

# MUTUAL NON-DISCLOSURE AGREEMENT

## 1. 1. Parties and Purpose

This Mutual Non-Disclosure Agreement (the "Agreement") is made effective as of [EFFECTIVE DATE] between [PARTY A NAME], a [ENTITY TYPE] located at [PARTY A ADDRESS], and [PARTY B NAME], a [ENTITY TYPE] located at [PARTY B ADDRESS]. Each party is referred to individually as a "Party" and together as the "Parties." The Parties wish to explore [PURPOSE, e.g., a potential commercial partnership, technical integration, or business transaction] (the "Purpose") and expect that each Party may disclose confidential information to the other in connection with that Purpose. In this Agreement, the Party disclosing information is the "Disclosing Party" and the Party receiving it is the "Receiving Party," and each Party may act in either role. Notices under this Agreement will be sent to [PARTY A NOTICE CONTACT AND EMAIL] and [PARTY B NOTICE CONTACT AND EMAIL].

## 2. 2. Definition of Confidential Information

"Confidential Information" means non-public information disclosed by or on behalf of a Disclosing Party to a Receiving Party in connection with the Purpose, in any form, whether written, oral, visual, or electronic, that is either marked or identified as confidential or that a reasonable person would understand to be confidential given its nature and the circumstances of disclosure. Confidential Information includes, without limitation, business and product plans, unreleased features and roadmaps, source code and technical architecture, pricing and cost structures, customer and supplier lists, financial statements and forecasts, marketing strategies, personnel information, and the terms of any proposed transaction between the Parties. Information disclosed orally or visually will be treated as Confidential Information if it is identified as confidential at the time of disclosure, and the Parties are not required to send a follow-up written summary for the information to remain protected. The existence and content of the discussions between the Parties are themselves Confidential Information.

## 3. 3. Exclusions from Confidential Information

Confidential Information does not include information that the Receiving Party can demonstrate through contemporaneous written records: (a) is or becomes generally available to the public other than as a result of a breach of this Agreement by the Receiving Party or its Representatives; (b) was lawfully in the possession of the Receiving Party without a duty of confidence before it was disclosed by the Disclosing Party; (c) is lawfully received from a third party that was not under an obligation of confidentiality with respect to that information; or (d) is independently developed by the Receiving Party without use of or reference to the Confidential Information of the Disclosing Party. A combination of individual items of information does not fall within these exclusions merely because the individual items are separately public or known; the specific combination must itself qualify. The burden of establishing that an exclusion applies rests with the Receiving Party.

## 4. 4. Obligations of the Receiving Party

The Receiving Party will use the Confidential Information of the Disclosing Party solely for the Purpose and for no other reason, including no competitive, product development, or commercial use outside the Purpose. The Receiving Party will protect that Confidential Information using at least the same degree of care it applies to its own confidential information of similar importance, and in no event less than a reasonable degree of care. The Receiving Party will not disclose Confidential Information to any third party except as permitted in Section 5 or Section 6, and will not copy or reproduce it beyond what is reasonably necessary for the Purpose. The Receiving Party will notify the Disclosing Party in writing promptly after becoming aware of any unauthorized use, disclosure, loss, or compromise of Confidential Information, and will cooperate reasonably in efforts to limit the

effect of that event. Each Party remains responsible for any breach of this Agreement by its own Representatives.

### **5. 5. Permitted Disclosure to Representatives**

The Receiving Party may disclose Confidential Information only to its directors, officers, employees, affiliates, and professional advisors, including attorneys, accountants, and financial advisors, who have a genuine need to know the information for the Purpose (collectively, the "Representatives"). Before making any such disclosure, the Receiving Party will ensure that each Representative is bound by confidentiality obligations at least as protective as those in this Agreement, whether by written agreement, professional duty, or terms of employment. Disclosure to any contractor, consultant, or other third party outside that group requires the prior written consent of the Disclosing Party. On request, the Receiving Party will identify the categories of Representatives who have received Confidential Information. The Receiving Party is liable for any act or omission by its Representatives that would constitute a breach of this Agreement if committed by the Receiving Party.

### **6. 6. Disclosure Required by Law**

If the Receiving Party or any of its Representatives is required to disclose Confidential Information by applicable law, regulation, subpoena, court order, or the rules of a securities exchange or regulator, the Receiving Party may make that disclosure without breaching this Agreement, provided that it takes the steps described in this section to the extent legally permitted. The Receiving Party will give the Disclosing Party prompt written notice of the requirement, sufficient in the circumstances to allow the Disclosing Party to seek a protective order or other confidential treatment at its own expense, and will reasonably cooperate with those efforts. If a protective order is not obtained, the Receiving Party will disclose only the portion of Confidential Information that its counsel advises is legally required and will use reasonable efforts to obtain assurances that the disclosed information will be treated confidentially. Information disclosed under this section remains Confidential Information for all other purposes under this Agreement.

### **7. 7. Term and Duration of Obligations**

This Agreement begins on the Effective Date and continues for [DISCLOSURE PERIOD, e.g., two years] with respect to new disclosures, unless terminated earlier by either Party on [TERMINATION NOTICE, e.g., 30 days] written notice to the other. Termination of the disclosure period does not affect information already disclosed. The confidentiality and use restrictions in this Agreement apply to each item of Confidential Information for [CONFIDENTIALITY PERIOD, e.g., three years] from the date that item was disclosed. Notwithstanding the preceding sentence, Confidential Information that constitutes a trade secret under applicable law remains protected for as long as it qualifies as a trade secret, and personal data remains subject to applicable privacy law without time limit. Either Party may end discussions regarding the Purpose at any time without liability, and doing so does not release either Party from the obligations in this Agreement.

### **8. 8. Return or Destruction of Materials**

On written request by the Disclosing Party, and in any event promptly after the Parties stop pursuing the Purpose, the Receiving Party will return or destroy all documents, files, samples, media, and other materials containing Confidential Information of the Disclosing Party, together with all copies, notes, summaries, and derivative materials. The Receiving Party will confirm completion in writing within [CERTIFICATION PERIOD, e.g., 15 days] of the request, signed by an authorized representative. The Receiving Party may retain one archival copy of Confidential Information to the extent required by applicable law, regulation, or internal document retention or compliance policy, and may retain copies created automatically by routine backup or archiving systems that are not readily accessible in the ordinary course. Any information retained under this section remains subject to the confidentiality obligations of this Agreement for as long as it is retained, and the Receiving Party will not access it

except as required for the retention purpose.

### **9. 9. No License and No Warranty**

All Confidential Information remains the property of the Disclosing Party. Nothing in this Agreement grants the Receiving Party any license or right, whether express or implied, under any patent, copyright, trademark, trade secret, or other intellectual property right of the Disclosing Party, other than the limited right to use the Confidential Information for the Purpose during the term of this Agreement. No option, right of first refusal, or right to any product, technology, or business opportunity is created by this Agreement. Each Disclosing Party provides its Confidential Information on an as-is basis and makes no representation or warranty as to its accuracy, completeness, or fitness for any purpose, and will have no liability to the Receiving Party arising from reliance on it. Any representation or warranty regarding the subject matter of the discussions will be made only in a definitive written agreement, if one is signed.

### **10. 10. No Obligation to Proceed**

Neither Party is obligated to disclose any particular information, to continue discussions regarding the Purpose, or to enter into any further agreement or transaction with the other. This Agreement does not create a partnership, joint venture, agency, fiduciary, or exclusive relationship between the Parties, and neither Party may bind the other. Each Party remains free to pursue similar discussions, partnerships, products, or transactions with third parties, including competitors of the other Party, provided it does so without using or disclosing the Confidential Information of the other Party in breach of this Agreement. Neither Party is restricted from independently developing products or services that may compete with those of the other Party, so long as the development does not rely on the Confidential Information of the other Party. Any binding commitment between the Parties will arise only from a separate definitive agreement signed by both.

### **11. 11. Remedies and Injunctive Relief**

Each Party acknowledges that unauthorized use or disclosure of Confidential Information may cause harm to the Disclosing Party for which monetary damages alone may be an inadequate remedy. Accordingly, in addition to any other remedy available at law or in equity, a Disclosing Party may seek injunctive or other equitable relief to prevent or stop a breach or threatened breach of this Agreement, without the requirement of posting a bond except to the extent required by applicable law. This right is available to both Parties on the same terms. Nothing in this section limits the right of either Party to recover damages that are otherwise available, and the prevailing Party in any proceeding to enforce this Agreement may recover its reasonable attorney fees and costs. Neither Party will be liable to the other for indirect, incidental, consequential, special, or punitive damages arising under this Agreement.

### **12. 12. Feedback and Residual Knowledge**

If a Receiving Party voluntarily provides suggestions, comments, or other feedback regarding the products, services, or materials of the Disclosing Party ("Feedback"), the Disclosing Party may use that Feedback for any purpose without obligation or compensation, and Feedback is not itself Confidential Information of the Receiving Party unless the Parties agree otherwise in writing. Nothing in this Agreement restricts an individual Representative from using general skills, knowledge, and experience retained in unaided memory as a result of exposure to Confidential Information, provided that the individual does not intentionally memorize Confidential Information for that purpose and that this sentence does not permit any use or disclosure of trade secrets, source code, customer lists, financial data, or documented technical specifications of the Disclosing Party. This section does not grant any license under the patents or copyrights of the Disclosing Party.

### **13. 13. Governing Law and Dispute Resolution**

This Agreement is governed by the laws of the State of [GOVERNING STATE], without regard to its conflict of laws rules. Any dispute arising out of or relating to this Agreement will be brought exclusively in the state or federal courts located in [VENUE COUNTY AND STATE], and each Party consents to personal jurisdiction and venue in those courts and waives any objection based on inconvenient forum. Nothing in this section prevents either Party from seeking emergency or preliminary injunctive relief in any court of competent jurisdiction to protect its Confidential Information. Each Party waives any right to a trial by jury in any proceeding arising out of this Agreement to the extent permitted by applicable law. The Parties will attempt in good faith to resolve any dispute through direct discussion between senior representatives for at least [NEGOTIATION PERIOD, e.g., 15 days] before filing suit, except where injunctive relief is sought.

### **14. 14. General Provisions**

This Agreement is the entire agreement between the Parties regarding the confidentiality of information exchanged for the Purpose and supersedes all prior discussions and understandings on that subject. Any amendment must be in writing and signed by both Parties. Neither Party may assign this Agreement without the prior written consent of the other, except to a successor in connection with a merger, reorganization, or sale of substantially all assets, and any attempted assignment in violation of this section is void. If any provision is held unenforceable, it will be modified to the minimum extent necessary to make it enforceable and the remaining provisions will stay in full force. A failure or delay in exercising any right does not waive that right. This Agreement may be executed in counterparts, and electronic signatures have the same effect as original signatures.

### **15. 15. Signatures**

By signing below, each Party acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms as of the Effective Date. PARTY A: [PARTY A NAME]. Signature: \_\_\_\_\_.  
Printed Name: [PARTY A SIGNER NAME]. Title: [TITLE]. Date: [DATE]. PARTY B: [PARTY B NAME].  
Signature: \_\_\_\_\_. Printed Name: [PARTY B SIGNER NAME]. Title: [TITLE]. Date: [DATE]. Each signer represents that they are authorized to bind the entity on whose behalf they sign.

### **16. Disclaimer**

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