

# ***CLIMBING WALL ASSOCIATION CONFIDENTIALITY AGREEMENT***

## ***PLEASE KEEP A COPY FOR YOUR RECORDS – THANK YOU.***

This Confidentiality Agreement (the “Agreement”) is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2011 (the “Effective Date”), between the Climbing Wall Association (which, together with its affiliated entities, is referred to herein as “CWA”) and \_\_\_\_\_ (“Individual”).

### **1. Confidential Information.**

**1.1. Definition of Confidential Information.** “Confidential Information” means all nonpublic or proprietary information relating to CWA's business or that of any CWA member. Examples of Confidential Information include, but are not limited to, databases, member lists, industry or member research, reports, programs used or being developed by CWA and any other non-public information regarding CWA's current and developing information regarding members, prospective members, business contacts, prospective and executed contracts and subcontracts, marketing and/or sales plans, or any other plans and proposals used by CWA in the course of its business, and any non-public or proprietary information regarding CWA or CWA's present or future business plans, financial information, or any intellectual property, whether any of the foregoing is embodied in hard copy, computer-readable form, electronic or optical form, or otherwise.

**1.2. Individual's Use of Confidential Information.** Individual shall at all times during and after the term of this Agreement, maintain the confidentiality of the Confidential Information. Individual shall not, without CWA's prior written consent, directly or indirectly: (i) copy or use any Confidential Information for any purpose not within the scope of Individual's work on CWA's behalf; or (ii) show, give, sell, disclose or otherwise communicate any Confidential Information to any person or entity other than CWA unless such person or entity is authorized by CWA to have access to the Confidential Information in question. These restrictions do not apply if the Confidential Information has been made generally available to the public by CWA or becomes generally available to the public through some other normal course of events. All Confidential Information prepared by or provided to Individual are and shall remain CWA's property or the property of the CWA member to which they belong.

**1.3. Former Employers' Confidential Information.** Individual shall not improperly use or disclose to CWA or any CWA employee, agent or contractor any confidential, trade secrets or proprietary information belonging to any former employer of Individual or any other person or entity to which Individual owes a duty of nondisclosure.

**1.4. Return of Material.** Individual agrees that, upon request of CWA or upon termination (whether voluntary or involuntary) of Individual's relationship with CWA, Individual shall immediately turn over to CWA all Confidential Information, including all copies, and other property belonging to CWA or any of its members, including documents, disks, or other computer media in Individual's possession or under his/her control. Individual shall also return any materials that contain or are derived from Confidential Information, or are connected with or relate to Individual's services to CWA or any of its members.

**2. Survival.** Individual's obligations under Section 1 of this Agreement shall survive the termination of Individual's business relationship with CWA regardless of the reason for the termination and whether the termination was voluntary or involuntary on the part of the Individual. CWA is also entitled to communicate Individual's obligations under Sections 1 of this Agreement to Individual's employer or future or potential employer.

**3. Remedies.** Individual acknowledges that if he or she breaches any obligation under this Agreement, including a breach of provisions regarding confidentiality, non-solicitation, non-competition and disclosure of inventions, CWA will suffer immediate and irreparable harm and damage and that a remedy at law would be inadequate. Individual therefore agrees that upon such breach or threatened breach of any obligation under this Agreement, in addition to any and all legal remedies, CWA shall be entitled to seek any injunctive relief available in order to prevent or restrain any such breach by Individual or by Individual's partners, agents, representatives, servants, Individuals, and/or any and all persons directly or indirectly acting for or with Individual. This paragraph shall not be construed as an election of any remedy or as a waiver of any right available to CWA under this Agreement or the law, including the right to seek damages from Individual for a breach of any provision of this Agreement.

**4. Governing Law and Venue.** The validity, enforceability, construction and interpretation of this Agreement are governed by the laws of the State of Colorado. The parties also agree that in the event a dispute arises regarding this Agreement, the parties will submit to the jurisdiction of the federal and state courts of the State of Colorado. Individual expressly

waives any objection as to jurisdiction or venue in the state and federal courts located in Denver or Boulder, Colorado.

**5. Severability.** If any court of competent jurisdiction declares any provision of this Agreement invalid or unenforceable, the remainder of this Agreement shall remain fully enforceable. To the extent that any court concludes that any provision of this Agreement is void or voidable, the court shall reform such provision(s) to render the provision(s) enforceable, but only to the extent absolutely necessary to render the provision(s) enforceable and only in view of the parties' express desire that CWA be protected to the greatest extent allowed by law from unfair competition and/or the misuse or disclosure of Confidential Information and/or CWA Inventions.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives, on the Effective Date above.

**Individual's Signature:** \_\_\_\_\_

Print name: \_\_\_\_\_

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

Date: \_\_\_\_\_

**For CWA:** \_\_\_\_\_

Print name: \_\_\_\_\_

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

Date: \_\_\_\_\_