

NON DISCLOSURE AGREEMENT

This non disclosure agreement (hereafter referred to as the "**Agreement**") is entered into between:

_____ (name) _____, a company duly incorporated under the laws of the _____ (Country) _____, registered in _____ (city) _____, under _____ (Registration Number) _____, having its registered office located (address) _____, acting through its _____ (agent, if any) (name) _____

Hereinafter referred to as "_____ (company name) _____",

and

Human space Flight Centre of Indian Space Research organization (ISRO), Department of Space, established by the Government of India having a place of business at ISRO Headquarters, New BEL Road, Bengaluru- 560094,

Hereinafter referred to as "**HSFC**"

Hereinafter individually referred to as the "**Party**" and/or the "**Disclosing Party**" and/or the "**Receiving Party**" and collectively referred to as the "**Parties**".

"**Receiving Party**" or "**Disclosing Party**" means the Party who receives or discloses, as applicable, Confidential Information during the term of the Agreement.

WHEREAS

_____ (company name) _____ and HSFC wish to exchange and discuss certain non-public, confidential or proprietary information concerning the Request for Proposal about a "_____ (system name) _____" Reference number _____ (hereinafter called the "**Purpose**"), subject to the terms and conditions of this Agreement.

NOW, AND THEREFORE, the Parties agree as follows:

1 Scope of the Agreement

- 1.1. This Agreement sets forth the terms and conditions governing the disclosure, use and protection of the Confidential Information disclosed by one Party to the other Party for the Purpose.
- 1.2. Under this Agreement, each Party shall communicate to the other Party only the Confidential Information it deems necessary for the Purpose and shall use the Confidential Information received from the other Party only in connection with the Purpose.
- 1.3. This Agreement is not intended to be, nor shall it be construed as compelling either Party to disclose Confidential Information to the other or creating a joint venture, association,

For (company name)		For HSFC	
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partnership, teaming agreement, or other formal business organisation or agency relationship.

- 1.4. The disclosure of Confidential Information hereunder shall not constitute an offer or acceptance or promise of any future contract or amendment of any existing contract.
- 1.5. Each Party reserves the right in its own and absolute discretion to terminate discussions and negotiations concerning the Purpose and to terminate this Agreement in accordance with article 9 Term , without giving right to any claim or recourse.

2 Definition of Confidential Information

- 2.1. "**Confidential Information**" means any information relating to the Purpose, disclosed under this Agreement and identified as confidential by the Disclosing Party as per article 2.2 hereunder, whether in oral, written, graphic, electronic or other machine readable form, or copies thereof, whatever its object (technical, industrial, financial, business, personal data...), its nature (including but not limited to know-how, methods, technical breakdowns, process, formulae, designs, computer software, future development and business) and its supporting medium (written and/or printed document, drawing, sample, plan, CD ROM, USB key...).
- 2.2. Written Confidential Information shall be identified at the time of the disclosure with an appropriate legend, marking, stamp or positive written identification on the face thereof identifying the information as confidential or proprietary.

Verbal or visual Confidential Information shall be identified as confidential (i) at the time of the disclosure by informing the Receiving Party of its confidential nature and (ii) by written notification sent to Receiving Party within fifteen (15) days of the disclosure identifying the Confidential Information previously disclosed verbally or visually. It is understood that this Confidential Information shall be protected hereunder for the said period.

3 Obligations of the Parties

- 3.1. Each Party hereby undertakes, from the Effective Date of this Agreement and for a period of **ten (10)** years following the term of this Agreement for whatever reasons, that Confidential Information received from the Disclosing Party shall:
 - a) be protected and kept strictly confidential and be treated with the same manner and with the same degree of care and protection as the Receiving Party uses to treat its own confidential information of like importance, but no less than reasonable care;
 - b) The Receiving Party shall permit access to Confidential Information only to (a) persons who have a need to know for the Purpose and are bona fide employees or contract labour personnel of the Receiving Party, (b) the Receiving Party's information technology system administrators and service providers in the ordinary course of business; provided that each such recipient is obligated to protect Confidential Information under terms and conditions at least as restrictive as the terms and conditions of this Agreement. Disclosure to any other persons, including consultants, contractors, subsidiaries and affiliates of Receiving Party, shall be treated as disclosure to a third party. Notwithstanding the disclosure restrictions set forth in this paragraph, (company name) is hereby permitted to disclose ISRO's Proprietary Information to bona fide employees and contact labor

For (company name)		For HSFC	
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personnel of its parent, subsidiaries, and affiliates, provided such individuals have a need to know for the Purpose. ISRO is hereby permitted to disclose Parties Proprietary Information to bona fide employees and contract labor personnel of its parent, subsidiaries, and affiliates that operate under the ISRO, provided such individuals have a need to know for the Purpose.

- c) not be used, in whole or in part, directly or indirectly, for any other purpose than the Purpose, without the prior written agreement of the Disclosing Party;
- d) not be disclosed, directly or indirectly, to any third party or any persons other than those mentioned in articles 6 Representatives and 3.1 b), without the prior written authorization of the Disclosing Party, and provided that such third party undertakes in writing to comply with the same confidentiality obligations as provided herein;
- e) neither be copied, nor otherwise reproduced, save as for in connection with 3.1b), nor published, totally or partially, without the prior written authorization of the Disclosing Party;
- f) remain identified with its initial designation relating to the confidential, classified or proprietary nature of the Confidential Information which shall not be removed, altered or obscured by the Receiving Party;
- g) not be reversed engineer, disassembled or de-compiled.

Each Party hereby undertakes to ensure that adequate internal safeguards are in place to guarantee the protection of the Confidential Information, in particular safeguards to ensure that employees whom Confidential Information is disclosed to do not use or release such Confidential Information in breach of this Agreement.

The Receiving Party shall be liable for the acts, omissions and defaults of any person to whom it has passed Confidential Information which cause a breach of the obligations contained in article 3, as if such a breach had been committed by the relevant Party itself. Accordingly, the relevant Party shall indemnify and hold harmless the Disclosing Party against any and all losses, damages claims arising from such breach.

- 3.2.** Immediately upon knowledge of an unauthorised disclosure, the Receiving Party shall take all measures to (i) notify the unauthorised recipient of the Disclosing Party's proprietary interest, (ii) notify the Disclosing Party of such unauthorised disclosure, (iii) avoid any further disclosure and (iv) request the return of the disclosed material together with any copies, personal notes or correspondence concerning the Confidential Information contained in the disclosed material, without prejudice of any claims that may be filed by the Disclosing Party.
- 3.3.** The Disclosing Party shall ensure that any disclosure made under this Agreement is not contrary to the laws and regulations of their respective countries. This Agreement shall be subject to all applicable government security requirements and export regulations applicable to the Parties.
- 3.4.** When the Disclosing Party's Confidential Information is no longer needed for the Purpose, or at any time upon request of the Disclosing Party, within the period stated in article 3.1 above, the Receiving Party undertakes in respect of Confidential Information disclosed to it in tangible form (together with all copies and/or personal notes remaining in the Receiving Party's possession or control) either to return it to the Disclosing Party or destroy it. Such return or destruction shall be certified in writing by the Receiving Party to the Disclosing Party within thirty (30) calendar days of the request for return or destruction.

For (company name)		For HSFC	
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3.5. It is understood between the Parties, that the Purpose shall be considered and treated as a Confidential information by the Parties.

4 Exceptions to confidentiality

4.1. The protection of Confidential Information hereunder does not and shall not extend to any information which, as evidenced by the Receiving Party:

- a) is in the public domain at the time of the disclosure, or subsequently made available to the general public, otherwise than through the fault and/or negligence or breach of this Agreement by the Receiving Party; or
- b) was lawfully obtained by the Receiving Party from a third party with full rights of disclosure; or
- c) is independently and in good faith developed by the Receiving Party as evidenced by the Receiving Party written records without making use of the Confidential Information; or
- d) is disclosed or used with the prior written approval of the Disclosing Party.

4.2. In the event that during the term of this Agreement, the Receiving Party is required to disclose Confidential Information in order to comply with a legal, regulatory request or any other governmental act or a court order, the Receiving Party shall notify the Disclosing Party of such requirement as soon as practicable so that the Disclosing Party may seek a protective order or other appropriate remedy and waive compliance with the terms of this Agreement. The Receiving Party shall have the burden of proof to establish that the disclosure was compulsory and shall use all reasonable endeavours to minimise such disclosure.

5 Warranty

5.1. Each Party warrants that it has the right to disclose, exchange, transmit, publish or otherwise use the Confidential Information it discloses to the other Party. Each Party shall indemnify and hold harmless the other Party, including any person who has received Confidential Information in accordance with the terms of this Agreement, for any damages, losses or expenses arising from any breach of this warranty or such damages, losses or expenses arising from an action brought by a third party as a result of the unauthorised disclosure of any of the Confidential Information.

6 Representatives

The representatives of each Party under this Agreement are:

<u>For (company name)</u>	<u>For HSFC</u>
Name :	Name : DDs/PD
Title :	Title :
Phone :	Phone :
Address :	Address : Human Space Flight Centre, Indian Space Research Organisation, ISRO HQ, Antariksh Bhavan, New BEL Road, Bangalore, INDIA, PIN 560 094
Mail:	Mail:

Each Party may change its representative by prior written notification to the other Party.

For (company name)	For HSFC

7 Confidential Information and Intellectual Property Rights

- 7.1. All Confidential Information disclosed to the Receiving Party in accordance with this Agreement including all copies, reproductions and/or duplications shall remain the exclusive property of the Disclosing Party, without prejudice to third parties' rights.
- 7.2. Notwithstanding anything mentioned in this agreement, neither the execution of this Agreement nor the disclosure of any Confidential Information, under this Agreement, shall be deemed to grant the Receiving Party, either expressly or implicitly, any kind of intellectual property right in the Confidential Information and in the elements relating to the Confidential Information (license, patent or application, trademark, copyright, know-how or trade secret).

8 Governing law and settlement of disputes

- 8.1 In case any disputes or disagreements arise due to or in connection with the agreement, the Parties will take every effort to reach an amicable settlement or purposive interpretation as the case may be.
- 8.2 This agreement is intended for the regulation of Non-Disclosure, use and protection of confidential information without any kind of prejudice to the existing rights and interests of the parties and subject to further agreement the same shall be protected on the basis of reciprocity in terms of the applicable laws and procedures made thereunder.
- 8.3 If the Parties are unable to resolve such dispute within thirty (30) calendar days from the day the Parties met or tried to meet after the written notification by one Party to the others of the existing dispute, any Party may request the others in writing that the matter be referred to senior representatives of the Parties with authority to settle the dispute, who shall attempt to resolve the dispute within thirty (30) calendar days of the written request to do so.
- 8.4 Disputes over which the Parties fail to reach an agreement are subject, with the exclusion of jurisdiction to any courts, to arbitration in the following order:
- a) if the defendant in such a dispute is **(company name)**, then the arbitration will take place at _____ in accordance with the UNCITRAL rules of arbitration.
 - b) if ISRO is the defendant in such a dispute, then arbitration will take place as per the Indian Arbitration and Conciliation Act 1996 and its relevant amendments with the seat of arbitration being Bangalore. The decision of the arbitrator is final and binding on both Parties.
- 8.5 Arbitral awards shall be conclusive and binding on the Parties.
- 8.6 The Parties agree that these provisions do not preclude either Party from seeking interim relief in the courts, including but not limited to an injunction to prevent breach, or further breach, of the terms of this Agreement.

9 Term

- 9.1 This Agreement shall enter into force on the date of its signature by both Parties (hereafter referred to as the "**Effective Date**").

For (company name)		For HSFC	
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- 9.2** This Agreement may be terminated by either Party, at any time, upon a thirty (30) calendar day's written notice to the other Party.
- 9.3** Before the expiry of this Agreement, the Parties may agree on an extension of this Agreement by a separate written amendment, signed by the authorised representatives of the Parties.
- 9.4** The termination of this Agreement shall not relieve the Parties of their obligations relating to the protection and use of Confidential Information as set forth in article 3 Obligations of the Parties, article 5 Warranty, article 7 .

In witness whereof, each of the Parties hereto has caused this Agreement to be executed by its duly authorised officers or representatives.

Made in two (2) original copies in the English Language, one (1) for each Party,

For (company name)

For HSFC

Name:

Name: Dr S Unnikrishnan Nair

Title:

Title: Director, HSFC, ISRO

Signature:

Signature:

Date:

Date:

For (company name)		For HSFC	
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