



American Indian  
Model Schools  
*A School At Work!*

171 12th Street, Oakland, CA 94607  
Phone: (510) 893-8701 Fax: (510) 893-0345

## **Board Non-Disclosure and Confidentiality Agreement**

This Board Non-Disclosure and Confidentiality Agreement (this “Agreement”) is entered into as of the 1st day of August, 2019 (the “Effective Date”) by and between American Indian Model Schools a Non-Profit organization (the “Company”), and Clifford Thompson, a Board member of the Company (the “Clifford Thompson”). The above parties may be referred to singularly as a “Party” or collectively as the “Parties”.

The Company approved Clifford Thompson as Board Member [Clifford Thompson’s title] pursuant to the terms and conditions of that certain bylaws executed between the Parties on the 1st day of August 2019 (the “By Laws”). In connection with the Clifford Thompson’s duties under the By Laws, the Company may disclose to the Clifford Thompson certain confidential and proprietary information unique and valuable to its ongoing business operations. In consideration of the Clifford Thompson’s position held and the covenants and mutual promises contained herein, the Parties agree as follows:

**1. Confidential Information.** The term “Confidential Information” as used in this Agreement shall mean any data, information, or knowledge disclosed by the Company to the Clifford Thompson and not generally known to the public, including but not limited to:

- a. The Company’s business or operational plans or activities, existing or contemplated markets, advertising initiatives, methods of operation, products, or services;
- b. The Company’s suppliers or logistics data;
- c. The Company’s customer or supplier lists, cost of goods or services, profits and losses, budgeting, past or future sales, or financial information;
- d. The Company’s schematics, designs, software source or object code, compressed or uncompressed binaries, inventions, patents or patent applications or illustrations;
- e. The Company’s existing or contemplated designs, models or platforms, formulas, research, notes, or analytical data;
- f. The Company’s management, board of directors, affiliates, suppliers, customers, employees, or third-party contractors;
- g. The Company’s history, entity structure, accounts, or goodwill; the Company’s copyrights, trademarks, trade secrets, patents, trade names, moral rights, or any other tangible or intangible rights, whether registered or unregistered;
- h. The Company’s technical systems, processes, methods, algorithms, computational schemas, know-how, or trade secrets;
- i. The Company’s employee salaries, job related functions, duties or responsibilities; the Company’s written, auditory or electronic communications;
- j. Any information that if disclosed, whether true or untrue, could harm the goodwill or reputation of the Company or the Company’s management, board of directors, affiliates,

suppliers, customers, employees, third-party contractors, methods of operation, products, or services; or

- k. Any other information of any of whatever kind and nature that the Company desires to maintain confidential.

**2. Exclusions to Confidential Information.** The obligation of confidentiality with respect to Confidential Information will not apply to any information:

- a. If the information is or becomes publicly known and available other than as a result of prior unauthorized disclosure by Clifford Thompson;
- b. If the information is or was received by the Clifford Thompson from a third-party source which, to the best knowledge of Clifford Thompson, is or was not under a confidentiality obligation to the Company with regard to such information;
- c. If the information is disclosed by Clifford Thompson with the Company's prior written permission and approval;
- d. If the information is independently developed by the Clifford Thompson prior to disclosure by the Company and without the use and benefit of any of the Company's Confidential Information; or
- e. If Clifford Thompson is legally compelled by applicable law, by any court, governmental agency, or regulatory authority or subpoena or discovery request in pending litigation, but only if, to the extent lawful, the Clifford Thompson gives prompt written notice of that fact to the Company prior to disclosure so that the Company may request a protective order or other remedy, Clifford Thompson may disclose only such portion of the Confidential Information which it is legally obligated to disclose.

**3. Obligation to Maintain Confidentiality.** With respect to Confidential Information:

- a. Clifford Thompson agrees to retain the Confidential Information in strict confidence, to protect the security, integrity, and confidentiality of such information and to not permit unauthorized access to or unauthorized use, disclosure, publication, or dissemination of Confidential Information except in conformity with this Agreement.
- b. Confidential Information is and will remain the sole and exclusive property of the Company and will not be disclosed or revealed by the Clifford Thompson, except (i) to other board members or employee of the Company who have a need to know such information and agree to be bound by the terms of this Agreement or (ii) with the Company's express prior written consent.
- c. Clifford Thompson agrees that, in the event Clifford Thompson must download, access, process, transfer or otherwise communicate Confidential Information, Clifford Thompson will comply with all laws and regulations applicable to exports and re-exports of data and information and will not, directly or indirectly, export or re-export any Confidential Information in violation of such laws and regulations, including without limitation, those prohibiting export or re-export to restricted countries or without governmental authorization.
- d. Clifford Thompson agrees that Confidential Information are intended for civil purposes only and will not, directly or indirectly, download, access, process, transfer or otherwise communicate Confidential Information or any part thereof to military, paramilitary or civil entities, "institutes," "academies" nor any country subject to United States, United Nations or Organizations for Security and Co-Operation in Europe sanctions for any military or violent purpose, such as use in nuclear, biological or chemical weapons.

- e. Upon termination of this Agreement or at the request of the Company, the Clifford Thompson will ensure that all Confidential Information and all documents, memoranda, notes and other writings or electronic records prepared by Clifford Thompson that include or reflect any Confidential Information in Clifford Thompson's actual or constructive possession are returned to the Company within 48 hours.
- f. [The obligation not to disclose Confidential Information shall survive the termination of this Agreement, and at no time will the Clifford Thompson be permitted to disclose Confidential Information, except to the extent that such Confidential Information is excluded from the obligations of confidentiality under this Agreement pursuant to Paragraph 2 above.] [The obligation not to disclose Confidential Information shall remain in effect until two years following the Clifford Thompson's termination of employment by the Company, except to the extent that such Confidential Information is excluded from the obligations of confidentiality under this Agreement pursuant to Paragraph 2 above.]

4. **Disclaimer.** There is no representation or warranty, express or implied, made by the Company as to the accuracy or completeness of any of its Confidential Information.

5. **Remedies.** Clifford Thompson acknowledges that use or disclosure of any confidential and proprietary information in a manner inconsistent with this Agreement will give rise to irreparable injury for which damages would not be an adequate remedy. Accordingly, in addition to any other legal remedies which may be available at law or in equity, the Company shall be entitled to equitable or injunctive relief against the unauthorized use or disclosure of confidential and proprietary information. The Company shall be entitled to pursue any other legally permissible remedy available as a result of such breach, including but not limited to damages, both direct and consequential. In any action brought by the Company under this Section, the Company shall be entitled to recover its attorney's fees and costs from Clifford Thompson.

6. **Notices.** All notices given under this Agreement must be in writing. A notice is effective upon receipt and shall be sent via one of the following methods: delivery in person, overnight courier service, certified or registered mail, postage prepaid, return receipt requested, addressed to the Party to be notified at the below address or by facsimile at the below facsimile number or in the case of either Party, to such other party, address or facsimile number as such Party may designate upon reasonable notice to the other Party.

American Indian Model Schools  
Human Resources  
171 12st Street  
Oakland, CA 94607  
510-893-8701  
510-893-0345

[Clifford Thompson]  
[Street Address]  
[City, State, Zip Code]  
[Telephone Number]  
[Facsimile Number]

7. **Termination.** This Agreement will terminate on the earlier of: (a) the written agreement of the Parties to terminate this Agreement; (b) the cessation of Clifford Thompson's service time; or (c) 2 years from the date hereof.

8. **Amendment.** This Agreement may be amended or modified only by a written agreement signed by both of the Parties.

9. **Jurisdiction.** This Agreement will be governed by and construed in accordance with the laws of the State of California, without regard to the principles of conflict of laws. Any dispute arising from this Agreement shall be resolved [in the courts of the State of CA/through binding arbitration conducted in accordance with the rules of the American Arbitration Association/through mediation].

10. **No Offer or Sale.** Nothing in this Agreement will be deemed a sale or offer for sale of Confidential Information nor obligate the Company to grant Clifford Thompson a license or any rights, by statute, common law theory of estoppel or otherwise, to Confidential Information.

11. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior or contemporaneous negotiations, discussions or agreements, whether written or oral, regarding the subject matter hereof.

12. **Miscellaneous.** No joint venture, partnership or agency relationship exists between the Clifford Thompson, the Company or any third-party as a result of this Agreement. This Agreement will inure to the benefit of and be binding on the respective successors and permitted assigns of the parties. Neither Party may assign its rights or delegate its duties under this Agreement without the other Party's prior written consent. In the event that any provision of this Agreement is held to be invalid, illegal or unenforceable in whole or in part, the remaining provisions shall not be affected and shall continue to be valid, legal and enforceable as though the invalid, illegal or unenforceable parts had not been included in this Agreement. Neither Party will be charged with any waiver of any provision of this Agreement, unless such waiver is evidenced by a writing signed by the Party and any such waiver will be limited to the terms of such writing.

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

CLIFFORD THOMPSON

 [Name of Clifford Thompson]

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

COMPANY

American Indian Model Schools

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

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

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