

NON-DISCLOSURE AGREEMENT

THIS AGREEMENT made and entered into on the date and at the places set out at the end of this Agreement by and between LANKA LOGISTICS AND TECHNOLOGIES LIMITED a Company duly incorporated under the Companies Act No. 17 of 1982 and re-registered under the Companies Act No.7 of 2007 bearing Registration No. PB 1451 and having its registered office at 4-205, BMICH, Baudhdhaloka Mawatha, Colombo 7 (hereinafter referred to as "LLTL" which term shall mean and include Lanka Logistics and Technologies Limited its Successors and permitted assigns) on the one part, and [Full Name of Manufacturer/Supplier/Service Provider], a duly incorporated/established Company and having its Registered Office at [Full Address of Manufacturer/Supplier/Service Provider] (hereinafter referred to as (Manufacturer/Supplier/Service Provider) which term shall mean and include the said [Full Name of Manufacturer/Supplier/Service Provider], its successors and permitted assigns) of the other Part.

WHEREAS, in accordance with the approval of the Cabinet of Ministers dated 8th November 2006, LLTL which is fully owned by the Government of the Democratic Socialist Republic of Sri Lanka, was established to facilitate procurement of goods and services from Manufacturer/Suppliers/Service Providers for and on behalf of institutions coming under the purview of the Ministry of Defence, of the Democratic Socialist Republic of Sri Lanka and other state institutions.

WHEREAS, LLTL and the Manufacturer/Supplier/Service Provider (hereinafter individually referred to as the "Party" and collectively referred to as the "Parties") have entered into or about to enter into discussions, pursuant to which the Parties may enter into a possible business relationship, transaction or business agreement (hereinafter referred to as the "Business Relationship") whereby the Manufacturer/Supplier/Service Provider may supply goods and/or services to the institutions coming under the purview of the Ministry of Defence, of the Democratic Socialist Republic of Sri Lanka and other state institutions.

WHEREAS, each of The Parties may find it necessary to disclose to the other certain confidential and proprietary information relating to its business which shall be used by each other only with respect to the Business Relationship:

WHEREAS in view of the confidential private and proprietary nature of the information to be disclosed by each of the Parties to the other with respect to matters of mutual interest which may from time to time arise in the process of exploring such Business Relationship, the Parties have agreed to enter into these presents

NOW THIS AGREEMENT WITNESSETH AND IT IS HEREBY MUTUALLY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS;

1. INTERPRETATION

1.1 Definition

The following words have these meanings in this agreement unless the contrary intention appears;

Confidential information means all information referred to in 2.1 hereof;

- (a) disclosed or communicated to the Party, receiving in connection with the Business Relationship
- (b) learnt or accessed by the Party receiving from the Owner or its representatives for or in connection with the Business Relationship, but excludes any such information which the recipient can establish is or becomes generally available in the public domain otherwise than through a breach of this Agreement or any obligation of confidence owed to the Party owning such information.

1.2 Interpretation

In this agreement, unless the contrary intention appears;

- (a) a reference to this agreement or another instrument includes any variation or replacement of either of them;
- (b) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidation, amendment, re-enactment or replacement of any of them;
- (c) the singular includes the plural and vice versa;
- (d) the word person includes a partnership, a natural person, a body corporate, an unincorporated association or an authority;
- (e) a reference to a person includes a reference to the persons' executors, administrators, successors, substitutes and assigns.

2. CONFIDENTIALITY

- 2.1 To facilitate discussions, meetings and the conduct of business, as may from time to time occur, between the Parties with respect to the Business Relationship, it may be necessary for the Parties to disclose to each other technical, customer, personnel and or business information in written, graphic, oral or other tangible or intangible forms including all statements, reports, knowledge, systems, including without limitation data, know-how, formulae, processes, designs, photographs, drawings, software programs and samples and any other material bearing or incorporating any information relating to the system, pricing arrangements, specifications, business plans, strategies, financial information and other information (regardless of form) relating to the business of the Parties. Such information shall contain proprietary, private or confidential material subject to applicable laws regarding secrecy of communications or trade secrets ["Confidential Information"].
- 2.2 The Parties acknowledge that the Confidential Information is valuable to the Parties and undertake not to disclose the confidential information to third parties and to use all reasonable endeavours to protect and preserve the confidential nature and secrecy of the confidential information disclosed, communicated, learnt or accessed by the Parties and shall be and remain the exclusive property of the disclosing party.
- 2.3 Particular obligations
- a) To inform in advance, the Party receiving any disclosure of Confidential Information, in non-confidential and non-proprietary term, of the nature of the proposed disclosure, and to afford the Party receiving, the option of declining to receive the Confidential Information provided such information communicated in non-confidential and non-proprietary form will in any event be treated as being confidential.
 - b) Confidential Information shall include information that is disclosed orally between the Parties and that is subsequently identified by the disclosing party as Confidential Information in writing within 30 days of disclosure.
 - c) The Parties may use or reproduce confidential information for the purpose of Business Relationship only.
 - d) The Parties must not disclose confidential information to any person except as permitted under clause 3
 - e) The Parties must not make, assist or permit any person to make any unauthorized use, disclosure or reproduction of the Confidential Information
 - f) The Parties must ensure that any person who has access to Confidential Information through or on behalf of the Parties does not use, reproduce or disclose Confidential Information other than in accordance with this agreement
 - g) The Parties must take reasonable steps to enforce the confidentiality obligations imposed or required to be imposed by this agreement including, diligently prosecuting at its cost, any breach or threatened breach of such confidentiality obligations by a person to whom the Parties has disclosed the Confidential Information.
 - h) The subsidiaries and affiliates of the Parties desirous of entering in to a Business Relationship as referred to above must enter in to an agreement of this nature with LLTL.

3. PERMITTED DISCLOSURE

This agreement does not prohibit the disclosure of Confidential Information in order for the Parties to participate in the matters of Business Relationship and the Parties will not disclose such Confidential Information to unauthorized persons or authorize anyone else to discuss such Confidential Information with others without the prior written approval of the Party disclosing such Confidential Information.

The Parties undertake to use such Confidential Information only for the purpose of Business Relationship. If either of Party seeks any other use, it must obtain the agreement in writing of the Party disclosing information, who may refuse such request at its absolute discretion.

Subject to the clauses below the release of any information confidential or otherwise shall only be with the prior written approval of the Party disclosing information.

These obligations do not apply to Confidential Information which:

- a. is disclosed by the Party receiving the Confidential Information, to a representative of the Party receiving, who needs to know the Confidential Information in connection with the Business Relationship, subject to such representatives being made fully aware of the confidential nature of all Confidential Information; and upon the request by the Party disclosing such information, executing an undertaking in the form attached as Annex (i) to this Agreement and deliver them to the Party disclosing such Confidential Information, prior to obtaining any access to Confidential Information. Provided further that the Party receiving must ensure that none of the representatives referred to herein do or omit to do anything which, if done or omitted to be done by the Party receiving, would constitute a breach of its obligations under this Agreement.
- b. as shown by reasonably documented proof, was in the possession of the Party receiving information prior to receipt thereof from the Party; disclosing information
- c. as shown by reasonably documented proof, was received by the Party in good faith from a third party not subject to a confidential obligation to the Party disclosing information;
- d. is or becomes generally available in the public domain otherwise than through a breach of this agreement or any obligation of confidence owed by the Parties in terms of this agreement.
- e. is disclosed pursuant to a requirement imposed by a government agency or is otherwise required to be disclosed by operation of law, except that prior to any disclosure pursuant to this sub-section, The Party receiving the request for the Confidential Information shall notify the Party disclosing the information, in writing and shall give the Party disclosing the information, an opportunity to participate in objecting to production of the Confidential Information; or
- f. is authorized in writing by the Party disclosing information to be released or is designated in writing by the Party disclosing information as no longer being confidential or proprietary.

4. TERM

All Confidential Information disclosed by the Parties that relate to or refer directly or indirectly, to the Business Relationship, shall hereinafter and forever be deemed confidential and constitute Confidential Information. The confidentiality and non-disclosure obligations contained herein shall survive any termination of this agreement.

- a) Agreement in writing by both parties to terminate this agreement
- b) All Confidential Information is generally available in the public domain; and
- c) Expiry of the five year period.

5. BREACH

5.1 The receiving Party must immediately notify the disclosing Party of all information which comes to its attention regarding any actual or potential disclosure or use of Confidential Information other than in accordance with this agreement.

5.2 INJUNCTIVE RELIEF

It is agreed that a violation of any of the provisions of this Agreement may cause irreparable harm and injury to the Party non-violating and that the Party non-violating shall be entitled, in addition to any other rights and remedies it may have at law or in equity, to an injunction enjoining and restraining the Party Violating from doing or continuing to do any such act and any other violations or threatened violations of this Agreement.

6. MISCELLANEOUS

Nothing contained in this Agreement shall act to prevent anyone or all of the Parties hereto from concurrently or otherwise discussing or planning Business Relationships with third parties to this Agreement so long as this Agreement is not violated.

Except as provided herein, no right or license whatsoever, either expressed or implied is granted to the Party receiving Confidential Information pursuant to this Agreement to use any Confidential Information, trade secret, know-how, patent application, trademark, copyright or other proprietary right now or hereafter owned controlled by the Party disclosing Confidential Information or its successors or permitted assigns.

Neither this Agreement nor provision of Confidential Information pursuant to it shall be construed as an agreement, commitment, promise or representation by either Party to do business with the other or to do anything except as set out specifically in this Agreement.

This Agreement constitutes the only agreement between the Parties with respect to non-disclosure of Confidential Information and supersedes all prior agreements and understanding with respect to this subject. This Agreement shall not be assigned or transferred by either Party other than for the purposes of internal corporate, reconstruction, reorganization, merger or dialogues proceeding with the prior written consent of the other party. Such consent shall not be unreasonably withheld. This Agreement shall be binding on successors and permitted assigns of the Parties.

7. GOVERNING LAW

This Agreement shall be construed in accordance with the laws of Sri Lanka.

8. ARBITRATION

In the event of any dispute arising in connection with this Agreement the Parties undertake to make every effort to reach an amicable settlement. Failing such a settlement, the dispute shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by three (3) arbitrators appointed in accordance with the said Rules. The place of arbitration shall be Colombo, Sri Lanka. The language to be used in the arbitral proceedings shall be English.

9. NOTICE

Any notice under, or in connection with, this Agreement shall be in writing and shall be deemed to have been given when received by the Party to which said communication is directed at its address set forth below or at such other address as such Party may have theretofore designated in writing to the other party hereto. A receipt evidencing delivery of certified or registered mail shall constitute evidence of receipt. Any notice requiring prompt action shall be contemporaneously sent by facsimile transmission or electronic mail.

The exclusive point of contact with respect to transmission and control of confidential and/or Propriety Information exchanged hereof are designated by the respective Parties as follows:

To LLTL

Name:
Title: Chief Executive Officer
Address: 4-205, Bauddhaloka Mawatha
Colombo 07, Sri Lanka
Tel No: +94 011 269 0116
Email: SupplierReg@lltl.lk
Fax: +94 011 269 0117

To Manufacturer/Supplier/Service Provider

Name:
Title:
Address:
Tel No:
Email:
Fax:

Each Party may change its designated point of contact by written notice to the other Party.

In witness hereof both Parties hereto set their respective hands and seals (where applicable) at the places and on days as set out

(i) The Common Seal of LANKA LOGISTICS AND TECHNOLOGIES LIMITED is hereto affixed on this day of 20..., at Colombo in the presence of:

1. Director

Signature	Name
.....

2. Director

Signature	Name
.....

Witnesses

Signature	Name
1.....
2.....

(ii) The Common Seal of [Full Name of Manufacturer/Supplier/Service Provider] is hereto affixed on this day of 20..., at in the presence of:

1. Director

Signature	Name
.....

2. Director

Signature	Name
.....

Witnesses

Signature	Name
1.....
2.....

BY: [specify name of individual] (Representative)
of [specify address]
IN FAVOUR OF: Lanka Logistics & Technologies Limited (Owner)

RECITAL

Owner will allow the Representative access to Confidential Information for
specify purpose for giving the Confidential Information) (Approved Purposes) in consideration of
the Representative executing this undertaking.

OPERATIVE PROVISIONS

- 1 The Representative covenants with the Owner that it will:
 - (a) only use or copy Confidential Information for the Approved Purposes;
 - (b) not disclose, communicate, or permit the disclosure or communication of the Confidential Information to any third person in any manner without the written consent of the Owner except as permitted by this undertaking or for the Approved Purposes to a person who has executed an undertaking in identical form to this undertaking; and
 - (c) comply with any reasonable request from the Owner regarding the Confidential Information.

- 1 Notwithstanding **clause 1**, the Representative may disclose Confidential Information to the extent required by law but only for that sole purpose after making every reasonable effort to object to such requirement for disclosure, and after giving the Owner 10 days prior written notice of the proposed disclosure or which, subsequent to disclosure to the Representative, becomes generally available in the public domain.

- 2 If Confidential Information is no longer required by the Representative for the Permitted Purpose, or after a request from the Owner, the Representative must, within 5 working days of either event, deliver (or with the Owner’s prior consent, destroy or erase) all forms of Confidential Information in the possession, power or control of the Representative (whether or not those forms were created by the Owner) to the Owner.

- 3 The Representative indemnifies the Owner against all liability or loss arising directly or indirectly from, and any costs (including legal costs) incurred in connection with:
 - (a) any breach by the Representative of this agreement; or
 - (b) any act or omission of the Representative’s employees or officers which if done by the Representative would constitute a breach of this agreement.

- 4 This undertaking remains in full force and effect until all of the Confidential Information becomes generally available in the public domain.

- 5 For the purpose of this undertaking, “**Confidential Information**” means all information or know how (regardless of form) relating to or developed in connection with :
 - (a) any business, affairs, finances, markets, promotions, strategies, plans, customers, suppliers, employees, industrial relations or industries of the Owner; or
 - (b) any systems, technology (including without limitation, computer software, manufacturing processes or other information embodied in drawings or specifications) or intellectual property owned or used by the Owner or licensed to the Owner.
 but excluding information which is generally available in the public domain.

SIGNED by)
(Insert full name of Representative) (Signature)

as a Representative of)
(Manufacturer/Supplier/Service Provider) (Signature/Seal)