**CONFIDENTIALITY AGREEMENT / NON-DISCLOSURE (NDA) AGREEMENT**

This Confidentiality Agreement ("Agreement") is made and effective the [DATE],

**BETWEEN: Tina Helmreich (**the “Company”), located at:

 Ottakringerstrasse 173 Top 18, 1160 Vienna, Austria

info@tinahelmreich.com

**AND: [RECIPIENT NAME / COMPANY NAME]** (the "Recipient"), an individual with his main address located at OR a corporation with its head office located at:

 [COMPLETE ADDRESS, EMAIL AND PHONE NUMBER]

Throughout the course of this Agreement, the Company and the Recipient may each be referred to as a (“Party” or collectively as the “Parties”).

In consideration of the terms and covenants of this agreement, and other valuable consideration, the parties agree as follows:

WHEREAS, Recipient has requested information from Company in connection with consideration of a possible transaction or relationship between Recipient and Company as described below.

WHEREAS, in the course of consideration of the possible transaction or relationship, Company may disclose to Recipient confidential, important, and/or proprietary trade secret information concerning Company and its activities.

THEREFORE, the parties agree to enter into a confidential relationship with respect to the disclosure by Company to Recipient of certain information.

1. **CONFIDENTIAL INFORMATION**

Company proposes to disclose certain of its confidential and proprietary information (the “Confidential Information") to Recipient. Confidential Information shall include all data, materials, products, technology, computer programs, specifications, manuals, business plans, software, marketing plans, financial information, and other information disclosed or submitted, orally, in writing, or by any other media, to Recipient by Company. Confidential Information may also include information of a third party that is in the possession of one of the parties and is disclosed to the other party under this Agreement. Confidential Information disclosed orally shall be identified as such within five (5) days of disclosure. Nothing herein shall require Company to disclose any of its information.

 “**Confidential Information**” also means any non-public information that relates to the actual business or research and development of the Company, technical data, trade secrets or know-how, including, but not limited to, research, product plans or other information regarding Company’s products or services and markets therefore, customer lists and customers (including, but not limited to, customers of the Company), software, developments, inventions, processes, formulas, technology, designs, drawing, engineering, hardware configuration information, marketing, finances, other business information or any other form of proprietary information of Company. Confidential Information does not include information that (i) has become publicly known and made generally available through no wrongful act of Recipient or (ii) has been rightfully received by Recipient from a third party who is authorized to make such disclosure.

For the purpose of this Agreement, “Proprietary Information” shall include, but not limited to any information, observation, data, written material, record, document, drawing, photograph, layout, computer program, software, multimedia, firmware, invention, discovery, improvement, development, tool, machine, apparatus, appliance, design, work of authorship, logo, system, promotional idea, customer list, customer need, practice, pricing information, process, test, concept, formula, method, market information, technique, trade secret, product and/or research related to the actual or anticipated research development, products, organization, marketing, advertising, business or finances of the Company, its affiliates or related entities.

For purposes of this Agreement, the term "Recipient" shall include Recipient, the company he or she represents, and all affiliates, subsidiaries, and related companies of Recipient. For purposes of this Agreement, the term "Representative" shall include Recipient's directors, officers, employees, agents, and financial, legal, and other advisors.

1. **MAINTENANCE OF CONFIDENTIALITY**

Recipient will not, during or subsequent to the term of this Agreement, (i) use the Confidential Information for any purpose whatsoever other than the use described in this Agreement or (ii) disclose the Confidential Information to any third party. Recipient agrees that all Confidential Information will remain the sole property of the Company. Recipient also agrees to take all reasonable precautions to prevent any unauthorized disclosure of such Confidential Information. Without the Company’s prior written approval, Recipient will not directly or indirectly disclose to anyone the existence of this Agreement or the fact that Recipient has this arrangement with the Company.

Recipient hereby agrees to indemnify Company against any and all losses, damages, claims, expenses, and attorneys' fees incurred or suffered by Company as a result of a breach of this Agreement by Recipient or its Representatives.

1. **IRREPARABLE HARM**

Recipient acknowledges that any use, disclosure or misappropriation of any of the Confidential Information in violation of this Agreement will give rise to irreparable injury for which damages alone would not be an adequate remedy. Recipient understands that any breach of confidentiality and non-disclosure agreement is a material breach of this Agreement. Therefore, in addition to legal remedies available at law or in equity, the Company shall be entitled to equitable or injunctive relief against the unauthorized use or disclosure of Confidential Information. Company shall be entitled to pursue all legal remedies as a result of such breach, including but not limited to, damages both direct and consequential. In any action brought by Company under this Agreement, Company shall be entitled to recover its attorney’s fees and costs from the Recipient.

1. **USE**

Recipient and its Representatives shall use the Confidential Information solely for the purpose of evaluating a possible transaction or relationship with Company as described below and shall not in any way use the Confidential Information to the detriment of Company. No other use of the confidential information is permitted.

Both parties agree to use the confidential information solely for the purpose of:

[LIST WHAT INFORMATION YOU ARE SHARING WITH THE OTHER PARTY AND DESCRIBE THE REASON FOR SHARING THE CONFIDENTIAL INFORMATION]

1. **EXCLUSIONS**

Confidential Information does not include information that Recipient can demonstrate: (a) was in Recipient's possession prior to its being furnished to Recipient under the terms of this Agreement, provided the source of that information was not known by Recipient to be bound by a confidentiality agreement with or other continual, legal or fiduciary obligation of confidentiality to Company; (b) is now, or hereafter becomes, through no act or failure to act on the part of Recipient, generally known to the public; (c) is rightfully obtained by Recipient from a third party, without breach of any obligation to Company; or (d) is independently developed by Recipient without use of or reference to the Confidential Information.

1. **RECIPIENT'S OBLIGATIONS**

Recipient agrees that the Confidential Information is to be considered confidential and proprietary to Company and Recipient shall hold the same in confidence, shall not use the Confidential Information other than for the purposes of its business with Company, and shall disclose it only to its officers, directors, or employees with a specific need to know. Recipient will not disclose, publish or otherwise reveal any of the Confidential Information received from Company to any other party whatsoever except with the specific prior written authorization of Company.

Confidential Information furnished in tangible form shall not be duplicated by Recipient except for purposes of this Agreement. Upon the request of Company, Recipient shall return all Confidential Information received in written or tangible form, including copies, or reproductions or other media containing such Confidential Information, within 7 days of such request. At Recipient's option, any documents or other media developed by the Recipient containing Confidential Information may be destroyed by Recipient. Recipient shall provide a written certificate to Company regarding destruction within 15 days thereafter.

1. **TERM**

The obligations of Recipient herein shall be effective from the date of this agreement and from when the Company last discloses any Confidential Information to Recipient pursuant to this Agreement. Further, the obligation not to disclose shall not be affected by bankruptcy, receivership, assignment, attachment or seizure procedures, whether initiated by or against Recipient, nor by the rejection of any agreement between Company and Recipient, by a trustee of Recipient in bankruptcy, or by the Recipient as a debtor-in-possession or the equivalent of any of the foregoing under local law.

1. **PERMITTED DISCLOSURES** [THIS PARAGRAPH IS OPTIONAL – KEEP IT OR DELETE IT AS NEEDED]

Recipient may disclose Company's Confidential Information to Recipient's responsible Representatives with a bona fide need to know such Confidential Information, but only to the extent necessary to evaluate or carry out a proposed transaction or relationship with Company and only if such employees are advised of the confidential nature of such Confidential Information and the terms of this Agreement and are bound by a written agreement or by a legally enforceable code of professional responsibility to protect the confidentiality of such Confidential Information.

1. **REQUIRED DISCLOSURES**

Recipient may disclose Company's Confidential Information if and to the extent that such disclosure is required by law and court order, provided that Recipient provides Company a reasonable opportunity to review the disclosure before it is made and to interpose its own objection to the disclosure.

 **10**. **WORKS FOR HIRE**

a. Recipient acknowledges that all works of authorship performed for the Company are subject to Company’s direction and control and that such works constitute a work for hire pursuant to law.

b. All Propriety Information developed, created, invented, devised, conceived or discovered by Recipient that is subject to copyright are explicitly considered by Recipient and Company to be “works made for hire” and the property of the Company.

**11. NO LICENSE**

Nothing contained herein shall be construed as granting or conferring any rights by license or otherwise in any Confidential Information. It is understood and agreed that neither party solicits any change in the organization, business practice, service or products of the other party, and that the disclosure of Confidential Information shall not be construed as evidencing any intent by a party to purchase any products or services of the other party nor as an encouragement to expend funds in development or research efforts. Confidential Information may pertain to prospective or unannounced products. Recipient agrees not to use any Confidential Information as a basis upon which to develop or have a third party develop a competing or similar product.

**12. NON-COMPETE**

Recipient agrees not to engage in any activity that is competitive with any activity of the Company during the course of their relationship and for a period of [SPECIFY THE NUMBER OF MONTHS OR ENTER ONE YEAR] after termination of the Agreement. The term "not to compete" shall mean that the Recipient party shall not directly or indirectly compete with the Company by serving as an officer, owner, partner, director, agent, employee or consultant to any firm or entity substantially engaged in a business similar or competitive to the business of the Company. For purposes of this paragraph, competitive activity encompasses forming or making plans to form a business entity that may be deemed to be competitive with any business of the Company. This does not prevent Recipient from seeking or obtaining employment or other forms of business relationships with a competitor after termination of employment with Company so long as such competitor was in existence prior to the termination of relationship with Company and Recipient was in no way involved with the organization or formation of such competitor.

**13. SOLICITATION OF EMPLOYEES AND INDEPENDENT CONTRACTORS**

Recipient agrees that he/she will not, either during the period of this Agreement, or for a period of [ENTER NUMBER] year after this Agreement has terminated, solicit any of Company’s employees or independent contractors hired by the Company for a competing business or otherwise induce or attempt to induce such employees or contractors to terminate their employment with Company.

**14. SOLICITING CUSTOMERS AFTER TERMINATION OF AGREEMENT**

For a period of [TIME, ENTER MONTHS OR ONE YEAR], following the termination of the relationship with the Company, Recipient shall not, directly or indirectly, make known to any person, firm or corporation the names or addresses of any of the customers of Company or any other information pertaining to them, or call on, solicit, take away, or attempt to call on, solicit, or take away any customer of Company on whom Recipient called or with whom Recipient became acquainted during the time of this Agreement, for either itself or for any other person, firm, or corporation.

**15. OTHER INFORMATION**

Recipient shall have no obligation under this Agreement with respect to Confidential Information which is or becomes publicly available without breach of this Agreement by Recipient; is rightfully received by Recipient without obligations of confidentiality; or is developed by Recipient without breach of this Agreement; provided, however, such Confidential Information shall not be disclosed until [NUMBER] days after written notice of intent to disclose is given to Company along with the asserted grounds for disclosure.

**16. RETURN OF DOCUMENTS**

If Recipient does not proceed with the possible transaction with Company, Recipient shall notify Company of that decision and shall, at that time or at any time upon the request of Company for any reason, return to Company any and all records, notes, and other written, printed or other tangible materials in its possession pertaining to the Confidential Information immediately on the written request of Company. The returning of materials shall not relieve Recipient from compliance with other terms and conditions of this Agreement.

**17. NO ADDITIONAL AGREEMENTS**

Neither the holding of discussions nor the exchange of material or information shall be construed as an obligation of Company to enter into any other agreement with Recipient or prohibit Company from providing the same or similar information to other parties and entering into agreements with other parties. Company reserves the right, in its sole discretion, to reject any and all proposals made by Recipient or its Representatives with regard to a transaction between Recipient and Company and to terminate discussions and negotiations with Recipient at any time. Additional agreements of the parties, if any, shall be in writing signed by Company and Recipient.

**18. NO PUBLICITY**

Recipient agrees not to disclose its participation in this undertaking, the existence or terms and conditions of the Agreement, or the fact that discussions are being held with Company.

**19. GOVERNING LAW AND EQUITABLE RELIEF**

This Agreement shall be governed and construed in accordance with the laws of Austria and in Vienna and Recipient consents to the exclusive jurisdiction of the state courts and federal courts located there for any dispute arising out of this Agreement. Recipient agrees that in the event of any breach or threatened breach by Recipient, Company may obtain, in addition to any other legal remedies which may be available, such equitable relief as may be necessary to protect Company against any such breach or threatened breach.

**20. MEDIATION AND ARBITRATION [**BONUS SECTION, ONLY INCLUDE IF YOU WISH TO AVOID COURT AND RESOLVE YOUR LEGAL DISPUTE THROUGH MEDIATION OR ARBITRATION FIRST]

Any dispute between the Parties under this Agreement shall be first submitted to mediation and then if still unresolved to binding arbitration. Said mediation or binding arbitration shall comply with and be governed by the provisions of the laws of Austria unless the Parties stipulate otherwise.

**21. FINAL AGREEMENT**

This Agreement terminates and supersedes all prior understandings or agreements on the subject matter hereof. This Agreement may be modified only by a further writing that is duly executed by both parties.

**22. SURVIVAL**

This Agreement shall continue in full force and effect at all times.

**23. SUCCESSORS AND ASSIGNS**

This Agreement and each party's obligations hereunder shall be binding on the representatives, assigns, and successors of such party and shall inure to the benefit of the assigns and successors of such party; provided, however, that the rights and obligations of Recipient hereunder are not assignable.

**24. SEVERABILITY**

If any term of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then this Agreement, including all of the remaining terms, will remain in full force and effect as if such invalid or unenforceable term had never been included.

**25. NOTICES**

Any notice required by this Agreement or given in connection with it, shall be in writing and shall be given to the appropriate party by email.

If to Company:

Tina Helmreich, Ottakringerstrasse 173 Top 18, 1160 Vienna, Austria

info@tinahelmreich.com

If to Recipient:

ATTN. [NAME], [COMPANY NAME], [COMPLETE ADDRESS], [EMAIL ADDRESS].

**26. NO IMPLIED WAIVER**

Either party's failure to insist in any one or more instances upon strict performance by the other party of any of the terms of this Agreement shall not be construed as a waiver of any continuing or subsequent failure to perform or delay in performance of any term hereof.

**27. HEADINGS**

Headings used in this Agreement are provided for convenience only and shall not be used to construe meaning or intent.

**28. ATTORNEY'S FEES**

In the event any litigation, arbitration, mediation or other proceeding (“Proceeding”) is initiated by any party against any other party to enforce, interpret or otherwise obtain judicial or quasi-judicial relief in connection with this Agreement, the prevailing party in such Proceeding shall be entitled to recover from the unsuccessful party all costs, expenses and actual attorney's fees relating to or arising out of (a) such proceeding, whether or not such proceeding proceeds to judgment, and (b) any post-judgment or post-award proceeding, including without limitation one to enforce any judgment or award resulting from any such Proceeding. Any such judgment or award shall contain a specific provision for the recovery of all such attorneys’ fees, costs, and expenses. Any such judgment or award shall contain a specific provision for the recovery of all such subsequently incurred costs, expenses and actual attorney’s fees.

**29.** **DISCLAIMER**

Nothing contained in this Agreement or in any Confidential Information constitutes any express or implied warranty of any kind. All representations or warranties, whether express or implied, including fitness for a particular purpose, merchantability, title, and non-infringement, are hereby disclaimed. Neither this Agreement nor any Confidential Information shall create, nor shall be deemed to create, a legally binding or enforceable Agreement or offer to enter into any business relationship.

 **30. MODIFICATIONS**

This Agreement may be modified only by a contract in writing executed by the party to this Agreement against whom enforcement of such modification is sought.

**31. COUNTERPARTS AND RIGHT**

This Agreement may be signed in counterparts, which together shall constitute one agreement. The person signing on behalf of Recipient represents that he or she has the right and power to execute this Agreement.

**32. ENTIRE AGREEMENT**

This Agreement expresses the full and complete understanding of the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous proposals, agreements, representations and understandings, whether written or oral, with respect to the subject matter. This Agreement is not, however, to limit any rights that Company may have under trade secret, copyright, patent or other laws that may be available to Company. This Agreement may not be amended or modified except in writing signed by each of the parties to the Agreement. This Agreement shall be construed as to its fair meaning and not strictly for or against either party. The headings hereof are descriptive only and not to be construed in interpreting the provisions hereof.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

COMPANY RECIPIENT

Tina Helmreich

Authorized Signature Authorized Signature

Tina Helmreich, MA

Print Name and Title Print Name and Title