

MEMORANDUM OF CONFIDENTIALITY

Entered into by and between :-

its associated or subsidiary companies
(hereinafter referred to as "XXXXXXX")

and

Identity Number
(hereinafter referred to as "XXXXXXXXXXXX")

XXXXXXX and _____ shall hereinafter
collectively be referred to as "the PARTIES"

INTERPRETATION AND DEFINITIONS

- In this undertaking unless inconsistent with or otherwise indicated by the context :-
 - i. **"XXXX"** is
XX
XX
XXXXXXXXXXXXXXXXXXXXXXXXXXXX
 - ii. XXXX address is XXXXXXXX;
 - iii. " _____ " is _____
 - iv. _____'s address is _____
 - v. **"Confidential Information"** shall include but not be limited to all communications whether written, oral or in any other form, reports, statements, schedules and other data concerning financial, technical, labour, marketing, administrative, accounting, techniques, design, instruction manuals, samples, devices, formulae, know-how, information concerning materials, business information generally and any other knowledge of whatever description in which XXXX (Hospital) has an interest in being kept confidential;
 - vi. **"Commencement Date"** - Notwithstanding the date of signature hereof, means the date upon which the Confidential Information comes into the possession of - _____;
 - vii. Words in the singular includes the plural and vice versa;
 - viii. Words importing any one gender include each of the other two genders;
 - ix. A reference to a natural person includes a legal persona;
- The headings of the clauses are intended for convenience only and shall not affect the interpretation of this undertaking.

1 PRE-AMBLE

- _____ confirms her/his bona fide interests in obtaining certain confidential information relating to the businesses of xxxxxxx (Hospital), its subsidiaries and associates and its future plans-
 - i. _____ requires the said information from time to time to enable her/his to evaluate and formulate projects on behalf of xxxxxxx (Hospital) (the Project);
 - ii. In developing the PROJECT, _____ shall become involved in and privy to confidential information relating to xxxxxxx (Hospital)

- _____ shall from time to time receive from xxxxxxx a great deal of confidential information concerning (Hospital) business operations as well as the business operations of xxxxxxx (Hospital) related companies (the **confidential information**).

- xxxxxxx (Hospital) agrees to disclose to _____ such **confidential information** subject to _____ agreeing to the terms of Confidentiality as set out herein.

3 TITLE OF THE CONFIDENTIAL INFORMATION

_____ acknowledges that all right, title and interest in and to the **confidential information**, vests in xxxxxxx (Hospital) and that _____ has no claim of any nature whatsoever to xxxxxxx (Hospital) **confidential information**.

4 PERIOD OF CONFIDENTIALITY

The provisions of this undertaking shall remain in force throughout _____'s association with xxxxxxx (Hospital) and shall continue to remain in force for a period of not less than **20 (Twenty)** years after termination of that period.

5 NON-DISCLOSURE

5.1 _____ undertakes to maintain the confidentiality of any **confidential information** to which she/he/ should be allowed access by xxxxxxx (Hospital), whether before or after the **commencement date** of this undertaking.

- 5.2 _____ will not divulge or permit to be divulged to any person any aspect of such **confidential information** otherwise than may be allowed in terms of this undertaking.
- 5.3 _____ shall take all such steps as may reasonably be necessary to prevent the **confidential information** falling into the hands of any unauthorised third party.
- 5.4 _____ shall not make use of any of the **confidential information** in the development, manufacture, marketing or procuring of any business without the prior written consent of xxxxxx (Hospital).
- 5.5 _____ shall not use or disclose or attempt to use or disclose the **confidential information** for any purpose other than for the purpose of evaluating the possibility of concluding an agreement with xxxxxx (Hospital) relating to the Project;
- 5.6 _____ shall not use or attempt to use the **confidential information** in any manner which is designed to cause or is reasonably likely to cause injury or loss to xxxxxx (Hospital);
- 5.7 _____ shall not at any time without prior written consent of xxxxxx (Hospital) disclose or reveal or solicit the disclosure of any **confidential information**, whether directly or indirectly to any person other than to her/his officers and employers, legal and financial advisors, who are directly concerned with the relationship between _____ and xxxxxx (Hospital) and who are required in the course of their duties to receive and consider it for the purposes of establishing or developing that relationship and who shall first be informed of and be required to adhere to strict obligations of confidentiality in respect of any such **confidential information**.
- 5.8 All documentation furnished by XXXXX (HOSPITAL) to _____ pursuant to this undertaking, will remain the property of XXXXX (HOSPITAL) and upon the request of XXXXX (HOSPITAL), will be returned to XXXXX (HOSPITAL).
- 5.9 _____ shall not make copies, photograph or otherwise reproduce any documentation except for the purpose for which such documents were procured without the prior written consent of XXXXX (HOSPITAL).
- 5.10 Any **confidential information** which comes into the possession of _____ prior or after the **commencement date** -
- 5.10.1 shall be deemed to form part of the **confidential information** of XXXXX (HOSPITAL);
- 5.10.2 shall be deemed to be the property of XXXXX (HOSPITAL);

5.10.3 shall not be copied, reproduced, published or circulated by such party; and

5.10.4 shall be surrendered to XXXXX (HOSPITAL) on demand;

6 **EXCEPTION**

6.1 The above undertakings by _____ relating to the confidentiality shall not apply to information which :-

6.1.1 is in fact lawfully in the public domain at the commencement date; or

6.1.2 lawfully comes into the public domain after the **commencement date** other than by reason of breach of any of the obligations of _____; or

6.1.3 a party may be compelled to disclose in terms of a Court Order;

6.1.4 is already lawfully in the possession of a party (as can be demonstrated by written records or other reasonable evidence) provided that the source of such information was not subject to any agreement or other duties relating to confidentiality.

6.2 The onus of proving the facts necessary to sustain any one of the exceptions listed above, will rest with _____ so claiming the exception.

6.3 _____ shall be obliged to deliver to XXXXX (HOSPITAL) within 48 (Forty Eight) hours of any requests to do so, all or any documents or copies of such documents even though such party may not have completed the purpose for which such party would be holding such documents.

7 **JURISDICTION**

The undertakings herein provided shall be governed by South Africa Law and _____ hereby irrevocably agrees to the jurisdiction of the High Courts of South Africa in respect of any disputes flowing from this undertaking.

8 **WHOLE AGREEMENT**

8.1 This document constitutes the whole of this understanding to the exclusion of all else;

8.2 No amendment, alteration, addition, variation or consensual cancellation of this undertaking will be valid unless in writing and signed by _____ and XXXXX (HOSPITAL).

9 **WAIVER**

9.1 No waiver of the terms or conditions of this undertaking will be binding for any purpose unless expressed in writing and signed by _____ and any such waiver will be effective only in the specific instance and for the purpose given.

10 **SEVERABILITY**

In the event that any of the provisions of this undertaking are found to be invalid, unlawful, or unenforceable, such terms shall be severable from the remaining terms, which shall continue to be valid and enforceable.

11. _____ or any other party to whom XXXXX (HOSPITAL) shall have alienated any information and/or revealed any documentation aforesaid, shall breach any provisions of this Agreement, all of which shall be deemed to be material, then XXXXX (HOSPITAL) shall entitled, without prejudice to any other rights or remedies which it may have at law, to-

11.1 forthwith cease negotiations; and/or

11.2 cancel any agreement of license or other transaction resulting from such negotiations; and/or

11.3 compel specific performance; and/or

11.4 obtain an interdict/injunction, damages or other similar relief.

12 _____ hereby acknowledges that-

12.1 she/he understands the contents of this Agreement;

12.2 she/he has voluntarily agreed to enter into this Agreement;

12.3 she/he is bound by each other and every provision hereof, and that each and every provision hereof, is reasonable and necessary to protect the rights of XXXXX (HOSPITAL).

DATED at _____ on this _____ day of _____
_____ 2002, in the presence of the undersigned witnesses:

AS WITNESSES:

1. _____

2. _____

XXXXX (HOSPITAL)

DATED at _____ on this _____ day of _____
_____ 2006, in the presence of the undersigned
witnesses:

AS WITNESSES:

1 _____

2 _____