

MUTUAL NON-DISCLOSURE AGREEMENT

This Agreement is entered into and made effective as of _____, 20__ (the "Effective Date") between **Clivia Systems, Inc.**, a California corporation, on behalf of itself, ("**CLIVIA**"), and the company ("**COMPANY**") identified below, and its majority owned subsidiaries.

CLIVIA is in the business of technology development, consulting, advising and investing, and **COMPANY** is engaged in a business that is considering the use of **CLIVIA's** expertise and/or technology. In order to facilitate discussions between the parties to evaluate and determine whether and to what extent **COMPANY** desires to use **CLIVIA's** expertise and/or technology and whether and to what extent **CLIVIA** desires to provide such expertise and/or technology (collectively, the "Discussion"), **CLIVIA** and **COMPANY** desire to exchange certain confidential information subject to the terms and conditions of this Agreement. Accordingly, **CLIVIA** and **COMPANY** agree as follows:

1. For purposes of this Agreement, "Confidential Information" of a party (the "Discloser") shall mean any information which is disclosed hereunder to the other party (the "Recipient") which is in tangible form and marked confidential and/or proprietary or with a similar legend or is disclosed orally in discussions related to that information, whether those discussions occur prior to, concurrent with, or following disclosure of the information.
2. Notwithstanding the foregoing, "Confidential Information" shall not include any information which (a) is in the public domain other than through a breach of this Agreement, (b) has been rightfully received by the Recipient from a third party without any obligation of confidentiality, (c) is independently developed by employees of the Recipient, or (d) is generally made available to third parties by the Discloser without restriction on disclosure.
3. The Recipient shall not use any of the Discloser's Confidential Information other than for the limited purpose of the Discussion. The Recipient (i) shall treat the Discloser's Confidential Information as confidential, using at a minimum the same degree of care as it uses for its own confidential information of a similar nature, but in no event less than commercially reasonable care; (ii) shall not disclose or afford access to any such Confidential Information to any person unless they have a need to know such information for the purposes of this Agreement, and are bound by an obligation of confidentiality at least as restrictive as exists under this Agreement; and (iii) shall use commercially reasonable efforts to ensure that any person to which it discloses or affords access to the Confidential Information shall not disclose any such Confidential Information to any other person or use any such Confidential Information other than for the limited purpose of the Discussion (and, in any event, shall be liable to the Discloser for breach by any such person).
4. The obligations of confidentiality under this Agreement shall be five (5) years from the date of disclosure of any Confidential Information.
5. Nothing contained in this Agreement shall be construed as granting any license under any patents, copyrights, trademarks or other intellectual property rights by one party to the other, either expressly, by implication, inducement, estoppel or otherwise. Title or the right to possess Confidential Information as between the parties will remain in the Discloser.
6. Either party may terminate this Agreement at any time without cause upon written notice to the other party; provided that each party's obligation with respect to Confidential Information disclosed during the term of this Agreement will survive any such termination. Either party may, at any time (a) cease giving Confidential Information to the other party without any liability and/or (b) request in writing the return or destruction of all or part of its Confidential Information previously disclosed, and all copies thereof, and the Recipient will promptly comply with such request, and certify in writing its compliance.
7. The failure or delay of either party at any time to enforce any right resulting from breach of any provision of this Agreement by the other party will not be deemed a waiver of such right or any right relating to a subsequent breach of such provision or of any other right hereunder.
8. Export or re-export of certain Confidential Information may be prohibited or restricted or subject to prior approval of one or more governments, including without limitation the government of the USA. The parties agree to comply strictly with all applicable export control laws and regulations in respect to the Confidential Information.

9. This Agreement does not create any agency, employment or partnership relationship between the parties, and imposes no obligation on either party to transact any business with the other party. Nothing herein shall prevent or restrict either party from developing information internally, or receiving information from other parties, that is similar to the Confidential Information or prevent or restrict either party from developing products, concepts, systems or techniques that are similar to or compete with the products, concepts, systems or techniques contemplated by or embodied in the Confidential Information, provided that the Recipient does not violate any of its obligations under this Agreement.
10. This Agreement contains the sole and entire agreement between the parties with respect to the Confidential Information and all restrictions thereon; it supersedes any and all prior and contemporaneous understandings of the parties in any form, with respect to the Confidential Information. The terms of this Agreement may be altered only in a writing signed by a duly authorized representative of both parties. Any other agreements between the parties and their majority owned subsidiaries, including non-disclosure agreements, will not be affected by this Agreement.
- 11. INFORMATION IS DELIVERED "AS IS" AND ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE AND WARRANTY OF MERCHANTABILITY, ARE HEREBY DISCLAIMED.**
12. This Agreement shall be governed by and construed in accordance with the laws of the State of California, excluding the conflict of laws principles thereof.

In witness whereof, the parties have executed this Agreement as of the date first written above.

"COMPANY"

"CLIVIA"

Signature

Signature

Printed Name

Printed Name

Title

Title

Company

Clivia Systems, Inc. _____
Company

Address

530 Wilshire Blvd. Suite 207 _____
Address

City, State, Postal Code

Santa Monica, CA 90401 _____
City, State, Postal Code