

Software Non-Disclosure Agreement

This Software Non-Disclosure Agreement (“Agreement”) is between Private Machines Inc. (“Licensor”) and the individual consumer or business entity that will use software licensed by Licensor (“You”, “Licensee”).

WHEREAS, the Licensor is in possession of certain proprietary and confidential software, data and information, and which to the extent previously, presently, or subsequently disclosed is hereinafter referred to as “Confidential Information”; and

WHEREAS, the Licensor desires to have such Confidential Information handled on a confidential basis;

NOW THEREFORE, in consideration of the disclosure of this information, the execution of this Agreement, of the parties’ discussion, any access the Licensee may have to Confidential Information of the Licensor and other good and valuable consideration, and the covenants made herein, the Licensee and its representatives, including officers, directors, agents, consultants, employees, contractors, affiliates or advisors, hereby agrees that the disclosure of such information by Licensor is subject to the following terms and conditions:

- 1. Confidential Information Definition.** Under this Agreement, all information disclosed by the Licensor, whether provided in oral, written, visual, electronic or other form is presumed to be “Confidential Information”, including, without limitation, existing and/or contemplated software, products, technical drawings, trade secrets, designs, algorithms, names, and expertise of employees and consultants, know-how, formulas, processes, ideas, inventions (whether patentable or not), patent applications, schematics, data and other technical, business, research and development, production, costs, profit and margin information, finances and financial projections, marketing, and current or future business plans and models, identity of customers, suppliers and partners, product development plans, forecasts, strategies, regardless of whether such information is designated as “Confidential Information” at the time of its disclosure, and whether conveyed in oral, written, graphic, or electromagnetic form or otherwise. Confidential Information as used herein also includes (a) the fact that the Confidential Information has been made available to or is being inspected or evaluated by the Licensee; (b) the fact that such discussions and negotiations are taking place between the Parties; and (c) any of the terms, conditions or other facts with respect to the associated considered business relationships or transactions, including the status thereof.
- 2. Exclusions.** This Agreement imposes no obligation with respect to any Confidential Information (a) that was in Licensee’s possession before receipt from Licensor, provided that such prior knowledge was not acquired in connection with any breach of confidentiality obligation, and can be substantiated by written records and documents; (b) is or becomes a matter of public knowledge through no fault of Licensee; (c) is rightfully received by Licensee from a third party

who has the right, to the best of the Licensee's knowledge, to disclose the information; (d) is disclosed without a duty of confidentiality to a third party by, or with the authorization of, Licensor; or (e) is independently developed by Licensee, provided that such independent development can be substantiated by written records and documents.

3. **Non-Disclosure Obligation.** The Licensee agrees (a) to hold the Licensor's Confidential Information in confidence and to take reasonable precautions to protect such Confidential Information (including, without limitation, all precautions the Licensee employs with respect to its own confidential materials); (b) not to divulge any such Confidential Information, in whole or in part, or any information derived there from to any third party; and (c) not to copy or reverse engineer any such Confidential Information. The Licensee shall only permit access to Confidential Information of the Licensor to those of its employees, officers, advisors or authorized representatives ("Representatives") having a need to know and who have signed confidentiality agreements or are otherwise bound by confidentiality obligations at least as restrictive as those contained herein. The Licensee agrees to be responsible for any breach of this Agreement by its Representatives.
4. **Business Purpose.** The Licensee shall use the Confidential Information only as per mutual agreement in writing as stipulated in a corresponding software license or other agreement ("Business Purpose"). The Licensee will also not use any Confidential Information to design, develop, provide, or market any product or service that would compete with any product or service of the Licensor, or use the Confidential Information in any way other than for the Purpose(s) set forth in this Agreement.
5. **No Further Obligations.** It is understood that nothing herein requires the disclosure of any Confidential Information, which shall be disclosed, if at all, solely at the option of the Disclosing Party. THE PARTIES HEREBY DISCLAIM ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO ANY AND ALL OF THEIR RESPECTIVE PROPRIETARY INFORMATION. NEITHER PARTY SHALL BE LIABLE IN DAMAGES OF ANY KIND AS A RESULT OF THE OTHER PARTY'S RELIANCE ON OR USE OF ANY PROPRIETARY INFORMATION, UNLESS SUCH RELIANCE OR USE IS EXPRESSLY PERMITTED IN A WRITTEN AGREEMENT SIGNED BY BOTH PARTIES. Neither party shall be liable in any manner whatsoever for any decisions, obligations, costs or expenses incurred, changes in business practices, plans, organization, products, services; indirect, incidental, consequential, or punitive damages of any nature or kind, or otherwise, resulting from or arising in connection with this Agreement. Further, the Parties agree that this Agreement does not obligate either of the Parties to enter into any further agreements or to proceed with any possible relationship, venture or transaction.
6. **Preservation of Ownership.** Conveyance of Confidential Information shall not be construed as creating, conveying, transferring, granting or conferring upon the Licensee any rights, license or authority in or to the information disclosed, except the limited rights to use Confidential

Information as specified in this Agreement. Furthermore, and specifically, no license or conveyance of any intellectual property rights is granted or implied by this Agreement.

7. **Export Controls.** The Licensee will adhere to the U.S. Export Administration Laws and Regulations and will not export or re-export any technical data received from the Licensor or the direct product of such technical data to any person proscribed by or country listed in the U. S. Export Administration Regulations unless properly authorized by the U. S. Government.
8. **Termination.** Termination of disclosure of Confidential Information will occur at the termination of the Business Purpose (e.g., as specified in a corresponding software license). The obligations of the Licensee to maintain the confidentiality of the Confidential Information it has received under this Agreement shall continue for five (5) years after such termination; further, all Trade Secret information shall be safeguarded by Recipient as required by this Agreement in perpetuity or for so long as such information remains a Trade Secret under applicable law, whichever occurs first. "Trade Secret" has the meaning ascribed in Section 757 of the Restatement of Torts and the Uniform Trade Secrets Act as applicable.
9. **Return/Destruction of Confidential Information.** Upon the termination of this Agreement, the Licensee will make no further use of the Confidential Information of the Licensor received in accordance with this Agreement and, upon written request, will return at its own expense all copies of such Confidential Information and Derivatives to the Licensor or will destroy such Confidential Information and certify to the destruction in writing within 30 days of such termination; provided, however, an archival copy of the Confidential Information and Derivatives may be retained (and subsequently destroyed) in the files of the Licensee in accordance with its record retention policies, so long as such policy does not conflict with the terms of protection of the Confidential Information (including any Derivatives) for the periods described in this Agreement.
10. **Remedies.** The Licensee acknowledges and agrees that due to the unique nature of the Licensor's Confidential Information, there can be no adequate remedy at law for any breach of its obligations hereunder, that any such breach may allow the Licensee or third parties to unfairly compete with the Licensor resulting in irreparable harm to the Licensor and, therefore, that upon any such breach or any threat thereof, the Licensor shall be entitled to whatever remedies it might have by law. The Licensee further acknowledges and agrees that the covenants contained herein are necessary for the protection of legitimate business interests and are reasonable in scope.
11. **Exclusive Agreement. No Waiver.** This Agreement states the entire, exclusive agreement between the parties concerning the disclosure of Confidential Information and supersedes any prior agreements, understandings, or representations with respect thereto. Any waiver, addition or modification to this Agreement must be made in writing and signed by authorized representatives of both parties. No failure or delay in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder.

12. **Jurisdiction.** This Agreement shall be governed by and will be interpreted in accordance to the laws of the State of New York without regard to the conflicts of law provisions thereof. Nothing in this clause limits the right of either party to bring interim proceedings arising out of or in connection with this Agreement: (a) in any other court of competent jurisdiction; or (b) concurrently in more than one court of competent jurisdiction.
13. **Domestic Dispute Resolution.** If both Parties are US-based, in the event of any controversy or claim arising out of or relating to this Agreement, or the breach thereof, the Parties agree to endeavor first to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration. The Parties further agree that any unresolved controversy or claim arising out of or relating to this Agreement, or breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.
14. **International Dispute Resolution.** If at least one of the Parties is not US-based, in the event of any controversy or claim arising out of or relating to this Agreement, or the breach thereof, the Parties agree to endeavor first to settle the dispute by mediation administered by the International Centre for Dispute Resolution under its Mediation Rules. If settlement is not reached within 60 days after service of a written demand for mediation, any unresolved controversy or claim arising out of or relating to this Agreement shall be settled by arbitration in accordance with the International Arbitration Rules of the International Centre for Dispute Resolution. The International Expedited Procedures of the International Centre for Dispute Resolution shall apply regardless of the amount in dispute. Claims shall be heard by a single arbitrator. The language of the arbitration shall be English. The arbitration shall take place virtually or in person, in the state of New York, USA. The arbitral award shall be in writing and be final and binding on the Parties.
15. **Assignment Permission.** Licensee may not assign the benefits of this Agreement or any interest hereunder without the prior written consent of the Licensor.
16. **Successors.** This agreement shall be binding upon successors and assigns of the Parties and shall inure to the benefit of, and be enforceable by, such successors and assigns, and any officers or directors thereof.
17. **Applicability to Affiliates.** Any Confidential Information disclosed by an affiliated company of the Disclosing Party which would otherwise constitute Confidential Information hereunder if disclosed by the Disclosing Party, shall be deemed to constitute Confidential Information under this Agreement, and the rights under this Agreement may be enforced by any such affiliate as if such affiliate were also a Party to this Agreement. Notwithstanding the foregoing, Confidential Information shall not be disclosed to a competitor of the Disclosing Party.
18. **Warranties. Representations.** Licensee acknowledges that in entering into this Agreement it has not relied on any representation, warranty, collateral contract or other assurance (except as set out

in this Agreement and the documents referred to in it and any other documents entered into on the date of this Agreement) between the Parties made by or on behalf of any other party before the date of this Agreement. Licensee waives all rights and remedies which, but for this clause might otherwise be available to it in respect of any such representation, warranty, collateral contract or other assurance. NO OTHER WARRANTIES ARE MADE BY LICENSOR UNDER THIS AGREEMENT. ANY INFORMATION EXCHANGED UNDER THIS AGREEMENT IS PROVIDED "AS IS."

19. **Restrictions on Use.** The Licensee shall not, without the prior written consent of the Licensor, use or disclose the Confidential Information or any part thereof except as necessary for the Business Purpose, and then only in accordance with the terms of this Agreement. Confidential Information shall not, without the prior written consent of the Licensor, be disclosed to any person or entity other than employees, contractors, or agents of the Licensee who are required to have the information in order to evaluate or engage in discussions regarding the Business Purpose, and in those instances, the disclosure shall be only to the extent justifiable by that need and only to entities or individuals who are bound by confidentiality terms substantially identical to those in this Agreement. The Licensee shall not use and shall direct its Representatives not to use any of the Confidential Information in any manner that would be detrimental, or could reasonably be expected to be detrimental, to the Licensor, including but not limited to reverse engineering, decompiling, or disassembling the Confidential Information. Neither party shall make any copies of the Confidential Information of the other party unless the same are previously approved in writing by the other party. Each party shall reproduce the other party's proprietary rights notices on any such approved copies, in the same manner in which such notices were set forth in or on the original. When the Business Purpose has ended, Licensee will make no further use of the Confidential Information.
20. **Compelled Disclosure.** If the Licensee or any of its Representatives is required pursuant to a valid order by a court, tribunal or an administrative body of competent jurisdiction, or by a governmental auditor, to make any disclosure of Confidential Information, then the Licensee shall promptly notify the Licensor in writing, if notification is permitted by law, and use commercially reasonable efforts to assist the Licensor in obtaining, at the Licensor's expense, a protective order or other reliable assurance that confidential treatment will be accorded to any Confidential Information that is disclosed. Subject to the provisions of this Section 14, the Licensee may furnish that portion (and only that portion) of the Confidential Information that is legally compelled or otherwise required to be disclosed. Such disclosure does not remove the Confidential Information so disclosed from the protection of this Agreement. No further disclosure (beyond the scope of the order) is allowed.
21. **Validity.** In the event that any of the provisions of this Agreement shall be held by a court or other tribunal of competent jurisdiction to be illegal, invalid or unenforceable, such provisions shall be deemed modified to the minimum extent required so that this Agreement shall otherwise remain

in full force and effect. The validity and enforceability of the Agreement as a whole shall not be affected by the partial invalidity of one or more provisions.

22. **Notices.** All notices, demands and other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to be made or given when personally delivered or 3 business days after being mailed by registered or certified United States mail, postage prepaid, return receipt requested, or 1 business day after being sent by Federal Express or other recognized courier guaranteeing overnight delivery, to the Licensor at the following respective addresses, or at such other address as the Licensor may designate from time to time pursuant to a notice duly given hereunder to Licensee. Electronic means of notification (such as email) are acceptable if this Agreement is specifically and prominently mentioned in both the subject and the body of the notification and the recipient party specifically acknowledges receipt thereof.

licensing@privatemachines.com.

Private Machines Inc., 164 20th Street, Ste. 4A, Brooklyn, NY 11232

23. **Execution.** To facilitate execution, this Agreement may be executed by one or more of the parties in the form of an "Electronic Record," as such term is defined in the Electronic Signatures in Global and National Commerce Act at 15 U.S.C. §7001 et seq. ("ESIGN Act"). The Agreement may be executed in as many counterparts as may be required to reflect all parties' assent, all counterparts will collectively constitute a single agreement. An "Electronic Signature," as defined in the ESIGN Act, that can be authenticated will constitute an original and binding signature of a party. The fact that a document is in the form of an Electronic Record and/or is signed using an Electronic Signature will not, in and of itself, be grounds for invalidating such document.

WHEREFORE, the parties acknowledge that they have read and understand this Agreement and voluntarily accept the duties and obligations set forth herein.

(Date)

Private Machines Inc., 164 20th Street, 4th floor, Brooklyn, NY 11232

X _____
(Signature)

(Name – please print)

(Title)

(Name of Receiving Party)

(Correspondence address and email of Receiving Party)

_____X
(Signature)

(Name – please print)

(Title)