

# MUTUAL NONDISCLOSURE AGREEMENT

THIS AGREEMENT is made this \_\_\_\_ Day of \_\_\_\_\_ 20\_\_ (the "Effective Date")

## BY AND BETWEEN

- 1) **Dublin Institute of Technology** of 143-146 Rathmines Road, Rathmines, Dublin 6, Ireland (hereinafter referred to as "DIT") and;
- 2) \_\_\_\_\_, having offices at \_\_\_\_\_ (hereinafter referred to as "Third Party").

(The aforesaid organisations are hereinafter referred to individually as "Party" and collectively as "the Parties").

IT IS HEREBY AGREED as follows:

1. **Purpose.** DIT and Third Party wish to explore a business opportunity under which each may disclose its Confidential Information to the other, related to \_\_\_\_\_

2. **Definition. "Confidential Information"** means any information, technical data, or know-how, including, but not limited to, research, product plans, products, services, customers, markets, software, developments, source code, object code, inventions, processes, novel methodologies, designs, drawings, engineering specifications, hardware configuration information, market data or financial information, which is designated in writing to be "confidential" or "proprietary", or if given orally, is confirmed in writing within fourteen (14) days of disclosure as having been disclosed as "confidential" or "proprietary."

Confidential Information does not include information, technical data or know-how which:

- i. was in the public domain at the time it was disclosed or falls within the public domain, except through fault of the receiving party; or
- ii. was known to the party receiving it at the time of disclosure as evidenced by the receiving party's written record; or
- iii. was disclosed after written approval of the disclosing party; or
- iv. becomes known to the receiving party from a source other than the disclosing party without breach of this Agreement by the receiving party provided that such source was not known by the receiving party to be bound by a confidentiality agreement with or other contractual, legal or fiduciary obligation of confidentiality to the disclosing party or any other party with respect to such information; or
- v. is disclosed to third parties by the disclosing party without a duty of confidentiality; or
- vi. was independently developed by the receiving party without the benefit of data received from the disclosing party, as evidenced by the receiving party's written record.

3. **Non-Use and Non-Disclosure of Confidential Information.** DIT and Third Party agree not to use the Confidential Information disclosed to it by the other party for its own use or for any purpose except to carry out discussions concerning, and the undertaking of, any business relationship between the two. Neither party will disclose any Confidential Information of the other party to third parties except those directors, officers, employees, consultants and agents who are required to have the information in order to carry out the discussions of the contemplated business relationship. Each party has had or will have those directors, officers, employees, consultants and agents to whom Confidential Information of the other party is disclosed or who have access to Confidential Information of the other party sign a Non-Disclosure Agreement in content substantially similar to this Agreement. Each party agrees that it will take all reasonable measures to protect the secrecy of and avoid disclosure or use of Confidential Information of the other party in order to prevent it from falling into the public domain or the possession of persons other than those persons authorized hereunder to have any such information, which measures shall include the highest degree of care that either party utilizes to protect its own Confidential Information of a similar nature. Each party agrees to notify the other party in writing of any misuse or misappropriation of such Confidential Information of the other party that may come to its attention. Neither party shall reverse engineer, disassemble or decompile any prototypes, software or other tangible objects which embody the other party's Confidential Information and which are provided to the party hereunder.

4. **Mandatory Disclosure.** In the event that either party or their respective directors, officers, employees, consultants or agents are requested or required by legal process to disclose any of the Confidential Information of the other party, the party required to make such disclosure shall give prompt notice so that the other party may seek a protective order or other appropriate relief. In the event that such protective order is not obtained, the party required to make such disclosure shall disclose only that portion of the Confidential Information which its counsel advises that it is legally required to disclose.

5. **Return of Materials.** Any materials or documents of which have been furnished by one party to the other will, upon request, be returned within fourteen (14) days, accompanied by all copies of such documentation, after the business relationship has been rejected or concluded.

6. **No License Granted.** Nothing in this Agreement is intended to grant any rights to either party under any patent, copyright, trade secret or other intellectual property right nor shall this Agreement grant either party any rights in or to the other party's Confidential Information, except the limited right to review such Confidential Information solely for the purposes of determining whether to enter into the proposed business relationship between the parties.

7. **Term.** The foregoing commitments of either party in this Agreement shall survive any termination of discussions between the parties, and shall continue for a period of five (5) years from the Effective Date of this Agreement.

8. **Miscellaneous.** This Agreement shall be binding upon and for the benefit of the undersigned parties, their successors and assigns, provided that, Confidential Information of either party may not be assigned without the prior written consent of the disclosing party. Failure to enforce any provision of this Agreement shall not constitute a waiver of any term hereof.

9. **Governing Law and Jurisdiction.** This Agreement shall be governed by and construed and enforced in accordance with the laws of Ireland and the Irish courts shall have exclusive jurisdiction in relation to disputes related to this agreement.

10. **Remedies.** Each party agrees that its obligations hereunder are necessary and reasonable in order to protect the other party and the other party's business, and expressly agrees that monetary damages may be inadequate to compensate the other party for any breach by either party of any covenants and obligations set forth herein. Accordingly, each party agrees and acknowledges that any such violation or threatened violation will cause irreparable injury to the other party and that, in addition to any other remedies that may be available, in law, in equity or otherwise, the other party shall be entitled to seek injunctive relief against the threatened or actual breach of this Agreement or the continuation of any such breach.

11. **No Obligation.** Nothing herein shall obligate either party to proceed with any transaction between them, and each party reserves the right, in its sole discretion, to terminate the discussions contemplated by this Agreement concerning the business opportunity.

12. **No Warranty.** All Confidential Information is provided "As is". Each Party makes no warranties, express, implied or otherwise, regarding its accuracy, completeness or performance.

EXECUTED by the Parties to this Agreement

SIGNED BY:

For and on behalf of: **Third Party**

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Date: \_\_\_\_\_

SIGNED BY:

For and on behalf of: **Dublin Institute of Technology**

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Date: \_\_\_\_\_