

DESIGN NON-DISCLOSURE AGREEMENT (NDA)

1. **THE PARTIES.** This Design Non-Disclosure Agreement, hereinafter known as the "Agreement," created this _____, is by and between _____, hereinafter known as the "1st Party," and _____, hereinafter known as "2nd Party," and collectively known as the "Parties."

WHEREAS, this Agreement is created for the purpose of preventing the unauthorized disclosure of confidential and proprietary information (the "Confidential Information"). The Parties agree as follows:

2. **TYPE OF AGREEMENT.** Check one of the below:

- **Unilateral** – This Agreement shall be Unilateral, whereas the 1st Party shall have sole ownership of the Confidential Information with the 2nd Party being prohibited from disclosing Confidential Information that is to be released by the 1st Party.
- **Mutual** – This Agreement shall be Mutual, whereas the Parties shall be prohibited from disclosing Confidential Information that is to be shared between one another.

3. **RELATIONSHIP.** The 1st Party's relationship to the 2nd Party can be described as _____ and the 2nd Party's relationship to the 1st Party can be described as _____.

4. **DEFINITION.** For the purposes of this Agreement, Confidential Information shall include, but not be limited to, documents, records, information and data (whether verbal, electronic or written), drawings, models, apparatus, sketches, designs, schedules, product plans, marketing plans, technical procedures, manufacturing processes, analyses, compilations, studies, software, prototypes, samples, formulas, methodologies, formulations, product developments, patent applications, know-how, experimental results, specifications, and other business information relating to the Party's business, assets, operations, or contracts furnished to the other Party and/or the other Party's affiliates, employees, officers, owners, agents, consultants, or representatives in the course of their work contemplated in this Agreement, regardless of whether such information has been expressly designated as confidential or proprietary. Confidential Information also includes any and all, work products, studies, and other material prepared by or in the possession or control of the other Party, which contain, include, refer to, or otherwise reflect or are generated from any Confidential Information.

However, Confidential Information does not include:

- a) information generally available to the public;
- b) widely used programming practices or algorithms;
- c) information rightfully in the Parties possession prior to signing this Agreement; and
- d) information independently developed without the use of any Confidential Information.

5. **OBLIGATIONS.** The obligations of the Parties shall be to hold and maintain the Confidential Information in the strictest of confidence at all times and to their agents, employees, representatives, affiliates, and any other individual or entity that is on a "need to know" basis. If any such Confidential Information shall reach a third (3rd) party, or become public, all liability will

be on the Party that is responsible. Neither Party shall, without the written approval of the other Party, publish, copy, or use the Confidential Information for their sole benefit. If requested, either Party shall be bound to return any and all materials to the requesting Party within ____ days.

This Section shall not apply to the 1st Party if this Agreement is Unilateral as marked in Section 2.

6. **TIME PERIOD.** The bounded Party's(ies') duty to hold the Confidential Information in confidence shall remain in effect until such information no longer qualifies as a trade secret or written notice is given releasing such Party from this Agreement.
7. **INTEGRATION.** This Agreement expresses the complete understanding of the Parties with respect to the subject matter and supersedes all prior proposals, agreements, representations, and understandings. This Agreement may not be amended except in writing with the acknowledgment of the Parties.
8. **SEVERABILITY.** If a court finds that any provision of this Agreement is invalid or unenforceable, the remainder of this Agreement shall be interpreted so as best to affect the intent of the Parties.
9. **ENFORCEMENT.** The Parties acknowledge and agree that due to the unique and sensitive nature of the Confidential Information, any breach of this Agreement would cause irreparable harm for which damages and/or equitable relief may be sought. The harmed Party in this Agreement shall be entitled to all remedies available at law.
10. **GOVERNING LAW.** This Agreement shall be governed under the laws in the state of _____.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date written below.

1st Party's Signature: _____ Date: _____

Print Name: _____

2nd Party's Signature: _____ Date: _____

Print Name: _____