

**NON-DISCLOSURE AGREEMENT
(NDA)**

This Non-Disclosure Agreement is between: **GENERAL DYNAMICS LAND SYSTEMS – CANADA CORPORATION**, incorporated pursuant to the laws of the **Province of New Brunswick**, with offices at **1991 Oxford Street, London, Ontario, N5V 2Z7**, hereinafter referred to as “**GDLS-C**” or “**Party**”, and

The Corporation of the Town of Goderich, a municipal corporation, with offices at **57 West Street, Goderich, ONTARIO, N7A 2K5, CANADA**, (hereinafter referred to as "**The Town of Goderich**" or “**Party**”);

Each Party may be separately referred to as “**Party**” and collectively referred to as “**Parties**”.

The Parties intend to exchange information regarding services related to swim testing of GDLS-C prototype vehicle (hereinafter the “**Program**”); and wish to protect the confidentiality of Proprietary Information (as herein defined) disclosed in furtherance of the Program.

NOW THEREFORE for valid consideration the sufficiency of which is attested by the Parties, the Parties agree as follows:

1. **Proprietary Information.** The term “**Proprietary Information**” includes all information, including third party information, in whatever form or medium, provided in connection with this Agreement which shall be identified as proprietary or confidential by the disclosing Party as follows:
 - (a) written documents and permanent records marked with a restrictive legend of the disclosing Party and/or third party such as "proprietary", "confidential" or the like; and
 - (b) oral or visual information that shall be identified as proprietary or confidential (or similar) at the time of disclosure and so confirmed in writing within thirty (30) days of the presentation, the disclosing Party making reasonable efforts to ensure any such writing contains a restrictive legend and a summary of the Proprietary Information delivered at the oral or visual presentation.

2. **Exceptions to Duty.** Notwithstanding the foregoing, this Agreement does not restrict disclosure or use of any information which would otherwise be considered "Proprietary Information" if the receiving Party can demonstrate:
 - (a) the information is published or generally known by the public (other than as a result of the breach of this Agreement);
 - (b) the information was known by the receiving Party at the time of disclosure as evidenced by competent proof;
 - (c) the information has become lawfully available to the receiving Party from a third party without restriction on disclosure;
 - (d) the disclosing Party approved in writing the public release by the receiving Party;
 - (e) the information was developed or discovered by the receiving Party without access to or use of any Proprietary Information provided by the disclosing Party; or
 - (f) the information was required to be released pursuant to applicable law, governmental regulation, legal order, notice, subpoena, investigative demand or similar directive provided that the receiving Party first, to the extent permitted by law, gives the

disclosing Party sufficient notice to provide it with a reasonable opportunity to seek injunctive or other similar equitable relief to prevent disclosure or to obtain a protective order to govern such disclosure.

3. **Restrictions on Export.** The Proprietary Information, in whatever form or medium disclosed, may contain technical data or articles controlled by the trade compliance laws and regulations of the United States, Canada or other jurisdictions. The Party disclosing such Proprietary Information shall notify the receiving Party of the controls applicable to the relevant Proprietary Information. The Party receiving such Proprietary Information shall not transfer any such data or articles in contravention of such laws, regulations and controls.
4. **Protection and Handling of Proprietary Information.** Each Party agrees:
 - (a) to use the other's Proprietary Information solely for the purposes of the Program;
 - (b) not to disclose or reveal to any third party, without the disclosing Party's prior written consent, any portion of the disclosing Party's Proprietary Information or any notes, summaries or other information derived from the Proprietary Information;
 - (c) to disclose Proprietary Information of the disclosing Party or portions thereof only to those employees, contract employees, elected officials, or other agents or representatives of the receiving Party who need to know such Proprietary Information for the purposes of the Program, and who are under an obligation to hold such Proprietary Information in confidence under terms and conditions at least as restrictive as the terms and conditions of this Agreement;
 - (d) not to incorporate the other Party's Proprietary Information into new designs, inventions or patent applications, or products, whether or not in competition with the disclosing Party, without the execution of a separate license agreement, issuance of a written lease or other written agreement between the Parties; and
 - (e) not to use any portion of the disclosing Party's Proprietary Information for personal gain or to advance or support the receiving Party's other business ventures or the business ventures of others.
5. **Permissible Disclosures.**
 - (a) Notwithstanding the restrictions set forth in Section 4, The Town of Goderich may disclose GDLS-C's Proprietary Information to obtain a quote from third-party(ies) and to a subsequent subcontractor if necessary to support the Program, provided that The Town of Goderich obtains a non-disclosure agreement from each third-party with terms and conditions at least as restrictive as this Agreement. The Town of Goderich shall remain responsible for any unauthorized disclosure of such Proprietary Information. The Town of Goderich shall provide GDLS-C with copies of such non-disclosure agreements upon GDLS-C's written request.
 - (b) Notwithstanding Section 4, GDLS-C may incorporate such Proprietary Information in a proposal or other report for submittal to GDLS-C's current and prospective government customer(s) provided that the Proprietary Information is disclosed in accordance with restrictive conditions as set out in this Agreement and in accordance with the applicable government procurement regulations.

- (c) Notwithstanding the foregoing, if necessary for the Program's purposes, the receiving Party may share the disclosing Party's Proprietary Information with other entities within its corporate organization with assurances that the Proprietary Information will be protected by such receiving entity under terms at least as restrictive as this Agreement.
 - (d) Notwithstanding the foregoing, nothing within this Section 5 grants permission contrary to Section 3, "Restrictions on Export".
6. **Standard of Care.** Each Party agrees to use:
- (a) at least the same degree of care in safeguarding the disclosing Party's Proprietary Information as it uses to safeguard its own similar, confidential information that it does not wish to disclose, provided such degree of care is reasonably calculated to prevent inadvertent disclosure and unauthorized use thereof; and
 - (b) to notify the disclosing Party immediately upon discovery of any inadvertent disclosure or unauthorized use of Proprietary Information and to promptly use reasonable efforts to prevent any further inadvertent disclosure or unauthorized use.
7. **Points of Contact.** Each Party shall designate in writing one or more individuals within its organization as the point of contact for Proprietary Information hereafter exchanged between the Parties. The receiving Party shall only make such number of copies of the disclosing Party's Proprietary Information as are necessary for the purposes of the Program.

For **GDLS-C:**

Name: DEREK GELINAS
Title: Area Manager - Advanced Procurement
Phone: 519-871-0437
Email: gelinasd@gdls.com

For **THE TOWN OF GODERICH:**

Name: Michaela Johnston
Title: Deputy Clerk/Health and Safety & Emergency Preparedness Coordinator
Phone: 226-963-1372
Email: mjohnston@goderich.ca

8. **Term and Termination.** The term of this Agreement during which Proprietary Information may be exchanged shall be for a period of five (5) years from the effective date hereof, which shall commence on the latest date by which all of the Parties hereto have executed this Agreement (the "Term").
9. **Period of Protection.** The Parties agree that their obligations to protect Proprietary Information shall remain in effect for a period of three (3) years after the termination or expiration of this Agreement.
10. **No License.** Nothing contained in this Agreement shall be construed as granting or conferring, by implication or otherwise, any right, title ownership, by license or otherwise, in or to either Party's trademarks, trade secrets, inventions, copyrights, patents (pending or registered), or other intellectual property or proprietary rights. All intellectual property and proprietary rights in the Proprietary Information will remain at all times the property of the disclosing Party.

11. **No Warranty or Liability.** To the extent permitted by law, the Parties make no representation, warranty or condition and accept no liability in respect of the accuracy or completeness of any or all of the Proprietary Information and shall have no liability for the receiving Party's use of the Proprietary Information or for any claims of third parties howsoever arising from the receiving Party's use or possession of any Proprietary Information or as a result of the receiving Party's reliance on any Proprietary Information as disclosed or modified by the disclosing Party. THERE ARE NO OTHER WARRANTIES, WHETHER WRITTEN OR ORAL, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE OR USE AND WARRANTIES ARISING FROM COURSE OF PERFORMANCE, DEALING, USAGE OR TRADE, WHICH ARE EXPRESSLY DISCLAIMED, EVEN IF THE DISCLOSING PARTY HAS BEEN MADE AWARE OF THE PURPOSE, OR WARRANTIES AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES EVEN IF THE DISCLOSING PARTY HAS BEEN ADVISED OF ANY SUCH INFRINGEMENT.
12. **Return or Destroy.**
- (a) Upon expiration or termination of this Agreement, each Party will, at its own expense, promptly return to the other or destroy (to the extent practicable), at the option of the disclosing Party, provided such written direction is received within sixty (60) days following such expiration or termination, all of the Proprietary Information disclosed or provided to such Party, together with all copies, reproductions, summaries, analyses or extracts thereof or based thereon (in whatever form or medium) in its possession (including any Proprietary Information in the possession of its employees, contract employees, or other agents or representatives), and will cause any other person to whom it has disclosed such Proprietary Information to do the same. Each Party, will upon request, certify in writing the return or destruction of all Proprietary Information and other such information in its possession or in the possession of any of its employees, contract employees, or its other agents or representatives, and by any such other persons who received such Proprietary Information by virtue of the Party's permitted disclosure(s).
- (b) If, notwithstanding the efforts described in Section 12(a) above, either Party inadvertently (or otherwise by good faith omission) retains Proprietary Information, it shall make all reasonable efforts to destroy such Proprietary Information and provide written confirmation to the other Party of such destruction.
13. **Entirety.** This Agreement contains the entire agreement relative to the matters provided herein and supersedes any prior or collateral understandings between the Parties. If any provision of this Agreement is held to be invalid or unenforceable, such finding shall not affect the validity or enforceability of the remaining provisions. No modification to any provision of this Agreement shall be effective unless it is in writing and signed by all Parties. This Agreement, as long as it remains active, shall supersede The Town of Goderich's acceptance of the NDA Terms of Access into GDLS-C's Oracle iSupplier System.
14. **Relationship of Parties.** This Agreement relates to the handling and protection of Proprietary Information to facilitate discussions that may lead to a formal, written business arrangement between the Parties. This Agreement shall not be construed as a teaming, joint venture or any

other such arrangement. This Agreement shall apply in lieu of and notwithstanding any specific legends or statements associated with any particular information.

15. **Damages.** Under no circumstances shall either Party be liable to the other Party for any consequential, punitive, exemplary or other special damages arising under or related to this Agreement or the subject matter hereof.
16. **Remedies.** The Parties agree that in the event that either Party breaches any provision hereof such breach may cause the other Party irreparable harm and the innocent Party may be entitled to seek injunctive and/or other equitable relief before any court with proper jurisdiction.
17. **Governing Law & Venue.** This Agreement shall be governed by the laws of Ontario, Canada without regard to its conflict of laws principles. This Agreement and any claim, controversy, or dispute arising out of or in connection with this Agreement, shall be governed by the laws of Ontario, Canada, without regard to its conflict of laws principles. The Parties agree that all actions and proceedings arising out of or relating directly or indirectly to this Agreement shall be litigated solely and exclusively in a court located in Ontario, Canada.
18. **Assignment.** No Party may assign any of its rights or delegate any of its obligations under this Agreement, without prior written permission of the other Party.
19. **Waiver.** No waiver of any provision of this Agreement constitutes a waiver of any other provision. No waiver of any provision constitutes a continuing waiver of that provision. No waiver is binding unless in writing and signed by the waiving Party.
20. **Notice.** Notices and written statements from one Party to the other Party shall be effective when received and may be sent by certified or registered mail (return receipt requested), or by an express-mail courier, or by e-mail or fax (with confirmation of transmission mailed to the receiving Party) to the relevant Party's contacts listed herein at the address listed on page one (or such other address as may be given by written notice to any Party from time to time).
21. **Counterparts and Copies.** The Agreement may be executed in counterparts, which, together, shall constitute a single, binding Agreement. The signature page of each Party, duly executed by an authorized representative of each such Party, may be delivered via email or facsimile transmission, which signature page shall be deemed for all purposes to be an original.

The Parties have executed this Agreement as of the date last referenced below.

GENERAL DYNAMICS LAND SYSTEMS – CANADA CORPORATION

By: _____

Name: Jennifer Wilson

Title: Manager, Advanced Procurement

Date: _____

I have the authority to bind the corporation.

THE CORPORATION OF THE TOWN OF GODERICH

By: _____

Name: John C. Grace

Title: Mayor

Date: _____

By: _____

Name: Andrea Fisher

Title: Clerk

Date: _____

We have the authority to bind the municipal corporation.