

ADVISER CONFIDENTIALITY AGREEMENT

THIS ADVISER CONFIDENTIALITY AGREEMENT is made the ____ day of _____ **2013**

BETWEEN

- (1) **FINANCE & TECHNOLOGY RESEARCH CENTRE LTD** (Company Number: 02484495) whose registered office is at Petitor House, Nicholson Road, Torquay, Devon, England, TQ2 7TD ("F&TRC"); and
- (2) _____ (Company Number: _____) whose registered office is at _____ ("_____")

For the purposes of this agreement (2) _____ and (1) F&TRC are together to be known as the "**Parties**".

OPERATIVE TERMS

1 Definitions

In this Agreement the following expressions shall have the meanings defined in this clause, except where the context requires otherwise:

- "Agreement"** means the provisions set out in this document;
- "Associated Company"** means any holding company from time to time of either Party and any subsidiary from time to time of either Party or of any such holding company, and the terms "holding company" and "subsidiary" shall have the meaning given to them by Section 1159 of the Companies Act 2006;
- "Confidential Information"** shall include all information and materials, whether oral or recorded in any medium, which may at any time come into the possession of the Recipient and which relates to any actual or proposed business activities, financial or other affairs of the Discloser, and shall include without limitation products, developments, know how, trade secrets, trademarks, copyright, patents or other intellectual property rights, the facts and contents of any communications and discussions between the Parties, the existence or contents of this Agreement, the nature of the Purpose, any data, formulae, customers and suppliers of the Discloser or any of its subsidiaries (as defined in section 736 of the Companies Act 1985), details of schemes, notes, memoranda, analyses, pricing structure

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compilations, studies, business practices and strategies, any other information which may be reasonably regarded as being confidential, and any material bearing or incorporating any such information (whether marked confidential or not) which may at any time come into the possession of the Recipient.

The term Confidential Information shall not apply to information which:-

- (a) Is in the public domain at the time of disclosure or subsequently comes into the public domain other than through a breach of this Agreement;
- (b) Is only disclosed by the Recipient after receiving prior written permission of the Discloser;
- (c) Is or becomes required to be disclosed by the Recipient by operation of law or statute, by any court of competent jurisdiction or any regulatory body or recognised stock exchange provided that the Recipient shall, to the extent that either Party is not prohibited from doing so, provide the Discloser with prompt notice of such request(s) and shall use all reasonable endeavours to ensure that such disclosure is made exclusively to the party to whom such disclosure is required to be made;
- (d) Is lawfully in the possession of the Recipient prior to any disclosure and not subject to any agreement of confidence between the Parties; or
- (e) was or is received by the Recipient from any third party who at the time was or is not bound by any restrictions on disclosure; or
- (f) Is independently developed by the Recipient.

“DP Act” means the Data Protection Act 1998;

“Discloser” means whichever of F&TRC together with its directors, employees, Associated Companies, advisers, contractors or agents which discloses Confidential Information to the other Party in connection with the Purpose; shall have the meaning given to it in the DP Act.

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“Recipient” means (2)_____ together with its directors, employees, Associated Companies, advisers, contractors or agents which receives Confidential Information from the other in connection with the Purpose;

“Purpose” F&TRC have developed a series of web based product & proposition comparison and product research services. (2)_____ have requested access to the beta versions of these services in order to consider using them in the future to support their business, F&TRC have agreed to grant such access but it may be necessary for F&TRC and (2)_____ to disclose Confidential Information (defined above) to one another. (2)_____ and F&TRC wish that such information be kept strictly confidential on the terms of this Agreement;

Both the services and the data contained therein shall be subject to this agreement and (2)_____ shall not use any of the content of these services outside their organisation during the beta phase. After the beta phase of the project the recipient may show the system and its standard reports to other parties however no third party documents, reports or sales aids may be created without the written permission of F&TRC. Creation of such documents may be subject to a further licence.

2 Obligations

- 2.1. In consideration for being furnished with Confidential Information, the Recipient undertakes to use the Confidential Information solely for the purpose of evaluating the Purpose and not for any other purpose whatsoever but in particular not for any commercial purpose which shall include, without limitation, the development, marketing or selling of new products, the solicitation of the Discloser’s customers and suppliers or the procurement of any commercial advantage over the Discloser.
- 2.2. The Recipient shall treat all Confidential Information as being private and confidential and shall take all necessary steps to protect it from being disclosed to any third party, such steps to include the measures it would take to preserve the confidentiality of its own information and to include, without limitation, the storage of Confidential Information in a safe and secure environment.
- 2.3. The Recipient shall ensure that Confidential Information is only disclosed to those of its employees, officers, agents, contractors and advisors (to include legal advisors) as is necessary to evaluate the Purpose and carry out all their respective obligations in relation to the Purpose. The Recipient shall also notify (and take all reasonable steps to ensure compliance by) all such employees, officers, agents, contractors and advisors receiving Confidential Information of the terms of this Agreement.
- 2.4. The Recipient shall take all reasonable steps not to disclose to any third party any Confidential Information whatsoever, nor divulge either the nature of the Purpose or

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the fact that negotiations are taking place concerning a possible transaction (including the status thereof).

- 2.5. The Recipient agrees to keep all documents and materials containing Confidential Information in a safe and secure place and upon request by the Discloser to return or destroy on request all such documents and materials without retaining any copies thereof within 7 working days and to identify, expunge and delete, as far as is possible, any Confidential Information maintained on any word processing or computer system or in any other electronic form.
- 2.6. The Recipient shall make copies of the Confidential Information only to the extent that the same is strictly required for the purposes of the Purpose.
- 2.7. The Recipient will not, for the period of the Purpose and for 18 months thereafter, solicit for employment, nor offer employment to any person currently employed by the Discloser, where that employee has been identified in the Confidential Information. This clause 2.6 shall not prohibit the Recipient from employing any person presently employed by the Discloser who seeks employment with the Recipient on his own initiative or who responds to a bona fide public advertisement about a vacant position with the Recipient.
- 2.8. Each Party represents and warrants to the other that it has full corporate power and authority to enter into this Agreement and to do all things necessary for the performance of this Agreement and has duly authorised this Agreement for execution.

3 No licence

- 3.1. The delivery of documents and materials containing Confidential Information shall not amount to a licence in favour of the Recipient to use, copy or in any way deal with the Confidential Information or any related documents and materials other than for the Purpose and all Confidential Information shall remain the property of the Discloser. Nothing in this Agreement shall commit or obligate or be legally binding on either Party to agree any potential business relationship or enter into any further agreements or negotiations with the other or to refrain from entering into any agreement or negotiations with any third party.

4 No responsibility for information provided

- 4.1 The Recipient understands and acknowledges that neither the Discloser nor any of its employees, officers, agents, or advisors is making any representation or warranty, express or implied, as to the accuracy or completeness of the Confidential Information and that neither the Discloser nor any of its employees, officers, agents or advisors will have any liability to any person resulting from any use of the Confidential Information or participation in the discussions relating to the Purpose.
- 4.2 Either Party shall be entitled at any time to decline to provide or continue to provide any Confidential Information to the other without incurring any liability whatsoever.

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4.3 Each Party agrees that it shall keep secret the fact that it is engaging in discussions relating to the Purpose and neither Party shall make any announcement or disclosure thereof without the prior written consent of the other, except as may be required by law, any regulatory or governmental body, and then, so far as is reasonably practicable, following consultation with the other Party.

4.4 Neither Party shall have any obligation to the other to reimburse any costs and expenses, which the other may incur in connection with discussions relating to the Purpose.

5 No Waiver

5.1. No failure or delay by either Party in exercising any rights or power under this Agreement shall operate as a waiver of that right or power and no single or partial exercise of that right or power shall preclude any other or further exercise of that right or power or the exercise of any other right or power.

6 Breach

6.1. Damages may not be an adequate remedy for any breach of this Agreement and each Party shall be entitled to the remedies of injunction, specific performance or other equitable relief for any threatened or actual breach of this Agreement by the other Party and no proof of special damages shall be necessary for the enforcement of this Agreement.

7 Data Protection

7.1. The Parties acknowledge that the Confidential Information could contain Personal Data and that they shall comply with the DP Act, where required to do so, and shall at all times act so as to enable the other Party to comply with the DP Act. Where applicable upon receipt of any Personal Data the Parties shall:

(a) put appropriate technical and operational processes and procedures in place to safeguard against unauthorised or unlawful processing of the Personal Data; and

(b) safeguard as private and confidential all the Personal Data received by it at all times and only carry out processing of the Personal Data in accordance with the other Party's instructions.

7.2. For the avoidance of doubt, the terms of this clause 7 shall survive termination.

7.3. If either Party is required by the other Party to disclose Personal Data to the other Party for the purposes of the Purpose and the Discloser suffers loss as a result of legal action taken by a Data Subject (as defined in the DP Act) where such legal action is a consequence of a breach by the Receiver Party of its obligations under this Clause 7, then the Receiver party shall indemnify the Discloser in respect of

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directly resulting liabilities, claims, damages, losses, charges, costs or expenses, including legal fees, which may be incurred, to the extent necessary to cover the loss suffered.

8 Termination

- 8.1 This Agreement shall continue in effect until the release of the live version of the F&TRC Services . Notwithstanding the termination of this Agreement all Confidential Information concerning the beta testing shall continue to be subject to the terms of this Agreement for a period of two years unless this Agreement is superseded by a definitive agreement between the Parties relating to the Purpose.

9 Severability of Invalid Provisions

- 9.1. The invalidity, illegality or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement and the Parties shall negotiate in good faith to substitute a provision of like economic effect and intent.

10 Assignment

- 10.1 Neither Party may assign or otherwise transfer this Agreement or any of its rights and obligations hereunder, to any third party without the prior written consent of the other Party.

11 Amendment

- 11.1 This Agreement may not be modified except in writing signed by both Parties.

12 Rights of Third Parties

- 12.1 No person who is not a party to this Agreement shall have any rights under the Contracts (Rights of Third Parties) Act 1999 ("CRTP") to enforce any term of this Agreement provided that this shall not affect any right or remedy of any person which exists or is available otherwise than pursuant to CRTP.

13 Law and Jurisdiction

- 13.1 This Agreement shall be governed by and construed in accordance with English law and the Parties irrevocably submit to the exclusive jurisdiction of the English courts in relation to any proceeding or disputes arising from this agreement.

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IN WITNESS WHEREOF the Parties have caused this Agreement to be executed by their duly authorised officers as on the date first written above.

Signed for and on behalf of **F&TRC LTD**

Name Position

Signed..... Date.....

Signed for and on behalf of (2)_____

Name Position

Signed..... Date.....

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