

MUTUAL CONFIDENTIALITY (NON-DISCLOSURE) AGREEMENT

THIS CONFIDENTIALITY AGREEMENT (the “**Agreement**”), is entered into as a deed on this day by and between:

PARTIES:

1. **Seismo TRUST**, [INSERT] whose principal place of business is 3501 Jack Northrop Ave, Ste T6172, Los Angeles, Los Angeles, 90250, United States registered in United States
2. **Customer**, [INSERT] whose principal place of business is N/A, N/A, N/A, N/A, United States registered in United States

together, the ‘**Parties**’ and each a ‘**Party**’.

BACKGROUND

1. In the course of their discussions about the Proposed Transaction, the Parties have provided or will provide each other with certain documents and information, some or all of which may be confidential or proprietary in nature.
2. The Parties have agreed to restrict the way such confidential information may be used.

AGREED TERMS

1. INTERPRETATION

1.1 Definitions

‘**Affiliate**’ means, with respect to each Party, any corporation, firm, partnership, proprietorship or other form of business entity, which is directly or indirectly controlled by such Party;

‘**Confidential Information**’ has the meaning given in Clause 2;

‘**Connected Party**’ means, in relation to a Party, any Affiliate or Representative of that Party or (in the case of a company) a member of that Party’s Group;

‘**Disclosing Party**’ is a reference to a Party when it discloses its Confidential Information, directly or indirectly, to another Party or Parties;

‘**Group**’ means, in relation to a Party that is a company, any subsidiary or any holding company of that company, and any subsidiary of a holding company of that company. Each company in a Group is a member of the Group.

‘**Group Company**’ means, in relation to Party which is a company, any member of that Party’s Group;

‘**holding company**’ has the meaning give in Clause 1.2 (v);

‘**Permitted Purpose**’ means the assessment, evaluation, negotiation or implementation of the Proposed Transaction;

‘**Proposed Transaction**’ means discussions relating to the creation or development of scientific information and data;

‘**Receiving Party**’ is a reference to a Party when it receives any Confidential Information, directly or indirectly, from a Disclosing Party;

'Representative' means, in relation to each party:

- i. managers and other employees who need to have access to the confidential information for the purposes of the proposed talks / deal;
- ii. lawyers, accountants and other professional advisers or consultants who are engaged to advise in connection with the discussions / deal;
- iii. relevant contractors and sub-contractors; and
- iv. anyone else to whom the discloser agrees that confidential information may be given in connection with the deal.

1.2 Interpretation

- i. A reference to a statute or statutory provision is a reference to it as amended or re-enacted and includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- ii. Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- iii. A reference to **writing** or **written** includes email.
- iv. A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- v. A reference to a holding company or a subsidiary means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006.

2. CONFIDENTIAL INFORMATION

2.1 Confidential Information means all confidential information and materials relating to the Proposed Transaction which the Disclosing Party or any Connected Party directly or indirectly discloses to the Receiving Party or any Connected Party before, on or after the date of this Agreement. This includes:

- i. the fact that discussions and negotiations are taking place;
- ii. the existence and terms of this Agreement;
- iii. all confidential or information relating to:
 - a. the business, affairs of the Disclosing Party or any Group Company;
 - b. the operations, processes, know-how and trade secrets of the Disclosing Party or any Group Company;
 - c. any information, study or analysis based on or derived from Confidential Information;
 - d. compilations, summaries, extracts or other documentation prepared by Receiving Party or a third party based on any of the information or materials specified in this Clause 2.1;
 - e. any other information that is specifically identified by the Parties as being of a confidential nature; and
 - f. any information detailed in Schedule A,

but excludes any information referred to in Clause 2.3.

2.2 Subject to Clause 2.3, for the purposes of this Agreement "**Confidential Information**" shall include all commercially sensitive information and materials disclosed to the **Receiving Party** which the Disclosing Party identifies as confidential prior to or at the time of disclosure.

2.3 Information is not Confidential Information if:

- i. it is, or becomes, generally available to the public other than as a result of the information being disclosed in breach of this Agreement;
- ii. it was already available to the Receiving Party on a non-confidential basis prior to disclosure by the Disclosing Party;

- iii. it was, is, or becomes available to the Receiving Party on a non-confidential basis from a person who is not under any confidentiality obligation in respect of that information;
- iv. it was lawfully in the possession of the Receiving Party before the information was disclosed by the Disclosing Party;
- v. it is developed by or for the Receiving Party independently of the information disclosed by the Disclosing Party; or
- vi. the Parties agree in writing that the information is not confidential.

3 .RECEIVING PARTY UNDERTAKINGS

Non-Disclosure

3.1 The Receiving Party promises that it shall:

- i. keep the Confidential Information secret and confidential;
- ii. not disclose Confidential Information to any person, except in accordance with this Agreement;
- iii. not copy or otherwise record the Confidential Information except as strictly necessary for the Permitted Purpose. Any such copies and records shall be the property of the Disclosing Party; and
- iv. comply with any specific requirements set out in Schedule B.

3.2 When dealing with Confidential Information, the Receiving Party shall apply the same security measures and degree of care to the Confidential Information as it would with its own confidential information. The Receiving Party confirms that these security measures will provide adequate protection from unauthorized disclosure, copying or use.

3.3 Except as permitted in this Agreement, the Receiving Party shall not disclose or otherwise make the Confidential Information available to any third party, individual or entity, except its Representatives who have a need to know such Confidential Information for purposes consistent with this Agreement. The Receiving Party shall ensure that its Representatives also keep the Confidential Information secret and generally comply with this Agreement as if they had signed it themselves.

Use

3.4 The Receiving Party shall take proper care of all Confidential Information received from the Disclosing Party and shall only use such Confidential Information only for the Permitted Purpose, or as otherwise agreed with the Disclosing Party.

3.5 In particular, the Receiving Party shall not make use of any Confidential Information in order to compete with the business of the Disclosing Party or assist any third party to do so.

Security measures

3.6 The Receiving Party shall establish and maintain adequate security measures (including any reasonable security measures proposed by the Disclosing Party from time to time) to safeguard the Confidential Information from unauthorized access or use.

Photographs and copies

3.7 No photograph, copy or facsimile of any materials, documents or reports that contain or reveal any Confidential Information may be made without Disclosing Party's prior written consent, except for the purposes of permitted disclosures made under Clause 4 or compelled disclosures made under Clause 5.

Non-compete

3.8 The Receiving Party recognizes that the Proposed Transaction represents an important business opportunity for the Disclosing Party. By entering into discussions about the Proposed Transaction, the Disclosing Party has necessarily made the Receiving Party aware of this opportunity and has done so on the basis that the Receiving Party will not compete with the Disclosing Party in relation to the subject matter of the Proposed Transaction. Accordingly, the Receiving Party undertakes to the Disclosing Party that the Receiving Party will not before the second anniversary of this Agreement compete directly or indirectly with the Disclosing Party or with any Connected Party of the Disclosing Party in relation to any aspect of the business opportunity represented by the Proposed Transaction or assist any third party to do so.

4. PERMITTED DISCLOSURE

Disclosure to Representatives

4.1 The Receiving Party may disclose the Confidential Information to its Representatives as long as it:

- i. informs those Representatives of the confidential nature of the Confidential Information before it is disclosed; and
- ii. makes sure that those Representatives comply with the confidentiality obligations in this Agreement as if they were the Receiving Party.

4.2 In the event of disclosure of Confidential Information by the Receiving Party under Clause 4.1, the Receiving Party shall be responsible for the actions or omissions of its Representatives in relation to the Confidential Information as if they were the actions or omissions of the Receiving Party itself.

5. COMPELLED DISCLOSURE

5.1 Subject to the provisions of this Clause 5, a Receiving Party may disclose Confidential Information to the minimum extent required by:

- i. an order of any court or other official body;
- ii. the rules of any relevant stock exchange; or
- iii. any other applicable laws or regulations.

5.2 Before a Receiving Party discloses any Confidential Information as described in Clause 5.1 they shall use all reasonable endeavors to give the Disclosing Party as much notice of this disclosure as possible. In this case, the Receiving Party shall take into account the reasonable requests of the Disclosing Party in relation to the content of this disclosure.

5.3 If a Receiving Party is unable to inform the Disclosing Party before Confidential Information is disclosed under Clause 5.1, they shall, unless prohibited by law, inform the Disclosing Party about the disclosure as soon as reasonably practicable after such disclosure has been made.

5.4 The Receiving Party shall cooperate with Disclosing Party, at Disclosing Party's expense, to challenge any compelled disclosure requirement or limit the scope of disclosure wherever possible. In the event that the Receiving Party still has to make a disclosure, they will only disclose as much as is legally required.

6. OWNERSHIP

All Confidential Information disclosed under this Agreement is and shall remain the sole property of the Disclosing Party. The Receiving Party may not sublicense, display, sell, market or modify the Confidential Information of the Disclosing Party.

7. RETURN OR DESTRUCTION OF CONFIDENTIAL INFORMATION

7.1 If requested by the Disclosing Party, the Receiving Party shall:

- i. destroy or return to the Disclosing Party all documents and materials (and any copies) containing or based on the Disclosing Party's Confidential Information;
- ii. erase all the Disclosing Party's Confidential Information from its computer and communications systems and devices used by it, or which is stored in electronic form; and
- iii. as far as possible, erase all the Disclosing Party's Confidential Information which is stored in electronic form on systems and data storage services provided by third parties; and
- iv. if requested by the Disclosing Party, confirm in writing to the Disclosing Party that it has complied with the requirements of this Clause 7.1.

7.2 Nothing in Clause 7.1 shall require the Receiving Party to return or destroy any documents and materials containing or based on the Disclosing Party's Confidential Information that the Receiving Party is required to retain by applicable law, or as directed by an official body.

8. INTELLECTUAL PROPERTY

Nothing in this Agreement grants any Receiving Party any license or right to existing or future patents, copyrights, trademarks, trade secrets or other intellectual property rights, or any applications or registrations, renewals or extensions thereof, of a Disclosing Party.

9. RESERVATION OF RIGHTS AND ACKNOWLEDGEMENT

9.1 Each Party reserves all rights in its Confidential Information. The disclosure of Confidential Information by one Party does not give the other Party or any other person any licence or other right in respect of any Confidential Information beyond the rights expressly set out in this Agreement.

9.2 Except as expressly stated in this Agreement, Disclosing Party makes any express or implied warranty or representation concerning the accuracy or completeness of its Confidential Information.

9.3 The disclosure of Confidential Information by a Disclosing Party shall not form any offer by, or representation or warranty on the part of, that Disclosing Party to enter into any further agreement with the Receiving Party in relation to the Proposed Transaction.

10. INADEQUACY OF DAMAGES

Without prejudice to any other rights or remedies that each Party may have, each Party acknowledges and agrees that damages alone would not be an adequate remedy for any breach of the terms of this Agreement by the other Party or its Representatives. Accordingly, each Party shall be entitled to the remedies of injunctions, specific performance or other equitable relief for any threatened or actual breach of this Agreement without the necessity of posting a bond or demonstrating economic loss.

11. NO OBLIGATION TO CONTINUE DISCUSSIONS

Nothing in this Agreement shall impose an obligation on either Party to continue discussions or negotiations in connection with the Proposed Transaction, or an obligation on a Party, or a Group Company, to disclose any information (whether Confidential Information or otherwise) to the other Party.

12. ENDING DISCUSSIONS ABOUT THE PROPOSED TRANSACTION

12.1 If either Party decides that it no longer wishes to engage in discussions with the other Party in relation to the Proposed Transaction, it shall notify the other Party in writing immediately.

12.2 The end of discussions relating to the Proposed Transaction shall not affect any existing rights or remedies to which either Party is entitled.

13. TERM OF AGREEMENT AND DURATION OF OBLIGATIONS

13.1 This Agreement shall become effective when accepted in writing by the Parties and shall continue thereafter until terminated in writing by either Party.

13.2 Upon termination of this Agreement, each Party's obligations under this Agreement shall continue in full force and effect for a period of ten years from the date of this Agreement or, if later, until such time as the Confidential Information ceases to have any commercial value to the Disclosing Party due to losing its confidential character other than by a breach of this Agreement.

13.3 Notwithstanding the end of discussions between the Parties as described in Clause 12.1, each Party's obligations under this Agreement shall continue as described in Clause 13.2.

14. WARRANTY AND INDEMNIFICATION

Each Disclosing Party represents and warrants that it has the right to disclose all Confidential Information provided to each Receiving Party, and that such disclosure will not violate or conflict with any relevant agreement, decree, order or governing instrument. Each Disclosing Party shall indemnify and hold harmless the Receiving Party for any breach of the foregoing representation and warranty.

15. RELATIONSHIP BETWEEN THE PARTIES

15.1 Nothing in this Agreement is intended or shall be construed to:

- i. create any partnership, joint venture or agency relationship between the Parties;
- ii. authorize any Party to make or enter into any commitments for or on behalf of any other Party;
- iii. prevent a Party from entering into similar agreements with other companies or individuals.

15.2 Each Party confirms it is acting on its own behalf and not for the benefit of any other person.

16. GENERAL

Assignment and other dealings.

16.1 No Party shall assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under this Agreement.

Entire agreement.

16.2 This Agreement constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

16.3 Each Party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each Party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this Agreement.

16.4 This Agreement may be executed and delivered in counterparts, and all of such counterparts when taken together shall be deemed to constitute one and the same instrument.

Variation.

16.5 No variation of this Agreement shall be effective unless it is in writing and signed by the Parties (or their authorized representatives).

Waiver.

16.6 No failure or delay by a Party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

Severance.

16.7 If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.

Notices.

16.8 Any notice or other communication given to a Party under or in connection with this Agreement shall be in writing, addressed to that Party at its registered office or such other address as that Party may have specified to the other Party in writing in accordance with this clause, and shall be delivered personally, or sent by pre-paid first class post or other next working day delivery service, commercial courier, or e-mail. In the case of email, the following addresses shall be used: Seismo TRUST: trust@seismo.info(primary), info@seismo.info(backup) and Customer: /INSERT/.

16.9 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in Clause 16.8; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by e-mail, one Business Day after transmission.

16.10 The provisions of Clause 16.8 shall not apply to the service of any proceedings or other documents in any legal action.

Third party rights.

16.11 No one other than a party to this Agreement shall have any right to enforce any of its terms.

Governing law.

16.12 This Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with English law.

Jurisdiction.

16.13 Each Party agrees that the courts of England shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this agreement or its subject matter or formation.

In witness of which the Parties have entered into and signed this Agreement as a deed on the date at the beginning of this document:

Executed and delivered as a deed)
by _____)
and _____) _____
for and on behalf of) *Director/Authorized Signatory*
Seismo TRUST)
) _____
) *Director/Authorized Signatory*

Executed and delivered as a deed)
by _____)
and _____) _____
for and on behalf of) *Director/Authorized Signatory*
Customer)
) _____
) *Director/Authorized Signatory*

Schedule A

Specified Confidential Information

Scientific information and data

Schedule B

Additional Security Measures

In addition to the promises in Clause 3, the Receiving Party promises to the Disclosing Party that the Receiving Party shall:

- i. not copy or otherwise record the Confidential Information except as strictly necessary for the Permitted Purpose. Any such copies and records shall be and remain the sole property of the Disclosing Party;
- ii. not use, reproduce, transform or store the Confidential Information in an externally accessible computer or electronic information retrieval system or transmit it in any form or by any means outside its usual place of business;
- iii. apply the same security measures and degree of care to the Confidential Information as the Receiving Party applies to its own confidential information;
- iv. keep a written record of:
 - a. any document or Confidential Information received from the Disclosing Party; and
 - b. any copies made of the Confidential Information;
- v. ensure that any document or other records containing Confidential Information shall be kept at its main business premises and shall not remove or allow those documents and records to be moved from those premises; and
- vi. there will be no external storage.

Also:

- i. The disclosures may be shared with third-parties under no circumstances.