

## **NON-DISCLOSURE AGREEMENT**

This NON-DISCLOSURE AGREEMENT dated \_\_\_\_\_ May 2015 is made between \_\_\_\_\_, a company incorporated in \_\_\_\_\_ having its business/registered address at \_\_\_\_\_ (~~the Receiving Party~~), and Cagamas Berhad a company incorporated in Malaysia having its business address at Level 31, The Gardens North Tower, Mid Valley City, Lingkaran Syed Putra, 59200 Kuala Lumpur (~~the Disclosing Party~~).

### **WHEREAS:**

- A. The Receiving Party is desirous of entering into preliminary discussions with the Disclosing Party in relation to the Loans Administration System ("**Project**").
- B. Pursuant thereto, the Receiving Party requires certain information from the Disclosing Party and the Disclosing Party is agreeable to provide such information which shall be regarded as confidential upon and subject to the terms and conditions of this Agreement.

### **1. Definitions**

- 1.1 For purposes of this Agreement, "Confidential Information" shall mean information, data or material deemed proprietary by the Disclosing Party and which may be marked, or, if orally transmitted, designated as "Confidential" by the Disclosing Party and not generally known by the public or by parties which are competitive with or otherwise in an industry, trade or business similar to Disclosing Party. Confidential Information also includes any information described above which the Disclosing Party obtains from another party and which the Disclosing Party treats as proprietary or designates in writing as Confidential Information, whether or not owned or developed by the Disclosing Party. Confidential Information includes, but is not limited to, the following types of information and other information of a similar nature (whether or not reduced to writing): discoveries, ideas, concepts, software in various stages of development, designs, drawings, specifications, techniques, models, data, source code, object code, algorithms, documentation, user manuals, diagrams, flow charts, consulting methods and techniques, research, development, processes, procedures, "know-how", marketing techniques and materials, marketing and development plans, market analysis, customer names and other information related to customers, personal data and sensitive personal data as defined under the Personal Data Protection Act 2010, price lists, pricing policies and financial information, methods of production, use, operation and application, invented, owned or developed by the Disclosing Party as it applies to and is incorporated in Disclosing Party's proprietary software, and any patents, copyrights, trademarks existing now, for which applications may be pending or hereafter made, acquired and granted for any of Disclosing Party's software and any improvements, enhancements or modifications thereto, Disclosing Party's physical security system, access control systems, specialized recovery equipment and techniques, and the details of the Disclosing Party's computer operations and recovery procedures. Confidential Information shall further include data regarding business practices, pricing, product philosophy, position relative to competitors, and review of actual deliverables of consulting projects.

### **2. Confidential Information**

- 2.1 The Confidential Information shall be for the sole purpose of the Project and not for any other purpose and shall at all times remain the property of the Disclosing Party. Further, the Receiving Party acknowledges that nothing contained in this Agreement shall be construed as

a grant of any rights to the Confidential Information by the Disclosing Party to the Receiving Party, other than as provided under this Agreement.

- 2.2 Any or part of the Confidential Information may be disclosed by the Receiving Party to its affiliates or its or their respective directors, officers, employees, agents or advisors who are authorised by the Receiving Party (~~%~~**Authorised Recipients**~~+~~) to receive the Confidential Information. Under such circumstances, the Receiving Party shall require such persons or parties to acknowledge and comply with the provisions set out in this Agreement. Upon request the Receiving Party will provide the Disclosing Party with the identities of the Authorised Recipients who have access to the Confidential Information.
- 2.3 The Receiving Party shall not disclose any or part of the Confidential Information to any persons or parties, other than the Authorised Recipients, unless with the prior written consent of the Disclosing Party. Under such circumstances, the Receiving Party shall require such persons or parties to acknowledge and comply with the provisions set out in this Agreement. This Clause does not apply to any person who has entered into a confidentiality agreement or otherwise accepted confidentiality obligations to the Disclosing Party in respect of the Confidential Information, and for the avoidance of doubt the Receiving Party shall have no obligations whatsoever in relation to such persons.
- 2.4 The Receiving Party shall not make, or permit or procure any Authorised Recipient to make, any announcement or disclosure of the Project without obtaining the prior written consent of the Disclosing Party.
- 2.5 The Receiving Party agrees to use such reasonable measures necessary and standard of care to protect the confidentiality of the Confidential Information from any misuse or misappropriation by any party as the Receiving Party would apply to its own confidential information and agrees to notify the Disclosing Party, to the extent permitted under the law, as soon as it becomes aware of such misuse or misappropriation of the Confidential Information in which case, the Receiving Party agrees to provide such reasonable assistance to the Disclosing Party as it may require.
- 2.6 In the event that the Receiving Party requires copies of the Confidential Information in tangible form, it is agreed that only the necessary number of copies shall be made.
- 2.7 The term ~~%~~Confidential Information~~+~~ shall not include, and the obligations of the Receiving Party in this Agreement shall not apply to any information which:
  - (a) prior to or after the time of disclosure, becomes public knowledge and not as a result of any breach of this Agreement by the Receiving Party;
  - (b) is already in the possession of the Receiving Party at the time of disclosure prior to the time of disclosure;
  - (c) was or comes into the possession of the Receiving Party from a third party who is not known to the Receiving Party to be bound by any obligations of confidentiality to the Disclosing Party in respect of such information;
  - (d) is independently developed by the Receiving Party;
  - (e) is disclosed pursuant to a requirement, request or order of a regulatory or governmental authority or court of competent jurisdiction or to defend or prosecute a claim brought against or by or involving the Receiving Party or its Authorised Recipients but only to the extent so required, requested or ordered provided the Receiving Party agrees to notify the Disclosing Party in writing as soon as possible upon becoming aware of such requirement; and
  - (f) both parties agree is not confidential.

- 2.8 The Receiving Party will not directly or indirectly attempt to reverse engineer, decrypt, disassemble, decompile, decipher, reconstruct or re-orient the circuit design, algorithms, logic or program code in any of the Disclosing Party's products, models or prototypes which contain Confidential Information and which are provided pursuant to this Agreement.

### **3. Return of Confidential Information**

- 3.1 Upon request, the Receiving Party agrees to promptly return or destroy all originals and copies of any of the Confidential Information obtained from the Disclosing Party and thereafter the obligations of the Receiving Party under this Agreement shall be determined, save for the Receiving Party being liable for any antecedent breaches during the subsistence of this Agreement.

### **4. Term of the Agreement**

- 4.1 This Agreement will take effect from the date of this Agreement.
- 4.2 This Agreement and the obligations of the parties hereunder shall terminate (i) upon the completion of the Project (if the Receiving Party is selected for the Project); or (ii) on the date falling three (3) years from the date of this Agreement or such other date as the parties may mutually agree in writing (if the Receiving Party is not selected for the Project).
- 4.3 Notwithstanding the termination pursuant to Clause 4.2 above the Receiving Party shall remain liable for all antecedent breaches during the subsistence of this Agreement.

### **5. Miscellaneous**

- a. This Agreement constitutes the entire agreement between the parties and supersedes any and all prior agreements, communications and understanding between the parties in relation to the Confidential Information.
- b. Any amendment, modification or variation to this Agreement may be made but subject to the written consent of both parties.
- c. This Agreement is binding upon the successors-in-title and assigns of each party provided that the Receiving Party may not assign its rights and obligations under this Agreement without the prior written consent of the Disclosing Party.
- d. Time wherever mentioned in this Agreement shall be of the essence.
- e. No failure or delay in the performance of any part of this Agreement shall constitute a waiver of any term or provision nor will the exercise of any single or partial right, power or privilege exclude or restrict any further exercise thereof under this Agreement.
- f. If any provision in this Agreement may prove to be illegal or unenforceable, it shall not affect the validity and enforceability of the remaining provisions of this Agreement.
- g. In the event of any breach by the Receiving Party under this Agreement the Disclosing Party is entitled to all such remedies as may be granted by a court of competent jurisdiction.
- 5.8 Notwithstanding any term in this Agreement, both parties hereto agree to submit and adhere to the privacy laws of Malaysia governed by the Personal Data Protection Act 2010 and any other relevant statute or regulation and this shall accordingly extend to any re-enactment, modification or amendment thereto.

- 5.9 The Disclosing Party shall not have any liability or responsibility for errors or omissions in, or any business decisions made by the Receiving Party in reliance on, any Confidential Information disclosed under this Agreement.

**6. Governing Law and Jurisdiction**

- 6.1 This Agreement is governed by the laws of Malaysia and each of the parties irrevocably agrees that the courts of Malaysia shall have exclusive jurisdiction to settle any disputes arising out of or in connection with this Agreement and that accordingly any suit, action or proceeding arising out of or in connection with this Agreement may be brought in such courts.

**IN WITNESS WHEREOF**, the parties hereunto set their respective hands and seals, on the dates hereinafter set forth below.

**The Receiving Party**

**The Disclosing Party (Cagamas Berhad)**

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_