Confidentiality Agreement

*Date:* {{today}}

**PARTIES**

**{{Counterparty\_FullName}}** (*{{Counterparty\_ShortName}}*) **{% if Known\_Counterparty\_FullName == 'true'%}{**{Acknowledgement\_Names}}{% endif %}

**Chorus New Zealand Limited** (*Chorus*)

**BACKGROUND**

{% if TwoWay == 'true' %}Each party (*Recipient*) may acquire Confidential Information of the other party (*Owner*) in connection with the *Confidential Interactions* defined below.{% endif %}{% if OneWay == 'true' %}The Recipient may acquire Confidential Information of Chorus in connection with the *Confidential Interactions* defined below.{% endif %} The Recipient will hold the Confidential Information on the Terms below. Except where the Terms state otherwise, the Recipient will not use or disclose the Confidential Information other than for the *Agreed Purpose* defined below.

**CONFIDENTIAL INTERACTIONS**

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| --- |
| {{ConfidentialInteractions}} **{% if known\_ConfidentialInteractions == 'true' %}**{{Acknowledgement\_ConfidentialInteractions}}{% endif %} |

**AGREED PURPOSE**

|  |
| --- |
| {{AgreedPurpose}}**{% if Known\_AgreedPurpose == 'true' %}**{{Acknowledgement\_AgreedPurpose}}{% endif %} |

**EXECUTION**

|  |  |
| --- | --- |
| **Signed** for and on behalf of **Chorus New Zealand Limited** by:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Name: Title: Date: | **Signed** for and on behalf of **{{Counterparty\_FullName}}** by:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Name: Title: Date: |

**TERMS**

## 

1. Subject to the other provisions of this agreement, the Recipient must keep the Confidential Information strictly confidential, must not disclose the Confidential Information (directly or indirectly), and must not use the Confidential Information other than for the Agreed Purpose, except with {{smartpossessive(Owner)}} prior written consent.
2. **{% if OneWay\_or\_not\_ApprovedDistributionList\_Include == 'true' %}**The Recipient may disclose the Confidential Information to its Affiliates, but only as reasonably necessary for the Agreed Purpose, and only under written confidentiality protections at least as strict as this agreement. The Recipient must keep records of all such disclosures to its Affiliates, and must provide copies of those records to {{Owner}} promptly upon request. {% endif %}
3. **{% if TwoWay\_And\_ApprovedDistributionList\_Include == 'true' %}**The Recipient may disclose Confidential Information to those of its Affiliates identified in {{smartpossessive(Owner)}} Approved Distribution List, but only as reasonably necessary for the Agreed Purpose, and only under written confidentiality protections at least as strict as this agreement. The Recipient must not disclose Confidential Information to any Affiliates of {{Owner}} who are not on {{smartpossessive(Owner)}} Approved Distribution List. The Recipient must keep records of all its disclosures of Confidential Information, and must provide copies of those records to {{Owner}} promptly upon request. {% endif %}
4. The Recipient may disclose Confidential Information to the extent required by law, but (unless prohibited by law) must notify {{Owner}} as early as possible of the requirement for disclosure, consult with {{Owner}} on the extent of the disclosure, and provide any reasonable assistance requested by {{Owner}} for the purpose of opposing the requirement and/or seeking to ensure that the person receiving the disclosure maintains its confidentiality.
5. The Recipient may disclose Confidential Information to the extent required by the listing rules of any stock exchange, but must notify {{Owner}} as early as possible of the requirement for disclosure, and consult with {{Owner}} on the extent of the disclosure.
6. The Recipient must take all reasonable care to ensure that all materials in its possession that contain or incorporate Confidential Information are securely kept. The Recipient must not make or distribute copies or excerpts (in any form) of the Confidential Information except as necessary for the uses and/or disclosures permitted by this agreement.
7. The Recipient must return or destroy all material containing or incorporating Confidential Information as directed by {{Owner}}, and must confirm in writing to {{Owner}} that this has occurred. This does not require return or destruction of:
   * 1. board papers, or minutes of the board or a board committee, provided those papers and minutes contain only a level of detail consistent with normal business practice and the usual practices of the relevant board or committee;
     2. any Confidential Information that the Recipient is required by law to retain;
     3. documents created or retained by advisers of the Recipient where those documents are required to be held by law or for the purposes of compliance with professional standards or insurance policies applicable to the adviser; or
     4. Confidential Information held digitally that cannot reasonably be returned or erased because of the nature of digital storage practices or technologies.
8. The Recipient agrees that all rights in the Confidential Information (including any copyright or other intellectual property rights) are and will remain the property of {{Owner}} and its licensors. The Recipient is not granted any rights to use or exploit the Confidential Information, other than the non-exclusive right to use the Confidential Information solely for the Agreed Purpose, subject to the terms of this agreement. **{% if NewIP\_Include == 'true' %}**The Recipient unconditionally assigns to Chorus all new intellectual property rights created in the course of its activities in connection with the Agreed Purpose. {% endif %}
9. If any of the Confidential Information is “inside information” in terms of the Financial Markets Conduct Act 2013 (NZ) or the Corporations Act 2001 (Cth) (Aus), or “Material Information” as defined in the NZX Limited Main Board/Debt Market Listing Rules, the Recipient must not contravene the provisions of either of those Acts or those rules.
10. Except as expressly agreed in writing by {{Owner}}, neither {{Owner}} nor any of its Affiliates is making or will be taken to make any representation, warranty or undertaking, express or implied, as to the accuracy, validity or completeness of any Confidential Information, and the Recipient will be solely responsible for its own assessment and evaluation of any Confidential Information. If the Recipient is “in trade” within the meaning of the Fair Trading Act 1986, the parties contract out of sections 9, 12A, and 13 of the Act to the extent necessary to give effect to this clause.
11. **{% if TwoWay\_and\_Indemnity\_Include == 'true' %}**The Recipient indemnifies and holds harmless {{Owner}} and each of its Related Companies against all actions, proceedings, losses, liabilities, damages, claims, demands, costs and expenses (including legal fees and expenses on a solicitor client basis) suffered or incurred by them as a result of or arising from any breach by the Recipient of its obligations under this agreement. {% endif %}
12. **{% if TwoWay\_and\_Audit\_Include == 'true' %}**{{CapitalsCase(Owner)}} may require an audit of the Recipient’s compliance with this agreement. The audit will be carried out by an independent and reputable provider of auditing services appointed by {{Owner}}. {{CapitalsCase(Owner)}} will give the Recipient not less than five business days’ notice of the audit. The Recipient must provide (and ensure that its employees, contractors and agents provide) all co-operation, access to materials and premises, and other assistance reasonably requested for the purposes of the audit, so long as the auditor agrees to comply with the Recipient’s reasonable confidentiality, security and safety requirements. The auditor’s fees and expenses will be paid by {{Owner}}, except that if the audit reveals a material breach of this agreement by the Recipient, the Recipient will reimburse {{Owner}} for all reasonable fees and expenses of the auditor. {{CapitalsCase(Owner)}} will not initiate more than one audit in any twelve month period except where the last audit revealed a material breach by the Recipient.{% endif %}
13. The Recipient’s obligations under this agreement continue indefinitely, notwithstanding the end of discussions or activities relating to the Confidential Interactions and/or Agreed Purpose.
14. The Recipient will ensure that its Affiliates comply with the terms of this agreement, as if each reference to the Recipient included a reference to its Affiliates.
15. **{% if TwoWay\_and\_RestrictAuthority\_Include == 'true' %}**A party may rely on a consent, approval or notice given by the other party under this agreement only if given by {{RestrictAuthority\_Chorus\_Reps}}(for Chorus) or {{RestrictAuthority\_Counterparty}} (for {{Counterparty\_ShortName}}), or another person that s/he nominates by written notice to the first party. {% endif %}
16. The Recipient acknowledges that the provisions of this agreement do not detract from any other duties of confidentiality imposed on the Recipient by law or in equity. The Recipient acknowledges that damages alone would be an inadequate remedy for the breach of its obligations under this agreement and that {{Owner}} may be entitled to equitable relief including without limitation an injunction and/or an order for specific performance in addition to any other rights {{Owner}} may have.
17. No party may assign this agreement or any rights or obligations under this agreement, without the prior written consent of the other party.
18. This agreement may be enforced by each of Chorus’ Related Companies as a third party beneficiary, as if each reference in this Agreement to Chorus included a reference to its Related Companies. Chorus and {{Counterparty\_ShortName}} can amend this agreement without the consent of any third party beneficiary.
19. If a party fails to exercise, or delays or holds off exercising, a power or right under this agreement, that is not a waiver of the power or right. A single or partial exercise of such a power or right does not preclude further exercises of that power or right or any other power or right under this agreement.
20. This agreement is governed by New Zealand law and the parties submit to the non-exclusive jurisdiction of the New Zealand Courts.
21. This agreement may be executed in two or more counterparts, which together will constitute one and the same instrument. A scanned digital copy of a signed counterpart will be as effective as a signed original counterpart.
22. In this agreement:

***Affiliates*** in relation to a party, means that party’s Related Companies, and any contractors, advisers, employees and/or agents in their capacity working for or on behalf of that party or any of its Related Companies.

**{% if TwoWay\_and\_ApprovedDistributionList\_Include == 'true' %}*Approved Distribution List*** means a list notified by {{Owner}} to the Recipient from time to time in connection with this Agreement, identifying individuals and/or organisations to whom the Recipient may disclose Confidential Information. Each reference to the Approved Distribution List is to the version most recently notified by {{Owner}} to the Recipient. {% endif %}

***Confidential Information*** of {{Owner}}, means all information (of any kind, in any form, including documents and digital files), that is or has been provided or made available by {{Owner}} or its Affiliates to the Recipient or its Affiliates, or generated or acquired by the Recipient or its Affiliates in the course of working on or examining any premises, facilities, equipment or systems of {{Owner}} or its Affiliates, in each case, in connection with the Confidential Interactions, whether on, before or after the date of this agreement. However, this excludes anything that can be established by written records to be known to the Recipient independently of {{Owner}} and its Affiliates (without the use of any other Confidential Information), and anything that is in the public domain through no fault of the Recipient.

***Related Company***has the meaning given in the Companies Act 1993, read as if the word “company” included any body corporate incorporated anywhere in the world.

1. In this agreement: (i) a reference to information includes information in any form or medium, including information in writing or electronic form, or given visually or orally, or by demonstration, inspection or otherwise; (ii) a reference to a party includes its successors and assigns; and (iii) if term is defined, other grammatical forms of that term have corresponding meanings.