

# Mutual Non-Disclosure Agreement

Dated: 8<sup>th</sup> October 2018

## Parties

1. **Teknique Limited** at Level 1, 104 Rosedale Road, Albany, Auckland ("Teknique")
2. **Reza Amani** (the "Employee")

## Background

- a. The parties wish to enter into discussions regarding the proposed provision by the Employee of certain information technology services to Teknique (the "**Services**").
- b. Each party has Confidential Information which it may disclose to the other during these discussions.
- c. In consideration of each party providing Confidential Information to the other party, each party agrees to keep confidential the Confidential Information disclosed to it by the other party in accordance with the terms of this agreement.

## Terms

### 1.0 DEFINITIONS AND INTERPRETATION

#### 1.1 Definitions

In this agreement, the following terms shall have the following meanings:

- |                       |  |
|-----------------------|--|
| <b>"Affiliate"</b>    | in relation to either party, includes: <ol style="list-style-type: none"><li>a. any Related Company of that party;</li><li>b. any director, officer, employee, agent, consultant or professional adviser of that party or any Related Company of that party;</li></ol> |
| <b>"Business Day"</b> | means a day (other than Saturday or Sunday) on which registered banks are customarily open for general banking business in Auckland;   |

<b>“Confidential Information”</b>	means in relation to either party, all the Information relating to it other than the Information which: <ul style="list-style-type: none"> <li>a. at the time of disclosure to or by the Recipient is generally available to, and known by, the public (other than as a result of a disclosure directly or indirectly by the Recipient or its Affiliates in breach of its or their obligations under this agreement or other obligation of confidentiality); or</li> <li>b. was available to, and legally and properly obtained by, the Recipient on a non-confidential basis from a source other than an Information Provider provided that such source was not bound by an obligation or duty of confidentiality to any Information Provider; or</li> <li>c. has been independently acquired or developed by the Recipient without violating any of its obligations under this agreement or by law and without the use of any Confidential Information;</li> </ul>
<b>“Information”</b>	means all information of any nature and in any form (whether oral, digital or written): <ul style="list-style-type: none"> <li>a. supplied at any time to or for the benefit of the Recipient by or on behalf of any of the Information Providers; or</li> <li>b. which is prepared by or on behalf of the Recipient or at the request of the Recipient using information coming within the ambit of paragraph (a) of this definition if that information could be identified and extracted by a third party from the information so prepared;</li> </ul>
<b>“Information Providers”</b>	means the party who furnished the information and each Affiliate of that party;
<b>“Recipient”</b>	means the party to whom Information or Confidential Information is disclosed in accordance with this agreement;
<b>“Related Company”</b>	has the meaning given to that expression in sections 2(3) and 2(4) of the Companies Act 1993; and
<b>“Services”</b>	has the meaning given in paragraph C of the Background.

## 1.2 Interpretation

The following provisions shall apply in the construction and interpretation of this agreement (unless the context otherwise requires):

- a. references to paragraphs and clauses are to paragraphs and clauses of this agreement;
- b. the headings are for convenience only and shall not affect the interpretation of this agreement;
- c. words in the singular shall include the plural and vice versa; and

- d. the word “person” includes any individual, company, partnership, and any other entity, or any other association of persons either corporate or unincorporated.

## **2. CONFIDENTIALITY**

- 2.1 In consideration of each party agreeing to disclose Confidential Information to the other party in accordance with the terms of this agreement, each party agrees to comply with the terms of this agreement.
- 2.2 The Recipient will:
  - a. keep strictly confidential and secret all the Confidential Information of the Information Provider;
  - b. keep the Confidential Information of the Information Provider under the Recipient’s control; and
  - c. effect and maintain adequate security measures to safeguard the Confidential Information from access or use by unauthorised persons.
- 2.3 The Recipient will not disclose to any person any of the Confidential Information of the Information Provider other than:
  - a. subject to and in accordance with the express terms of this agreement; or
  - b. with the prior written consent of the Information Provider.
- 2.4 The Recipient will:
  - a. only use the Confidential Information of the Information Provider for the purpose for which it was disclosed, but for no other purpose;
  - b. not copy, reproduce or electronically store the Confidential Information, except as authorised in writing by the other party.
- 2.4 The obligations of confidentiality in this clause 2 shall continue for a period of two years from the date the Confidential Information is disclosed.

## **3.0 PROPERTY**

- 3.1 The Recipient acknowledges that all the Confidential Information of the Information Provider will at all times remain the sole and exclusive property of the Information Provider.
- 3.2 Each party agrees that it will not at any time contest or dispute the ownership of the Confidential Information of the other party.

## **4.0 DISCLOSURE TO AFFILIATES**

- 4.1 Each party agrees that it will only disclose the Confidential Information to such Affiliates who need to know the Confidential Information (and only to such an extent). The Recipient will:
  - a. procure that its Affiliates comply with the provisions of this agreement as if they had separately entered into this agreement with the other party; and

- b. be responsible for all acts or omissions of those Affiliates insofar as they relate to or affect any matter with which this agreement or the Confidential Information is or may be concerned.

## **5.0 DISCLOSURE REQUIRED BY LAW**

- 5.1 If the Recipient or its Affiliate is legally required to disclose any Confidential Information of the Information Provider, the Recipient will notify the other party as soon as possible and will fully cooperate with all legal actions taken by the other party to avoid or limit such disclosure.
- 5.2 If the Recipient or its Affiliate cannot avoid such disclosure, the Recipient will:
  - a. only disclose such portions of the Confidential Information as is legally required; and
  - b. use its reasonable endeavours to obtain assurances that the Confidential Information disclosed will be treated as confidential by any person to whom it is disclosed.

## **6.0 RETURN OF CONFIDENTIAL INFORMATION**

- 6.1 Each party will, upon demand by the other party, either return to such person as the other party may direct, or destroy, at the option of the other party, all the Confidential Information of the other party in any form (including all printed and electronic copies thereof) in the possession or control of the Recipient or any of its Affiliates.

## **7.0 NO LIABILITY IN RESPECT OF INFORMATION**

- 7.1 In receiving the Information, each party acknowledges and agrees that none of the Information Providers:
  - a. makes any representation or warranty (express or implied) as to the accuracy or completeness of the Information;
  - b. will have any responsibility or liability for any statements or matters (express or implied) contained in, arising out of, or derived from any Information; and
  - c. will have any liability for any omissions from or failure to correct, the Information.
- 7.2 Each party further acknowledges and agrees that it is solely responsible for its own assessment and evaluation of the Information and shall make such enquiries and obtain such advice as it considers necessary in connection with assessing and evaluating the Information.

## **8.0 FURTHER ASSURANCES**

- 8.1 Each party agrees to do and take all lawful things and actions as the other party may reasonably request to procure that party's agreements, covenants and undertakings set out in this agreement are fully and properly complied with and performed at all times.

## **9.0 REMEDIES**

- 9.1 Each party agrees that, in the event of any breach of any of the provisions of this agreement, money damages may not be an adequate remedy and that accordingly each party (and its respective related parties) will be entitled to equitable relief, including injunction and specific performance, in the event of any such breach, in addition to all other remedies available to them at law or in equity.

## **10.0 GENERAL**

### **10.1 Notices**

Any notice or communication document or demand required to be made or served pursuant to this agreement shall be in writing signed by the party giving the notice and served to the registered office of the relevant party. Any notice or document shall be deemed to be duly given or made:

- a. if delivered by hand, when so delivered;
- b. if sent by facsimile, on the day of sending, if the sending machine confirms that the transmission was successful;
- c. if sent by prepaid post, on the second Business Day following posting.

Any notice, communication, document or demand which would be deemed to be received after 5:00 pm on a Business Day or on a day which is not a Business Day, shall be deemed to be received at 8:30 am on the next following Business Day.

### **10.2 Costs**

Each of the parties shall bear its own legal and other costs relating to the preparation and execution of this agreement.

### **10.3 Non-waiver**

Failure or omission by a party at any time to enforce or require strict or timely compliance with any provision of this agreement shall not affect or impair that provision in any way or the rights of that party to avail itself of the remedies it may have in respect of any breach of that provision.

### **10.4 Contracts (Privity) Act**

For the purposes of the Contracts (Privity) Act 1982, any benefit conferred by this agreement upon a person not a party to this agreement shall be enforceable by that person.

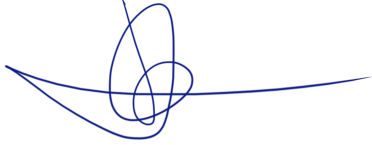
### **10.5 Counterparts**

This agreement may be executed by the parties in any number of counterparts, each of which when executed shall constitute an original but all of which shall together constitute one and the same instrument.

### **10.6 Governing Law**

This agreement shall be construed in accordance with the laws of New Zealand. This

**Teknique Limited** by:



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Name: Benjamin Bodley  
Title: Founder & CEO  
Date: 8<sup>th</sup> October 2018

**Reza Amani** by:



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Name: Reza Amani  
Date:

**10-10-2018**