# GSMA New Logo

# MUTUAL NON-DISCLOSURE AGREEMENT

**This Mutual Non-Disclosure Agreement** (this **“Agreement”**) is entered into effective as of this \_\_\_ day of \_\_\_\_\_\_\_\_\_, 20\_\_\_ (the **"Effective** **Date"**) between

**GSMA Mobile for Development Foundation**,with an office located at 1000 Abernathy Road, Suite 450, Atlanta, Georgia 30328 United States of America (**“GSMA”**);

and

***[INSERT NAME]*** with an office at ***[INSERT ADDRESS]*** (**“Company”**).

Each of GSMA and Company may be referred to individually as a “Party” or collectively as the “Parties”.

**WHEREAS** the Parties wish to protect the confidential nature of information disclosed under this Agreement.

**NOW THEREFORE** it is hereby agreed as follows:

**1. DEFINITIONS**

1.1 **“Affiliates”** means any subsidiary or holding company of an entity, any subsidiary of any of its holding companies and any partnership, company or undertaking (whether incorporated or unincorporated) in which an entity has the majority of the voting rights or economic interest.

 1.2 **“Business Purpose”** means ***[***to facilitate the ability of the applicant to participate in the GSMA Connected Society Innovation Fund for Rural Connectivity ***].***

 1.3 **“Confidential Information”** means all information of the GSMA Group or of Company or a third party, including without limitation, information relating to the research, development, business plans, marketing, operations, finances, personal data of any such entity, which is disclosed by one party directly or indirectly to the other party hereunder whether in writing (physically or electronically), visually or orally and which is designated as proprietary or confidential or which, under the circumstances, should reasonably be considered confidential.

 1.4 **“GSMA Group”** means GSMA, the GSM Association, its Affiliates and GSMA Members together with the directors, employees and agents of each of those.

 1.5 **“GSMA Members”** means the full, associate and other members of the GSMA.

**2. OWNERSHIP OF CONFIDENTIAL INFORMATION**

 2.1 All Confidential Information is, and shall remain, the property of the disclosing Party. Nothing herein shall be construed as granting any rights by licence or otherwise in the Confidential Information except as expressly provided herein. Other than as expressly provided herein no licence is granted (whether implicitly, by estoppel or otherwise) under any patents, copyrights, trade marks, database rights, semiconductor topography rights, registered or unregistered designs, utility models or other intellectual property rights relating to the Confidential Information.

**3. OBLIGATIONS OF CONFIDENTIALITY**

 3.1 Each Party may use the Confidential Information received hereunder solely for (i) the Business Purpose and (ii) for internal business purposes only.

3.2 For a period of three (3) years from the receipt of Confidential Information from the other Party hereunder, each Party shall use the same degree of care and means that it uses to protect its own confidential information of a similar nature, but in any event not less than reasonable care and means, to prevent the unauthorized use or disclosure to third Parties of such Confidential Information.

3.3 Each Party shall only disclose the Confidential Information of the other Party to its officers, employees, consultants, contractors, and, in the case of the GSMA, the GSMA Group with a “need to know” for the Business Purpose and who have entered into confidentiality agreements sufficient to prohibit further unauthorized use or disclosure of the Confidential Information. Neither Party may alter, decompile, disassemble, reverse engineer, or otherwise modify any Confidential Information received hereunder and the mingling of the Confidential Information with information of the other Party shall not affect the confidential nature or ownership of the same as stated hereunder.

3.4 This Agreement shall impose no obligation of confidentiality upon either Party with respect to any portion of Confidential Information received hereunder, which: (a) is or becomes publicly known through no fault of the receiving Party; (b) is or becomes known to the receiving Party from a third party source other than the disclosing Party without duties of confidentiality attached and without breach of any agreement between the disclosing Party and such third party; (c) is furnished to others by the disclosing Party without restriction on disclosure; or (d) was independently developed by the receiving Party without the benefit of the Confidential Information.

3.5 Nothing in this Agreement shall prevent either Party from disclosing Confidential Information to the extent it is legally compelled to do so by any governmental investigative or judicial agency pursuant to proceedings over which such agency has jurisdiction; *provided, however,* that prior to any such disclosure, that Party shall (i) assert the confidential nature of the Confidential Information to the agency; (ii) immediately notify the other Party in writing of the agency’s order or request to disclose; and (iii) cooperate fully with the other Party in protecting against any such disclosure and/or obtaining a protective order narrowing the scope of the compelled disclosure and protecting its confidentiality.

3.6 The Parties agree that this Agreement applies equally to all Confidential Information concerning the Business Purpose shared by one Party with the other Party, including members of the GSMA Group, prior to the Effective Date.

**4. INDEPENDENT ACTIVITY**

 4.1 The provision of Confidential Information hereunder and the discussions held in connection with the Business Purpose shall not obligate either Party to continue discussions with the other, to enter into any agreement regarding such purpose, or to take, continue or forego any action relating to such purpose.

4.2Nothing in this Agreement shall prevent either Party from pursuing similar discussions with third parties provided that there is no breach of the obligations of confidence hereunder. The obligations of confidentiality under this Agreement shall not be construed to limit either Party’s right to develop independently or acquire products or services without use of the other Party’s Confidential Information.

**5. TERM AND TERMINATION**

5.1 The term of this Agreement shall be a period of one (1) year from the Effective Date unless otherwise terminated.

5.2 Either Party may terminate this Agreement for any reason upon thirty (30) days’ written notice to the other Party.

5.3 Either Party may terminate this Agreement immediately upon written notice to the other in the event of any breach by that other Party of this Agreement.

5.4 Upon the written request of either Party, each Party will promptly return all copies of the other Party’s Confidential Information in its possession, power, custody or control.

 5.5 Clauses 1, 2, 3, 4, 5.4, 5.5, 6 and 7 shall survive the expiration or termination of this Agreement.

**6. WARRANTY; DISCLAIMER**

 6.1 THE DISCLOSING PARTY REPRESENTS AND WARRANTS TO THE RECEIVING PARTY THAT, AT THE TIME OF DISCLOSURE, THE DISCLOSING PARTY HAS THE RIGHT TO DISCLOSE THE CONFIDENTIAL INFORMATION TO THE RECEIVING PARTY. OTHER THAN THE FOREGOING, NEITHER PARTY GIVES ANY WARRANTY, EXPRESS OR IMPLIED, AS TO ANY CONFIDENTIAL INFORMATION THAT IT MAY PROVIDE HEREUNDER, INCLUDING WITHOUT LIMITATION AS TO ITS ACCURACY, AND ALL CONFIDENTIAL INFORMATION IS PROVIDED “AS IS”.

**7. GENERAL**

7.1 Equitable Remedies. The Parties agree that there is no adequate remedy in damages for any breach of the obligations of confidence hereunder and upon any such breach or any threat thereof by either Party the other shall be entitled to appropriate equitable relief, including injunctive relief in addition to whatever other remedies it might be entitled, including damages.

7.2 Severability. If any term, provision, covenant or condition of this Agreement is held invalid or unenforceable for any reason, the Parties agree that such invalidity shall not affect the validity of the remaining provisions of this Agreement and further agree to substitute for such invalid or unenforceable provision a valid and enforceable provision of similar intent and economic effect.

7.3 Publicity. Neither Party shall, without the other Party’s prior written approval, make any public announcement or any disclosure as to the existence of or matters set forth in this Agreement.

7.4 Assignment. Neither Party may assign its rights or obligations under this Agreement.

7.5 Waiver. The failure of a Party at any time to require performance by the other Party of any provision hereof shall not affect in any way the full right to require such performance at any time thereafter. Nor shall the waiver by a Party of a breach of any provision hereof be taken or held to be a waiver of the provision itself.

7.6 Governing Law. This Agreement shall be construed in accordance with, and all disputes hereunder shall be governed by, the laws of the State of Georgia and shall be subject to the exclusive jurisdiction of the Georgia courts.

 7.7Entire Agreement; Modification. This Agreement is the complete, final and exclusive statement of the terms of the agreement between the Parties and supersedes any and all other prior and contemporaneous negotiations and agreements, whether oral or written, between them relating to the subject matter hereof. This Agreement may not be varied, modified, altered, or amended except in writing signed by the Parties.

7.8 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**IN WITNESS WHEREOF** the Parties have caused this Agreement to be executed by their duly authorized representatives on the date(s) shown below.

**GSMA COMPANY**

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Signature Signature

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Date Date