



KLD Technologies cc  
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NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT

THIS AGREEMENT is made on \_\_\_\_\_

BETWEEN

DISTRIBUTOR: \_\_\_\_\_

REG. NO: \_\_\_\_\_

whose principal place of business is at:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

And

KLD Technologies cc  
REG. NO.: 2007/156967/23  
whose principal place of business is at:  
827 Witwatersrand Avenue, Strubensvalley,  
Roodepoort, 1724, Gauteng, South Africa

## AGREED TERMS

1. Each party is both the Disclosing Party and the Receiving Party in relation to this agreement and are referred to jointly as “the Parties” and each party agrees to disclose to the other party certain Confidential Information (“the Proprietary Information”) on condition that the Parties comply with the terms of this agreement.
2. For the purposes of this agreement “Confidential Information” means:
  - 2.1. technical, scientific, commercial, financial, juridical, trade or market information, know how or trade secrets; data concerning business relationships, architecture information, demonstrations, processes or machinery; plans, designs, drawings, functional and technical requirements and specifications;
  - 2.2 all information, any information whether written, oral, electronic, website-based, or which can be obtained by examination, testing, visual inspection or analysis or from any other form or process, relating to its suppliers, business methods and mechanisms, strategies, budgets, scientific, business or financial data, formulae, processes, designs, sketches, photographs, plans, drawings, specifications, samples, reports, models, customer lists, price lists, studies, findings, inventions or ideas (whether registered or not), recipes, distinctive styles, production procedures and any other information and disclosures made by the Parties to each other;
  - 2.3 Any information of whatever nature, which has been or may be obtained by the parties from each other, whether in writing or in electronic form or pursuant to discussions between the Parties, or which can be obtained by examination, testing, visual inspection or analysis, including, without limitation, scientific, business or financial data, know-how, formulae, processes, designs, recipes, sketches, photographs, plans, drawings, specifications, sample reports, models, customer lists, price lists, studies, findings, computer software, inventions or ideas; and/or
  - 2.3 Analyses, concepts, compilations, studies and other material prepared by or in possession or control of the Parties which contain or otherwise reflect or are generated from any such information as is specified in this definition; and/or
  - 2.4 Know-how, experience and materials, whether technical, commercial, financial or otherwise, relating to the party making a disclosure and/or its products, business or marketing activities, Proprietary Information, contacts and any information which in the circumstances in which it is made available to the Parties, ought to be treated as confidential and whether in written, oral, machine readable or any other form and including any copies, and whether received before or after the date of this agreement.

3. In consideration of each party disclosing Confidential Information, both Party agrees:
  - 3.1 to hold the Confidential Information in confidence;
  - 3.2 not to disclose, publish or communicate the Confidential Information to any third party;
  - 3.3 to use the Proprietary and Confidential Information only for the Permitted Purpose; and
  - 3.4 to abide by the other terms set out in this agreement.
4. The Parties may only disclose the Confidential Information, save to the extent that the Parties have given to the other prior written consent:  
to those of its clients, employees, officers, agents, affiliates, group companies, advisors, consultants, shareholders or board members who need to know the same for the permitted purpose on the basis that such employees, officers, agents, affiliates, group companies, advisors, consultants, shareholders or board members will keep the same confidential on the terms of this agreement and will not act on such information without the agreement of the relevant Party;
  - 4.1 The Parties may disclose the Confidential Information as required by law or by any regulation or similar provision.
  - 4.2 The Parties shall ensure that those clients, employees, officers, agents, affiliates, group companies, advisors, consultants, shareholders or board members to whom it discloses confidential Information understand that they are bound by the obligations of confidentiality in this agreement. Any breach of any of the terms of this agreement by any such person or any other person to whom the Confidential Information is disclosed by the Parties will be treated as if that Party had committed the breach.
5. The restrictions on use or disclosure of the Confidential Information will not apply to:
  - 5.1 any information which is available to the public (provided that this has not happened because of a breach of this agreement or any other duty of confidentiality between the Parties);
  - 5.2 any information which the Parties possessed prior to disclosure by the Parties and where the Parties were at the time of such disclosure free to disclose that information to others;
  - 5.3 any information independently originated by the Parties or acquired by the Parties from a third party in circumstances in which the Parties are free to disclose it to others; or
  - 5.4 any information which is trivial or obvious.

6. The Confidential Information shall remain the sole property of the Party who provided it. The Parties may, at any time, by written request that the other Party return, destroy or delete (in such a manner that it cannot be recovered) all Confidential Information (including all copies) in its possession or control.
7. The Parties shall take appropriate security measures and keep the Proprietary and confidential Information in such a way as to prevent its unauthorised disclosure.
8. In the event of breach or threatened breach or intended breach of this agreement by either of the Parties, in addition to any other rights and remedies available to the Parties at law or in equity, that Party shall be entitled to preliminary and final injunctions, restraining such breach or threatened breach or intended breach.
9. All copyright and other intellectual property rights in and relating to the Proprietary and confidential information and belonging to each respective Party will remain the property of that party.
10. The Parties make no representation or warranty (express or implied) as to the accuracy or completeness of the Proprietary and Confidential Information.
11. Subject to clause 4, each Party shall keep confidential and not disclose to anyone this agreement without the prior written permission of the other Party.
12. Neither Party may assign or otherwise transfer the rights and obligations under this agreement.
13. If any provision of this agreement is held by any Court or competent authority to be void or unenforceable in whole or in part, the other provisions of this agreement and the remainder of the unaffected provisions shall continue to be valid.
14. This agreement shall remain in full force and in effect for 24 (twenty four) months.
15. The Parties agree that this agreement shall be governed and construed in accordance with the laws of South Africa, and the parties shall submit to the non-exclusive jurisdiction of the South African Courts.
16. Nothing contained in this agreement shall be construed as creating an obligation or expectation on the part of either Party to enter into a business relationship with the other Party, or an obligation to refrain from entering into a business relationship with any third party. Nothing contained in this agreement shall be construed as creating a joint venture, partnership or employment relationship between the Parties. Except as specified herein, neither Party shall have the right, power or implied authority to create any obligation or duty (express, implied or otherwise) on behalf of the other Party.

This agreement has been entered into on the date first written above.

For and behalf of DISTRIBUTOR

SIGNED by: \_\_\_\_\_

Signature:

For and behalf of KLD Technologies cc

SIGNED by: \_\_\_\_\_

Signature: