, either alone or jointly with others. At the time of each such disclosure, Employee will advise PVPEF in writing of any Inventions that Employee believes fully qualify for protection under the provisions of California Labor Code section 2870; and Employee will at that time provide to PVPEF in writing all evidence necessary to substantiate that belief.

2.5 Ownership of Work Product. Employee agrees that PVPEF will be the sole and exclusive owner, in perpetuity, of all right, title and interest in and to the results and proceeds of Employee's services performed on behalf of PVPEF, whether under this Agreement, any prior agreement or any other agreement, including without limitation all such material, tangible or intangible, produced, conceived, developed, acquired, obtained, created and/or furnished by or submitted to Employee prior to or during Employee's employment, of any kind and nature whatsoever, including without limitation, all works of authorship, artistic works, writings, designs, drawings, tests, data survey results, compositions, computer programs, any type of advertising, promotional and public relation concepts, programs and strategies, patents, code, software, source code, object code, HTML code, XML code and other software code of any kind whatsoever, improvements, inventions, reports, materials, ideas, concepts, formats, suggestions, developments, arrangements, packages, programs, copyrights and any other intellectual property or intangible rights (collectively, the "Work Product"). Any work in connection with such services shall be considered a "work made for hire" specially commissioned by PVPEF under the Copyright Law of the United States, and Employee recognizes and agrees that PVPEF is the sole author and copyright holder of such work, and that PVPEF is entitled to the maximum rights permitted to be obtained by employers and purchasers of literary material. Any Work Product created hereunder and/or submitted to PVPEF hereunder shall automatically become the sole and exclusive property of PVPEF, and to the extent that PVPEF is determined for any reason not to be the sole and exclusive author and owner of the Work Product, then Employee hereby irrevocably transfers and assigns to PVPEF all rights and materials related to or comprising the Work Product (including, but not limited to, all trademarks, patents and copyrights and similar protections and renewals and extensions thereof and any and all causes of action that may have heretofore accrued in Employee's favor for infringement of thereof). Neither the termination of Employee's employment nor the termination of this Agreement will in any way adversely affect PVPEF's exclusive and irrevocable ownership of the Work Product.

Employee represents, warrants, and agrees that the Work Product shall be free and clear of any claims by Employee (or anyone claiming under Employee or on Employee's behalf) of any kind or character whatsoever, except to the extent that applicable law prohibits the assignment of rights in such Work Product. To the extent the Work Product is not created as a work made for hire of PVPEF specially commissioned by PVPEF, Employee hereby irrevocably transfers and assigns to PVPEF all rights and materials related to or comprising the Work Product (including, but not limited to, all copyrights and similar protections and renewals and extensions of copyright and any and all causes of action that may have heretofore accrued in Employee's favor for infringement of copyright). Employee shall, at PVPEF's request, execute and deliver to PVPEF such documents or other instruments consistent herewith which PVPEF may from time to time reasonably deem necessary or desirable to evidence, maintain, perfect, protect, enforce, or defend PVPEF's right, title, and interest in and to the Work Product and to carry out the intents and purposes set forth herein. In the event that Employee fails to execute, acknowledge or deliver to PVPEF promptly any agreements, assignments, quitclaims or other instruments required by PVPEF hereunder after a reasonable opportunity to review and comment (no less than three days from receipt), Employee hereby irrevocably nominates, constitutes and appoints PVPEF as Employee's true and lawful attorney-in-fact, which constitutes a power coupled with an interest, with full right, power and authority to execute, acknowledge, verify and deliver the same in the name of and on behalf of Employee.

PVPEF shall have the sole and exclusive irrevocable right, but not the duty, to use, adapt and change the Work Product, or any part thereof, and to combine the same with other works of mine or others, and to vend, copy, publish, reproduce, record, transmit, telecast, perform, photograph with or without sound (including spoken words, dialogue and music synchronously recorded), and to communicate the same by any and all methods, manner, media and means now known or hereafter devised, developed, invented or discovered either publicly or otherwise, and for profit or otherwise, throughout the world in perpetuity.

2.6 Enforcing Intellectual Property Rights. Employee will assist PVPEF obtain, and from time to time enforce, United States and foreign Intellectual Property Rights and Moral Rights relating to PVPEF Inventions in any and all countries. To that end Employee will execute, verify, and deliver such documents and perform such other acts (including appearances as a witness) as PVPEF may reasonably request for use in applying for, obtaining, perfecting, evidencing, sustaining, and enforcing such Intellectual Property Rights and the assignment thereof. In addition, Employee will execute, verify, and deliver assignments of such Intellectual Property Rights to PVPEF or its designee, including the United States or any third party designated by PVPEF. Employee's obligation to assist PVPEF with respect to Intellectual Property Rights relating to such PVPEF Inventions in any and all countries will continue beyond the termination of employment. In the event PVPEF is unable for any reason, after reasonable effort, to secure Employee's signature on any document needed in connection with the actions specified in the preceding paragraph, Employee hereby irrevocably designate and appoint PVPEF and its duly authorized officers and agents as Employee's agent and attorney in fact, which appointment is coupled with an interest, to act for and on Employee's behalf to execute, verify and file any such documents and to do all other lawfully permitted acts to further the purposes of the preceding paragraph with the same legal force and effect as if executed by Employee. Employee hereby waives and quitclaims to PVPEF any and all claims, of any nature whatsoever, which Employee now or may hereafter have for infringement of any Intellectual Property Rights assigned under this Agreement to PVPEF.

This Agreement shall inure not only to PVPEF's benefit, but also to the benefit of all parties who may hereafter acquire the right to distribute, exhibit, advertise and/or exploit any of the results or proceeds of Employee's services and/or the Work Product. PVPEF

may release the Work Product in which Employee's services or writings appear under any name or trademark, trade name, etc., designated by PVPEF.

3. RECORDS. Employee agrees to keep and maintain adequate and current records (in the form of notes, sketches, drawings and in any other form that is required by PVPEF) of all Confidential Information developed by Employee and all PVPEF Inventions made by Employee during the period of employment at PVPEF, which records will be made available to PVPEF upon request and shall remain the sole property of PVPEF at all times.

4. DUTY OF LOYALTY DURING EMPLOYMENT. Employee agrees that during Employee's period of employment with PVPEF, Employee will not, without PVPEF's express written consent, directly or indirectly engage in any employment or business activity which is directly or indirectly competitive with the business of PVPEF or would otherwise conflict with Employee's duties for PVPEF.

5. NO SOLICITATION OF EMPLOYEES. Employee agrees that during Employee's period of employment and for the one year period after the date employment ends for any reason, including but not limited to voluntary resignation by Employee or involuntary termination by PVPEF, Employee will not, as an officer, director, employee, consultant, owner, partner, or in any other capacity, either directly or through others, except on behalf of PVPEF, solicit, induce, encourage, or participate in soliciting, inducing or encouraging any person known to Employee to be an employee or consultant of PVPEF to terminate their relationship with PVPEF, even if Employee did not initiate the discussion or seek out the contact.

6. NO CONFLICTS. Employee represents that Employee's performance of all the terms of this Agreement as an employee of PVPEF does not and will not breach any agreement to keep in confidence information acquired by Employee in confidence or in trust prior to employment by PVPEF. Employee has not entered into, and agrees not to enter into, any agreement either written or oral in conflict with this Agreement.

7. RETURN OF PVPEF PROPERTY. When Employee leaves the employ of PVPEF, Employee agrees to deliver to PVPEF any and all property of PVPEF, including drawings, notes, memoranda, specifications, devices, formulas, and documents, together with all copies thereof, and any other material containing or disclosing any PVPEF Inventions, Third Party Information or Confidential Information of PVPEF. Employee agrees that Employee will not copy, delete, or alter any information contained upon PVPEF computer or PVPEF equipment before Employee returns it to PVPEF. In addition, if Employee has used any personal computer, server, or e-mail system to receive, store, review, prepare or transmit any PVPEF information, including but not limited to, Confidential Information, Employee agrees to provide PVPEF with a useable copy of all such Confidential Information and then permanently delete such Confidential Information from those systems; and Employee agrees to provide PVPEF access to Employee's system as reasonably requested to verify that the necessary copying and/or deletion is completed. Employee further agrees that any property situated on PVPEF's premises and owned by PVPEF, including computers, other storage media, filing cabinets or other work areas, is subject to inspection by PVPEF's personnel at any time with or without notice.

8. LEGAL AND EQUITABLE REMEDIES. Employee agrees that it may be impossible to assess the damages caused by Employee's violation of this Agreement or any of its terms. Employee agrees that any threatened or actual violation of this Agreement or any of its terms will constitute immediate and irreparable injury to PVPEF, and PVPEF will have the right to enforce this Agreement and any of its provisions by injunction, specific performance or other equitable relief in the courts of the State of California, without bond and without prejudice to any other rights and remedies that PVPEF may have for a breach or threatened breach of this Agreement. Likewise, Employee may apply for a provisional remedy if Employee believes PVPEF may breach or threaten to breach this Agreement.

9. NOTICES. Any notices required or permitted under this Agreement will be given to PVPEF at its principal offices at the time notice is given and to Employee at Employee's address as listed on PVPEF payroll, or at such other address as PVPEF or Employee may designate by written notice to the other. Notice will be effective upon receipt or refusal of delivery. If delivered by certified or registered mail, notice will be considered to have been given five business days after it was mailed, as evidenced by the postmark. If delivered by courier or express mail service, notice will be considered to have been given on the delivery date reflected by the courier or express mail service receipt.

10. SUBSEQUENT EMPLOYERS OR BUSINESS ASSOCIATES OF EMPLOYEE. If Employee is offered employment or the opportunity to enter into any business venture as owner, partner, consultant, or other capacity while this Agreement is in effect, Employee agrees to inform Employee's potential employer, partner, co-owner and/or others involved in managing the business with which Employee has an opportunity of Employee's obligations under this Agreement. Employee also agrees to provide such person or persons with a copy of this Agreement. Employee agrees to inform PVPEF of all employment and business ventures which Employee enters into while this Agreement is in effect. Employee also authorizes PVPEF to provide copies of this Agreement to employer, partner, co-owner and/or others involved in managing the business with which Employee is employed or associated and to make such persons aware of Employee's obligations under this Agreement.

11. GENERAL PROVISIONS.

11.1 Entire Agreement. This Agreement, together with Employee's employment agreement, if any, constitutes the entire agreement and understanding of the parties with respect to the subject matter of this Agreement, and supersedes all prior understandings and agreements, whether oral or written, between Employee and PVPEF with respect to such subject matter. This Agreement may be amended only by a written agreement executed by Employee and PVPEF. No amendment, waiver, or modification of any obligation under this Agreement will be enforceable unless specifically set forth in a writing signed by the party against which enforcement is sought.

11.2 Severability and Waiver. In case any one or more of the provisions, subsections, or sentences contained in this Agreement are, for any reason, held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect the other provisions of this Agreement, and this Agreement will be construed as if such invalid, illegal or unenforceable provision had never been contained in this Agreement. If, moreover, any one or more of the provisions contained in this Agreement is for any reason held to be excessively broad as to duration, geographical scope, activity or subject, it will be construed by limiting and reducing it, so as to be enforceable to the extent compatible with the applicable law as it will then appear. No waiver by PVPEF of any breach of this Agreement will be a waiver of any preceding or succeeding breach. No waiver by PVPEF of any right under this Agreement will be construed as a waiver of any other right. PVPEF will not be required to give notice to enforce strict adherence to all terms of this Agreement.

11.3 Successors and Assigns; Survival. This Agreement is for Employee's benefit and the benefit of PVPEF, its successors, assigns, parent corporations, subsidiaries, affiliates, and purchasers, and will be binding upon Employee's heirs, executors, administrators, and other legal representatives. Employee may not assign this Agreement, or any obligations Employee may have under this Agreement. This Agreement shall survive the termination of Employee's employment, regardless of the reason, and the assignment of this Agreement by PVPEF to any successor in interest or other assignee.

11.4 Advice of Counsel. Employee acknowledges that, in executing this Agreement, Employee has had the opportunity to seek the advice of independent legal counsel, and Employee has read and understood all of the terms and provisions of this Agreement. This Agreement will not be construed against any party by reason of the drafting or preparation of this Agreement.

11.5 Employment At-Will. Employee agrees that nothing in this Agreement will change Employee's at-will employment status or confer any right with respect to continuation of employment by PVPEF, nor will it interfere in any way with Employee's right or PVPEF's right to terminate Employee's employment at any time, with or without cause or advance notice.

11.6 Governing Law; Consent to Personal Jurisdiction. This Agreement will be governed by and construed according to the laws of the State of California, without reference to principles of conflict or choice of law that would cause the application of the laws of any other jurisdiction. PVPEF and Employee hereby expressly consent to the jurisdiction of the federal and state courts in the County of Los Angeles, California to decide any claim arising from this Agreement, including but not limited to any claim for a provisional remedy such as a temporary restraining order or a preliminary injunction.

11.7 Captions. The captions of sections and subsections of this Agreement are for reference only and shall not affect the interpretation or construction of this Agreement.

11.8 Counterparts. This Agreement may be executed in counterparts, and each counterpart, when executed, shall have the efficacy of a signed original. Photographic, electronic, and facsimile copies of such signed counterparts may be used in lieu of the originals for any purpose. Electronic signatures created through the use of electronic signature technology shall be considered equivalent to traditional signatures in conformity with California Civil Code section 1633.7.

PVPEF and Employee agree to all terms set forth in this Agreement, and they further agree that this Agreement shall be effective as of the last date set forth when agreed.

**EXHIBIT A
EXCLUDED INVENTIONS**

TO: Palos Verdes Peninsula Education Foundation
FROM: Employee Named Below
DATE: _____

1. Excluded Inventions Disclosure. Except as listed in Section 2 below, the following is a complete list of all Excluded Inventions:

- No Excluded Inventions.
- See below:

- Additional sheets attached.

2. Due to a prior confidentiality agreement, I cannot complete the disclosure under Section 1 above with respect to the Excluded Inventions generally listed below, the intellectual property rights and duty of confidentiality with respect to which I owe to the following party(ies):

	<u>Excluded Invention</u>	<u>Party(ies)</u>	<u>Relationship</u>
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____

- Additional sheets attached.

EMPLOYEE AFFIRMATION

I agree that this Exhibit A reflects any and all Excluded Inventions as of the date on which I signed this Employee Confidentiality Agreement. I further agree to update this Exhibit A timely if I develop any new Excluded Inventions.

Date

Employee Signature

Employee's Printed Name