

## **BETA Tester Non-Compete**

### **BETWEEN:**

Never Famous, LLC  
5200 W. Century Blvd, Ste 810  
Los Angeles, CA 90045  
info@neverfamous.com  
(the "Company")

OF THE FIRST PART

-AND-

Registered BETA Testers  
(the "Beta Testers")

OF THE SECOND PART

### **BACKGROUND:**

1. Never Famous, LLC is of the opinion that the Beta Tester has the necessary qualifications, experience and abilities to assist and benefit the Company in its business.
2. The Company desires an agreement with the Beta Tester and the Beta Tester has agreed to accept and enter such relationship upon the terms and conditions set out in this Agreement.

**IN CONSIDERATION OF** the matters described above and of the mutual benefits and obligations set forth in this Agreement, the receipt and sufficiency of which consideration is hereby acknowledged, the parties to this Agreement agree as follows:

#### **Governing Law**

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

#### **Commencement Date and Term**

2. The Beta Tester will commence use of the Never Famous system as early as September 1, 2018 (the 'Commencement Date').

At any time during the Probationary Period, the Company will have the right to terminate Beta Testing without any notice to the Beta Tester.

#### **Avoiding Conflict of Opportunities**

Without the written consent of the Company, the BETA Tester further agrees not to:

1. 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 Company; and
2. directly or indirectly, engage or participate in any other business activities that the Company, in its reasonable discretion, determines to be in conflict with the best interests of the Company.

### **Inability to Agreement for Company**

3. In spite of anything contained in this Agreement to the contrary, the BETA Tester will not have the right to make any agreements or commitments for or on the behalf of the Company without first obtaining the express written consent of the Company.

### **Confidential Information and Assignment of Inventions**

4. The BETA Tester acknowledges in any position the BETA Tester may hold, in and as a result of the BETA Tester's agreement by the Company, the BETA Tester will, or may, be making use of, acquiring or adding to information about certain matters and things which are confidential to the Company and which information is the exclusive property of the Company, including, without limitation:
  1. 'Confidential Information' means all data and information relating to the business and management of Company, including proprietary and trade secret technology and accounting records to which access is obtained by the BETA Tester, including Work Product, Computer Software, 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 Company and governed by a non-disclosure agreement entered into between the third party and the Company. Confidential Information will not include information that:
    1. is generally known in the industry of the Company;
    2. is now or subsequently becomes generally available to the public through no wrongful act of the BETA Tester;
    3. the BETA Tester rightfully had in its possession prior to the disclosure to BETA Tester by the Company;
    4. is independently created by the BETA Tester without direct or indirect use of the Confidential Information; or
    5. the BETA Tester rightfully obtains from a third party who has the right to transfer or disclose it.
  2. 'Work Product' means work product resulting from or related to work or projects performed or to be performed for the Company or for clients of the Company, of any type or form in any stage of actual or anticipated research and development;
  3. 'Computer Software' which means computer software resulting from or related to work or projects performed or to be performed for the Company or for clients of the Company, of any type or form in any stage of actual or anticipated research and development, including but not limited to programs and program modules, routines and subroutines, processes, algorithms, design concepts, design

specifications (design notes, annotations, documentation, flowcharts, coding sheets, and the like), source code, object code and load modules, programming, program patches and system designs;

4. 'Other Proprietary Data' means information relating to the Company'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, test data and test 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);
5. '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 Company's business;
6. '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 Company which have been or are being discussed; and
7. 'Customers' means names of customers and their representatives, agreements 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 Company.

### **Confidential Obligations**

5. The BETA Tester agrees that a material term of the BETA Tester's agreement with the Company is to keep all Confidential Information absolutely confidential and protect its release from the public. The BETA Tester agrees not to divulge, reveal, report or use, for any purpose, any of the Confidential Information which the BETA Tester has obtained or which was disclosed to the BETA Tester by the Company as a result of the BETA Tester's agreement by the Company. The BETA Tester agrees that if there is any question as to such disclosure then the BETA Tester will seek out senior management of the Company prior to making any disclosure of the Company's information that may be covered by this Agreement.
6. The obligations to ensure and protect the confidentiality of the Confidential Information imposed on the BETA Tester 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 two (2) years from the date of such expiration or termination.
7. The BETA Tester may disclose any of the Confidential Information:
  1. to a third party where Company has consented in writing to such disclosure; and
  2. to the extent required by law or by the request or requirement of any judicial, legislative, administrative or other governmental body, however, the BETA Tester

will first have given prompt notice to the Company of any possible or prospective order (or proceeding pursuant to which any order may result), and the Company will have been afforded a reasonable opportunity to prevent or limit any disclosure.

### **Ownership and Title**

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

### **Return of Confidential Information**

12. The BETA Tester agrees that, upon request of the Company or upon or expiration, as the case may be, of this agreement, the BETA Tester will turn over to the Company all documents, disks or other computer media, or other material in the possession or control of the BETA Tester that:
  1. may contain or be derived from ideas, concepts, creations, or trade secrets and other proprietary and Confidential Information as defined in this Agreement; or
  2. connected with or derived from the BETA Tester's services to the Company.

### **Non-Solicitation**

13. Any attempt on the part of the BETA Tester to induce others to leave the Company's agreement, or any effort by the BETA Tester to interfere with the Company's relationship with its other BETA Testers and BETA Testers would be harmful and damaging to the Company. The BETA Tester agrees that during the term of his agreement with the Company and for a period of two (2) years after the end of that term, the BETA Tester will not in any way, directly or indirectly:
  1. induce or attempt to induce any BETA Tester or BETA Tester of the Company to quit agreement or retainer with the Company;
  2. otherwise interfere with or disrupt the Company's relationship with its BETA Testers and BETA Testers;
  3. discuss agreement opportunities or provide information about competitive agreement to any of the Company's BETA Testers or BETA Testers; or
  4. solicit, entice, or hire away any BETA Tester or BETA Tester of the Company.

This obligation will be limited to those that were BETA Testers or BETA Testers of the Company when the BETA Tester was testing neverfamous.com for the Company.

### **Non-Competition**

For a period of two (2) years from the date of termination or expiration, as the case may be, of the BETA Tester's agreement with the Company, the BETA Tester will not divert or attempt to divert from the Company any business the Company had enjoyed, solicited, or attempted to solicit, from its customers, prior to termination or expiration, as the case may be, of the BETA Tester's agreement with the Company.