

THIS DEED is dated [REDACTED] in [REDACTED], New Zealand

PARTIES

[REDACTED] (XXX COMPANY NUMBER) a New Zealand company with a registered office at, [REDACTED], New Zealand (**Company**)

and

[REDACTED] from [REDACTED] (**Recipient**).

The Parties agree as follows:

1 DEFINITIONS

In this Deed:

Confidential Information means information (written, electronic or otherwise), whether received before or after the date of this Deed, that:

- (a) is by its nature confidential;
- (b) is designated by Company as confidential;
- (c) is designated as confidential by a third party who supplies the information to Company or directly to the Recipient;
- (d) the Recipient knows or ought to know is confidential and includes: information comprised in or relating to Intellectual Property Rights of Company; or
- (e) has any actual or potential commercial value to Company.

but does not include information which:

- (f) is or becomes public knowledge other than by breach of the or other unlawful means;
- (g) the Recipient can demonstrate has been lawfully and independently developed or acquired by the Recipient;
- (h) has been lawfully received from a third party not owing any obligations of confidentiality;
- (i) is in respect of ideas, concepts know-how, techniques or methodologies where disclosure is permitted under the ; or
- (j) is required to be disclosed by the law or by any authority or regulatory body having jurisdiction.

Intellectual Property Rights includes copyright, trade mark, design right, patent, semiconductor or circuit board layout rights, trade, business or company names, trade secrets, expertise (know-how), confidential or other proprietary rights, or any rights to registration of such rights, whether created before or after the date of Deed and whether created in New Zealand or elsewhere.

Notice means notice in writing given in accordance with this Deed.

Purpose of Exchange means

a) Company and/or its directors are in the process of [REDACTED]

b) Company discloses Confidential Information to the Recipient to realise and implement the business venture and to seek professional advice and services of [REDACTED] from the Recipient.

Writing means any mode of representing or reproducing words, figures, drawings or symbols in a visible form delivered, posted or transmitted electronically.

2 USE AND PROTECTION

2.1 The Parties will work together in good faith and collaborate fully in order to protect Confidential Information from unauthorised access, misuse, damage or loss.

2.2 The Recipient therefore agrees to treat all Confidential Information that it receives from Company in accordance with this Deed and take all reasonable steps to protect Company's competitive or first mover advantage.

2.3 The Recipient agrees to:

- (a) use Company's Confidential Information only in connection with the Purpose of Exchange;
- (b) keep the Confidential Information in the strictest confidence and take all reasonable security measures to protect it from unauthorised access, use, manipulation, disclosure or loss; and
- (c) not disclose the Confidential Information to any third party without Company's prior written consent

3 DUTY OF CONFIDENTIALITY

3.1 The Recipient must hold Confidential Information disclosed under or in relation with this Deed in strictest confidence and must not:

- (a) disclose any of that Confidential Information or any part of that Confidential Information to any person or third party; or
- (b) permit the Confidential Information or any part of the Confidential Information to come into the hands of any third party.

3.2 The Recipient must not make any use of the Confidential Information or deal with the Confidential Information or any part of the Confidential Information disclosed to it by a Discloser except for the Purpose of Exchange.

3.3 The Recipient must not without the prior written consent of Company copy or duplicate Confidential Information.

3.4 The Recipient must not make or permit or cause to be made any notes or memoranda based on or relating to Confidential Information other than for the Purpose of Exchange.

3.5 Prior to any use or disclosure in reliance on the exceptions described in the definition of 'Confidential Information':

- (a) the Recipient required to disclose the Confidential Information must give notice to Company with full details of the circumstances of the proposed use or disclosure and of the relevant Confidential Information to be used or disclosed; and

(b) the Recipient required to disclose the Confidential Information must give Company a reasonable opportunity to seek a protective order or other appropriate remedy or to waive compliance with the terms of this Deed.

4 INTELLECTUAL PROPERTY

4.1 The Recipient acknowledges and agrees that Confidential Information and all Intellectual Property Rights in that Confidential Information (including copyright, design and patent rights) are the exclusive property of and will remain the exclusive property of Company.

4.2 The Recipient accepts that he or she has no interest in, licence to or right to use any Confidential Information or any Intellectual Property Rights in the Confidential Information, for its own benefit or for the benefit of any other person except as expressly permitted in this Deed.

5. RETURN AND DESTRUCTION OF INFORMATION

5.1 The Recipient must immediately return to Company Confidential Information disclosed under or in relation to this Deed, and any copies of that Confidential Information which is in the Recipient's power or possession upon the happening of either of the following:

- (a) a request by Company to return any Confidential Information; or
- (b) the Recipient ceasing to use any Confidential Information,

and the Recipient must promptly certify in writing to Company when and how he/she has complied with these obligations.

5.2 Upon the Recipient becoming contractually required pursuant to clause 5.1 to return Confidential Information or being requested to do so, the Recipient must immediately destroy and permanently deleted or procure the destruction of all copies of, extracts from, or interpretations of any Confidential Information whether in human, machine-readable or any other form.

6 DISCLAIMER AND WARRANTY

6.1 Company will not be liable in any way for any loss of any kind including, without limiting the generality of the foregoing, damages, costs, interest, loss of profits or special loss or damage, arising from any error, inaccuracy, incompleteness or other similar defect in the Confidential Information it discloses.

6.2 No Party will bring or institute any legal proceedings including, but not limited to contract, tort, breach of statutory duty or otherwise against another Party in respect of the completeness or accuracy of the Confidential Information provided to it.

6.3 The Recipient will not be liable for the acts of Company in breach of this Deed in respect of which Company had no influence or control.

7 ADDITIONAL OBLIGATIONS

7.1 The covenants contained in this Deed are in addition to and will in no way derogate from the obligations of the Parties in respect of secret and confidential information at common law or under any statute or trade or professional custom or usage.

7.2 Subject to clause 5 of this Deed, the obligations of the Recipient under this Deed will continue, notwithstanding the return or destruction of all Confidential Information.

7.3 If the Recipient becomes aware or suspects that any person has obtained unauthorised access to Company's Confidential Information in the Recipient's possession or has used or attempted to use such Confidential Information for purposes not permitted by this Deed, or if the Confidential Information is lost or damaged, the Recipient will:

- (a) immediately notify Company; and
- (b) use all reasonable endeavours to identify the person and secure the Confidential Information against any further unauthorised access, misuse, damage or loss.

8 RIGHT TO SEEK INJUNCTION

If there is a breach or threatened breach of the terms of this Deed by the Recipient, the relevant Company will be entitled to seek an injunction restraining a breach of this Deed without showing or proving any actual damage has been suffered by Company.

9 TERM OF DEED

9.1 This Deed expires automatically 4 (four) years after the date of this Deed (**Term**). The obligations of the Parties will cease at the expiration of the Term of this Deed unless the Parties enter into another formal Deed which expressly is stated to supersede this Deed.

10 NON COMPETE

The Recipient agrees that for a period of one year from the date of this Deed, he or she will not either directly or indirectly compete with Company or carry on or be interested, either alone or in partnership with, or as manager, agent, Director, shareholder or employee of any person, in any business which is carried on anywhere in the world and which is similar to any business of Company.

11 REMEDIES

The Recipient acknowledges that Company may take legal proceedings against the Recipient or third parties if there is any actual, threatened or suspected breach of this Deed, including proceedings for an injunction to restrain any such breach.

12 MISCELLANEOUS

12.1 Neither party will be deemed to have waived any right under this Deed unless the waiver is in writing and signed by the parties. To avoid doubt, no failure or delay by a party to exercise any right or power under this Deed will operate as a waiver of that right or power.

12.2 Any illegality, unenforceability or invalidity of any provision of this Deed will not affect the legality, enforceability or validity of the remaining provisions of this Deed.

12.3 No term or provision of this Deed may be amended or varied unless such amendment or variation is reduced to writing and signed by the parties in the same manner as this Deed.

12.4 This Deed may be executed in two counterparts, each of which will be deemed an original and both of which together are to constitute a single instrument.

12.5 This Deed shall be governed and construed in accordance with the laws of New Zealand. The parties submit to the non-exclusive jurisdiction of the New Zealand courts.

Executed as a DEED

Signed and delivered by Company

Signed and delivered by Recipient

Signature

Signature

Name

Name

Position

Position

Date

Date

WITNESSED BY:

WITNESSED BY:

Signature

Signature

Name

Name

Date

Date