

# CONFIDENTIALITY AGREEMENT - UNILATERAL

BETWEEN **Hello Tomorrow SAS (example only - please delete/modify all highlighted areas)**  
66 avenue des Champs Élysées  
75008 Paris  
France  
853 678 167 RCS Paris  
(The "Receiving Party")

AND **Company name**  
Registered address  
Registered address  
Country of incorporation  
Registration number  
(The "Disclosing Party")  
  
(each referred to as a "Party" and together as the "Parties")

DATED **day/ month /year**

## 1. BACKGROUND AND PURPOSE

1.1 The Receiving Party is a mission-driven global organisation that aims to accelerate the transfer of deep technologies to solve some of the most pressing industrial, environmental and societal challenges.

1.2 The Disclosing Party is **services**.

1.3 The Parties are entering into a business relationship of the nature described.

1.4 The purpose of disclosures under this confidentiality agreement (this "Confidentiality Agreement") is to permit the Parties to enter into the relationship described in Clause 1.3 (hereinafter the "Permitted Purpose")

1.5 The Disclosing Party is willing to disclose certain non-public confidential information to the Receiving and its Representatives (as defined below) solely for the Permitted Purpose, subject to the terms and conditions set out in this Confidentiality Agreement, which both Parties hereby accept.

## 2. DEFINITIONS

In this Confidentiality Agreement, the following capitalised words shall have the following meanings:

**Affiliate** means, with respect to a Party, a legal entity or company controlling, controlled by or under common control with that Party. For purposes of this definition only, **control** means (i) to possess, directly or indirectly, the power to direct the management or policies of a legal entity or company, or (ii) to own, directly or indirectly, more than fifty per cent (50%) of the outstanding voting securities or other ownership interest of such legal entity or company.

**Confidential Information** means and includes:

- a. any and all information of the Disclosing Party, including but not limited to information on trade secrets and proprietary information or materials belonging to the Disclosing Party, its customers and/or its Representatives whether or not patentable or otherwise protectable under applicable legislation, including but not limited to marketing and promotional material, techniques, discoveries, methods, methodology, equipment, data, analyses, measurements, databases, designs, photographs, screen prints, drawings, samples, ideas, reports, knowhow, sources of supply, business plans, operations, plants, patent applications (whether filed or not and whether completed or not), publications (whether published or not) – whether in written (including electronic/data), oral or any other form – which the Disclosing Party and its Affiliates disclose or in any other way make available to the Receiving Party and its Representatives, including, but not limited to, (oral, visual, or written) presentations, pictures, graphs, reports, calculations, analyses, draft agreements and other documents and any part or portion of any of the foregoing, and any other media/material bearing or incorporating any such information, regardless of whether such information is identified as confidential or not;
- b. the existence of this Confidentiality Agreement, and the fact that the Permitted Purpose is being considered, discussed or negotiated, including the terms, conditions and status of the Parties' considerations, discussions or negotiations, and the existence and content of any documents, presentations, contracts or agreements disclosed or entered into in relation to the Permitted Purpose.

Confidential Information, as defined above, shall include such Confidential Information, which may have been or be obtained by the Receiving Party before, after or on the date of signing of this Confidentiality Agreement.

**Representatives** means any of the directors, officers, employees, advisers, legal advisors, accountants, representatives and Affiliates of a Party or of any of the Party's Affiliates.

### **3. CONFIDENTIALITY AND NON-DISCLOSURE**

3.1 The Receiving Party shall use Confidential Information solely for the Permitted Purpose.

3.2 The Receiving Party undertakes to:

- a. only use the Confidential Information for the Permitted Purpose; and
- b. keep Confidential Information secret, private and in strict confidence; and
- c. not by any means whatsoever disclose, deliver, copy, distribute, transfer or allow access to the Confidential Information to any third party other than in accordance with the terms of this Confidentiality Agreement or as expressly permitted in writing by the Disclosing Party; and
- d. make only such copies of documents or any other material embodying any of the Confidential Information as are strictly necessary for the Permitted Purpose; and
- e. use its best endeavours to protect the Confidential Information against theft or unauthorised access by any third party applying at least the same standards as used by the Receiving party to protect its Confidential Information. The Receiving Party shall immediately notify The Disclosing Party if it becomes aware of any suspected or actual unauthorised use, copying or disclosure of any Confidential Information;
- f. not directly or indirectly contact any of the Disclosing Party's Representatives, customers, suppliers, or investors concerning the Permitted Purpose except for the Representatives of the Disclosing Party duly involved in the delivery of information to the Receiving Party.

- 3.3 The undertakings in Clause 3.2 above shall not apply with respect to any part of the disclosed information which:
- i. was generally available to the public at the time of its disclosure to the Receiving Party; or
  - ii. subsequently becomes generally available to the public other than as a result of any non-compliance of the Receiving Party or its Representatives with the terms of this Confidentiality Agreement; or
  - iii. is already in the lawful possession of the Receiving Party or its Representatives as shown by a written record; or
  - iv. is disclosed to the Receiving Party or its Representatives by a third party who, after conducting best efforts investigations, is lawfully in possession thereof and has a lawful right to make such disclosure.

3.4 The Receiving Party shall promptly inform the Disclosing Party by a written notice if the Receiving Party is of the opinion that any Confidential Information received is covered by Clause 3.3. If disputed, the Receiving Party shall have the burden of proving that the information received is covered by Clause 3.3

3.5 Disclosure of Confidential Information of a specific nature will not fall into an exception solely because the exception applies to some general disclosure. An exception will not apply to a combination of items merely because individual items fall within the exception.

#### **4. PERMITTED DISCLOSURES**

4.1 Subject to Clause 4.2 below, the Receiving Party may disclose or make available Confidential Information to the Receiving Party's Representatives directly involved in the Permitted Purpose, provided that such disclosure shall be on a "need to know" basis only and solely for such Representative's use to facilitate the Permitted Purpose.

4.2 Prior to any disclosure of Confidential Information to its Representatives, the Receiving Party shall ensure that the recipient adheres to the terms of this Confidentiality Agreement.

4.3 The Receiving Party may disclose Confidential Information if required to be disclosed by law or regulation, or by an enforceable order of a court or public authority. In this event, the Receiving Party shall, to the extent practicable and unless otherwise required by law or other regulation, (i) give not less than five (5) business days' prior notice to the Disclosing Party of the proposed disclosure, and (ii) in consultation with the Disclosing Party (a) to the extent practicable and lawful, permit the Disclosing Party to seek to obtain an injunction or take other appropriate legal action to protect the Confidential Information, (b) take all reasonable measures at its expense to limit the disclosure of Confidential Information to the required minimum, and (c) use its best efforts to ensure confidential treatment by the recipient.

#### **5. RETURN OF COPIES AND COMPLIANCE**

5.1 At the written request of the Disclosing Party and at the Disclosing Party's sole discretion, the Receiving Party shall, without undue delay but in any event no later than fourteen (14) business days after its receipt of the written request:

- a. return to the Disclosing Party all Confidential Information supplied by the Disclosing Party or its Representatives to the Receiving Party or its Representatives; or

- b. destroy or permanently delete, and procure that any third party who has received Confidential Information from the Receiving Party or its Representatives destroys or permanently deletes, to the extent technically possible and not contrary to mandatory law, any Confidential Information; and
- c. confirm in writing that the Receiving Party has complied with Clause 4.2.

5.2 To the extent that the Receiving Party's deletion or destruction of Confidential Information is not technically possible, or if the Receiving Party or any of the third parties to whom the Receiving Party has disclosed Confidential Information are obliged by mandatory laws, professional standards, regulations or internal policies to maintain copies thereof, the Receiving Party shall inform the Disclosing Party in writing of such circumstance confirming that the restrictions on use and disclosure of the Confidential Information set out herein will be irrevocably adhered to by all such third parties and/or the Receiving Party.

## **6. NO REPRESENTATION OR WARRANTY**

Neither the Disclosing Party nor its Representatives have made or make any representation or warranty or have accepted or accept any liability as to the content, correctness, completeness or fitness for any purpose of the Confidential Information, as to the non-infringement of any third party rights relating to the Confidential Information, and there shall be no obligation on the Disclosing Party or its Representatives to provide any additional information or to update any Confidential Information or to correct any inaccuracy or error in the Confidential Information that may become known to them. The Confidential Information is provided on an "as is" basis, and the Disclosing Party and its Representatives shall not have any liability towards the Receiving Party or any of the Receiving Party's Representatives for any mistake, inaccuracy or omission relating to the Confidential Information.

## **7. PROPERTY OF INFORMATION**

7.1 All Confidential Information supplied or disclosed shall remain the property of the Disclosing Party. The Disclosing Party shall decide, in its sole discretion, which Confidential Information it discloses to the Receiving Party under this Confidentiality Agreement.

7.2 Neither this Confidentiality Agreement nor the disclosure by the Disclosing Party or its Representatives of any Confidential Information hereunder shall be construed as transferring or granting to the Receiving Party or its Representatives any right or license to the Confidential Information.

## **8. INTELLECTUAL PROPERTY RIGHTS**

8.1 Each Party shall maintain any and all Intellectual Property Rights held by that Party upon conclusion of this Confidentiality Agreement. This Confidentiality Agreement does not contain or imply any transfer of or grant of license or any other right of use or access rights to any intellectual property rights of the other Party.

## **9. REMEDIES FOR BREACH OF CONTRACT**

9.1 The Receiving Party shall be responsible on a no-fault basis for any breach of this Confidentiality Agreement by the Receiving Party or action by its Representatives which would constitute a breach of this Confidentiality Agreement as if such Representatives were parties to this Confidentiality Agreement. The Receiving Party is obligated to inform the Disclosing Party immediately of any breach of its confidentiality obligations as stipulated in this Confidentiality Agreement, including any breach by its Representatives.

9.2 Without prejudice to any other rights or remedies which the Disclosing Party may have, the Receiving Party acknowledges and agrees that liquidated damages or damages may not be an adequate remedy for any breach of the provisions of this Confidentiality Agreement and that the Disclosing Party shall be entitled without proof of special damage to exercise any and all other rights and remedies provided under applicable law, including, without limitation, the remedies of specific performance and injunction for any threatened, imminent or actual breach of any such provision by the Receiving Party or its Representative.

## **10. TERM OF THE CONFIDENTIALITY AGREEMENT**

The term of this Confidentiality Agreement is 3 years from the date of this Confidentiality Agreement. Either Party may terminate the Confidentiality Agreement by written notice to the other Party. The obligations of confidentiality and non-use set forth in this Confidentiality Agreement shall survive the termination or expiration of this Confidentiality Agreement by 5 years.

## **11. MISCELLANEOUS**

### **11.1 No offer**

For the avoidance of doubt, nothing in this Confidentiality Agreement shall be construed as an offer or an agreement in relation to the Permitted Purpose, nor does this Confidentiality Agreement create a partnership, joint venture or any similar entity or relationship between the Parties nor, other than for the matters specifically set forth herein, any legal obligation whatsoever with respect to the Permitted Purpose.

### **11.2 Termination of discussions regarding Permitted Purpose**

Each Party reserves the right to terminate the Parties' discussions regarding the Permitted Purpose at any point in time upon written notice to the other Party and without being obliged to state any reason for such termination.

### **11.3 Entire Agreement**

This Confidentiality Agreement constitutes the entire and only agreement between the Parties and supersedes all prior oral or written agreements or understandings between the Parties with respect to the subject matter hereof.

### **11.4 Amendments and waivers**

No amendment to this Confidentiality Agreement or waiver of any right herein shall be effective unless made in writing and signed by a duly authorised representative of both Parties. No failure or delay in exercising any right, power or privilege by a Party will operate as a waiver, nor will any single or partial exercise of any right, power or privilege preclude any exercise hereof or the exercise of any other right, power or privilege.

### **11.5 Assignment**

The Receiving Party may not assign this Agreement and/or any rights and/or obligations hereunder to any third party without the specific prior written consent of the Disclosing Party.

### **11.6 Non-exclusive basis**

It is understood that the Confidential Information is given on a non-exclusive basis and that the Disclosing Party remains free to disclose the Confidential Information to any other party(ies).

## **12. GOVERNING LAW AND JURISDICTION**

12.1 This Confidentiality Agreement shall be governed by and construed in accordance with the laws of France, excluding, however, its provisions on choice of law.

**12.2** Any dispute arising out of or in connection with this Confidentiality Agreement, including any disputes regarding the existence, validity or termination thereof, shall be settled by arbitration in accordance with the rules of arbitration in France and in force at the time when such proceedings are commenced. The place of arbitration shall be in Paris. The Parties agree that an award issued by such arbitration tribunal shall be conclusive and binding upon each Party and may be enforced in the Courts of any competent jurisdiction.

For **Hello Tomorrow SAS**:

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Name: Arnaud de la Tour

Title: President & CEO

For **Company name**:

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Name

Title: