

## MUTUAL CONFIDENTIALITY AGREEMENT

This Mutual Confidentiality Agreement ("**Agreement**"), between **NetDocuments** and \_\_\_\_\_ ("**Company**"), is effective as of the date of Company's signature ("**Effective Date**").

If Company's principal place of business is: (a) in the United States, Canada, or Latin America, "NetDocuments" refers to NetDocuments Software, Inc., a Delaware corporation with offices at 2500 West Executive Parkway, Suite 300, Lehi, UT 84043; (b) in the United Kingdom, European Economic Area, Africa, or the Middle East, "NetDocuments" refers to NetDocuments Limited registered in England and Wales with company number 7509508, with offices at 8th Floor South Reading Bridge House, George Street, Reading, England RG1 8LS; or (c) in Australia, New Zealand, or Asia, "NetDocuments" refers to NetDocuments Australia Pty Limited, with offices at Level 40, Governor Macquarie Tower, 1 Farrer Place, Sydney 2000 Australia.

The parties agree as follows:

### 1. DEFINITIONS

**1.1 "Confidential Information"** means any non-public, confidential or proprietary information concerning Discloser or a third party disclosed to Recipient prior to or during the Term, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential," including, without limitation: (a) all information concerning Discloser's and its affiliates', and their customers', suppliers' and other third parties' past, present and future business affairs including, without limitation, finances, products, services, organizational structure, internal practices, forecasts, sales and other financial results, records, budgets, and business, marketing, development, sales and other commercial strategies; (b) the Discloser's unpatented inventions, ideas, methods and discoveries, trade secrets, know-how, unpublished patent applications and other confidential intellectual property; (c) all designs, specifications, documentation, components, source code, object code, images, icons, audiovisual components and objects, schematics, drawings, protocols, processes, and other visual depictions, in whole or in part, of any of the foregoing; and (d) any notes, documents, disks, storage devices, servers or other media of any kind that contains in any format any Confidential Information, whether delivered by Discloser or made by Recipient based upon or with reference to Confidential Information.

Confidential Information does not include any information that: (a) is or was acquired by Recipient on a non-confidential basis from a third-party source, provided that such third party is not and was not prohibited from disclosing such Confidential Information to the Recipient by a legal, fiduciary or contractual obligation to the Discloser; (b) is independently developed by Recipient without reliance upon or use of any of the Confidential Information; or (c) is or becomes generally available to and known by the public other than as a result of, directly or indirectly, any violation of this Agreement by the Recipient.

**1.2 "Discloser"** means the party whose Confidential Information is disclosed to the other party under this Agreement.

**1.3 "Recipient"** means a party that receives any Confidential Information concerning the other party under this Agreement and, to the extent any of them receive any Confidential Information, Recipient's affiliates, employees, agents, and other representatives.

**1.4 "Term"** means the period beginning with the Effective Date and ending once there is no legitimate business purpose to continue to retain Discloser's Confidential Information; provided, Recipient's obligations with respect to any Confidential Information will survive the expiration of the Term for so long as Recipient possesses any Confidential Information.

### 2. CONFIDENTIALITY

**2.1** Recipient will protect Confidential Information from unauthorized use, disclosure, copying, dissemination or distribution with at least the same degree of care as Recipient protects its own confidential information, and in no event with less than a commercially reasonable degree of care.

**2.2** Confidential Information is made available to Recipient solely for the purpose of pursuing a business relationship between the parties. Recipient will not use, disclose, disseminate or distribute any Confidential Information for any other purpose. Without limiting the foregoing, Recipient will not: (a) disclose, deliver, distribute, display, demonstrate or otherwise make available the Confidential Information to any third party except to those of its employees, agents and other representatives who have a need to know the same for the purpose specified herein and who are subject to confidentiality obligations no less restrictive than those in this Agreement; (b) make or copy the Confidential Information unless and to the extent required for the purpose specified herein; (c) reverse engineer, decompile or disassemble any computer program included in such Confidential Information; (d) remove or obliterate markings on Confidential Information indicating its proprietary or confidential nature; or (e) use Discloser's Confidential Information to design, develop, provide, or market any product or service that would compete with any product or service of Discloser or enable any third party to do so. Discloser shall not share Confidential Information that is regulated by applicable consumer protection laws or applicable privacy laws.

**2.3** Notwithstanding paragraph 2.2, Recipient may disclose or produce the minimum necessary Confidential Information if required by any legally valid discovery request, subpoena, or court order, provided that, if legally permitted, Recipient gives Discloser reasonable advance notice of the same so as to afford Discloser a reasonable opportunity to appear, object and obtain a protective order or other appropriate relief regarding such disclosure.

**2.4** As between Discloser and Recipient, all Confidential Information is the property of Discloser. Each party hereby retains its entire right, title and interest, including all intellectual property rights, in and to all of its Confidential Information, and any disclosure of such Confidential Information hereunder shall not be construed as an assignment, grant, option, license or other transfer of any right, title or interest to Recipient.

**2.5** Promptly following the end of the Term, Recipient shall destroy all Confidential Information in the Recipient's possession or control and, upon request of Discloser, certify to Discloser the destruction thereof in a written certification signed by an authorized officer of Recipient; provided, however, that Recipient may retain one copy of such Confidential Information to the extent necessary to comply with applicable law or in accordance with Recipient's record retention and destruction policy. The Recipient's obligation to destroy Confidential Information does not extend to automatically generated computer back-up or archival copies generated in the ordinary course of the Recipient's information systems policies. All requirements of this Agreement, including requirements to protect and not use, disclose, disseminate or distribute any Confidential Information, shall continue to apply to any such copies retained by Recipient.

**2.6** Recipient will comply with any and all applicable laws relating to the use, disclosure, copying, dissemination and distribution of any Confidential Information (including, but not limited to, any and all laws relating to Discloser's proprietary rights or the export of any technical data included in such Confidential Information).

### **3. MISCELLANEOUS**

**3.1** Discloser warrants that it has the right to make Confidential Information available to Recipient as provided for in and subject to this Agreement. Discloser does not make any other representation or warranty, express or implied, with regard to any Confidential Information. Confidential Information is made available under this Agreement "AS IS," with all defects, errors, and deficiencies.

**3.2** In the event of any breach of this Agreement, Discloser may suffer irreparable harm and have no adequate remedy at law. In such event or the threat of any such event, Discloser will be entitled (in addition to any and all other remedies at law or in equity) to seek injunctive relief, specific performance and other equitable remedies without proof of monetary damages or the inadequacy of other remedies.

**3.3** The protections afforded to Confidential Information under this Agreement are in addition to, and not in lieu of, the protections afforded under any applicable trade secrets laws, including the Uniform Trade Secrets Act.

**3.4** Each party hereby irrevocably consents to the jurisdiction and venue of the following with regard to any action concerning this Agreement: (a) if you reside in the United States, Canada, or Latin America, the parties agree to the courts of the State of Utah in Salt Lake City and the United States District Court of Utah; (b) if you reside in United Kingdom, European Economic Area, Africa, or the Middle East, the parties agree to the courts of England and Wales; and (c) if you reside in Australia, New Zealand, or Asia, the parties agree to the courts of New South Wales, Australia.

**3.5** This Agreement will not be construed to create an obligation by either party to enter into a contract, subcontract or other business relationship.

**3.6** This Agreement may be executed in any number of counterparts which may be delivered as a .pdf attached to email or by digital or electronic signature, and each counterpart so executed and delivered will be deemed an original, all of which together will constitute one instrument. This Agreement may not be amended, except by a writing signed by both parties.

**3.7** Neither party may assign any of its rights or delegate any of its obligations hereunder without the prior written consent of the other party. Any purported assignment or delegation in violation of this Section shall be null and void. Notwithstanding the foregoing, if substantially all of the business and assets of any party hereto are sold or licensed (regardless of the form of the transaction) while such party possesses any Confidential Information of the other party hereto, the party subject to the sale transaction may assign its rights hereunder to the purchaser. No assignment or delegation shall relieve the assigning or delegating party of any of its obligations hereunder.

To enable quick execution, NetDocuments has pre-signed this Agreement. Any modifications to this Agreement render this Agreement and NetDocuments's signature null and void.

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

**NetDocuments:**

\_\_\_\_\_:

Signature: Karen Allen

Signature: \_\_\_\_\_

Name: Karen Allen

Name: \_\_\_\_\_

Title: Lead Contract Administrator

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Address: \_\_\_\_\_

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