

MUTUAL NONDISCLOSURE AGREEMENT

This Mutual Nondisclosure Agreement, effective as of _____, 20__ (“Effective Date”), is entered into by and between Coiled Computing, Inc., with its principal address at 1412 Broadway, 21st Floor, New York, NY 10018 and _____, with its principal address at _____.

- 1. Purpose. Certain Confidential Information may be made available to the other party in connection with discussions regarding joint business opportunities. “Confidential Information” means any confidential or proprietary information of the disclosing party (“Discloser”) disclosed to the receiving party (“Recipient”), including without limitation, pricing, product and company roadmaps, and information about customers and prospects. Confidential Information shall not include any information which Recipient can establish by written documentation (i) was publicly known and made generally available in the public domain prior to the time of disclosure to Recipient by Discloser; (ii) becomes publicly known and made generally available after disclosure to Recipient by Discloser through no action or inaction of Recipient; or (iii) is in the possession of Recipient, without confidentiality restrictions, at the time of disclosure by Discloser.
- 2. Non-use. Recipient agrees not to use any Confidential Information for its own purpose or for any purpose except to evaluate and engage in discussions concerning potential business relationships between Recipient and Discloser (“Purpose”).
- 3. Non-disclosure. Recipient agrees not to disclose any Confidential Information to its employees or contractors, except to those employees and contractors of Recipient who have executed a written non-use and non-disclosure agreement in content similar to the provisions in this Nondisclosure Agreement and who are required to have access to such Confidential Information to accomplish the Purpose. Recipient is liable for violations of the obligations by its employees and contractors receiving the Confidential Information. In the event Recipient is required to disclose Confidential Information pursuant to law or regulation, Recipient may disclose such Confidential Information, however, to the extent possible, Recipient shall provide Discloser with reasonable advance notice to enable Discloser to seek a protective order to prevent or limit such disclosure.
- 4. Maintenance of Confidentiality. Recipient agrees that it shall take reasonable measures to protect the secrecy of and avoid disclosure and unauthorized use of the Confidential Information. In addition, Recipient shall take at least those measures that it takes to protect its own highly confidential information of a similar nature, but in no case shall Recipient exercise less than reasonable care. Recipient shall notify Discloser upon each discovery of any unauthorized use or disclosure of Confidential Information.
- 5. NO WARRANTY. ALL CONFIDENTIAL INFORMATION IS PROVIDED “AS IS”. DISCLOSER MAKES NO WARRANTIES, EXPRESS, IMPLIED OR OTHERWISE, AND DISCLAIMS ALL WARRANTIES, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE.
- 6. Return of Materials. All documents and other tangible objects containing or representing Confidential Information and all whole or partial copies or embodiments which are in the possession or under the control of Recipient shall be and remain the property of Discloser and shall be promptly returned to Discloser upon Discloser's request, however Recipient is not required to delete or return information stored as part of its standard electronic backup or other business continuity systems.
- 7. No License. Nothing in this Nondisclosure Agreement is intended to grant any rights to Recipient under any intellectual property rights of Discloser, nor shall this Nondisclosure Agreement grant Recipient any rights in or to Confidential Information.
- 8. Term. The obligations under this Nondisclosure Agreement shall survive until five (5) years after the latest date Confidential Information has been disclosed under this Nondisclosure Agreement.
- 9. Miscellaneous. This document contains the entire agreement between the parties with respect to its subject matter and supersedes all prior understandings with respect this subject matter. Any failure to enforce any provision of this Nondisclosure Agreement shall not constitute a waiver of such provision or of any other provision. This Nondisclosure Agreement may not be amended except by a writing signed by authorized representatives of both parties. This Nondisclosure Agreement shall be governed by the laws of the state of New York, without reference to conflicts of law principles. This Nondisclosure Agreement may not be assigned except in the case of a merger or sale of all or substantially all of its assets or stock. This Agreement shall bind and inure to the benefit of the parties hereto and their successors and permitted assigns.

Intending to be legally bound, the parties have caused this Nondisclosure Agreement to be executed by their authorized representatives.

Coiled Computing, Inc.	_____
Signature: _____	Signature: _____
Print Name: _____	Print Name: _____
Title: _____	Title: _____