

# **NON-DISCLOSURE AGREEMENT**

**THIS AGREEMENT** ("Agreement") is made effective as of (*effective date*) XXXXXXXX,  
by and between:

Julie Castro  
Fiesta Publishing  
Phoenix, AZ 85014  
602.795.5868

Hereinafter referred to as "the Receiving Party," and

XXXXXXX (Author)  
XXXXXXX (Address)  
XXXXXXX (Phone)  
XXXXXXX (E-Mail)

Hereinafter referred to as "the Disclosing Party,"

With each individually a "Party" and collectively the "Parties").

This agreement concerns an untitled manuscript, called hereinafter "the work"

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**WHEREAS**, in connection with exploring and evaluating a possible business relationship (the "Relationship") and for the purposes of the ongoing Relationship, the Parties recognize the need to disclose to one another certain of their Confidential Information (as defined below); and

**WHEREAS**, the Parties wish to provide the terms and conditions upon which such Confidential Information will be disclosed by one Party to the other Party hereunder;

**NOW, THEREFORE**, the Parties agree as follows:

1. "Confidential Information" means all proprietary and confidential information in whatever form disclosed by one Party (the "Disclosing Party") to the other Party (the "Receiving Party") on or after the Effective Date hereof which relates to a Disclosing Party's business, including without limitation, business, financial and technical materials, information and data, or which although not directly related to the Relationship, is nevertheless disclosed as a result of or in connection with the Parties' discussions of the Relationship. Confidential Information shall also include any information regarding the Relationship, including without limitation the fact that discussions are occurring concerning the Relationship, any of the terms or conditions relating to the Relationship being discussed by the Parties, or the existence of this Agreement. "Representatives" means, with respect to either the Receiving Party or the Disclosing Party, the affiliates of such Party, and the directors, officers, employees, accountants, attorneys, financial advisors, representatives and agents of such Party and such Party's affiliates. "Affiliate" means any person or entity controlling, controlled by or under common control with a Party.
2. The Receiving Party shall use the Disclosing Party's Confidential Information only for the purpose of exploring and evaluating the Relationship, will keep the Confidential

Information confidential, and shall protect such Confidential Information from disclosure to third parties, using the same degree of care used to protect its own proprietary information of like importance, but in any case using no less than a reasonable degree of care. The Receiving Party may disclose the Disclosing Party's Confidential Information to its Representatives, in each case if such Representatives have a need to know, and providing such Representatives (i) use the Confidential Information solely for purposes of exploring and evaluating the Relationship, and (ii) shall be informed by the Receiving Party of the confidential nature of such information and that by receiving such information they are agreeing to be bound by the confidentiality obligations in this Agreement. The Parties shall each be responsible for any breach of the terms of this Agreement by them or their respective Representatives and agree, at their sole expense, to take all reasonable measures to restrain their respective Affiliates or Representatives from unauthorized disclosure or use of the Confidential Information as prohibited under this Agreement.

3. Confidential information shall not include information that:
  - (a) is or becomes publicly available other than as a result of a breach of this Agreement by the Receiving Party; or
  - (b) was in the possession or control of the Receiving Party prior to the time of disclosure hereunder, and was not the subject of an earlier proprietary relationship with the other party, its Affiliates or predecessors; or
  - (c) was received by such Party from a third party without a duty of confidentiality to the Disclosing Party; or
  - (d) was independently developed by such Party without reference to the Confidential Information.
4. Confidential Information disclosed under this Agreement (including information in computer software or held in electronic storage media) shall be and remain the property of the Disclosing Party. If either party decides that it does not wish to proceed with discussions or negotiations relating to the Relationship, the Party so deciding will promptly notify the other Party of that decision. In that case, or at any time upon the request of the Disclosing Party, the Receiving Party will promptly deliver to the Disclosing Party or, at the Receiving Party's option, destroy, all written Confidential Information (and all copies thereof). The destruction of Confidential Information shall be certified in writing by an authorized officer of the Receiving Party. With respect to Confidential Information in electronic form, the Receiving Party shall only be required to use its reasonable endeavors to return or destroy any such Confidential Information. Notwithstanding the termination of any discussions or the return or destruction of the Confidential Information, each party and its Representatives will continue to be bound by their obligations of confidentiality and other obligations hereunder for a period of two years from the date hereof. The Receiving Party shall be fully responsible for the return or destruction of all Confidential Information disclosed to its Representatives.
5. This Agreement shall become effective on the date first set forth above.
6. In the event that the Receiving Party or its Representatives are requested or required (by oral questions, interrogatories, requests for information or documents in legal proceedings, subpoena, civil investigative demand or other similar process or any rule or regulation of any securities association, stock exchange or securities quotation system on which such Party's securities are listed or traded) to disclose any of the Confidential Information the Party requested or required to make the

disclosure shall provide the other Party with prompt notice of any such request or requirement so that the other party may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Agreement. If, in the absence of a protective order or other remedy or the receipt of a waiver by the Disclosing Party, the Receiving Party or its Representatives must nonetheless, in the opinion of the Receiving Party's or (in the case of disclosure requested or required of a Representative) such Representative's outside counsel or General Counsel, disclose any Confidential Information, the Receiving Party or such Representative may, without liability hereunder, disclose only that portion of the Confidential Information which such counsel advises is legally required to be disclosed; provided that the Receiving Party or such Representative exercises its reasonable efforts to preserve the confidentiality of the Confidential Information, including, without limitation, by cooperating with the Disclosing Party at Disclosing Party's expense to obtain an appropriate protective order or other reliable assurance that confidential treatment will be accorded the Confidential Information. In addition, if a public announcement or public statement containing Confidential Information is necessary to avoid committing a violation of federal or state law, or of any rule or regulation of any securities association, stock exchange or securities quotation system on which such Party's securities are listed or trade, the Party that is so required to disclose the Confidential Information of the other Party shall use its best efforts to give advance notice to the other Party and to consult with the other Party on the timing and content of any such public announcement or public statement.

7. This Agreement: (a) is the complete agreement of the Parties concerning the subject matter hereof and supersedes any and all prior and contemporaneous agreements, understandings or discussions with respect to the subject matter hereof; (b) shall not be construed to create any obligation on the part of either Party to retain the services or to compensate the other Party in any manner, except as may be set forth by a separate written agreement duly executed and delivered by the Parties; (c) may not be amended, supplemented or in any manner modified except in a writing signed by the Parties; and (d) shall be governed and construed in accordance with the laws of the State of Arizona, without regard to the conflicts of laws principles thereof.
8. If any provision of this Agreement is found to be unenforceable, the remainder shall be enforced as fully as possible and the unenforceable provisions shall be deemed modified to the limited extent required to permit its enforcement in a manner most closely representing the intention of the Parties as expressed herein.
9. Without prejudice to the rights and remedies otherwise available to the Parties, the Parties agree that money damages would not be a sufficient remedy for any breach of this Agreement by either Party or their respective affiliates and representatives and, accordingly, that either Party shall be entitled to seek equitable relief, including injunctive and specific performance. Such remedies shall not be deemed to be the exclusive remedies for a breach of this Agreement but shall be in addition to all other remedies available at law or equity.
10. No waiver of any term of this Agreement shall operate as a waiver of such or any other term. Nor shall any failure to enforce any provisions hereunder operate as a waiver to enforce such or any other provision of this Agreement.
11. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and all of which shall constitute the same Agreement.
12. Any notice or other communication hereunder shall be given in writing and either (i) delivered in person, (ii) transmitted by facsimile or (iii) delivered by an overnight commercial delivery service to the party to which such notice or communication is to

be given, at the address set forth above or to such other address as either party shall have last designated by such notice to the other party. Each such notice or other communication shall be effective (a) if given by an overnight commercial delivery service, one (1) business day after such notice or communication is deposited with such service and addressed as aforesaid and (b) if given by personal delivery or facsimile, when actually received, as evidenced by appropriate receipts, facsimile "answer-back" print-outs or other similar documentation.

13. This Agreement shall not be assigned or transferred by either party without the prior written consent of the other party. This Agreement shall inure to the benefit of the parties hereto and shall be binding upon their respective successors and assigns.

**IN WITNESS WHEREOF**, Fiesta Publishing hereto has caused the Agreement to be executed by its duly authorized representative.

**Fiesta Publishing**

**Author**

Signature

Signature

Julie Castro

Name:

Owner

Title:

Date:

Date: