

Non-Disclosure Agreement

This Agreement is made on the _____ day of _____ 19_____
between

<other company details>

hereinafter referred to as (“The Covenantor”) of the first part
and

<FILL IN YOUR NAME>

hereinafter referred to as (“<FILL IN YOUR NAME - abbreviated>”) of the second part.

Whereas:

- A. The parties desire for their mutual benefit that certain Information of a confidential nature (including but not limited to trade secrets and proprietary know-how) be disclosed by <FILL IN YOUR NAME> to the Covenantor in order that the Covenantor may use such Information for the purpose of considering entering into a business relationship with <FILL IN YOUR NAME>.
- B. <FILL IN YOUR NAME> is willing to disclose the said information to the Covenantor on the basis that the said information is protected in the manner hereinafter set out.

Now this Agreement Witnesses as follows:

1. In this Agreement the following expressions shall have the following meanings:

“The Project” shall mean <FILL IN YOUR NAME>’s project <FILL IN PROJECT NAME>.

“Confidential information” shall mean all information disclosed (whether in writing, verbally or by any other means) by <FILL IN YOUR NAME> to the Covenantor in respect of or in connection with the Project or otherwise in the connection with <FILL IN YOUR NAME>’s business, whether before or after the date of the Agreement. Including but not limited to information relating to <FILL IN YOUR NAME>’s operations, processes, plans or intentions, production information, know-how design rights, trade secrets, market opportunities and business affairs but shall not include any part of such information which:

- a) Is in or comes into public domain in any way without breach of this Agreement by the Covenantor or a third party.
- b) The Covenantor can show
 - i) was in its possession or known to it by being in its use or being recorded in its files prior to receipt from <FILL IN YOUR NAME> and was not acquired by the Covenantor from <FILL IN YOUR NAME> under any obligation of confidence; or
 - ii) has been independently developed by the Covenantor or any third party.
- c) The Covenantor obtains or has available from a source other than <FILL IN YOUR NAME> without breach by the Covenantor or such source of an obligation of confidentiality or non-use; or

- d) is hereafter furnished by <FILL IN YOUR NAME> to a third party without restriction on disclosure or use; or
 - e) is disclosed by the Covenantor with the prior written approval of <FILL IN YOUR NAME>.
2. The Covenantor undertakes in relation to Confidential Information received from <FILL IN YOUR NAME> or from a third party on behalf of <FILL IN YOUR NAME>
- a) to treat the Confidential Information in confidence and to use the Confidential Information only for the purpose of the Project and for no other purpose and in particular, but without prejudice to the generality of the foregoing, not to use the Confidential Information for any commercial purpose other than pursuant to a further agreement with <FILL IN YOUR NAME>.
 - b) not to copy or reduce to writing any part of the Confidential Information except as may be reasonably necessary for the purpose of the Project and that any copies or reductions to writing so made shall be the property of <FILL IN YOUR NAME>.
 - c) not to disclose the Confidential Information whether to his employees or to third parties except to such of its employees or directors who need to know the Confidential Information of the purpose of the Project.
 - d) to be responsible for the performance to sub-clauses (a), (b) and (c) above on the part of its employees or third parties to whom the Confidential Information is disclosed pursuant to sub-clause (c) above; and
 - e) to maintain the Confidential Information with the same degree of care which the Covenantor uses to maintain its own confidential or proprietary information and which the Covenantor warrants as providing adequate protection of such Information from unauthorised disclosure, copying or use.
3. All Confidential Information shall remain the property of <FILL IN YOUR NAME> and the Covenantor shall at <FILL IN YOUR NAME>'s discretion:
- a) return to <FILL IN YOUR NAME> promptly all documents and materials (and all summaries, extracts and copies thereof) containing the Confidential Information or destroy all such Confidential Information together with any summaries, extracts and copies which the Covenantor may have under its control and;
 - b) certify in writing to <FILL IN YOUR NAME> that is has complied with this request; and
 - c) certify in writing to <FILL IN YOUR NAME> that all parties to whom they have disclosed such Confidential Information have complied with <FILL IN YOUR NAME>'s request.
4. No rights or obligations other than those expressly recited herein are to be implied from the Agreement. In particular, no licence is hereby granted directly or indirectly under any patent, copyright or other industrial property right now held by or which may be obtained by or which is or may be licensable by <FILL IN YOUR NAME>. Acceptance by the Covenantor of Confidential Information shall not preclude or in any way impair or restrict the Covenantor from continuing to engage in its business otherwise than in breach of the terms of this Agreement.
5. Each party agrees to keep the existence and nature of this Agreement confidential and not to use the same or the name of the other party in any publicity, advertisement or other disclosure with regard to this Agreement without the prior written consent of the other party.
6. The Covenantor 's obligations under the Agreement shall remain good for a period of five years from the receipt of any Confidential Information regardless of whether this Agreement with the Covenantor has been terminated in any manner, whatsoever. These obligations shall be binding upon the Covenantor 's successors and assigns.
7. Failure by either party to at any time to enforce any of the conditions of the Agreement shall not be construed as a waiver by such party of any such provision or any way affect the validity of the Agreement or any part thereof.
8. This Agreement constitutes the entire agreement and understanding between the parties with respect to its subject matter and replaces all previous agreements between or undertaking by either of, the parties with regard to such subject matter. This Agreement cannot be changed except by written agreement between the parties.
9. All matters relative to the execution, validity, interpretation and performance of this Agreement shall be governed by the laws of the State of New South Wales.

In Witness Whereof the parties hereto have caused the Agreement to be executed by their respective duly authorised representatives on the day and year first above written.

Signed for and on behalf of **<FILL IN YOUR NAME>**

_____ dated _____

In the presence of: _____

Signed for and on behalf of the Covenantor:

_____ (Company name)

_____ (Address)

In the presence of:

_____ dated _____