

NON-DISCLOSURE AGREEMENT

THIS NON-DISCLOSURE AND RESTRICTED USE AGREEMENT (hereinafter referred to as “**Agreement**”) is entered by and between

- (1) [INSERT NAME], a company located at [INSERT ADDRESS], Finland and incorporated under the laws of [INSERT STATE (e.g. for USA) OR COUNTRY], (hereinafter referred to as “[INSERT COMPANY NAME]”)
- (2) [INSERT NAME], a company located at [INSERT ADDRESS] and incorporated under the laws of [INSERT STATE (e.g. for USA) OR COUNTRY], (hereinafter referred to as “[INSERT COMPANY NAME]”)
- (3) [INSERT NAMES OF FURTHER PARTIES TO THE AGREEMENT, REPLICATING THIS CLAUSE AS MANY TIMES AS NECESSARY], a company located at [INSERT ADDRESS] and incorporated under the laws of [INSERT STATE (eg. for USA) or COUNTRY], (hereinafter referred to as “[INSERT COMPANY NAME]”)
both hereinafter referred to as “**Party**” or “**Parties**” respectively.

WHEREAS The Parties acknowledge the importance of a constructive business relationship to plan and optimize their long term commercial relationship, for their mutual benefits that will be derived therefrom.

WHEREAS The Parties have since [] been engaged in discussions regarding a possible collaboration project in relation to [INSERT PURPOSE/TOPIC] (hereinafter referred to as “**Purpose**”);

WHEREAS the Parties acknowledge that the Purpose may be subject to change as the discussions progress;

WHEREAS In relation to the Purpose, information has been and will be disclosed by either or both Parties or any Related Company of a Party;

WHEREAS The Parties agree that this Agreement will also cover any such disclosure of Confidential Information (as defined below) regarding the Purpose made prior the date of signature of this Agreement;

WHEREAS The Parties want to ensure that such information, which each may disclose to the other, or which information has been disclosed prior to the date of signature of this Agreement, is used only for the Purpose and protected from further disclosure.

NOW, THEREFORE, the Parties hereby agree on the preceding premises as follows:

ARTICLE 1 - DEFINITIONS

In this Agreement unless the context otherwise requires:

“**Confidential Information**” shall mean *any* information or data or both, or the substance or existence of this Agreement or the discussions concerning the Purpose or Agreement, whether communicated by or on behalf of the Disclosing Party (or by or on behalf of any Related Company

of the Disclosing Party) to the Receiving Party, or to the Related Company of the Receiving Party, disclosed before, on or after the date of signature of this Agreement, including but not limited to, any kind of business, commercial or technical information and data in connection with the Purpose except for information which is demonstrably non-confidential in nature. The information shall be Confidential Information irrespective of the medium in which that information or data is embedded and if the Confidential Information is disclosed orally, visually or otherwise. Confidential Information shall include any copies or abstracts made of it as well as any products, apparatus, modules, samples, prototypes or parts that may contain or reveal the Confidential Information.

“Disclosing Party”

shall mean the Party disclosing Confidential Information to the Receiving Party.

“Permitted Recipients”

shall mean any director, officer, employee, adviser, or auditor of the Receiving Party or any of its Related Companies who reasonably needs to know Confidential Information for the Purpose.

“Receiving Party”

shall mean the Party receiving Confidential Information from the Disclosing Party.

“Related Company”

shall mean any corporation, company or other entity, which controls, or is controlled by one Party or is under common control with a Party, where control shall mean the holding of the voting majority or possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an entity, whether through the ownership of voting securities, by contract, or otherwise.

ARTICLE 2 - OBLIGATIONS OF CONFIDENTIALITY AND RESTRICTIVE USE

Unless otherwise agreed between the Parties, the Receiving Party shall:

- a) not disclose any Confidential Information to anyone except to the Permitted Recipients, which are bound to the same level of confidentiality obligations as set forth by this Agreement, and which the Receiving Party shall be responsible for;
- b) use any Confidential Information exclusively for the Purpose; and
- c) keep confidential and hold all Confidential Information with no less a degree of care as is used for the Receiving Party's own confidential information and such care meets at least reasonable standards of prudence.

ARTICLE 3 - EXCLUSIONS FROM OBLIGATIONS TO KEEP CONFIDENTIAL AND RESTRICTIVE USE

The obligations under Article 2 to keep confidential all Confidential Information shall not apply to the extent that the Receiving Party can prove, that information:

- a) was in public domain at the time of disclosure without violation of confidence by the Receiving Party; or
- b) became part of public domain after such disclosure by publication or otherwise, without violation of confidence by the Receiving Party or any Permitted Recipient; or
- c) was in the Receiving Party's possession at the time of such disclosure ; or
- d) was lawfully obtained by the Receiving Party from a third party without an obligation of confidentiality, provided that third party is not, to the Receiving Party's best knowledge, in breach of any obligation of confidentiality to the Disclosing Party relating to that information; or
- e) was developed by the Receiving Party or its Related Companies independently without resort to the disclosed Confidential Information.

ARTICLE 4 - CODE OF CONDUCT AND GOOD FAITH

This Agreement is supplemental to the House Rules and their principles shall be interpreted in connection with this. The Parties agree to observe the behaviours in the House Rules and work together in a collaborative manner in all things including this Agreement. As such, each Party shall be reasonable in allowing copies to be made where necessary or respecting a Party's refusal to accept information where the refusal does not go against the Purpose.

ARTICLE 5 - NO WARRANTY

The Disclosing Party makes available the Confidential Information "as is" basis and does not warrant that any of this information it discloses is complete, accurate, free from defects or third party rights, or useful for the Purpose or other purposes of the Receiving Party.

ARTICLE 6 - NO FURTHER OBLIGATIONS

This Agreement does not:

- a) create a partnership, joint venture or any other business relationship or undertaking between the Parties; or
- b) oblige a Party to enter into any other agreement.
- c) require consideration for any information received;
- d) affect the rights of the Disclosing Party; or
- e) provide the Receiving Party with any right or license under any patents, copyrights, trade secrets, or the like in relation to the Confidential Information except for the use of Confidential Information in connection with the Purpose and in accordance with this Agreement.

ARTICLE 7 - TERM AND TERMINATION

This Agreement enters into force by signing of both Parties and supersedes all prior communications and understandings between the Parties regarding the Purpose. This Agreement will terminate automatically in either of the following situations:

- i.) the Parties decide to go no further in the collaboration originally intended when this agreement was signed; or
- ii.) if the Parties enter into a Collaboration Agreement, this agreement will terminate at the same time as the Collaboration Agreement;

Unless so terminated, termination shall occur automatically [3 years after the date that this agreement is signed].

Following termination, either Party may request the disposal of the Confidential Information, the details and timescale of which shall be agreed between the Parties.

ARTICLE 8 - SURVIVAL OF OBLIGATION

Upon termination, the Receiving Party shall stop making use of the Confidential Information. The obligations of the Parties under this Agreement shall survive for [three years] from the date of termination.

ARTICLE 9 - BREACH AND REMEDIES

In addition to any remedies under the applicable law, the Parties recognize that any breach or violation of any provision of this Agreement may cause irreparable harm to the other Party or its Related Company, which monetary damages may not necessarily remedy. Upon any actual or impending violation of any provision of this Agreement, either Party may obtain from any court of competent jurisdiction a preliminary, temporary or permanent injunctive relief to, restrain any unauthorised use or disclosure of Confidential Information, and such entitlement, if warranted, will be in addition to all other remedies available to that Party in law or equity.

ARTICLE 10 - MANDATORY OBLIGATION

Neither Party shall be in breach of this Agreement to the extent that it can show that any disclosure of Confidential Information was made solely and to the extent necessary to comply with a statutory, judicial or other obligation of a mandatory nature, afterwards referred to as "**Mandatory Obligation**". Where a disclosure is made for these reasons, the Party making the disclosure shall ensure that the recipient of the Confidential Information is made aware of and asked to respect its confidentiality. This disclosure shall in no way diminish the obligations of the Parties under this Agreement except to the extent that a Party is compelled by any Mandatory Obligation to disclose Confidential Information without restriction.

To the extent permitted by any Mandatory Obligation, the Receiving Party shall notify the other Party without delay in writing as soon as it becomes aware of an enquiry or any process of any description that is likely to require disclosure of the other Party's Confidential Information in order to comply with any Mandatory Obligation.

ARTICLE 11 - DISPUTE RESOLUTION

All disputes arising out of or in connection with this Agreement shall be finally settled under the

Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with those Rules. The venue for arbitration shall be Helsinki, Finland, and the language of arbitration shall be English.

ARTICLE 12 - APPLICABLE LAW

This Agreement is governed by and shall be construed in accordance with the substantive laws of Finland.

ARTICLE 13 - NO ASSIGNMENT

This Agreement may not be assigned by either Party without the prior written consent of the other Party, which shall not unreasonably be withheld. No assignment shall relieve a Party of its obligations under this Agreement with respect to Confidential Information disclosed to that Party prior to the agreed assignment.

ARTICLE 14 - WRITTEN FORM

This Agreement may not be modified or amended except in writing and signed by authorized representatives of the Parties.

In witness whereof the duly authorized representatives of the Parties have executed this Agreement on the day and year written below.

On behalf of [COMPANY]

On behalf of [COMPANY]

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____