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# CONFIDENTIALITY AGREEMENT

Re: (Enter Business Name)  
("the Business")

and

(Enter Recipients name)  
("the Recipient")

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## 1. UNDERTAKING

In consideration of our Agreement to supply to you certain written or oral information relating to the Business and entering into discussions relating to the sale of the Business to you (howsoever structured), you the Recipient hereby undertake to us, the Vendor for our benefit and that of the Business, except to the extent that we have given prior written consent, whether or not negotiations for the sale of the Business proceed, that you:

- 1.1 shall keep secret and confidential our discussions and any information about the Business supplied to you or your advisers by us or by our advisers, whether before or after this Agreement and any analyses or other documents which may be made or prepared by you which contain or otherwise reflect such information or your review of or interest in the Business ("Confidential Information"), and not disclose to any third party any Confidential Information (except such information which comes into the public domain other than as a result of the disclosure by you or by your employees, agents or advisers who need to know such information for the purpose of evaluating whether or not, and on what terms, you might proceed with the proposed purchase);
- 1.2 shall not use any Confidential Information for your own purposes or to obtain a commercial, trading or other advantage, but shall use such Confidential Information for the sole purpose of evaluating and negotiating the proposed sale of the Business, and, save as set out above, shall not permit any Confidential Information to go out of your possession, custody or control;
- 1.3
  - 1.3.1 shall, in connection with the possible sale of the Business, make contact only with **Mergers & Acquisitions** and not with any other person or persons including our officers, employees or advisers unless otherwise instructed; and
  - 1.3.2 shall not discuss with any of our suppliers, customers or sub-contractors, or with any of our officers, employees, agents or advisers, your possible interest in the Business or any aspects of its business or trading relationships;

- 1.4 shall not make any announcement or any disclosure, or otherwise publicise, your possible interest in the Business, or of any negotiations with respect thereto;
- 1.5 shall procure that your employees, agents and advisers, or any other party acting on your instructions to whom disclosure of Confidential Information is to be made, agree before such disclosure to be bound by the terms of this letter as if they were parties hereto;
- 1.6 shall, immediately upon written request from us, or without such request if you cease to be interested in purchasing the Business, return to us all written Confidential Information and expunge any Confidential Information from any computer, word processor or other similar device in your possession or under your custody or control, without keeping any copies, extracts or other reproductions thereof, and either return to us or destroy (such destruction to be certified in writing by you or a senior employee of yours who has supervised such destruction) all notes and memoranda prepared by you, your employees, agents or advisers, and any copies thereof relating to any of the Confidential Information or the negotiations concerning the proposed sale of the Business;
- 1.7 shall not, and shall procure that any associated company of yours shall not, employ, seek to employ, or solicit any person employed by us or the Business or who holds or otherwise has access to Confidential Information either at the date of this Agreement or at any time during negotiations for the sale of the Business or during the period of twelve months from the date of this Agreement.

## **2. ACKNOWLEDGEMENT AND CONFIRMATION**

You acknowledge and confirm as follows:

- 2.1 that you are acting as a principal on your own account and not with a view to the resale of the Business; and
- 2.2 you agree that our rights under this Agreement may be assigned in whole or in part to any purchaser of the Business, which may enforce this Agreement to the same extent and in the same manner as we can enforce it;
- 2.3 no failure or delay by us in exercising any of our rights, powers, or privileges, nor any single or partial exercise thereof, shall preclude any further exercise of them;
- 2.4 the provisions of this Agreement shall continue in effect notwithstanding any decision not to proceed with any possible transaction relating to the Business or any return or destruction of the Confidential Information.

2.5 This agreement shall expire two years from the date of execution.

Any agreement created by acceptance of this Confidential Information shall be governed by and construed in accordance with the laws of (Enter State) and you hereby submit to the exclusive jurisdiction of the Courts of (Enter State) in relation thereto.

If the party to this agreement is a company the person signing this agreement on behalf of the company hereby agrees in consideration of the information being provided to the company at their request to personally guarantee the performance of the company of its obligations hereunder which guarantee shall be a primary obligation.  
Please indicate your acceptance of the above by signing in the space provided below.

**SIGNED FOR AND ON BEHALF OF THE VENDOR:**

Name: \_\_\_\_\_  
Signed: \_\_\_\_\_  
Date: \_\_\_\_\_

**SIGNED FOR AND ON BEHALF OF THE RECIPIENT:**

Name: \_\_\_\_\_  
Signed \_\_\_\_\_ Witness: \_\_\_\_\_  
Title: \_\_\_\_\_  
Name: \_\_\_\_\_  
Signed \_\_\_\_\_ Witness: \_\_\_\_\_  
Title: \_\_\_\_\_  
Company: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_ Date: \_\_\_\_\_

**PLEASE NOTE: It is the recipients responsibility to return the Confidential Information Memorandum to Mergers & Acquisitions as per Paragraph 1.6.**