

# MUTUAL NON-DISCLOSURE AGREEMENT

This MUTUAL NON-DISCLOSURE AGREEMENT (this “Agreement”), effective as of the date set forth last below, is made by and between the undersigned counterparties. In consideration of the mutual agreements and other provisions of this Agreement, the parties hereto agree as follows:

## 1. Scope of Confidential Information.

1.1 “Confidential Information” means, subject to the exceptions set forth in Section 1.2 of this Agreement, any information or data, regardless of whether it is in tangible form, that is disclosed by a party (the “Disclosing Party”) to the other party (the “Receiving Party”), and that (a) the Disclosing Party has marked as confidential or proprietary, or (b) the Disclosing Party identifies as confidential at the time of disclosure together with written confirmation within 15 days of disclosure to the Receiving Party; provided, however, that reports and/or information related to or regarding the Disclosing Party’s business plans, business methodologies, strategies, technology, specifications, development plans, customers, prospective customers, billing records, suppliers, potential suppliers and products or services will be deemed Confidential Information of the Disclosing Party even if not so marked or, in terms of 1.1(a) and 1.1(b)\_hereof, unless such information is the subject of any of the exceptions set forth in Section 1.2.

1.2 “Confidential Information” shall not include any information which: (a) the Receiving Party can show by written record was in its possession prior to disclosure by the Disclosing Party hereunder, and further provided that the Receiving Party must promptly notify the Disclosing Party of any prior knowledge in the manner provided in Section 5 below; (b) appears in issued patents or printed publications in form or which otherwise is or becomes generally known in the trade other than through the Receiving Party’s failure to observe any or all terms and conditions of this Agreement; provided that the foregoing shall not be interpreted to create any express or implied license, or the right to obtain a license, to any patents which may be issued to the Disclosing Party; or (c) subsequent to disclosure to the Receiving Party by the Disclosing Party, is obtained by the Receiving Party from a third person who is lawfully in possession of such information, who is not in violation of any contractual, legal or fiduciary obligations to the Disclosing Party in making such disclosure to the Receiving Party and does not require the Receiving Party to refrain from disclosing such information to others.

## 2. Use and Disclosure of Confidential Information.

2.1 The Receiving Party may only use the Confidential Information for the sole purpose of a business relationship or potential business relationship between the Receiving Party and the Disclosing Party as more specifically described on the signature page to this Agreement (the “Permitted Purpose”).

The Receiving Party must keep secret and shall never disclose, publish, divulge, furnish or make accessible to any third party any of the Confidential Information of the Disclosing Party, other than furnishing such Confidential Information to the Receiving Party’s employees or advisors, if any, who are required to have access to such Confidential Information in with the Permitted Purpose during the time that the Receiving Party is permitted to retain such Confidential Information hereunder; provided that such employees are bound, by written agreement or otherwise, to respect the Confidential Information in the manner set forth in this Agreement, and, in no event, shall the Receiving Party disclose any of the Confidential Information to any person employed by, or associated with, a readily identifiable competitor or potential competitor of the Disclosing Party.

2.2 The Receiving Party shall not embody any of the Confidential Information of the Disclosing Party in any of the Receiving Party’s products, processes or services, or duplicate or exploit any of such Confidential Information in the Receiving Party’s business, or otherwise use any of the Confidential Information for any purpose other than for the Permitted Purpose.

2.3 The Receiving Party shall use at least reasonable care and adequate measures to protect the security of the Confidential Information of the Disclosing Party and to ensure that any Confidential Information of the Disclosing Party is not disclosed or otherwise made available to other persons or used in violation of this Agreement. Such measures shall be at least the equivalent of measures that the Receiving Party uses to protect the Receiving Party’s own most valuable and confidential proprietary information.

2.4 In the event that the Receiving Party is required by law to make any disclosure of any of the Confidential Information of the Disclosing Party, by subpoena, judicial or administrative order or otherwise, the Receiving Party shall first give prior written notice of such requirement to the Disclosing Party, and shall permit the Disclosing Party to intervene in any proceedings to protect its interests in the Confidential Information, and the Receiving Party shall provide full unhindered cooperation and assistance to the Disclosing Party in seeking to obtain such protection.

### **3. Certain Rights and Limitations.**

3.1 The Receiving Party will provide, upon the Disclosing Party's request, a certification that access and use to any Confidential Information of the Disclosing Party is being controlled in accordance with this Agreement.

3.2 The provision of Confidential Information in terms of this Agreement shall not transfer any right, title or interest in such information to the Receiving Party. The Disclosing Party does not grant any express or implied or tacit right to Receiving

Party to, or under, Disclosing Party's patents, copyrights, trademarks, trade secret information or other proprietary rights. The Disclosing Party acknowledges that the Receiving Party may currently or in the future be developing information internally, or receiving information from other parties, that is similar to the Confidential Information. Accordingly, nothing in this Agreement will prohibit the Receiving Party from developing or having developed for it 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 Receiving Party does not violate any of its obligations under this Agreement in connection with such development and further provided that the Receiving Party does not utilize any of the Confidential Information for such development.

3.3 All tangible embodiments of the Confidential Information of the Disclosing Party (e.g., drawings, memoranda and notes) and all copies thereof, whether in hard-copy or machine-readable form and whether supplied by the Disclosing Party or made by or for the Receiving Party (collectively, the "Tangible Embodiments"), shall at all times be and remain the exclusive and sole property of the Disclosing Party

3.4 A Receiving Party shall not reverse-engineer, decompile, or disassemble any software disclosed to it under this Agreement outside of the scope of a security evaluation of the products for determining their suitability in meeting customer security requirements and shall not remove, overprint or deface any notice of confidentiality, copyright, trademark, logo, legend or other notice(s) of ownership or confidentiality from any originals or copies of Confidential Information it obtains from the Disclosing Party.

**4. Remedies.** Receiving Party acknowledges that a breach by it of any of the terms of this Agreement would cause irreparable harm to the Disclosing Party for which Disclosing Party could not be adequately compensated by money damages alone. Accordingly, Receiving Party agrees that, in addition to all other remedies available to Disclosing Party in an action at law, in the event of any breach or threatened breach by the Receiving Party of the terms of this Agreement, the Disclosing Party shall, without the necessity of proving actual damages or posting any bond or other security, be entitled to temporary and/or permanent injunctive relief, including, but not limited to, specific performance of the terms of this Agreement.

**5. Notice of Independent Knowledge or Breach.** The Receiving Party agrees to notify the Disclosing Party promptly in writing if (a) upon disclosure of Confidential Information by the Disclosing Party, the Receiving Party has prior knowledge of the same; or (b) subsequent to disclosure of any Confidential Information by the Disclosing Party, information is disclosed to the Receiving Party in the manner described in Section 1.2; or (c) the Receiving Party becomes aware of any breach of this Agreement with respect to the Confidential Information of the Disclosing Party in the Receiving Party's possession.

### **6. Termination.**

6.1 Notice and Effect of Termination. This Agreement shall remain in effect until it is terminated by either party within thirty (30) days' prior written notice. The terms and conditions of this Agreement shall survive any such termination with respect to Confidential Information that is disclosed prior to the effective date of termination.

6.2 Return of Confidential Information. Upon the earliest of (a) the termination of this Agreement in accordance with its terms, (b) Disclosing Party's written request or (c) such time as the Receiving Party no longer requires the Confidential Information for the Permitted Purpose, Receiving Party agrees to promptly return to Disclosing Party or destroy all Confidential Information and any Tangible Embodiments that are in the possession of Receiving Party and to certify under oath, if requested, the return or destruction of all such Confidential Information and embodiments.

**7. Warranty.** Disclosing Party warrants that it has the right to make the disclosures under this Agreement. NO OTHER WARRANTY IS MADE BY EITHER PARTY UNDER THIS AGREEMENT. ANY INFORMATION EXCHANGED UNDER THIS AGREEMENT IS PROVIDED "AS IS."

**8. Export Controls.** The parties acknowledge that the Confidential Information disclosed by each of them under this Agreement may be subject to export controls. Each party shall comply with such export controls and

agrees not to knowingly, re-export or transfer Confidential Information of the other party without first obtaining all required authorizations or licenses.

**9. Miscellaneous.** This Agreement does not create any agency or partnership relationship between the parties hereto. The interpretation construction and effect of this Agreement shall be construed in all respects in accordance with the Laws of France, without regard to its law of conflicts of law. The parties irrevocably agree to submit to the non-exclusive jurisdiction of the appropriate French jurisdiction. Nothing in this Clause shall prevent a party from applying to any appropriate court of competent jurisdiction for any injunction or other remedy to restrain the other party from committing any breach or anticipated breach of this Agreement for consequential relief. This Agreement contains the complete and exclusive agreement of the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings whether written or oral, express or implied. If any provision of this Agreement is held invalid, illegal or unenforceable by a court of competent jurisdiction, such finding shall not affect any other provision of this Agreement, which shall remain in full force and effect. No amendment or alteration of the terms of this Agreement shall be effective

Unless made in writing, signed and executed by both parties hereto. A failure or delay in exercising any right in respect to this Agreement will not be presumed to operate as a waiver, and a single or partial exercise of any right will not be presumed to preclude any subsequent or further exercise of that right or the exercise of any other right. Any such waiver shall be effective only in the specific instance and for the purpose given.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed below by their duly authorized signatories.

**RainaStudio LLC (Freelance Web-Development Company)**

By:



.....

Anwer Ashif

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[CLIENT'S NAME]

DATE OF THIS AGREEMENT: NOVEMBER 9, 2017

**PERMITTED PURPOSES** (as defined in Section 2): **WEB DEVELOPMENT AND RELATED TASK**