

DATED _____

(1) << >>

(2) << >>

DISCLOSURE AGREEMENT

THIS AGREEMENT is made the day of

BETWEEN:

- (1) <<Name of Disclosing Party>> [a company registered in <<Country of Registration>> under number <<Company Registration Number>> whose registered office is at] **OR** [of] <<insert Address>> (“the Disclosing Party”) and
- (2) <<Name of Receiving Party>> [a company registered in <<Country of Registration>> under number <<Company Registration Number>> whose registered office is at] **OR** [of] <<insert Address>> (“the Receiving Party”)

WHEREAS:

- (1) Under the provisions of a non-disclosure agreement dated <<insert date>> (“the Non-Disclosure Agreement”), the Disclosing Party disclosed certain information to the Receiving Party for the Stated Purposes defined therein (and reiterated in Schedule 2 of this Agreement), subject to the obligation upon the Receiving Party to keep that information confidential.
- (2) In furtherance of the Stated Purposes, the Receiving Party now requires to disclose [parts of] the Confidential Information for the purpose(s) of <<insert description of purpose(s)>>, as fully described in Schedule 3 of this Agreement.

IT IS AGREED as follows:

1. Definitions and Interpretation

- 1.1 In this Agreement, unless the context otherwise requires, the following expressions have the following meanings:

“Confidential Information”	means the information set out in Schedule 1 which the Disclosing Party has designated as confidential;
“Disclosure Information”	means the [parts of the] Confidential Information which the Receiving Party is to disclose to the Third Party Recipient as described in Schedule 3;
“Disclosure Purposes”	means the purposes for which the Receiving Party requires to disclose the Confidential Information to the Third Party Recipient as described in Schedule 3;

“Intellectual Property Rights”

rights in any patents, trade marks, registered designs, and any other intellectual property rights, and to apply for any of those rights, and company names, initials and e-mail addresses, uniforms, marks and service marks, know-how, rights in

(b) consents, orders, statutes or a right in paragraph (a);

(c) of a similar effect or nature as (a) and (b) which now or in the future

(d) of infringements of any of the rights

“Stated Purposes”

for which the Receiving Party may use the information as described in the

“Third Party Recipient”

third party>> [a company registered in the [Registration] under [Registration Number] whose [of] <<insert Address>> information is to be disclosed

1.2 Unless the context otherwise requires, the following definitions apply in this Agreement to:

1.2.1 “writing”, and any other form of communication effected by any similar means;

1.2.2 a statute or a provision of a statute;

1.2.3 a provision as amended or as so amended;

1.2.4 “this Agreement” is the Agreement and each of the Schedules as amended or as so amended;

1.2.5 a Schedule is a schedule to this Agreement;

1.2.6 a Clause or paragraph of a Schedule (other than the Schedule) and

1.2.7 a “Party” or the “Parties” are the parties to this Agreement.

1.3 The headings used in this Agreement shall have no effect upon the interpretation of the provisions of this Agreement.

1.4 Words imparting the singular shall include the plural and vice versa.

1.5 References to any gender shall include the other gender.

1.6 References to persons shall include corporations and other entities.

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2. Disclosure

- 2.1 The Receiving Party has, prior to the execution of this Agreement, described in detail, and documented the Confidential Information which it wishes to disclose to the Third Party Recipient for the purposes of the Disclosure Purposes.
- 2.2 The Receiving Party shall enter into a legally enforceable undertaking in writing (the form of which is annexed to this Agreement [Schedule 4]) which shall be binding upon the Third Party Recipient to the same extent as the Non-Disclosure Agreement is binding upon the Disclosing Party.
- 2.3 The Receiving Party shall not disclose the Confidential Information to the Third Party Recipient until any and all necessary approvals have been obtained and executed by the Disclosing Party as described in sub-Clause 2.2.
- 2.4 The Receiving Party shall not disclose the Confidential Information which does not fall within the scope of the Non-Disclosure Agreement without the further written consent of the Disclosing Party. The disclosure of such information shall require further undertaking by the Third Party Recipient as described in sub-Clause 2.2.

3. Proprietary Rights

- 3.1 The Confidential Information contained herein shall remain the property of the Disclosing Party and the disclosure of the Confidential Information to the Third Party Recipient shall not constitute a transfer of any rights whatsoever in any part of the Confidential Information.
- 3.2 Nothing in this Agreement shall constitute a transfer of any rights whatsoever in any part of the Confidential Information to the Third Party Recipient.

4. Warranty and Indemnity

- 4.1 The Receiving Party warrants that the Confidential Information shall be used solely for the Disclosure Purposes. Upon completion of the Disclosure, the Receiving Party shall return all Disclosure Information to the Disclosing Party and shall procure a certificate from the Third Party Recipient certifying that no copies of the Confidential Information have been made or retained.
- 4.2 The Receiving Party hereby warrants and agrees to indemnify and hold the Disclosing Party harmless from and all losses, [direct] [or indirect] [consequential] [or punitive] damages, costs and expenses, including reasonable attorneys' fees, incurred by the Disclosing Party for any and all claims, damages, losses, costs and expenses, including reasonable attorneys' fees, arising out of its breach of this Agreement.

5. Non-Assignment of Agreement

The Receiving Party may not assign, transfer, or in any other manner make over to any third party the benefit of this Agreement without the prior written consent of the Disclosing Party. Such consent shall not be unreasonably withheld.

6. Communication

- 6.1 All notices under this Agreement shall be deemed duly given if signed by the Party giving notice and delivered to the authorised officer thereof, as appropriate.
- 6.2 Notices shall be deemed to have been given to the other Party:
- 6.2.1 when delivered, if delivered by hand or by a messenger (including registered mail) during business hours of the recipient; or
 - 6.2.2 when sent, if transmitted by e-mail and a successful transmission report obtained; or
 - 6.2.3 on the fifth business day after the date of posting, if mailed by national ordinary mail, postage paid; or
 - 6.2.4 on the tenth business day after the date of posting, if mailed by airmail, postage prepaid.
- 6.3 All notices under this Agreement shall be deemed to have been given to the most recent address, e-mail address, or telephone number of the Party to the other Party.

7. Force Majeure

Neither Party to this Agreement shall be liable for any failure or delay in performing its obligations where such failure or delay is caused by a cause that is beyond the reasonable control of that Party. Such causes are not limited to: power outage, Internet Service Provider failure, Internet Service Provider, storms, earthquakes, acts of terrorism, war, civil unrest, fire, flood, or any other event that is beyond the control of the Party.

8. Further Assurance

Each Party shall execute and do all such acts and things as may be necessary to carry the provisions of this Agreement into full force and effect.

9. Costs

Subject to any provisions to the contrary, each Party to this Agreement shall pay its own costs of and incidental to the negotiation, execution and carrying into effect of this Agreement.

10. Relationship of the Parties

Nothing in this Agreement shall constitute a partnership, joint venture, agency or other fiduciary relationship between the Parties other than the contractual relationship expressly provided for in this Agreement.

11. Severance

The Parties agree that, in the event any provision of the provisions of this Agreement is found to be unlawful or unenforceable, that / those provisions shall be deemed severed and the remainder of this Agreement shall be enforceable.

12. **Dispute Resolution**

- 12.1 The Parties shall attempt to resolve any dispute arising out of or relating to this Agreement through negotiation by their duly appointed representatives who have the authority to settle such disputes.
- 12.2 [If negotiations under sub-clause 12.1 fail, the parties will attempt to resolve the dispute through an agreed Alternative Dispute Resolution ("ADR") process within <<insert period>> of receipt of the written notice.]
- 12.3 [If the ADR procedure under sub-clause 12.2 does not resolve the matter within <<insert period>> of the written notice, or if either Party will not participate in the ADR procedure, the dispute may be referred to arbitration by either Party.]
- 12.4 The seat of the arbitration shall be England and Wales. The arbitration shall be governed by the Arbitration Act 1996 and Rules for Arbitration as agreed between the Parties. In the event that the Parties are unable to agree on the arbitration rules, the Rules of Arbitration, either Party may, upon giving written notice to the other Party, apply to the President or Deputy President for the time being of the Chartered Institute of Arbitrators for the appointment of an arbitrator and for any decision on rules that may be required.]
- 12.5 Nothing in this Clause 12 shall prevent either Party or its affiliates from applying to a court for interim relief.
- 12.6 The Parties hereby agree that the arbitration shall be the final method of dispute resolution under this Agreement and shall be final and binding on both Parties.

13. **Law and Jurisdiction**

- 13.1 This Agreement (including any amendments and variations) shall be governed by, and construed in accordance with, the laws of England and Wales.
- 13.2 Subject to the provisions of Clause 13.1, any controversy, proceedings or claim between the Parties arising out of or in connection with this Agreement (including any non-contractual matters and obligations arising out of or in connection with or associated therewith) shall fall within the jurisdiction of the courts of England and Wales.

IN WITNESS WHEREOF this Agreement

ed the day and year first

SIGNED by

<<Name and Title of person signing for Dis
for and on behalf of <<Disclosing Party's N

In the presence of

<<Name & Address of Witness>>

SIGNED by

<<Name and Title of person signing for Re
for and on behalf of <<Receiving Party's N

In the presence of

<<Name & Address of Witness>>

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The Confidential Information

<<Insert precise details of the Confidential Information disclosed by the Disclosing Party to the Receiving Party under the original Non-Disclosure Agreement.>>

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The Stated Purposes

<<Insert a detailed description of the purpose for which the Information was disclosed and may be used by the Receiver of the Information in accordance with the Agreement>>

Confidential Information was disclosed pursuant to the Confidential Non-disclosure Agreement

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Third Party Disclosure

The Disclosed Information

<<Insert precise details of the Confidential Information (the Disclosed Information) to be disclosed as the Disclosed Information to the Third Party>>

The Disclosure Purposes

<<Insert a detailed description of the purpose of the Disclosed Information is to be disclosed and the ways in which the Third Party will use that information>>

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[<<Insert form of confidentiality undertaking

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