

CONFIDENTIALITY AGREEMENT

MADE AND ENTERED INTO BY AND BETWEEN

CUSTOM APPS SA (PTY) LTD (2014/218270/07)

of address

4 Dawood Close

4 The Crest Office Park

Ballito

4439

And

of address

Collectively referred to as "the Parties" and individually as the "Party".

PREAMBLE

Whereas, the Parties are interested in discussing a possible business or collaborative opportunity, and each Party may disclose to the other, in-connection with these discussions, certain information that it believes to be proprietary and confidential, and neither Party is willing to proceed with these discussions unless they have an agreement restricting further disclosure or use of this information.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties agree as follows:

The Parties hereby agree to observe the confidentiality of any and all Confidential Information exchanged between the Parties relating to the Subject. This agreement will be effective from date of signature.

1. The subject

The Subject of this agreement hereinafter refers to *sharing of information, existing and potential new project information, consumer data, novel concepts and ideas disclosed for the purpose of developing a marketing, promotion and or online and offline media solutions and VAS or VAR products and services.*

- 2. Definition of Confidential Information.** The term “Confidential Information” shall include all scientific, technical, business, financial, or marketing Information, including client lists which one party (the “Disclosing Party”) discloses to the other Party (the “Receiving Party”) in connection with their discussions and which is identified as being confidential, including any Information learned by a Receiving Party during any visit to the Disclosing Party’s facilities. The Parties agree that this Agreement is not intended to restrict use or disclosure of any portion of such Information which:
- 2.1 Is now or later made known to the public through no default by the Receiving Party of its obligations under this Agreement;
 - 2.2 The Receiving Party can show was in its possession prior to the earliest disclosure by the Disclosing Party, as evidenced by written documents in its files;
 - 2.3 Is rightfully received by the Receiving Party from a third party having no obligation of confidentiality to the Disclosing Party;
 - 2.4 Is independently developed by the Receiving Party by persons who did not have access to Confidential Information of the Disclosing party; or
 - 2.5 Is disclosed by the Receiving Party after receipt of written permission from the Disclosing Party.
- 3. Obligation of Confidentiality.** A Receiving Party agrees to hold in confidence and not publish or disclose to any third parties any of the Confidential Information of the Disclosing Party without the prior consent of the Disclosing Party. Each Party agrees to use the same degree of care (and in any event not less than reasonable care) to safeguard the confidentiality of the Confidential Information that it uses to protect its own confidential information. A Receiving Party agrees to limit any disclosure of the Confidential Information only to those of its employees and outside professional advisors who have a need to know and who are bound by confidentiality obligations, and to advise such persons of the Receiving Party’s obligations under this Agreement.
- 4. Use of Confidential Information.** Each Party agrees to use Confidential Information received from the other Party only (i) to evaluate its interest in pursuing the collaborative or business possibility with the other Party, and (ii) for any further use which may be agreed to in terms of a further agreement between the Parties pursuant to these discussions, but not for any other purpose. Such further confidentiality agreement will need to comply with the relevant intellectual property policies of the respective Parties. All Confidential Information furnished pursuant to this Agreement shall be returned promptly by the Receiving Party to the Disclosing Party upon written request by the Disclosing Party.
- 5. Return of Information.** All tangible materials received from the Disclosing Party or generated by the Receiving Party and containing Confidential Information shall be the property of the Disclosing Party, and the Receiving Party shall deliver all such materials to the Disclosing Party upon the earlier of termination of this agreement or the request of the Disclosing Party.
- 6. Required Disclosure.** If the Receiving Party is requested or required by subpoena, court order, or similar process to disclose any Confidential Information, the Parties agree that the Receiving Party will provide the Disclosing Party with prompt notice of such request(s) so that the Disclosing Party may seek an appropriate protective order and/or waive the Receiving Party’s compliance with the provisions of this Agreement.
- 7. No License.** Nothing contained herein shall be construed to grant a Receiving Party any immunity or license under any intellectual property right of the Disclosing Party.

- 8. Term of Obligation.** The Parties' obligations concerning non-disclosure of Confidential Information contained in the above clauses shall continue for 5 (five) years from the date of each disclosure, unless otherwise agreed between the Parties, whereupon the obligation of confidentiality shall terminate.
- 9. No Violation.** Each Party represents that its compliance with the terms of this Agreement will not violate any duty which such Party may have to any other person or entity, including obligations concerning the provision of services to others, confidentiality of proprietary information and assignment of inventions, ideas, patents or copyrights.
- 10. Non-Compete.** [REDACTED] or any of his Holding companies or Trusts will at no point in time whilst under this contract and 12 months after the termination of this contract with **CUSTOM APPS SA (PTY) LTD** directly approach any of its customers that are currently being serviced or the clients that we are currently working on once disclosed to you. All proposals to the above must be directed through **CUSTOM APPS SA (PTY) LTD**. The above statement is reciprocal for both parties.
- 11. Governing Law.** This Agreement shall be construed and interpreted in accordance with the laws of the Republic of South Africa, without regard to its principles concerning the application of laws of other jurisdictions.

12. OBLIGATION OF NON-COMPETITION

- 12.1 A business relationship may be established between a client and a Receiving Party pursuant to the introduction of the client by the Disclosing Party to the Receiving Party.*
- 12.2 The non-competition provisions of this Agreement are an essential and a material part of the total agreement, by which the Receiving Party agrees that for a period of 24 (twenty four) months from date of termination of any contemplated main agreement to be concluded pursuant to this Agreement being concluded on an introduction made in terms of clause 12.1, the Receiving Party will not directly or indirectly and whether as principal, agent, partner, representative, shareholder, consultant, contractor, financier, assistant, administrator, adviser, officer or holding any other capacity whatsoever provide the same or similar service to a particular client that was being provided to that client pursuant to the introduction by the Disclosing Party to the Receiving Party of the client concerned in relation to the services provided.*
- 12.3 The Disclosing Party acknowledges that if a particular service is being provided to a client by the Receiving Party at the time that the Disclosing Party makes the introduction of the client to the Receiving Party, the provisions of clause 12.2 will not apply.*

13. NON-CIRCUMVENTION

13.1 *The Receiving Party hereby agrees that it will not, directly or indirectly, contact, deal with or otherwise become involved with any entity or any other entities or parties introduced, directly by or through the other Party without the specific written approval of the Disclosing Party.*

13.2 Terms used in this Addendum Agreement and not defined herein shall bear the meanings assigned to them in the Reciprocal Non-Disclosure Agreement, and shall be deemed to be incorporated by reference to form part of this Addendum Agreement.

13.3 Save as expressly provided herein, the remaining provisions of the Reciprocal Non-Disclosure Agreement, shall remain valid and of full force and effect and unaffected by this amendment.

14. General.

14.1 This Agreement shall not be assigned by either Party without the written consent of the other except in-connection with the transfer of substantially all of the assets or business of such Party. Subject to the foregoing, this Agreement shall insure to the benefit of and be binding upon the successors and permitted assigns of the Parties

14.2 This Agreement is the entire agreement between the Parties concerning the disclosure of Confidential Information and superseded all prior oral and written agreements between them. No waiver, alteration or cancellation of any of the provisions of the Agreement shall be binding unless made in writing and signed by the party to be bound.

14.3 If any portion of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect without the invalid or unenforceable provisions.

14.4 The Parties hereby represent and warrant that the officials signing this agreement have the power to do so on behalf of the Parties.

