



Mutual Non-disclosure agreement

This non-disclosure agreement (“*Agreement*”) is entered into between **Stichting iSHARE Foundation (KVK 73058289), Westblaak 228, 3012KP Rotterdam** (hereafter referred to as “*Stichting iSHARE*”) and **[company name] (KVK [@@@]) [address]** (hereafter referred to as “[xxx]”). Both parties can be considered the “*Discloser*” or “*Recipient*”, and parties are collectively referred to as the “*Parties*” or separately as “*Party*”. The Parties wish to exchange Confidential Information for the purpose of exploring potential participation of [xxx] in the iSHARE scheme (“*Purpose*”). The Parties wish to protect the confidentiality of information and proprietary materials in accordance with the terms set out in this Agreement.

In this Agreement, the following definitions shall apply:

“*Confidential Information*” means all information which Discloser considers as confidential and/or proprietary and which the Recipient acquires including, but not limited to, tangible, intangible, verbal, visual, electronic, present, or future information howsoever and whensoever acquired including, but not limited to, by post, fax, e-mail, by text message (SMS) or by visual inspection during any tours of Discloser’s (or any Discloser Group Company’s) facilities or premises, such information to include, without limitation:

1. trade secrets (whether or not subject to or protected by copyright, patent, trademark (registered or unregistered));
2. financial information, including but not limited to pricing;
3. technical information and materials, including but not limited to research, development, procedures, designs, and know-how;
4. software products, including but not limited to algorithms, source code, data, documentation and any authorization keys, passwords and similar delivered in order to operate such products;
5. business information and materials, including but not limited to operations, planning, marketing interests, product roadmaps, pricing, customer data and/ or information and products;
6. the terms of any agreement entered into between the Parties and the discussions, negotiations and proposals related to any such agreement.

“*Discloser Group Company*” means:

1. any parent company of Discloser;
 2. any company over which Discloser directly or indirectly has control; and/or
 3. any company directly or indirectly controlled by the same person or group of persons as Discloser.
- For these purposes a person or group of persons who are able directly or indirectly to control or materially to influence the policy of a corporate body, but without having a controlling interest in that body corporate, may be treated as having control of it. Reference to a person includes a legal person (such as a limited company) as well as a natural person.

“*Personnel*” mean employees, directors, professional advisers, agents or third party contractors of either Party or of any Discloser Group Company;

“*Process*” means by operation of law, or by the order or ruling of a court, tribunal or other judicial body of competent jurisdiction or the rules, requirements, order or demand of any regulatory body or recognized stock exchange of competent jurisdiction.

The Parties acknowledge that disclosure of any Confidential Information shall be subject to the terms of this Agreement. In consideration of the disclosure of the Confidential Information Parties agree as follows:

1. Notices regarding this Agreement shall be sent to the Parties’ respective contact persons.



2. The Recipient shall use the Confidential Information (a) in the strictest confidence; (b) only for the Purpose; (c) with the same degree of care, but no less than a reasonable degree of care, as the Recipient uses to protect its own information of a similar nature; and (d) so as to prevent any use of Confidential Information in violation of this Agreement and/or communication of Confidential Information to any unauthorized third parties.

3. Confidential Information stored in either electronic formats or in physical formats must be stored securely with the same degree of care, but no less than a reasonable degree of care, as the Recipient uses to protect its own information of a similar nature.

4. Discloser shall approve all Personnel to whom the Recipient discloses Confidential Information prior to disclosure. Confidential Information may only be disclosed to Personnel on a strict need to know basis and solely for or in respect of the Purpose and the Recipient hereby agrees that prior to any such disclosure, the Personnel are bound by suitable confidentiality obligations (whether contractual or otherwise by law) sufficient to protect the confidentiality of the Confidential Information according to this Agreement.

5. Recipient will be liable as primary obligor for any breaches of this Agreement including any breaches committed by Personnel with or without the Recipient's knowledge.

6. Each Party hereby agrees that it shall not, without first obtaining the prior written consent of the other Party, issue or release any articles, advertising, publicity, or announcement relating to this Agreement (including the fact that a meeting or discussion has taken place between the Parties) or mentioning or implying the name of the other Party or otherwise communicate, indicate or suggest to any third party the existence of any negotiations between the Parties in respect of the Purpose.

7. Recipient will only have a duty to protect Confidential Information disclosed to it (a) if it is clearly and conspicuously marked as "confidential" or "proprietary" or with a similar designation; (b) if it is identified by Discloser as confidential and/or proprietary before, during, or promptly after presentation or communication; or (c) if it is disclosed in a manner in which Discloser reasonably communicated, or the Recipient should reasonably have understood under the circumstances, that the disclosure should be treated as confidential, whether or not the specific designation "confidential" or "proprietary" or any similar designation is used. All information falling under the definition of Confidential Information in this Agreement and/ or obtained for or in connection with the Purpose shall be considered Confidential Information by default.

8. This Agreement imposes no obligation upon a Recipient with respect to Confidential Information which:

8.1. the Recipient can demonstrate was already in the Recipient's actual possession or knowledge, and which the Recipient lawfully acquired;

8.2. is or becomes publicly available through no fault, action, omission or intervention of the Recipient; is received by the Recipient from a third party without a duty of confidentiality (expressly or implied) owed to Discloser;

8.3. is independently developed by the Recipient without a breach of this Agreement;

8.4. is disclosed by the Recipient with Discloser's prior written consent; or

8.5. is required by any mandatory Process to be disclosed provided that the Recipient shall immediately upon becoming aware of such Process and prior to the disclosure of any Confidential Information in response to such Process notify Discloser of such Process.

9. The Recipient shall indemnify Discloser, and keep Discloser indemnified, against all actions, claims, liabilities, damages, costs, charges and expenses which Discloser may suffer or incur in connection with or arising out of any breach by the Recipient of any of the provisions of this Agreement.



10. Recipient will take only such copies of any document or other material (in whatsoever medium) embodying any of the Confidential Information as are reasonably necessary for the Purpose.

11. Recipient shall promptly destroy or return all Confidential Information, including any copies thereof, when the Purpose is no longer in effect or upon written request from Discloser.

12. All the Confidential Information shall remain the property of Discloser. The Recipient does not acquire any intellectual property rights (IPR) under this Agreement (including, but not limited to, patent, copyright, or trademark rights) and for the avoidance of doubt, no rights or licenses in or to the Confidential Information are granted to Recipient, except, in all cases, the limited rights necessary to carry out the Purpose.

13. The Discloser shall maintain the duties of confidentiality set out in clauses 1- 12 regarding any Confidential Information it acquires from Recipient in connection with this Agreement.

14. In addition, and to the extent the Recipient processes personal data on behalf of the Discloser, the Recipient shall comply with applicable privacy legislation. Personal data shall only be processed according to the Discloser's instructions and in order to fulfill a written contract with the Discloser. Subcontractors with access to personal data in question shall be approved by the Discloser in writing. Recipient shall notify Discloser without undue delay of any privacy incidents. Recipient shall comply with the requirements for information security brought by the GDPR article 32. The Recipient shall assist the Discloser in fulfilling its duties as data controller or data processor towards customers and/or data subjects.

15. This Agreement will not be assignable or transferable to any other party or entity without the prior written consent of the Discloser.

16. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof, and supersedes any prior verbal or written agreements, and all contemporaneous verbal communications. Any failure or delay to enforce a provision of this Agreement shall not constitute a waiver thereof or of any other provision.

17. This Agreement and Receiving Party's duty to hold Confidential Information in confidence shall remain in effect until whichever of the following occurs first: (a) Disclosing Party sends Receiving Party written notice releasing it from this Agreement, or (b) [xxx] becomes an iSHARE participant (i.e. Adhering or Certified party) and agrees to the Terms of use for the iSHARE scheme in which confidentiality is integrally included. In case either Party decides that [xxx] will not participate in the iSHARE scheme the Recipient shall promptly destroy or return all Confidential Information in accordance with article 11.

18. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement but this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been set forth herein, and the provisions of this Agreement shall be observed and the obligations herein carried out as nearly as possible according to this Agreement's original terms.

19. Discloser shall have the right to take all reasonable steps to protect its interests, including any remedy as may be available at law, in the event the Recipient breaches his obligations under this Agreement.

20. This Agreement, and all disputes and claims arising out of or in connection with it, shall be governed exclusively by the laws of the Netherlands. Any disputes or claims which cannot be resolved through amicable negotiations between the Parties shall be referred to the competent court of The Hague, The Netherlands.

This Agreement has been drawn up in two (2) copies, of which the parties retain one copy each.

Stichting iSHARE Foundation

Signature:

Signed by:

G. van der Hoeven, Director iSHARE

Place and date:

[name]

Signature:

Signed by:

[name], [job title]

Place and date: