

## NON-DISCLOSURE AGREEMENT

This Agreement is entered into on this \_\_\_\_\_ day of \_\_\_\_\_, at Mumbai between \_\_\_\_\_ having its office at \_\_\_\_\_ (hereinafter referred to as “Receiving Party”) and P. N. Writer & Co. Pvt. Ltd., a company incorporated under the Companies Act, 1956 having its registered office at 105, Dr. B. Ambedkar Road, Mumbai, 400 033 (hereinafter referred to as “Disclosing Party”).

Whereas pursuant to the discussions in connection with the possibility of a \_\_\_\_\_ the Disclosing Party intends to disclose or has disclosed certain confidential and proprietary information (hereinafter referred to as “Information”).

And whereas it is the intention of the parties that Information should not be disclosed to third parties and or the press without prior written consent of the Disclosing party.

And whereas for the protection of such Information, the parties have decided to enter into this Non-Disclosure agreement (hereinafter referred to as the “this Agreement”) on the terms and conditions as mentioned hereinafter.

**IN CONSIDERATION** of Receiving Party’s access to Disclosing Party’s information each Party agrees to the following terms and conditions.

1) “Information” means

- (i) all information and data which is obtained or has been obtained, whether in writing, visually, pictorially, in machine readable form or orally in connection with the aforesaid discussions and possible execution of Agreement including but without limitation to financial information, know-how, processes, ideas (whether

patentable or not), marketing data, any information or data relating to personnel, staff and employees, financial information, sources of supply, technologies, software, data, products, know how, product specifications, current and future product marketing plans, current and future research and development, customers, potential customers, business affairs, and product characteristics and specifications, schematics, trade secrets, technology, network architecture, customer lists (potential or actual) and other customer-related information, supplier information, sales statistics, market intelligence, marketing and other business model/strategies and other commercial information of a confidential nature; and

- (ii) but does not include information which
  - (a) is or becomes publicly available, other than as a result of a breach of this Agreement, or
  - (b) was in the receiving Party's ("Receiving Party's") possession prior to receipt from the disclosing Party ("Disclosing Party"), or
  - (c) is approved for release or use by written authorisation from the Disclosing Party for the purpose for which it is related, or
  - (d) is required to be disclosed under any relevant law or regulation provided the affected Party is given prompt notice of such requirement and the scope of such disclosure is limited to the extent possible, or
  - (e) is required to be disclosed by an order of court, provided that the Disclosing Party is given prompt notice of such order and (where possible) provided the opportunity to contest it.
- 2) Receiving Party disclose Information to its officer, directors, partners, employees or agents on a strict need-to-know basis, provided that all such persons should also reasonably be aware of the confidential nature of Information and agree to comply with the confidentiality obligations of this Agreement. Further, Receiving Party may disclose such part of the information as may be necessary with the prior consent of disclosing party in writing.

- 3) The Receiving Party shall treat the information with the same degree of care and protection, as it would its own information.
- 4) That the Receiving Party shall not disclose any of the information to any third party, except to the extent required by law, without the prior written consent of the Disclosing Party.
- 5) The Receiving Party hereby indemnifies and agrees to keep indemnified the Disclosing Party against all actual loss and damages, which the Disclosing Party may suffer as a result of any breach of this undertaking by the Receiving Party.
- 6) The Receiving Party shall not copy or reproduce in any way (including without limitation, store in any computer or electronics system) any information or any documents containing information for purposes other than for which it is provided without the Disclosing Party's consent.
- 7) The Receiving Party shall take all necessary steps and precautions to protect the information against any unauthorized access and not to divulge any such information or any information derived therefrom to any third person.
- 8) The Receiving Party shall immediately upon request by the Disclosing Party deliver to the Disclosing Party all material including all copies (if any) made, in case the Disclosing Party reasonably believes that a breach to this Agreement has occurred or is likely to occur or in case this Agreement comes to an end.
- 9) The Receiving party acknowledges that damages are not a sufficient remedy for the Disclosing Party for any breach of any of the Receiving Party's undertakings herein provided and the Receiving party further acknowledges that the Disclosing Party is entitled to specific performance or injunctive relief (as appropriate) as a remedy for any breach or threatened breach of those undertakings by the Receiving Party, in addition to any other remedies available to the Disclosing Party in law or in equity.

- 10) No failure or delay by the Disclosing Party in exercising or enforcing any right, remedy or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise or enforcement of any right, remedy or power preclude any further exercise or enforcement of any other right, remedy of power.
- 11) This Agreement shall be governed by and constructed in accordance with the laws of Republic of India. If any dispute arises between the Parties about this Agreement then the Parties shall meet to discuss the dispute and shall negotiate in good faith to endeavor to resolve the dispute. However,
- i) If any dispute has not been resolved by the Parties within thirty (30) days after the date the Party raising the dispute gave notice of it to the other Party, then
  - ii) the dispute shall be submitted by either Party to arbitration. Arbitration shall be held in Mumbai, India. The arbitration shall be conducted as per the provisions of Indian Arbitration and Conciliation Act 1996 and any statutory modification or re-enactment thereof
  - iii) Each Party to the dispute shall appoint one arbitrator each and the two arbitrators so appointed, shall appoint the third or the presiding arbitrator. The arbitration proceedings shall be conducted in the English language. The court of law at Mumbai alone shall have the jurisdiction. The arbitration award shall be final and binding upon the Parties and judgement may be entered thereon, upon the application of either Party to court having jurisdiction.
  - iv) Each Party shall bear the cost of preparing and presenting its case, and the cost of arbitration, including fees and expenses of the arbitrators, shall be shared equally by the Parties unless the award otherwise provides.
- 14) This Agreement shall not be assignable or transferable by either Party without the written consent of the other Party.

- 15) This Agreement is for a period of One (1) year from the date of its execution, unless earlier terminated in writing by the Parties with due notice of 30 days. Upon expiration of the above term this Agreement shall be auto renewed on year to year basis unless terminated in writing by either Parties with due notice of 30 days. The obligation to protect the Information shall survive and continue for period of Three (3) years beyond any termination or expiration of this Agreement.
- 16) All Confidential Information and any Derivatives thereof, created or disclosed by Discloser shall remain the exclusive property of Disclosing Party and nothing in this Agreement, or any course of conduct between the parties shall be deemed to grant to Recipient any rights in or to the Confidential Information of Disclosing Party, or any part thereof, other than as expressly granted herein. By disclosing Confidential Information to the Recipient, Disclosing Party does not grant any express or implied right to Recipient under any patents, copyrights, trademarks, or trade secret information except as otherwise provided herein. 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. "Derivatives" shall mean: (i) for copyrightable or copyrighted material, any translation, abridgement, revision, or other form in which an existing work may be recast, transformed, or adapted; (ii) for patentable or patented material any improvement thereon; and (iii) for material which is protected by trade secret, any new material derived from such existing trade secret material, including new material which may be protected by copyright, patent, and/or trade secret.
- 17) During the existence of this NDA, the Recipient acknowledges and recognizes that it and its employees may have contact with Disclosing Party's employees and may request from the Disclosing Party, and the Disclosing Party may provide, confidential information about employees relating to their education, experiences, skills, abilities and inter-personal relationship with suppliers and or customers of Disclosing Party (the "Employee Information"). Further, recipient acknowledges and recognizes that the Employee Information is of substantial value to the disclosing party in developing

and operating its business. Accordingly, recipient agree that it will not for a period of 2 years from the date of expiry of this agreement directly or indirectly hire, attempt to hire, contact or solicit with respect to hiring any employee of the Disclosing Party for which it has received Employee Information. However, the provisions of this clause shall not apply with respect to any Disclosing Party's employee, who has terminated his / her employment with Disclosing Party or is terminated by the Disclosing Party for reasons not related to or arising out of any action by recipient or otherwise prohibited by this clause.

18) This Agreement supersedes all prior discussions and writings with respect to the subject matter hereof, and constitutes the entire agreement between the Parties with respect to the subject matter hereof. No waiver or modification of this Agreement will be binding upon either Party unless made in writing and signed by duly authorised representative of each Party. In the event that any of the provisions of the Agreement shall be held by a court or other tribunal of competent jurisdictions to be unenforceable, the remaining portions hereof shall remain in full force and effect.

IN WITNESS WHEREOF this Agreement has been executed by the duly authorised representative of each Party on the day, month and year first above written.

P.N. Writer and Company Private Limited

Signed By:

Name:

Title:

Date:

Signed By:

Name:

Title:

Date: