Non-Disclosure Agreement

IN CONSIDERATION of [Entity Name] providing to the Recipient, Proprietary Information relating to its business, including information of a confidential nature, the Recipient undertakes to [EntityName] in the following terms:

1. DEFINITIONS

For the purposes of this Agreement the following words shall, save as otherwise expressly provided, have the following meanings:

1. [Entity Name] means Proprietary Information belonging to [Entity/Entity Name] whose registered office or usual place of business is at [Entity Address].
2. 'the Recipient' (also ‘The Recipient’) means [Recipient Name] whose registered office or usual place of business is at [Recipient Address].
3. 'Proprietary Information' means information relating to products and technology contained in but not limited to documents, drawings, models, photographs and sketches.
4. CONFIDENTIALITY
5. The Recipient undertakes i) to maintain in strict confidence and secrecy and with the same degree of care that the Recipient uses to maintain its own proprietary Information all Proprietary Information of [Entity Name] that it receives. ii) not to disclose or publish such Proprietary Information directly or indirectly to any other person firm or corporation and the Recipient further agrees to disclose the Proprietary Information only to those of their employees to whom it is essential to disclose the same (and to require all such employees to sign undertakings in [Entity Name’s] favour to observe these terms).
6. The Recipient will procure that any of their subsidiary or associated companies to whom any of the Proprietary Information is disclosed shall be subject to the same duty of care in respect of such Proprietary Information.
7. The Recipient will take all reasonable steps to ensure that all employees to whom it discloses information under sub-clause A hereof keep the knowledge imparted to them secret and confidential and in the event of any failure on the part of any employee so to do shall take all reasonable steps or such action as [Entity Name] may reasonably require to rectify or to ensure the rectification of such failure so far as such failure is capable of rectification.
8. Nothing contained herein shall be construed to impose a confidentiality obligation in respect of:
9. any matter appearing in public literature or otherwise within the public domain unless the entry of information in the public domain is as a result of a breach of any of the conditions contained herein or in any other agreement made between the Recipient and [Entity Name] by one of the parties hereto; or
10. any information or knowledge possessed by the party prior to disclosure to it by the other or rightfully acquired from sources other than the other party; or
11. any information or knowledge acquired in a bona fide arm's length transaction by the party making the disclosure.
12. COPYRIGHT
13. The Recipient acknowledges that it owns no copyright or other intellectual property whatsoever in any of the Proprietary Information
14. The Recipient will not delete Proprietary Information copyright or trade mark notices (if any) appearing on any document relating to the Proprietary Information supplied to it by [Entity Name] at any time
15. The Recipient will not and will use its best endeavours to ensure that its employees will not make copies in whole or in part of any Proprietary Information or any other material provided or in any way obtainable in eye-readable or machine-readable form without the prior written authority of [Entity Name] and then only for the Recipients own use and ownership of such copies shall vest in [Entity Name].
16. ORAL COMMUNICATIONS
17. Oral communications identified at the time of disclosure as Proprietary Information shall be protected according to the terms hereof provided that the disclosing party confirms in writing to the receiving party the Proprietary nature of the said communication within [Agreed period e.g. 7 calendar days].
18. All Proprietary Information delivered by one party to the other pursuant to the agreement shall be and remain the property of [Entity Name] and all written data and any copies thereof shall be promptly returned upon written request, or destroyed at [Entity Name’s] option at any time before or after the termination of this Undertaking for any reason.
19. INDEMNITY

The Recipient shall indemnify and keep [Entity Name] harmless in respect of any losses costs claims demands and expenses of whatever nature arising as a result of a breach by the Recipient or its employees or a subsidiary or associated company of any of the provisions of this Agreement including without prejudice to the generality of the forgoing legal and other fees incurred by [Entity Name] in enforcing such obligations

1. LIABILITY
2. It is understood by the Recipient that the proprietary Information may relate to products or services that are under development or planned for development. [Entity Name] makes no warranties regarding the accuracy of this information. [Entity Name] accepts no responsibility for any expenses, losses or action incurred or undertaken by the Recipient as a result of the receipt of this information. It is further understood by the Recipient that [Entity Name] does not warrant or represent that it will introduce any product or service to which the Proprietary Information disclosed herein is related.
3. Subject to the provisions of Sub-clause C of this Clause the liability of [Entity Name] under this Agreement for loss or damage including consequential or indirect loss or damage to the Recipient shall in no circumstances whatsoever exceed the total of any payments made by the Recipient hereunder or under the relevant Specific Agreement during the three years immediately prior to notification of any claim whether such liability arises i) in contract or ii) in tort or iii) for negligence or iv) for misrepresentation or v) for term of this Agreement or the relevant Specific Agreement
4. The limitation of liability referred to in Sub-clause B of this clause shall not apply so as to restrict [Entity Name’s] liability for death or personal injury resulting from [Entity Name’s] negligence
5. DURATION

This Agreement shall take effect as from [Start date in dd-mon-yyyy format] and shall continue for a period of [duration of agreement] unless terminated earlier by [Entity Name] giving the Recipient not less than [Notice Period for termination].

1. CONTINUING OBLIGATIONS

Termination of this Agreement shall not relieve the Recipient from its continuing obligations under this Agreement to protect, safeguard and preserve Proprietary Information disclosed hereunder, which shall survive and continue in full force and effect

1. ENTIRE UNDERSTANDING

This Agreement contains the entire understanding relative to the protection of [Entity Name’s] Proprietary Information and supersedes all prior undertakings whether written or verbal between [Entity Name] and the Recipient and/or a subsidiary or associated company of the Recipient

1. UNENFORCABILITY

Should any provision of this Agreement be determined to be unenforceable or prohibited by any applicable law or treaty, this Agreement shall be considered severable as to such provision, which shall then be inoperative, but the remaining provisions shall be valid and binding

1. NOTICE

Any notice to be given hereunder shall be in writing and shall be delivered or sent by post to the relevant party at its registered or principal office or usual place of business and shall be deemed to have been given in the case of a notice which is delivered by hand when it is deposited at the appropriate address in the case of a notice sent by post forty-eight hours after the date on which a first class registered letter including such notice is posted

1. JURISDICTION

This Agreement shall be governed and construed and interpreted according to the [geographical jurisdiction under which this applies] and both [Entity Name] and the Recipient submit to the jurisdiction of the [legal body and/or arbitration body for the named jurisdiction]

**Signed for and on behalf of Signed for and on behalf of**

# [Entity Name] [Recipient]

Signature …………………………………………… Signature …………………………………………

Full Name……………………………………… Full Name………………………………………

Title ………………………………………. Title ………………………………………

Date …………………………………………… Date ……………………………………………

[it is advisable to specify dates in dd-mon-yyyy format, which is the international standard]