MUTUAL NON-DISCLOSURE AGREEMENT

NDA 2019-XXX

Between [Company Name, Legal representative]

Having its principal place of business at XXXXXXXXXXXXXXXXXX, registered in the XXXXXXXXXXXXXXXX and Companies Register under the number XXXXXXXXXX

, and **[Institution Name], legally represented by, [Legal representative]**

Having its principal place of business at XXXXXXXXXXXXXXXXXX, registered in the XXXXXXXXXXXXXXXX and Companies Register under the number XXXXXXXXXX

This Mutual Non-Disclosure Agreement is made between the parties signed below. WHEREAS, for the purpose of facilitating a business relationship (the “Relationship”) between the parties, and in particular, developing business plans, technology, equipment, or systems, soliciting financing, or preparing proposals for supply of equipment and/or services (the “Business Partnership”), each party will gain access to proprietary and confidential information (hereinafter individually and collectively referred to as the “Information”) belonging to the other, which Information may include, without limiting the generality of the foregoing, financial data, business plans, trade secrets, know-how, documents, specifications, applications, software or other technology.

**THEREFORE, the parties hereto agree as follows:**

1. The Information, and all rights, title, and interest thereto, including without limitation all copyright, patent, trademark, trade secret, know-how, data or other intellectual property rights, shall remain the property of the disclosing party or its licensor (the “Disclosing Party”). The party receiving the Information (the “Recipient”) shall not reproduce, or directly or indirectly disclose or allow access to the Information to any third party. The Recipient shall use the Disclosing Party’s Information only for the Business Partnership and for no other purpose whether for its own benefit or for the benefit of any third party.
2. The Recipient shall monitor access to the Information, protect the confidentiality of the Information and prevent unauthorized use of the Information of the Disclosing Party with at least the same diligence and care with which to protect the confidentiality of its own Information, but in no case less than a reasonable degree of care.
3. In any event, the Recipient shall disclose the Information of the Disclosing Party only to those of its own agents or employees who require the Information for the purpose of the Business Partnership and who have a signed confidentiality agreement or are otherwise bound by confidentiality obligations at least as restrictive as those contained herein. Prior to disclosing the Information of the Disclosing Party to its own agents or employees, Recipient shall issue appropriate instructions to satisfy its obligations under this Mutual Non-disclosure Agreement. The Recipient, however, will remain fully liable for the breach of its obligations caused by the actions or omissions of any of its agents or employees.
4. The Recipient shall, at any time, on demand, provide and acquaint the Disclosing Party with all Information entrusted by the Disclosing Party to the Recipient receiving the demand.
5. Each item disclosed shall remain confidential for duration of ten (10) years.
6. Upon termination, for any reason, of the Relationship, or upon request of the Disclosing Party, Recipient shall promptly return to the Disclosing Party all Information belonging to the Disclosing Party and copies thereof, or shall destroy such Information, including copies, as directed by the Disclosing Party.
7. Recipient shall not be liable for disclosure of the Information which Recipient can prove occurred as a result of one or more of the following events:
8. The Information enters the public domain other than through a breach of this Mutual Non-disclosure Agreement;
9. The Information is subsequently lawfully obtained by the Recipient from a third party or parties without a breach of this Mutual Non-disclosure Agreement and the Recipient has written proof of such fact;
10. The Information was known to the Recipient, as evidenced by written documents, prior to its initial disclosure by the Disclosing Party;
11. The Information is independently developed by the Recipient;
12. The Disclosing Party has provided prior express written approval to the Recipient for disclosure of the Information; or
13. The Information was compelled by an order by a court or other governmental body, or was otherwise required by law, provided the Recipient provides the Disclosing Party with prompt notice of any efforts to compel disclosure and reasonably cooperates with the Disclosing Party’s lawful attempts to prevent disclosure or to obtain a protective order.
14. The Information was necessary to establish the rights of either party under this Mutual Non-disclosure Agreement.
15. Recipient shall immediately notify the Disclosing Party upon discovery of any loss or unauthorized disclosure of the Information of the Disclosing Party.
16. This Mutual Non-disclosure Agreement shall be governed by, and construed and enforced solely and exclusively in accordance with, the laws of the [Country Name], Court of Justice, in [City Name] without reference to conflict of laws principles. Any and all controversies, claims or disputes arising under or in connection with this Mutual Non-disclosure Agreement shall be brought and resolved solely, exclusively and finally in the courts located in [City Name]. Each party hereby irrevocably consents to the jurisdiction of such courts and agrees to accept service of process in connection with any actions therein. Any and all judgments of the [Name of Court of Justice] courts may be entered and enforced against the parties wherever they or their assets are located.
17. Each party acknowledges that its breach of the Mutual Non-disclosure Agreement may cause irreparable damage and hereby agrees that, notwithstanding Section 8 above, the other party shall be entitled to seek, whenever it deems appropriate, injunctive relief under this Mutual Non-disclosure Agreement, as well as such further relief as may be granted by a court of competent jurisdiction.
18. The Information is and shall remain the property of the Disclosing Party. By disclosing the Information to the Recipient, the Disclosing Party does not grant any express or implied right to the Recipient to or under any patent, copyrights, trademarks, or trade secret information except as otherwise provided herein. The Disclosing Party reserves without prejudice the ability to protect its rights under any such patents, copyrights, trademarks, or trade secrets except as otherwise provided herein.
19. If any provision of this Mutual Non-disclosure Agreement is found by a proper authority to be unenforceable or invalid such unenforceability or invalidity shall not render this Mutual Non-disclosure Agreement unenforceable or invalid as a whole and in such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law or applicable court decisions.
20. Neither party shall communicate any information to the other in violation of the proprietary rights of any third party.
21. Neither party will assign or transfer any rights or obligations under this Mutual Non-disclosure Agreement without the prior written consent of the other party.
22. Any notice required or permitted to be given by either party under this Mutual Non-disclosure Agreement shall be in writing and shall be personally delivered or sent by commercial courier service, or by first class mail (certified or registered), or by facsimile (provided that the sender received an electronic answer-back code confirming transmission and also sends an original by any of the other means specified in this Section), to the other party at its address as has been supplied hereunder by the parties hereto. If mailed, notices will be deemed effective six (6) working days after deposit, postage prepaid, in the mail.
23. Each of the parties agrees that the software programs of the other party contain valuable confidential information and each party agrees it will not modify, reverse engineer, decompile, create other works from, or disassemble any software programs contained in the Information of the other party without the prior written consent of the other party. Unless otherwise agreed by the parties, all such software programs are provided “AS IS” without warranty of any kind, and Recipient agrees that neither the Disclosing Party nor its suppliers shall be liable for any damages whatsoever arising from or relating to Recipient’s use or inability to use such software programs.
24. Either party may terminate this Mutual Non-disclosure Agreement with or without cause upon ninety (90) days written notice to the other party. All sections of this Mutual Non-disclosure Agreement relating to the rights and obligations of the parties concerning the Information disclosed during the term of the Mutual Non-disclosure Agreement shall survive any such termination.
25. This Mutual Non-disclosure Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof. It shall not be modified except by a written agreement dated subsequent to the date of this Mutual Non-Disclosure Agreement and signed by both parties. None of the provisions of this Mutual Non-disclosure Agreement shall be deemed to have been waived by any act or acquiescence on the part of the Disclosing Party, the Recipient, their agents, or employees, but only by any instrument in writing signed by an authorized employee of the Disclosing Party and the Recipient. No waiver of any provision of this Mutual Non-disclosure Agreement shall constitute a waiver of any other provision(s) or of the same provision on another occasion.

IN WITNESS WHEREOF, the parties have caused this Mutual Non-disclosure Agreement to be executed on the date below

**Company: Institution:**

**XXXXXXXXXXXXXX XXXXXXXXXXXXXXX**