**CONFIDENTIALITY UNDERTAKING**

By \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“the Receiving Party”)

*and*

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1. **INTRODUCTION**
   1. The Disclosing Party wishes to make certain confidential disclosures (‘the Disclosures’) regarding intellectual property rights, the identity and wellbeing of a certain individual and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. This has been done with a view to enabling the Receiving Party to provide advice regarding intellectual property rights based thereon on behalf of the Disclosing Party.
   2. The Disclosing Party wishes to ensure that the Receiving Party will keep the Disclosures confidential and preserve its Confidential Information.
   3. Accordingly, the Receiving Party has agreed to give the Disclosing Party the undertakings contained herein.
2. **CONFIDENTIALITY UNDERTAKING**
   1. For the purposes of this Agreement, “Confidential Information” means all information disclosed or made available, directly or indirectly, by the Disclosing party to the Receiving Party for the Purpose, being information not in the public domain, whether such information is oral or written, recorded or stored by electronic or other form or process.
   2. Confidential Information shall not include -
      1. information which is, or becomes, public knowledge and in the public domain by reason of becoming public property other than through an act or omission on the part of the Receiving Party;
      2. information which is lawfully in the possession of the Receiving Party without restriction in relation to disclosure before the date of signature of this Confidentiality Undertaking; and
      3. information which is received by the Receiving Party from a third party who lawfully acquired it and who is under no obligation restricting its disclosure.
   3. The Receiving Party undertakes that it will not, without the Disclosing Party's prior written consent -
      1. disclose or divulge the Confidential Information to any third party;
      2. use or exploit, directly or indirectly, the Confidential Information or any aspect of it for any purpose whatsoever; or
      3. permit any personnel to use or have access to the Confidential Information or any aspect of it, save to the extent strictly necessary for the Purpose. The Receiving Party shall procure that any such personnel undertakes in writing to observe the terms of the undertakings contained herein, *mutatis mutandis*, as if such undertakings were binding on them personally. If called upon to do so, the Receiving Party shall furnish the Disclosing Party with copies of such undertakings.
   4. The Receiving Party shall protect the Confidential Information of the Disclosing Party in the manner, and with the endeavor, of a reasonable person protecting its own confidential information. In no event shall the Receiving Party use less than reasonable efforts to protect the confidentiality of the Confidential Information of the Disclosing Party.
   5. All Confidential Information disclosed by the Disclosing Party to the Receiving Party or which otherwise comes to the knowledge of the Receiving Party, is acknowledged by the Receiving Party to be proprietary to the Disclosing Party. Nothing contained in this agreement is to be construed as granting or conferring any right in or title to, expressly or by implication, the Confidential Information.
   6. The Receiving Party undertakes to observe its obligations under this agreement for a period of five calendar years after date of signature of this agreement.
   7. The Receiving Party undertakes in favour of the Disclosing Party that on demand it will immediately deliver to the Disclosing Party all documentation and other material relating to or containing the Confidential Information in its possession or under its control.
   8. The Receiving Party acknowledges that the undertakings given in terms of this agreement are necessary to protect the Disclosing Party's interests and are reasonable both as to content and duration.
3. **MISCELLANEOUS**
   1. This agreement contains all the express provisions agreed on by the parties with regard to the subject matter of the agreement and the parties waive the right to rely on any alleged express provision not contained in the agreement.
   2. Neither party may rely on any representation which allegedly induced that party to enter into this agreement, unless the representation is recorded in this agreement.
   3. No contract varying, adding to, deleting from or canceling this agreement, and no waiver of any right under this agreement, shall be effective unless reduced to writing and signed by the parties.
   4. No indulgence granted by a party shall constitute a waiver or abandonment of any of the party’s rights under this agreement; accordingly, that party shall not be precluded, as a consequence of having granted that indulgence, from exercising any rights against the other party which may have arisen in the past or which may arise in the future.
   5. If the Receiving party is executing this Agreement on behalf of a corporation or other legal entity:
      1. the term " Receiving party" shall be construed to apply jointly and severally to the individual executing this Agreement and said corporation or other legal entity; and,
      2. said individual hereby warrants that he/she is duly authorized to execute this Agreement on behalf of said corporation or other legal entity and to fully bind said corporation or other legal entity to all of the terms and conditions set forth above.

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| SIGNED at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ on this \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 20\_\_ \_\_\_ | |
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|  | Name: |
|  | Capacity: |
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| SIGNED at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ on this \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 20\_\_ \_\_\_ | |
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