

CONFIDENTIALITY AGREEMENT

This Agreement is made and entered into, as of _____ (“Effective Date”), by and between ABC Corp Systems India Private Limited having a principal place of business at <ADDRESS> and _____, an individual, having a principal place of business at _____ (“Recipient”).

1. Definition of Confidential Information. “Confidential Information” means (a) any technical and non-technical information related to the Company’s business and current, future and proposed products and services of Company, including for example and without limitation, information concerning research, development, design details and specifications, financial information, procurement requirements, engineering and manufacturing information, customer lists, business forecasts, sales information, marketing plans and business plans and (b) any information that may be made known to Recipient and which Company has received from others that Company is obligated to treat as confidential or proprietary, whether or not marked as confidential.
2. Nondisclosure and Nonuse Obligations. Recipient will not use, disseminate or in any way disclose any Confidential Information to any person, firm or business, except to the extent necessary for the purpose described below the signatures to this Agreement (the “Purpose”). Furthermore, Recipient may not disclose the existence of any negotiations, discussions or consultations in progress between the parties to any form of public media without the prior written approval of Company. Recipient shall treat all Confidential Information with the same degree of care as Recipient accords to Recipient’s own confidential information, but not less reasonable care. Recipient shall disclose Confidential Information only to those of its employees who have a need to know such information to assist Recipient with respect to the Purpose. Recipient certifies that each such employee will have agreed, either as a condition of employment or in order to obtain the Confidential Information, to be bound by terms and conditions substantially similar to those terms and conditions applicable to Recipient under this Agreement. Recipient shall immediately give notice to Company of any unauthorized use or disclosure of the Confidential Information. Recipient shall assist Company in remedying any such unauthorized use or disclosure of the Confidential Information.
3. Exclusions from Nondisclosure and Nonuse Obligations. Recipient’s obligations under Section 2 (“Nondisclosure and Nonuse Obligations”) shall not apply to any Confidential Information that Recipient can document (a) was in the public domain at or subsequent to the time such Confidential Information was communicated to Recipient by Company through no fault of Recipient; (b) was rightfully in Recipient’s possession free of any obligation of confidence at or subsequent to the time such Confidential Information was communicated to Recipient by Company; or (c) was developed by employees, contractors or agents of Recipient independently of and without reference to any Confidential Information. A disclosure of any Confidential Information (a) in response to a valid order by a court or other governmental body or (b) as otherwise required by law shall not be considered to be a breach of this Agreement or a waiver of confidentiality for other purposes; provided, however, that Recipient shall provide prompt prior written notice thereof to Company to enable Company to seek a protective order or otherwise prevent such disclosure.
4. Ownership and Return of Confidential Information and Other Materials. All Confidential Information, and any Derivatives (defined below) thereof, whether created by Company or Recipient, shall be the property of Company and no license or other rights to Confidential

Information or Derivatives is granted or implied hereby. For purposes of this Agreement, "Derivatives" shall mean: (a) for copyrightable or copyrighted material, any translation, abridgment, revision or other form in which an existing work may be recast, transformed or adapted; (b) for patentable or patented material, any improvement thereon; and (c) for material protected by trade secret, any new material derived from such existing trade secret material, including new material that may be protected under copyright, patent and/or trade secret laws. Recipient hereby does and will assign to Company all of Recipient's rights, title in interest and interest in and to the Derivatives. All materials (including, without limitation, documents, drawings, papers, diskettes, tapes, models, apparatus, sketches, designs and lists) that Company furnishes to Recipient (whether or not they contain or disclose Confidential Information) are the property of Company. Within five (5) days after any request by Company, Recipient shall destroy or deliver to Company, at Company's option, (a) all such Company-furnished materials and (b) all materials in Recipient's possession or control (even if not Company-furnished) that contain or disclose any Confidential Information. Recipient will provide Company a written certification of Recipient's compliance with Recipient's obligations under this Section.

5. No Warranty. All Confidential Information is provided "AS IS" and without any warranty, express, implied or otherwise, regarding such Confidential Information's accuracy or performance.

6. No Export. Recipient will obtain any licenses or approvals the U.S. government or any agency thereof requires prior to exporting, directly or indirectly, any technical data acquired from Company pursuant to this Agreement or any product utilizing any such data.

7. Term. This Agreement shall govern all communications from Company to Recipient that are made from the Effective Date to the date on which either party receives from the other party written notice that subsequent communications shall not be so governed; provided, however, that Recipient's obligations under Section 2 (Nondisclosure and Nonuse Obligations) shall continue in perpetuity with respect to Confidential Information of Company that Recipient has previously received unless such obligations no longer apply pursuant to Section 3 (Exclusions from Nondisclosure and Nonuse Obligations).

8. No Assignment. Recipient shall not assign or transfer any rights or obligations under this Agreement without the prior written consent of Company.

9. Injunctive Relief. A breach of this Agreement will cause irreparable and continuing damage to Company for which money damages are insufficient, and Company shall be entitled to injunctive relief and/or a decree for specific performance, and such other relief as may be proper (including money damages if appropriate).

10. Notices. Any notice required or permitted by this Agreement shall be in writing and shall be delivered as follows, with notice deemed given as indicated: (a) by personal delivery, when actually delivered; (b) by overnight courier, upon written verification of receipt; (c) by facsimile transmission, upon acknowledgment of receipt of electronic transmission; or (d) by certified or registered mail, return receipt requested, upon verification of receipt. Notice shall be sent to the addresses set forth above or to such other address as either party may provide in writing.

11. Governing Law; Forum; Legal Fees. This Agreement shall be governed in all respects by the laws of India, as such laws are applied to agreements entered into and to be performed entirely within India between Indian residents. Each of the parties irrevocably consents to the exclusive personal jurisdiction of the courts located in Bangalore, as applicable, for any matter

arising out of or relating to this Agreement, except that in actions seeking to enforce any order or any judgment of such courts located in Bangalore, such personal jurisdiction shall be nonexclusive. Additionally, notwithstanding anything in the foregoing to the contrary, a claim for equitable relief arising out of or related to this Agreement may be brought in any court of competent jurisdiction. If a proceeding is commenced to resolve any dispute that arises between the parties with respect to the matters covered by this Agreement, the prevailing party in such proceeding shall be entitled to receive its reasonable attorneys' fees, expert witness fees and out-of-pocket costs incurred in connection with such proceeding, in addition to any other relief to which such prevailing party may be entitled.

12. Severability. If a court of law holds any provision of this Agreement to be illegal, invalid or unenforceable, (a) that provision shall be deemed amended to achieve an economic effect that is as near as possible to that provided by the original provision and (b) the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected.

13. Waiver; Modification. If Company waives any term, provision or Recipient's breach of this Agreement, such waiver shall not be effective unless it is in writing and signed by Company. No waiver shall constitute a waiver of any other or subsequent breach by Recipient. This Agreement may be modified only if authorized representatives of both parties consent in writing.

14. Entire Agreement. This Agreement constitutes the entire agreement with respect to the Confidential Information disclosed hereunder and supersedes all prior or contemporaneous agreements concerning such Confidential Information, written or oral.

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

"Company"

"Recipient"

ABC Corp. Pvt. Ltd.

[RECIPIENT NAME]

By: _____

By: _____

Name: _____

Name: _____

Title: Manger _____

Title: _____

Purpose: _____
