



NON-CIRCUMVENTION, NON-DISCLOSURE, AND CONFIDENTIALITY AGREEMENT

THIS AGREEMENT, entered into on this _____ day of _____, is for the association and arrangement of Non-Circumvention, Non-Disclosure, and Confidentiality between **ESMSYS PVT LTD**, (“ESMSYS” or also referred to as the “Disclosing Party”) whose principal place of business is at G/F 30 Madhav Complex, Vasna, Ahmedabad-380007, Gujarat, India and _____, (“Recipient” or also referred to as the “Receiving Party”) whose principal place of business is at _____, herein ESMSYS and Recipient also referred together as the "Parties."

Whereas, the Recipient wishes to _____ and/or to receive business information;

Wherefore, upon execution of this Agreement, the Parties agree to respect the integrity and tangible value of this Agreement between them.

1. Term of Agreement, Automatic Renewal or Roll-Over. This Agreement is effective for a minimum period of five (5) years from the date of execution of this Agreement, and for a period of two (2) years after the exchange of information or the completion of each transaction, whichever occurs later in time, with an additional two (2) years of automatic renewal/roll-over upon the completion or closing of each exchange of information or transaction, and thereafter at the end of any renewal/roll-over period, without the need for any notice or advisement, unless mutually agreed in writing to be terminated by both of the Parties. Said termination can occur at any moment, provided that it is acknowledged by notice through Certified Mail, Return Receipt Requested. If notice is not given by both of the Parties within ten (10) days after the beginning of a new renewal/roll-over period, the Agreement shall remain in full force and effect between the Parties for another two (2) years.

2. Contacts Deemed Exclusive and Valuable. Because of this Agreement, the Recipient involved in this transaction or series of transactions may learn from the Disclosing Party, or from their principals, or from their sources, the names, telephone numbers, email addresses, and other contact information of clients, borrowers, investors, lenders, agents, brokers, lending corporations, banks, manufacturers, individuals and/or trusts, marketplaces or buyers and sellers hereinafter referred to as “Contacts.” The Parties agree that the identities of the Contacts shall be recognized by the Recipient as the exclusive and valuable Contacts of the Disclosing Party and shall remain so for the duration of this Agreement, including any renewal/roll-over period.



3. Agreement Not to Contact or Communicate Without Consent

The Recipient hereby legally and irrevocably bind themselves and guarantee to the Disclosing Party that the Recipient shall not directly or indirectly contact or communicate with, or submit a request for a product or service to, any contact, entity, or institution introduced by the Disclosing Party without the prior case-by-case written approval of the Disclosing Party authorizing such contact or communication.

4. Exclusions from Confidential Information. Receiving Party's obligations under this Agreement do not extend to information that is: (a) publicly known at the time of disclosure or subsequently becomes publicly known through no fault of the Receiving Party; (b) discovered or created by the Receiving Party before disclosure by Disclosing Party; (c) learned by the Receiving Party through legitimate means other than from the Disclosing Party or Disclosing Party's representatives; or (d) is disclosed by the Receiving Party with the Disclosing Party's prior written approval.

5. Confidentiality. The Recipient shall keep strictly confidential the names and any other identifying information of any Contacts introduced or revealed by the Disclosing Party, and that their firm, company, associates, corporations, joint ventures, partnerships, divisions, subsidiaries, employees, agents, contractors, heirs, assigns, designees, or consultants will not contact, deal with, negotiate or participate in any transactions with any of the contacts without first entering into a written agreement with the Disclosing Party who provided such contact, unless the Disclosing Party gives prior written consent. Such confidentiality will include any names, addresses, email addresses, telephone, telex, facsimile numbers, and/or other pertinent information disclosed or revealed to either Party.

6. Non-Disclosure. The Recipient agree not to disclose, reveal or make use of any information during discussion or observation regarding methods, concepts, ideas, specifications, product, services, or proposed new products or services, nor to do business with any of the revealed Contacts without the written consent of the Disclosing party.

7. Commission or Fee Agreements. The Parties agree that due to the many variables surrounding each business transaction that will occur because of this Agreement, the commission to be paid and/or the fee structure between the Parties may vary. A separate fee/commission agreement may outline compensation for each business transaction. The fee or commission agreement must be drafted and acknowledged by signature before the commencement of business transactions.



8. Liquidated Damages. In case of circumvention, the Recipient agree and guarantee that they will pay a legal monetary penalty that is equal to three (3) times the commission or fee the Disclosing Party should have realized in such transactions for each occurrence.

9. Remedies/Agreement Penalty. The Recipient acknowledges and agrees that any violation or breach of this NON-CIRCUMVENTION, NON-DISCLOSURE, AND CONFIDENTIALITY AGREEMENT: (i) shall result in a penalty against the Recipient in an amount not less than Five Crore Indian Rupees and Zero Paise (INR 5,00,00,000.00)(the “Agreement Penalty”), payable to ESMSYS within thirty (30) days after invoicing of this amount to the Recipient; (ii) that ESMSYS is authorized to withhold all or any portion of the Agreement Penalty from any payments otherwise due to the Recipient until such Agreement Penalty is fully paid; and (iii) that the Agreement Penalty amount shall be in addition to and shall not reduce the amount of actual damages ESMSYS is able to prove for any breach or violation of this or any other section of this Agreement.

10. Attorney Fees. If either party commences legal proceedings to interpret or enforce the terms of this Agreement, the Disclosing Party will be entitled to recover court costs and reasonable attorney fees.

11. Choice of Law. The Parties will construe this Agreement in accordance with the laws of India and State of Gujarat. If any provision of this Agreement is deemed void by any court of competent jurisdiction, the remaining provisions shall remain in force and effect.

12. Consent to Personal Jurisdiction. THE PARTIES HEREBY EXPRESSLY CONSENT TO THE PERSONAL JURISDICTION OF THE STATE AND FEDERAL COURTS LOCATED IN INDIA AND STATE OF GUJARAT FOR ANY LAWSUIT FILED BY EITHER PARTY RELATED TO THE TERMS OF THIS AGREEMENT.

13. Entire Agreement. This Agreement contains the entire understanding between the Parties, and any waiver, amendment or modification to this Agreement is subject to the above conditions and must be attached to this Agreement.

14. Authority to Act/Bind. Upon execution of this Agreement by signature below, the Parties agree that any individual, firm company, associates, corporations, joint ventures, partnerships, divisions, subsidiaries, employees, agents, heirs, assigns, designees or consultants of which the signee is an agent, officer, heir, successor, assign or designee is bound by the terms of this Agreement.



An e-mail or facsimile copy of this Non-Circumvention, Non-Disclosure and Confidentiality Agreement shall constitute a legal and binding instrument. By setting forth my hand below, I warrant that I have complete authority to enter into this Agreement.

For: **ESMSYS PVT LTD**

Printed Name

Signature

Title

For: _____

Printed Name

Signature

Title