



CONFIDENTIALITY & NON-DISCLOSURE AGREEMENT

between

TMG Corporate Services / The Mediator Group

and

AGREEMENT dated the ____ day of _____, 20__

Between

- (1) **TMG Corporate Services / The Mediator Group**, a business whose registered office is at Hamilton House, 28 Fitzwilliam Place, Dublin 2, Republic of Ireland ('the Supplier').
- (2) **CUSTOMER / SUPPLIER / PARTNER (delete as appropriate)**, a company incorporated in:

_____ under number _____ and whose registered office is at _____

('the Company' which expression shall include its successors and assigns); and

When appropriate each of these parties will be thereafter referred to as 'party' and/or 'receiving party' and/or 'communicating party' and collectively referred to as 'Parties'.

WHEREAS

The parties wish to carry on confidential discussions and/or negotiations for the purpose of a business arrangement and the review of business proposals to mutual clients; The parties accept that during the aforesaid discussions and/or negotiations and contract it may be necessary for each party, either itself or third party, to disclose information which is defined below as 'confidential information' to the other party and; The parties wishing to reciprocally protect and safeguard their proprietary rights in respect of the Confidential Information and wish to lay down their respective rights and obligations in relation hereto in the present agreement.

IT IS AGREED AS FOLLOWS:

1. Definition

'Confidential Information' denotes any and all information relating generally to the parties hereto or arising out of the Project, including but not limited to ideas, discoveries, inventions, specifications, formulae, computer programs, plans, drawings, models, requirements, standards, financial, commercial, marketing, technical or trading information, trade and manufacturing secrets, know-how technology as well as any intellectual and industrial property rights and/or constraints therein and/or in relation thereto, title to which belongs to the communicating party or for which the communicating party obtained a right to disclose or divulge.

2. Obligations and Rights of the Parties

2.1 The parties hereby reciprocally acknowledge that the Confidential Information and all rights contained therein and/or in relation thereto are the exclusive property of the communicating party.

2.2 The parties mutually commit to keep secret and in the strictest confidence the Confidential Information received in whatever form (including but without limitation written, oral, visual and electronic form) and expressly agree to use the Confidential Information for the purpose described or referred to in the agreement exclusively.

2.3 The parties agree not to divulge or disclose or make use of, either directly or indirectly, in whatever form or by whatever means, the Confidential Information or any part thereof to third parties without the prior written approval of the communicating party.

2.4 The parties shall not copy or in any manner reproduce the Confidential Information and/or any parts thereof without the prior written consent of the communicating party. All duly authorised copies and/or reproductions shall in any event contain any and all references to the relevant ownership rights and intellectual property rights.

2.5 The parties hereby agree that each party has the right to disclose or give access to the Confidential Information and/or any part thereof to its employees to the extent such employees have a need to know within the framework of the project and the parties will take such necessary steps to ensure that their employees are made aware of and comply with the terms of the agreement as if the employee was a party hereto. Employees of the parties' affiliates shall be deemed to be employees of the parties for the purpose of this clause.

2.6 The above mentioned confidentiality obligation shall commence as from the date of execution of this agreement and shall survive the termination of this agreement for two years thereafter; however, the confidentiality obligation shall be valid for a period of not less than five years as of each disclosure hereunder.

2.7 The receiving party shall use its best endeavors to ensure that the Confidential Information is protected against theft, loss or unauthorised access by third parties.

2.8 The receiving party shall not use the Confidential Information to assist third parties to gain any commercial advantage over or knowledge in relation to the disclosing party.

2.9 The receiving party shall return to the disclosing party and/or destroy all or such part of the Confidential Information as shall be specified by the disclosing party.

2.10 The above mentioned confidentiality and non-disclosure obligation shall not comply to Confidential Information:

- (i) Which the receiving party has proved to the reasonable satisfaction of the communicating party that it was in its possession prior to or at the time of the execution of the agreement.
- (ii) Which, at the time of communication to the receiving party was publicly available or in the public domain;
- (iii) Which the receiving party has proved to the reasonable satisfaction of the communicating party was obtained by the receiving party from a third party without any non disclosure and/or confidentiality obligation;
- (iv) Which the receiving party has proved to the reasonable satisfaction of the communicating party, became, after communication, publicly available through no breach of its obligations under the agreement by the receiving party;
- (v) Which the receiving party has proved to the reasonable satisfaction of the communicating party was independently developed by the receiving party without the benefit of data received from the communicating party;
- (vi) Which the disclosing party agrees in writing may be disclosed; or
- (vii) Which is required to be disclosed pursuant to the law, regulation, judicial or administrative order, or request by a governmental or other entity authorised by law to make such request; provided, however, that the receiving party so required to disclose, shall first notify the disclosing party to enable it to seek relief from such requirement, and renders reasonable assistance requested by the disclosing party (at the disclosing party's expense) in connection therewith. If only a portion of any confidential information falls within one or more of the foregoing exceptions, the remainder shall however continue to be subject to the prohibitions and restrictions set out in this agreement. Disclosure of the communicating party's Confidential Information to the receiving party shall in no way serve to create, on the part of the receiving party, a licence to use, or any proprietary right in, the communicating party's Confidential Information or in any other proprietary product, trade mark, copyright or other right of the communicating party.

3. General Provisions

3.1 This agreement shall come into force upon execution by both parties and shall continue thereafter for the duration of any contact entered into by the parties and which incorporates this agreement unless earlier terminated by either party upon thirty (30) days' prior written notice to the other party.

3.2 Unless the rights and obligations of the parties under the present agreement shall be incorporated in a subsequent agreement



between them, the parties shall, upon termination of this agreement, immediately return all Confidential Information received from the other party, together with any and all authorised copies or reproductions, or a duly executed certificate of destruction if such copies or reproductions have been destroyed.

3.3 Irish Law shall govern this agreement without giving effect to its provisions regarding conflict of laws.

3.4 Each party acknowledges that its breach of this agreement may cause the other party extensive and irreparable harm and damage and agrees that the other party shall be entitled to injunctive relief to prevent use or disclosure of its Confidential Information not authorised by this agreement, in addition to any other remedy available to the other party under applicable law.

3.5 This agreement constitutes the entire agreement between the parties and supersedes any prior or contemporaneous oral or written representation with regard to the subject matter hereof. This agreement may not be modified except by a written instrument signed by both parties.

3.6 If, however, any provision of this agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable the entire agreement, but rather the entire agreement shall be constructed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of the parties shall be constructed and enforced accordingly. In addition, the parties hereby agree to co-operate with each other to replace the invalid or unenforceable provision(s) with a valid and enforceable provision(s) which will achieve the same result (to the maximum legal extent) as the provision(s) determined to be invalid or unenforceable.

3.7 The parties agree to perform the confidentiality obligation hereunder without any charge or expenses to the other.

Signed for and on behalf of Company

Signature

Print name

Title

Date

Signed for and on behalf of TMG Corporate Services / The Mediator Group

Signature

Print name

Title

Date