

BitJazz Inc. Nondisclosure Agreement

This Nondisclosure Agreement (“Agreement”) is entered into by and between BitJazz Inc. (“Company”), a corporation duly organized in and validly existing under the laws of the State of California, and _____ (“Recipient”), an individual, effective as of this ____ day of _____, 2011 (the “Effective Date”).

1. Definition of Confidential Information

“Confidential Information,” as used in this Agreement, shall mean all confidential and/or proprietary information of the Company, including without limitation any and all information concerning software and source code (including without limitation the software modules currently called BitJazz, PhotoJazz, PhotoJazz QT, PhotoJazz XT, SheerPhoto, SheerVideo, and Synchrony), patents, inventions, trade secrets, copyrightable works, techniques, approaches, processes, know-how, designs, models, drawings, engineering, methods, formulas, discoveries, improvements, research, development, experiments, test results, specifications, statistics, data, products, programs, services, plans, forecasts, marketing, financials, identity of and information relating to customers, suppliers, or employees, pricing, budgets, projections or related information concerning past, present, anticipated, or future business activities of Company.

2. Confidentiality/Non-Disclosure Obligations

Recipient will hold in strict confidence and will not disseminate or disclose in any way to any third party any Confidential Information, unless expressly authorized to do so by Company in a writing executed by a duly authorized representative of Company. Recipient will further use the same degree of care as it uses to protect its own information of a like nature, but in any event no less than a reasonable degree of care, to prevent disclosure of any Confidential Information to any third party; and if Recipient is not an individual, Recipient will not disclose any Confidential Information to any of its employees unless they have executed a confidentiality/non-disclosure agreement in the same form as this Agreement and only on a need-to-know basis. Recipient will not possess or use any Confidential Information except to the extent necessary to evaluate the contemplated possibility of entering into further discussions or a business relationship with Company; and Recipient will not reverse engineer or otherwise attempt to derive the composition or underlying information, structure, or ideas of any Confidential Information. Recipient will give prompt written notice to Company of any unauthorized disclosure of Confidential Information of which it becomes aware.

3. Exclusions

This Agreement imposes no obligations on Recipient with respect to information, whether or not such information is Confidential Information, if such information: (a) was rightfully in Recipient's possession free of any obligation of confidence to Company prior to the time it was communicated to Recipient by Company; (b) was publicly available or in the public domain at the time it was communicated to Recipient by Company; (c) is or becomes publicly available or in the public domain subsequent to the time it was communicated to Recipient by Company through no fault of Recipient; (d) is rightfully communicated to Recipient by a third party free of any obligation of confidence subsequent to the time it was communicated to Recipient by Company through no fault of Recipient; (e) is independently developed by Recipient; and/or (f) is disclosed pursuant to the order of a court or government, provided that Recipient gives Company reasonable written notice of such order prior to disclosure.

4. Scope and Term

This Agreement shall govern all communications between Company and Recipient from the Effective Date and three (3) years thereafter. Sections 1, 2, 3, 5, 6, 7, and 8 shall survive any termination or expiration of this Agreement.

5. Ownership All Confidential Information, and any derivatives thereof, including without limitation any copyright, patent, trade-secret, or other intellectual-property or proprietary rights therein, will remain the property of Company. Nothing in this Agreement constitutes a license or grant of any rights in or to any Confidential Information to Recipient, except as expressly stated herein. Upon the earlier of termination of this Agreement or Company's request, Recipient will promptly return all Confidential Information in its possession, custody, or control, together with any copies thereof.

6. Disclaimer Of Warranty

COMPANY PROVIDES ANY CONFIDENTIAL INFORMATION "AS IS," WITHOUT ANY WARRANTY WHATSOEVER, WHETHER EXPRESS, IMPLIED, OR OTHERWISE.

7. Indemnification; Relief

Recipient agrees to indemnify and hold harmless Company, its officers, directors, shareholders, employees, agents and representatives (collectively, "Indemnitee") from and against any and all claims, damages, losses, liabilities, recoveries, settlements, costs, and expenses (including interest, penalties, attorneys' fees, accounting fees, and expert witness fees) incurred by Indemnitee, known or unknown, contingent or otherwise, directly or indirectly arising out of or related to: (i) any unauthorized use or disclosure of any Confidential Information by Recipient; or (ii) any other breach of this Agreement by Recipient. Due to the unique nature of the Confidential Information, any breach of this Agreement would cause Company irreparable harm for which damages are not an adequate remedy; and therefore, for any such breach, Company will be entitled, without the requirement of posting a bond or other security, to equitable relief, in addition to any other remedies available to Company.

8. General

a. Power to Enter into Agreement

Company and Recipient each represents and warrants it has the power to enter into and perform this Agreement, including without limitation obtaining any and all necessary corporate approvals and actions.

b. Entire Agreement; Amendment

This Agreement constitutes the entire agreement of the Parties with respect to matters set forth in this Agreement and supersedes any prior understanding or agreement, oral or written, with respect to such matters. This Agreement may not be amended or modified except by a writing executed by duly authorized representatives of both parties.

c. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of California governing agreements made, entered into, and performed entirely in the State of California, without reference to any choice-of-law provisions. The Parties hereby submit to jurisdiction in the State of California, and further agree that any cause of action arising under this Agreement may be brought exclusively in the Superior Court of the County of Marin, California, or the United States District Court for the Northern District of California.

d. Severability

If any provision of this Agreement shall be deemed invalid or unenforceable, that provision shall be reformed and/or construed consistently with applicable law as nearly as possible to reflect the original intentions of this Agreement; and in any event, the remaining provisions of this Agreement shall remain in full force and effect.

e. Waiver

Any waiver of any breach or covenant of this Agreement must be in a writing executed by a duly authorized representative of the party waiving the breach. A waiver by any of the Parties of a breach or covenant of this Agreement shall not be construed to be a waiver of any succeeding breach or any other covenant unless specifically and explicitly stated in such waiver.

f. Assignment; Successors and Assigns

None of the Parties may assign any or all of its rights or obligations under this Agreement without the prior written consent of the other, except that either of the Parties may assign its rights and/or obligations under this Agreement to any wholly-owned subsidiary or to its successor in interest in connection with its merger or consolidation of itself into another business entity or name or its sale of all or substantially all of its assets, stock, or interest without prior written consent. Any unauthorized assignment is void. For any authorized assignment, this Agreement will bind and inure to the benefit of any assignees or successors in interest.

g. Counterparts

This Agreement may be executed in counterparts, including by facsimile, each of which may be deemed an original and all of which together shall constitute a single instrument.

In witness whereof, the parties hereto, intending to be legally bound hereby, sign below.

BitJazz Inc.

Recipient

Sandra Kwak
CEO