

CASELLE GENERAL NONDISCLOSURE AGREEMENT

This is an agreement, effective April 19, 2021, between Caselle, Inc. (the "Discloser") and City of Newport, OR (the "Recipient"), in which Discloser agrees to disclose, and Recipient agrees to receive, certain trade secrets of Discloser on the following terms and conditions:

1. Trade Secrets: Recipient understands and acknowledges that Discloser's trade secrets consist of information and materials that are valuable and not generally known by Discloser's competitors. Discloser's trade secrets include:

- a) Any and all information concerning Discloser's current, future or proposed products, including, but not limited to, unpublished computer code (both source code and object code), drawings, specifications, notebook entries, technical notes and graphs, computer printouts, technical memoranda and correspondence, product development agreements and related agreements.
- b) Information and materials relating to Discloser's purchasing, accounting and marketing, including, but not limited to, marketing plans, sales data, unpublished promotional material, cost and pricing information and customer lists.
- c) Information of the type described above which Discloser obtained from another party and which Discloser treats as confidential, whether or not owned or developed by Discloser.

2. Purpose of Disclosure: Recipient shall make use of Discloser's trade secrets only for the purpose of evaluating the web services provided by Caselle.

3. Nondisclosure: In consideration of Discloser's disclosure of its trade secrets to Recipient, Recipient agrees that it will treat Discloser's trade secrets with the same degree of care and safeguards that it takes with its own trade secrets, but in no event less than a reasonable degree of care. Recipient agrees that, without Discloser's prior written consent, Recipient will not:

- a) disclose Discloser's trade secrets to any third party;
- b) make or permit to be made copies or other reproductions of Discloser's trade secrets; or
- c) make any commercial use of the trade secrets (other than those allowed by the purpose of this agreement).

Recipient will not disclose Discloser's trade secrets to Recipient's employees, agents and consultants unless: (1) they have a need to know the information in connection with their employment or consultant duties; and (2) they have personally agreed in writing to be bound by confidentiality terms and conditions at least as restrictive as those in this Agreement.

4. Return of Materials: Upon Discloser's request, Recipient shall promptly (within 30 days) return all original materials provided by Discloser and any copies, notes or other documents in Recipient's possession pertaining to Discloser's trade secrets.

5. Exclusions: This agreement does not apply to any information which:

- a) was in Recipient's possession or was known to Recipient, without an obligation to keep it confidential, before such information was disclosed to Recipient by Discloser;
- b) is or becomes public knowledge through a source other than Recipient and through no fault of Recipient;
- c) is independently developed by or for Recipient;
- d) is or becomes lawfully available to Recipient from a source other than Discloser; or
- e) is disclosed by Recipient with Discloser's prior written approval.

6. Term: This Agreement and Recipient's duty to hold Discloser's trade secrets in confidence shall remain in effect until the above-described trade secrets are no longer trade secrets or until Discloser sends Recipient written notice releasing Recipient from this Agreement, whichever occurs first.

7. No Rights Granted: Recipient understands and agrees that this Agreement does not constitute a grant or an intention or commitment to grant any right, title or interest in Discloser's trade secrets to Recipient.

8. Non-Solicitation: Recipient agrees that neither Recipient, its officers, directors, employees, nor any of its affiliates, subsidiaries, or agents will, directly or indirectly, solicit Discloser's customers, business partners, or resellers for the purposes of providing or obtaining any services or products that are reasonably similar or substantially the same as those provided by Discloser.

9. Employees . Each Party agrees that it will not directly solicit the employment of the other Party's employees, contractors or agents involved in performing under this Agreement, during the Term and for a period of twelve (12) months thereafter. Notwithstanding the foregoing, no Party will be deemed to have violated the foregoing restriction by generally advertising, posting employment listings, requesting applications or engaging an unaffiliated search firm, for a particular job position. A Party's personnel will have every right to respond to the advertisements and job listing of the other Party and nothing herein will be construed to prohibit or restrict any Party from employing any personnel of the other Party who have responded to such advertisements or job listings or otherwise voluntarily solicited or sought employment with that Party.

10. Warranty: Discloser warrants that it has the right to make the disclosures under this Agreement. NO OTHER WARRANTIES ARE MADE BY DISCLOSER UNDER THIS AGREEMENT. ANY INFORMATION DISCLOSED UNDER THIS AGREEMENT IS PROVIDED "AS IS."

11. Injunctive Relief: Recipient recognizes and acknowledges that any breach or threatened breach of this Agreement by Recipient may cause Discloser irreparable harm for which monetary damages may be inadequate. Recipient agrees, therefore, that Discloser shall be entitled to an injunction to restrain Recipient from such breach or threatened breach. Nothing in this Agreement shall be construed as preventing Discloser from pursuing any remedy at law or in equity for any breach or threatened breach of this Agreement.

12. Attorney Fees: If any legal action arises relating to this Agreement, the prevailing party shall be entitled to recover all court costs, expenses and reasonable attorney fees.

13. Modifications: All additions or modifications to this Agreement must be made in writing and must be signed by both parties to be effective.


14. No Agency: This Agreement does not create any agency or partnership relationship between the parties.


15. Applicable Law: This Agreement is made under, and shall be construed according to, the laws of the State of Oregon, without regard to conflict of law principles. Any legal action arising under this Agreement must be brought in the appropriate court of the State of Oregon, and the parties hereby consent to venue in Lincoln County Circuit Court, Oregon, unless exclusive jurisdiction is in federal court, in which case venue shall be in federal district court for the District of Oregon.

----- Signatures are on following page -----

Discloser: CASELLE, INC.
1656 S East Bay Blvd.
Suite 100
Provo, Utah 84606

Recipient: CITY OF NEWPORT, OR
169 SW Coast Hwy
Newport, OR 97365

By: 
Alan S. Hutchings

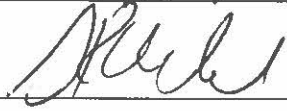
By: 
Michael Murzynsky

Title: President

Title: Finance Director

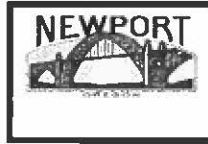
Date: April 19, 2021

Date: 4/22/21

By: 
Spencer R. Nebel

Title: City Manager

Date: 4/22/21



**AUTHORIZATION FOR
AGREEMENTS, MOUs, OR
OTHER DOCUMENTS OBLIGATING
THE CITY**

All contracts, agreements, grant agreements, memoranda of understanding, or any document obligating the city (with the exception of purchase orders), requires the completion of this form. The City Manager will sign these documents after all other required information and signatures are obtained.

Document: AGREEMENT - CASELLE Date: 4/22/21

Statement of Purpose: NON-DISCLOSURE AGREEMENT FROM
CASELLE

Department Head Signature: [Signature]

Remarks, if any: _____

City Attorney Review and Signature: [Signature] Date: 5/12/2021

Other Signatures as Requested by the City Attorney: _____

Name/Position
Date: _____

Budget Confirmed: Signature Yes ☐ No ☐ N/A ☒

Certificate of Insurance Attached: Yes ☐ No ☐ N/A ☒

City Council Approval Needed: Yes ☐ No ☒ Date: _____

After all the above requested information is complete and signatures obtained, return this form, along with the original document to the City Manager for signature. No documents should be executed prior to the City Manager's approval as evidenced by signature of this document.

City Manager Signature: [Signature] Date: 05-15-21 4/22/21

Once all signatures and certificates of insurance have been obtained, return this document, along with the original, fully-executed agreement, MOU, or other document to the City Recorder. A copy of grant agreement and all project funding documents, must be forwarded to the Finance Department for tracking and audit purposes.

City Recorder Signature: [Signature] Date: 5/19/2021

Date posted on website: 5/26/21