

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

between

..... (PRIVATE) LIMITED

and

ECOCASH (PRIVATE) LIMITED

(Hereinafter referred to as "Ecocash")

A company duly incorporated in Zimbabwe with limited liability

1 INTRODUCTION

- 1.1 is a Company formed in accordance with the laws of
- 1.2 Ecocash (Private) Limited is a Company formed in accordance with the laws of Zimbabwe.
- 1.3 The parties intend to provide each other with certain information pertaining to their operations and the parties are in the process of discussing certain matters with a view to concluding an agreement ("the potential agreement"), which discussions have required and will require the disclosure to one another of information of a proprietary, secret and confidential nature. Whether or not the parties conclude the potential agreement will not affect the validity of this agreement and neither does the conclusion of this agreement guarantee the conclusion of the potential agreement.
- 1.4 The parties wish to record the terms and conditions upon which they shall disclose Confidential Information to each other, which terms and conditions shall constitute a binding and enforceable agreement between the parties and their agents.
- 1.5 This agreement shall also bind the parties, notwithstanding the date of signature hereof, in the event that either party shall have disclosed any Confidential Information to the other prior to date of signature hereof.

- 1.6 The party disclosing the Confidential Information shall be known as the “disclosing party” and the party receiving Confidential Information shall be known as the “receiving party”.

2 **THE CONFIDENTIAL INFORMATION**

"Confidential Information" shall, for the purpose of this agreement include, without limitation, any technical, commercial, financial information, know-how, trade secrets, processes, machinery, designs, drawings, technical specifications, and data (including, but not limited to, the information set out in 1.3 above) in whatever form, disclosed to or assessed by the receiving party during the course of its relationship with the disclosing party.

3 **DISCLOSURE OF CONFIDENTIAL INFORMATION**

- 3.1 The disclosing party shall only disclose the Confidential Information to the receiving party to the extent deemed necessary or desirable by the disclosing party in its discretion.
- 3.2 The receiving party acknowledges that the Confidential Information is a valuable, special and unique asset proprietary to the disclosing party.
- 3.3 The receiving party agrees that it will not, during or after the course of their relationship and/or the term of this agreement as described in clause 9, disclose the Confidential Information to any third party for any reason or purpose whatsoever without the prior written consent of the disclosing party, save in accordance with the provisions of this agreement. For avoidance of doubt, in this agreement “third party” means any party other than the receiving and disclosing parties (their holding and subsidiary companies or agents who shall be deemed to be bound by the provisions of this agreement).
- 3.4 Notwithstanding anything to the contrary contained in this agreement the parties agree that the Confidential Information may be disclosed by the receiving party to its professional advisors on a need-to-know basis; provided

that the receiving party takes whatever steps are necessary to procure that such professional advisors agree to abide by the terms of this agreement to prevent the unauthorised disclosure of the Confidential Information to third parties. For purposes of this clause, the receiving party's professional advisers and employees, directors or managers shall be deemed to be acting, in the event of a breach, as the receiving party's duly authorised agents.

- 3.5 and Ecocash agree in favour of one another not to utilize, exploit or in any other manner whatsoever use the Confidential Information disclosed pursuant to the provisions of this agreement for any purpose whatsoever without the prior written consent of the other/the disclosing party.

4 **TITLE**

- 4.1 All Confidential Information disclosed by the disclosing party to the receiving party is acknowledged by the receiving party:

4.1.1 to be proprietary to the disclosing party; and

4.1.2 not to confer any rights on the receiving party of whatever nature in the Confidential Information.

5 **RESTRICTIONS ON DISCLOSURE AND USE OF THE CONFIDENTIAL INFORMATION**

The receiving party undertakes not to use the Confidential Information for any purpose other than -

- 5.1 that for which it is disclosed as specifically directed by the disclosing party; and

5.2 in accordance with the provisions of this Agreement.

6 **STANDARD OF CARE**

..... and Ecocash agree that they shall protect the Confidential Information disclosed pursuant to the provisions of this agreement using the same

standard of care that each party applies to safeguard its own proprietary, secret or Confidential Information and that the Confidential Information shall be stored and handled in such a way as to prevent any unauthorised disclosure thereof.

**7 RETURN OF MATERIAL CONTAINING OR PERTAINING TO THE
CONFIDENTIAL INFORMATION**

7.1 Either party may, at any time, request the other to return any material and/or data in whatever form containing, pertaining to or relating to Confidential Information disclosed pursuant to the terms of this agreement and may, in addition request the other to furnish a written statement to the effect that, upon such return, the receiving party has not retained in its possession, or under its control, either directly or indirectly, any such material and/or data.

7.2 As an alternative to the return of the material and/or contemplated in Clause 7.1 above, the receiving party shall, at the instance of the disclosing party, destroy such material and/or and furnish the disclosing party with a written statement to the effect that all such material has been destroyed.

7.3 The receiving party shall comply with any request by the disclosing party in terms of this clause, within 7 (seven) days of receipt of any such request.

8 EXCLUDED CONFIDENTIAL INFORMATION

The obligations of the receiving party pursuant to the provisions of this agreement shall not apply to any Confidential Information that

8.1 is known to, or in the possession of the receiving party prior to disclosure thereof by the disclosing party;

8.2 is or becomes publicly known, otherwise than as a result of a breach of this agreement by the receiving party.

8.3 is developed independently of the disclosing party by the receiving party in circumstances that do not amount to a breach of the provisions of this agreement;

- 8.4 is disclosed by the receiving party to satisfy an order of a court of competent jurisdiction or to comply with the provisions of any law or regulation in force from time to time; provided that in these circumstances, the receiving party shall advise the disclosing party to take whatever steps it deems necessary to protect its interests in this regard and provided further that the receiving party will disclose only that portion of the Confidential Information which it is legally required to disclose and the receiving party will use its reasonable endeavours to protect the confidentiality of such Confidential Information to the greatest extent possible in the circumstances;
- 8.5 is disclosed to a third party pursuant to the prior written authorisation of the disclosing party;
- 8.6 is received from a third party in circumstances that do not result in a breach of the provisions of this agreement.

9 **TERM**

This agreement shall commence upon the date of signature of the last signing party hereto ("the effective date") and shall endure for a period of 12 (twelve) months ("the term") thereafter, or for a period of one year from the date of the last disclosure of Confidential Information to the receiving party, whichever is the longer period, whether or not the parties continue to have any relationship for that period of time. In the event that the parties extend the term by mutual and written agreement, then the provisions hereof shall endure for a further minimum period of 12 (twelve) months mutatis mutandis.

10 **ADDITIONAL ACTION**

Each party to this agreement shall execute and deliver such other documents and do such other acts and things as may be necessary or desirable to give effect to the terms and provisions of this agreement.

11 **BREACH**

In the event that the receiving party should breach the provisions of this agreement and fail to remedy such breach within seven (7) days from date of a written notice to do so, then the disclosing party shall be entitled to invoke all remedies available to it

in law including, but not limited to, the institution of urgent interim proceedings and/or an action for damages.

12 **AMENDMENTS**

No amendment, interpretation or waiver of any of the provisions of this agreement shall be effective unless reduced in writing and signed by both parties.

13 **ENFORCEMENT**

The failure by the disclosing party to enforce or to require the performance at any time of any of the provisions of this agreement shall not be construed to be a waiver of such provision, and shall not affect either the validity of this agreement or any part hereof or the right of the disclosing party to enforce the provisions of this agreement.

14 **HEADINGS**

The headings of the clauses of this agreement are used for convenience only and shall not affect the meaning or construction of the contents of this agreement.

15 **REPRESENTATIONS & WARRANTIES**

Each party represents that it has authority to enter into this agreement and to do all things necessary to procure the fulfilment of its obligations in terms of this agreement.

16 **ENTIRE AGREEMENT**

This agreement contains the entire agreement of the parties with respect to the subject matter of this agreement and supersedes all prior agreements between the parties, whether written or oral, with respect to the subject matter of this agreement.

17 **GOVERNING LAW**

This agreement and the relationship of the parties in connection with the subject matter of this agreement and each other shall be governed and determined in accordance with the laws of Zimbabwe.

18 **SUBMISSION**

The parties hereby submit to the non-exclusive jurisdiction of the Courts of Zimbabwe.

19 **POSTAL ADDRESSES**

19.1 Any written notice in connection with this agreement may be addressed:

19.1.1 in the case of to:

Address:

.....

.....

and shall be marked for the attention of

19.1.2 in the case of Ecocash (Pvt) Ltd :

Address: No 1906 Liberation Legacy Way

Borrowdale

Harare

Zimbabwe

and shall be marked for the attention of **The Chief Operating Officer**

19.2 A party may change that party's address, 30 (thirty) days prior notice in writing to the other party.

19.3 If any notice is to be sent by mail, it shall be sent by prepaid registered mail and shall then be deemed until and unless the contrary is proved, to have been received 20 (twenty) days after the date of posting.

19.4 If any notice is sent by telefax, it will be deemed, until and unless the contrary is proved, to have been received on the date recorded on the transmission slip.

19.5 If any notice is delivered by hand, it will be deemed to have been received on proof of the date of delivery.

20 **SIMILAR SERVICES AND PRODUCTS**

..... acknowledges that Ecocash and its Representatives develop themselves and evaluate many opportunities whether developed by Ecocash or third parties. Some of these opportunities may involve products or services similar to or competitive to actual or proposed products and/or services herein. agrees that nothing in this Agreement nor the receipt of Confidential Information by Ecocash or any of its Representatives will limit or restrict Ecocash's or its Representatives' ability or right to freely pursue all such other opportunities and to enter into any business relationship including in respect of opportunities which may be similar to or competitive with the subject of the Potential Agreement, subject to the confidentiality obligations in this Agreement.

21 **SEVERABILITY**

In the event of any one or more of the provisions of this agreement being held for any reason to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this agreement, and this agreement shall be construed as if such invalid, illegal or unenforceable provision was not a part of this agreement, and the agreement shall be carried out as nearly as possible in accordance with its original terms and intent.

Signed at Harare on this the day of 2022

AS WITNESSES:

1. _____

2. _____

For (Pvt) Ltd

Signed at Harare on this the day of2023

AS WITNESSES:

1. _____

2. _____

For: ECOCASH (PRIVATE) LIMITED