# CINCOM SMALLTALK® DEVELOPER PROGRAM NONDISCLOSURE AGREEMENT

☐ **ObjectStudio developer program**   (check all that apply)
☐ **VisualWorks developer program**

Cincom Systems, Inc. ("Cincom")        and        _____ ("Disclosee")
55 Merchant Street                                         _____ [company name]
Cincinnati, Ohio 45246 U.S.A.                           _____ [address]
(513) 612-2300                                             _____
                                                                 _____ [phone number]
                                                                 _____ [email address]

agree as follows:

1.  Subject to the terms and conditions contained in this Agreement, Disclosee shall be permitted access to certain proprietary and confidential information, whether oral, written, or electronic form used by and belonging to Cincom or its affiliates ("Information"), identified as Cincom Smalltalk, VisualWorks, ObjectStudio, Web Velocity ("Products") or any computer software derived or made part of these Products

2.  The sole purpose of this Agreement is to support the **Cincom Smalltalk® Developer Program.**

    The object of the Cincom Smalltalk Developer Program is to create an environment that allows Smalltalk developers to participate in the ongoing development of the Cincom Smalltalk system.

    Currently, the program offers the following benefits to developers:

    - Access to all internal builds (via ftp)

    - Access to ftp-based update mechanism for contributions

    - A subscription to the vw-dev engineering mailing list

    - Access to "works in progress"

    - Access to various product updates

    - A voice in the direction of ongoing product development

    No other purpose, right, or obligation is implied by this Agreement. No license to the Information is granted by this Agreement. All Information provided hereunder is "AS IS" and without warranty and may not be used for any other purpose than to provide feedback to Cincom for the ongoing development of the Products.

3.  This Agreement is effective on the date it becomes fully executed by Disclosee and Cincom. This Agreement will automatically terminate 365 days after the effective date of this Agreement. Either party may terminate this Agreement at any time without cause upon ten (10) days written notice to the other party; however the confidentiality obligations will survive expiration or termination of this Agreement.

4.  No later than ten days after the effective date of the termination of this Agreement, Disclosee agrees to return or destroy all written copies of the Information and to certify in writing to Cincom that all use of the Information has been discontinued and all copies have been returned or destroyed.

5.  Disclosee agrees that any and all ideas, concepts, or other intellectual property rights conceived or created which are derived from the Information are the exclusive property of Cincom. For the purposes of this clause, application programs and code segments written by Disclosee in the normal course of using the Products owned by Cincom shall not be considered by Cincom as derived works.

6.  Disclosee agrees that any contributions made to modify, correct, or enhance Cincom copyrighted source code as part of the Cincom Smalltalk Developer Program shall become the exclusive property of Cincom, and Cincom shall be entitled to use such contributions for any purpose without restriction or remuneration of any kind with respect to the Disclosee making such contributions. All other contributions made by Disclosee as part of the Cincom Smalltalk Developer Programs will be considered by Cincom as remaining the property of the Disclosee. Disclosee may execute agreements with Cincom to grant non-exclusive, royalty-free distribution rights to any contributions that would be included in public libraries released with published versions of the Products.

7.  Disclosee acknowledges that Cincom claims that the Information constitutes proprietary and confidential information of Cincom and that the protection of this Information is of the highest importance. Disclosee shall keep the Information in strict confidence, shall take appropriate steps to ensure that persons authorized to have access to the Information refrain from any unauthorized reproduction, use, or disclosure of the Information, and shall restrict access to the Information to Disclosee personnel who need to access the Information to enable Disclosee to fulfill the purpose stated in Paragraph 2 and who have been advised of and have agreed to treat the Information in accordance with this Paragraph 7. Disclosee shall not copy, use, transfer, or otherwise disclose the Information, or any associated programs or materials derived or developed from the Information, without the express written approval of Cincom, except that Disclosee may make two copies of the Information for internal use for the purpose stated in Paragraph 2. Disclosee shall include the Information's proprietary notice on all copies of the Information, in whole or in part and in any form, made by Disclosee. The Information and all copies made by Disclosee are and shall remain the sole property of Cincom. The obligations set forth in this Paragraph 7 shall survive the termination of this Agreement.

8.  Disclosee will not be liable for disclosure of any of the Information if:

    8.1  it is rightfully known to Disclosee prior to receipt of it from Cincom without restriction on disclosure; or
    8.2  it is in or comes into the public domain through no act or omission on the part of Disclosee; or
    8.3  it is rightfully disclosed to Disclosee by a third party without restriction on disclosure; or
    8.4  it is independently developed by Disclosee; or
    8.5  it is required by law to be disclosed by Disclosee, provided Disclosee gives Cincom a reasonable opportunity to contest the disclosure and/or obtain a protective order.

9.  Disclosee acknowledges that a breach of its obligations under this Agreement will cause irreparable harm to Cincom for which monetary damages would be inadequate. Cincom will be entitled to injunctive relief for any such breaches, threatened or actual.

10. This Agreement and any claim, whether in contract, tort, or otherwise, arising out of this Agreement shall be governed by and construed in accordance with the laws of the State of Ohio, excluding its conflict of laws principles.

11. This Agreement constitutes the entire agreement and understanding between the parties relating to the disclosure of the Information. Any representation, statement, or warranty not expressly contained in this Agreement shall not be enforceable by the parties. This Agreement may not be amended or modified except by a writing which specifically references this Agreement and is signed by authorized representatives of Cincom and Disclosee. Cincom's licensors shall be third party beneficiaries under this Agreement.

DISCLOSEE: _____          CINCOM SYSTEMS, INC.
          Legal Name (Type or Print)


By:_____                   By:_____
     Authorized Signature         Date               Authorized Signature*         Date


_____                 _____
Name (Type or Print)                                 Name (Type or Print)


_____                 _____
Title (Type or Print)                                Title (Type or Print)

                                                * A Cincom authorized signatory has the title of President, Treasurer, Secretary, or Director of Finance