# CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

(Supplier)

BETWEEN

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**, a company organized under the laws of \_\_\_\_\_\_\_\_\_\_\_\_\_\_, having its registered office at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, registered with the\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ register of legal person under number \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Tax ID number \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, represented for the purposes and requirements hereof by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in his/her capacity of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, hereinafter referred to as the “***Supplier***”;

AND

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**, a company organized under the laws of \_\_\_\_\_\_\_\_\_\_\_\_\_\_, having its registered office at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, registered with the\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ register of legal person under number \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Tax ID number \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, represented for the purposes and requirements hereof by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in his/her capacity of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, hereinafter referred to as the “***Contracting party***”;

The Supplier and the Contracting party shall hereinafter be jointly referred to as the “***Parties***” or separately a “***Party***”.

The Contracting party is a company specialized in **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**. As such, the Contracting party is the proprietor of information of a confidential nature of which it is the sole owner (hereinafter referred to as « ***Confidential Information*** »).

The Contracting party is given the mission to realize \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ by third-parties. The Contracting party envisages entrusting the Supplier with one or several missions in relation with the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. The Supplier is also the proprietor of information of a confidential nature of which it is the sole owner (hereinafter also referred to as « ***Confidential Information*** »).

This agreement (hereinafter referred to as “**the *Agreement***”) aims at preserving the confidentiality of the Information, disclosed by each Party to the other without exclusivity, in the course of the creation, production, development and organization of \_\_\_\_\_\_\_\_\_\_\_\_\_ by the Contracting party.

Confidential Information are to be understood, on a strictly illustrative and therefore non-exhaustive basis, as: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

1. Each Party irrevocably undertakes to ensure vis-à-vis the other Party the most strict and complete confidentiality about the existence and content of the Confidential Information of said other Party, even if said confidentiality is not expressly mentioned on the Confidential Information or when it is transferred, whether said Confidential Information comes directly or indirectly from the other Party, with or without its express or tacit authorization, whatever the way it is communicated, in particular via the delivery of a tangible support or via a verbal communication or any other intangible way, and whether the recipient Party has kept or not the supports it may have received.

This confidentiality and non disclosure obligation evidently covers any private discussions, but also social or professional networks, as well as any group whatsoever, whether its access is limited or not, secured or not.

This obligation also applies, in particular, to any creations, information, drawings, descriptions, commercial trade or fabrication secrets, inventions, methods, engineering, discoveries, forms, software, lists, boards, databases, formulas, prototypes, objects, mechanisms, structures and fabrication process which would be in relation in any way and on any basis with the Parties’ Confidential Information.

This confidentiality and non disclosure obligation of the Supplier lasts five years from the signature of this Agreement.

1. This confidentiality and non disclosure obligation does not apply to information which, at the time of signature of this Agreement, is public and easily accessible, nor to information which one Party or the other regularly holds from obtaining them the same way without this latter being obliged, directly or indirectly, to ensure its confidentiality and non-disclosure in a similar way as that which is provided here above. Notwithstanding, the confidentiality and non-disclosure obligation also applies to information (two or more), which are public but which have been presented by the Contracting party to the Supplier as being connected or as forming a compound.
2. This Agreement does not grant any other right to each Party than that to take cognizance of the Confidential Information. Any other use of said Confidential Information is strictly prohibited.
3. The Parties’ obligations are to be complied with by themselves and their successors in right or in title and, jointly, in the name or on behalf of the company or companies they work or intervene for. The Parties guarantee that their employees, workers, partners, by-contractors, agents, representatives, subsidiaries, sister and parent companies, licensees, clients, subcontractors and suppliers, as well as any third-party acting in direct or indirect relation with them, will strictly respect this Agreement and the obligations arising from it and will be bound by a similar confidentiality and non disclosure obligation.
4. Without prejudice to the generality, each Party shall refrain itself from disclosing, unpacking, taking to pieces, breaking up, analyzing, altering, modifying or damaging, in any way, or having a third-party doing so, the tangible supports comprising the Confidential Information of the other Party. It shall also refrain itself from erasing, hiding, scraping off, omit in any way all or part of the mentions brought by the other Party to said supports or having a third-party doing so. Any violation, whether temporary or definitive, of all or part of one Party’s obligations may notably give rise to an obligation to indemnify the other Party’s prejudice (moral and material – damnum emergens and lucrum cessans included), and it will lead in any event to the obligation to immediately return all the supports and other information forming part of the Confidential Information and which would be in possession of the breaching Party (or those it has to answer for) to the other Party.
5. Each Party shall inform the other one without delay of any unauthorized disclosure of the Confidential Information, as well as of any other violation of this Agreement, which it would become aware of.
6. Tangible supports handed to a Party remain the entire and sole property of the other Party. They shall all be returned at first demand and in any event at the latest one month after the end of the negotiations or of the cooperation between the Parties, the Supplier not being authorized to keep any copy thereof.

Same rule will apply in case of bankruptcy, dissolution, liquidation, incapacity or decease of one of the Parties (or any event of a similar nature or leading to one of the Parties being withdrawn from its own management), as well as in case of termination, whatsoever arising, of the business in the course of which the Confidential Information has been brought to its knowledge.

1. Each Party hereby acknowledges and confirms that all existing and future intellectual property rights relating to the Confidential Information disclosed by the other Party, including concepts, methods, process, formulas and other elements underlying to said Confidential Information, are the exclusive property of said other Party.
2. Each Party guarantees that it will respect all rights including, notably, intellectual property rights that the other Party is or would become holder on the Confidential Information it discloses and all its derived functions, improvements, developments or accessories, present or future.

Each Party is the sole and exclusive holder of all the intellectual properties relative to the Confidential Information it discloses to the other Party, in particular the author’s rights (“droits d’auteur”) and copyright, and is the sole empowered to deposit or register its Confidential Information, notably as brands, drawings or designs and patent, as well as to accomplish all other formalities necessary or useful to their protection, including the tax registration or the deposit with a company providing services of collective management of author’s right. The recipient Party acknowledges that the disclosing Party is sole empowered to claim the paternity of its Confidential Information and that this Agreement does not imply disclosure of the Confidential Information in the meaning of certain laws in the field of author’s right or copyright, nor in the meaning of laws in the field of drawings and designs or patents.

Each Party shall refrain itself notably from producing or using the Confidential Information of the other Party in any way, whether directly or indirectly, for its own benefit or for that of a third-party, or having a third-party doing so. This Agreement does not contain or create any license, assignment, or any other form of transfer of each Party’s rights, nor any authorization whatsoever to produce or use the Confidential Information or other information comparable and/or similar, which could be a by-product or a derived service performance or be likely to create a confusion or a risk of association of ideas in any way, or having a third-party doing so.

Each Party shall refrain itself from demanding and/or obtaining for its account any intellectual property protection whatsoever in relation with the Confidential Information of the other Party.

1. Each Party shall refrain itself, for as long as all or part of this Agreement lasts, to accomplish or begin, not to accomplish or not to begin, any action whatsoever which might be directly or indirectly detrimental to the other Party’s legitimate rights or interests in relation with the Confidential Information, or to have a third-party do so.
2. This Agreement constitutes the full and complete agreement between the Parties in relation to the Confidential Information. It supersedes any and all other agreements or understandings, oral or written, made before, simultaneously with or subsequently to this document, as well as any possible terms and/or general conditions of the Supplier.
3. Both Parties are forbidden to assign or transfer in any way all or part of their rights and/or obligations arising from this Agreement. Any possible doubt as per the interpretation of this Agreement or of the content of the rights and obligations shall benefit to the disclosing Party.
4. This Agreement is governed by French law. In case of dispute concerning the validity, implementation or interpretation of this Agreement, the Parties will attempt to settle their dispute amicably. Prior to any use of the courts, the Parties undertake to negotiate in a spirit of loyalty and good faith an amicable agreement through mediation in case of any dispute relating to this Agreement, including relating to its validity.

The Party wishing to implement the mediation process must inform the other party by registered letter with acknowledgment of receipt, indicating the elements of conflict and suggesting the name of a mediator. If the Parties fail to agree on the name of a mediator or if the mediator does not accept to undertake the mediation within seven (7) days, either Party may refer to the judge so that it may appoint a mediator.

The mediation process will last fifteen (15) days from the acceptance of his mission by the mediator. The mediator or either Party may suggest an extension of the original deadline by obtaining their consent. The mediation process may be in French or English, according to the wishes of the Parties.

Throughout the mediation process and until its conclusion, the Parties shall refrain from exercising any legal action against each other and the object of the mediation. Exceptionally, the Parties are allowed to go before the Court for any immediate and urgent matter.

The period of limitation shall be suspended starting from the start of the mediation, that is, on the date of receipt of the notice sent by registered letter with acknowledgment of receipt. The suspension of the period of limitation shall terminate on the date of signing of the minutes of conciliation or non-conciliation .

In case of refusal of one of the Parties to sign the minutes, the other Party may take note of this refusal by informing the other Party that by failing to respond within 7 days, it will be possible to start a legal procedure before the courts. The mediator's fees and administrative costs of mediation shall be borne equally by both Parties. The Parties undertake to keep confidential all exchanges of words, letters or documents that will occur during the mediation process.

In case of persistent dispute , the Parties agree to grant exclusive jurisdiction to the competent courts of Paris.

Done in \_\_\_\_\_\_\_\_\_and in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Name, surname, address, position and signature with the handwritten mention « read and approved »)

For the Discloser, For the Supplier,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_