



# Non-Disclosure Agreement (NDA)

## PART A - Contract Agreement

THIS NON-DISCLOSURE AGREEMENT (“Agreement”) is dated \_\_\_\_\_ and made at \_\_\_\_\_.

**BETWEEN:**

1. [FIL Legal Entity], (company registration number [number]) having its registered office at [address]; and
2. [Counter Party’s Name], (company registration number [number]) having its registered office at [address]

Disclosing Party and Receiving Party are hereinafter individually referred to as “Party” and collectively referred to as “Parties”.

**RECITALS**

WHEREAS, the Parties desire to disclose Confidential Information with each other in connection with Purpose. In consideration of the disclosure of Confidential Information by the Parties, the Parties acknowledge, agree and undertake as follows:

**A. DOCUMENTS**

- i. This Agreement shall do and shall be deemed to comprise of the following documents:
  - (a) Contract Agreement - Part A
  - (b) Agreement Sheet - Part B
  - (c) Conditions of Contract - Part C
- ii. The Parties have agreed that an electronically executed/signed copy of this Agreement by the Parties shall be treated as a valid and completely executed copy.

**IN WITNESS WHEREOF** this Agreement is executed by the Parties on the date first written above through their respective authorized signatories:

**For and on behalf of [FIL signing entity]**

**For and on behalf of [Counter Party]**

Signed:
Name:
Title:
Date:

Signed:
Name:
Title:
Date:

### PART B - Agreement Sheet

Sr. No.	Particulars/Definition	Reference/Meaning
1	Contact Point of FIL	[Name] [email address] [phone number] [fax number]
2	Contact Point of the Counter Party	[Name] [email address] [phone number] [fax number]
3	Start Date	Please insert start date of the engagement
4	Purpose	Key details of Purpose
5	Territory	Please insert the territories in which the Purpose will apply

## PART C - Conditions of Contract

### 1. DEFINITIONS

For the purpose of this Agreement the following definitions shall apply:

**"Associates"** means in relation to a party, for the time being and from time to time, any entity that: directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control, with that party, together with any fund in which any such entity is a partner. For the purpose of this definition, the term "control" means (i) ownership, directly or indirectly through one or more intermediaries, of at least forty (40) percent of the voting shares of an entity, or (ii) the power to cause, directly or indirectly through one or more intermediaries, the direction of the management of an entity, whether through ownership of voting shares, by contract or otherwise. For the avoidance of doubt, Associates of [FIL Legal Entity], shall include Eight Roads Holdings Limited and its Affiliates;

**"Confidential Information"** means all and any information disclosed by either Party to the other Party, whether in writing or other tangible form, in any way relating or pertaining to the disclosing party, to the extent the same is reasonably construed or generally accepted as containing a trade secret, proprietary or confidential information, including, without limitation: (i) information related to the disclosing party's operations, finances, procedures, policies, techniques, technology, software, clients, and personnel; (ii) information that is confidential or proprietary to a third party and is in the possession of the disclosing party; and (iii) the existence and terms of this Agreement; shall be deemed to be trade secret and confidential information except to the extent that the same was:

- a) before the Start Date in the public domain or comes into the public domain otherwise than by the act or omission of the Receiving Party;
- b) was fully and lawfully available to the Receiving Party otherwise than directly or indirectly from the Disclosing Party;
- c) was before the Start Date or subsequent thereto received by the Receiving Party from a third party who has the lawful right to do so without (to the Receiving Party's knowledge), obligations of confidence; or
- d) has been or is independently developed by or on behalf of the Receiving Party without recourse to the other party's Confidential Information.

**"Disclosing Party"** shall mean a party who discloses Confidential Information under this Agreement.

**"Discussions"** means the discussions between the Parties with a view to entering into a business relationship or supplier to customer relationship.

**"Group"** means in relation to a company, for the time being and from time to time, any parent undertaking or subsidiary undertaking of it and any subsidiary undertaking of any such parent undertaking.

**"Intellectual Property Rights"** means all intellectual property rights in any part of the world and shall include: patents (including supplementary protection certificates), utility models, rights in inventions, registered and unregistered trade and service marks, rights in business and trade names and get-up, rights in domain names, registered designs, unregistered rights in designs, semiconductor and topography rights, copyrights and neighbouring rights, database rights, rights in know-how and in each case rights of a similar or corresponding character and all applications and rights to apply for the protection of any of the foregoing.

**"Receiving Party"** means a party who receives Confidential Information under this Agreement.

### 2. DUTY OF CONFIDENCE

In consideration of each Party disclosing the Confidential Information to the other, each Party covenants with the other:

- a) to procure that it, its Associates, employees, subcontractors, agents, and any member of its Group, their employees, subcontractors and agents keep confidential all the Confidential Information disclosed to it;
- b) to disclose Confidential Information to any such Associates, employees, subcontractors and agents or members of its Group, their employees, subcontractors and agents only on a need to know basis and in the case of disclosure to any consultants thereof on the same basis provided it has obtained the consent of the Disclosing Party and provided that such consultants sign a confidentiality undertaking on the same terms as this Agreement;
- c) to use the Confidential Information exclusively for the purposes of the Discussions;
- d) not to directly or indirectly use or disclose any of the Confidential Information in whole or in part save in accordance with the terms of the Agreement;
- e) exercising the same standard of care used by the receiving party to protect its own confidential and proprietary information, but in any event not less than reasonable care to prevent the disclosure of Confidential Information to any third party and
- f) as Receiving Party not to make copies of the Confidential Information except to the extent copies are required for the purpose of the Discussions.

### 3. PUBLICITY

The Parties shall not without the prior written consent of the other Party;

- a) disclose the identity of any member of the other Party as its customer;
- b) engage in any advertising, marketing or promotion that discloses the existence of this Agreement or the relationship between the Parties; or
- c) use names, brands, logos, service or trademarks of the other Party.

### 4. RETURN OF INFORMATION

The Receiving Party undertakes that at the request of the Disclosing Party given at any time to deliver up without delay, to the Disclosing Party at the Receiving Party's expense all documents and other materials in the possession, custody or control of the Receiving Party that bear or incorporate any part of the Confidential Information and in the case of Confidential Information which is impracticable to deliver up to the Disclosing Party to procure destruction of the same without delay, provided that:

- a) the Receiving Party shall be permitted to retain documents and materials containing, reflecting, incorporating, or based on the Disclosing Party's Confidential Information to the extent required by law or any applicable governmental or regulatory authority, or for audit purposes; and
- b) the Receiving Party shall not be required to delete or destroy information which is stored as part of its computer systems' automated backup or archive processes, where it is impracticable to do so.

### 5. CONFIDENTIALITY ORDER

If the Receiving Party is required to disclose any of the Disclosing Party's Confidential Information either by law, any court or arbitration proceedings, any regulatory authority, or the rules of any competent stock exchange, in any relevant jurisdiction, or if it becomes aware of a possible unauthorised disclosure of any of the Confidential Information, it must (except where prevented by law, any court or arbitration proceedings, any regulatory authority, or the rules of any competent stock exchange) give immediate notice to the Disclosing Party about such order of disclosure or unauthorised disclosure so that the Disclosing Party may seek a confidentiality order or other appropriate remedy to preserve the confidentiality in the Confidential Information. In the event of a legally-compelled disclosure, the Receiving Party agrees to provide only such part of the Confidential Information as it is legally required to provide in such circumstances.

#### **6. INTELLECTUAL PROPERTY RIGHTS**

The Parties acknowledge that nothing contained in this Agreement is intended or shall be construed to convey to the receiving party any rights or license under any patents, patent applications, inventions, copyrights, trade secrets, trademarks or other intellectual property rights heretofore or hereafter possessed by the disclosing party, and that nothing contained in this Agreement shall constitute a commitment by the disclosing party to the development or release of any future information or the procurement or recommendation of any product or service of the receiving party.

#### **7. REMEDIES**

The Receiving Party acknowledges that damages may not afford the Disclosing Party an adequate remedy in the event of the Receiving Party's breach of the terms of this Agreement and that the Disclosing Party may apply for an injunction, orders for specific performance or other appropriate relief in the event of any actual or anticipated breach of these terms.

#### **8. VARIATION & ASSIGNMENT**

The obligations contained in this Agreement will be effective from the Start Date and will remain in effect for two (2) years from the date on which Confidential Information is last received or obtained by the Recipient.

No variation, addition, deletion or replacement of or from the terms of this Agreement will be effective unless made in writing and signed by or on behalf of each party.

Neither party may assign or otherwise transfer its obligations under this Agreement without the prior written consent of the other.

#### **9. TERM & DURATION**

#### **10. FURTHER COLLABORATION**

Nothing in this Agreement shall be taken as any form of agreement on the part of either party to enter into further discussions or agreements with the other.

#### **11. LAW AND JURISDICTION**

This Agreement shall be governed by and construed in accordance with laws applicable to FIL's signing entity's registered office. The parties hereby submit to the exclusive jurisdiction of the courts at FIL's signing entity's registered office for the purpose of resolving any dispute which arises out of or in connection with this Agreement.

#### **12. GENERAL**

- a) This Agreement is without prejudice to any other agreements relating to any other subsisting business transaction or relationship between the parties.
- b) No failure or delay by the Disclosing Party in exercising any right, power or privilege under this Agreement will constitute a waiver of any such right, power or privilege or preclude the further exercise of that or any other such right, power or privilege.
- c) If any of the terms of this Agreement are held to be illegal, invalid or unenforceable in whole or in part, the remaining terms and the remainder of the affected term will continue to be valid.
- d) This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.