

NON-CIRCUMVENTION AND NON-DISCLOSURE AGREEMENT

by and between:

Innovotion Consulting Proprietary Limited (Registration number: 2018/387057/07) ("**Innovotion**")

and

_____ (Registration number: _____) ("**the Recipient**")

(individually referred to herein as a "**Party**" and collectively as the "**Parties**").

WHEREAS,

- A. This non-circumvention and non-disclosure agreement ("**Agreement**") is entered into on the date of last signature hereof between Innovotion and the Recipient.
- B. Each Party may provide to the other certain information which the disclosing party considers to be confidential and proprietary for the purpose of evaluating a potential business partnership (the "**Project**").
- C. This Confidential Information is not in the public domain and it may not be disclosed to any third party except to the Authorised Persons (as defined in Clause 3 below).
- D. Each party hereby assures the other that it will receive and hold such Confidential Information in confidence and trust, and/or use and disclose such information only in support of the Project.

NOW THEREFORE, the Parties agree as follows (hereinafter referred to as the "**Agreement**"):

1. Definitions

In this Agreement:

(a) "**Confidential Information**" means:

- i. The existence of the Project, this Agreement and its contents;
- ii. All information provided by one Party to another that is marked as "confidential" and, in addition, any and all information of whatever nature and in whatever form (written, oral, visual and electronic) relating to the Project or any of a Party's affiliated companies and subsidiaries that has been or will be made available by one Party to another or that directly or indirectly has or will come a Party's attention in connection with the Project (e.g., in meetings or site visits). Such information shall include, but is not limited to, proposed pricing and contract conditions, specific software, data processing systems; products, customer lists, pricing policies, employment records and policies, operational methods, marketing plans and strategies, product development techniques or plans, business acquisition plans, new personnel acquisition plans, methods of manufacture, technical processes, designs and design projects, inventions and research programs, trade know-how, trade secrets and other business and financial information;
- iii. all reports, analyses, forecasts, compilations, memoranda, summaries, notes, excerpts or other materials in written, magnetic, digital or other form relating in whole or in part to or comprising or reflecting information within the meaning of paragraph ii;

- iv. the discussions and negotiations between the Parties about the Project and its subject and status; and
 - v. agreements and drafts of agreements which have been drafted, negotiated and/or concluded in connection with the Project.
- (b) **“Excluded Information”** shall not be considered as Confidential Information and means information that:
- i. is or becomes known to the public other than as a direct or indirect result of a breach of this Agreement by a Party or by anyone to whom the Party has disclosed such information;
 - ii. is known by a Party prior to the Effective Date of this Agreement and is not under any obligation of confidence, as shown by then-contemporaneous written records of such Party;
 - iii. lawfully becomes available to a Party other than as disclosed by the other Party or by any agent or employee of that Party; and
 - iv. is independently developed by a Party without use of or reference to the other Party's Confidential Information, as shown by then-contemporaneous written records.

2. Restrictions

Each Party irrevocably and unconditionally undertakes:

- i. to keep the Confidential Information received from the other Party secret and in strict confidence;
- ii. to use the Confidential Information only for the purposes of the Project and shall not use, whether for its own benefit or that of any other person for any other purpose, or disclose to any person (other than Authorised Persons) any of the Confidential Information;
- iii. not to disclose it to anyone or to make copies of the Confidential Information unless permitted to do so pursuant to Clause 3 of this Agreement;
- iv. to ensure that all Confidential Information is protected against theft or unauthorised access and that no one obtains Confidential Information from it unless authorised; and
- v. to protect the Confidential Information disclosed pursuant to the provisions of this Agreement using the same or higher standard of care that it applies to safeguard its own proprietary, secret or Confidential Information and that the Confidential Information shall be stored and handled in such a way as to prevent any unauthorised disclosure thereof.

3. Permitted Disclosures

- (a) The Parties may disclose Confidential Information only to the following persons (the **“Authorised Persons”**):

- i. such officers and employees of the Party, or of its affiliated companies and subsidiaries, as are strictly necessary for the purpose of the Project and who are made aware of the obligations under this Agreement and comply with such obligations as if they were the Authorised Person's own obligation; and
 - ii. people to whom the Parties have agreed in writing may receive such Confidential Information.
- (b) Each Party shall inform any person to whom it discloses Confidential Information that the information is confidential and shall ensure that they are subject to confidentiality obligations at least as restrictive as those contained herein.
- (c) Any violation of confidentiality by Authorised Persons is attributed to a Party as breach of its own obligations. Each Party is liable for a breach of confidentiality by its Authorised Persons irrespective of its own fault.

4. Forced Disclosure

- (a) Each Party may disclose Confidential Information to the minimum extent required by an order of any court of competent jurisdiction or any competent judicial, governmental, or regulatory body or the laws of South Africa.
- (b) Before disclosing any Confidential Information under Clause 4 if the Recipient is requested to disclose Confidential Information it shall, to the extent permitted by law, use its best efforts to:
 - i. inform the other Party of the full circumstances and the information that will have to be disclosed;
 - ii. avoid or limit disclosure; and
 - iii. gain assurances as to confidentiality from the body to which the information is to be disclosed.
- (c) If the Recipient is unable to inform the other Party before Confidential Information is disclosed under Clause 4, it shall, to the extent permitted by law, inform the other Party of the full circumstances of the disclosure and the information that has been disclosed promptly after the disclosure.
- (d) The obligations under Clause 5 shall not apply to disclosure made under Clause 4.

5. Return or Destruction of Confidential Information

- (a) If a Party so requests in writing, the other Party shall within 7 business days:
 - i. destroy, delete or return all documents and other material containing, comprising or reflecting Confidential Information and any copies and notes thereof that are in the possession of the Party or persons involved by it, unless this would conflict with preservation duties under applicable law or written rules of professional conduct;
 - ii. destroy or delete (to the extent technically possible) all Confidential Information from any

data carrier; and

- iii. ensure that any persons to whom Confidential Information has been made available by or on behalf of the Party also take the measures required pursuant to paragraphs (i) and (ii) above.
- (b) Upon request of a Party, the other Party shall confirm in writing that it has complied with this Clause 5.

6. Non-Circumvention

The Recipient and its Authorised Persons undertake, in favour of Innovotion, that:

- i. It shall abide by business principles regarding non-circumvention and shall not at any time, whether directly or indirectly, take any action, which would result in the Recipient or its Authorised Persons, among other activities, dealing or negotiating directly or indirectly with any contact of Innovotion for the purpose of gaining any benefit;
- ii. Any violation of circumvention by its Authorised Persons is attributed as a breach of its own obligations and the Recipient is liable for this breach irrespective of its own fault; and
- iii. The non-circumvention clause shall be valid and binding until such time that Innovotion waive this clause in writing.

7. Additional Data Protection Undertakings

During the term of the Agreement, it may happen that a Party will receive access to personal data belonging to the other Party. The Party shall procure that all its employees, advisors or any other persons that are acting on the Party's behalf within the scope of the Project will adhere to the applicable data protection laws including, but not limited to, the Protection of Personal Information Act, No. 14 of 2013.

8. Term

This Agreement becomes effective upon the date of the last signature as written below ("**Effective Date**") and, except for those obligations for which a specific duration is provided herein, shall automatically terminate 2 (two) years from its Effective Date.

9. Breach And Acknowledgement

- (a) Each Party shall be responsible for any breach of the terms of this Agreement by any of its Authorised Persons as if that Party had breached them.
- (b) Nothing contained in this Agreement shall be construed as precluding a Party from seeking urgent relief, whether in the form of an interdict or otherwise, from any court of competent jurisdiction in the enforcement and/or protection of any of their rights hereunder.
- (c) The Recipient acknowledges that any disclosure or unauthorised use of the Confidential Information otherwise than in accordance with this Agreement could cause irreparable harm to Innovotion and its affiliates and, further, that a damages award may be an inadequate remedy in respect thereof.

- (d) If a Party becomes aware that it or its Authorised Persons have or is deemed to have breached any provision of this Agreement, it shall: (i) immediately inform the other Party of such breach by notice in writing describing the nature, circumstances and extent of such breach, the Confidential Information affected, and providing the details of the Authorised Persons involved (or potentially involved) in such breach and (ii) to the extent that the breach is remediable and/or it is possible to mitigate any adverse effects of a breach on the other Party, use its commercially reasonable endeavours to remedy and/or to mitigate any adverse effects of such breach.

10. Notices

All notices, requests, consents or other communications hereunder shall be in writing and shall be deemed sufficiently given if delivered in person or by a recognized courier service, or by PDF scan of such signed notice attached to an email and sent to the email-address to the Parties at the addresses shown below, or to such other address as a Party may by written notice designate to the other Party. Any such communication shall be in English.

To the Recipient:

Address:

Attention:

Email:

To Innovotion:

Address:

35 Marlborough Avenue,
Craighall Park,
Johannesburg,

2196

Attention: the Managing Director

Email: gareth.bleazard@outlook.com

11. Absence of Obligation to Complete the Project

Nothing in this Agreement shall be construed as a binding obligation on a Party to proceed with any transaction between the Parties and each Party reserves its right, in its sole discretion and at any time, to terminate the discussions contemplated by this Agreement concerning the Project. Under no circumstances whatsoever shall either Party have any claim against each other for breach of any pre-contractual obligations or for breach of contract (including for damages or otherwise, in connection with the termination by of any discussions/negotiations) or on similar basis. Any such claims are hereby expressly excluded, except for claims based on wilful misconduct or claims for which liability cannot be limited under applicable law.

Nothing in this Agreement shall be construed to restrict either Party's use or disclosure of its own Confidential Information.

Each Party shall bear its own costs in connection with this Agreement.

12. Absence of Representations and Warranties

The Parties acknowledge that either Party has not made or is not making, expressly, implied or otherwise, any representations or warranties as to the accuracy or completeness of the Confidential Information. Furthermore, either Party shall not have any liability from the use of the Confidential Information by the other Party or any errors therein or omissions there from or with respect to non-infringement or other violation of any intellectual property rights of a third party or of the other Party.

13. Entire Agreement

This Agreement constitutes the entire understanding and agreement between the Parties with respect to the subject matter hereof, and supersedes and replaces any and all prior or contemporaneous, oral or written, representations, communications, understandings and agreements between the Parties, to the extent that such representations, communications, understandings and agreements are inconsistent with or contradictory to the provisions of this Agreement.

14. Severability Clause

In the event that any provision of this Agreement is determined to be invalid or unenforceable, the effectiveness of the other provisions in this Agreement shall not be affected in any manner. In this case, the Parties undertake to agree upon a valid or enforceable provision that economically closest reflects the purpose intended by the invalid or unenforceable provision.

15. Governing Law and Jurisdiction

This Agreement and any contractual or non-contractual obligation arising out of or in connection with this Agreement shall be governed by and shall be interpreted in accordance with the laws of South Africa.

All disputes arising out of or in connection with this Agreement shall be submitted to the High Court of South Africa, Gauteng Local division, Johannesburg.

16. Miscellaneous

- (a) The Recipient acknowledges that damages alone would not be an adequate remedy for the breach of any of the provisions of this Agreement. Accordingly, without prejudice to any other rights and remedies that it may be entitled to seek, Innovotion shall be entitled to the granting of equitable relief (including without limitation injunctive relief) for any threatened or actual breach of any of the provisions of this Agreement by the Recipient.
- (b) This Agreement shall be binding upon, inure to the benefit of, and be enforceable by and against the Parties of this Agreement and their respective legal successors and permitted assigns. Neither Party may assign or otherwise transfer any rights or obligations of this Agreement without the prior written consent of the other Party, except that either Party may assign this Agreement without consent in connection with a merger, reorganization, consolidation, change of control, or sale of all or substantially all of the assets to which this Agreement pertains. In such an event the assigning Party provides prompt written notice to the Recipient of any such permitted assignment. Any assignment or transfer of this Agreement in violation of the foregoing shall be null and void.
- (c) Any waiver, variation or modification of provisions of this Agreement can only be effected in writing and once duly executed by all Parties to this Agreement.
- (d) The Parties may execute this Agreement in counterparts, each of which shall be deemed an original, but all of which together constitute one and the same agreement. This Agreement and any notices pursuant hereto may be delivered by electronic transmission (including via email or facsimile), and electronic copies of executed signature pages (including PDF and facsimile copies) shall be binding as originals.

Innovotion Consulting Proprietary Limited

name: _____

function: _____

date: _____

name: _____

function: _____

date: _____