

SAMPLE NON-DISCLOSURE AGREEMENT

MUTUAL NON-DISCLOSURE AGREEMENT

THIS AGREEMENT is dated the day of 20

BETWEEN [Name], registered in [country] whose registered address is [Address], ("NGO")

AND [Name], [address] ("Operator")

(individually referred to as "Party" and collectively referred to as "Parties")

WHEREAS:

NGO and the Operator intend to carry on commercial discussions with each other in connection with the matter of mutual interest described below and anticipate sharing information of a confidential or proprietary nature in the course of those discussions and wish to enter into this agreement to protect the confidential or proprietary nature of information to be disclosed by the Parties to each other.

The matter of mutual interest is providing bulk transfer services for NGO clients (hereafter called "the Matter")

NOW IT IS AGREED by and between the parties as follows:

1. To facilitate discussions, meetings and the conduct of business between the Parties with respect to the Matter, it may be necessary for either Party to disclose ("Discloser") to the other Party ("Recipient") Confidential Information as defined below.
2. The Recipient shall be entitled to disclose the Confidential Information to its employees, contractors and advisers and Group Parties, provided that the Recipient will ensure that any such employee, contractor or adviser or Group Party has a legal obligation to keep the Confidential Information confidential which, in the case of employees, contractors or advisers, shall be both during and after their current employment or engagement, on terms no less strict than this Agreement. Any disclosure of such Confidential Information by any employee, contractor or adviser or Group Party will be deemed to be a breach of this Agreement by the Recipient.
3. Each Party acknowledges and agrees:
 - a. All Confidential Information acquired by either Party from the other Party shall be and shall remain the exclusive property of the disclosing Party or the member of its group providing it;
 - b. To hold all Confidential Information in confidence and to procure that its representatives, advisers and associates hold all such Confidential Information in confidence.

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- c. To limit access to such Confidential Information to authorised individuals (the “Permitted Personnel”) who have a need to know the Confidential Information in order for the Party to participate in the Matter.
 - d. To procure that its Permitted Personnel are aware and adhere to the terms of this Agreement;
 - e. To use such Confidential Information only for purposes of work, services or analysis related to the Matter and for other purposes only upon such terms as may be agreed upon between the Parties in writing; and
 - f. To return promptly to the disclosing party, or to destroy any copies of such Confidential Information in written, graphic or other tangible form at that Party’s request and any such destruction shall be certified in writing to the disclosing Party by an authorised officer of the Recipient;
 - g. The obligations of each of the Parties with respect to Confidential Information shall extend for a period of three (3) years following the date of disclosure of that Confidential Information; provided, however, that confidentiality obligations herein shall survive for a period of three (3) years from the date of termination of this Agreement; and
 - h. Neither disclosure of Confidential Information, nor this Agreement shall be construed as (i) requiring a Party to disclose or accept Confidential Information, (ii) permitting a Party to use or sell the Confidential Information or products derived therefrom, or (iii) granting to either Party any rights by license or otherwise, express or implied, under any patent, copyright, trademark, trade secret or other intellectual property right now or hereafter obtained or licensable by the other Party, or (iv) a representation or warranty by either Party as to the accuracy or completeness of the Confidential Information (other than as expressly set out in any agreement subsequently entered into by the Parties).
4. These obligations contained in this Agreement do not apply to Confidential Information that:
 - a. As shown by reasonably documented proof, was in the other’s lawful possession without restriction on use or disclosure prior to receipt thereof from the disclosing Party; or
 - b. As shown by reasonably documented proof, was received by one Party in good faith from a third party not subject to a confidential obligation to the other Party and without breach of this Agreement; or
 - c. Now is or later becomes part of the public domain through no breach of confidential obligation by the receiving Party; or
 - d. Is disclosed pursuant to a requirement imposed by a governmental agency or is otherwise required to be disclosed by operation of law, except that prior to any disclosure pursuant to this subsection, the Party receiving the request for the information shall notify the disclosing Party and provide them with an opportunity to participate in objecting to production of the Confidential Information; or
 - e. Was developed by the receiving Party independently from and without the developing person(s) having access to any of the Confidential Information received from the other Party; or
 - f. Is authorised in writing by the disclosing Party to be released or is designated in writing by the source as no longer being Confidential Information.
5. The Recipient acknowledges that money damages may not be an adequate remedy for any breach of this Agreement. The Discloser will be entitled to seek specific performance and injunctive and other equitable relief as a remedy for any breach of this Agreement in addition to all monetary remedies available at law and in equity.
6. Neither this Agreement nor provision of Confidential Information pursuant to it shall be construed as an agreement, commitment, promise or representation by either Party to do business with the other or to do anything except as set out specifically in this Agreement.

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7. This Agreement shall be construed in accordance with the laws of England. The Parties hereby consent to the exclusive jurisdiction of the courts of England and consent that all personal service of process be made by certified mail or registered mail directed to the address stated herein and service so made shall be deemed to be completed upon actual receipt thereof. The Parties waive any objection to jurisdiction and venue of any action instituted against it in England, and agree not to assert any defense based on lack of jurisdiction or venue. The Parties waive the right to trial by jury in any action, suit, proceeding or counterclaim of any kind arising out of or related to this Agreement.
8. The Recipient acknowledges that all Intellectual Property Rights in the Confidential Information vest in the Discloser and the Recipient further acknowledges that it shall have no rights in respect of the copyright, trade marks (registered or unregistered) or the other Intellectual Property Rights in the Confidential Information by virtue of a disclosure thereof to it.
9. This Agreement is the entire agreement between the Parties with respect to disclosure of Confidential Information pertaining to the Matter and supersedes all prior agreements and understandings with respect to this subject. This Agreement may be amended only by written agreement executed by both Parties. This Agreement shall be binding on the agents, successors and permitted assigns of the Parties.
10. If for any reason, any provision of this Agreement shall be determined to be invalid, void or unenforceable by a court or regulatory body of competent jurisdiction, the remaining provisions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated unless removal of the provision in question results in a material change to this Agreement. Further, no failure or delay by a party hereto in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or exercise of any rights under this Agreement.
11. Assignment. Neither Party shall assign this Agreement to a third party without the other Party's prior written consent, which such consent will not be unreasonably withheld, denied, conditioned or delayed; provided, however, that each Party may assign the rights and obligations to any Group Party.
12. Third parties cannot benefit from this Agreement under The Contracts (Rights of Third Parties) Act 1999.
13. Either Party may terminate this Agreement on thirty (30) days written notice to the other Party.
14. Counterparts and Facsimile Delivery. This Agreement may be executed in two or more identical counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute the Agreement when a duly authorised representative of each Party has signed a counterpart. The Parties intend to sign and deliver this Agreement by facsimile transmission. Each Party agrees that the delivery of the Agreement by facsimile shall have the same force and effect as delivery of original signatures and that each Party may use such facsimile signatures as evidence of the execution and delivery of the Agreement by all Parties to the same extent that an original signature could be used.
15. In this Agreement unless the context otherwise requires the following words and expressions shall have the following meanings:
"Agreement" means this Mutual Non-Disclosure Agreement;
"Confidential Information" means any and all information and know-how that the Discloser and/or its Group Parties and/or its agents may from time to time disclose to the Recipient or the Recipient's

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Group Parties during the course of the Matter or which otherwise becomes known to the Recipient either during the course of the Matter or during the course of any previous discussions, negotiations or relationship with the Discloser in relation to the Matter, whether orally, in writing, digitally, in the form of machine readable code or embodied in hardware or any other physical medium which relates to the business, including but not limited to the business plan of the Discloser or their Group Parties, data, know-how, designs, illustrations, drawings, photographs, illustrations, notes, memoranda, terms of business, financial information, financial projections, financial records, customers and suppliers, sales and marketing information, spreadsheets, specifications, technical information and computer software of the Discloser and/or its Group Parties;

“Discloser” means the Party which has disclosed Confidential Information to the other Party;

“Group Party” means any Party which is, or is a subsidiary of, the ultimate holding Party of the relevant Party from time to time, where “subsidiary” and “holding Party” have the meanings ascribed to them in section 1159 of the Companies Act 2006 or such other legislation as may amend, extend, consolidate or replace the same from time to time;

“Intellectual Property Rights” means (i) patents, designs, trade marks and trade names (whether registered or unregistered), copyright and related rights, moral rights, database rights and know-how; (ii) all other intellectual property rights and similar or equivalent rights anywhere in the world which currently exist or are recognised in the future; and (iii) applications, extensions and renewals in relation to any such rights;

and

“Recipient” means a Party that has received Confidential Information of the other Party.

<p>Signed for an on behalf of NGO:</p> <p>Signature:</p> <p>Name:</p> <p>Title:</p> <p>Date:</p>	<p>Signed for an on behalf of the Party:</p> <p>Signature:</p> <p>Name:</p> <p>Title:</p> <p>Date:</p>
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