

MUTUAL NON-DISCLOSURE AGREEMENT

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This Mutual Non-Disclosure Agreement (this "**Agreement**") is entered into as of [EFFECTIVE DATE] (the "**Effective Date**") by and between:

[PARTY A LEGAL NAME], a [STATE] [ENTITY TYPE / INDIVIDUAL] with its principal place of business or residence at [PARTY A ADDRESS] ("**Party A**"); and

[PARTY B LEGAL NAME], a [STATE] [ENTITY TYPE / INDIVIDUAL] with its principal place of business or residence at [PARTY B ADDRESS] ("**Party B**").

Party A and Party B are each a "**Party**" and together the "**Parties**." In any given exchange, the Party disclosing information is the "**Disclosing Party**" and the Party receiving it is the "**Receiving Party**." Because either Party may disclose or receive information, each Party may act in either role.

Recitals. The Parties wish to explore a potential business relationship described as [DESCRIBE PURPOSE, e.g. a possible partnership, investment, acquisition, or commercial arrangement] (the "**Purpose**"). In connection with the Purpose, each Party may disclose to the other certain confidential and proprietary information. The Parties enter into this Agreement to protect that information. In consideration of the mutual promises below, the Parties agree as follows.

1. Definition of Confidential Information

1.1 Confidential Information. "**Confidential Information**" means any non-public information disclosed by the Disclosing Party to the Receiving Party, in any form, that is marked or identified as confidential or that a reasonable person would understand to be confidential given its nature and the circumstances of disclosure. It includes business plans, financial information, pricing, customer and supplier lists, technical data, designs, source code, know-how, product roadmaps, and the existence and terms of the discussions between the Parties.

1.2 Form of disclosure. Confidential Information may be disclosed in writing, orally, visually, electronically, or by inspection of tangible items. Information need not be marked "confidential" to be protected if its confidential nature is reasonably apparent.

1.3 Representatives. "**Representatives**" means a Party's directors, officers, employees, affiliates, and professional advisors who need the Confidential Information for the Purpose and who are bound by confidentiality obligations at least as protective as those in this Agreement.

2. Obligations of the Receiving Party

2.1 Use restriction. The Receiving Party will use the Disclosing Party's Confidential Information solely for the Purpose and for no other purpose.

2.2 Non-disclosure. The Receiving Party will not disclose the Disclosing Party's Confidential Information to any third party except to its Representatives who need it for the Purpose. The Receiving Party is responsible for any

breach of this Agreement by its Representatives.

2.3 Standard of care. The Receiving Party will protect the Confidential Information using at least the same degree of care it uses to protect its own confidential information of like importance, and in no event less than reasonable care.

2.4 No reverse engineering. The Receiving Party will not reverse engineer, disassemble, or decompile any prototype, software, or other tangible object that embodies the Disclosing Party's Confidential Information, except to the extent applicable law prohibits this restriction.

3. Exclusions from Confidential Information

3.1 Exclusions. Confidential Information does not include information that the Receiving Party can demonstrate: (a) is or becomes publicly available through no fault of the Receiving Party; (b) was rightfully known to the Receiving Party without restriction before disclosure by the Disclosing Party; (c) is rightfully received by the Receiving Party from a third party without restriction and without breach of any obligation; or (d) is independently developed by the Receiving Party without use of or reference to the Disclosing Party's Confidential Information.

4. Compelled Disclosure

4.1 Required disclosure. The Receiving Party may disclose Confidential Information to the extent required by law, regulation, or valid court or governmental order, provided that, where legally permitted, it gives the Disclosing Party prompt written notice and reasonable cooperation so the Disclosing Party may seek a protective order or other remedy.

4.2 Minimization. If disclosure is required, the Receiving Party will disclose only the portion of Confidential Information legally required and will use reasonable efforts to obtain confidential treatment for the disclosed information.

5. Ownership and No License

5.1 Ownership. All Confidential Information remains the property of the Disclosing Party. This Agreement does not transfer any ownership interest.

5.2 No license. Except for the limited right to use Confidential Information for the Purpose, no license or other right under any patent, copyright, trademark, trade secret, or other intellectual property is granted by this Agreement, whether by implication, estoppel, or otherwise.

5.3 No obligation to proceed. Nothing in this Agreement obligates either Party to proceed with the Purpose or any transaction, or to disclose any particular information.

6. Term and Return of Information

6.1 Term. This Agreement begins on the Effective Date and continues for **[NUMBER, e.g. 2]** years, unless terminated earlier on **[NUMBER]** days' written notice by either Party.

6.2 Survival of confidentiality obligations. The confidentiality obligations in this Agreement survive termination and continue for **[NUMBER, e.g. 3]** years after the date of disclosure, and continue indefinitely for any Confidential Information that constitutes a trade secret under applicable law for as long as it remains a trade secret.

6.3 Return or destruction. On the Disclosing Party's written request or on termination, the Receiving Party will promptly return or destroy the Disclosing Party's Confidential Information and copies, and will certify destruction

on request, except for copies retained in routine electronic backups or as required by law, which remain subject to this Agreement until deleted or returned.

7. Remedies

7.1 **Injunctive relief.** Each Party acknowledges that a breach of this Agreement may cause irreparable harm for which monetary damages would be inadequate. Accordingly, the non-breaching Party is entitled to seek injunctive or other equitable relief, in addition to any other remedies available, without the necessity of posting a bond except to the extent required by applicable law.

7.2 **Cumulative remedies.** The remedies in this Agreement are cumulative and in addition to any other remedies available at law or in equity.

8. No Warranty; Limitation of Liability

8.1 **No warranty.** Each Party provides its Confidential Information "as is" and makes no warranty as to its accuracy or completeness, except as the Parties may agree in a separate definitive agreement.

8.2 **Limitation of liability.** Except for a breach of the confidentiality obligations in this Agreement, neither Party is liable to the other for indirect, incidental, special, consequential, or punitive damages arising out of this Agreement.

9. General Provisions

9.1 **Relationship of the Parties.** The Parties are independent. Nothing in this Agreement creates a partnership, joint venture, agency, or employment relationship.

9.2 **Governing law and venue.** This Agreement is governed by the laws of the State of [STATE], without regard to its conflict-of-laws rules. The Parties submit to the exclusive jurisdiction of the state and federal courts located in [COUNTY, STATE].

9.3 **Assignment.** Neither Party may assign this Agreement without the other's prior written consent, except to a successor in connection with a merger, acquisition, or sale of substantially all assets, on written notice.

9.4 **Notices.** Notices must be in writing and sent to the addresses above (or as updated in writing) and are effective on receipt.

9.5 **Entire agreement; amendment.** This Agreement is the entire agreement between the Parties on its subject and supersedes prior discussions about confidentiality. It may be amended only by a writing signed by both Parties.

9.6 **Severability and waiver.** If any provision is unenforceable, the rest remains in effect, and the unenforceable provision will be modified to the minimum extent needed to make it enforceable. A Party's failure to enforce a provision is not a waiver.

9.7 **Counterparts and electronic signature.** This Agreement may be signed in counterparts and by electronic signature, each of which is an original and all of which together form one agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

PARTY A

PARTY B

Signature: _____

Signature: _____

Printed name: **[NAME]**

Printed name: **[NAME]**

Title: **[TITLE / N/A]**

Title: **[TITLE / N/A]**

Date: _____

Date: _____

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