**CONFIDENTIALITY AGREEMENT**

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This Confidentiality Agreement (the “Agreement”) is effective [DATE],

**BETWEEN: [YOUR COMPANY NAME]** (the "Contractor"), a company organised and existing under the laws of [COUNTRY], with its head office located at:

 [YOUR COMPLETE ADDRESS]

**AND: [COMPANY NAME]** (the "Company"), a company organised and existing under the laws of [COUNTRY], with its head office located at:

 [COMPLETE ADDRESS]

# PREAMBLE

WHEREAS, the Contractor agrees to provide certain professional data processing services to the Company as may be assigned from time to time (the “Services”);

WHEREAS, the Contractor may come into contact with certain financial, commercial and technical information of a confidential nature in performing the Services;

WHEREAS, it is vital to the commercial interests of the Company that the Contractor recognises the strictly secret and confidential nature, as well as the ownership by the Company, of the Company’s confidential information and materials to which the Contractor may have access or which the Company may disclose to the Contractor in connection with the Services;

WHEREAS, the Contractor has agreed to protect the Company’s confidential information and materials and maintain the confidentiality thereof; and

WHEREAS the present agreement shall not be construed or interpreted as constituting a partnership between the parties, its purpose is to set forth a clear understanding of our mutual rights and obligations with respect to the information related to the Services;

NOW THEREFORE this Agreement in consideration of the premises and other good and valuable consideration, the parties hereto agree as follows:

1. **DEFINITIONS**

In this Agreement, except where the context or subject matter is inconsistent therewith, the following terms shall have the following meanings:

1.1 “Agreement” means this document and the annexed appendices which are incorporated herein together with any future written and executed amendments.

* 1. “Confidential Information” means information or materials in any form disclosed or made available by the Company to the Contractor that the Contractor knows or has reason to know (either because such information is marked or otherwise identified by the Company orally or in writing as confidential or proprietary, has commercial value, or because it is not generally known in the relevant trade or industry) is confidential information of the Company, and shall include, without limitation,

1.2.1 the current, future and proposed products or services of the Company as well as financial, technical, research, operational, sales and marketing information related thereto;

1.2.2 ideas, inventions, technical information and works of authorship;

1.2.3 trade secrets, business plans, business forecasts, strategies, budgets, prices and costs, financial statements, research sales and distribution arrangements and the identity of contractors and suppliers; and

1.2.4 any information regarding the skills and compensation of employees or contractors of the Company.

Confidential Information shall not include information that:

1.2.5 was in the public domain at the time it was disclosed or entered the public domain subsequent to such time through no fault of the Contractor;

1.2.6 was in the Contractor’s possession free of any obligation of confidence at the time of disclosure by the Company; or

1.2.7 was rightfully communicated to the Contractor free of any obligations of confidence subsequent to the time of disclosure by the Company.

1.3 “Intellectual Property Rights” means all rights, title and interest in and to any and all ideas, discoveries, inventions or creations, and know-how including, without limitation, patents, trademarks, service marks, designs, integrated circuit topographies, copyrights, including applications for any of the foregoing, as well as design rights, confidential information, trade secrets and any other similar intellectual property rights protected in [COUNTRY] and in any other country.

1. **CONFIDENTIALITY AND NON-DISCLOSURE**

2.1 The Contractor hereby acknowledges:

2.1.1 that it is vital to the commercial interests of the Company that the Contractor recognises the strictly secret and confidential nature, as well as the ownership by the Company, of the Confidential Information to which the Contractor may have access or which the Company may disclose to the Contractor in connection with the Services;

2.1.2 that nothing contained in this Agreement shall be construed as granting to the Contractor any Intellectual Property Rights in or relating to the Project or the Confidential Information; and

2.1.3 that he is not an employee, agent, partner or joint venturer of the Company and will not participate in any employee benefit plans nor receive any other compensation beyond that stated in Appendix “A”.

2.2 The Contractor hereby agrees:

2.2.1 to keep secret all Confidential Information made available to the Contractor in connection with the Project;

2.2.2 to keep secret and to make no use, except for the specific purposes of the Project, and to take all necessary measures and precautions in order to maintain the confidential, proprietary and secret nature and character, of any or all Confidential Information that the Company, its agents, representatives, employees, related persons and affiliates may provide or furnish to the Contractor or disclose orally or in writing to the Contractor, or permit the Contractor to consult or of which the Contractor may have taken cognisance, directly or indirectly, by accident or otherwise. Without limiting the generality of the foregoing, the Contractor agrees that it will not directly or indirectly disclose to others, use for its own benefit or copy or make notes or records of any Confidential Information that the Company, its agents, representatives, employees, related persons and affiliates may provide or furnish to the Contractor or disclose orally or in writing to the Contractor, or permit the Contractor to consult or of which the Contractor may have taken cognisance, directly or indirectly, by accident or otherwise;

2.2.3 to take all necessary precautions to ensure that the Contractor’s employees, agents, representatives and related persons, shall maintain the secret character of the Confidential Information and shall never use the same except to the extent necessary in connection with the Project. Without limiting the generality of the foregoing, the Contractor agrees to limit the dissemination of Confidential Information and restrict access to the Confidential Information to only those of its (or his, as the case may be) employees, agents, representatives and related persons directly involved with the Project and only to the extent that such access is necessary;

2.2.4 to keep no copies, photocopies, draughts or any other form of reproduction of any documents relating to the Confidential Information supplied, compiled or prepared by or for the Company or by or for the Contractor in connection with the Project, except with the written permission of the Company; and to return to the Company all the above mentioned documents and copies thereof forthwith upon receipt of a written request to such effect made by the Company;

2.2.5 not to instal or use any proprietary software of a third party on the Company’s computer unless the Contractor has, in writing, the software owner’s permission or licence to do so and the Company’s written permission to do so;

2.2.6 to provide the Company with copies of all materials, documents, notes whether in digital, printed or other form that relates to any obligation under this Agreement. Such copies shall be provided to the Company upon the Company’s request. This obligation shall survive the termination of this Agreement regardless of the method or manner in which it was terminated;

2.2.7 to waive in favour of the Company any moral rights it may have in any documents, notes, and all other copyrightable material, regardless of form, that are developed under this Agreement and to sign any documents or do such things as are necessary to give effect to this waiver, or to obtain such waiver from any person involved in the Project who may hold any moral rights; and

2.2.8 to abide by all reasonable rules which the Company may impose, including such rules which the Company may impose upon its employees.

2.3 In the event the Contractor becomes legally compelled to disclose any of the Confidential Information, the Contractor will furnish the Company with prompt written notice thereof so that the Company may seek a protective order or other appropriate remedies prior to any disclosure.

2.4 If processing any personal data on the Company’s behalf, the Contractor shall only do so in accordance with the Company’s instructions and applicable legislation and only for the purposes designated by the Company. In addition, the Contractor shall take all appropriate technical and organisational measures to prevent unauthorised or unlawful processing, unwarranted disclosure, or accidental loss, destruction of, or damage to, such data.

1. **OWNERSHIP**

3.1 The Contractor acknowledges that the Confidential Information and all documents and material related to the Services is and shall remain the sole, exclusive and valuable property of the Company and that the Contractor has and shall retain no right, title or interest therein. Any and all printed, typed, written or other material which the Contractor may have or obtain with respect to the Confidential Information (including all copyrights therein) shall be and remain the exclusive property of the Company.

3.2 For greater certainty, the Contractor hereby assigns to the Company title, all rights, including Intellectual Property Rights and any other rights to the Confidential Information, any documents, reports, document layouts, notes or any other material whether in digital, printed or other form.

1. **REMEDIES**

4.1 The Contractor acknowledges that any violation of the provisions of Section 2 hereof may cause irreparable harm to the Company and that damages are not an adequate remedy. The Contractor, therefore, agrees that the Company shall be entitled, in addition to all other rights provided by law or by this Agreement, including monetary damages, to obtain a provisional injunction, interlocutory injunction and permanent injunction to prevent the Contractor or persons acting on its behalf, from violating the provisions of Section 2 hereof. In such case, the Contractor hereby renounces to any defence based on the availability to the Company of other recourses. The Contractor hereby agrees that all restrictions contained in Section 2 hereof are reasonable and necessary for the protection of the Company.

The remedies provided in this Section are cumulative and shall not exclude any other remedies to which any Party to this Agreement may be entitled under this Agreement or applicable [YOUR COUNTRY LAW], and the exercise of a remedy shall not be deemed an election excluding any other remedy (any such claim by any other Party to this Agreement being hereby waived).

1. **DURATION AND TERM**

5.1 The effective date of this Agreement shall be [DATE], notwithstanding the actual date of the execution thereof.

5.2 The obligations stipulated in this Agreement shall continue in force indefinitely until the Confidential Information shall no longer be of a confidential, proprietary and secret nature, and shall apply to any future discussions between the Company concerning future proposed arrangements.

1. **NOTICE**

6.1 Any notice provided for or permitted in this Agreement shall be in writing and will be deemed to have been given [NUMBER] days after having been mailed, postage prepaid, by certified or registered mail or by recognised overnight delivery services, except in the case of a postal or other strike affecting the service used whereupon notice will be deemed to have been given [NUMBER] days after normal service resumes.

6.2 Where personal service is made or where delivery is made by facsimile and a receipt thereof has been retained, any notice provided for or permitted in this Agreement will be deemed to have been given when received by the intended recipient. The intended recipient must be an individual whose personal name appears on the address set out in the notice.

6.3 Addressing and delivery is to be made as follows:

If to Contractor:

[YOUR COMPANY NAME]

[YOUR COMPLETE ADDRESS]

Tel: [YOUR PHONE NUMBER]

Fax: [YOUR FAX NUMBER]

If to Company:

[COMPANY NAME]

[FULL ADDRESS]

Tel: [PHONE NUMBER]

Fax: [FAX NUMBER]

6.4 The Company may communicate other addresses where notice must be sent to the Company from time to time. Such communication shall be in writing and shall have the effect of replacing the address under Section 6.3. No change of address effected under this section shall in any way affect the operation of any term, other than the delivery address, of Section 6.3 in this Agreement.

6.5 All notices given under this section, regardless of the manner in which they are sent must also be copied to the Company’s legal department. Should delivery of the copy be made prior to the original, delivery of the copy shall constitute notice if it has been delivered in accordance with those provisions in this section that apply to the original.

1. **GENERAL PROVISIONS**

7.1 Modification

This Agreement constitutes the parties entire understanding relating to its subject matter and supersedes and replaces all previous negotiations, representations and other agreement or understanding between them relating to the same subject matter. Any modification and/or amendment to this Agreement must be in writing and executed by both Parties.

7.2 Assignment

The Contractor shall not assign this Agreement or any of its rights or obligations hereunder without the Company's prior written consent, which consent may be withheld at the Company’s sole discretion.

7.3 Binding Agreement

The terms of this Agreement shall bind the parties and their respective successors, heirs and permitted assigns.

7.4 Incorporated by Reference

The Preamble and all Attachments, Appendices and Exhibits hereto are hereby incorporated by reference and made a part of this Agreement.

* 1. Governing Law

This Agreement shall be interpreted under the laws of [COUNTRY]. Any and all legal actions relative hereto shall be in the courts of [COUNTRY].

7.6 Severability

If any term or provision of this Agreement or the application thereof shall be invalid or unenforceable, such term or provision shall be severed from this Agreement and the remainder of this Agreement shall be unaffected thereby and each remaining term or provision of this Agreement shall be valid and be enforced to the fullest extent permitted by the laws of [COUNTRY].

7.7 Waiver

No provision of this Agreement may be waived except in writing signed by the Party granting such waiver.

7.8 Currency

All references to monetary amounts in this Agreement shall be in [CURRENCY].

7.9 Further Assurances

Each Party will execute and deliver such further agreements and other documents and do such further acts, and things as the other Party reasonably requests to evidence, carry out or give full effect to the intent of this Agreement.

7.10 Non-solicitation

Unless given prior written consent by the Company, which consent may require a payment to the Company, the Contractor agrees that it will not, during the term of this Agreement, or for a period of one year thereafter, knowingly solicit or hire any employee of the Company.

7.11 Survival

Section 2 will survive the expiration or termination of this Agreement.

7.12 Absence of presumption

No presumption shall operate in favour of or against any Party hereto as a result of any responsibility that any Party may have had for drafting this Agreement.

IN WITNESS WHEREOF, each party to this agreement has caused it to be executed at [PLACE OF EXECUTION] on the date indicated above.

CONTRACTOR COMPANY

Authorised Signature Authorised Signature

Print Name and Title Print Name and Title

**APPENDIX “A”**

**CONTRACTOR COMPENSATION**