

GUSTECH *NON-DISCLOSURE AGREEMENT*

This Non-Disclosure Agreement (“Agreement”) dated _____ relates to the protection of proprietary and confidential information belonging to GUSTECH, a sole proprietorship with an office at 3760 Engle Mill Road, Xenia, Ohio 45385-9719 (“GUSTECH”) and _____ with offices at _____ (“Collaborator”).

GUSTECH and Collaborator (individually, a “Party” and collectively, the “Parties”) hereby agree as follows:

1. This Agreement sets forth the rights and obligations of the parties with respect to use, handling, protection, and safeguarding of Confidential Information which is disclosed by and between the parties for the purposes of discussing “**SER: Shock¹ Event Recorder**”.
2. GUSTECH and Collaborator each propose to make available to the other certain information that the Parties consider confidential and proprietary (“Confidential Information”) in the course of discussions concerning a potential business relationship between the Parties. “Confidential Information” as used in this Agreement shall mean all such information that is or has been disclosed verbally or in writing and either marked or specified as confidential or proprietary. If Confidential Information is disclosed verbally or visually, disclosing party must identify information as Confidential at the time of disclosure.
3. A receiving party will satisfy its obligations to protect Confidential Information from misuse or unauthorized disclosure by exercising reasonable care. Such care will include protecting Confidential Information using those practices the receiving party normally uses to restrict disclosure and use of its own information of like importance. The Parties acknowledge that money damages would not be a sufficient remedy for any breach of this Agreement. Accordingly, in the event of any such breach, in addition to any other remedies at law or in equity that either Party may have, it shall be entitled to equitable relief, including injunctive relief or specific performance, or both.
4. The Parties agree to restrict access to each other’s Confidential Information to its employees and representatives whose access is necessary to carry out the purpose of this Agreement set forth in Section 1. All such employees and representatives shall be required to comply with the provisions of this Agreement before any Confidential Information is disclosed to such employees or representatives. A receiving party will copy Confidential Information only as reasonably necessary for it to complete the purposes of this Agreement.
5. Notwithstanding the above, a receiving party may disclose Confidential Information to employees of the receiving party’s wholly-owned subsidiaries, or Parent Company, having a need-to-know for the purposes of this Agreement, but only if said employees are under an obligation to hold such information in confidence under terms and conditions at least as restrictive as the terms and conditions of this agreement.
6. A receiving party will hold Confidential Information in confidence, for a period of two (2) years after receipt of Confidential Information under this agreement.
7. A Party shall not be liable for disclosure of information that the Party can prove:
 - a. Was already known by such Party without restriction prior to receipt from the other Party;
 - b. Is disclosed to the Receiving Party by a Third Party which is not under a confidentiality obligation;
 - c. Was provided by one Party to the other Party prior to the execution of this Agreement;
 - d. Is now known, or becomes publicly known, such as, information disclosed in patents or publications, through no violation of this Agreement; or
 - e. Is approved in writing by one Party for disclosure by the other Party to a third party.
 - f. Was independently developed by such Party
8. All materials provided to a Party containing Confidential Information shall remain the property of the Party providing such Confidential Information and shall be returned to such Party upon request. Alternatively, such Confidential Information, and all copies thereof, may be destroyed by the receiving party within fourteen (14) days after the termination of this agreement. Such destruction shall be proved by written assurance to that effect and submitted to the disclosing party within fourteen (14) days of such destruction.

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9. Nothing contained in this Agreement shall be construed as granting, by implication, estoppel, or otherwise, any licenses or rights under any patents, copyrights or other legally protectable proprietary rights (present or future) of either Party, nor shall this Agreement be construed to impose any obligation on either Party to disclose Confidential Information or enter into any other agreement of any nature. This Agreement's purpose is for the protection of Confidential Information only.
10. This Agreement is not intended to be, nor shall it be considered as, a joint venture, partnership, or other business organization, and unless otherwise agreed, neither party shall have the right or obligation to share any of the profits or bear any of the risks and losses of the other party. At all times, both parties shall remain independent contractors with each responsible for its own employees and representatives. Each party assumes no responsibility to the other party for costs, expenses, risks and liabilities associated with the research, development, exchange and use of each other's Confidential Information. Neither party shall, without the consent of the other party, refer to such other party or this relationship in its promotional materials.
11. The Parties make no representation, extend no warranties of any kind (either expressed or implied), assume no responsibility and shall have no liabilities or obligations whatsoever with respect to
 - a. the adequacy, accuracy or utility of any information obtained by either Party under this Agreement, or
 - b. use by either Party of any information obtained under this Agreement.
12. If either Party or any of its affiliates or representatives is requested or required (by interrogatories, subpoena, or similar legal process) to disclose any Confidential Information, such Party agrees to provide the other Party with prompt notice of each such request, to the extent practicable, such that the later Party may seek an appropriate protective order or waive compliance by the disclosing Party under the provisions of this Agreement, or both. If, absent the entry of a protective order or receipt of a waiver, either Party is, in the opinion of its counsel, legally compelled to disclose such Confidential Information, the disclosing Party may disclose Confidential Information to the persons and to the extent required without liability under this agreement.
13. Failure of a Party to enforce at any time any provision of this Agreement or to exercise any right provided for herein shall not in any way be construed to be a waiver of such provision or right or in any way affect the validity of this Agreement or any part hereof, or limit, prevent or impair the right of the party to subsequently enforce such provision or exercise such right. The provisions of this Agreement shall be deemed severable, and the invalidity or unenforceability of any one or more of its provisions shall not affect the validity or enforceability of the other provisions hereof.
14. The parties will comply with all U.S. export control laws and regulations. The information that the parties may wish to disclose pursuant to this Agreement may be subject to the provisions of the Export Administration Act of 1979 and the Export Administration Regulations promulgated there under, the Arms Export Control Act, and the International Traffic in Arms Regulations, and the sanctions laws administered by the Office of Foreign Assets Control. The parties acknowledge that these statutes and regulations impose restrictions on import, export and transfer to third countries of certain categories of data, and that licenses from the U.S. Department of State and/or the U.S. Department of Commerce may be required before such data can be disclosed.
15. The laws of the Commonwealth of Ohio shall govern the validity, interpretation and construction of this Agreement (without reference to Ohio rules regarding conflict of laws).
16. No Amendment or modification of this Agreement shall be binding unless executed in writing by an authorized representative of the party to be bound thereby.
17. The parties will transmit notices and authorizations under this Agreement addressed as follows:

Thomas W. Gustin Owner GUSTECH 3760 Engle Mill Road Xenia, OH 45385-9719	Collaborator Name: _____ Company: _____ _____ <i>(please print)</i>
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Confidential Information will be transmitted through the technical points of contact (TPOC) listed below:

GUSTECH TPOC: Thomas W. Gustin
Collaborator TPOC: _____
(please print)

Accepted and agreed as of the date first written (page 1) above.

GUSTECH Collaborator: _____
(please print)

Thomas W. Gustin Name: _____
Owner Title: _____

DATE: _____ DATE: _____

(end of document)

ⁱ Note that the "S" in "SER," in addition to Shock, could also stand for any of these, also appropriate, S-words: Safety, Salvo, Sample, Satellite, Savage, Scary, Scientific, Screaming, Secure, Self-contained, Sequential, Serious, Severe, Short, Significant, Snapshot, Speedy, Strategic, Strong, Sturdy, Substantial, Successful, Sudden, Superb, Surge, Survivable, Swift, Synchronous, and maybe even: Superior, Slick, or Svelte.