



MUTUAL NON-DISCLOSURE AGREEMENT

This MUTUAL CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT (the “Agreement”) is made and entered into by and among:

Business Innovation Group Limited (A.C.N. 165 042 517) of The University Centre, Level 8, 210 Clarence Street, Sydney Australia 2000 (“BiG”)

and:

_____ with offices located at
_____. (“The Company”).

Effective as of the _____ day of _____ 2013 (the “Effective Date”).

WHEREAS, in the course of business discussions, The Company and BiG (each a “Party” and together the “Parties”) shall disclose certain confidential and proprietary information to each other in connection with a proposed business relationship between The Company and BiG (the “Transaction”); and

WHEREAS, as a condition to such exchange, each Party (each, a “Disclosing Party”) seeks to bind the other Party (each, a “Receiving Party”) to obligations of confidentiality and limited use with respect to the information it discloses.

NOW, THEREFORE, IN CONSIDERATION of the mutual agreements contained herein and the agreement to exchange information as contemplated hereunder, the Parties agree as follows:

1. Confidential Information means any tangible or intangible information or materials possessed by a Party in whatever form or format relating to the Disclosing Party or its actual or proposed information systems, other business, financial or accounting systems, business procedures or methods, business plans, financial products, marketing plans, results of operations, customers, markets, prospective customers, contracts (actual and proposed) with third parties or personnel directly or indirectly disclosed by the Disclosing Party to the Receiving Party during or in the course of discussions or correspondence arising out of or related to the Transaction whether received before or after the Effective Date. Confidential Information includes all information owned by a third party and disclosed by a Disclosing Party hereunder.
2. Confidential Information does not include information that (i) was in the Receiving Party’s possession prior to receiving the Confidential Information from the Disclosing Party; or (ii) is or later becomes generally available to the public through no fault of the Receiving Party; or (iii) Receiving Party develops internally without benefit of or reference to Disclosing Party’s Confidential Information (burden of proving independent development shall be on the Receiving Party); or (iv) Receiving Party receives from a third party who has the right to disclose such information.



3. The Receiving Party agrees (i) to adopt measures to protect the confidentiality, limited use and proprietary nature of the Confidential Information at least as restrictive as those it adopts for its own confidential information of similar importance and in any event, no less than reasonable; (ii) to disclose Confidential Information to only those of its directors, officers, agents, employees, corporate affiliates and third parties retained by the Receiving Party who have a need to know such information in order for the Receiving Party to accomplish the purposes set forth in Paragraph 4 hereof and who are made aware of the confidentiality provisions of this Agreement (and in the case of a third party, who have signed a binding undertaking of confidentiality and non-use substantially equivalent to this Agreement), and (iii) to not use Confidential Information for any purpose except as permitted by Paragraph 4. A Receiving Party shall be responsible to the Disclosing Party for any unauthorized use or disclosure of Confidential Information by any party to whom Receiving Party has disclosed such information.
4. The Receiving Party may use the Disclosing Party's Confidential Information for the sole purpose of evaluating, negotiating and, in its discretion, entering into the proposed Transaction. A Receiving Party may disclose Confidential Information pursuant to a request by an applicable regulatory authority, or if they are required by law or pursuant to an order of a court of competent jurisdiction to disclose Confidential Information, provided, however, in such event the Receiving Party shall (i) promptly notify the Disclosing Party; (ii) consult with the Disclosing Party as to the advisability of taking steps to resist or narrow such request; and (iii) if so requested, cooperate with the Disclosing Party in seeking a protective order or other appropriate remedy.
5. The Parties shall promptly advise each other in writing if they learn of any unauthorized use or disclosure of Confidential Information by any of their directors, officers, employees, corporate affiliates, agents or by any third party.
6. The Parties agree that, in the event of a breach of this Agreement, monetary damages may not be a sufficient remedy and in addition to any other legal remedy, the non-breaching Party shall be entitled to equitable remedies, including injunctive relief. In the event that any Party takes legal action as a result of a breach of this Agreement, the non-breaching Party shall be entitled to recover reasonable legal fees and expenses incurred in connection with such legal action in the event that it prevails in one or more of its claims.
7. The provisions of this Agreement shall remain in full force and effect beginning as of the Effective Date and shall continue with respect to a Receiving Party for as long as it retains the Confidential Information in its possession and for three (3) years thereafter. A receiving Party shall return or destroy all copies of the Disclosing Party's Confidential Information to the Disclosing Party within ten (10) days after the Disclosing Party's request.
8. No Party may assign its rights under this Agreement without the prior written consent of the other Party. This Agreement will be binding upon the successors, heirs and permitted assigns of the Parties.
9. This Agreement expresses the entire agreement between the Parties and supersedes all prior understandings and discussions between the Parties. This Agreement may only be modified, changed or amended by an agreement in writing executed by the Parties. A waiver of any provision of this Agreement shall not be deemed a waiver of any other provision and shall not be binding unless it is in writing and executed by the Party making such waiver.



- 10. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together constitute one and the same instrument.
- 11. This Agreement shall be governed by the laws of the Commonwealth of Australia and the State of New South Wales for the time being in force and the Parties submit to the exclusive jurisdiction of the courts of New South Wales, the Federal Court and the High Court of Australia, Sydney Registries.

IN WITNESS WHEREOF, the Parties to this Agreement have duly executed this Agreement by their duly authorized representatives.

BiG

Legal name of Person or The Company

Business innovation Group Pty Limited

By: _____
(Authorized Signature)
(in non-black ink, please)

(Name)

(Title)

(Execution Date)

By: _____
(Authorized Signature)
(in non-black ink, please)

(Name)

(Title)

(Execution Date)