



[SAMPLE] NON-DISCLOSURE NON-CIRCUMVENT AGREEMENT

This is an example of a non-disclosure and non-circumvent agreement. This agreement will be between your company and VCEFL and is intended to be signed by the authorized personnel of each company.

THA Venture Capital Equity Fund Co. Ltd.
6-10 Post Office St. Scarborough 900212, Tobago
www.tobagoventurecapital.com
tobagoventurecapital@gmail.com
(868) 299-0771 or (868) 639-4412 ext 2705

Non-Disclosure Non-Circumvent Agreement

This Non-Disclosure and Non-Circumvent Agreement (the "Agreement") is made this [INSERT DATE] day of [INSERT MONTH], [INSERT YEAR] **between THA VENTURE CAPITAL EQUITY FUND LIMITED** a company duly incorporated under the Companies Act 1995 of the Laws of Trinidad and Tobago, and having its registered office at Level 1, Victor E. Bruce Financial Complex, 6-10 Post Office Street, Scarborough 900212, Tobago, (hereinafter called "**VCEFL**"), and [INSERT REGISTERED NAME OF COMPANY] of [INSERT COMPANY ADDRESS] (hereinafter called "**[INSERT SHORT FORM OF COMPANY NAME]**").

WHEREAS:

- (1) VCEFL and [INSERT SHORT FORM OF COMPANY NAME] are in discussions with each other to mutually explore opportunities for the provision of investment funding, financial advice, marketing solutions and business development services for research and development in Tobago; and
- (2) The parties agree that in the course of such ongoing discussions [INSERT SHORT FORM OF COMPANY NAME] may be privy to VCEFL's proprietary and confidential information regarding technical, marketing, financial, contact and other project information; and
- (3) The parties are desirous of protecting each other's confidential business information from unauthorized disclosure.
- (4) Both Parties confirm that any corporation, organization, subsidiaries or individual(s) of which is/are related to it or otherwise would benefit from is/are bound by this Agreement.

NOW THEREFORE the parties hereby mutually and irrevocably agree as follows:

1. Definitions

In this Agreement, except where the context or subject matter is inconsistent therewith, the following terms shall have the following meanings:

- 1.1. "Confidential Information" means any and all data and other information (i) which is disclosed by VCEFL to [INSERT SHORT FORM OF COMPANY NAME] in written or other tangible form and clearly marked and/or understood as "Confidential", or (ii) which is disclosed orally or visually and designated as confidential at the time of the oral or visual disclosure and, further, within thirty (30) days after the oral or visual disclosure the summary of which is furnished to Recipient in writing clearly marked as "Confidential".
- 1.2. Confidential Information shall not include information that: (a) was in the public domain at the time it was disclosed or entered the public domain subsequent to such time through no fault of VCEFL (b) was in VCEFL's possession free of any obligation of confidence at the time of disclosure by the Applicant or (c) was rightfully communicated to VCEFL free of any obligations of confidence subsequent to the time of disclosure by the Applicant.

Non-Disclosure Non-Circumvent Agreement

1.3. "Intellectual Property Rights" means all rights, title and interest in and to any and all ideas, discoveries, inventions or creations, and know-how including, without limitation, patents, trade-marks, service marks, designs, integrated circuit topographies, copyrights, including applications for any of the foregoing, as well as design rights, confidential information, trade secrets and any other similar intellectual property rights protected in Trinidad and Tobago and in any other country.

2. Ownership

2.1. VCEFL agrees that Confidential Information imparted to it related to the said request for funding subsequent to the execution of this Agreement shall remain the sole property of [INSERT SHORT FORM OF COMPANY NAME]. Any and all printed, typed, written or other material obtained by VCEFL with respect to Confidential Information shall remain be and remain the exclusive property of [INSERT SHORT FORM OF COMPANY NAME].

3. Non Circumvention

[INSERT SHORT FORM OF COMPANY NAME] hereby agrees:

- 3.1. That neither it nor any corporations, subsidiaries, associates, assigns, designees, partners, entities, employees and/or consultants with whom it is associated, will make and/or attempt to make any contact with, deal or otherwise become involved in any transaction with any institution, corporation, partnership, entity or individual revealed to it by VCEFL , or any other parties with whom it may come in contact in the course of business transacted due to the efforts of any of the parties to this Agreement, without discussing the pertinent details of such transactions with such party and obtaining the expressed written consent of VCEFL .
- 3.2. That it shall keep totally confidential any and all names, facsimile and telephone numbers, plans, strategies, agreements, concessions and/or any other matters arising between the parties hereto, not disclosing to any other person or entity any such.
- 3.3. That it shall not in any manner solicit or accept any business from sources, named suppliers, distributors, manufacturers or their affiliates that are made available by VCEFL to this Agreement without VCEFL's express written permission.
- 3.4. That it will not reveal or contact directly any VCEFL's named investors, financiers, creditors, equity partners, bankers, developers, contractors, service suppliers, distributors and manufacturers and will not circumvent, either directly or indirectly.
- 3.5. If [INSERT SHORT FORM OF COMPANY NAME] does not proceed with any transaction(s) or relationship with VCEFL, [INSERT SHORT FORM OF COMPANY NAME] shall notify VCEFL of that decision and, at that time or at any time, for any reason, VCEFL shall return to [INSERT SHORT FORM OF COMPANY NAME] documents relating to Confidential Information in its possession supplied, compiled or prepared

Non-Disclosure Non-Circumvent Agreement

by [INSERT SHORT FORM OF COMPANY NAME] and shared with VCEFL in connection with the request for investment forthwith upon receipt of a written request to such effect made by [INSERT SHORT FORM OF COMPANY NAME]. The returning of materials shall not relieve VCEFL from compliance with other terms and conditions of this Agreement.

4. Confidentiality and Non-Disclosure

- 4.1. Both Parties shall treat each other's Confidential Information received under this Agreement as proprietary property and maintain such Confidential Information in strict confidence. Neither Party shall disclose any of the other's Confidential Information to any third party or person except the employees of the parties or its subsidiaries who have a legitimate need to know such Confidential Information but only to the extent necessary to evaluate or carry out a proposed transaction or relationship with the party and only if such disclosure is approved in writing and in advance of such disclosure. The Parties shall take reasonable and appropriate action by instruction to or agreement with its employees and its Subsidiaries who are permitted access to Discloser's Confidential Information to satisfy its obligations hereunder.
- 4.2. Nothing in this Agreement shall be construed as granting any rights to VCEFL, by license directly or indirectly, under any patent, trademark, trade secret or other intellectual property.
- 4.3. The Parties may disclose each other's Confidential Information if and to the extent that such disclosure is required by court order, provided that either party provides the other with prompt written notification thereof, thereby giving a reasonable opportunity to review the disclosure before it is made and to interpose its own objection to the disclosure.
- 4.4. VCEFL hereby agrees:
 - 4.4.1. To keep secret all Confidential Information made available to VCEFL in connection with the request for investment funding.
 - 4.4.2. To keep secret and make no use, except for the specific purposes of the consideration of the application, and to take all necessary measures and precautions in order to maintain the confidential, proprietary and secret nature an character, of any or all Confidential Information that [INSERT SHORT FORM OF COMPANY NAME] may provide or furnish to VCEFL, or disclose orally or in writing to VCEFL.
 - 4.4.3. That it will not directly or indirectly disclose to others, use for its own benefit or copy or name notes or records of any Confidential Information that [INSERT SHORT FORM OF COMPANY NAME] may provide or furnish to VCEFL or disclose orally or in writing to VCEFL.

Non-Disclosure Non-Circumvent Agreement

5. Neither the holding of discussions nor the exchange of material or information shall be construed as an obligation of VCEFL to enter into any other agreement with [INSERT SHORT FORM OF COMPANY NAME] or prohibit VCEFL from providing the same or similar information to other parties and entering into agreements with other parties. VCEFL reserves the right, in its sole discretion, to reject any and all proposals made by [INSERT SHORT FORM OF COMPANY NAME] or its representatives with regard to a transaction between [INSERT SHORT FORM OF COMPANY NAME] and VCEFL and to terminate discussions and negotiations with [INSERT SHORT FORM OF COMPANY NAME] at any time.
6. [INSERT SHORT FORM OF COMPANY NAME] understands and acknowledges that any disclosure or misappropriation of any of the Confidential Information in violation of this Agreement may cause VCEFL irreparable harm, the amount of which may be difficult to ascertain, and therefore agrees that VCEFL shall have the right to apply to a court of competent jurisdiction for specific performance and/or an order restraining and enjoining any such further disclosure or breach and for such other relief as VCEFL shall deem appropriate. Such right of VCEFL is to be in addition to the remedies otherwise available to VCEFL at law or in equity. [INSERT SHORT FORM OF COMPANY NAME] expressly waives the defense that a remedy in damages will be adequate and any requirement in an action for specific performance or injunction for the posting of a bond by VCEFL. The parties hereby agree that the existence of any claims which the [INSERT SHORT FORM OF COMPANY NAME] may have against VCEFL, whether under this Agreement or otherwise, shall not be a defense to the enforcement by VCEFL of any of its rights hereunder.

7. Duration and Term

- 7.1. The effective date of this Agreement shall be on the date of the execution thereof.
- 7.2. The Non-Disclosure provisions of this Agreement shall continue in full force and effect at all times. The NON-CIRCUMVENTION provisions of this Agreement shall continue in full force and effect for a period of three (3) years from the date hereof and is to be applied to any and all transactions entertained by the signatories including transactions, which involve subsidiaries and/or companies or entities, including the present transaction.
- 7.3. This agreement shall survive the termination of any discussions or ongoing relationship with VCEFL.

8. Notice

- 8.1. Any notice provided for in this Agreement shall be in writing and will be deemed to have been given: (i) three (3) days after having been mailed by certified or registered mail; (ii) where personal service delivery is made; (iii) where delivery is made by facsimile and a receipt thereof has been retained.
- 8.2. Addressing and delivery is to be made as follows:

If to VCEFL:

Non-Disclosure Non-Circumvent Agreement

Venture Capital Equity Fund Ltd. (VCEFL)
Level 1, Victor E. Bruce Financial Complex
6-10 Post Office St.
Scarborough 900212
Tobago

If to [INSERT SHORT FORM OF COMPANY NAME]

.....
.....
.....
.....

9. General Provisions

9.1. Modification

This agreement constitutes the full and complete understanding of the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous proposals, agreements, representations and understandings, whether written or oral with respect to the subject matter and may not be amended or modified except in writing signed by each of the parties. This agreement does not limit any rights that VCEFL may have under trade secret or any other laws that may be available to VCEFL.

9.2. Binding Agreement

This Agreement and each party's obligations hereunder shall be binding on the representatives, assigns, and successors of such party and shall inure to the benefit of the assigns and successors of such party.

9.3. Governing Law

This agreement shall be governed by and construed in accordance with the laws of Trinidad and Tobago.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day, date and year first written above.

ON BEHALF OF VCEFL

Signed by [INSERT NAME])

)

)

)

Authorized Signature

[INSERT NAME], [INSERT TITLE]

In the presence of: [INSERT NAME]

THA Venture Capital Equity Fund Ltd.

Witness

Non-Disclosure Non-Circumvent Agreement

ON BEHALF OF THE APPLICANT

Signed by [INSERT NAME])

)

)

Authorized Signature

)

[INSERT NAME], [INSERT TITLE]

In the presence of: [INSERT NAME]

[INSERT SHORT FORM OF COMPANY NAME]

Witness

SAMPLE