

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

This confidentiality and non-disclosure agreement ("Agreement") is made effective on this **Date** day of **Month**, **Year** at Kanpur

By and between

Troop Comforts Limited, Govt. of India Enterprises, Ministry of Defence, a company incorporated under the Companies Act, 2013 having its Registered office at -----
-----Kanpur, Uttar Pradesh India. (hereinafter referred to as "**Company**", which expression shall unless repugnant to the context or meaning thereof include its successors and permitted assigns) of the **One Part**;

Represented by Mr....., General Manager of Ordnance Equipment
Factory Kanpur Factory Unit of Troop Comforts Limited acting asauthorized,

[•insert name of the other Party], a company incorporated under the provisions of the Companies Act, 2013, having its registered office at [•insert address] (hereinafter referred to as "**Vendor / Customer**", which expression shall, unless repugnant to the context or meaning thereof include, and be deemed to include its nominees, successors and permitted assigns), of the **Other Part**.

Represented by Mr....., Name & Designation acting as
.....authorized

The companies here above being referred to in this NDA individually as "Party" and collectively as "Parties".

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WHEREAS:

The Parties wish to discuss in greater details for the purpose of entering into a potential Business Partner in relation to

(hereinafter referred to as the "Project").

- A. The Company is engaged in the business of Manufacturing the wearing articles and various equipment for defence forces.
- B. The Vendor / Customer is engaged in the business of [*insert details*].
- C. The Parties hereto anticipate that the Company (hereinafter referred to as the "**Disclosing Party**") may disclose to the Vendor / Customer (hereinafter referred to as the "**Receiving Party**") certain trade secrets of the Company and the Business in connection with the proposed business relationship to be entered between the Parties ("**Purpose**").
- D. The Parties may, in the course of their discussions, wish to disclose to each other proprietary and/or confidential information.
- E. This agreement (hereinafter referred to as the "NDA") establishes the rules governing the disclosure, use and protection of such information in the framework of the Project.

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

ARTICLE 1.

As used in this NDA:

- "Confidential Information" means any and all information and data, samples, manufacturing processes, formulae, methods, know-how, test results, trade secrets, software, business information, manufacturing specifications, sketches, designs, drawings and any other documents, ideas or reports (or copies, extracts, or translations thereof) whether oral, written, or stored in electronic or other recordable media or which can be obtained by examination, testing, visual inspection or analysis of any material, equipment, product, spare part, hardware or component part thereof with respect to this project. For avoidance of doubt "Confidential Information" also includes analysis, compilations, studies and other material prepared by or in the possession or control of the Recipient(s) (as defined below) which contain or otherwise reflect or are generated from any such information as is specified in this definition with respect to this project.
- "Discloser" means the Party who discloses Confidential Information.
- "Recipient" means the Party who receives and/or obtains Confidential Information.

Any Confidential Information will be identified as such whenever it is written on paper or forms marked "CONFIDENTIAL" or "PROPRIETARY" or by any other appropriate words clearly indicating the confidential nature thereof.

If any Party considers that oral information is a Confidential Information, it shall have given notice thereof to the other Parties at the time of disclosure, followed by written confirmation to the other Parties no later than thirty (30) days after oral disclosure.

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It is understood that during this said thirty (30) days period the information shall be considered and protected as Confidential Information by the Recipient.

ARTICLE 2.

Nothing in this NDA may be construed as compelling either Party hereto to disclose or make available any Confidential Information to the other Party, or to enter into any further contractual relationships with the other Party. Each Party, to the extent of its right to do so, shall disclose to the other Party only such Confidential Information which Discloser deems necessary for the purpose of the Project.

ARTICLE 3.

This NDA will come into force at the latest date of signature of this NDA by the Parties.

The duration of this NDA, which designates the period during which the Parties may exchange Confidential Information, is till the validity of channel partner agreement. This NDA may be terminated at any time by either Party on thirty (30) days prior written notice to the other Party.

ARTICLE 4.

The Parties shall abide by the confidentiality obligations contained in this NDA as from its coming into force. The confidentiality obligations shall survive for the period until which the Confidential Information falls within one of the exceptions specified in article 6 below.

ARTICLE 5.

From the entry into force of the NDA and for the period stipulated in Article 4 above, the Recipient hereby undertakes that the Confidential Information received from the Discloser shall:

- a) be protected and kept in strict confidence by the Recipient which must use the same degree of care as it uses to protect its own Confidential Information of like importance, but in no case any less than a reasonable degree of care ;
- b) only be disclosed to those persons within the Recipient's organization who have a specific need to know the Confidential Information and only used by those same persons for the Project's purpose;

The Recipient agrees to assume responsibility for the actions of such of its executives and employees who may have access to Confidential Information, and agrees to make known to such of its executives and employees to whom Confidential Information may be disclosed, the conditions of this NDA and to procure that they undertake to be bound thereby.

- c) neither be disclosed nor caused to be disclosed whether directly or indirectly to any third party or persons other than those mentioned in subparagraph (b) above ;
- d) not be used in whole or in part for any purpose other than the Project;
- e) neither be copied, nor otherwise reproduced nor duplicated in whole or in part where such copying, reproduction or duplication have not been specifically authorized in writing by the Discloser, except for those copies necessary to the Recipient and only for the purpose of the Project.

Any copy of such Confidential Information made by the Recipient with the Discloser's authorization shall be labelled as confidential and/or proprietary if the original documents are labelled as such.

Notwithstanding the preceding, Recipient may disclose any Confidential Information received to any company:

- a) which controls the Recipient

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- b) or which is controlled by Recipient,
- c) or which is under the same control as Recipient

subject to the observance of the confidentiality obligations contained in the present NDA.

For the purpose of the above paragraphs, "control" means the direct or indirect holding of more than fifty (50) per cent of the issued share capital or of the voting rights in that company for M/s..... and Administrative and Financial Control of a department or the company for TCL.

ARTICLE 6.

The restrictions contained in Article 5 above shall not apply with respect to any Confidential Information for which the Recipient is able to prove that it :

- a) has come into the public domain prior to or after the disclosure thereof and in such case through no fault of the Recipient ; or
- b) is already known to the Recipient, as evidenced by written documentation in the files of the Recipient; or
- c) has been received from a third party without fault by that third party; or
- d) has been published without any violation of the confidentiality obligations contained in this NDA; or
- e) has been independently developed in good faith by employees of the Recipient who did not have access to the Discloser's Confidential Information; or
- f) its disclosure has been authorized by written consent of the Discloser.

Notwithstanding the foregoing, the Recipient may disclose such portion of Confidential Information which it is legally required to disclose to satisfy a legal demand by a competent court of law or government body, provided however that in these circumstances, the Recipient shall immediately and prior to such disclosure notify the Discloser and, upon request and at the expense of the latter, shall co-operate with the Discloser in the event it elects to contest such disclosure.

ARTICLE 7.

Any Confidential Information disclosed by either Party under this NDA which is classified Information shall be identified as such by the Discloser at the time of disclosure, and shall be protected, used and handled by the Recipient in accordance with security procedures and for the duration prescribed by the appropriate government.

ARTICLE 8.

Each Party undertakes to comply with all applicable export control laws and regulations and to obtain the required authorizations from the competent authorities prior to disclosure of export controlled data. The Discloser shall identify the Confidential Information concerned and inform the Recipient Party of any applicable restrictions.

ARTICLE 9.

Prior to any disclosure of Confidential Information to any third party (excluding any company defined in the last two paragraphs of article 5) having a need-to-know the Confidential Information for the purposes of the Project only, the Recipient shall obtain the prior written agreement of the Discloser and shall enter with such third party into a non-disclosure NDA with terms no less restrictive than those contained in the present NDA.

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ARTICLE 10.

It is expressly agreed between the Parties that communicating or obtaining Confidential Information in the framework of this NDA can in no way be interpreted as expressly or implicitly granting the Recipient, any right whatsoever (licensed or otherwise) regarding the Confidential Information itself, or with regard to any inventions or discoveries said Confidential Information may give rise to.

The same is true with regard to author right or any other rights pertaining to literary and artistic property rights (copyright), trademarks or trade secrets.

The property rights of any Confidential Information belong, subject to the rights of third parties, to the Discloser, which is expressly acknowledged by the signing of this NDA by the Recipient.

Furthermore, the Recipient shall expressly refrain from using all or part of the Confidential Information received from the other Party when filing a patent, design registration, a trademark or equivalent.

ARTICLE 11.

The Confidential Information communicated shall not benefit from any guarantee, explicit or implicit, any terms, conditions, guarantees and declarations expressly reserved for a subsequent and specific negotiation, as well as any agreement that might result from it, if applicable.

ARTICLE 12.

Any Confidential Information and copies thereof disclosed by either Party to the other Party shall, subject to any third parties' rights, remain the property of the Discloser and shall be returned or destroyed (including all copies, documents, memoranda, notes and other materials of the Recipient which contain Confidential Information) by the Recipient immediately upon request of the Discloser or within thirty (30) days following the expiration of termination of NDA. In the case of destruction, the Recipient shall provide a written certificate to the Discloser that such destruction has taken place, if the Discloser so requests.

ARTICLE 13.

This NDA shall be governed and construed in accordance with Republic of India law.

All disputes arising in connection with this NDA which cannot be amicably settled by the Parties hereto shall be finally settled under the **Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules.**

The language of the proceedings shall be English.

The arbitration award will be final and binding for both Parties.

ARTICLE 14.

This NDA constitutes the entire understanding between the Parties with respect to its subject matter and replace and cancel any prior declarations, negotiations, commitments, oral or written communication, acceptances, understandings or agreements between the Parties regarding any operations applied or provided for by this NDA.

ARTICLE 15.

No amendment to the terms and conditions of this NDA shall be valid or binding on the Parties unless made in writing and signed by duly authorised officers or representatives of each Party.

ARTICLE 16.

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Neither Party shall have the right to assign or transfer any or all of its rights and obligations under this NDA to any third party without the prior written agreement of the other Party. Such agreement shall however not be unreasonably withheld by the other Party.

ARTICLE 17.

Nothing in this NDA requires the payment of fees nor reimbursement of expenses. If such payment and/or reimbursement is required for any activity, the terms and conditions thereof shall be mutually agreed upon between the Parties at the time by a separate written agreement.

ARTICLE 18.

No failure or delay by either Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall a single or partial exercise thereof preclude any other or further exercise of any right, power or privilege hereunder.

ARTICLE 19.

All notices, requests, demands or other communication required or permitted to be given under this Agreement and the provisions contained herein shall be written in English and shall be deemed to be duly sent by registered post, postage prepaid or through e-mail to the other Party at the address/e-mail address mentioned hereinbelow:

If to the Company:

Kind Attention: _____ (Name of Officer)

E-mail: _____

Address:

If to the Vendor / Customer:

Kind Attention: [•insert details]

E-mail: [•insert details]

Address: [•insert details]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their respective representatives as of the date first above written.

Made in two original copies intended for each of the Parties,

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| For M/s | For Troop Comforts Limited |
| Representative: | Representative: |
| Position: | Position: |
| Date: | Date: |
| Signature: | Signature: |