

# NON DISCLOSURE AGREEMENT

NON DISCLOSURE AGREEMENT This Mutual Confidentiality Agreement (this “Agreement”) is made and entered into as of [\_\_], 20[ ] (the “Effective Date”) by and between Machmeric Systems Inc. located at 10 Longton Road, Carigqian Hangzhou 311121, Zhejiang. PR China. and [\_\_\_\_], located at [\_\_\_\_] (“Contracting Party”) (each of Machmeric and Contracting Party, a “Party” and together, the “Parties”).

## WITNESSETH:

WHEREAS, each of the Parties is the owner of certain proprietary and confidential information relating to its assets, business operations, and financial condition;

WHEREAS, the Parties desire to undertake discussions with respect to, and possibly to negotiate and enter into, certain agreements or other business relationships with one another (such discussions, negotiations, agreements, and other relationships between the Parties: the “Business Dealings”); and

WHEREAS, each of the Parties desires to enter into an agreement for the protection of its proprietary and confidential information, and to agree to protect the other Party’s proprietary and confidential information.

NOW THEREFORE, in consideration of the disclosure of such proprietary and confidential information by each Party to the other Party, and other good and valuable consideration, the receipt and sufficiency of which his hereby acknowledged, the Parties agree as follows:

1. Certain Definitions: For purposes of this Agreement, the following terms shall have the definitions indicated:
  - a. “Confidential Information” means all information that is confidential, business sensitive, or proprietary in nature about the Disclosing Party (as defined below), its subsidiaries or its other affiliates, or their respective businesses, assets, plans, or activities, including, without limitation, trade secrets, names and expertise of employees and consultants, know-how, formulae, processes, ideas, inventions (whether or not patentable), schematics, and other technical, business, financial, company and product development information and data (whether or not reduced to writing and regardless of the medium in which maintained), and any other confidential or non-public information that is disclosed or made available to the Receiving Party (as defined below) or its Representatives (as defined below) by or on behalf of the Disclosing Party or any of its subsidiaries or other affiliates, along with all copies, notes, analyses, compilations, studies, or other materials prepared by or on behalf of Receiving Party (as defined below) or any of its Representatives that contain or reflect such information. The existence and terms of this Agreement shall be considered Confidential Information. Notwithstanding the foregoing, Confidential Information shall not include information that: (i) is in the public domain on the Effective Date or comes Page 2 of 6 into the public domain other than through the breach of this Agreement by the Receiving Party or any of its Representatives; (ii) is lawfully obtained by the Receiving Party from a third party without breach of this Agreement and otherwise not in violation of the rights of the Disclosing Party or any of its subsidiaries; (iii) is known to the Receiving Party at the time of disclosure as shown by its written records in existence at the time of disclosure; or (iv) is

independently developed by the Receiving Party; provided, that the Receiving Party can demonstrate that it did so without making any use of any Confidential Information or other information disclosed by or on behalf of the Disclosing Party in confidence to any third party.

b. "Disclosing Party" means the Party whose Confidential Information is disclosed to the other Party.

c. "Receiving Party" means the Party that receives or has received Confidential Information of the other Party.

d. "Representative" means, (i) with respect to Contracting Party, any of its officers, directors, members, partners, affiliates, employees, agents, and advisors, including without limitation, attorneys, accountants, consultants, bankers, and financial advisors and (ii) with respect to Machmeric Systems Inc and any of Machmeric's officers, directors, members, partners, employees, agents, advisors, including without limitation, attorneys, accountants, consultants, bankers, and financial advisors.

2. Nondisclosure: The Receiving Party agrees that it: (a) shall treat all Confidential Information as strictly confidential; (b) shall not disclose or use any Confidential Information except as reasonably necessary to its own Representatives in connection with the Business Dealings; (c) shall protect all Confidential Information, whether in storage or in use, with the same degree of care as the Receiving Party uses to protect its own Confidential Information against public disclosure, but in no case with less than reasonable care; and (d) shall disclose Confidential Information only to such of its Representatives who need to know such Confidential Information for purposes of the Business Dealings; provided, that such Representatives are informed of the confidential nature of such Confidential Information and the terms of this Agreement prior to disclosure; and provided, further, that the Receiving Party shall be responsible in the event of such Representative's breach of this Agreement as if the Receiving Party had committed such breach.
3. Equitable Remedies: Each of Machmeric and Contracting Party acknowledges and agrees that any unauthorized disclosure of the Confidential Information of the other Party will cause the other Party irreparable harm for which remedies at law are inadequate. Therefore, if any obligations of, or agreements made herein by, either Party are breached by either Party or its respective Representatives, Page 3 of 6 without limiting any other remedy available at law or in equity, the non-breaching Party shall be entitled to an injunction, specific performance, or other form of equitable relief, or any combination thereof (without being required to post a bond or other security or to establish irreparable harm). Any such relief shall be in addition to and not in lieu of any appropriate relief in the way of monetary damages.
4. Attorneys' Fees: In the event of a breach of this Agreement by the Receiving Party or any of its Representatives, the Disclosing Party shall be entitled to reasonable attorneys' fees and other reasonable costs of enforcing its rights under this Agreement.
5. Term: The term of this Agreement shall commence on the Effective Date and shall continue in full force and effect until the date that is five (5) years following the later of (i) the Effective Date and (ii) cessation of all Business Dealings between the Parties. Except as otherwise provided herein, each covenant and agreement contained herein shall remain in full force and effect for the entire term of this Agreement.

6. Notification of Breach: The Receiving Party will notify the Disclosing Party promptly upon learning of any unauthorized release of Confidential Information or breach of this Agreement.
7. Legal Obligation to Disclose: If the Receiving Party is required to disclose Confidential Information pursuant to the order, rule or law of any court, government, governmental agency, regulatory body, or stock exchange, the Receiving Party shall (to the extent permitted) first notify the Disclosing Party of any such order and, if practicable, afford the Disclosing Party (at its own expense) the opportunity to seek a protective order or other protection relating to any such disclosure and cooperate reasonably (at the expense of the Disclosing Party) in such efforts. In any such case, the Receiving Party will disclose only that portion of the Confidential Information that it is legally required to disclose and will exercise all commercially reasonable efforts to obtain reliable assurances that confidential treatment will be accorded the Confidential Information.
8. Return of Confidential Information: Upon expiration of this Agreement, or at any time upon the Disclosing Party's written request, the Receiving Party shall, within thirty (30) days of such expiration or of receiving such request, return to the Disclosing Party, or certify in writing the destruction of, all items of Confidential Information (including all copies thereof and any notes, extracts, studies, compilations, memoranda or analyses which are based upon or derived from such Confidential Information). Notwithstanding the return or destruction of Confidential Information, the Receiving Party will continue to be bound by the terms and obligations of this Agreement.
9. Ownership: The Disclosing Party or its applicable subsidiaries or affiliates shall at all times retain all right, title and interest in and to the Confidential Information. The Parties acknowledge and agree that this Agreement shall not be construed as a transfer, sale or assignment by the Disclosing Party of any right Page 4 of 6 whatsoever, by license or otherwise, in or to any of its Confidential Information, and no licenses or rights under any patent, copyright, trademark, or trade secret are granted or implied or are to be implied by this Agreement.
10. Export Regulation: Each of the Parties acknowledges that any Confidential Information provided or received under this Agreement may be subject to export control laws and regulations, including but not limited to the Export Administration Regulations ("EAR") administered by the Bureau of Industry and Security, U.S. Department of Commerce (15 C.F.R. parts 730-774), and the International Traffic in Arms Regulations ("ITAR") administered by the Directorate of Defense Trade Controls, U. S. Department of State (22 C.F.R. parts 120-130) (collectively the "Export Control Laws"). Each of the Parties agrees that it will strictly comply with all applicable requirements under all Export Control Laws. As such, each Party agrees not to export or transfer by any means, electronic or otherwise, any Confidential Information without complying in all respects with the Export Controls Laws, and any relevant export licenses, guidelines, notices, or instructions relating thereto. Contracting Party shall not export, re-export, transfer, disclose, or otherwise provide Machmeric's technical data controlled by Export Control Laws to any foreign persons or foreign commercial entities unless Contracting Party receives advance written authorization from Machmeric.
11. Notices: Notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, or sent by registered or

certified mail, to the address of the other Party set forth in the preamble to this Agreement. All notices and other communications given to any Party hereto in accordance with the provisions of this Agreement shall be deemed to have been given on the date of receipt if delivered by hand or overnight courier service, or on the date three (3) business days after dispatch by certified or registered mail if mailed, in each case delivered, sent or mailed (if properly addressed) to such Party as provided in this Paragraph 10 or in accordance with the latest unrevoked direction from such Party given in accordance with this Paragraph 11.

12. Waiver; Severability: The Parties acknowledge and agree that no failure or delay by Machmeric or Contracting Party in exercising any right, power or privilege hereunder shall operate as a waiver of such right, power or privilege, nor shall any single or partial exercise thereof preclude any other or further exercise of such right, power or privilege or of any other right, power or privilege. In the event any provision of this Agreement shall for any reason be held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the remaining provisions of this Agreement shall remain in full force and effect to the maximum extent possible.
13. Assignment: This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns. This Agreement shall not be assigned, nor shall any Confidential Information be transferred to any successor or assignee, without the prior written consent of the Disclosing Party, which consent shall not be unreasonably withheld; provided, however, that this Agreement may be assigned or transferred by Machmeric without consent of Contracting Party to (i) any Page 5 of 6 affiliate of Machmeric or (ii) any purchaser or acquirer of a controlling interest in, or of all or substantially all of the assets of, Machmeric or any affiliate of Machmeric. Any assignment or transfer of this Agreement shall not affect the obligations of the Parties with respect to Confidential Information that was disclosed prior to such assignment or transfer.
14. No Representations or Warranties: Each Party acknowledges that the Other Party has neither made any representations nor given any warranties in this Agreement as to the accuracy or completeness of any Confidential Information. This provision shall not affect the respective rights or obligations of the Parties that may be contained in other agreements between them.
15. Relationship of Parties This Agreement is neither intended to create, nor shall it be construed as creating, (a) a joint venture, partnership or other form of business association between the Parties, (b) an obligation to buy or sell products using or incorporating the Confidential Information, (c) an implied or express license grant from either Party to the other, (d) any obligation to continue discussions or negotiations with respect to any potential Business Dealings between the Parties, or (e) an agreement to enter into or negotiate any agreement.
16. Entire Agreement; Amendment; Counterparts: This Agreement constitutes the entire agreement between the Parties hereto relating to the subject matter hereof and may not be amended or in any manner modified except by a written instrument signed by authorized representatives of both Parties. All prior or contemporaneous agreements or understandings between the Parties relating to the subject matter hereof, whether oral or written, are superseded by and merged into this Agreement. This Agreement may be executed in any number of counterparts and by facsimile, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

17. Governing Law; Jurisdiction and Venue: This Agreement shall be governed by and construed in accordance with the laws of the United Kingdom without regard to conflict of laws principles. Machmeric and Contracting Party hereby irrevocably and unconditionally waive any objection to the laying of venue of any lawsuit, action, or other proceeding arising out of or relating to this Agreement in the courts of the United Kingdom and hereby further irrevocably and unconditionally waive and agree not to plead or claim in any such court that any such lawsuit, action or other proceeding brought in any such court has been brought in an inconvenient forum. EACH PARTY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ITS RIGHT TO A TRIAL BY JURY IN ANY LITIGATION ARISING OUT OF OR RELATING TO THIS AGREEMENT. THIS WAIVER APPLIES TO ANY LITIGATION, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE.

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

**MACHMERIC SYSTEMS INC.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

[ \_\_\_\_\_ ]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_