

Confidential Disclosure Agreement

Agreement made this day of 20 , by and

BETWEEN

The ISRAEL-UNITED STATES BINATIONAL INDUSTRIAL RESEARCH AND
DEVELOPMENT FOUNDATION,

a legal entity created by Agreement between the Government of the State of Israel and the Government of the United States of America located at Kiryat Atidim, building 4, Tel Aviv, 61581, Israel (hereinafter referred to as the "Foundation"),

AND

(Israeli or U.S. Company, Name and Address) (hereinafter referred to as the "Company")

WHEREAS, the parties anticipate having discussions regarding the participation of the Company in a project that may be funded by the Foundation and where there may be data disclosures and the disclosure of certain proprietary or commercial confidential information disclosed by the Company to the Foundation; and

WHEREAS, the Company may wish to initiate the disclosure of certain Confidential Information (as defined below) in accordance with the terms herein;

NOW THEREFORE, in consideration of the disclosure of Confidential Information, the parties covenant and agree as follows:

As Used Herein:

1. For the purposes of this Agreement, "Confidential Information" shall include: (a) any technical, managerial, financial or business information, whether in written, graphic, electromagnetic, verbal or other form (including but not limited to specifications, prototypes, software, models, drawings, product plans, pre-release products, marketing plans, business opportunities, customer lists, personnel data, research and development activities, know-how and third-party information), that the Company marks or otherwise designates as "Confidential" or the like and (b) the existence, terms and conditions of this Agreement whether marked or not.

2. Confidential Information shall at all times remain the property of the Company. The Foundation warrants that it will at all times apply strict safeguards against the unauthorized disclosure of Confidential Information.
3. The Foundation agrees that, for a period of three (3) years from the date of disclosure:
 - a. Confidential Information provided to the Foundation shall be used by the Foundation solely for the purpose of evaluating the project and the arrangements described in the Company's proposal;
 - b. the Foundation will not use such Confidential Information disclosed hereunder for any other purpose;
 - c. the Foundation is only permitted to disclose the Confidential Information to those employees, directors, agents, advisors (including, without limitation, attorneys, accountants, and consultants) who (i) have a need to know the Confidential Information solely for the purpose of evaluating any and all aspects of the project and the proposal to be submitted by the Company for a grant, and (ii) are bound by confidentiality obligations at least as restrictive as those set forth in this Agreement. Notwithstanding anything to the contrary hereunder, the Foundation shall be entitled to supply the Confidential Information to reviewers who shall be involved in the Foundation evaluation and execution processes, auditors and any officials acting on behalf of the governmental stakeholders for the relevant program (including the relevant Departments and Ministries thereof) with the deliverables that have been and will be submitted to the Foundation, to include, without limitation, the Company's proposal; and
 - d. except as permitted by subsection c, the Foundation shall not disclose any Confidential Information to any other person or entity.
4. This Agreement shall not apply to Confidential Information that:
 - a. is in or enters the public domain, through no fault of the Foundation; or
 - b. is or has been disclosed by the Company to a third party without restriction; or
 - c. is already in the possession of the Foundation, without restriction, prior to disclosure of the Confidential Information hereunder; or
 - d. is lawfully disclosed by a third party to the Foundation without an obligation of confidentiality; or
 - e. is developed by Foundation independently without breach of this Agreement; or
 - f. is required to be disclosed pursuant to court order or required by any governmental authority or agency, provided prompt written notice of such order or requirement is given to the Company and the Company is given an opportunity to respond to such order or requirement.
5. This Agreement shall continue for a period of three (3) years from the date first written above for the purpose of disclosure of Confidential Information. Either

party may terminate this Agreement upon written notice. The non-disclosure obligations set forth in Paragraph 3 shall survive the expiration or termination of this Agreement.

6. Neither this Agreement nor the disclosure or receipt of Confidential Information shall constitute or imply a commitment by the Foundation with respect to any funding and/or receipt of a grant, or present or future cooperative product development or other subject matter not expressly set forth herein. Neither party will have any obligation to commence or continue discussions or negotiations, to exchange any information, to reach or execute any agreement with the other party, to refrain from engaging at any time in any business whatsoever, or to refrain from entering into or continuing any discussions, negotiations and/or agreements at any time with any third party unless agreed to in writing signed by both parties.
7. The Company grants no license or right to the Foundation under any patent, patent application, trademark, copyright, or other proprietary right.
8. Any amendment to this Agreement must be in writing and signed by an authorized representative of each party. No failure or delay in exercising any right under this Agreement shall operate as a waiver thereof.
9. At the Company's request, all Confidential Information in tangible form that is in the possession of the Foundation shall be returned to the disclosing party or destroyed, except for a list of such Confidential Information to enable the Foundation to have a record that it has complied with the request and its obligations hereunder. Within fifteen (15) business days after a request is made pursuant to this provision, the receiving party will certify in writing to the Company that the Foundation has complied with this paragraph.
10. This Agreement shall be governed by the laws of the State of Israel, except its conflict of law provisions, and the parties hereby exclusively agree to consent to jurisdiction in the courts of Tel Aviv/Jaffa in the State of Israel.
11. This Agreement contains the entire agreement between the parties with respect to the subject matter contained herein and supersedes any previous understandings, agreements and commitments, oral or written.

BIRD FOUNDATION

By: _____

Name: _____

Title: _____

[US or ISRAELI COMPANY]

By: _____

Name: _____

Title: _____