

# Mutual Confidentiality Contract

Commercial In Confidence

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## INTRODUCTION

A. The Introduction to this Contract is set out in Item 3 of the Particulars.

## CONTRACT

### 1. CONFIDENTIAL INFORMATION

- 1.1 A reference to "Confidential Information" means all technical, business, commercial and all other information, documents and samples which are divulged or provided by one party or by another person on behalf of that party, whether in writing or otherwise, to the other party concerning or in connection with the Discussions.
- 1.2 In this Contract, the party disclosing the Confidential Information is "the Discloser" and the party receiving the Confidential Information is "the Recipient".

### 2. CONFIDENTIALITY

- 2.1 The Recipient agrees that the Confidential Information is and will remain the property of the Discloser and will be kept confidential. The Recipient must use the same standard of care and diligence to safeguard the Confidential Information as it uses in order to protect its own confidential information.
- 2.2 The Recipient must only use the Confidential Information:
  - a) in the course of and for the purposes of the Recipient's consideration of the Discussions; and
  - b) for the purpose of any arrangement proposed, discussed or entered into with the Discloser in connection with the Discussions.
- 2.3 The Recipient must not make any use of the Confidential Information or any part of it except for the purposes referred to in clause 2.2 above.

### 3. DISCLOSURE

- 3.1 The Recipient may disclose the Confidential Information to those of its employees and officers who need to know the information. The Recipient must ensure that the Confidential Information disclosed to its employees and officers is kept confidential.
- 3.2 Except as permitted by clause 3.1 and clause 4, the Recipient must not disclose the Confidential Information to any third party without the prior written approval of the Discloser.

### 4. PERMITTED DISCLOSURE

- 4.1 Nothing in this document restricts the disclosure of the Confidential Information by the Recipient that is:
  - a) in or becomes part of the public domain, or is or becomes widely known among skilled professionals in the relevant field (other than as a result of a breach of this document);
  - b) required to be disclosed under compulsion of law or by the order of a court of competent jurisdiction, in which case the Recipient must notify the Discloser promptly on the Recipient becoming aware of the disclosure requirement;
  - c) disclosed with the prior written approval of the Discloser; or
  - d) independently developed or known by the Recipient as evidenced by written records.
- 4.2 Prior to any use or disclosure in reliance on clause 4.1, the Recipient must give notice to the Discloser with full details of the circumstances of the proposed use or disclosure and of the relevant

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information to be used or disclosed. The Recipient must give the Discloser a reasonable opportunity to challenge in a court of law or other appropriate body whether the proposed use or disclosure is in accordance with clause 4.1.

- 4.3 On request by the Discloser, the Recipient must return to the Discloser all Confidential Information in written or material form.
- 4.4 The Recipient must immediately notify the Discloser if the Recipient suspects or becomes aware of any unauthorised copying, use or disclosure in any form of the Confidential Information and comply with any reasonable direction issued regarding a suspected or actual breach of the Confidential Information.
- 4.5 The obligations of confidentiality imposed by this Contract continue after termination of this Contract until the information falls within one of the exceptions in clause 4.1.

## 5. MISCELLANEOUS

- 5.1 Neither party is bound to enter into any further contracts or agreements about the subject matter of this Contract.
- 5.2 Nothing contained in this document will in any way restrict either party's rights and activities and no agency, partnership, contract of employment, joint venture or other relationship is created by this document.
- 5.3 The law of New South Wales governs this Contract. The parties agree to submit to the non-exclusive jurisdiction of the courts of New South Wales and of the Commonwealth of Australia.