

**CONFIDENTIALITY & NON-DISCLOSURE AGREEMENT**

EFFECTIVE DATE: **INSERT**

**BETWEEN:**

- (1) **MSLGROUP Americas, LLC.**, with its principal place of business at 1675 Broadway, New York, NY 10019, on behalf of itself and its directors, officers and employees (“**MSL**”).
- (2) **INSERT**, with its principal place of business at **INSERT**, on behalf of itself and its directors, officers, employees, agents and contractors (“**Company**”).

Each a “**Party**” and collectively the “**Parties**”.

**RECITALS:**

**WHEREAS** the Parties are discussing certain matters in relation to **INSERT DESCRIPTION** which may require each Party to disclose certain proprietary, secret or confidential information to the other Party (the “**Project**”); and

**WHEREAS** the Party disclosing information shall hereinafter be referred to as the “**Disclosing Party**” and the Party receiving such information shall hereinafter be referred to as the “**Receiving Party**”.

**NOW, THEREFORE**, in consideration of the premise and the mutual covenants contained in this Agreement, the Parties hereto agree as follows:

**OPERATIVE PROVISIONS:**

1. This Agreement is deemed to be effective as of the Effective Date shown above.
2. “**Confidential Information**” means any and all technical, business, financial, operational or other oral or written information or data disclosed by either Party to the other in relation to the Project and any discussions the Parties may have relating to the Project and/or each Party’s or their affiliate’s or their clients’ business, marketing strategies, customers, clients, operational and other financial matters including all management accounts and other financial information. The existence of these discussions and any information given by either Party to the other relating to the foregoing is to be considered to be Confidential Information. “Confidential Information” shall also include, without limitation, any creative work, technical specifications, design plans, drawings, software, data, prototypes or other business and/or technical information, without regard to whether such Confidential Information is disclosed in oral, written, electronic, or visual form, and which is disclosed by either Party to the other and which may be proprietary to the Disclosing Party, any affiliate of the Disclosing Party or any of their clients, contractors, agents or licensors.
3. For the purposes of this Agreement, all references to “affiliates” of a Party shall mean any company that owns, is owned by or is under common ownership with such Party.
4. In consideration of the mutual benefits arising from the Project and subject to the express terms set out in this Agreement, the Receiving Party hereby agrees that it will:
  - (a) treat and safeguard all Confidential Information as private and confidential;
  - (b) not at any time disclose or reveal Confidential Information to any person, agency or other third party whatsoever, except to its personnel or, with the Disclosing Party’s written consent, authorized representatives (e.g. attorneys, temps, consultants, accountants and contractors) assisting with the Project;
  - (c) not to copy, reproduce or distribute, in whole or in part, Confidential Information except for its authorized internal purposes; and
  - (d) not use Confidential Information other than for the purposes for which it is disclosed, being the Project.
5. The Receiving Party shall be entitled to disclose any Confidential Information to such of its directors, officers, and employees who are directly concerned with the Project and whose knowledge of such information is necessary for the Project. The Receiving Party shall ensure that each person to whom such a disclosure is made adheres to the terms of this undertaking as if he or she were a Party hereto. In the case

of Company, any disclosure of Confidential Information to any affiliate of Company shall only be permitted provided that the affiliate has entered into an agreement with MSL on the same terms set out herein.

6. The undertakings set out in this Agreement do not apply to Confidential Information:
  - (a) which becomes generally available to the public after disclosure hereunder other than through any act, neglect, omission or breach of this Agreement by the Receiving Party; or
  - (b) which was lawfully in the Receiving Party's possession prior to such disclosure, as evidenced by written records and which was not acquired directly or indirectly by the Receiving Party from the Disclosing Party or otherwise in breach of this Agreement; or
  - (c) which is or was independently developed by the Receiving Party; or
  - (d) is disclosed by the Receiving Party to satisfy a legal demand by a competent court of law, or governmental body ("**Government Authorities**") or valid legal requirements of any applicable stock exchange, provided however that in these circumstances the Receiving Party shall advise the Disclosing Party prior to disclosure so that the Disclosing Party has an opportunity to defend, limit or protect against such production or disclosure; provided further that the Receiving Party will disclose only that portion of the Confidential Information which is legally required to be disclosed and the Receiving Party will exercise its reasonable efforts to obtain a protective order or other reliable assurance from such Government Authorities or stock exchange that confidential treatment will be accorded to any Confidential Information required to be disclosed.
7. It is further understood and agreed that failure by either Party in exercising any right, power or privilege hereunder shall not act as a waiver hereunder nor shall any single or partial exercise thereof preclude any further exercise of any right or privilege.
8. Apart from the limited rights described in this Agreement, each Party acknowledges that it shall not be entitled to any right or licence in respect of the Confidential Information which it receives from the other Party. The Receiving Party will return to the Disclosing Party immediately upon demand all Confidential Information (and all copies thereof) and, except for its authorized internal use purposes, will not copy, reproduce, publish, distribute or impart, in whole or in part, any Confidential Information without the Disclosing Party's prior written consent. The rights to use or otherwise exploit the Confidential Information shall be agreed by the Parties in a separate agreement and will be subject to mutual agreement on equitable compensation for each Party.
9. All materials (including, without limitation, documents, drawings, sketches, designs and lists) furnished to Receiving Party by Disclosing Party shall remain the property of Disclosing Party and shall be returned to it within ten (10) business days of request therefore, together with any copies thereof.
10. If either Party discovers or becomes aware of any unauthorised disclosure of Confidential Information it will immediately notify the other Party and promptly take all commercially reasonable actions to prevent further disclosure.
11. The Receiving Party acknowledges and agrees that the Confidential Information is disclosed without warranty of any kind including, without limitation, as to its accuracy or completeness or as to whether it infringes the rights of any third parties or not.
12. Each Party acknowledges and agrees that the other Party shall be entitled to seek a court injunction in the event of any breach of the terms of this Agreement in order to prevent further breaches of this Agreement by the Party in default.
13. This Agreement constitutes the entire agreement and understanding between the Parties in respect of the Confidential Information and supersedes all previous agreements, understandings and previous discussions between the Parties. It may only be varied by a further agreement signed by authorized representatives of the Parties.
14. In the event that any provision or portion of this Agreement is determined to be invalid or unenforceable for any reason, in whole or in part, the remaining provisions of this Agreement shall be unaffected thereby and shall remain in full force and effect to the fullest extent permitted by applicable law.



Influence. Impact.

- 15. This Agreement is personal to the Parties and shall not be assigned or otherwise transferred in whole or in part without the prior written consent of the other Party (such consent not to be unreasonably withheld).
- 16. The Parties agree to treat as confidential under the terms of this Agreement, the subject matter or substance of any discussions or negotiations between the Parties regarding the Project and the terms of any proposed arrangements or agreements. The Parties agree that each shall not, and shall not permit any of its affiliates, subsidiaries, persons, or other entities or their professional advisers to make any public announcements about the discussions regarding such arrangements or agreements and any other business and operating plans being discussed or negotiated, whether in the form of press release or otherwise, without first consulting with the other Party and obtaining its written consent.
- 17. Each Party represents and warrants that it is a corporation duly organized and validly existing in the jurisdiction of its incorporation. Each Party represents that it has full corporate power and authority to enter into this Agreement and to do all things necessary for the performance of this Agreement.
- 18. The Parties agree that this Agreement, continuing discussions, future exchange of Confidential Information and non-confidential information, past or future correspondence (including without limitation, correspondence indicating interest or intent), and any other communications between the Parties shall not commit either Party to continue discussions or negotiate, or be legally binding as an informal agreement or agreement to agree to a potential business relationship. The only way the Parties shall be bound to a business relationship, if at all, shall be by a mutually satisfactory and definitive written agreement signed by both Parties. Any research and development, prototyping, or other action or expense which either Party takes or incurs in anticipation of a business relationship being consummated shall be entirely at the acting Party's risk and expenses and shall not impose any liability on the other Party.
- 19. This Agreement controls only Confidential Information which is disclosed between the Effective Date and two (2) years from the Effective Date ("Disclosure Period"). A Receiving Party's duty to protect Confidential Information disclosed under this Agreement shall expire three (3) years after the end of the Disclosure Period.
- 20. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one agreement. The exchange of a fully executed Agreement (in counterparts or otherwise) by facsimile or by email PDF or similar format shall bind the Parties to the terms and conditions of this Agreement with the same force and effect as if such facsimile, PDF, or other similar format were an original signed copy of this Agreement.
- 21. This Agreement shall be governed by and constructed in accordance with New York law and each Party agrees to submit to the exclusive jurisdiction of the New York courts for all purposes relating to this Agreement.

SIGNED by the Parties on the date set out above.

For and on behalf of  
MSLGROUP AMERICAS, INC.

For and on behalf of  
**INSERT**

By: \_\_\_\_\_

By: \_\_\_\_\_

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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