

## NON-DISCLOSURE AGREEMENT

This Non-Disclosure Agreement is entered into by and between Frames Data Inc., a California corporation with a business address at 100 Avenue of the Americas, New York, New York 10013 (“FDI”), and \_\_\_\_\_, a \_\_\_\_\_ with a business address at \_\_\_\_\_ (“Developer”).

WHEREAS, FDI has compiled and maintains certain databases pertaining to ophthalmic frame style specifications which it updates and modifies from time to time that includes textual and graphic data relating to frames manufactured by various manufacturers (the “Data”); Developer develops optical practice management software applications (the “Applications”) and wishes to obtain a sample of certain Data (the “Sample Data”) for the sole purpose of assessing whether Developer can adapt the Applications to be compatible with the Sample Data (the “Permitted Purpose”); and FDI is willing to provide Developer with a sample of Sample Data for the Permitted Purpose for a limited time (the “Assessment Period”) on the terms and conditions set forth below;

NOW, THEREFORE, in consideration of the mutual promises made below, the parties agree as follows:

### 1. Non-Disclosure and Non-Use of Sample Data

a. Non-Use. Developer shall not use any Sample Data for any purpose other than the Permitted Purpose.

b. Non-Disclosure. Except as provided in subsection (c) below, Developer shall not disclose any Sample Data to any third party or to its own employees, agents or professional advisors except employees, agents or professional advisors who are required to have the Sample Data to implement the Permitted Purpose. Developer shall have each employee to whom any Sample Data will be disclosed, or who will have access to Sample Data, sign a nondisclosure agreement that is substantially similar to this Agreement. Developer shall take all reasonable measures to protect the secrecy of and avoid disclosure or use of the Sample Data, including, without limitation, using the highest degree of care that Developer uses to protect its own confidential information. Developer shall notify FDI in writing of any misuse or misappropriation of Sample Data immediately after it becomes aware of such misuse or misappropriation. Developer shall not reproduce any Sample Data in any form or store it in a retrieval system or database without FDI’s prior written consent, except as Developer reasonably may require for the Permitted Purpose.

c. Legal Compulsion. If Developer becomes legally compelled to disclose any Sample Data, Developer shall provide FDI with prompt prior written notice of such requirement so that FDI may seek a protective order or other appropriate remedy, or both, or waive compliance with the terms of this Agreement.

2. Return of Sample Data. When the Assessment Period is over, if the parties have not agreed to go forward and sign a comprehensive agreement that permits Developer to use the Data to modify its Applications and pursuant to which FDI will provide Developer with the technical documents that are necessary for Developer to do so, Developer shall return to FDI or destroy all copies of the Sample Data in its possession or control.

3. Term. Due to the valuable and proprietary nature of the Sample Data, the obligations assumed by Developer hereunder other than those stated in Section 1(c) shall be unlimited in time or territory.

4. Ownership. Developer acknowledges that FDI owns the Sample Data and agrees not to challenge FDI's ownership of the Data or the Sample Data.

5. Injunctive Relief. Developer agrees that money damages would not be an adequate remedy for unauthorized use or disclosure by it of any Sample Data, and that, in addition to all other remedies, Developer shall be entitled to specific performance and injunctive or other equitable relief as a remedy for Developer's unauthorized use or disclosure, without the requirement of posting any bond. In the event that FDI deems it appropriate to initiate any action to enforce the obligations of Developer under this Agreement, and should Developer be held to have breached this Agreement, Developer shall reimburse FDI for all costs and expenses, including reasonable attorneys' fees.

6. Governing Law. This Agreement shall be governed by the laws of the State of New York without regard to its conflicts of laws provisions.

**Frames Data Inc.**

By: \_\_\_\_\_

Name: Thomas Lamond

Title: President

**[Developer]**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_