

**NON DISCLOSURE AGREEMENT (NDA)**

BETWEEN

**PSS BELGIUM NV** (PSS), a Company incorporated under the laws of Belgium, having its principal place of business at Belgium, 9200 Dendermonde, Hoogveld 50, registered under Companies Register Ghent (section Dendermonde) number 0884.161.532, acting in its own name and in name and on behalf of all its Subsidiaries and Affiliates as defined hereafter,

Represented by Mr. ..., acting as ..., duly authorized for the purpose hereof,

AND

..., a Company incorporated under the laws of ..., having its principal place of business ...

Represented by ..., acting as ..., duly authorized for the purpose hereof,

PSS BELGIUM NV and ... are hereinafter individually referred to as a “**Company**” and a “**Party**”, and collectively referred to as the “**Parties**”.

**WITNESSETH**

The Parties are interested in discussions regarding business related matters to (i) evaluate a possible business relationship; or (ii) provide / receive products or services to or from each other pursuant to specific agreements they may enter into (hereinafter referred to as “**the Project**”), and shall exchange Confidential Information (as defined below) to one another regarding the Project.

**IN CONSIDERATION OF THE ABOVE PREMISES, THE PARTIES AGREE AS FOLLOWS:****I. Definitions**

- “**Agreement**” means the present non-disclosure agreement.
- “**Information**” means, without limitation, any information and data, whether protected or not, likely to be protected or not by an intellectual property right, which are disclosed by one Party to the other, of any nature (technical, commercial, economical, etc.) and on any support (in particular knowledge, experience, know how, method, tool design, process, specific component, software...), whether orally, visually or in a tangible form (including, without limitation, document, devices and computer readable media) and all copies thereof.
- “**Personal Data**” means any Information relating to an identified or identifiable natural person; an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number,

location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

- **“Subsidiary”** and **“Affiliates”** means any company, whether Belgian or foreign, over which PSS has direct or indirect control (as defined in Section 5 and following of the Belgian Companies Code).

## 2. Purpose of the agreement

The purpose of the Agreement is to set forth the confidentiality conditions under which the Parties shall exchange Information within the frame of their discussions during the term set forth in article 15. These provisions shall apply whether the Project (as defined below) is later on developed and/or industrialized and/or supplied or not.

## 3. Confidential Information

In connection with discussions between PSS and ... concerning the Project, either Party may find it beneficial to disclose to the other, certain Information that the disclosing Party considers to be proprietary and/or confidential, that is designated as confidential or that, given the nature of the Information or the circumstances surrounding its disclosure, reasonably should be considered as confidential (hereinafter referred to as "**Confidential Information**"). Confidential Information may include, but is not limited to, Personal Data, trade secrets, discoveries, ideas, concepts, know-how, techniques, designs, specifications, drawings, diagrams, data, computer programs, business activities and operations, reports, studies and other technical and business information.

Confidential Information shall also include descriptions of the existence or progress of the above-described Project.

## 4. Protection of Confidential Information

4.1 Each Party acknowledges that the other Party claims its Confidential Information as a special, valuable and unique asset. For itself and on behalf of its officers, directors, agents, employees, and Affiliates, each Party agrees that it will keep in confidence all Confidential Information and that it will not directly or indirectly disclose to any third party or use for its own benefit, or use for any purpose other than the Project, any Confidential Information it receives from the other Party. Each Party agrees to use reasonable care to protect the Confidential Information, and in no event less than the same degree of care to protect the Confidential Information as it would employ with respect to its own information of like importance which it does not desire to have published or disseminated.

4.2 Any Party receiving Personal Data from the other Party, shall keep in confidence, protect and use any such Personal Data as Confidential Information according to the provisions of this Agreement, and shall treat the Personal Data in strict accordance with the EU General Data Protection Regulation 2016/679 (“**GDPR**”) or, in the event that GDPR is not applicable, the equivalent applicable privacy regulations.

## **5. Limitation on Confidential Information**

Confidential Information shall not include the disclosing Party's information which:

- (A) the receiving Party knows at the time of disclosure, free of any obligation to keep it confidential, as evidenced by written records;
- (B) is or becomes publicly available through authorized disclosure;
- (C) is independently developed by the receiving Party without the use of any Confidential Information; or
- (D) the receiving Party rightfully obtains from a third party who has the right to transfer or disclose it.

If any portion of any Confidential Information falls within any of the above exceptions, the remainder of the Confidential Information shall continue to be subject to the requirements of this Agreement.

## **6. Compelled Disclosure**

Should the receiving Party be faced with legal action to disclose Confidential Information received under this Agreement, the receiving Party shall promptly notify the disclosing Party and, upon the request of the latter, shall cooperate with the disclosing Party in contesting such a disclosure. If the receiving Party is required by any rules or regulations of any governmental authority or any stock exchange to disclose Confidential Information, it may do so but must first provide written notice to the disclosing Party. So long as both Parties discharge the responsibilities set forth in the preceding sentences, neither Party shall be liable in damages for any disclosures pursuant to this section.

## **7. Return of Confidential Information**

All Information furnished under this Agreement shall remain the property of the disclosing Party and shall be returned to it or destroyed promptly at its request together with all copies made of such Information by the receiving Party. All documents, memoranda, notes and other writings whatsoever prepared by the receiving Party based on Confidential Information shall be destroyed

upon request of the disclosing Party and such destruction shall be certified in writing to the disclosing Party by an authorized officer of the receiving Party.

## **8. No Licenses**

8.1 No license under any patents, trademark, copyrights, mask rights or other intellectual property rights is granted or conveyed by one Party 's transmitting Confidential Information or other Information to the other Party under this Agreement.

8.2 Such a transmission of Confidential Information between the Parties shall not constitute any representation, warranty, assurance or guaranty regarding non-infringement of patent or other rights of any third party, nor inducement by the disclosing Party to the receiving Party with respect to infringement of patent or other rights of third party.

## **9. No Warranty**

Each Party acknowledges that the disclosing Party has not made and will not make any representation or warranty as to the accuracy or completeness of its Confidential Information or of any other Information provided in connection with the Project, and each agrees that the disclosing Party shall have no liability resulting from the use of the Confidential Information or such other Information. All Information disclosed by each Party is disclosed on an "AS IS" basis.

## **10. No Commitment**

Confidential Information provided by one Party to the other does not, and is not intended to represent a commitment by either Party to enter into any business relationship with the receiving Party or with any other entity. If the Parties desire to pursue business opportunities, the Parties will execute a separate written agreement to govern such business relationship.

## **11. Independent Development**

Each Party understands that the receiving Party may currently or in the future be developing information internally, or receiving information from other parties that may be similar to the disclosing Party's Information. Accordingly, without violation of this Agreement, the receiving Party may develop such products (or have such products developed for it) that would compete with the products contemplated by the disclosing Party to be developed based on the Confidential Information.

**12. Special Remedies**

Each Party acknowledges that its breach of this Agreement may result in immediate and irreparable harm to the disclosing Party, for which there will be no adequate remedy at law, and the disclosing Party shall be entitled to special remedies to compel the receiving Party to cease and desist all unauthorized use and disclosure or threat of disclosure of the disclosing Party's Confidential Information.

**13. Notices**

All notices under this Agreement shall be deemed to have been duly given upon the mailing of the notice, postpaid, or upon the facsimile transmission, to the Party entitled to such notice at the address and facsimile number set forth below.

**14. Export Regulations**

Notwithstanding any other provision of this Agreement, neither Party shall export any technical Confidential Information acquired under this Agreement or any commodities using such Confidential Information to any country to which European Union forbids export or, at the time of export, requires an export license or approval, without first obtaining such license or approval.

**15. Effective Date, Term & Termination**

15.1 This Agreement shall be effective from the date the last signature is affixed to this Agreement.

15.2 This Agreement shall apply to discussions taking place during a period of three (3) years from the effective date.

15.3 Either Party may terminate this Agreement upon written notice to the other Party with immediate effect; provided, however, that all obligations with respect to Confidential Information received prior to termination or cancellation shall survive the termination or cancellation of this Agreement through the period ending three (3) years from the date of disclosure of the Confidential Information.

**16. Severability**

Should any provisions of this Agreement be found unenforceable, the remainder shall still be in effect.

**17. No Waiver**

The failure of any Party to require performance by another Party of any provision of this Agreement shall in no way affect the full right to require such performance at any time thereafter.

**18. Entire Agreement**

This Agreement embodies the entire understanding between the Parties regarding the subject matter of this Agreement and supersedes any and all prior negotiations, correspondence, understandings and agreements between the Parties regarding the subject matter of this Agreement.

This Agreement shall not be modified except by a writing duly executed on behalf of both Parties.

**19. Assignment**

No assignment of this Agreement is permitted except in connection with a sales of all or substantially all of the assets or stock of a Party and after 30 days advance written notice thereof.

**20. Construction of Agreement**

This Agreement has been negotiated by the Parties and their respective attorneys, and the language of this Agreement shall not be construed for or against either Party.

**21. Governing Law & Jurisdiction**

This Agreement shall be governed by and construed in accordance with the laws of Belgium. The Parties consent to the sole and exclusive jurisdiction of the courts located in Dendermonde (Belgium) for resolution of all disputes arising hereunder.

**22. Counterparts**

The original of this Agreement may be executed in counterparts, each of which shall be an original as against any Party whose signature appears on such counterpart and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have caused their respective duly authorized representatives to execute and deliver this Agreement.

PSS BELGIUM NV

[COMPANY]

By \_\_\_\_\_

By \_\_\_\_\_

(Signature)

(Signature)

Print Name

Print Name

Title

Title

Date

Date

Phone

Phone