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CONFIDENTIALITY DEED

DATED THE _____ DAY OF _____ 20____.

ABC Company Limited (the “Discloser”)

AND

Sample Company Limited (the “Recipient”)

DEED OF CONFIDENTIALITY

MADE ON THE _____ DAY OF _____ 20_____ .

BETWEEN: ABC Company Limited a company incorporated in England and having its registered office at 1 Smith Lane London WC2A 1PL (the “Discloser”)

AND: SAMPLE COMPANY LIMITED a company incorporated in England and having its registered office at 52 Chance Lane London WC2A 1PL (the “Recipient”).

RECITALS

- (A) The Discloser possesses valuable Confidential Information and Intellectual Property rights in respect of the Discloser’s products and its Business (as defined).
- (B) The Recipient has requested the Discloser to disclose its Confidential Information (as defined) to the Recipient to enable the Recipient to carry out investigations and assessments as set out in Part A of the Schedule (the “Permitted Purpose”).
- (C) The Discloser wishes to ensure that the Confidential Information which it discloses to the Recipient is protected and that its Intellectual Property rights are also preserved. In this regard the Recipient in this Deed acknowledges the Discloser’s rights and undertakes to the Discloser to only use the Confidential Information disclosed to it for the Permitted Purpose (as defined) and to preserve the Discloser’s Intellectual Property rights (as defined).

THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS

1.1. In this Deed these expressions have the following meanings:

“**Business**” means the business conducted by the Discloser as described in Part B of the Schedule and includes where applicable the goodwill of that business.

“**Confidential Information**” means all information of whatsoever kind or nature including Trade Secrets that in any way relate to the Business, the Intellectual Property or any of the Discloser’s Products that is at any time Disclosed before or after the entering into of this Deed by the Discloser to the Recipient and includes without limitation all information relating to Intellectual Property (as defined) and includes without limitation any such information in any document (whether in hard form or electronic) that is marked

“confidential”, “secret”, “not to be disclosed”, “private” or with similar words and also includes all information which by its nature is confidential.

“**Convention**” means any convention or treaty applying to the United Kingdom or to the country in which the Recipient is incorporated or carries on business and includes without limitation the international Agreement of Trade Related Aspects of Intellectual Property Rights, the Berne Convention for the Protection of Literary and Artistic Works, the WIPO Copyright Treaty 1996 and any other applicable conventions or treaties in anyway dealing with international rights pertaining to Intellectual Property or Confidential Information.

“**Disclose**” means any conduct, statement, act or omission or other step giving rise to a Disclosure of Confidential Information to the Recipient by the Discloser.

“**Discloser**” means the Discloser, and any of its employees, agents, consultants or representatives that make a Disclosure to the Recipient.

“**Discloser’s Products**” means products of whatsoever kind or nature designed, manufactured, sold, distributed, marketed or hired out by the Discloser at any time and all services provided by the Discloser at any time as part of the Business.

“**Disclosure**” means any communication by the Discloser to the Recipient at any time whether before or after this Deed, and whether orally, in writing or electronically or any Disclosure of Confidential Information by the Discloser to the Recipient through any permitted or not permitted observation by the Recipient.

“**Intellectual Property**” means all Intellectual Property recognised by Legislation and/or by any Convention and also includes product, ideas, design concepts, product designs (whether registered or not), trade marks, copyright and rights in the nature of copyright, patents and any rights under licence or agreement relating to any of the foregoing.

“**Legislation**” means all statutes, Acts of parliament, regulations, by-laws, codes of practice, and other enactments of the Territories and Commonwealth of the United Kingdom and of any foreign state or country which are in any way applicable or relevant to the rights or obligations of the parties hereto.

“**Permitted Use**” means the use by the Recipient of the Confidential Information for the Permitted Purpose.

“**Permitted Purpose**” means the purpose set out in Part A of the Schedule which is the purpose for which the Recipient has requested Disclosure.

“**Public Domain**” means all information which the Recipient can prove:

- (a) was in the public knowledge or literature at the time of Disclosure; or

- (b) was already in its possession at the time of Disclosure by the Discloser without any obligation of confidentiality;
- (c) subsequent to its Disclosure and without fault of the Recipient becomes part of the public knowledge; or
- (d) was or is disclosed to the Recipient without obligation of confidentiality by a third party having the legal right to make such disclosure.

“Recipient” means the Recipient, any of its employees, agents, consultants or representatives who is a recipient of any Disclosure. Such persons will for all purposes be deemed to be the Recipient.

“Trade Secrets” means all trade secrets of whatsoever kind or nature including but not limited to all know how and information as to processes, systems, strategies, configurations, components, results of tests or trials of the Discloser’s Products, data, performance capabilities, engineering, design or technical compatibilities of the Discloser Products with other products, capacities of the Discloser’s Products, test or trial procedures, reports on the Discloser’s Products and other like or similar information and/or research directly or indirectly in anyway relating to the Discloser’s Products.

2. INTERPRETATION

2.1. In this Deed:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing gender include any gender;
- (c) an expression importing a natural person includes a company, partnership, joint venture, association, corporation or other body corporate or any government agency;
- (d) references to parts, clauses or parties are references to parts and clauses of and parties to this Deed;
- (e) a reference to any statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws amending, varying, consolidating or replacing them and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
- (f) a reference to a thing includes a part of that thing;
- (g) a reference to an entity or organisation includes a reference to that entity’s employees, officers and agents;
- (h) a reference to a party includes a reference to that party’s lawful successors in title and legal personal representatives.

3. UNDERTAKING AS TO CONFIDENTIALITY

- 3.1. The Recipient acknowledges to the Discloser that the Confidential Information is confidential to the Discloser and undertakes to the Discloser that it will not directly or indirectly use any of the Confidential Information at any time Disclosed to it by the Discloser for any purpose other than the Permitted Purpose.
- 3.2. The Recipient undertakes to and covenants with the Discloser that it will not directly or indirectly permit any third party to have access to any Confidential Information Disclosed to it by the Discloser and further will not by any means of communication pass on or disclose any Confidential Information to any third party.
- 3.3. Nothing in this Deed shall be construed as creating or as granting to the Recipient any rights to use the Confidential Information except for the Permitted Purpose.
- 3.4. Where in the course of any Permitted Use by the Recipient any third party accesses the Confidential Information or any part thereof, the Recipient must take all steps to ensure that person does not disclose or use the Confidential Information for anything other than the Permitted Purpose. The Recipient must also notify the Discloser in writing of such person, his or her full details, the date of and circumstances in which access occurred, the Confidential Information accessed and the steps taken to prevent wrongful use.

4. ACKNOWLEDGEMENT OF OWNERSHIP OF INTELLECTUAL PROPERTY

- 4.1. The Recipient acknowledges that the Discloser is the sole and exclusive owner both in law and in equity of all the Intellectual Property and that it will not at anytime dispute the Discloser's sole and exclusive ownership therein. The Recipient further acknowledges and undertakes to the Discloser that to the extent to which it has access to the Intellectual Property it will only use such access for the Permitted Purpose and will not allow any third party to have access to the Intellectual Property.
- 4.2. Nothing in this Deed shall be construed as creating or granting to the Recipient any licence, rights or interest in the Intellectual Property.
- 4.3. The Recipient expressly acknowledges that the Discloser shall remain the sole and exclusive owner of all documents, drawings, plans, designs and writings that are provided by the Discloser to the Recipient.



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