

NON-DISCLOSURE AGREEMENT

THIS AGREEMENT is made on [xxx]

BETWEEN:

- (1) **THE INFORMATION COMMISSIONER (A CORPORATION SOLE APPOINTED BY HER MAJESTY THE QUEEN)** whose head office is at Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF (the "**Commissioner**"); and
 - (2) [XXXXXX] (the "**Secondee**"),
- each a "**Party**", and together, the "**Parties**".

1. DEFINITIONS

Confidential Information means all information in whatever form (including written, oral or electronic), relating to the business, services, products, affairs or finances of the Commissioner that is confidential in nature, including all information marked "confidential", "official" or "official sensitive".

Data Protection Law means all applicable data protection and privacy legislation in force from time to time in the UK including the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) (UK UKGDPR); the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder) and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party (all as amended, updated or re-enacted from time to time).

Personal Data means any information relating to an identified or identifiable living individual as more particularly set out in the Data Protection Law.

Representatives means:

- anyone to whom the Commissioner agrees in writing that Confidential Information may be disclosed in connection with the Secondment Activity.

Restricted Matter means any Secondment Activity which you were involved with to a material extent during your secondment.

Secondment Activity means the activities conducted by the Secondee pursuant to the Secondment Agreement between the

Commissioner and their employer ([insert firm's name]) dated [xxx].

2. PROTECTION OF CONFIDENTIAL INFORMATION

The Secondee agrees to:

- 2.1 keep the Confidential Information secret and confidential;
- 2.2 not use or exploit the Confidential Information in any way except in respect of performance of the Secondment Activity;
- 2.3 not directly or indirectly disclose or make available any Confidential Information in whole or in part to any person, except as expressly permitted by, and in accordance with, this agreement;
- 2.4 not copy, reduce to writing or otherwise record the Confidential Information except as strictly necessary for the Secondment Activity. Any such copies, reductions to writing and records shall be the property of the Commissioner;
- 2.5 not use, reproduce, transform or store the Confidential Information in an externally accessible computer or electronic information retrieval system or transmit it in any form or by any means outside its usual place of business except as agreed in writing by the Commissioner;
- 2.6 keep a written record of any copies made of the Confidential Information;
- 2.7 ensure that any document or other records containing Confidential Information is kept in a locked cabinet at its usual place of business and shall not remove or allow those documents and records to be moved from its usual place of business except as agreed in writing by the Commissioner.

3. PERMITTED DISCLOSURE

- 3.1 The Secondee may disclose the Confidential Information to its Representatives on the basis that it:
 - 3.1.1 identifies those Representatives to the Commissioner prior to such disclosure being made and that those Representatives strictly need to receive and consider Confidential Information for the purposes of the Services;
 - 3.1.2 procures that those Representatives are provided with a copy of this agreement and observe its terms as if they

were a Party to the agreement and, if the Commissioner so requests, procure that any relevant Representative enters into a confidentiality agreement with the Commissioner on terms equivalent to those contained in this agreement or on such terms as the Commissioner shall otherwise deem appropriate; and

- 3.1.3 keeps a written record of those Representatives and what Confidential Information such Representatives receive from time to time.

4. MANDATORY DISCLOSURE

- 4.1 Subject to the provisions of clauses 4.2 and 4.3, the Secundee may disclose Confidential Information to the minimum extent required by:
 - 4.1.1 an order of any court of competent jurisdiction or any regulatory, judicial, governmental or similar body or any taxation authority of competent jurisdiction;
 - 4.1.2 the rules of any listing authority or stock exchange on which its shares are listed or traded; or
 - 4.1.3 the laws or regulations of any country to which their employer ([**insert firm's name**]) affairs are subject.
- 4.2 If the Secundee becomes (or it is reasonably likely that it will become) compelled by law or the rules of any applicable regulatory, governmental, supervisory or other body to whose jurisdiction the Secundee is subject, to disclose any Confidential Information as contemplated by clause 4.1, the Secundee will, where and to the extent permitted by law or any such rules, immediately notify the Commissioner so that the Commissioner may seek any appropriate means to prevent or minimise that disclosure or waive compliance with the provisions of this agreement and the Secundee will co-operate with the Commissioner and the Commissioner's Representatives and take such steps as the Commissioner may reasonably require for that purpose.
- 4.3 If the Secundee is unable to inform the Commissioner before Confidential Information is disclosed pursuant to clause 4.1, it shall, to the extent permitted by law or regulation, inform the Commissioner of the full circumstances, timing, content and manner of the disclosure and the Information that has been disclosed as soon as reasonably practicable after such disclosure has been made. Furthermore, the Secundee will only disclose that

portion of the relevant Confidential Information which its legal advisers advise in writing must by law or regulation be disclosed.

- 4.4 The Secundee will, to the extent permitted by law or regulation, immediately notify the Commissioner of the full circumstances of any breach, or threatened breach, of this agreement upon becoming aware of such breach or threatened breach.

5. RETURN OR DESTRUCTION OF CONFIDENTIAL INFORMATION

- 5.1 The Secundee shall, upon seven days of a request by the Commissioner or upon cessation of the provision of the Secondment Activity (whichever occurs sooner):

- 5.1.1 Securely destroy or securely return to the Commissioner all hard copy documents and materials which are in a form reasonably capable of delivery containing, reflecting, incorporating or based on any Confidential Information, including any copies which have been made by or on behalf of the Secundee or its Representatives other than the Secundee's or its Representatives' own proprietary Information which the Secundee or they will destroy;

- 5.1.2 Securely return any storage device or other hardware provided by the Commissioner;

- 5.1.3 Securely erase all the Confidential Information and any software provided by the Commissioner from the Secundee's computer, communications systems and devices;

- 5.1.4 To the extent technically and legally practicable, erase or procure the erasure of all the Confidential Information which is stored in electronic form on systems and data storage services provided by third parties;

- 5.1.5 ensure that, to the extent technically and legally practicable, where Confidential Information has not been returned or erased under clauses 6.1.1, 6.1.2, 6.1.3 or 6.1.4 above, no step will be taken to access or recover such Confidential Information from any computer, word processor, telephone or other device containing such Information or which is otherwise stored or held in electronic, digital or other machine readable form; and

- 5.1.6 certify, within seven days of such demand or cessation of provision of the Secondment Activity, in writing to the

Commissioner that it has and that its Representatives have complied with the requirements of this clause 5.1.

- 5.2 Nothing in clause 5.1 shall require the Secondee to return or destroy any documents and materials containing or based on the Confidential Information that the Secondee is required to retain by applicable law, or to satisfy the requirements of the Solicitor's Regulation Authority or another regulatory authority or body of competent jurisdiction to which it is subject. The provisions of this agreement shall continue to apply to any documents and materials retained by the Secondee pursuant to this clause 5.2.

6. DATA PROTECTION

- 6.1 The Secondee acknowledges that Confidential Information may include Personal Data, the handling or processing of which may be subject to the requirements of Data Protection Law. Without limitation to any other term of this agreement, in relation to the Personal Data the Secondee will:

- 6.1.1 comply with all relevant provisions of Data Protection Law;
- 6.1.2 comply with relevant Commissioner policies, and immediately notify the Commissioner of any unauthorised use or incidents that could amount to a breach of Data Protection Law; and
- 6.1.3 promptly provide to the Commissioner such full co-operation, information and assistance as the Commissioner may from time to time reasonably request in connection with Data Protection Law.

7. RESTRICTIVE COVENANT

- 7.1 The Secondee covenants with that the Commissioner that they shall not:
- (a) for 12 months after Termination in respect of any business concern which is involved or engaged with any Restricted Matter, be involved in any way with such Restricted Matter.
 - (b) at any time after Termination, represent yourself as connected with the Commissioner in any capacity, other than as a former secondee, or use any registered business names or trading names associated with us.
- 7.2 The restrictions imposed by Clause 7.1, apply to the Secondee acting:

- 7.2.1 directly or indirectly; and
- 7.2.2 on their own behalf or on behalf of, or in conjunction with any firm, company, partnership or other natural or legal person.

8. DURATION OF OBLIGATIONS

- 8.1 The Seconded's obligations under this agreement are continuing and will continue after the Services have been provided, subject to paragraph 8.2.
- 8.2 The Seconded's obligations will cease to apply to the extent any particular Confidential Information:
 - 8.2.1 is, or becomes, generally available to the public other than:
 - 8.2.1.1 as a direct or indirect result of the Confidential Information being disclosed in breach of this agreement by the Seconded (or a third party acting on its behalf or under its control), or
 - 8.2.1.2 in circumstances which the Seconded knows (or ought reasonably to have known) has been disclosed in breach of any duty of confidentiality owed to the Commissioner;
 - 8.2.2 was available to the Seconded on a non-confidential basis prior to disclosure by the Commissioner;
 - 8.2.3 was, is, or becomes available to the Seconded on a non-confidential basis from a person who is not under any confidentiality obligation in respect of that information;
 - 8.2.4 is confirmed by the Commissioner not to be treated as Confidential Information.

9. COMMISSIONER'S TRANSPARENCY OBLIGATIONS

- 9.1 The Seconded acknowledges that under the Freedom of Information Act 2000, the Environmental Information Regulations 2004, or other laws, regulations or government guidelines the Commissioner may be required to publish details of the Secondment Activity and the Seconded, including details of this agreement. Such disclosure may be made without informing or consulting with the Seconded.

10. GENERAL

- 10.1 Neither Party shall assign or transfer any of its rights and obligations under this agreement.
- 10.2 This agreement constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 10.3 In this agreement, the word "including" shall mean "including without limitation".
- 10.4 The Commissioner reserves all his rights in the Confidential Information. Disclosure to the Seconded or their Representatives does not give them or any other person a licence or any other rights that are not set out in this agreement or otherwise expressly agreed in writing with the Commissioner.
- 10.5 No variation of this agreement shall be effective unless it is in writing and signed by the parties to this agreement (or their authorised representatives).
- 10.6 If any provision or part-provision of this agreement is held by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this agreement to the fullest extent permitted by law.
- 10.7 The Parties submit to the exclusive jurisdiction of the English courts and agree that this agreement and any non-contractual obligations and other matters arising from or connected with it are to be governed by and construed in accordance with English law

IN WITNESS of which this agreement has been duly executed by the Parties the day and year first above written:

[NAME] for and on behalf of
The Information Commissioner

Signature.....

Name

Title

Date

[NAME]

Signature

Name

Title

Date.....