

## **CONFIDENTIALITY AGREEMENT**

THIS CONFIDENTIALITY AGREEMENT (this "Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_ [INSERT MONTH DATE AND YEAR], by and between \_\_\_\_\_ [INSERT NAME] ("Individual") and Tau Kappa Epsilon Fraternity, Incorporated, an Indiana nonprofit corporation ("TKE").

### **WITNESSETH THAT:**

WHEREAS, TKE is providing the Individual with training in or access to its unique and valuable methods and systems and other confidential and proprietary information regarding the operation of a college social fraternity and related services, which information Individual did not possess prior to employment with TKE; and

WHEREAS, in consideration of and as a condition to the continued use of the Individual's services, TKE is requiring Individual to agree not to use or disclose the trade secrets and other confidential and proprietary information relating to TKE, all as set forth herein.

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, Individual and TKE agree as follows:

1. **Confidential Information.** "Confidential Information" means, with respect to TKE, any and all confidential or proprietary information of TKE that is unique, not generally known with respect to the operation of a college social fraternity, gives TKE a competitive advantage, and/or enhances TKE's good will, whether or not reduced to writing and whether or not patentable, registered, protected by copyright or otherwise publicly protected, and whether or not originated or generated by or through TKE. Confidential Information includes, but is not limited to, business techniques, business methods or systems, business plans, marketing strategies, technology, services, trade secrets, ideas, copyrights, trademarks, trade names, service marks, methods, concepts, designs, specifications, technical data, prototypes, documentation, media, codes, discoveries, programs, know how, procedures, inventions, projections, formulae, compositions, processes, research and development, cost information, pricing information, financial information, marketing and/or sales plans or proposals, contracts, employee names, and referral sources.

2. **Confidentiality.** Except as is otherwise expressly authorized herein or by TKE in writing, Individual covenants and agrees that he or she will not at any time, singly or in concert, directly or indirectly, disclose or use, on his or her own behalf or on behalf of any third party, whether as an agent, employee, TKE, officer, director, shareholder, member, principal, consultant, independent contractor, partner, creditor, or in any other capacity, any Confidential Information obtained, received or learned by them relating to TKE; provided, however, that this Paragraph 2 shall not preclude the use or disclosure of information known generally to the public that became so known in a manner that did not constitute a breach of this Agreement, or from disclosure required by law or court order. In addition, each party agrees that they will not make negative or derogatory statements, comments, remarks or disclosures concerning the other party nor take any actions that derogates, damages or is otherwise harmful to the other party's reputation or business and professional relationships. Each party agrees that it will treat the facts of this Agreement in a confidential matter and will not disclose or make reference to any of the terms herein to any third party.

3. Property. All work performed by the Individual for TKE, including, but not limited to, all reports and notes prepared by the Individual, shall be works for hire and therefore the property of the TKE and may not be used by Individual for any other purpose except for the benefit of the TKE. In addition, whether or not such work shall be considered works for hire, the Individual hereby assigns, and agrees to assign to TKE any and all of the Individual's rights in and to the property created as part of his or her work performed for TKE. Any and all such property shall be promptly delivered to TKE on request by TKE.

4. Breach; Enforcement of Rights. Individual acknowledges that any breach of his or her covenants or obligations hereunder would cause irreparable damage to TKE, that such damage would be incapable of precise measurement, and that no adequate remedy at law would exist for such breach. Therefore, Individual agrees that, in the event of such a breach, TKE shall, in addition to its other remedies, be entitled to injunctive or other appropriate equitable relief. In any action by any party to this Agreement to enforce its rights under this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs of the action.

5. Conflict of Interest. TKE employees must avoid incurring any kind of financial or personal obligation which might affect their judgment in representing TKE to outside firms or individuals. Where there is any question about a possible conflict of interest, even though it may not exist in actuality, the particular situation should be disclosed in a written statement outlining the details and submitted to the Chief Executive Officer. The Chief Executive Officer will determine, based on the information submitted, whether conflicts of interest exist and to take such steps to protect the TKE as necessary.

6. Notices. Any notice, request, or other document to be given hereunder to any of the parties by any other party shall be in writing and shall be personally delivered or sent by prepaid same day or overnight courier or certified mail, return receipt requested, postage prepaid, addressed to the intended recipient at its address specified in this Agreement (or addressed to such other addresses as shall be given in writing by either party to the other).

7. Modification; Waiver. No supplement, modification or amendment to this Agreement shall be binding unless executed in writing by the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision, whether or not similar, nor will any waiver constitute a continuing waiver. No waiver will be binding unless executed in writing by the party making the waiver.

8. Severability. Should any clause, portion or section of this Agreement be unenforceable or invalid for any reason, such unenforceability or invalidity shall not affect the enforceability or validity of the remainder of this Agreement, and any court having jurisdiction is specifically authorized and encouraged by the parties to hold inviolate all portions of this Agreement that are valid and enforceable without consideration of any invalid or unenforceable portions hereof. Should any particular covenant in this Agreement be held unreasonable or unenforceable for any reason, including, without limitation, the scope of activity covered by such covenant, such covenant shall be deemed amended to delete or modify, as necessary, the unreasonable or unenforceable provision of such covenant in order to render such covenant, as so amended, valid and enforceable to the fullest extent legally permissible and shall be given effect and enforced to whatever extent would be reasonable and enforceable.

9. Governing Law. THIS AGREEMENT WILL BE INTERPRETED, CONSTRUED AND ENFORCED IN ALL RESPECTS IN ACCORDANCE WITH THE LAWS OF THE STATE OF INDIANA WITHOUT REFERENCE TO ITS CHOICE OF LAW RULES. INDIVIDUAL WILL NOT COMMENCE OR PROSECUTE ANY CLAIM, ACTION, SUIT OR PROCEEDING RELATING TO

THIS AGREEMENT OR THE SERVICES SUBJECT TO THIS AGREEMENT OTHER THAN IN THE COURTS OF THE STATE OF INDIANA, HAMILTON COUNTY, OR THE UNITED STATES DISTRICT COURT LOCATED IN INDIANAPOLIS, INDIANA. INDIVIDUAL HEREBY IRREVOCABLY CONSENTS TO THE JURISDICTION AND VENUE OF THE COURTS IDENTIFIED IN THE PRECEDING SENTENCE IN CONNECTION WITH ANY CLAIM, ACTION, SUIT OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY SERVICES SUBJECT TO THIS AGREEMENT.

10. Binding Effect and Enforceability. All the terms, covenants and conditions of this Agreement shall be binding upon, and inure to the benefit of, and be enforceable by the parties hereto and their respective successors, heirs, personal representatives, executors, and assigns.

11. Reasonableness of Terms. The parties to this Agreement stipulate and agree that the covenants and other terms contained in this Agreement are reasonable in all respects. Individual recognizes the value of the Confidential Information, which TKE has gone to great expense to develop or acquire.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the date first above written.

“INDIVIDUAL”

Signature: \_\_\_\_\_

Printed Name:

Address:

“TKE”

Tau Kappa Epsilon Fraternity, Incorporated

Signature: \_\_\_\_\_

By: SHAWN A. BABINE

Its: CHIEF EXECUTIVE OFFICER

7439 Woodland Drive  
Indianapolis, Indiana 46278

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