

# Non-Disclosure Non-Circumvention Agreement

THIS AGREEMENT is entered on the x day of May 2017

Between

PLACE YOUR NAME HERE IN BLACK CAPITALS (NRIC: PLACE YOUR IC NUMBER HERE IN BLACK CAPITALS), of place your address of residence here (the "Artist");

and

[name], a company duly incorporated under the laws of the Republic of Singapore with a registered office at [address] (the "Recipient")

(collectively referred to as the "Parties" and individually as a "Party", which expressions shall include their respective successors-in-title and permitted assigns)

**WHEREAS**, the Artist is arranging some meetings with the Recipient to discuss the **Project** (as more particularly defined under **Annex 1**) and, to this end, the Artist has already disclosed and will continue to disclose certain Confidential Information to the said Recipient; and

**WHEREAS**, the Artist desires to protect her proprietary rights in all information communicated to the Recipient during their discussions and/or meetings and in all such Confidential Information from unauthorized disclosure and use.

It is hereby agreed between the Parties as follows:

## 1. Scope of the Agreement

This Agreement shall apply to all and any part of the Confidential Information (more fully defined in Clause 3, hereunder) disclosed by the Artist prior to, during and after the execution of this Agreement.

## 2. The Purpose

In consideration of the Recipient hereby undertaking to comply with its obligations herein at all material times, the Artist shall disclose to the Recipient, Confidential Information relating to the **Project** (as more particularly defined under **Annex 1**), for the purpose of allowing the

Recipient to evaluate whether the Recipient shall work with the Artist on the Project in any capacity as may be proposed by the Artist (the “**Purpose**”).

### **3. Confidential Information and confidentiality obligations**

3.1 In this Agreement, the term “**Confidential Information**” shall mean any and all information, data or other materials provided by the Artist and disclosed to the Recipient at any time during the course of the discussions and/or meetings between the Parties (including information, data or materials provided by the Artist to the Recipient before the execution of this Agreement by both Parties) relating to the Project by or on behalf of the Artist, orally, in writing or in any other medium, however documented (or not documented) and whether or not marked “Confidential” and includes, without limitation, information on the Project; as well as any and all information regarding the Artist’s objectives, strategies, ideas, forecasts, budgets, projections, personal data, actual or proposed businesses or works/plans; technical data, accounting information; services, products, patents, trade secrets, trademarks, service marks, trade names, trade dress, copyrights (and/or pending applications for any such patents, trademarks, service marks and copyrights), inventions, intangible assets and industrial or proprietary property rights which may or may not be related directly or indirectly to the Artist’s activities, techniques, processes, product specifications, know-how, compositions, designs, sketches, drawings, formats, marketing, concepts, ideas, names, addresses and any other characteristics, identifying information or the Artist’s existing or potential fund sources, customers, employees, vendors or suppliers; or any information derived, summarized or extracted from any of the foregoing. “Confidential Information” shall not include material or information which is: (a) already in the public domain at the time of disclosure, or (b) already known to or independently developed by the Recipient. Any information the Artist discloses or makes available to the Recipient shall be presumed to be Confidential Information and the burden of establishing that such information comes within the foregoing exceptions shall rest with the Recipient.

3.2 The Recipient shall hold in strictest confidence and trust, all Confidential Information, and shall not disclose; or otherwise provide or transfer, directly or indirectly, any Confidential Information or anything related to the Confidential Information to third parties (including but not limited to its affiliates, subsidiaries and business partners except on a need to know basis) without the prior written consent of the Artist. The Recipient may disclose Confidential Information only to its officers and employees who are advised of the terms of this Agreement and then only to the extent necessary to effect the Purpose stated in Clause 2, above. The Recipient shall procure and require its representatives who obtain Confidential Information to comply with this Agreement. The Recipient further agrees to be responsible for any breach of this Agreement by such person(s), jointly and severally with such persons. The Recipient shall maintain the Confidential Information with at least the same degree of care that the Recipient uses to protect their own confidential and proprietary information of a like nature, but in no event shall use less than a reasonable degree of care to protect the Confidential Information belonging to the Artist.

3.3 Unless the Artist instructs the Recipient otherwise in writing prior to such termination, upon termination or completion of the discussions and/or the meetings between the Artist and the Recipient, the Recipient shall permanently cease all use of the information and Confidential Information collated and received from the discussions and/or meetings, before they leave and depart from the last meeting and return to the Artist all information collated and received from the meetings and Confidential Information in whatever form it is held, including any copies thereof after completing their meetings and destroy all memoranda, notes, analyses, compilations, forms and other writings and tangible materials prepared by the Recipient based on the Confidential Information and the Recipient shall adhere to this requirement at all material times that all such documents and materials have been destroyed and that the Recipient does not keep any copies at all with them prior to and after each meeting. In any event, the Recipient shall continue to be bound by their obligations of confidentiality and non-disclosure hereunder with respect to the Confidential Information. For purposes of this provision, "termination" shall occur when the Artist sends an email or other written correspondence to the Recipient that the Artist considers their said discussions are terminated and there is no need to have any more meetings moving forward, or either Artist or the Recipient terminates the said discussions in accordance with their written agreement governing such relationship. The Recipient further agrees to supply to the Artist, a written confirmation of an executive officer of the Recipient that it has fulfilled its obligations under this Clause.

3.4 Other than as expressly permitted by this Agreement, the Recipient shall not do or permit anything to be done in respect of the information derived from the meetings outside the ambit of this Agreement. Without limiting the preceding sentence, the Recipient after the meetings have been conducted shall not: (a) remove or modify or reuse or repurpose any markings or any notice of the Artist's rights after the meeting and the information collated and received thereto; (b) make and re-sell materials resulting from the information collated and received from the meeting thereto and made available to any third party for use in their business; (c) commercially exploit the said information collated and received from the meeting (including by making it available to any third party); and (d) distribute or transmit any part of the information collated and received from the meeting by any means without the knowledge and consent of the Artist.

#### **4. Non-circumvention obligations**

The Recipient agrees not to contact any of the Artist's creative staff; fund sources; suppliers; and customers disclosed to the Recipient for any purpose related to or similar to the Project, and to maintain all communications through the Artist. Any agreement entered into by the Recipient for a transaction which arises directly or indirectly from the Confidential Information shall recognize the Artist's right to be fully reimbursed for all gains (financial or otherwise) obtained by the Recipient from such transaction.

#### **5. No assurances or obligations**

5.1 The Artist agrees the Confidential Information is accurate, but makes no representations or warranties as to its accuracy, completeness or fairness, and the Artist shall not have any liability for any express or implied representations or omissions in the Confidential Information.

5.2 Nothing contained in this Agreement shall be deemed to create a business relationship between the Parties or oblige either Party to enter into further discussions and/or agreements with the other.

## **6. Miscellaneous**

6.1 The Recipient agrees that any and all the information collated and received from the discussions and/or meetings, the Confidential Information is and shall continue to be the sole and exclusive property of the Artist and that title and the right to possess Confidential Information shall at all times remain with the Artist. No right or interest of any kind in Confidential Information is transferred to the Recipient under this Agreement

6.2 The Recipient further understands that, in the event of any breach or threatened breach of this Agreement, the Artist may suffer irreparable harm for which it may not be adequately compensated by monetary damages alone. The Recipient agrees that in the event of any breach or threatened breach of this Agreement, the Artist shall be entitled to injunctive and/or other preliminary or equitable relief, in addition to any or other remedies available by law.

6.3 Any action or process seeking to enforce any provision of, or based on any right arising out of, this Agreement may be brought in the Courts of Malaysia, and each of the Parties consents to the jurisdiction of such courts (and of the appropriate appellate courts) in any such action or proceeding and waives any objection to venue in connection therewith. Process in any such action or proceeding may be served on any Party or any Recipient anywhere. The Recipient hereby waives any requirement that the Artist prove the economic value of any Confidential Information or post a bond or other security in connection with the enforcement of its right hereunder. The Recipient shall also reimburse the Artist for all reasonable costs and expenses, including attorneys' fees, incurred by the Artist in this regard. The validity, interpretation, construction and enforcement of this Agreement shall be governed by the laws of Malaysia.

6.4 This Agreement contains the entire understanding between the Parties relating to this subject matter and supersedes all oral or written agreements between them with respect thereto, and no previous written or oral understandings have been or shall be relied upon.

6.5 The failure of the Artist in any one or more instances to insist upon strict performance of any terms or provisions of this Agreement, or to exercise any option herein conferred, shall not be construed as a waiver or relinquishment to any extent of the right to assert or rely upon any such terms, provisions or options on any future occasion.

6.6 To the extent any provision of this Agreement may be deemed unenforceable, such unenforceability shall not affect any other provision hereof.

6.7 This Agreement shall be binding upon the successors and assigns of the Parties hereto, but the Recipient shall not assign this Agreement without prior written consent of the Artist.

6.8 No amendments modification or waiver of any provision of this Agreement will be effective unless and until it is reduced to writing and signed by all Parties.

6.9 The respective rights and obligations of the Parties hereunder shall survive the termination or expiration of this Agreement.

In witness whereof this Agreement has been entered into the day and year first above written.

**THE ARTIST**

Signed by )

for and on behalf of )

**PLACE YOUR NAME HERE IN CAPITALS** )

In the presence of: )

NAME:

DESIGNATION:

\_\_\_\_\_  
Name of Witness:

**THE RECIPIENT**

Signed by )

For and on behalf of )

\_\_\_\_\_)

)

In the presence of: )

NAME:

DESIGNATION:

\_\_\_\_\_  
Name of Witness:

## Annex 1

Project: *TITLE OF YOUR PROJECT HERE*