Powered By:

COMPANY WELLNESS Solutions
Making Your Workplace Better

CONFIDENTIALITY, NON-DISCLOSURE AND NON-CIRCUMVENTION AGREEMENT

SOUTH AFRICAN COID INSTITUTE (PTY) LTD

(Reg. No. 2019/564778/07)

and

_____

The Client

(Reg. No. ____/_____/__)

CONFIDENTIALITY, NON-DISCLOSURE AND NON-CIRCUMVENTION AGREEMENT

1. PARTIES

1.1 The parties to this agreement are:

South Africa COID Institute (Pty) Ltd

and

_____

1.2 The parties agree as set out below.

2. INTRODUCTION AND PURPOSE

2.1 The parties wish to disclose confidential information to each other. Each party has information, which may be used in possible future business arrangements or transactions.

2.2 The discussions in this process will require the disclosure of information of a proprietary and confidential nature.

2.3The parties wish to record the terms and conditions upon which such information will be disclosed.

3. INTERPRETATION

3.1 In this agreement, unless inconsistent with or otherwise indicated by the context:

3.1.1 "The / this agreement" means the agreement as set out herein, including the introductions hereto and all annexures, if any.

3.1.2 "confidential information" means, without limiting the generality of the term, any

3.1.2.1 Technical, scientific, commercial, financial or market information, know-how or trade secrets;

3.1.2.2 Data concerning business relationships, samples, devices, demonstrations, processes or machinery;

3.1.2.3 Designs, drawings and technical specifications, and all other information in whatever form, whether or not subject to or protected by common law or statutory laws relating to copyright, patent, trademarks, registered or unregistered, or otherwise, disclosed or communicated to the receiving party or acquired by the receiving party from the divulging party pursuant to this agreement;

3.1.3 "The divulging / or disclosing party" means the party disclosing confidential information;

3.1.4 "The parties" means the parties to this agreement;

3.1.5 "The receiving party" means the party receiving confidential information.

3.1.6. Unless the context indicates otherwise, the singular shall include the plural and vice versa, the masculine gender shall include the other two genders, and vice versa, natural persons shall include juristic persons and vice versa.

“effective date” shall mean the date of the last party signing this agreement, but not later than one calendar month from the first party signing the agreement.

4. RESTRICTIONS ON DISCLOSURE AND USE OF INFORMATION

4.1 The receiving party may disclose the confidential information only to its associates and, if applicable, to its employees and then only to such associates and employees to whom such access is reasonably necessary - provided that such associates, officers and employees agree to be bound by the terms and conditions of this agreement.

4.2 The receiving party agrees:

4.2.1 Not to disclose the confidential information to any third party for any reason or purpose whatsoever without the prior written consent of the disclosing party, save in accordance with the provisions of this agreement;

4.2.2 Not to utilise, employ, exploit or in any other manner whatsoever use the confidential information disclosed pursuant to the provisions of this agreement for any purpose whatsoever other than for purposes of this agreement without the prior written consent of the disclosing party;

4.2.3 That the unauthorised disclosure of the confidential information to a third party may cause irreparable loss, harm and damage to the disclosing party. Accordingly, the disclosing party may hold the receiving party liable for any losses, actions, expenses, claims, harm or damage, direct in nature, suffered or sustained by the disclosing party pursuant to a breach by the receiving party of the provisions of this agreement.

4.3 Unless the parties otherwise agree in writing, any documentation or records relating to the disclosing party's confidential information which comes into the possession of the receiving party during the existence of this agreement or at any time thereafter:

4.3.1 shall be deemed to form part of the confidential information of the disclosing party:

4.3.2 shall be deemed to be the property of the disclosing party;

4.3.3 shall not be copied, reproduced, published or circulated by the receiving party;

4.4 The receiving party shall procure that any of his employees, professional advisors or other persons who may have the opportunity to access any of the confidential information of the disclosing party are aware of and are bound by this agreement. The receiving party agrees to use his best endeavours to procure that such employees, professional advisors and related persons will be bound by this agreement even after their relationship with the receiving party has been terminated.

5. TITLE

All confidential information disclosed by the disclosing party to the receiving party is acknowledged by the receiving party;

5.1to be proprietary to the disclosing party; and

5.2not to confer any rights of whatever nature in such confidential information to the receiving party.

6. STANDARD OF CARE

The receiving party agrees to protect and handle the confidential information of the disclosing party using the same standard of care used to safeguard its own information of a confidential nature.

7. EXCLUDED INFORMATION

The obligations of the receiving party pursuant to the provisions of this agreement shall not apply to any information that:

7.1 is known to or in possession of the receiving party prior to disclosure thereof by the disclosing party;

7.2 is or becomes publicly known, otherwise than pursuant to a breach of this agreement by the receiving party;

7.3 or required independently of the disclosing party by the receiving party in circumstances that do not amount to a breach of the provisions of this agreement;

7.4 is disclosed by the receiving party to satisfy the Order of a Court of competent jurisdiction or to comply with the provisions of any law or regulations in force; provided that in these circumstances, the receiving party shall advise the disclosing party in writing prior to such disclosure.

7.5 is disclosed to a third party pursuant to the prior written authorisation from the disclosing party;

7.6 is received by a party in good faith from a third party in circumstances that do not amount to a breach of the provisions of this agreement.

8. GOVERNING LAW

This agreement shall be governed by and construed and interpreted in accordance with the laws of the Republic of South Africa. The parties hereby consent and submit to the jurisdiction of a relevant magistrates court, in terms of section 45 of the Magistrates Court Act 32 of 1944, notwithstanding that the amount claimed or the value of the matter in dispute exceeds such jurisdiction without prejudice to the rights of either party to initiate action elsewhere or in a court of superior jurisdiction.

9. NOTICES AND DOMICILIA

9.1 The parties choose as their domicilia citandi et executandi their respective addressed set out in this clause for all purposes arising out of or in connection with this agreement at which addresses all processes and notices arising out of or in connection with this agreement, its breach or termination may validly be served upon or delivered to the parties. Any notification shall be served via e-mail in parallel to any other means of dispatch.

9.2 For purposes of this agreement the parties' respective addresses shall be:

9.2.1 SOUTH AFRICAN COID INSTITUTE

17 Glenhove Rd

Rosebank

2196

For attention of Mr Gerhard Barnard

Email: gerhardb@coidinstitute.co.za / rays@coidinstitute.co.za

9.2.2 _____

_____

_____

_____

For attention of _____

Email: _____

or at such other address, not being a post office box or poste restante, of which the party concerned may notify the other/s in writing.

9.3 Any notice given in terms of this agreement shall be in writing and shall -

9.3.1 if delivered by hand be deemed to have been duly received by the addressee on the date of delivery;

9.3.2 if posted by prepaid registered post be deemed to have been received by the addressee on the 8th (eighth) day following the date of such posting;

9.3.3 if transmitted by facsimile be deemed to have been received by the addressee 1 (one) day after despatch.

9.4 Notwithstanding anything to the contrary contained in this agreement, a written notice or communication actually received by one of the parties from another including by way of e-mail or facsimile transmission shall be adequate written notice or communication to such party.

10. WHOLE AGREEMENT

This agreement constitutes the whole agreement between the parties as to the subject-matter hereof and no agreements, representations or warranties between the parties other than those set out herein are binding on the parties.

11. VARIATION

No addition to or variation, consensual cancellation or waiver of related rights shall be of any force or effect unless reduced to writing and signed by both/either the parties or their duly authorised representatives.

12. AMENDMENT

No latitude, extension of time or other indulgence given or allowed by either party to any other party in respect of the performance of any obligation hereunder shall be construed to be an implied consent for waiver or novation of rights in terms of or arising from this agreement.

13. NON-CIRCUMVENTION

13.1. At any time prior to the expiration of the term from the date of this agreement, it is expressly agreed that the identities of any individual or entity and any other third parties (including, without limitation, suppliers, customers, financial sources, manufacturers, employees and consultants) discussed and made available by the Disclosing Party in respect of the Purpose and any related

business opportunity shall constitute Confidential Information and the Recipient or any Group company or associated entity or individual shall not (without the prior written consent of, or having entered into a commission agreement with, the Disclosing Party):

13.1.1. directly or indirectly initiate, solicit, negotiate, contract or enter into any business transactions, agreements or undertakings with any such third party identified or introduced by the Disclosing Party; or

13.1.2. seek to by-pass, compete, avoid or circumvent the Disclosing Party from any business opportunity that relates to the Purpose by utilising any Confidential Information or by otherwise exploiting or deriving any benefit from the Confidential Information.

13.2. In the event of breach of this clause and such actions causing loss to any of the parties, the contravening party may be held liable and accountable for such loss.

14. NON-SOLICITATION

The Recipient shall not solicit, interfere with, or endeavour to entice away from the Company or any successor in title - any customer, manufacturer, supplier, franchisee or employee, who was such at the date of signature of this Agreement, or prejudice or attempt to prejudice the relationship between the Company and that person or entity as the case may be, for the duration of the term of this agreement.

15. TERMINATION

This agreement shall endure for a period of 24 (twenty-four) months after signature by the parties and may be extended by joint, written agreement.

16. DATA PROTECTION

16.1 Each Party shall comply with all the obligations imposed on it under the Protection of Personal Information Act, No 4 of 2013 ("POPI", including the following:

16.1.1 to ensure that it has all necessary notices and consents in place to enable lawful transfer of Shared Personal Information to its Affiliates and Authorised Persons for the Permitted Purpose, or another purpose as agreed between the Parties in writing.

16.1.2 to process the Shared Personal Information only for the Permitted Purpose;

16.1.3 not to disclose or allow access to Shared Personal Information to anyone other than the Authorised Representatives or Affiliates;

16.1.4 to ensure that it has in place appropriate, reasonable technical and organisational measures, reviewed and approved by the other Party where practicable, to protect against unauthorised or unlawful processing of any of the Shared Personal Information and against accidental loss or destruction of, or damage to, any of the Shared Personal Information;

16.1.5 not to transfer any of the Shared Personal Information received from the Disclosing Party outside the Republic of South Africa unless the Receiving Party:

16.1.5.1 Complies with one of the appropriate provisions of section 72 of POPI; and

16.1.5.2 Ensures that the transfer is to a country that provides adequate protection pursuant to section 72(1)(a) of POPI.

16.2 Each Party shall assist the other in complying with all applicable requirements of POPI in relation to the Shared Personal Information. In particular, each Party shall:

16.2.1 assist the other Party in ensuring compliance with its obligations under POPI with respect to security, personal information breach notifications, data protection impact assessments and consultations with supervisory authorities or regulators;

16.2.2 notify the other Party without undue delay on becoming aware of any breach of its obligations under POPI; and

16.2.3 maintain complete and accurate records and information to demonstrate its compliance with this clause and allow for audits by the other Party or the other Party's designated auditor where required.

16.3 This data protection clause shall survive any termination, cancellation, or expiration of this Agreement.

Ray FJ Shih

Name + Surname Date Signature

South African COID institute (Duly authorized to sign this agreement)

Name + Surname Date Signature

Client Representative (Duly authorized to sign this agreement)