Nondisclosure Agreement (NDA) (One-Way Business Arrangement)

This document is a one-way nondisclosure agreement for businesses or people that

* Wish to share confidential information with another party, but will not receive confidential information from that other party (i.e. the confidential information is only being shared “one-way” like a one-way street, not two ways);
  + If both parties wish to share confidential information with each other, see our Nondisclosure Agreement (Mutual Business Arrangement).

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**Nondisclosure Agreement**

This nondisclosure agreement (this “**Agreement**”) is dated [Date] (the “**Effective Date**”) and is between [Company Name of Disclosing Party; e.g. “Max Studios, LLC”; if you do not have a formal legal entity, use your legal name, e.g. “Max Smith”], (the “**Company**”), and [Company Name of Receiving Party; if receiving party does not have a formal legal entity, use their legal name] (the “**Recipient**”).

The parties agree as follows:

# **Definitions.** The following terms, as used in this Agreement, have the following meanings:

“**Confidential Information**” means any information that is proprietary or unique to the Company and that is disclosed by the Company to the Recipient during the term of this Agreement, including the following: trade secret information; matters of a technical nature such as processes, devices, techniques, data and formulas, research subjects and results; marketing methods; plans and strategies; information about operations, products, services, revenues, expenses, profits, sales, key personnel, customers, suppliers, and pricing policies; and any information concerning the marketing and other business affairs and methods of the Company which is not readily available to the public. “Confidential Information” also includes information of others that (1) is disclosed under this Agreement, (2) the Company is obligated to protect from disclosure or restricted from using or both, and (3) that would constitute “Confidential Information” if the information belonged to the Company.

“**Purpose**” means evaluating the parties’ capabilities in anticipation of pursuing one or more business opportunities.

# **Use of Confidential Information.** The Recipient shall use Confidential Information only for the Purpose. Unless otherwise agreed in writing, neither party shall disclose to a third party the fact that discussions or negotiations are taking place concerning the Purpose or any of the terms or other facts relating to the Purpose, including the status of negotiations between the parties.

# **Confidentiality; Standard of Care; Limited Access.** The Recipient shall protect the Confidential Information from unauthorized use and disclosure using the same degree of care that it uses with respect to its own information of like importance, but no less than a reasonable degree of care. The Recipient shall retain the Confidential Information in confidence and shall not disclose Confidential Information to any third party without the Company’s prior written consent. However, the Recipient may disclose the Confidential Information to employees, contractors, consultants, and authorized representatives of the Recipient who (1) require access to the information for the Purpose, (2) are informed by the Recipient of the Recipient’s obligations under this Agreement, and (3) are bound by contract or fiduciary duty to obligations of confidentiality and use restrictions with substantially similar function, purpose, scope, and effect to those of this Agreement and that are at least as protective of the Confidential Information as this Agreement.

# **Exclusions**

## This Agreement imposes no obligations upon the Recipient with respect to Confidential Information that: (1) was known to the Recipient before disclosure by the Company as evidenced by contemporaneous records; (2) has become publicly available through no fault of the Recipient; (3) is disclosed to the Recipient by a third party that has the right to make the disclosure to the Recipient and that does not have any obligation of confidentiality with respect to the Confidential Information; or (4) is disclosed by the Recipient with the Company’s prior written consent.

## If the Recipient is required by any governmental agency, court, or other judicial or regulatory body to provide any Confidential Information received under this Agreement, then the Recipient will not be deemed to be in violation of this Agreement for the disclosure if the Recipient promptly gives written notice to the Company of the requirement to provide the Confidential Information and cooperates with the Company so that the Company may contest the requirement to provide the Confidential Information. The Recipient may disclose only that portion of the Confidential Information that it is legally required to furnish.

# **No Grant or License.** The disclosure of Confidential Information under this Agreement will not constitute the grant of a license to or an interest in the Confidential Information or any other intellectual property of the Company.

# **Disclosure at the Company’s Discretion.** Nothing contained in this Agreement will be construed as requiring the Company to disclose any particular information to the Recipient.

# **“As Is” Disclosure.** All information that the Company provides under this Agreement is provided “as is.” The Company makes no representations as to the information’s accuracy, completeness, or noninfringement.

# **Relationship of the Parties.** This Agreement does not create an agency, joint venture, partnership, employment, or other formal business relationship or association between the parties, or obligate either party to enter into any subsequent agreement or business arrangement or to purchase or provide any goods or services.

# **Term and Obligations of Confidentiality Period.** This Agreement will continue for a period of one year from the Effective Date unless: (1) terminated earlier by either party upon written notice to the other; (2) extended by the mutual written agreement of the parties; or (3) superseded by a subsequent written agreement that explicitly sets forth the obligations of the parties with respect to Confidential Information. With respect to business information, the Recipient’s obligations of confidentiality and non-use under this Agreement will expire three years from the termination of this Agreement. With respect to all information that constitutes a trade secret, the Recipient’s obligations of confidentiality and non-use under this Agreement will survive the termination of this Agreement for as long as such information remains a trade secret under applicable law.

# **Return of Confidential Information.** Upon the Company’s request or upon the termination of this Agreement, the Recipient shall return to the Company, delete, or destroy all written and electronic documentation and data containing Confidential Information and any other written, recorded, or machine-readable material containing or reflecting any Confidential Information. Upon the Company’s request, the Recipient shall provide written certification of the destruction or deletion of Confidential Information under this section.

# **Remedies.** If the Recipient violates or threatens to violate any of its obligations contained in this Agreement, then, in addition to any other remedy available at law or in equity, the Company will have (1) the right and remedy of specific enforcement, including injunctive relief, it being acknowledged that any such violation or threatened violation will cause irreparable injury to the Company and that monetary damages will not provide an adequate remedy, and (2) the right to any and all damages available as a matter of law, and costs and expenses incurred by the Company in pursuing its rights under this Agreement, including reasonable attorney fees, court costs, and other litigation expenses.

# **Severability.** If a court of competent jurisdiction declares any provision of this Agreement invalid or unenforceable, then the parties request that the court judicially modify that provision consistent with the intent of this Agreement so that it will be enforceable to the fullest extent possible.

# **Assignment.** The Recipient shall not (1) assign or transfer any of the Recipient’s rights under this Agreement, either voluntarily or involuntarily, whether by operation of law, or any other manner, or (2) delegate any performance under this Agreement, except with the prior written consent of the Company. Any purported assignment of rights or delegation of performance in violation of this section is void.

# **Governing Law and Designation of Forum.** All questions concerning the construction, validity, and interpretation of this Agreement, and performance under this Agreement, will be governed by the laws of [State], without giving effect to the conflicts of laws principles of that state. Any dispute arising out of, or concerning, this Agreement, or performance under this Agreement,will be resolved exclusively in a federal or state court of competent jurisdiction located in [State]. To the extent necessary, the parties hereby submit to, and agree not to contest, the jurisdiction of such courts.

# **Miscellaneous.** This Agreement may not be modified or amended except by a writing signed by the parties. This Agreement may be signed in any number of counterparts, each of which will be an original with the same effect as if the signatures were upon the same instrument, and it may be signed electronically. The captions in this Agreement are included for convenience of reference only and will be ignored in the construction or interpretation hereof. The parties have participated jointly in the negotiation and drafting of this Agreement. If an ambiguity or question of intent or interpretation arises regarding this Agreement, this Agreement will be construed as if drafted jointly by the parties and no presumption or burden of proof will arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

[Signature page follows.]

The parties are signing this Agreement as of the Effective Date.

[COMPANY NAME]

By:

[NAME]

[TITLE]

[RECIPIENT’S NAME]

By:

[NAME]

[TITLE]

[RECIPIENT’S NAME]