

CONFIDENTIALITY & NON-DISCLOSURE AGREEMENT

BY

_____ **[Insert Name]** _____ (Receiving
Party)

IN FAVOUR OF

NEWSPACE INDIA LIMITED (NSIL)

CONFIDENTIALITY & NON-DISCLOSURE AGREEMENT

(To be executed on the stamp paper of appropriate value as per the relevant state's stamp legislation)

This Confidentiality & Non-Disclosure Agreement ("Agreement") made at Bengaluru, India on this ____ day of _____ 2024.

BY AND BETWEEN:

_____ a company registered under the Companies Act, 1956/ 2013 and having its registered office at _____ (hereinafter referred to as "**Receiving Party**" which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its successors, transferees and permitted assigns, etc.).

AND

NewSpace India Limited a company registered under the Companies Act, 2013 and having its registered office at ISRO HQ Campus, Bengaluru – 560 094 (hereinafter referred to as "**NSIL**", which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its successors, transferees and permitted assigns, etc.).

NSIL and the Receiving Party shall hereinafter be collectively referred to as the "**Parties**" and individually as "**Party**".

WHEREAS

- A. NSIL has floated a request for qualification dated [08th May 2024] and bearing reference no. [NSIL/RFQ/LVM3/PPP/01] ("**RFQ**") in relation to the production of the LVM3, in accordance with the terms and conditions of the Tender Documents (including specifically in the Contract) ("**Project**") and is required to provide certain information (which at present is confidential and not in the public domain) to the Receiving Party for the purpose of submission of Proposals by such Receiving Party.
- B. The Parties intend that the aforesaid information be kept confidential as between the Parties. The Parties undertake and declare that they shall not divulge, publish or reproduce the same before any party or person except in accordance with the terms of this Agreement.
- C. The Parties hereto are now entering into this Agreement, in pursuance to any other agreements executed or as may be executed between the Parties at a later date, which is to be read in conjunction with such other agreement.

NOW THEREFORE the Parties agree as follows:

This Agreement is being furnished by Parties in consideration of the premise as set forth above. Vide this Agreement, Receiving Party, hereby agree, undertake, acknowledge and confirm that:

1. Definitions

1.1 For the purposes of this Agreement:

- a) "**Confidential Information**" shall mean such information as defined in Clause 3

- b) **“Disclosing Party”** shall mean the Party disclosing any Confidential Information.
- c) **“Receiving Party”** shall mean the Party receiving the Confidential information hereunder.
- d) **“Employees”** shall mean and include the partners, directors, employees, officers, subcontractors, agents, Associates, Affiliates, representatives of the Receiving Party.
- e) **“Group”** shall mean in relation to a Party, that Party, each and any subsidiary or holding company/controlling organisation of that Party, and each and any subsidiary of a holding company of that Party or its Associates. (Associates shall have the same meaning as defined under Clause 1.1 (m)).
- f) **“Non - Compete”** shall mean that the Receiving Party shall not directly / indirectly solicit work from the other departments/ divisions of Disclosing Party or its Affiliates as more fully explained in Clause 6 to this Agreement.
- g) **“Proprietary Information”** shall mean all information, intellectual property rights including but not limited to Trade Marks, Copyrights, patents, Designs, algorithms, trade secrets, formulae, designs, know-how, domain names, processes, applications, data, ideas, techniques, documents, notes, presentations, works of authorship, business plans, customer lists, user information, customer data, operational data, and other information concerning the actual or anticipated business, research or development, prices and pricing structures, marketing and sales information, competitive analysis, and any information and materials relating thereto, or which is received in confidence by or for the Company or its Affiliates from any other person, whether or not it is in written or permanent form of which Disclosing Party is the registered owner or has any other kind of enforceable rights.
- h) **“ISRO”** shall mean Indian Space Research Organisation, including its Centres/ Units
- i) **“Business Purposes”** shall mean and include such purposes for which Parties are engaging to achieve purpose defined in the Introduction.
- j) **“Best Efforts”** means, with respect to a Party, a duty to act in good faith and with all due diligence and prudence consistent with applicable law in accordance with best practices and the highest professional standards in a commercially reasonable manner adhered to Business Purposes.
- k) **“Effective Date”** Shall mean the date this Agreement is made. If signed on two different dates, the last date will be considered as Effective Date.
- l) **“Associates/ Affiliates”** shall mean any person that is directly or indirectly, through one or more intermediaries, Controlling, Controlled by, or under common Control with a Party. For purposes of this definition, “Control” shall mean possessing, directly or indirectly, the power to direct or cause the direction of the management, policies, and operations of a person, whether through ownership of voting securities, by contract, or otherwise.

- 1.2 Any capitalised terms used in this Agreement, but not defined in this Agreement, shall have the meanings ascribed to them under the RFQ

2. PURPOSE

- 2.1 The Receiving Party would be receiving Confidential Information (as defined below) in relation to Project, from NSIL, ISRO, NSIL's/ISRO's Affiliates, directors, officers, employees, agents or advisors
- 2.2 The Parties herein agree and acknowledge that as a condition to either Party furnishing such Confidential Information, shall treat such Confidential Information provided by the Disclosing Party to the Receiving Party in accordance with the terms of this Agreement and to take or abstain from taking certain other actions in accordance with the terms of this Agreement as set forth hereinbelow.

3. “**Confidential Information**” includes: (i) all information, data, reports, analyses, progress, status advices, interpretations, studies, forecasts, records, documents and/or materials , whether made available in writing or electronically to the Receiving Party by the Disclosing Parties in relation to Project and/or LVM3 or becoming available to the Representatives (as defined below) of the Receiving Party, including without limitation in any written or printed documents, or in electronic format, specifications for the MSS terminal, designs, photographs, technical details, facility layouts, general arrangement plans, production schedules, drawings, samples, models, information regarding operations, financial information, strategies, either in writing or orally or any means of disclosing such Confidential Information that the Disclosing Party may elect to use prior to the execution or during the validity of this Agreement; (iii) any financial, technical, business, operational, assets and liabilities related information, any analysis that integrally incorporates and/or discloses any Confidential Information; and (iv) any information exchanged between parties to the Project, in respect of any Disclosing Party(ies), or documents reflecting or generated from such information, and any information or document that the Disclosing Party considers confidential, but excluding information that:

- (i) at the time of supply to the Receiving Party is in the public domain or otherwise lawfully known to the Receiving Party;
 - (ii) becomes lawfully available to the Receiving Party or its Representatives from a third party who to the best of the Receiving Party’s knowledge does not owe any party an obligation of confidence in relation to such information;
 - (iii) is independently developed by the Receiving Party or its Representatives without any reference to the Confidential Information, and without violating any obligations hereunder; or
 - (iv) is approved for disclosure in writing by the Disclosing Parties or a Disclosing Party.
4. The Confidential Information shall be shared only with Affiliates or partners who shall be potentially participating in the Bidding Process and the directors, partners, officers, agents, employees or advisors (such as financial advisors, attorneys, bankers, consultants and accountants) of the Receiving Party/their Affiliates/partners who need to know such information for the purpose of submitting the Proposal (collectively referred to as the “**Representatives**”), on a strictly “need to know” basis; provided, such Representatives are also similarly restricted by the confidential obligations and the conditions set forth in this Agreement. The Receiving Party agrees that the Receiving Party will be responsible for any breach of the confidentiality and other terms of this Agreement by any of the Receiving Party’s Representatives;

5. The Receiving Party agrees that it shall ensure that its Representatives shall keep confidential all Confidential Information provided to the Receiving Party, unless disclosure is required to satisfy the requirements of any law, legal process, court of competent jurisdiction or any governmental or regulatory agency having the authority to regulate any aspect of the Receiving Party's business. Provided that the Receiving Party may disclose only such Confidential Information that is strictly required to be disclosed to comply with a regulatory requirement, and to the extent legally permissible, the Receiving Party shall notify the Disclosing Parties of such requirements promptly, in advance of the disclosure, so that the Disclosing Parties may seek protective order or other appropriate remedy to protect the secrecy of the Confidential Information.
6. The Receiving Party shall be liable to the Disclosing Party for such loss, damage, costs, expenses or liabilities arising out of any such action, claim or proceeding, brought by any third party pursuant to any unauthorized disclosure or use of any information by the Receiving Party, or by any person for whom the Receiving Party is responsible under this Agreement, or pursuant to any breach of any undertaking, warranty or representation contained in this Agreement as awarded by a court of competent jurisdiction. Without prejudice to the generality of the foregoing, and the obligations of the Parties in respect of the Confidential Information, each Party agrees and acknowledges that additional obligations shall be applicable in respect of Classified Information. For the purposes of this Agreement '**Classified Information**' shall mean information, documents and material of any kind which the respective Government i.e., Indian Government has given or caused to be given a security classification irrespective of whether the same is transmitted orally, electronically, in writing or by hand. Notwithstanding any other provision of this Agreement:
 - (a) Each Party hereto undertakes to follow security procedures prescribed for military purposes with respect to disclosure, receipt, production, use and handling of Classified Information as notified by Disclosing Party.
 - (b) Any Classified Information, disclosed by one Party hereto shall be, whatever the method of disclosure be, identified by the Disclosing Party as Classified Information at the time of disclosure.
 - (c) The provisions of this Clause 11 are to remain in full force and effect notwithstanding any termination by expiration or otherwise of this Agreement.
7. The Receiving Party understands and agrees that monetary damages would not be sufficient remedy for any actual or threatened breach of this Agreement by the Receiving Party or any of its Representatives and that, in addition to all other remedies available at law and/or in equity, the Disclosing Parties shall be entitled to seek equitable relief, including both preliminary and permanent injunctions and specific performance, as a remedy for any such actual or threatened breach of this Agreement by the Receiving Party or any of its Representatives.
8. This Agreement shall be governed by the laws of India and thereof. Any dispute arising from or related to this NDA shall be subject to the exclusive jurisdiction of the courts at Bangalore, Karnataka.
9. The Receiving Party agrees and acknowledges that its obligations and undertakings herein shall be in addition to, and not in derogation or substitution of its obligations under the Tender Documents.
10. The Parties agree and acknowledge that capitalized terms used but not defined in this Agreement shall have the meaning ascribed thereto under the RFQ.

11. BREACH

- 11.1. In the event of any breach of any of the terms of this Agreement by Receiving Party, the Disclosing Party shall be entitled to serve a written notice to the Receiving Party informing Receiving Party of such default and requiring the Receiving Party to rectify the same within 5 (Five) days of receipt of the notice of default, failing which the Disclosing Party shall be at liberty to terminate this Agreement / any such other agreement(s) that may have been executed between the Parties.

12. TERM AND TERMINATION

- 12.1. This Agreement shall expire on, the earlier of (i) five (5) years from the date of this Agreement or (ii) either Party may terminate this Agreement by giving a prior written notice of 30 (Thirty) days to the other Party. The obligations concerning Confidential Information shared to Receiving Party for the purpose of this Project shall survive after the expiration of the stipulated tenure of five (5) years and Receiving Party will be restrained from disclosing any of the Confidential Information in perpetuity. Where any definitive agreement is executed in connection with the Permitted Purpose, this Agreement shall be read together with the definitive agreement and be governed by the same.

13. INDEMNITY

- 13.1. The Receiving Party hereby agrees and undertakes to indemnify Disclosing Party or its Group member from and against all damages, losses, claims, liabilities, costs and / expenses which Disclosing Party may incur or sustain as a result of a breach of any of the provisions of this Agreement by the Receiving Party or its Affiliates.
- 13.2. The Receiving Party hereby agrees and undertakes to be liable to Disclosing Party for such damages, losses, claims, liabilities, costs and/ expenses which Disclosing Party may incur or sustain as a result of a breach of any of the provisions of this Agreement by the Receiving Party or its Affiliates as awarded by a court of competent jurisdiction or any such amount as may be mutually agreed upon by the Parties herein.

14. MISCELLANEOUS

- 14.1. The Receiving Party shall neither publicly release any information relating to this Agreement, the relationship of the Parties nor the discussions or exchanges in connection to this Agreement, without prior written consent of Disclosing Party, except as permitted herein.
- 14.2. Assignment: Receiving Party shall not assign or transfer any of its rights or obligations under this Agreement.
- 14.3. Amendment: The Parties may amend the provisions of this Agreement with the mutual consent of the Parties to be recorded in writing and duly signed by each Party.

- 14.4. Severability: If any provision of this Agreement becomes unenforceable or prohibited under the applicable laws, such unenforceability or prohibition shall not invalidate or affect the validity or enforceability of the remaining provisions of the Agreement.
- 14.5. Except where stated otherwise in this Agreement, a person who is not a Party to this Agreement has no right to enforce any of its terms.
- 14.6. This Agreement shall be binding on the Receiving Party and inure to the benefit of the Disclosing Party and its successors and assigns.
- 14.7. Headings: The headings contained in this Agreement are for reference purposes only and shall not in any manner affect the meaning and interpretation of this Agreement.
- 14.8. Notices: Unless otherwise provided herein, all notices or other communications under or in connection with this Agreement shall be given in writing and may be sent by personal delivery or post or courier or facsimile at the address as specified herein below:

Mr. Ravi Prakash Shukla Manager Legal ISRO HQ Campus, New BEL Road Bangalore – 560 094 Email: ravi.prakash@nsilindia.co.in Phone No.: 080 23227777	To M/s _____ Address: _____ Phone No.: _____ Fax: _____ E-mail: _____
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Any such notice or other communication will be deemed to be effective if sent by personal delivery, when delivered, if sent by post then from the date of receipt of post acknowledgement, and if sent by courier, then from the date of receipt of courier acknowledgement, and if transmitted electronically by e-mail (on receipt of a confirmation to the mentioned email id (s)).

15. Counterparts: This Agreement, and any amendment thereof, may be executed in 2 (Two) counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the Effective Date as mentioned hereinabove.

For and on-behalf of NSIL		For and on-behalf of {Insert Company Name}	
Signature:		Signature:	
Name	Ravi Prakash Shukla	Name	
Designation	Manager, Legal	Designation	
Place	Bangalore	Place	
Date		Date	
Seal		Seal	
WITNESS:		WITNESS	
Signature:		Signature:	
Name:		Name:	

[Note to draft:

1. In case the constitutional documents of the Receiving Party provide for common seal, the said common seal shall be affixed on this Agreement in accordance with the constitutional documents of the Receiving Party; and
2. In case of a Consortium, this Agreement shall be executed by the Lead Member on behalf of each Member of such Consortium.]