



Non-Disclosure Agreement

THIS NON-DISCLOSURE AGREEMENT (the "Agreement") dated this _____ day of _____,
BETWEEN:
 _____ (Representative) of _____ (Company),
 located at _____ (Street Address, City, State)
 (the "Employer")

OF THE FIRST PART

- AND -

Vaughn Lowery of 360 Magazine
 located at Post Office Box 361566, Los Angeles, California
 (the "Contractor")

OF THE SECOND PART

BACKGROUND:

1. The Contractor is currently or may be retained as an independent contractor with the Employer for the position of: _____ (Position). In addition to this responsibility or position (the "Retainer"), this Agreement also covers any position or responsibility now or later held with the Employer.
2. The Contractor will receive from the Employer, or develop on the behalf of the Employer, Confidential Information as a result of the Retainer (the 'Permitted Purpose').

IN CONSIDERATION OF and as a condition of the Employer retaining the Contractor and the Employer providing the Confidential Information to the Contractor in addition to other valuable consideration, the receipt and sufficiency of which consideration is hereby acknowledged, the parties to this Agreement agree as follows:

Confidential Information

1. The Contractor acknowledges in any position the Contractor may hold, in and as a result of the Contractor's retainer by the Employer, the Contractor will, or may, be making use of, acquiring or adding to information about certain matters and things which are confidential to the Employer and which information is the exclusive property of the Employer, including, without limitation:
 - a. 'Confidential Information' means all data and information relating to the business and management of the Employer, including proprietary and trade secret technology and accounting records to which access is obtained by the Contractor, including Work Product, Production Processes, Other Proprietary Data, Business Operations, Marketing and Development Operations, and Customers. Confidential Information will also include any information that has been disclosed by a third party to the Employer and governed by a non-disclosure agreement entered into between the third party and the Employer. Confidential Information will not include information that:
 - i. is generally known in the industry of the Employer;
 - ii. is now or subsequently becomes generally available to the public through no wrongful act of the Contractor;
 - iii. the Contractor rightfully had in his possession prior to the disclosure to the Contractor by the Employer;
 - iv. is independently created by the Contractor without direct or indirect use of the Confidential Information; or;
 - v. the Contractor rightfully obtains from a third party who has the right to transfer or disclose it.





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- b. 'Work Product' means work product resulting from or related to work or projects performed or to be performed for the Employer or for clients of the Employer, of any type or form in any stage of actual or anticipated research and development;
- c. 'Production Processes' means processes used in the creation, production and manufacturing of the Work Product, including but not limited to formulas, patterns, molds, models, methods, techniques, specifications, processes, procedures, equipment, devices, programs, and designs;
- d. 'Other Proprietary Data' means information relating to the Employer's proprietary rights prior to any public disclosure of such information, including but not limited to the nature of the proprietary rights, production data, technical and engineering data, technical concepts, test data and test results, simulation results, the status and details of research and development of products and services, and information regarding acquiring, protecting, enforcing and licensing proprietary rights (including patents, copyrights and trade secrets);
- e. 'Business Operations' means internal personnel and financial information, vendor names and other vendor information (including vendor characteristics, services and agreements), purchasing and internal cost information, internal services and operational manuals, and the manner and methods of conducting the Employer's business;
- f. 'Marketing and Development Operations' means marketing and development plans, price and cost data, price and fee amounts, pricing and billing policies, quoting procedures, marketing techniques and methods of obtaining business, forecasts and forecast assumptions and volumes, and future plans and potential strategies of the Employer which have been or are being discussed; and
- g. 'Customers' means names of customers and their representatives, contracts and their contents and parties, customer services, data provided by customers and the type, quantity and specifications of products and services purchased, leased, licensed or received by clients of the Employer.

Obligations of Non-Disclosure

- 2. Except as otherwise provided in this Agreement, the Contractor must not disclose the Confidential Information.
 - a. Contractor may be privy to the following information:
 - i. Music publishing/recordings, artist/talent images, layout, cover, film festivals, events, fashion shoots, fashion shows, editorials, pictorials, photography, artist/talent management, image consulting, brand strategy, brand architecture, creative direction, art direction, public relations stunts/materials, marketing schematics, marketing gimmicks, logo design, apparel design, creative concepts, community outreach, crisis management/techniques
- 3. Except as otherwise provided in this Agreement, the Confidential Information will remain the exclusive property of the Employer and will only be used by the Contractor for the Permitted Purpose. The Contractor will not use the Confidential Information for any purpose that might be directly or indirectly detrimental to the Employer or any of its affiliates or subsidiaries.
- 4. The obligations to ensure and prevent the disclosure of the Confidential Information imposed on the Contractor in this Agreement and any obligations to provide notice under this Agreement will survive the expiration or termination, as the case may be, of this Agreement and will continue for a period of four (4) years from the date of such expiration or termination.





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5. The Contractor may disclose any of the Confidential Information:
- a. to such of his employees, agents, representatives and advisors that have a need to know for the Permitted Purpose provided that:
 - i. the Contractor has informed such personnel of the confidential nature of the Confidential Information;
 - ii. such personnel agree to be legally bound to the same burdens of non-disclosure and non-use as the Contractor;
 - iii. the Contractor agrees to take all necessary steps to ensure that the terms of this Agreement are not violated by such personnel; and
 - iv. the Contractor agrees to be responsible for and indemnify the Employer for any breach of this Agreement by his personnel.
 - b. to a third party where the Employer has consented in writing to such disclosure; and
 - c. to the extent required by law or by the request or requirement of any judicial, legislative, administrative or other governmental body.

Avoiding Conflict of Opportunities

6. It is understood and agreed that any business opportunity relating to or similar to the Employer's current or anticipated business opportunities coming to the attention of the Contractor during the Contractor's retainer is an opportunity belonging to the Employer. Accordingly, the Contractor will advise the Employer of the opportunity and cannot pursue the opportunity, directly or indirectly, without the written consent of the Employer.
7. Without the written consent of the Employer, the Contractor further agrees not to:
- a. solely or jointly with others undertake or join any planning for or organization of any business activity competitive with the current or anticipated business activities of the Employer; and
 - b. directly or indirectly, engage or participate in any other business activities which the Employer, in its reasonable discretion, determines to be in conflict with the best interests of the Employer.

Non-Solicitation

8. Any attempt on the part of the Contractor to induce others to leave the Employer's employ, or any effort by the Contractor to interfere with the Employer's relationship with its other employees and contractors would be harmful and damaging to the Employer. The Contractor agrees that during the term of the Retainer and for a period of two (2) years after the end of term of the Retainer, the Contractor will not in any way, directly or indirectly:
- a. induce or attempt to induce any employee or contractor of the Employer to quit employment or retainer with the Employer;
 - b. otherwise interfere with or disrupt Employer's relationship with its employees and contractors;
 - c. discuss employment opportunities or provide information about competitive employment to any of the Employer's employees or contractors; or
 - d. solicit, entice, or hire away any employee or contractor of the Employer.





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This obligation will be limited to those that were employees or contractors of the Employer when the Contractor was retained

Non-Competition

9. Other than through employment with a bona-fide independent party, or with the express written consent of the Employer, which will not be unreasonably withheld, the Contractor will not, during the continuance of this Agreement or within five (5) years after the termination or expiration, as the case may be, of this Agreement, be directly or indirectly involved with a business which is in direct competition with the particular business line of the Employer that the Contractor was working during any time in the last year of retainer with the Employer.
10. For a period of five (5) years from the date of termination or expiration, as the case may be, of the Retainer, the Contractor will not divert or attempt to divert from the Employer any business the Employer had enjoyed, solicited, or attempted to solicit, from its customers, prior to termination or expiration, as the case may be, of the Retainer.

Ownership and Title

11. The Contractor acknowledges and agrees that all rights, title and interest in any Confidential Information will remain the exclusive property of the Employer. Accordingly, the Contractor specifically agrees and acknowledges that the Contractor will have no interest in the Confidential Information, including, without limitation, no interest in know-how, copyright, trademarks or trade names, notwithstanding the fact that the Contractor may have created or contributed to the creation of the same.
12. The Contractor does hereby waive any moral rights that the Contractor may have with respect to the Confidential Information.
13. This Agreement will not apply in respect of any intellectual property, process, design, development, creation, research, invention, know-how, trade names, trademarks or copyrights for which:
 - a. no equipment, supplies, facility or Confidential Information of the Employer was used,
 - b. was developed entirely on the Contractor's own time, and
 - c. does not:
 - i. relate to the business of the Employer,
 - ii. relate to the Contractor's actual or demonstrably anticipated processes, research or development or
 - iii. result from any work performed by the Contractor for the Employer.
14. The Contractor agrees to immediately disclose to the Employer all Confidential Information developed in whole or in part by the Contractor during the term of the Retainer and to assign to the Employer any right, title or interest the Contractor may have in the Confidential Information. The Contractor agrees to execute any instruments and to do all other things reasonably requested by the Employer (both during and after the term of the Retainer) in order to vest more fully in the Employer all ownership rights in those items transferred by the Contractor to the Employer.





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Remedies

15. The Contractor agrees and acknowledges that the Confidential Information is of a proprietary and confidential nature and that any disclosure of the Confidential Information to a third party in breach of this Agreement cannot be reasonably or adequately compensated for in money damages and would cause irreparable injury to the Employer. Accordingly, the Contractor agrees that the Employer is entitled to, in addition to all other rights and remedies available to it at law or in equity, an injunction restraining the Contractor and any agents of the Contractor, from directly or indirectly committing or engaging in any act restricted by this Agreement in relation to the Confidential Information.

Return of Confidential Information

16. The Contractor agrees that, upon request of the Employer, or in the event that the Contractor ceases to require use of the Confidential Information, or upon expiration or termination of this Agreement, or the expiration or termination of the Retainer, the Contractor will turn over to the Employer all documents, disks or other computer media, or other material in the possession or control of the Contractor that:

- a. may contain or be derived from ideas, concepts, creations, or trade secrets and other proprietary and Confidential Information as defined in this Agreement; or
- b. is connected with or derived from the Contractor's services to the Employer.

Notices

17. In the event that the Contractor is required in a civil, criminal or regulatory proceeding to disclose any part of the Confidential Information, the Contractor will give to the Employer prompt written notice of such request so the Employer may seek an appropriate remedy or alternatively to waive the Contractor's compliance with the provisions of this Agreement in regards to the request.

18. If the Contractor loses or makes unauthorized disclosure of any of the Confidential Information, the Contractor will immediately notify the Employer and take all reasonable steps necessary to retrieve the lost or improperly disclosed Confidential Information.

19. Any notices or delivery required in this Agreement will be deemed completed when hand-delivered, delivered by agent, or seven (7) days after being placed in the post, postage prepaid, to the parties at the addresses contained in this Agreement or as the parties may later designate in writing.

20. The address for any notice to be delivered to any of the parties to this Agreement is as follows:

- a. _____: (Company)
 _____ (Representative)
 _____ (Address)
 _____ (City, State, Zip)

- b. 360 Magazine:
 Vaughn Lowery
 Post Office Box 361566
 Los Angeles, California 90036





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Representations

21. In providing the Confidential Information, the Employer makes no representations, either expressly or impliedly as to its adequacy, sufficiency, completeness, correctness or its lack of defect of any kind, including any patent or trademark infringement that may result from the use of such information.

Termination

22. This Agreement will automatically terminate on the date that the Contractor's Retainer with the Employer terminates or expires, as the case may be. Except as otherwise provided in this Agreement, all rights and obligations under this Agreement will terminate at that time.

Assignment

23. Except where a party has changed its corporate name or merged with another corporation, this Agreement may not be assigned or otherwise transferred by either party in whole or part without the prior written consent of the other party to this Agreement.

Amendments

24. This Agreement may only be amended or modified by a written instrument executed by both the Employer and the Contractor.

Governing Law

25. This Agreement will be construed in accordance with and governed by the laws of the State of California.

General Provisions

26. Time is of the essence in this Agreement.

27. This Agreement may be executed in counterparts.

28. Headings are inserted for the convenience of the parties only and are not to be considered when interpreting this Agreement. Words in the singular mean and include the plural and vice versa. Words in the masculine mean and include the feminine and vice versa.

29. The clauses, paragraphs, and subparagraphs contained in this Agreement are intended to be read and construed independently of each other. If any part of this Agreement is held to be invalid, this invalidity will not affect the operation of any other part of this Agreement.

30. The Contractor is liable for all costs, expenses and expenditures including, and without limitation, the complete legal costs incurred by the Employer in enforcing this Agreement as a result of any default of this Agreement by the Contractor.





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- 31. The Employer and the Contractor acknowledge that this Agreement is reasonable, valid and enforceable. However, if a court of competent jurisdiction finds any of the provisions of this Agreement to be too broad to be enforceable, it is the intention of the Employer and the Contractor that such provision be reduced in scope by the court only to the extent deemed necessary by that court to render the provision reasonable and enforceable, bearing in mind that it is the intention of the Contractor to give the Employer the broadest possible protection against disclosure of the Confidential Information.
- 32. No failure or delay by the Employer in exercising any power, right or privilege provided in this Agreement will operate as a waiver, nor will any single or partial exercise of such rights, powers or privileges preclude any further exercise of them or the exercise of any other right, power or privilege provided in this Agreement.
- 33. This Agreement will inure to the benefit of and be binding upon the respective heirs, executors, administrators, successors and assigns, as the case may be, of the Employer and the Contractor.
- 34. This Agreement constitutes the entire agreement between the parties and there are no further items or provisions, either oral or otherwise.

IN WITNESS WHEREOF _____(Company) and 360 Magazine have duly affixed their signatures under hand and seal on this _____ day of _____, _____.

_____ (Company Name) (Employer)

Per: _____ (SEAL)

_____ 360 Magazine (Contractor)

