

NON-DISCLOSURE AGREEMENT

THIS AGREEMENT is made on the [] day of [].

PARTIES

1. RED development ("**Company**").
2. [] ("**Recipient**").

BACKGROUND

- A. The parties have entered into discussions regarding [] ("**Purpose**"). For the purpose of those discussions, Company may wish to disclose certain Confidential Information to Recipient or Recipient may wish to disclose certain Confidential Information to Company (as defined below).
- B. The parties have agreed to enter into this agreement to record the terms on which such information is disclosed to Recipient by Company or to Company by Recipient.

1. Definitions

In this agreement:

"**Confidential Information**" means any information relating to the Purpose which is disclosed by Company or Recipient, either orally, visually or in writing (including graphic material), whether before or after this agreement is entered into, and which is disclosed on the express basis that such information is confidential or which should be treated as confidential in nature. Confidential Information includes but is not limited to:

- (a) business, financial, operational, technical, administrative, marketing, planning and staff information and data relating to Company;
- (b) proprietary information, data, know-how, formulae, processes and engineering processes, strategies, designs, photographs, drawings, specifications, software, inventions, patents, technology, hardware configuration information, samples, technical literature and data or other material attributable to or deriving its existence from discussions relating to the Purpose;
- (c) any notes, extracts, analyses or materials prepared by or on behalf of Recipient which are copied or derived from Confidential Information.

"**Purpose**" means the purpose specified in the background section above.

"**Representatives**" means directors, officers, members, employees, agents, managers and consultants of, and individuals seconded to work for, the applicable party.

2. Protection of Company's Confidential Information

2.1 Recipient will:

- (a) use the Confidential Information only for the Purpose;
- (b) treat all Confidential Information as being strictly confidential and will take all reasonable and prudent steps and security measures necessary to prevent it

from being disclosed to any third parties (except as expressly permitted by this agreement);

- (c) not, without the express prior written consent of Company, disclose any Confidential Information to any person other than a minimum number of advisors and Representatives required to carry out the Purpose, and will ensure that all those to whom the Confidential Information is disclosed are aware of and observe the terms of this agreement in all respects as if they were a party to this agreement;
- (d) on Company's request, procure confidentiality undertakings from any third party to whom Confidential Information is disclosed pursuant to this agreement;
- (e) only make physical copies of the Confidential Information to the extent strictly necessary for the Purpose;
- (f) not copy or store the Confidential Information electronically or transmit it outside Recipient's usual place of business; and
- (g) not, without Company's prior written consent, use the Confidential Information for its advantage, commercial or otherwise.

3. Intellectual Property

3.1 Except for the limited licence to use the Confidential Information as set out in this agreement, nothing in this agreement will be construed as granting to or conferring on Recipient any right, title or interest in or to the Confidential Information or to give any licence to use, sell, copy or further develop such Confidential Information.

3.2 Recipient agrees that:

- (a) all documents and other materials containing the Confidential Information, and any parts or copies of the Confidential Information, will at all times remain the property of Company; and
- (b) Company and/or its licensors (as applicable) will retain all intellectual property rights in the Confidential Information at all times and for all purposes, including the copyright in any materials produced by Recipient relating to the Confidential Information.

4. Return of Confidential Information

4.1 If the parties' discussions relating to the Purpose terminate, and in any event on Company's written request, Recipient will promptly:

- (a) return to Company all Confidential Information (and any copies of it) in Recipient's control or possession;
- (b) delete, destroy and erase all Confidential Information from any computer or data storage system into which it was entered; and
- (c) if required, certify that the provisions of paragraphs 4.1(a) and (b) above have been complied with.

5. Limitations of confidentiality

5.1 The terms in this agreement will not apply to information which:

- (a) is or becomes generally available to the public or enters the public domain other than by reason of a breach of this agreement;
- (b) was lawfully and independently received by Recipient from a third party without any obligation of confidence at the time of receipt; or
- (c) is required to be disclosed by applicable law or a court of competent jurisdiction, but only to the extent of such requirement and provided that Recipient, to the extent permitted by applicable law, gives Company prior advance notice before making such disclosure so as to afford Company a reasonable opportunity to object to and obtain a protective order or other appropriate relief regarding such disclosure.

6. No warranty

Company makes no representation or warranty as to the accuracy, completeness or otherwise of the Confidential Information supplied, and Recipient acknowledges and agrees that it is responsible for making its own evaluation of such information.

7. Miscellaneous

- 7.1 Recipient will notify Company immediately in writing if it becomes aware that the Confidential Information has been disclosed to an unauthorised third party.
- 7.2 Recipient acknowledges and agrees that a breach by Recipient of this agreement may result in immediate and irreparable harm to Company, for which there will be no adequate remedy at law. Company will be entitled to seek equitable relief to compel Recipient to cease and desist all unauthorised use and disclosure of its Confidential Information.
- 7.3 A waiver of any term of this agreement will be valid only if it is in writing and signed by both parties.
- 7.4 The clauses of this agreement are severable and if any clause or identifiable part is held to be invalid or unenforceable by any court of competent jurisdiction then such invalidity or unenforceability will not affect the validity or enforceability of the remaining clauses or parts of the agreement.

8. Governing law

The terms of this agreement will be governed by English law. Each party submits to the exclusive jurisdiction of the English courts, but Company is also entitled to apply to any court worldwide for injunctive and other remedies in order to protect or enforce its Confidential Information and/or intellectual property rights.

SIGNATURES

SIGNED by)
for and on behalf of)
RED development)

SIGNED by)
for and on behalf of)
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