**CONFIDENTIALITY AGREEMENT**

This Mutual Confidentiality Agreement is made on the **DATE**

between

**COMPANY NAME/NAME**, (Company no. **IF APPLICABLE**), registered office:- **ADDRESS** ("**COMPANY NAME/NAME**")

 and

**COMPANY NAME/NAME**, (Company no. **IF APPLICABLE**) having a place of business at:- **ADDRESS** (“**YOUR COMPANY NAME/NAME**”).

WHEREAS

1. The parties have been discussing, or are about to discuss, the establishment of a business relationship between them.

2. Each of the parties owns or possesses valuable information relating to its organisation.

3. The parties have agreed to disclose certain of such information to each other for the said purpose, subject to the terms of this Agreement.

NOW IT IS AGREED

1. Definitions

In this Agreement:-

"Associated Organisation" means in respect of a Party, that Party's subsidiaries or holding companies or subsidiaries of such parent organisations or holding companies "subsidiary" and "holding company" being as defined in s736 of the Companies Act 1985 (as amended).

"Confidential Information" means any information disclosed by the Disclosing Party (either itself or through a third party) to the Receiving Party and relating to itself or its parent organisations or Group, whether disclosed before or after this Agreement was entered into and whether disclosed orally, electronically or in other way whatsoever of representing or recording information. Confidential Information includes, but is not limited to, information about the Disclosing Party’s operations, processes, plans, products, technology, intellectual property, markets, customers, suppliers, partners, or finances, but excludes information that (a) is or becomes public knowledge other than as a direct or indirect result of any breach of this Agreement by the Receiving Party or any member of its parent organisations or Group; (b) is lawfully within the possession of the Receiving Party before receipt of it from the Disclosing Party; or (c) is received by the Receiving Party without obligation of confidentiality, from a third party, unconnected to the Disclosing Party and who was under no obligation of confidentiality in relation thereto.

"Disclosing Party" means the party to this Agreement which discloses Confidential Information;

"Group" means in respect of either party, that party and each of its parent organisations or holding companies and subsidiaries and each subsidiary of each of its holding companies (as each such term is defined in the Companies Act 1985);

"Permitted Purpose" means the evaluation of the prospects of the parties entering into a business relationship with the other party and any discussions or ongoing negotiations in relation to the same.

"Receiving Party" means the party to this Agreement which receives Confidential Information.

2. Confidentiality Undertaking

In consideration of the disclosure to it of the other party's Confidential Information, each party, as the Receiving Party, shall:-

2.1. keep such Confidential Information strictly secret and confidential and not disclose it or permit it to be made available to anyone, except as provided for in Clauses 3 and 4 and ensure that such Confidential Information is protected with security measures and a degree of care (and in any case no less than a reasonable degree of care) that would apply to its own confidential information; and

2.2. use such Confidential Information only for the Permitted Purpose.

3. Permitted Disclosure

3.1. Each party agrees, as Disclosing Party, that the other party as Receiving Party may disclose the Disclosing Party's Confidential Information:

3.1.1. to its parent organisations or Associated Companies and to its and its parent organisations or Associated Companies' officers, directors, employees and professional advisers who need to know the Confidential Information and to the extent necessary for the Permitted Purpose; or

3.1.2. with the Disclosing Party's prior written consent.

The Receiving Party shall ensure that any such person to whom it passes any such Confidential Information, or any person who receives it on the Receiving Party’s behalf (unless disclosed under Clause 4) is fully aware in advance of the Receiving Party’s obligations under this Agreement and that the person is contractually or otherwise bound by appropriate obligations of confidence before access to such Confidential Information is granted.

 3.2. Any breach of confidentiality by such employees, parent organisations or Associated Companies or agents or other officers (whether during or after their employment with the receiving party) shall be regarded as a breach by the Receiving Party and the Receiving Party acknowledges that it will be responsible for any breach of this Agreement by any person to whom it is permitted to disclose pursuant to this Clause 3.

4. Required Disclosure

Where

4.1. requested or required by any court of competent jurisdiction or any competent judicial, governmental, supervisory or regulatory body;

4.2. required by the rules of any stock exchange on which the Receiving Party's shares or other securities are listed; or

4.3. required by the laws or regulations of any country with jurisdiction over the Receiving Party's affairs, the Receiving Party may disclose the Confidential Information to the extent required, provided that it immediately gives the other party notice of the circumstances and the opportunity, if such exists, to seek, at the other party's own cost, to prevent or limit such disclosure.

5. Unauthorised Disclosure

The Receiving Party agrees to notify the Disclosing Party upon becoming aware that any part of the Disclosing Party's Confidential Information has been disclosed in breach of this Agreement.

6. Return of Confidential Information

If requested in writing by the Disclosing Party, the Receiving Party shall

6.1 promptly return to the Disclosing Party all of the Disclosing Party's Confidential Information (in the form provided to the Receiving Party) which is in the Receiving Party's or its parent organisations or Group's possession or control;

6.2 destroy or permanently erase (if in electronic format), all copies of such Confidential Information, or any part thereof, made by the Receiving Party or its parent organisations or Group;

6.3 use all reasonable endeavours to ensure that anyone to whom the Receiving Party or its parent organisations or Group has disclosed any such Confidential Information in accordance with Clause 3.1.2 or Clause 4 returns, destroys or permanently erases (if in electronic format) such Confidential Information and any copies thereof made by them and all parts thereof, in each case, save to the extent that the Receiving Party or its parent organisations or Group or such recipients are required to retain any such Confidential Information by any applicable law, rule or regulation or by any competent judicial, governmental, supervisory or regulatory body.

If requested by the Disclosing Party, the Receiving Party shall provide to the Disclosing Party a certificate, in writing, signed by a Director or authorised person of the Receiving Party declaring that it has complied with its obligations under this Clause.

7. Continuing Obligations

The obligations in this Agreement are continuing and, in particular, shall survive the termination of any discussions or negotiations between the parties and the return or destruction of any Confidential Information pursuant to Clause 6.

8. No Representation/Consequences of Breach

Each party acknowledges and agrees that:-

8.1. the other party and its officers, employees or advisers:

8.1.1. do not make any representation or warranty, express or implied, as to, or assume any responsibility for, the accuracy, reliability or completeness of any of its Confidential Information or any other information supplied or the assumptions on which it is based; and

 8.1.2. shall not be under any obligation to update or correct any inaccuracy in its Confidential Information or any other information supplied or be otherwise liable in respect of its Confidential Information or any other information.

8.2. the Disclosing Party may be irreparably harmed by the breach of the terms of this Agreement and damages may not be an adequate remedy and the Disclosing Party may be granted an injunction or specific performance for any threatened or actual breach of the provisions of this Agreement.

9. No Waiver/Amendments

This Agreement sets out the full extent of each party's obligations of confidentiality owed in relation to the information the subject of this Agreement. No failure or delay in exercising any right, power or privilege under this Agreement will operate as a waiver thereof nor will any single or partial exercise of any right, power or privilege preclude any further exercise thereof or the exercise of any other right, power or privileges under this Agreement. The terms of this Agreement may only be amended or modified by written agreement between the parties.

10. Governing Law and Jurisdiction

This Agreement shall be governed by and construed in accordance with the laws of England and the parties submit to the non-exclusive jurisdiction of the English courts.

11. Counterparts

This Agreement may be executed in any number of counterparts each of which when executed and delivered is an original but all the counterparts together constitute the same document.

12. Acknowledgement

Each party acknowledges and confirms to the other that all Confidential Information will remain the exclusive property of the Disclosing Party. The Disclosing Party’s disclosure of Confidential Information will not constitute an express or implied grant to the Receiving Party of any rights to the Disclosing Party’s intellectual property, except for the limited purposes set out in this Agreement.

IN WITNESS OF WHICH the parties have signed this Agreement on the date first before written.

 Signed for and on behalf of **COMPANY/NAME** by:

Name\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature\_\_\_\_\_\_\_\_\_\_\_\_\_

Position\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signed for and on behalf of **YOUR COMPANY/NAME** by:

Name\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Position\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_