**TEMPLATE CONFIDENTIALITY AGREEMENT**

Complements of Philip Mendes, Innovation Law.

**Instructions for Use**

This Confidentiality Agreement is both a one way and a two way document. It can be used when one party makes a disclosure to the other, or when both parties make disclosures to each other.

The agreement accommodates the format and style of Recipients Where the other party is Australian, or from New Zealand or the UK,

In a few locations on the agreement further detail will need to be inserted. These locations are indicated by an asterisk \*.

The agreement is intentionally short. These are not the types of agreements over which to haggle and stress relationships. They are meant to be tools. Long Confidentiality Agreements tend to stress relationships, at a time when relationships should be in the building phase.

Please note - more robust confidentiality agreements are sometimes needed. This agreement however should be useful 95% of the time.

[1] = Client’s Full name

# CONFIDENTIALITY AGREEMENT

**THIS AGREEMENT** is made on the day of two thousand and ………

|  |  |
| --- | --- |
| **BETWEEN** | **[1]** of \* |
| **AND** | **\*** |

# BACKGROUND:

1. The parties wish to have discussions in relation to the Project.
2. In the course of those discussions there will be disclosure of Confidential Information.
3. The Confidential Information has an unique value to the Discloser, and may be the basis of applications for patents.
4. The Discloser will be prejudiced by any unauthorised use or disclosure of the Confidential Information, may be precluded from being granted patents, and may suffer financial loss as a result of unauthorised disclosure or unauthorised use of the Confidential Information.

# THIS AGREEMENT PROVIDES 1. MEANINGS

In this Agreement, the following words have the following meanings:

**Confidential Information** means all information relating to the Project including inventions; discoveries; facts; data; ideas; manner, method or process of manufacture; method or principle of construction; chemical composition or formulation; techniques; products; prototypes; processes; names; know how; routines; specifications; drawings; trade secrets; technology methods; computer programs; works in respect to which

copyright subsists; circuit board layouts; and other knowledge;

**Discloser** means a party to this Agreement which discloses Confidential Information to another party

**Projec**t means \*

**Purpose** means \*

**Recipient** means a party to this Agreement to whom Confidential Information is disclosed.

# 2. DISCLOSURE

1. The Discloser will disclose the Confidential Information to the Recipient as soon as practicable after the date of this Agreement.

# USE OF CONFIDENTIAL INFORMATION

* 1. The Recipient must use the Confidential Information only for the Purpose, and must not use the Confidential Information for any other purpose.
  2. The Recipient must not lodge any patent application or any other application for the statutory protection of the Confidential Information, without the prior written consent of the Discloser.

# EMPLOYEES AND DIRECTORS

The Recipient may only disclose Confidential Information to a director, officer or employee who is bound by obligations of confidentiality to the Recipient at least to the extent imposed upon the Recipient by this Agreement.

# CONFIDENTIALITY

* 1. The Recipient must keep the Confidential Information secret and confidential.
  2. The Recipient must not disclose to any person or make known in any manner any part of the Confidential Information.
  3. The Recipient must keep the Confidential Information in a secure place so as to ensure that unauthorised persons do not have access to the Confidential Information.
  4. The Recipient acknowledges that damages may be an inadequate remedy to the Discloser in the event of any breach of this Agreement occurring, and that only an injunction might be adequate to properly protect the interests of the Discloser.

# WRITTEN CONSENT

* 1. The Discloser may consent to the Recipient making a disclosure or relieve the Recipient from complying with the whole or any part of this Agreement. Such a consent can only be in writing.
  2. The Discloser may consent pursuant to clause 6.1 subject to conditions, including a condition that the person to whom the Recipient proposes to disclose executes in favour of the Discloser a Confidentiality Agreement upon the same terms as this Agreement.

# ENDING OF CONFIDENTIALITY

The Recipient shall be relieved from the Recipient's obligations of confidentiality in this Agreement in respect to any part of the Confidential Information which:

1. the Recipient can show was in the possession of the Recipient as at the date of the disclosure; or
2. the Recipient can show is or becomes part of the public domain otherwise than by a breach of this Agreement; or
3. the Recipient can show was received in good faith from a person entitled to provide it to the Recipient; or
4. the Recipient can show was independently developed by the Recipient, by employees who did not have access to the Confidential Information.

# DURATION OF CONFIDENTIALITY

* 1. The duration of the obligations in this agreement is seven years.
  2. The obligations of confidentiality and non use upon the Recipient in this Agreement end upon the expiration of that period.

# RETURN OF CONFIDENTIAL INFORMATION

* 1. The Discloser may at any time by notice in writing to the Recipient require the return to it of the Confidential Information.
  2. Within 7 days of receipt of such a notice the Recipient must deliver to the Discloser all Confidential Information in its possession disclosed or provided by the Discloser together with all copies of all Confidential Information in its possession:
     1. provided by the Discloser; or
     2. which the Recipient has for any reason made,
  3. Any part of the Confidential Information which cannot conveniently be returned by the Recipient to the Discloser shall be completely destroyed in such manner and at such time as directed by , including by deletion from all computer records and electronic or magnetic storage devices.

# GOVERNING LAW

This Agreement is made and entered into in Queensland. The parties agree to submit themselves to the non-exclusive jurisdiction of the courts in that place.

SIGNATURES OF PARTIES

This Agreement shall be effective when signed by all parties, and its effective date is the latest of the dates set out below.

|  |  |
| --- | --- |
| SIGNED on behalf of [1] BY  Print Name  Signature date | SIGNED on behalf of \* BY  Print Name  Signature date |

The content of this document is intended only to increase awareness and provide general information on the topic. It does not constitute legal advice. Neither the Centre for Innovation nor the Australian Institute for Commercialisation accept responsibility for the accuracy of the content of this document nor do they accept responsibility for any actions undertaken based on the content of this document. Professional legal advice should be obtained before relying on any of the content of this document. The Centre for Innovation and the Australian Institute for Commercialisation disclaim all responsibility for any losses arising from reliance on information contained within this document.