SYNCML INITIATIVE
SYNCFEST #8 NON-DISCLOSURE AGREEMENT
FINAL VERSION (AUGUST 12, 2002)

This AGREEMENT is made by and between the SyncML Initiative Ltd. (SyncML), a UK incorporated company limited by guarantee and not having a share capital, having a place of business at 445 Hoes Lane Piscataway, NJ 08855-1331 USA, and the Participant listed below having a principal place of business at the address listed below ("Participant") effective as of the latest date set forth on the signature page hereof (this "Agreement").

1. DEFINITION

"Confidential Information" shall mean all information provided at, or pursuant to the SyncFest event, 17-19 September 2002, (the "Event") which is:

(i)   identified in written or oral format by the Disclosing Participant as confidential, trade secret or proprietary information at the time of disclosure, (provided that such information, if disclosed orally, must be summarized and designated as confidential in written format to the Receiving Participant within thirty (30) days of disclosure), or

(ii)   the Receiving Participant knows or has reason to know is confidential, trade secret or proprietary information of the Disclosing Participant.

A "Disclosing Participant" is a Participant disclosing Confidential Information. "Receiving Participant" is a Participant receiving Confidential Information. A Disclosing Participant may also be a Receiving Participant. Confidential Information may include, without limitation, any information of a third party which would otherwise fall under this definition.

2. PURPOSE AND USE

The purpose of this Agreement is to permit Participants at the Event to disclose and receive information relating to technologies of the Participants at the Event and business information of SyncML. All Participants at the Event must execute and abide by the terms and conditions of this Agreement. SyncML shall be responsible for maintaining the executed copies of this Agreement on behalf of the Disclosing Participants. A Receiving Participant may use the Confidential Information solely for the purpose of discussion at the Event and may only disclose the Confidential Information internally with those within the Receiving Participant who:

(i)   need to know the Confidential Information

(ii)   understand that they are bound by this Agreement.

(iii)   are bound by confidentiality obligations to the Participant which will in principle subsist for at least two years after the date of execution of this agreement

(iv)   and can fulfill the obligations of this Agreement.

3. DISCLOSURE

The Receiving Participant shall hold in confidence the Confidential Information, not disclose the Confidential Information to any third party, and will exercise the same amount of diligence in preserving the secrecy of that information as the diligence used in preserving the secrecy of the Receiving Participant's own most valuable Confidential Information, but in no event less than reasonable diligence.

Notwithstanding the above limitations on disclosure, Participants shall be permitted to disclose the Confidential Information to other Participants who have executed this Agreement and any of its Affiliates and consultants, in which event the Affiliate and the consultant shall be entitled to use the Confidential Information but only to the same extent the Receiving Participant is permitted to do so under this Agreement. The Receiving Participant hereby warrants that any Affiliate or consultant to which Confidential Information is disclosed will be bound and will abide by the terms of this Agreement.

4. LIABILITY

The Receiving Participant shall be liable for:

(i)   any inadvertent disclosure of Confidential Information, and

(ii)   any unauthorized disclosure of Confidential Information by persons or entities to whom the Receiving Participant under this Agreement has the right to disclose Confidential Information, except that the Receiving Participant shall not be liable for such inadvertent or unauthorized disclosure if it has exercised the same amount of diligence in preserving the secrecy of that information as the diligence used in preserving the secrecy of the Receiving Participant's own confidential information of like importance, but in no event less than reasonable diligence, and, upon becoming aware of such disclosure, notified the Disclosing Participant thereof and taken reasonable measures to mitigate the effects of such disclosure and to prevent any further disclosure.

5. EXCEPTIONS TO CONFIDENTIAL INFORMATION

The Receiving Participant shall have no obligation with respect to information which:

(i)   was lawfully in the possession of or known to the Receiving Participant without any obligation of confidentiality prior to receiving it from the Disclosing Participant;

(ii)   is, or subsequently becomes, legally and publicly available other than by the Receiving Participant's breach of this Agreement;

(iii)   becomes publicly available by action of the Disclosing Participant;

(iv)   is lawfully obtained by the Receiving Participant from a source other than the Disclosing Participant no under any obligation of confidentiality to the Disclosing Participant;

(v)   is developed by or for the Receiving Participant without use of the Confidential Information, provided such independent development   can be shown by documentary evidence;

(vi)   is disclosed by the Receiving Participant pursuant to a valid order issued by a court or government agency, provided that the Receiving Participant provides to the Disclosing Participant

(a) prior written notice of such obligation,

(b) the opportunity to limit or oppose such disclosure or obtain a protective order, and

(c) reasonable cooperation with Disclosing Participant's efforts to limit or oppose such disclosure or obtain a protective order

The terms of confidentiality under this Agreement shall not be construed to limit the Participant's right to independently develop or acquire products without use of the Confidential Information.

Notwithstanding anything herein to the contrary, any participant may use Residuals for any purpose, including without limitation use in development, manufacture, promotion, sale and maintenance of its products and services; provided that this right to Residuals does not represent a license under any patents, copyrights or mask works of the Disclosing Participant. The term "Residuals" means any information retained in the unaided memories of the Receiving Participant's employees who have had access to the Confidential Information pursuant to the terms of this Agreement. An employee's memory is unaided if the employee has not intentionally memorized the Confidential Information for the purpose of retaining and subsequently using or disclosing it.

6. DISCLAIMER

Each Participant shall retain all right, title and interest to such Participant's Confidential Information and all intellectual property rights fixed, embodied, or otherwise subsisting therein or arising therefrom, and in all works, inventions, discoveries, know-how, techniques, processes, methods, systems, ideas and other elements thereof. No license under any trademark, patent or copyright, or other recognized intellectual property rights, or applications for the same which are now or thereafter may be obtained by such Participant is either granted or implied by this Agreement or the disclosure of Confidential Information hereunder, except for the limited purposes contemplated hereby and as otherwise provided herein. None of the Confidential Information disclosed by the Participants constitutes any representation, warranty, assurance, guarantee or inducement by either Participant to the other with respect to the infringement of trademarks, patents, copyrights; any right of privacy; or any rights of third persons.

7. TERM

This Agreement shall continue from the date last written below for a period of two (2) years or until superceded by another non-disclosure agreement between SyncML and Participant.

8. GENERAL

This Agreement represents the entire agreement of the Participants hereto pertaining to the subject matter of this Agreement, and supersedes any and all prior oral discussions and/or written correspondence or agreements between the Participants with respect thereto. Any waiver of any of the requirements in this Agreement must be in writing and should not in any way be deemed a waiver to enforce any other requirements or provisions of this Agreement. If any provision of this Agreement is deemed unenforceable, then such provision will be severed from this Agreement and the remaining provisions will remain in full force and effect

9. GOVERNING LAW

This Agreement will be governed by the laws of the United Kingdom without reference to conflict of laws principles and the courts of the United Kingdom shall have non-exclusive jurisdiction for all matters arising under this Agreement.

IN WITNESS WHEREOF, the duly authorized representatives of the Participants have executed this Agreement.

PARTICIPANT:

By:

Name: _____
(please print)

Title: _____

Company: _____

Date: _____

Signature: _____

Address:
_____

_____

_____

SYNCML INITIATIVE:

By:

Name:_____

Title:_____

Date:_____

Signature: _____

Please return the executed Agreement to:

Peter Lefkin, Executive Director
SyncML Initiative Ltd.
445 Hoes Lane, Piscataway, NJ 08855 USA
Tel: +1 732 465 6471 ; Fax +1 509 355 5073
Email: admins@syncml.org

A copy of the executed Agreement will be returned to you for your records.