



NEOM نيوم

PRIVATE & CONFIDENTIAL

Date: (the “Effective Date”)

NEOM COMPANY

Information Technology and Communications Complex
Building IN-01, Al Nakhil District
P.O. Box 6847, Riyadh 11452
Kingdom of Saudi Arabia

To: CEO of NEOM

Reference to NEOM (the “Project”).

We acknowledge that we, and our Representatives, may be provided with certain Confidential Information, by you, in connection with the Project and we wish to ensure that this Confidential Information remains confidential and is not used by us or any of our Representatives for any purpose other than the Project.

In consideration of you agreeing to disclose Confidential Information to us, we agree with and undertake to you, as follows.

1. DEFINITIONS AND INTERPRETATION

1.1 In this letter agreement, unless the context otherwise requires:

- (a) “**Affiliate**” means any company or legal entity that (i) controls either directly or indirectly a party, (ii) is controlled directly or indirectly by such party, or (iii) is directly or indirectly under common control with such party, for which purpose “control” shall mean the right to exercise fifty percent (50%) or more of the voting rights in the appointment of the directors or similar representation of such company or entity;
- (b) “**Business Day**” means a day (other than a Friday or Saturday) on which banks in the City of Riyadh in the Kingdom of Saudi Arabia, are open for ordinary banking business;
- (c) “**Confidential Information**” means:
 - (i) all business, technical, financial, operational, administrative, legal, economic, and other information in whatever form (including in written, oral, visual, or electronic form) relating directly or indirectly to the Project that is directly or indirectly disclosed, whether before, on or after the date of this letter agreement, to us or any of our Representatives, by you or any of your Representatives or which comes to our attention in connection with the Project;
 - (ii) all information in whatever form (including in written, oral, visual, or electronic form) relating to the existence, status, or progress of the Project including the existence and contents of this letter agreement and the fact that discussions and negotiations may be taking place in relation to the Project; and
 - (iii) all documents and any other material that contain or reflect or are generated from any of the foregoing and all copies of any of the foregoing,
- (d) “**Representatives**” means, in relation to a party, its Affiliates and their respective directors, officers, employees, agents, consultants, and advisers;
- (e) unless otherwise defined, terms used in the IT industry or other relevant business context shall be interpreted in accordance with their generally understood meaning in that industry or business context;



- (f) references to a “person” includes any individual, partnership, body corporate, corporation sole or aggregate, state or agency of a state, and any unincorporated association or organization, in each case whether or not having separate legal personality;
- (g) Words introduced by the word “other” shall not be given a restrictive meaning because they are preceded by words referring to a particular class of acts, matters or things; and
- (h) General words shall not be given a restrictive meaning because they are followed by words which are particular examples of the acts, matters or things covered by the general words and the words “includes”, “including”, and in particular”, or any similar expression, shall be construed without limitation.

2. DUTY OF CONFIDENTIALITY

- 2.1 We will hold the Confidential Information in strict confidence and will not disclose, reproduce, or distribute any Confidential Information in whole or in part, directly or indirectly, (or permit any of the foregoing) to any persons, other than to our Representatives to the extent that such disclosure, reproduction, or distribution is strictly necessary for the purposes of the Project.
- 2.2 Neither we nor any of our Representatives will, without your prior written consent use any Confidential Information for any purpose other than the Project or make, permit, or assist any other person to make any public announcement in relation to the Project.
- 2.3 The undertakings given by us in this letter agreement are given on our own behalf and on behalf of each of our Representatives with their full knowledge and authority. We shall ensure that each of our Representatives is informed of the terms of this letter agreement and we shall procure that each of our Representatives adheres to the terms of this letter agreement as if it had entered into this letter agreement in your place (notwithstanding that it is not a party hereto) and we will be responsible to the extent that any of our Representatives does not do so.

3. PERMITTED DISCLOSURE

- 3.1 The undertakings in paragraphs 2.1 and 2.2 will not apply to Confidential Information which we can establish to your reasonable satisfaction:
 - (a) is, at the time of disclosure to us or one of your Representatives, or subsequently becomes, public knowledge (other than as a direct or indirect result of the information being disclosed in breach of this letter agreement);
 - (b) was known to us or one of our Representatives before the date of this letter agreement and such person was not under any obligation of confidence in respect of that information; or
 - (c) we or one of our Representatives found out from a source not connected to you or any of your Representatives and such source is not under any obligation of confidence in respect of that information.
- 3.2 The undertakings in paragraphs 2.1 and 2.2 will not apply to any disclosure of Confidential Information that is required by any applicable law or regulation, or competent governmental or regulatory authority or any order of any court of competent jurisdiction, in which case (i) we shall notify you thereof prior to, or promptly after, making such disclosure, and (ii) we shall only disclose that portion of the Confidential Information that is required to be disclosed and shall (x) use our reasonable efforts, and (y) cooperate with you, to ensure further confidential treatment of the information so disclosed.

4. RETURN OR DESTRUCTION OF CONFIDENTIAL INFORMATION

- 4.1 You may at any time request (in writing) us and our Representatives to promptly return or destroy the Confidential Information disclosed pursuant to this letter agreement (together with any document or material containing Confidential Information) and to the extent possible expunge and destroy all Confidential Information from any computer, word processor or other device containing such Confidential Information. In such an event, we shall promptly fulfil the request, whenever it is made and no later than within five (5) Business Days of receiving the request. In the event that the documents are destroyed, we shall certify to you in writing that such destruction has occurred (subject to the foregoing).
- 4.2 Notwithstanding paragraph 4.1 and irrespective of whether you request us to return Confidential Information, within five (5) Business Days of termination of this letter agreement, we shall return to you or destroy all of the original Confidential Information furnished by you and destroy all copies and reproductions thereof.
- 4.3 Any Confidential Information we cannot completely destroy or delete from our computer servers, hard drives or other data repositories following our reasonable efforts to do so shall be maintained by us in accordance with the confidentiality obligations of this Agreement.



5. INTELLECTUAL PROPERTY

The ownership of all intellectual property rights, including copyright, patents, know-how, trade secrets and trademarks, in the Confidential Information, shall remain with you and nothing in this letter agreement shall operate to assign, or be deemed to assign, any of those rights to us.

6. LIABILITIES

- 6.1 We hereby acknowledge that you make no representations or warranties, express or implied, as to the quality, accuracy, and completeness of the Confidential Information disclosed to us.
- 6.2 We agree that disclosure of Confidential Information under this letter agreement (i) is agreed to be on a non-exclusive, no obligation basis, and (ii) shall not commit you to the Project, nor commit you to supplying any further items of Confidential Information to us. Unless and until a written definitive agreement concerning the Project has been mutually negotiated and executed by you and us, with relevant corporate approvals, you nor any of your Representatives shall have any liability or obligation to us or our Representatives with respect to the Project. We acknowledge that you have the right, in your sole discretion, to decline to provide any information requested by us, to terminate discussions and negotiations of the Project at any time, and to reject any and all proposals made by us or any of our Representatives in relation to the Project.
- 6.3 Save as expressly set out in this letter agreement, neither you nor any of your Representatives shall owe any duty of care to us or any other person, and we acknowledge and agree that no person has or is held out as having an authority to give any statement, warranty, representation or undertaking on your behalf in connection with the Project.
- 6.4 You and your Affiliates, and your and their respective officers, directors, employees, agents, and representatives (collectively, the “**Disclosing Party Group**”) shall have no liability whatsoever to any member of the Receiving Party Group (as defined below) with respect to the use of or reliance upon the Confidential Information by any of us, our Affiliates, and our and their respective officers, directors, employees, agents, and representatives (collectively, the “**Receiving Party Group**”). We hereby acknowledge that you shall not be liable to us for special, indirect, punitive, or consequential damages resulting from or arising out of this letter agreement, including, without limitation, loss of value, loss of production, loss of financial advantage, loss of profit, or business interruptions, however the same may be caused.

7. TERM; TERMINATION

- 7.1 You may terminate this letter agreement upon seven (7) Business Days prior written notice to us and the return of any Confidential Information shall be pursuant to Clause 4.2.
- 7.2 If we and you enter into a definitive binding agreement concerning the Project, other than this letter agreement, then this letter agreement shall terminate automatically on the effective date of such other agreement provided such agreement expressly provides (i) that it supersedes this letter agreement and (ii) for the confidentiality of the Confidential Information.
- 7.3 Unless earlier terminated pursuant to paragraphs 7.1 or 7.2, this letter agreement shall terminate on the date that is the fifth (5th) anniversary of the Effective Date.
- 7.4 Upon termination of this letter agreement pursuant to this paragraph 7, the confidentiality obligations, rights, and remedies set forth herein shall survive termination with respect to all Confidential Information that remains (and for as long as it remains) in our possession in whatever form after termination hereof for a period of five (5) years following the termination of this Agreement.

8. GENERAL

- 8.1 Confidential Information shall remain your property at all times.
- 8.2 Without prejudice to any other rights or remedies that we each may have; we acknowledge and agree that a person with rights under this letter agreement may be irreparably harmed by any breach of its terms and that damages alone may not be an adequate remedy. Accordingly, a person bringing a claim under this letter agreement shall be entitled, without proof of special damages, to seek the remedies of injunction, specific performance, or other equitable relief for any threatened or actual breach of the terms of this letter agreement.
- 8.3 We may not assign this letter agreement or any of our rights or obligations hereunder without your prior written consent, not to be unreasonably withheld, and any purported assignment thereof by us without such consent shall be void and of no effect.



- 8.4 No variation or amendment of this letter agreement shall be valid unless it is in writing and made with your prior written consent. Waiver of any right, power, authority, discretion, or remedy arising upon default under this letter agreement must be in writing and signed by you. A failure or delay in exercise, or partial exercise, of a right, power, authority, discretion, or remedy created or arising under this letter agreement does not result in a waiver of that right, power, authority, discretion, or remedy.
- 8.5 Any notice or other communication given under this letter agreement or in connection with the matters contemplated herein shall, except where otherwise specifically provided, be in writing in the English language, addressed to the head office of the addressee.
- 8.6 This letter agreement comprises the full and complete agreement between us and you with respect to its subject matter and shall supersede all written and oral agreements of the parties entered into with regard to the treatment of Confidential Information.
- 8.7 This letter agreement does not establish a joint venture, partnership, or other type of business entity between us and you, and in no event shall we represent to any other third party that a joint venture, partnership, or other type of business entity has been formed. We may not use your name, logos, or trademarks in connection with any advertising, publicity materials, or other activities without your prior written consent.
- 8.8 If any provision, or part of a provision, of this letter agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions of the letter agreement shall remain in force.

9. GOVERNING LAW AND DISPUTE RESOLUTION

- 9.1 This letter agreement shall be governed by and construed in accordance with the laws of the Kingdom of Saudi Arabia.
- 9.2 The parties agree that any dispute arising out of or in connection with this letter agreement shall be finally settled by arbitration administered by the Saudi Center for Commercial Arbitration (the “**SCCA**”). Such arbitration:
 - (a) shall be conducted under the SCCA's Arbitration Rules (the “**Rules**”); which rules are deemed to be incorporated by reference into this clause;
 - (b) the seat of the arbitration shall be Riyadh, the Kingdom of Saudi Arabia;
 - (c) the arbitration shall be conducted in English; and
 - (d) the arbitration shall be settled by a sole arbitrator appointed in accordance with the Rules.
- 9.3 Nothing in this Clause 9 shall prevent a party from applying to the courts of competent jurisdiction to seek urgent interim relief.

We confirm that we agree to the terms set out in this letter agreement by signing and returning to you the enclosed duplicate copy.

Yours faithfully,

Full name _____

Title _____

Signature and Date

For and on behalf of _____

Entity Name _____

Entity Address _____

Company Stamp / Seal (if required)