

Non- Disclosure Agreement

between

University of Ruhuna



and

.....

This **NON DISCLOSURE AGREEMENT** (“Agreement”) entered into on this.....Two
Thousand and Twenty (2020) (“Effective Date”) by and between:

....., a company duly incorporated in the Democratic Socialist Republic of Sri Lanka under the Companies Act No. 7 of 2007 bearing Company Registration Noand having its registered address atin the said Republic (hereinafter called and referred to as the “**Company**” which term or expression as here in used shall where the context so requires or admits mean and include the said and its successors and permitted assigns)

And

University of Ruhuna, a state university, funded by the University Grants Commission, operated under the Provisions of the Universities Act No. 16 of 1978 (as amended) and having its address at Wallamadama Matara, in the Democratic Socialist Republic of Sri Lanka (hereinafter called and referred to as “**University**” which term shall mean and include the said University of Ruhuna its successors and assigns)

The Company and the University shall hereinafter individually be referred to as the “**Party**” and collectively referred to as the “**Parties**”.

WHEREAS both Company and the University acknowledge that they will each be given access to and obtain knowledge of Confidential Information (as defined below) owned by the other and/or its subsidiaries and affiliates (as may be applicable), through discussions, including meetings, visits, correspondence, presentations and exchange of any related material from time to time for the purpose of assessing the desirability or viability of furthering the business relationship or contractual relationship between the Parties (“**Purpose**”).

NOW WHEREAS in consideration of the mutual disclosure of Confidential Information, Company and the University agree as follows:

1. DEFINITIONS

For purposes of this Agreement, the following terms shall have the meanings set forth below:

1.1. “Confidential Information” means technical, personnel, financial, commercial and or business information, data any other information or knowledge communicated at any time before or after the date of this Agreement, including information of a proprietary, private or confidential nature in written, graphical, oral or otherwise tangible or intangible form whether communicated in writing, orally graphically or by inspections, relating directly or indirectly to the business or affairs of Company or its Affiliates, on the one hand or the University on the other hand. Confidential Information shall include, without limitation, any information or knowledge pertaining to (i) business plans or concepts, business strategies, products, packaging, formulae, specifications, designs, procedures, processes, schematics, models or samples; (ii) retail store operations; (iii) merchandising, advertising, distribution or sales plans, processes, methods or figures; (iv) customer, employee or supplier information; or (v) any financial information; (vi) records, data, databases, computer and software programs, systems, projects, proposals, notes, reports, drawings, materials, product , compounds and compositions; (vii) intellectual property including, trademarks, trade names, patents, inventions, know how, trade secrets; and (viii) such other information relating to the business of Company it affiliates, the University and Technology Transfer Office any information ascertained by the inspection, evaluation and tests or analysis of samples.

1.2. “Disclosing Party” means any Party that discloses Confidential Information. Under this Agreement both Parties may be the Disclosing Party.

1.3. “Receiving Party” means any Party receiving Confidential Information. Under this Agreement both Parties may be the Receiving Party.

1.4. “Representatives” means of a Party are deemed to be the directors, officers, employees, agents or representatives, including, without limitation, lawyers, accountants, consultants and financial advisors as authorized by the respective Party.

2. USE, DISCLOSURE AND REPRODUCTION

2.1. The Receiving Party acknowledges and agrees:

2.1.1. That all Confidential Information acquired by the Receiving Party from the Disclosing Party shall be and shall remain the exclusive property of the Disclosing Party.

2.1.2. To receive in confidence any Confidential Information and apply security and disclosure standards in relation to the Confidential Information which are the same as the standards that it applies to its own most commercially sensitive Confidential Information.

- 2.1.3.** Ensure that Confidential Information is kept confidential and shall not be disclosed to or permitted to be disclosed to any other party than Representatives of the Receiving Party on a need to know basis.
- 2.1.4.** To use such Confidential Information only for the Purpose or analysis related to the matter of mutual interest described above.
- 2.1.5.** When Confidential Information is no longer required for the Purpose of this Agreement and continued use of the Confidential Information is not provided for under a separate agreement, Receiving Party shall return or dispose of any record of the Confidential Information by the Disclosing Party at the written request of the Disclosing Party.
- 2.1.6.** That the disclosure of Confidential Information or the execution of this Agreement shall not be construed as a right to license, to make, use or sell any Confidential Information, intellectual property derived from the Disclosing Party.
- 2.1.7.** Neither the Receiving Party nor its Affiliates, associate and/ or its holding company and all its Representatives shall by any means re-engineer, modify, copy or part with possession of the whole or any part of the Confidential Information.
- 2.1.8.** That its Representatives shall at all times maintain confidentiality of the Confidential Information of the Disclosing Party.

2.2. The following obligations do not apply to Confidential Information which:

- 2.2.1.** As shown by reasonably documented proof, was in the Receiving Party's possession prior to receipt thereof from the disclosure; or
- 2.2.2.** As shown by reasonably documented proof, was received by the Receiving Party in good faith from a third party not subject to a confidential obligation to the Disclosing Party; or
- 2.2.3.** Now is or later becomes publicly known through no breach of confidential obligation by the Receiving Party; or
- 2.2.4.** Is disclosed pursuant to a requirement imposed by a government agency or is otherwise required to be disclosed by operation of law, except that prior to any disclosure pursuant to this subsection, the Receiving Party shall notify the Disclosing Party to the extent practicable and permitted by applicable law; or
- 2.2.5.** Was developed by the Receiving Party prior to having access to any of the Confidential Information received from the Disclosing Party; or
- 2.2.6.** Is authorized in writing by the Disclosing Party to be released or is designated in writing by Disclosing Party as no longer being confidential or proprietary.

3. NO OBLIGATION TO PURSUE PROPOSED TRANSACTION

Unless and until a definitive agreement between the parties with respect to the potential business proposition neither this Agreement nor provision of Confidential Information pursuant to it shall be construed as an agreement, commitment, promise or representation by either party to do business with the other or to do anything except as set out specifically in this Agreement.

4. CONFIDENTIALITY PERIOD

Receiving Party agrees that for a period of Three (3) years after receipt of Confidential Information, such Receiving Party will maintain the Confidential Information in confidence using a reasonable standard of care, and no less than the standard of care taken to protect its or his/her own confidential information, and will use such Confidential Information solely for the aforementioned Purpose of evaluating its interest in business opportunity.

5. GOVERNING LAW

This Agreement shall be construed in accordance with the substantive Laws of Sri Lanka and the Courts of Sri Lanka shall have jurisdiction to determine all claims, disputes and other matters arising out of or in connection with this Agreement.

6. BREACH

6.1. In the event of a breach of a term of this agreement by such employees, agents, representative, and/or consultants, the Receiving Party shall fully indemnify the Disclosing Party and pay damages for all loss suffered irrespective of whether such loss was directly or indirectly due to the employees, agents, representative and/or consultant breach.

6.2. It is agreed that a violation of any of the provisions of this Agreement by the Receiving Party will cause irreparable harm and injury to the Disclosing Party and that Disclosing Party shall be entitled to pursue, in addition to any other rights and remedies it may have at law or in equity, to an injunction enjoining and restraining the Receiving Party from doing or continuing to do any such act and any other violations or anticipatory violations of this Agreement.

7. INTELLECTUAL PROPERTY

- 7.1.** The Parties agree that during the term of this Agreement and the expiry of this Agreement, the Parties shall not either directly or indirectly attempt to register or use the Disclosing Party's Confidential Information or any intellectual property including any patent, copyright and industrial design or etc. or technology in whole or in part without the prior written consent of the Disclosing Party.
- 7.2.** The Disclosing Party shall remain the owner of any Intellectual Property Rights ("IP") in relation to Confidential Information controlled or owned by the Disclosing Party or its Affiliates or IP generated by the Disclosing Party or its Affiliates independently to this Agreement and controlled or owned by such Disclosing Party or its Affiliates unless otherwise agreed under subsequent definitive agreements by the Parties.

8. ENTIRE AGREEMENT/MODIFICATIONS

- 8.1.** This Agreement contains the entire understanding between the Parties with respect to nondisclosure of Confidential Information pertaining to the matter of mutual interest stated above and supersedes all prior agreements and understanding with respect to this subject.
- 8.2.** This Agreement may be amended only by written agreement executed by both Parties. This Agreement shall not be assigned or transferred by either party without the prior written consent of the other party. This Agreement shall be binding on successors and permitted assigns of the Parties.

9. WARRANTY


ANY INFORMATION EXCHANGED UNDER THIS AGREEMENT IS PROVIDED "AS IS". The Disclosing Party makes no representation, warranty or guarantee whatsoever about the Confidential Information. The Parties hereto warrant to each other that their authorized signatories are entitled to sign on their behalf and the rights and obligations of each of the Parties hereto shall be legally valid and binding and enforceable on them.

10. COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same instrument.

IN WITNESS WHEREOF, the duly authorized representatives of the Parties have placed their hands hereunto as of the date mentioned above.

On behalf of)

1. )

Witness:

- 1.
- 2.

On behalf of **University of Ruhuna**)

1.)

Vice Chancellor

University of Ruhuna)

Witness:

- 1.
- 2.

