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## NON DISCLOSURE AGREEMENT

This **NON-DISCLOSURE AGREEMENT** (“**Agreement**”) is made and entered into on \_\_\_ (the “**Effective Date**”), by and between:

1) **ABC Pvt Ltd**, a company incorporated under the Companies Act, 2013 with CIN **12345**, PAN **1234** and its registered office located at **Patna** (hereinafter called as the “**Company**”); and

2) **CDE Pvt Ltd**, a company incorporated under the laws of \_\_\_\_\_ and its registered office located at **Patna** (hereinafter called as the “**Corporation**”)

The Company and the Corporation are hereinafter referred to as a “**Party**,” and collectively as the “**Parties**”.

### RECITALS

#### **WHEREAS:**

- A.** The Parties are in discussions for the purpose of creation of a joint venture project in India (“**Project**”).
- B.** In course of such discussions, the Corporation may have to disclose certain confidential information (“**Confidential Information**”) to the Company.
- C.** In order to protect the confidentiality of the Confidential Information, the Corporation has insisted on execution of this Agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants and premises of the Parties and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

#### **1. Confidential Information:**

- 1.1 During the course of discussions related to the Project, the Corporation shall disclose to the Company certain non-public information in any form under this Agreement which is marked as confidential or disclosed orally or disclosed under the circumstances indicating its confidentiality.
- 1.2 Any information which is disclosed orally shall also be accorded equal confidentiality treatment, provided such information shall be reduced into writing within 15 days from the date of disclosure.

#### **2. Exclusions:** Confidential Information shall not include the following information:

- (i) previously known to the Company without an obligation of confidence owed to the Corporation,

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- (ii) independently developed by or for the Company without use of or access to Confidential Information,
  - (iii) acquired by the Company from a third-party which is not known by the Company to be under an obligation of confidence owed to the Corporation with respect to such information, or
  - (iv) which is or becomes publicly available through no breach of this Agreement by the Company.

**3. Permitted Use and Disclosure:** The Company shall:

- (i) protect the secrecy of the Confidential Information by using the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorized use, dissemination, or publication of the Confidential Information as the Company uses to protect its own Information of alike nature,
- (ii) use such Confidential Information for exercising its rights and performing its obligations under this Agreement, and
- (iii) disclose such Confidential Information to any third party, if required, only to the extent necessary in relation to accomplishment of the purpose of this Agreement.

**4. Disclosure to Company Representatives:** The Company, in its discretion, may disclose the Confidential Information to its employees, officers, agents and third party consultants on a need to know basis in furtherance of the Project.

**5. Compelled Disclosure:**

- 5.1 To the extent absolutely necessary, the Company may disclose Confidential Information, if required by any judicial or governmental request, requirement or order; provided that the Company will provide with sufficient prior written notice of such request, requirement or order to the Corporation so that the Corporation shall contest such request, requirement or order to oppose the disclosure of Confidential Information.
- 5.2 The Company shall cooperate with the Corporation in its attempts to oppose such disclosure.

**6. Ownership:**

- 6.1 The Corporation is and shall be the owner of the Confidential Information.
- 6.2 The Company shall be the owner of any confidential information developed by it in course of discussions taken place under this Agreement.

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**7. Term and Protection Period:**

- 7.1 This Agreement shall be in effect for a period of three (3) years following the Effective Date.
- 7.2 The Company may terminate this Agreement with or without reason upon providing 15 (fifteen) days prior written notice to the Corporation.
- 7.3 Following the expiry or termination of the Agreement, the Company is entitled to retain copy of Confidential Information for archival, backup and compliance purposes.

**8. Representations or Warranties.** The Corporation represents and warrants to the Company that:

- (i) It has the right to disclose the Confidential Information and shall be liable for any damages suffered by Company as a consequence of use of the Confidential Information.
- (ii) It is a corporation that has been duly incorporated or organized and is validly existing and in good standing.
- (iii) This Agreement has been duly executed and delivered by the Corporation and is intended to be a valid and binding obligation of the Corporation, enforceable against it in accordance with its terms.

**9. Indemnity:** The Corporation shall protect, indemnify, and hold the Company harmless from any loss suffered by the Company due to the authorized use of the Confidential Information by the Company.

**10. Assignment:**

- 10.1 The Corporation shall not assign the Agreement without prior written consent of the Company.
- 10.2 The Company may assign the Agreement to its affiliate or successor in interest or any third party of its option without consent of the Corporation.
- 10.3 Any such assignment in violation of this provision shall be null and void.

**11. Governing Law:**

- 11.1 This Agreement shall be governed by and construed in accordance with the laws of India.
- 11.2 The Parties agree to submit to the exclusive jurisdiction of, and venue in, the courts of Chennai in any dispute arising out of or relating to this Agreement.

**12. Severability:** If any provision of this Agreement is or becomes illegal, invalid or unenforceable

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in any jurisdiction, the illegality, invalidity or unenforceability of that provision will not affect the validity of any other provision of this Agreement.

**13. Waiver:** No failure to enforce any of its right by a Party shall constitute waiver of such right.

**14. Publicity:** The Corporation will not issue any press releases about discussion taking place with the Company and the fact that the Parties entered into this Agreement without prior written consent of the Company.

**15. Notices:** Any notice required or permitted to be given is to be provided in writing to the person and at the address listed in this Agreement, or certified mail, return receipt requested.

**16. Entire Agreement:**

16.1 This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior agreements and understandings pertaining thereto.

16.2 No amendment, supplement, modification or restatement of any provision of this Agreement shall be binding unless it is made in writing and signed by each Party.

**17. Right to Independent Development:** Nothing in this Agreement shall restrict the right of the Company to independently design, develop, acquire, market, service or otherwise deal in, products or services competitive with those of the Corporation as long as the Company is not in breach of this Agreement

**IN WITNESS WHEREOF,** the Parties have executed this Agreement by their duly authorized officers to be effective as of the Effective Date.

**Corporation**

**Company**

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

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

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

Witness: \_\_\_\_\_ Witness: \_\_\_\_\_

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By: \_\_\_\_\_ Name: \_\_\_\_\_ Title: \_\_\_\_\_