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**UNIVERSAL MUTUAL NON-DISCLOSURE AGREEMENT**

This mutual nondisclosure agreement is entered into on [agreementDate] **(**the **“Effective Date”**), between [firstcompany], a Delaware Corporation whose principal address is [address] and [counterpartyName], an [entity organized on under the laws of [counterpartyIncorporationState] [whose principal address is [counterpartyAddress] (each, a "**Party"**).

The parties wish to explore [a business opportunity of mutual interest and benefit [BusinessPurposeSpecificallyDefined], specifically concerning [definitionOfTheBusinessPurpose] [a customary opportunity of the type that the companies regularly engage in, such opportunity is not meant to encompass [exclusionsFromTheBusinessPurpose] (“**Purpose**”). In connection with the Purpose, the Parties may disclose to each other certain confidential technical and business information that the disclosing party desires the receiving party to treat as confidential.

The Parties therefore agree as follows:

**1. UNIVERSAL NDA**

1. **Universal NDA**. The Parties acknowledge and agree that, where noted, the clauses of this NDA are consistent with the terms of the so-called Universal NDA as of the Effective Date. The Parties agree that they will not seek to enforce the terms of this agreement in a materially different from manner those contained in the Universal NDA as of the Effective Date. The Universal NDA is available at: https://github.com/bitmovin/unda.
2. **Included Clauses.** This agreement contains the following Universal NDA Clauses: [Business Purpose;][Business Purpose Specifically Defined;][Business Purpose Excluding;][Confidential Information;][Confidentiality Information Specific Defined;]Exclusions; Obligation to Maintain Confidentiality; [Representatives;] [Representatives Specifically Defined;] Term: [term]; [Duration of Confidential Information;] Return of Property; No Obligation; No Warranty; Remedies; Choice of Law: [choiceOfLaw]; and Venue:[venue] [Where the Defendant Resides.]
3. **[Other Clauses.** This Agreement contains clauses beyond those contained in the Universal NDA.]

**2. CONFIDENTIAL INFORMATION.**

Each party (in such capacity, a “**Discloser**”) may disclose confidential or proprietary information to the other party (in such capacity, a “**Recipient**”). [“**Confidential Information**” means any information disclosed by either party to the other party, either directly or indirectly, in writing, orally, or by inspection of tangible objects that (a) the Disclosing Party identifies as confidential,proprietary, or similarly secret or protected, or (b) that reasonably appears to be confidential or proprietary because of legends or other markings, the circumstances of disclosure, or the nature of the information itself.] [Confidential Information includes, but is not limited to,[definitionOfConfidentialInformation].] Confidential Information may also include lawfully acquired third party confidential or proprietary information disclosed to the Receiving Party.

**3. EXCLUSIONS.**

The obligations and restrictions of this agreement do not apply to that part of the Confidential Information that:

* 1. was or becomes generally known to the public other than as a result of a disclosure by the Receiving Party in violation of this agreement;
  2. was known, without restriction as to use or disclosure, by the Receiving Party prior to receiving such information from the Disclosing Party;
  3. is rightfully acquired by the Receiving Party from a third party who has the right to disclose it and who provides it without restriction as to use or disclosure;
  4. is independently developed by the Receiving Party without use of any Confidential Information of the Disclosing Party; or
  5. is requested by any law enforcement agencies, judicially compelled (by valid and effective subpoena or order issued by either a court of competent jurisdiction), or is required by a regulatory body, to be disclosed. However, unless prohibited by force of law, the Receiving Party shall:

1. provide the Disclosing Party with prompt notice of any such request or requirement before disclosure so that the Disclosing Party may seek an appropriate protective order or other appropriate remedy; and
2. provide reasonable assistance to the Disclosing Party in obtaining any such protective order.

If the Receiving Party is nonetheless legally compelled or otherwise required to disclose, the Receiving Party will furnish only that portion of the Confidential Information that is legally required and shall make reasonable efforts to obtain reliable assurance that confidential treatment will be accorded any part of the Confidential Information so disclosed.

**4. OBLIGATION TO MAINTAIN CONFIDENTIALITY.**

**(a) Confidentiality.** The Receiving Party shall keep the Confidential Information confidential by maintaining at least industry standards of protection for this type of Confidential Information. Except as otherwise required by law, the Receiving Party may not:

1. disclose any Confidential Information to any person or entity other than a Receiving Party’s Representatives without the Disclosing Party’s prior written consent. Receiving Party’s “**Representatives**” are those persons, including its employees, agents, officers, and advisors which includes only [representativesDefined],]: (1) who needs to know the Confidential Information for the Purpose; (2) are bound to confidentiality obligations no less protective than this agreement that extend to the Confidential Information; and (3) from whom the Receiving Party remains responsible for compliance with the terms of this agreement;
2. use the Confidential Information other than for the Purpose.

**(b) No Reverse Engineering.** Except as allowed by law or otherwise agreed to by the parties in writing, the Receiving Party may not reverse engineer, disassemble, or decompile any prototypes, software, or other tangible objects that embody the Disclosing Party’s Confidential Information and that are provided to the Receiving Party under this agreement.

**[(c) Data Security.** A Recipient must establish and maintain data security procedures and other administrative, physical, and technical safeguards designed to: (i) protect the security, confidentiality, and integrity of Confidential Information; and (ii) prevent against the loss, theft, or other unauthorized access or alteration of all Confidential Information in Recipient’s possession or under its control. These safeguards must be as rigorous as accepted security standards in the industry and meet or exceed the requirements of applicable laws.]

**5. TERM AND DURATION.**

This Agreement will commence on the date first set forth above and will remain in effect for [term] years (“**Term**”). [The Receiving Party’s confidentiality obligations under this Agreement will survive indefinitely or until all Confidential Information disclosed during the Term becomes publicly known and made generally available through no action or inaction of the Receiving Party or Receiving Party’s Representatives.]

**6. RETURN OF PROPERTY.**

All documents and other tangible objects containing or representing Confidential Information that have been disclosed by either party to the other party, and all copies in the possession of the other party, are and will remain the property of the Disclosing Party. At the Disclosing Party’s request, the Receiving Party shall promptly return or destroy all of those documents or objects.

**7. NO OBLIGATION.**

Nothing in this agreement obligates either party to proceed with any transaction between them. Each party reserves the right, in its sole discretion, to terminate the discussions contemplated by this agreement concerning the business opportunity, if any, and to cease further disclosures, communications, or other activities under this agreement on written notice to the other party. Any commitment to proceed with a transaction will be set forth in a separate agreement signed by the parties.

**8. NO WARRANTY.**

ALL CONFIDENTIAL INFORMATION IS PROVIDED “AS IS.” NEITHER PARTY MAKES ANY WARRANTIES, EXPRESS, IMPLIED, OR OTHERWISE, REGARDING THE ACCURACY, COMPLETENESS, OR PERFORMANCE OF ANY SUCH INFORMATION.

**9. REMEDIES.**

Each party agrees that its obligations hereunder are necessary and reasonable in order to protect the disclosing party and the disclosing party’s business, and that monetary damages may be inadequate to compensate the disclosing party for any breach by the receiving party of any terms of this agreement. Accordingly, each party agrees that any breach or threatened breach of this agreement may cause irreparable injury to the disclosing party and that, in addition to any other remedies that may be available, the disclosing party may seek injunctive relief against the threatened breach of this Agreement or the continuation of any such breach, without the necessity of proving actual damages or posting bond in order to obtain a preliminary injunction. However, this shall not modify or abridge a moving party’s obligation to demonstrate harm in order to obtain a permanent injunction.

**10. MISCELLANEOUS.**

**(a) Choice of Law.** The laws of the state of [choiceOfLaw] govern this agreement (without giving effect to its conflicts of law principles).

**(b) Venue.** [Any suit to enforce this Agreement shall be brought exclusively in [venue] and the Parties hereby submit to the personal jurisdiction of such courts and waive any venue objection.] [The Parties irrevocably agree suit to enforce this Agreement shall be brought exclusively in the jurisdiction where the initial defendant in such action resides and waive any venue objection.]

**(c)**  **Survival**. Except as otherwise provided in this agreement, the preamble and sections 1 (Universal NDA), 2 (Confidential Information), 3 (Exclusions), 5 (Term and Termination), 9 (Remedies), and 9 (General) will survive termination of this agreement.

**(d) Notice**. All notices required or permitted under this agreement must be in writing and sent via electronic mail or overnight courier service (e.g., FedEx) to the addresses listed above or to such other address as may be specified in writing by either party.

(e) **Entire Agreement**. This agreement is the parties’ entire agreement regarding its subject matter and supersedes all previous agreements and communications (written or oral) relating to its subject matter. If any provision of this Agreement is found to be unenforceable, it (and related provisions) will be interpreted to best accomplish the parties’ intended purpose. Amendments to this agreement must be in writing and signed by both parties. Waivers must be signed by the waiving party and one waiver does not imply any future waiver. This agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together comprise a single instrument.

the Parties have executed this Mutual Non-Disclosure Agreement by their duly authorized officers or representatives as of the Effective Date first set forth above.

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| --- | --- | --- | --- |
| [FirstCompany] | | [counterpartyName] | |
| Signed: |  | Signed:[counterpartySignerSignature] |  |
| Name: |  | Name:[counterpartySignerName] |  |
| Title: |  | Title:[counterpartySignerTextField] |  |
| Date: |  | Date:[counterpartySignerDateField] |  |