

## Nondisclosure/Confidentiality Agreement

**PARTIES:** ACRO MACHINING, INC. "Recipient"  
A Washington corporation  
15303 39<sup>th</sup> Ave NE  
Marysville, Wa 98271

"Company"

### RECITALS

**A.** Company and Recipient agree that it is necessary and desirable that Company disclose to Recipient confidential information concerning the Company or its clients' product information and/or drawings in order to assist Recipient in the potential development of machines or other products for the company; and

**B.** Company and Recipient agree to enter into this Non-Disclosure/Confidentiality Agreement (the "Agreement") in order to protect the confidentiality of the Company and its clients' product information and/or drawings based on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises and conditions contained herein, the parties agree as follows

### AGREEMENT

**1. Transaction; Treatment of Confidential Information.** Company intends to disclose to Recipient confidential information concerning the Company or its clients' product information and/or drawings in order to assist Recipient in the potential development of machines or other products for the Company. As a condition to Company's furnishing such information to Recipient, Recipient agrees to treat such information, whether furnished before or after the date of this Agreement, confidentiality in accordance with the provisions of this Agreement.

**2. Confidential Information Defined:** For the purpose of this Agreement, "Confidential Information" means any and all technical and/or business information of Company or its clients, in whatever form or medium (including oral communications), furnished to Recipient including but not but not limited to product/service specifications, prototypes, computer programs, models, drawings, marketing plans, financial data personal information/statistics, customer lists and any other information dealing with customers. "Confidential Information" also includes analyses, compilations, studies or documents prepared by the Recipient and/or Recipients directors, officers, partners, employees, agents, legal and financial advisors, representatives or affiliates which contain or otherwise reflect

such information in whole or in part.

**3. Handling of Confidential Information:** Confidential Information is made available to Recipient on the following terms:

**3.1** Recipient agrees not to disclose any portion of the Confidential Information to any person other than the Recipient's employees. Recipient will disclose information to its employees only upon a need-to-know basis as is necessary with regard to the potential development of programs, prints or other products for the Company or its clients. Recipient's employees shall be informed by recipient of the confidential nature of the Confidential Information and Recipient will be responsible for any breach of the Agreement by Recipient's employees. Confidential Information may be disclosed to Recipient's employees only for the purpose of Recipient's potential development of programs, prints or other products for the Company or its clients and Recipient's employees shall agree for the benefit of the Company and its clients to keep the information confidential.

**3.2** Recipient shall neither use the Confidential Information nor circulate it to Recipient's employees except to the extent necessary for discussions and consultations with personnel or authorized representatives of Company, the potential development of programs, prints or other products for the Company or its clients, or for any purpose Company may hereafter authorize in writing, and shall return to Company all Confidential Information upon request by Company.

**3.3** Recipient shall execute any and all necessary documents to assign Confidential Information and the work product there from to the Company and/or its clients, at Company's direction. Additionally, from time to time, each of the parties shall execute, acknowledge, and deliver any instruments or documents necessary to carry out the purposes of this Agreement.

**3.4** If Recipient desires to pursue its evaluation of the Confidential Information by presenting that Confidential Information in whole or in part to a third party, then prior to said presentation and as a condition precedent thereto, Recipient shall obtain Company's written consent and must execute with such third party a valid nondisclosure agreement containing, at a minimum, the same terms and conditions as this Agreement and providing that the third party shall be responsible to Company to the same extent that Recipient is responsible to Company hereunder. Recipient further agrees to be jointly and severally liable for any unauthorized use of the Confidential Information or any violations of this Agreement or such third party nondisclosure agreement committed by such third party.

**3.5** These terms do not apply to such portions of the Confidential Information which:

- a) become generally available to the public other than by Recipient's unauthorized disclosures;
- b) are known by Recipient prior to disclosure by Company and such prior knowledge can be demonstrated by Recipient to the satisfaction of Company;

c) become available to Recipient on a non-confidential basis from a source (other than Company) which is entitled to disclose the same; or

d) are required by law to be disclosed.

**3.6** Recipient agrees to take normal and reasonable precautions to maintain the confidentiality of all information provided to Recipient by Company, provided however Recipient may disclose such information only after providing adequate notice to Company and its clients such that they may take any action they deem necessary:

a) pursuant to subpoena or other court process;

b) when required to do so in accordance with the provisions of any applicable law;

c) at the direction of any other agency of any State of the United States or of any other jurisdiction in which Recipient conducts its business; or

d) with Company's prior written approval.

**3.7** Recipient agrees that the Confidential Information will not be disclosed or used to perform any act detrimental to the business of Company or Company's clients.

#### **4. Miscellaneous Provisions:**

**4.1 No Confidentiality Obligations for Communications from Recipient to Company.** Communications from Recipient to Company representatives shall not violate the rights of any third party and shall be made without any nondisclosure or confidentiality obligations.

**4.2 Binding Effect.** This Agreement shall be binding on the parties and their respective directors, officers, partners, employees, agents, affiliates and successors.

**4.3 No Warranties.** No representations or warranties whatsoever, express or implied, are made as to the accuracy or completeness of the Confidential Information. While the Confidential Information contained is believed to be reliable, Recipient agrees that neither Company, nor any of its officers, employees, or stockholders, partners, owners, affiliates or agents, or its clients will have any liability to Recipient or any other person resulting from the use of the Confidential Information.

**4.4 Entire Agreement.** This document is the entire, final and complete Agreement and understanding of the parties with respect to the subject matter hereof, and supersedes and replaces all written and oral agreements and understandings heretofore made or existing by and between the parties or their representatives with respect thereto.

**4.5 Amendment.** This Agreement may be amended only by an instrument in

writing executed by both parties.

**4.6 Termination.** Either party may terminate this Agreement upon written notice to the other party that subsequent communications shall not be so governed. The obligations imposed by this Agreement, however, shall survive termination of this Agreement.

**4.7 Severability.** If any provision of this Agreement is determined to be invalid or unenforceable, in whole or in part, the remaining provisions will continue in full force and effect as if the Agreement had been executed without the invalid provision.

**4.8 Captions.** The caption headings used in this Agreement are solely for convenience of reference, are not part of this Agreement and are not to be considered in construing or interpreting this Agreement.

**4.9 Waiver.** A provision of this Agreement may be waived only by a written instrument executed by the party waiving compliance, and Company shall not waive any provision as it relates to its clients without first obtaining a written waiver from such client. No waiver of any provision of this Agreement shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. Failure to enforce any provision of this Agreement shall not operate as a waiver of such provision or any other provision.

**4.10 Attorney Fees.** If any suit or action is filed or arbitration commenced by any party to enforce this Agreement or otherwise with respect to the subject matter of this Agreement, the prevailing party shall be entitled to recover reasonable attorney fees incurred in preparation or in prosecution or defense of such suit or action as fixed by the trial court or arbitrator, and if any appeal is taken from the decision of the trial court or arbitrator, reasonable attorney fees as fixed by the appellate court.

**4.11 Arbitration.** Any controversy or claim arising out of or relating to this Agreement, including, without limitation, the making, performance, or interpretation of this Agreement, shall be settled by arbitration, and judgment on the arbitration award may be entered in any court having jurisdiction over the subject matter of the controversy.

**4.12 Governing Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the state of Washington. Any suit, action or arbitration filed or commenced by any party to enforce this Agreement or otherwise with respect to the subject matter of this Agreement shall be filed or commenced in Snohomish County, Washington.

**4.13 Injunction.** Recipient acknowledges and agrees that a breach of any of the agreements contained in this Agreement will result in irreparable and continuing damage to Company and its clients for which there will be no adequate remedy at law and, in the event of such breach, Company and its client will be entitled to injunctive relief and/or a decree for specific performance, in addition to and without limiting any and all other applicable remedies at law or equity, including the recovery of damages.

IN WITNESS WHEREOF ,the parties have executed this Agreement on the day and year first above written.

RECIPIENT  
Acro Machining Inc.

\_\_\_\_\_  
SIGNATURE

PRINT NAME

\_\_\_\_\_  
TITLE

DATE \_\_\_\_\_

COMPANY:

\_\_\_\_\_  
SIGNATURE

PRINT NAME

\_\_\_\_\_  
TITLE

DATE \_\_\_\_\_