

## Non-Disclosure Agreement

This Agreement is made the        day of        2010 between:

1. ....of [insert address] (the “**Agency**”)

2. ....Of [insert address] (the “**Client**”)

(each a Party and together the “**Parties**”)

Whereas:

Under the terms of this Non-Disclosure Agreement (the “**Agreement**”) and for the purpose of evaluating a potential business relationship [insert the Purpose, for example, a particular collaboration or advertising campaign], (the “**Purpose**”), either Party may wish to disclose (the “**Discloser**”) to the receiving Party (the “**Recipient**”) certain confidential proprietary, or other non-public information (“**Confidential Information**”). Confidential Information shall include without limitation, business operations, processes, plans, intentions, product information, know-how, concepts, ideas, designs, trade secrets, market opportunities, customers, costs, prices, business plans, details of corporate organisation and corporate financial information concerning either Party, which information, whether furnished before or after the date of this Agreement, whether in physical, electronic, oral or written, and regardless of the manner or form in which it is furnished, together with notes, analyses, compilations, studies or other documents; and

the Parties are each willing to disclose and receive such Confidential Information under the terms and conditions specified below.

### It is agreed that:

1. Each Party will use the Confidential Information solely for the Purpose, and, except to the extent permitted by this Agreement, will keep such Confidential Information strictly confidential; provided, however, that Confidential Information may be disclosed to such directors, officers, employees, subsidiaries and representatives, including, but not limited to, auditors, legal advisors and financial advisors (collectively, the “**Representatives**”) as need to know such information for the purpose of assisting in evaluating and negotiating the terms of any transaction related to the Purpose. The Parties will advise their respective Representatives that such information is confidential and that by receiving such information such Representatives are agreeing to be bound by this Agreement and they cannot use such information for any purpose other than as described herein. Without the other Party's prior written consent, neither Party will, and each Party will direct its respective Representatives not to, disclose the Confidential Information in whole or in part, except to the extent permitted

by Paragraph 3 hereof. The Parties agree to be responsible for any breach of this Agreement by their respective Representatives.

2. The obligations of non-disclosure under this Agreement shall not apply to Confidential Information which:
  - (a) was legitimately in the Recipient's possession before it was disclosed to the Recipient by the Discloser;
  - (b) is legitimately obtained after disclosure by the Recipient from a third party who is rightfully in possession of such Confidential Information and is entitled to disclose it;
  - (c) is or subsequently becomes a matter of public knowledge unless this occurs as a result of an act or omission on the part of the Recipient;
  - (d) is created or produced by the Recipient separately and without reference to Confidential Information disclosed under this Agreement; or
  - (e) is required to be disclosed by law or by a court order, except that in such circumstances, the Recipient shall provide written notice of such required disclosure to the Discloser as soon as possible in order to enable the Discloser, if necessary, to seek a protective order.
3. Confidential Information shall be deemed confidential whether or not it is marked as such or, if it is provided orally, whether it is identified as confidential by the Discloser or not.
4. All Confidential Information disclosed by the Parties shall be and shall remain the Discloser's property. The Recipient shall return to the Discloser all Confidential Information in its possession immediately on request by the Discloser or, if the Discloser's so directs, destroy it. Any Confidential Information that is not returned or destroyed, including, without limitation, any oral Confidential Information, shall remain subject to the confidentiality obligations set forth in this Agreement.
5. The obligations of confidentiality under this Agreement shall survive for a period of five (5) years from the date of this Agreement.
6. The Recipient agrees that it shall not assign its rights or obligations under this Agreement without the prior written consent of the Discloser.
7. This Agreement shall be binding upon the Parties and their respective successors and assigns and shall inure to the benefit of the Parties and their respective successors and assigns.

8. This Agreement supersedes all and any prior agreements between the Parties, oral or written, concerning the disclosure of Confidential Information. Each Party acknowledges that, although both Parties have endeavoured to include in the Confidential Information everything that they believe to be relevant for the Purpose, neither Party nor its respective Representatives makes any representation or warranty as to the accuracy or completeness of the Confidential Information or any component thereof, and neither Party shall be entitled to rely on any such representations and warranties. Each Party understands that the estimates or projections with respect to future performance included in the Confidential Information should not be relied upon as accurate representations or assurances of future results. Neither Party nor any of its Representatives shall have any liability to the other Party or its Representatives resulting from the use of the Confidential Information by such other Party or Representatives.
9. It is further understood and agreed that money damages may not be a sufficient remedy for any actual or threatened breach of this Agreement by either Party or its respective Representatives and that each Party shall be entitled to seek specific performance, including, without limitation, injunctive relief, as a remedy for any such breach or threatened breach by the other Party or such Party's Representatives. Such remedy shall not be deemed to be the exclusive remedy for breach of this Agreement but shall be in addition to all other remedies available at law or equity.
10. This Agreement is made under and shall be construed according to the laws of England and Wales and the Parties agree to submit to the exclusive jurisdiction of the courts of England and Wales.

**On behalf of the Agency:**

Name: \_\_\_\_\_

Job title: \_\_\_\_\_

Signed: \_\_\_\_\_

Dated: \_\_\_\_\_

**On behalf of the Client:**

Name: \_\_\_\_\_

Job title: \_\_\_\_\_

Signed: \_\_\_\_\_

Dated: \_\_\_\_\_