

## NON-DISCLOSURE AGREEMENT

This Non-Disclosure Agreement (NDA) is made and entered into this \_\_\_\_\_ of \_\_\_\_\_ 2019 by and between:

**CINCO CORPORATION**, whose registered office is at 869 Katarungan St., Mandaluyong City, Philippines  
("DISCLOSER");

and

\_\_\_\_\_, whose registered office is at \_\_\_\_\_  
\_\_\_\_\_  
("RECIPIENT")

**WHEREAS**, Discloser (its Affiliates, directors, officers, employees, agents or professional adviser) intend to disclose certain proprietary and confidential business or technical information that is not generally known or otherwise readily available absent a confidentiality undertaking (collectively "Confidential Information"), as defined and interpreted hereunder;

**WHEREAS**, the Recipient undertakes to abide and faithfully observe the terms and conditions herein set;

**NOW, THEREFORE**, in consideration of the potential benefits and for other good and valuable consideration, receipt and sufficiency of which are acknowledged, Recipient agree as follows:

**1. CONFIDENTIAL INFORMATION.**

- (a) Discloser expressed interest in providing certain confidential information with respect to the ongoing negotiations and discussions. Confidential information regarding its business processes technical data, trade secrets, the "Formula" and other valuable proprietary and confidential information may be disclosed by the Discloser to the Recipient.
- (b) Recipient acknowledge and agree that Confidential Information, as defined in this Agreement must be kept strictly confidential and that the unauthorized disclosure of Confidential Information may prejudice and cause damage to the Discloser.
- (c) Recipient agrees to hold all the Confidential Information it has received or shall receive from the Discloser and its Affiliates, directors, officers, employees, agents or professional advisers in strict confidence and will not disclose, copy, reproduce or distribute any of it to any person other than: (a) as permitted in writing by Discloser; or (b) as necessary for the use of its directors, officers, employees, agents or professional advisers who strictly need access to it for the purposes of negotiation and discussions (the "Authorized Representatives"), provided that such Authorized Representatives agree to abide by the terms of this Agreement as if they were a party and agree that they themselves will not disclose, copy, reproduce or distribute such Confidential Information to any person who is not an Authorized Representative, or are otherwise bound by any professional code, internal rules, or contract that ensures the foregoing protections.

**2. MEANING OF TERMS.** For the purpose of this Agreement:

- (a) "Affiliates" shall mean, with respect to any person or entity, any individual, partnership, corporation, trust or other entity that directly or indirectly controls, or is controlled by, or is under common control with, such person or entity, where control means the direct or indirect ownership of 51% or more of the outstanding shares or the ownership interests or the contractual rights or power to elect directors or similar officers or members of the board of directors or the governing or management body.
- (b) "Confidential Information" means: (i) any and all data, communication, document or information, whether written, visual, oral or in any other medium relating to the discussion and negotiations including but not limited to information regarding assets, operations, prospects, concepts, business plans, business strategies, confidential ideas, trade secrets, the "Formula", data, studies, consultants reports, financial and sales information (including, without limitation, historical financial statements, financial projections and budgets, historical and projected sales, capital spending budgets and plans), information technology and customers; (ii) the fact that the Parties are contemplating into entering into a transaction; (iii) the fact that discussions are taking place between the Discloser, the Recipient, (and third parties, if there are), in connection with the discussion and negotiations as well as any information concerning the status or progress of such discussions and negotiations ; and (iv) any and all data, communication, document or information, whether written, visual, oral or in any other medium, containing or generated from the items referred to as confidential or maybe deemed as confidential.

3. **DUTIES.** Recipient shall have the following duties which shall include but not limited to the following:
  - (a) maintain and keep up to date a record of the Confidential Information provided to Recipient and/or its Authorized Representatives and, so far as is reasonably possible, its location;
  - (b) ensure that it and its Authorized Representatives shall not, without Discloser's prior written consent (i) use the Confidential Information for any purpose, including any business purposes, other than for the sole purpose of this discussion or negotiation; and (ii) make or allow to be made copies of or otherwise reproduce the Confidential Information other than as provided herein; and
  - (c) ensure that communications regarding the discussions and negotiations and/or requests for additional information are submitted and directed only to the persons as indicated by the Discloser from time to time.
4. **EXCEPTIONS.** The undertakings in paragraphs (b) and (c) above will not apply to Confidential Information which:
  - (a) at the time of supply is in the public domain;
  - (b) subsequently comes into the public domain, except through a breach of the undertakings set out in this Agreement;
  - (c) is already in the Recipient's lawful possession (as evidenced by written records) at the time of supply;
  - (d) is required to be disclosed by any law, rule, or regulation, or any judgment, order, decision, resolution, award, writ, process, directive, policy, or requirement of any court, tribunal, arbitrator, governmental authority, as long as the Recipient, to the extent legally permitted, as soon as reasonably practicable, informs the Discloser in writing and agrees with Discloser on the proposed form, timing, nature, extent and purpose of the disclosure.
5. **SAFEKEEPING OF CONFIDENTIAL INFORMATION.** Recipient shall:
  - (a) ensure that each of its Authorized Representatives who receives any Confidential Information is aware of and adheres to the terms of this Agreement.
  - (b) on request, keep Discloser informed of the identity of each of the Authorized Representatives who have been granted access to the Confidential Information. The undertakings in this Agreement are given by the Recipient on its own behalf and as agent for each of its Authorized Representatives, and with their full knowledge, consent and authority.
  - (c) indemnify and hold Discloser, and respective Affiliates harmless on demand from and against all claims, demands, liabilities, losses, damages, costs and expenses suffered or incurred by Recipient, and Affiliates arising solely and directly from a breach of this Agreement by the Recipient or any of its Authorized Representatives.
6. **RETURN OR DESTRUCTION OF CONFIDENTIAL INFORMATION.** Recipient shall have the following duties:
  - (a) at Discloser's sole and unfettered discretion, within seven (7) calendar days from written notice, destroy or return to Discloser any document (including any note, analysis or memorandum prepared by the Recipient or any of its Authorized Representatives) containing Confidential Information and any copy which may have been made, and expunge all Confidential Information from any computer, word processor or other device containing Confidential Information.
  - (b) Any and all destruction of Confidential Information will be certified in writing to Discloser by an authorized officer of the Recipient supervising such destruction of Confidential Information.
7. **WARRANTY AND LIMITED LIABILITY.** The Recipient understands that the Confidential Information does not purport to be all inclusive and that no representation or warranty is made as to the accuracy, reliability or completeness of any of the Confidential Information. Accordingly, the Recipient agrees with Discloser and its Affiliates that each of Discloser and its respective Affiliates shall not have any liability to the Recipient or any other person resulting from the use of or reliance on the Confidential Information. Each of the undertakings in this Agreement are given by the Recipient and the Authorized Representatives in favor of Discloser and its Affiliates.
8. **INSIDER INFORMATION.** Recipient recognizes and accepts and will advise its Authorized Representatives that the Confidential Information and the discussions in connection with the discussion and negotiation are taking place in confidence, and that some or all the Confidential Information may be inside information. Accordingly, neither the Recipient nor any of its Authorized Representatives shall:
  - (a) deal in securities that are price-affected securities in relation to the inside information or encourage another person to deal in price-affected securities;
  - (b) deal or attempt to deal in any investments based on the inside information;

- (c) disclose the inside information to another person; or
  - (d) engage in behavior based on any inside information which would amount to market abuse.
9. **INJUNCTIVE RELIEF.** Without affecting any other rights or remedies that Discloser and its Affiliates may have, the Recipient acknowledges that Discloser and its Affiliates may be irreparably harmed by any breach of the terms of this Agreement and that damages alone may not necessarily be an adequate remedy. Accordingly, Discloser and its Affiliates bringing a claim under this Agreement will be entitled to seek the remedies of injunction, specific performance and other equitable relief, or any combination of these remedies, for any threatened or actual breach of its terms, and no proof of special damages will be necessary to enforce this Agreement.
  10. **DATA PRIVACY.** In the performance of its obligations under this Agreement, Parties covenant and warrant that they shall comply with the provisions of Republic Act No. 10173, otherwise known as the Data Privacy Act of 2012, its Implementing Rules and Regulations, circulars from the National Privacy Commission (NPC), and any amendments thereto. If applicable and necessary, the Parties shall enter into any other required agreements; shall issue policies singly or jointly; and shall conduct regular review and evaluation of policies to ensure all security measures and procedures are in place for this purpose.
  11. **NON-POACHING** Recipient shall not, whether directly or indirectly, knowingly (i) encourage or induce or attempt to influence (or assist another in encouraging) any employee, contractor, consultant, principal, agent, or representative of the Discloser and its Affiliates involved in the discussion or negotiation to terminate his or her relationship or otherwise cease his relationship with Discloser and its Affiliates, as the case may be; (ii) solicit or hire (or assist another in soliciting or hiring) for employment any employee of the Discloser and its Affiliates.
  12. **SEVERABILITY.** If any provision of this Agreement is held to be invalid or unenforceable, that provision shall (so far as it is invalid or unenforceable) be given no effect and shall be deemed not to be included in this Agreement, but without invalidating any and all of the remaining provisions.
  13. **RELATIONSHIP.** Nothing in this Agreement shall create a joint venture or partnership between the Discloser and the Recipient. No Party (Discloser and the Recipient) shall, by virtue of this Agreement, have the power or authority to enter into any agreement or undertaking for or to act on behalf of or otherwise to bind the other Party as to any matter or thing to be done in relation to the discussions and negotiations sought to be covered by this Agreement
  14. **DEFINITIVE AGREEMENT.** Neither the Discloser nor the Recipient shall have any obligation to enter into any agreement with each other as a result of the disclosure of Confidential Information contemplated by this Agreement. Either of the Discloser or the Recipient may in its sole discretion, reject any and all proposals made about the discussions and negotiations and terminate discussions and negotiations at any time and for any or no reason.
  15. **GOVERNING LAW AND AGREEMENT OF PARTIES.** This Agreement contains the entire agreement between the Discloser and the Recipient. It sets out the only conduct relied on by the Discloser and the Recipient and supersedes all earlier conduct and prior agreements and understandings between the Parties shall be governed by, and construed in accordance with, the laws of the Republic of the Philippines.
  16. **AMENDMENTS AND WAIVER.** Any amendment, modification, or waiver of any of the provision in this Agreement shall not be valid unless reduced in writing and signed by the Parties. No failure or delay on the part of either party in exercising any right or power hereunder shall operate as a waiver thereof, unless expressed in writing and signed by its duly authorized representative/s. Each right, power or privilege granted to either hereunder or allowed to such party in law and equity shall be cumulative and shall not be exclusive of any rights or remedies of a Party hereunder or granted by law.
  17. **VENUE.** Any action at law or in equity arising out of or relating to this Agreement shall be filed only in the courts of Mandaluyong City, Philippines and hereby consent and submit to the exclusive jurisdiction of said court for the purpose of litigating any such action.
  18. **COUNTERPARTS AND AUTHORITY.** This Agreement may be executed in counterparts by the Parties, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument. No counterpart shall be effective until each Party has executed at least one counterpart. Each of the Parties' representative signing in this agreement warrants that he/she has the full authority to sign in behalf of the entity he/she represents.

IN WITNESS WHEREOF, this Agreement has been signed on behalf of each of the Parties as of the date first written above and shall be effective as of such date.

**CINCO CORPORATION**

By:

By:

\_\_\_\_\_

\_\_\_\_\_

Name:

Name:

Title:

Title:

**Signed in the presence of**

\_\_\_\_\_

\_\_\_\_\_

**ACKNOWLEDGEMENT**

REPUBLIC OF THE PHILIPPINES )  
City of \_\_\_\_\_ ) S. S.

BEFORE ME, a duly authorized notary public for and in the above-named jurisdiction, personally appeared on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the following, who are personally known to me and/or identified through competent evidence of identity, wit:

Name	Competent Evidence of Identity	Date/Place Issued	Issued on/Valid Until

Known to me and to me known to be the same persons who executed the foregoing instrument, and who acknowledged before me that their respective signatures on the instrument were voluntarily affixed by them for the purposes stated therein, and who declared to me that the said instrument is their free and voluntary act and deed and that of the corporations represented, and that they are duly authorized to sign in a representative capacity.

I FURTHER CERTIFY that this instrument refers to a Mutual Non-Disclosure Agreement and has been signed by the herein parties and their witnesses.

**WITNESS MY HAND AND SEAL** on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ at \_\_\_\_\_, Philippines.

Doc. No. \_\_\_\_\_

Page No. \_\_\_\_\_

Book No. \_\_\_\_\_

Series of \_\_\_\_\_