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NON-DISCLOSURE AGREEMENT

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["controller"
"data controller"
"data processor"
"data subject"
"personal data"
"processing"
"processor" and
"appropriate technical and
organisational measures"
"Intellectual Property Rights"]

meanings ascribed thereto in the
Legislation;]

and all rights (whether or not
registrable) subsisting in any
ny patents, trade marks, service
d designs, applications (and rights
of those rights), trade, business
ames, internet domain names and
s, copyrights, database rights,
e and other secrets, rights in
entions;

er licences, consents, orders,
erwise in relation to a right in

same or similar effect or nature as
paragraphs (a) and (b) which now or
y subsist; and
ue for past infringements of any of
hts;

["Processed Personal Data"]

onal data described in sub-Clause
e 3 which is to be disclosed by the
to the Receiving Party under sub-

"Representatives"

on to either Party, its officers and
fessional advisers or consultants
se that Party, contractors or sub-
aged by that Party, and any other
the other Party agrees in writing
fidential Information may be

["Shared Personal Data"]

onal data described in sub-Clause
e 3 which is to be disclosed by the
to the Receiving Party under sub-

"Stated Purposes"

poses set out in Schedule 2 for
eceiving Party may use the
ormation.

1.2 Unless the context of

reference in this Agreement to:

1.2.1 "writing", and
communicat
similar mean

ion, includes a reference to any
hnic or facsimile transmission or

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- 1.2.2 a statute or regulation is a reference to that statute or provision as in force at the relevant time;
- 1.2.3 "this Agreement" means this Agreement and each of the Schedules attached at the relevant time;
- 1.2.4 a Schedule means a Schedule to this Agreement; and
- 1.2.5 a Clause or Paragraph means a Clause or Paragraph of this Agreement (other than this Clause or Paragraph) of the relevant Schedule.
- 1.2.6 a "Party" or "Parties" means the Parties to this Agreement.
- 1.3 The headings used herein are for convenience only and shall have no effect upon the interpretation of this Agreement.
- 1.4 Words imparting the singular shall include the plural and vice versa.
- 1.5 References to any gender shall include the other gender.
- 1.6 References to persons shall include corporations.

2. Confidential Information

- 2.1 For the purposes of this Agreement, "Confidential Information" shall be the information outlined in the Schedules, information designated at or before the time of disclosure as confidential, and any other information that falls within the definition of Confidential Information further set out below in this Clause 2. This includes:
 - 2.1.1 [the fact that negotiations are taking place between the Parties for the purposes of the Purposes and the status of such discussions]
 - 2.1.2 [the [existence of] this Agreement;]
 - 2.1.3 any and all documents, data, information relating to:
 - a) the business, operations, or suppliers of the Disclosing Party;
 - b) the confidential information, trade secrets, or product information, trade secrets, or information of the Disclosing Party; and
 - 2.1.4 further information, or findings derived from the Confidential Information.
- 2.2 The definition of Confidential Information shall apply whether or not the Confidential Information is commercially (or other) sensitive in nature, and in whatever form the Confidential Information exists or is communicated.
- 2.3 Information shall not be Confidential Information if and to the extent that any of the following provisions in Clause 10 apply.

3. Receiving Party's Confidentiality Obligations

- 3.1 The Disclosing Party shall retain all other interest in all Confidential Information that it receives from the Receiving Party after the Parties enter into this Agreement.
- 3.2 The Receiving Party shall, in accordance with the provisions of Clause 10, at all times maintain as secret and confidential the Confidential Information and shall not disclose, use, exploit, or

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reproduce any part
indirectly for any pu
written consent of
include, but are not

Confidential Information directly or
Stated Purposes without the express
such unauthorised purposes may

3.2.1 disclosing, v
any part of
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ctly, or otherwise making available
nation to any person except as
nt;

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such copies
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part of the Confidential Information
ary for the Stated Purposes. Any
he Receiving Party shall be the

3.2.3 reproducing
Information,
of the Conf
Confidential

duce) any part of the Confidential
ver otherwise undisclosed aspects
uding, but not limited to, related

3.2.4 using the C
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whether directly or indirectly, to
y commercial advantage for the
advantage to the Disclosing Party;

3.2.5 carrying ou
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Rights from

making any inventions, further
ny registered Intellectual Property
Confidential Information;

3.2.6 <<add furthe

as required>>.

3.3 The Receiving Par
technical measures
Disclosing Party fro
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able organisational, physical, and
able measures proposed by the
erve the secrecy and confidentiality

3.4 The Receiving Party

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3.4.2 any copies n

Confidential Information.

3.5 Upon the terminati
end of the Stated P
the Receiving Part
Disclosing Party an
certifying that no c
retained. [This is su
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party, e.g. legal adv
enabling it to contin
may extend beyond

ment for any reason, following the
n demand by the Disclosing Party,
Confidential Information forthwith to the
certificate to the Disclosing Party
Confidential Information have been made or
option that the Receiving Party may
nation in its <<insert responsible
>>'s files for the sole purpose of
provisions of this Agreement that
]

3.6 Nothing in this Agre
skills and experie
Representatives pri

Receiving Party from using mere
Receiving Party or any of its
the Stated Purposes.

4. Storage of Confidential In

4.1 The Receiving Part
at [its premises at
not at any time all

Confidential Information is kept only
[<<insert location(s)>>] and shall
information or any part thereof to be

[n] OR [those locations].

- Confidential Information in hardcopy form when not in use.
- Confidential Information electronically, shall be stored only on [a local computer or server[s]] at [its premises at <<insert location>>]. The Confidential Information shall not be stored on Confidential Information stored on [a computer or devices] [may be made available which the applicable computer or device is accessible via the internet] OR [may not be accessed] must be confined solely to [that computer or devices]. Furthermore, the [computer or devices] shall not be connected to any network containing Confidential Information]. The [computer or device] in which the Confidential Information is stored [shall be password protected] word[s] which may be shared only with those persons having access to Confidential Information. When not in use, the [computer or devices] used to store the Confidential Information shall be locked cabinet.
- The Disclosing Party shall have the right to access and inspect the location[s] where Confidential Information upon notification. If the Disclosing Party is not satisfied with the Disclosing Party's storage arrangements, it shall require reasonable changes to those arrangements to satisfy the requirements described

Representatives such of the
necessary for the Stated Purposes

- of the confidential nature of the disclosure;
- has written undertakings to the [substantially] the same terms as enforceable by it and are binding same extent as this Agreement is and
- Representatives to whom the of it, is disclosed.
- the acts or omissions of such Confidential Information as if they were party, whether or not the Receiving

the Receiving Party may disclose
that such disclosure is required by

- the Receiving Party may disclose
that such disclosure is required by

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certain Shared Personal Data which
to the Receiving Party. Schedule 3
prising the Shared Personal Data,
ect to whom it relates, the scope,
arried out, and the duration of the

for the sharing of the Shared controllers. The Shared Personal Party to the Receiving Party only to be used for the Shared Purposes.

their obligations as data controllers under applicable requirements under Article 7 is in addition to, and does not detract from, obligations under the Data Protection Act 1998 and Data Protection Legislation by either party. The period of written notice from the Data Controller to terminate this Agreement with

Personal Data, the Disclosing Party
es and consents in order to enable

Personal Data, the Receiving Party

to any third parties;

a only to the extent reasonably

es to whom the Shared Personal
o contractual obligations in relation
n that bind those Representatives
as the obligations imposed upon
nt;

appropriate technical and organisational measures as reviewed and approved by the competent authority, to prevent the unauthorised or unlawful disclosure, accidental loss or destruction of, or damage to, information, data, having regard to the state of the art and the cost of implementing any such measures.

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- 7.5.5 not transfer Shared Personal Data outside of the UK.
- 7.6 The Parties shall assist each other in complying with their respective obligations under applicable legislation. Such assistance shall include, but not be limited to:
- 7.6.1 providing the contact details of its data protection officer and/or its Representatives as a point of contact for the Data Protection Legislation, including, but not limited to, advice, assistance, training, and the handling of data breaches;
 - 7.6.2 consulting with the other Party in respect to information and notices provided to or received from the Shared Personal Data;
 - 7.6.3 informing the other Party of the receipt of data subject access requests and providing reasonable assistance in complying with the same;
 - 7.6.4 not disclosing any Shared Personal Data in response to a request without prior consultation with the other Party, where reasonably possible;
 - 7.6.5 assisting the other Party [at the cost of the Party] OR [at the cost of the other Party] in responding to a subject request;
 - 7.6.6 assisting the other Party [at the cost of the Party] OR [at the cost of the other Party] in complying with obligations under the Data Protection Legislation, including impact assessments, breach notifications, and consultations with the Information Commissioner's Office and any relevant supervisory authorities or regulators;
 - 7.6.7 notifying the other Party of a breach of the Data Protection Legislation within the time period specified in applicable legislation;
 - 7.6.8 notifying the other Party of a personal data breach affecting the Shared Personal Data as soon as practicable to avoid delay;
 - 7.6.9 using compatible processing of the Shared Personal Data in order to ensure the integrity and security of the Shared Personal Data;
 - 7.6.10 deleting or anonymizing Shared Personal Data at the end of the term of the other Party, the Shared Personal Data, or the expiry of this Agreement, except where any legal requirement to retain any such data applies;
 - 7.6.11 maintaining accurate and complete records and other information to demonstrate compliance with this Clause 7.
- 7.7 Each Party shall indemnify and hold the other Party harmless from all liabilities, costs, expenses, damages, and losses (including consequential losses, loss of business opportunity, loss of reputation, and all reasonable legal costs (calculated on a full indemnity basis) and any other costs and expenses) suffered or incurred by the other Party arising out of or in connection with the indemnifying Party's breach of the Data Protection Legislation. The indemnifying Party shall provide the indemnified Party with such claim, full information about the circumstances of the claim, and reasonable assistance in dealing with the claim, and/or settle the claim.]

8. **[Disclosure of Personal Data]**

8.1 The Confidential Information which is to be disclosed, which is to be disclosed, processed by the Disclosing Party for the Stated Purposes. Such disclosure shall be subject to the Processed Personal Data to whom it relates, the purpose of processing, the duration of processing, and the duration of processing.

8.2 This Clause 8 establishes the capacity of the Disclosing Party to process the Processed Personal Data on behalf of the Receiving Party for the Stated Purposes.

8.3 Each Party shall comply with its respective obligations as data controller and data processor under applicable requirements. This is in addition to, and does not limit, the obligations under the Data Protection Legislation. Any material breach of the obligations shall, if not remedied within <<insert period>> of days, give the other Party grounds to terminate this Agreement.

8.4 Without prejudice to the obligations in Clause 8.3, the Disclosing Party shall ensure it has in place appropriate measures to ensure the lawful transfer of the Processed Personal Data to the Receiving Party for the duration and purpose of processing.

8.5 Without prejudice to the obligations in Clause 8.3, the Receiving Party shall, with respect to the Processed Personal Data, ensure that:

8.5.1 process the Processed Personal Data only on the written instructions of the Disclosing Party, unless otherwise required by law. The Receiving Party shall promptly notify the Disclosing Party of such processing unless prohibited from doing so by law;

8.5.2 ensure that appropriate technical and organisational measures (as reviewed and approved by the Disclosing Party) are in place to prevent the unauthorised or unlawful processing of the Processed Personal Data, or the accidental loss or destruction of, or damage to, the Processed Personal Data, having regard to the state of the art, the nature of the data, and the cost of implementing any such measures;

8.5.3 ensure that the obligations of the Receiving Party in relation to the Processed Personal Data are at least as stringent as the obligations imposed upon the Disclosing Party by the Data Protection Legislation;

8.5.4 not transfer the Processed Personal Data outside of the UK;

8.5.5 assist the Disclosing Party in its obligations under the Data Protection Legislation, including, but not limited to, security, impact assessments, breach

Processing

certain Processed Personal Data to the Receiving Party to be processed on behalf of the Disclosing Party for the Stated Purposes. Such disclosure shall be subject to the type[s] of personal data comprising the Processed Personal Data, the purpose of processing to be carried out, and the duration of processing.

for the processing of the Processed Personal Data on behalf of the Disclosing Party to the Receiving Party in its capacity as a data processor on behalf of the Disclosing Party or in its capacity as a data controller. The Disclosing Party shall ensure that the processing is reasonably necessary for the Stated Purposes.

their respective obligations as data controller and data processor under applicable requirements. This is in addition to, and does not limit, the obligations under the Data Protection Legislation. This Clause 8 shall not remove, or replace either Party's obligations under the Data Protection Legislation. Any material breach of the obligations shall, if not remedied within <<insert period>> of days, give the other Party grounds to terminate this Agreement with immediate effect.

Clause 8.3, the Disclosing Party shall ensure it has in place appropriate measures to ensure the lawful transfer of the Processed Personal Data to the Receiving Party for the duration and purpose of processing.

Clause 8.3, the Receiving Party shall, with respect to the Processed Personal Data and the Stated Purposes:

only on the written instructions of the Disclosing Party, unless otherwise required by law. The Receiving Party shall promptly notify the Disclosing Party of such processing unless prohibited from doing so by law;

appropriate technical and organisational measures (as reviewed and approved by the Disclosing Party) are in place to prevent the unauthorised or unlawful processing of the Processed Personal Data, or the accidental loss or destruction of, or damage to, the Processed Personal Data, having regard to the state of the art, the nature of the data, and the cost of implementing any such measures;

atives to whom the Processed Personal Data is disclosed, the subject to contractual obligations of the Receiving Party in relation to data protection that bind those Receiving Parties to at least the same standards as the obligations imposed upon this Agreement;

Personal Data outside of the UK;

own cost] OR [at the cost of the Disclosing Party] in its obligations under the Data Protection Legislation, including, but not limited to, security, impact assessments, breach

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- notifications, the Information Commissioner's Office and any advisory authorities or regulators;
- 8.5.6 inform the Disclosing Party of the receipt of data subject access requests and provide reasonable assistance in complying with the same;
- 8.5.7 not disclose any Processed Personal Data in response to a request without prior consultation with the Disclosing Party, where reasonably possible;
- 8.5.8 assist the Disclosing Party at its own cost] **OR** [at the cost of the Disclosing Party] in any other data subject request;
- 8.5.9 notify the Disclosing Party of any breach of the Data Protection Legislation within 72 hours of becoming aware of the breach;
- 8.5.10 notify the Disclosing Party of any personal data breach affecting the Processed Personal Data within a reasonable time due delay;
- 8.5.11 delete or return the Processed Personal Data to the Disclosing Party, the Disclosing Party, the Processed Personal Data, and any copies thereof on the termination or expiry of this Agreement, or any legal requirement to retain any copies thereof;
- 8.5.12 maintain all records and accurate records and other information relating to the processing of the Processed Personal Data in accordance with this Clause 8.
- 8.6 The Receiving Party shall not disclose the Processed Personal Data to any third party without the prior written consent of the Disclosing Party.
- 8.7 [Where the Disclosing Party appoints a third-party processor under such agreement with the Receiving Party shall enter into a written agreement incorporating terms which are substantially similar to those set out in this Clause 8. The Receiving Party shall remain fully responsible for the actions and omissions of any such third-party processor so appointed.]
- 8.8 Either Party may, at any time, amend this Clause 8, replacing it with similar terms that form part of a standard certification scheme. Such terms shall apply and replace the current terms of this Agreement.
- 8.9 Each Party shall indemnify the other Party against all liabilities, costs, expenses, damages, and loss (including consequential loss of business opportunity, loss of reputation, and all legal costs (calculated on a full indemnity basis) and any professional costs and expenses) suffered or incurred by the indemnified Party arising out of or in connection with the indemnifying Party's breach of the Data Protection Legislation. The indemnifying Party shall provide the indemnified Party with the circumstances of the claim, and the indemnifying Party shall provide the indemnified Party with the claim, and the indemnifying Party shall provide the indemnified Party with the claim.

9. Proprietary Rights

The Confidential Information and the Property Rights subsisting therein

shall remain the property of the Disclosing Party and the disclosure of the Confidential Information upon the Receiving Party shall not confer any right or interest in any part of the Confidential Information.

10. Exceptions to Non-Disclosure

The obligations set out in this Clause shall not apply [(where the same can be demonstrated to the Receiving Party)] to any information which:

- 10.1.1 is already known to the Receiving Party at the time of its disclosure and the Receiving Party is free of any obligation of confidentiality with respect to it;
- 10.1.2 is in, or comes from, the public domain through any breach of this Agreement by the Disclosing Party or the Receiving Party, general circulation in the public domain or otherwise;
- 10.1.3 is received by the Receiving Party from a third party free of any obligations of confidentiality, provided such third party is not bound by those set out in this Agreement, or a breach of this Agreement [or any other agreement between the Disclosing Party and the Disclosing Party];
- 10.1.4 is, prior to disclosure, already in the possession of the Receiving Party, already in the possession of the Receiving Party, already independently developed by the Receiving Party;
- 10.1.5 is disclosed by the Receiving Party to the Disclosing Party free of any obligations of confidentiality, provided such third party is not bound by those set out in this Agreement;
- 10.1.6 is approved by the Disclosing Party;
- 10.1.7 is declared confidential by the Disclosing Party in writing to no longer be confidential;
- 10.1.8 is required to be disclosed by the Receiving Party under the Freedom of Information Act 2000 or any other applicable law;
- 10.1.9 is required to be disclosed by the Receiving Party by a competent jurisdiction, or by any government authority, provided that the Disclosing Party notifies the Disclosing Party in advance of such disclosure.

11. Term

- 11.1 This Agreement shall remain in force and effect until the confidentiality set out in this Agreement has been terminated by the Disclosing Party [at any time by giving written notice] OR [in accordance with the terms of the contract to which this Agreement relates, or any other agreement between the Disclosing Party and the Disclosing Party, which may be shortened or extended by the Disclosing Party in writing] OR [indefinitely], subject to the termination or expiry of this Agreement for any reason, the Receiving Party shall return the Confidential Information to the Disclosing Party and shall ensure that no
- 11.2 As fully detailed in the Agreement for any reason, the Receiving Party shall return the Confidential Information to the Disclosing Party and shall ensure that no

copies thereof are to be retained in the department etc>>s

limited exception allowing one copy to be retained in the party, e.g. legal advisor, legal

12. Enforcement and Indemnification

12.1 Both Parties hereby acknowledge that damages alone would not be an adequate remedy for the Receiving Party of this Agreement.

12.2 The Disclosing Party agrees to any and all other rights and remedies which may be available to the remedies of injunction, specific performance, and any other relief for any breach of this Agreement by the Receiving Party threatened.

12.3 In addition to any rights at law or in equity to which either Party may be entitled, the Disclosing Party agrees to indemnify the other Party against all liabilities, damages, and losses (including, but not limited to, any direct or consequential losses, loss of profit, loss of business opportunities, and all interest, penalties, and legal costs (calculated on a full basis) and all other reasonable costs (including professional costs) incurred or incurred by the indemnified Party arising out of or in connection with the indemnifying Party's (or its Representatives') breach of this Agreement [(including, where applicable, any breaches of the Data Protection Act 1998 [8.9])] provided that the indemnified Party provides prompt notice of a claim giving rise to the claim to the indemnifying Party, and the indemnifying Party has the sole authority to settle the claim.

damages alone would not be an adequate remedy for the Receiving Party of this Agreement.

The Disclosing Party agrees to any and all other rights and remedies which may be available to the remedies of injunction, specific performance, and any other relief for any breach of this Agreement by the Receiving Party threatened.

In addition to any rights at law or in equity to which either Party may be entitled, the Disclosing Party agrees to indemnify the other Party against all liabilities, damages, and losses (including, but not limited to, any direct or consequential losses, loss of profit, loss of business opportunities, and all interest, penalties, and legal costs (calculated on a full basis) and all other reasonable costs (including professional costs) incurred or incurred by the indemnified Party arising out of or in connection with the indemnifying Party's (or its Representatives') breach of this Agreement [(including, where applicable, any breaches of the Data Protection Act 1998 [8.9])] provided that the indemnified Party provides prompt notice of a claim giving rise to the claim to the indemnifying Party, and the indemnifying Party has the sole authority to settle the claim.

13. No Further Obligation

The Disclosing Party shall not be obliged to enter into any further transaction or agreement with the Receiving Party or to provide any, or any particular, information to the Receiving Party.

The Disclosing Party shall not be obliged to enter into any further transaction or agreement with the Receiving Party or to provide any, or any particular, information to the Receiving Party.

14. No Partnership or Agency

14.1 Nothing in this Agreement shall constitute or be construed as creating any partnership or joint venture between the Parties, or shall authorise either Party to act as the agent of the other Party, or to make any commitments for or on behalf of the other Party.

Nothing in this Agreement shall constitute or be construed as creating any partnership or joint venture between the Parties, or shall authorise either Party to act as the agent of the other Party, or to make any commitments for or on behalf of the other Party.

14.2 Each Party hereby warrants that it is acting on its own behalf and not for the benefit of any other person.

Each Party hereby warrants that it is acting on its own behalf and not for the benefit of any other person.

15. Non-Assignment of Agreement

Neither Party may assign, sub-license, or in any other manner make available to any third party the rights or obligations under this Agreement without the prior written consent of the other Party, which consent not to be unreasonably withheld.

Neither Party may assign, sub-license, or in any other manner make available to any third party the rights or obligations under this Agreement without the prior written consent of the other Party, which consent not to be unreasonably withheld.

16. **Entire Agreement**

This Agreement contains the entire agreement between the Parties with respect to its subject matter and may not be varied by any instrument in writing signed by the duly authorised representative of the Parties.

17. **Variation**

No variation of or addition to this Agreement shall be effective unless in writing signed by each of the Parties or by its duly authorised representative on its behalf.

18. **No Waiver**

No failure or delay by either Party to exercise its rights under this Agreement shall be deemed to be a waiver by either Party of a breach of any provision of this Agreement or to be a waiver of any subsequent breach of the same or any other provision of this Agreement.

19. **Severance**

The Parties agree that, if any provision of this Agreement is found to be unenforceable, that or those provisions shall be deemed severed from the remainder of this Agreement and the remainder of this Agreement shall remain enforceable.

20. **Communication**

20.1 All notices under this Agreement shall be in writing and be deemed duly given if signed by the Party to whom they are addressed by a duly authorised officer thereof, as appropriate.

20.2 Notices shall be deemed to have been given:

20.2.1 when delivered in person to the recipient or registered messenger during business hours of the recipient; or

20.2.2 when sent, by post, email or other messenger (including registered messenger) and a successful transmission is generated; or

20.2.3 on the fifth business day after the date of mailing, if mailed by national ordinary mail; or

20.2.4 on the tenth business day after the date of mailing, if mailed by airmail, postage prepaid.

20.3 All notices under this Agreement shall be addressed to the most recent address, facsimile number or email address notified to the other Party.

21. **Third Party Rights**

Unless expressly stated otherwise, nothing in this Agreement shall be construed to give rise to any rights in or to the benefit of any third party under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

22. **Law and Jurisdiction**

- 22.1 This Agreement (including any amendments and variations) shall govern all matters and obligations arising therefrom or associated with it, and shall be governed by, and construed in accordance with, the law of England and Wales.
- 22.2 Any dispute, controversy or claim between the Parties relating to this Agreement (including any amendments and variations) shall be referred to and determined by the courts of England and Wales.

SIGNED for and on behalf of the D
<<Name and Title of person signing>>

Authorised Signature

Date: _____

SIGNED for and on behalf of the P
<<Name and Title of person signing>>

Authorised Signature

Date: _____

The Confidential Information

<<Insert outline description and any other information to be disclosed by the Disclosing Party to the Receiver

Confidential Information to be disclosed by

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The Stated Purposes

<<Insert a detailed statement of the Confidential Information to be disclosed and the ways in which the Confidential Information is to be

disclosed the Confidential Information is to be used the Confidential Information>>

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1. Personal Data [Sharing] OR [Processing]

Scope

<<Insert description of the scope of the processing to be carried out>>.

Nature

<<Insert description of the nature of the processing to be carried out>>.

Purpose

<<Insert description of the purpose of the processing and/or processing is to be carried out>>.

Duration

<<Insert details of the duration of the processing>>.

2. Types of Personal Data

<<List the types of personal data to be processed>>.

3. Categories of Data Subject

<<List the categories of data subject>>.

4. Organisational and Technical Measures

<<Describe the organisational and technical measures implemented>>.]

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