

Non-Disclosure Agreement

Parties: (“ ”);
 [name of agency and its address] (“**Agency**”).

Dated: [2003]

Introduction: [xxxxxxx] wishes to enter into discussions with the Agency regarding the possible provision by the Agency of marketing and related services to [xxxxxxx] , during which each party may disclose (“**Disclosing Party**”) Confidential Information (defined below) to the other (“**Receiving Party**”). These terms will apply to any such disclosure and any subsequent disclosure pending the parties entering into a services agreement (if any).

The obligations of Confidentiality: The Receiving Party shall not without the Disclosing Party’s prior written consent:

- copy or disclose any Confidential Information to any person other than its employees and / or its Affiliates, or any contractor that the Disclosing Party has first approved, who will be directly working on evaluating the possibility of or implementing the provision of marketing and related services to [xxxxxxx] ; or
- use or allow the use of any Confidential Information for any purpose other than evaluating the possibility of or implementing the provision of the services to [xxxxxxx] .

The Receiving Party shall:

- ensure that each employee (or any contractor that the Disclosing party has first approved) to whom Confidential Information is disclosed is aware of and complies with these terms;
- indemnify the Disclosing Party against any cost, loss or damage which it incurs due to any breach of these terms by its employees or permitted contractors; and
- if requested by the Disclosing Party, return (or if so requested, destroy or delete) any Confidential Information (and all copies of it in any form or media). Any destruction or deletion of Confidential Information must be certified in writing by the other party’s authorised officer.

In this Clause “Affiliates” means in respect of a party its subsidiaries and its holding company (as both such terms are defined in section 736 of the Companies Act 1985) provided that before sharing Confidential Information with its Affiliates the relevant party shall be responsible for obtaining agreement of the Affiliate to deal with the Confidential Information on no less onerous terms than is detailed in this Clause.

General: It is acknowledged that damages would not be an adequate remedy for breach of these terms and each party is entitled to seek equitable relief for threatened or actual breach of them. No right or licence is granted in relation to the other party’s Confidential Information and the Disclosing Party retains all rights, title and interest to its Confidential Information. This agreement shall be governed by the laws of England, the parties submit to the exclusive jurisdiction of the English Courts and it may be executed in counterparts which together will constitute the same document.

Agreed by the parties:
 Signed on behalf of [xxxxxxx] :

.....

Signed on behalf of **the Agency:**

.....

“Confidential Information” means all information (whether oral, written or electronically stored) relating to the Disclosing Party, and its subsidiaries including, without limitation, all customer information, business plans, financial, technical, operational, staff and management information, data and know how in any form or media directly or indirectly disclosed by or on behalf of the Disclosing Party or its subsidiaries and includes the existence of discussions between the parties; and all information generated using any of the above information **but excludes** information:

- publicly available other than by breach of a duty of confidentiality;
- in the Receiving Party’s prior possession and not acquired directly or indirectly from the Disclosing Party, its subsidiaries or another person under an obligation of confidence;
- required to be disclosed by applicable law or stock exchange (provided that prior to such disclosure the Disclosing Party agrees with the proposed form of disclosure); and
- developed independently without use of any information acquired directly or indirectly from the Disclosing Party or its subsidiaries.