

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

is made and entered into by and

BETWEEN: **BORROWDALE VALLEY ESTATE (PRIVATE) LIMITED**
A company duly registered in terms of the laws of
Zimbabwe of 7 Avon Rise, Harare, Zimbabwe (hereinafter
called "**BVE**")
Represented by
(In his capacity as the **CEO**)

AND: **NAME:**
ID:
Address:
Email:

(each "a Party" and together called "the Parties")

RECITALS

- A** **WHEREAS BVE and the Client have agreed** to enter into a Confidentiality and Non-Disclosure Agreement;
- B** **WHEREAS the objective of** this agreement is to allow parties to share confidential information for the purpose of the Project as defined below.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and intending to be legally bound thereby, the parties hereto agree as follows:

1. DEFINITIONS

- 1.1 "**Agreement**" means this Agreement and all Appendices attached hereto;
- 1.2 "**Confidential Information**" shall include all information owned by either Party (the Disclosing Party) and disclosed to the Recipient in terms of the provisions of this Agreement and vice versa, which information may include but is not limited to:
- 1.2.1 information relating to the commercial and financial activities of the Client, including, but not limited to, legal, financial, contractual or commercial arrangements ;

- 1.2.2 Confidential Information and details regarding current or prospective customers, suppliers, commercial associates and other parties with whom the Disclosing Party enjoys a commercial relationship;
- 1.2.3 proposed, impending or actual commercial transactions, arrangements, ventures, agreements and opportunities which are of a confidential or secret nature;
- 1.2.4 information descriptions of the Disclosing Party's corporate structure, shareholdings, franchise and/or gain sharing arrangements, proprietary debt-financing structures, proprietary preference-share financing structures, trade mark and intellectual property valuation structures, or any other industry-specific or proprietary intellectual property;
- 1.2.5 any written information which is labelled "confidential" or "proprietary" before it is disclosed to the Recipient; and
- 1.2.6 any oral information that it is intended to be confidential and is later reduced to writing by the Disclosing Party and delivered to the Recipient within 30 (thirty) days of oral disclosure thereof;
- 1.3 **"Disclosing Party"** means the Party that owns the Confidential Information disclosed to the Recipient.
- 1.4 **"Parties"** means the Parties to this Agreement;
- 1.5 **"Project"** means the process of the Client signing the agreement of sale and additional contracts provided by BVE;
- 1.6 **"Recipient"** means the Party receiving the Confidential Information;
- 1.7 **"Signature Date"** means the date of signature of this Agreement by the last Party signing in time which in turn becomes the effective date.

2. INTERPRETATION

- 2.1 Clause and paragraph headings are for purposes of reference only and shall not be taken into account in the interpretation of this agreement.
- 2.2 A reference to a Business Day is a reference to any day excluding Saturday, Sunday and a public holiday in the Republic of Zimbabwe.
- 2.3 The rule of interpretation that a written agreement shall be interpreted against the Party responsible for the drafting or preparation of that agreement shall not apply.
- 2.4 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, notwithstanding that it is only in the definition Clause, effect shall be given to it as if it were a substantive provision in the body of the Agreement.
- 2.5 Where any term is defined within the context of any particular Clause in this Agreement, then, unless it is clear from the Clause in question that the term so defined has limited application to the relevant Clause, the term so defined shall bear the meaning ascribed to it for all intents and purposes in terms of this Agreement notwithstanding that that the term has not been defined in the definition Clause.

3. INTRODUCTION

- 3.1 The purpose of this Agreement is to facilitate further engagement and discussion between the Parties and the exchange of Confidential Information solely in respect of the Project.
- 3.2 The purpose for which the Confidential Information shall be disclosed is to facilitate further engagement and discussion between the Parties in relation to the Project.

4. NON-CIRCUMVENTION

- 4.1 The Parties hereby irrevocably and unconditionally undertake in favour of each other that they shall not circumvent, avoid or bypass or obviate the terms and conditions contained in this Agreement, or attempt to do so for any purpose whatsoever. In particular, each Party undertakes that it shall not:
 - 4.1.1 utilise the Confidential Information for its own benefit or for the benefit of any third party;
 - 4.1.2 engage in any activity which may directly or indirectly prejudice each Party's interest in the Service;
 - 4.1.3 use any of the Confidential Information or its knowledge of the other party for any purpose other than that specifically authorised by this Agreement;
 - 4.1.4 perform any act or omission which may or may not have an effect of prejudicing the other party's proprietary or financial interest in the Confidential Information and/or the Service.
- 4.2 The Parties agree and undertake not to circumvent this Agreement or the agreed terms hereof or make direct or indirect contact with the entity / entities which are the subject of the Confidential Information or the Project, for the purpose of directly or indirectly negotiating for the Service and/or business related thereto on its own behalf or on behalf of a third party, or for any other purpose whatsoever.
- 4.3 The provisions of this Clause shall remain in force for a period of twenty four (24) months from the Signature Date, notwithstanding the earlier termination of this Agreement, for whatever reason, and irrespective of whether or not the current negotiations in respect of the Service or Project result in the conclusion of any transaction in connection thereto.

5. NON-DISCLOSURE OF CONFIDENTIAL INFORMATION

- 5.1 The Parties acknowledge that the Confidential Information is a valuable, special and unique proprietary asset to the disclosing Party.
- 5.2 The Parties agree that they shall not, during the course of their association, or at any time thereafter, disclose the Confidential Information to any third party for any reason or purpose whatsoever without the prior written consent of the Other Party, save in accordance with the provisions of this Agreement.
- 5.3 Each Party shall hold in confidence all Confidential Information disclosed to it in terms of this agreement, including but not limited to the identity of all entities discussed in respect of the Merger.
- 5.4 Notwithstanding anything to the contrary contained in this Agreement, the Parties agree that the Confidential Information disclosed to the Recipient may be disclosed by the Recipient to its professional advisers, agents and consultants on a need to know basis only; provided that the

Recipient takes all steps that are necessary to procure that such professional advisers, agents and consultants agree to abide by the terms of this Agreement to prevent the unauthorised disclosure of the Confidential Information to third parties.

5.5 The Recipient agrees:

5.5.1 not to use, employ, or exploit in any manner whatsoever the Confidential Information disclosed or information acquired pursuant to the provisions of this Agreement for any purpose outside the objective of this Agreement without the prior express written consent of the disclosing Party, save as contemplated in **Clause 6**;

5.5.2 that the unauthorised disclosure of the Confidential Information to a third party or the unauthorised use of the Confidential Information may cause irreparable loss, harm and damage to Disclosing Party. Accordingly, should either party be in breach, it shall be held liable for any loss, action, claim, harm or damage of whatever nature, suffered by the disclosing Party.

6. EXCLUDED CONFIDENTIAL INFORMATION

The obligations of the Parties pursuant to the provisions of this Agreement shall not apply to any Confidential Information that:

6.1 is known to or in possession of either Party prior to disclosure thereof;

6.2 is or becomes publicly known, otherwise than pursuant to the terms of this Agreement or a breach thereof.

6.3 is disclosed by either Party to satisfy the 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:

6.3.1 the Party disclosing the information in terms of this clause shall advise the other Party in writing prior to such disclosure to enable it to take whatever steps it deems necessary to protect its interests in this regard; and

6.3.2 provided further that the Party discloses only that portion of the Confidential Information which it is legally required to disclose and shall use its reasonable endeavours to protect the confidentiality of such Confidential Information to the widest extent possible in the circumstances;

6.4 is disclosed to a third party pursuant to the prior written authorisation of the Disclosing Party or is received from a third party in circumstances that do not result in a breach of the provisions of this Agreement.

7. OWNERSHIP OF CONFIDENTIAL INFORMATION

7.1 All Confidential Information disclosed to the Recipient is acknowledged by the Recipient:

7.1.1 to be the property of the Disclosing Party who shall retain all right, title and interest in and to that information; and

7.1.2 not to confer any rights of whatever nature in such Confidential Information to the Recipient.

8. STANDARD OF CARE

The Recipient agrees that it shall protect the Confidential Information disclosed pursuant to the provisions of this Agreement using the same standard of care that it applies to its own proprietary, secret or Confidential Information, but in any event not less than a reasonable standard of care, and that the Confidential Information shall be stored and handled in such a way as to prevent any unauthorised disclosure thereof.

9. ASSIGNMENT

Neither Party shall assign or transfer any of its rights or obligations under this Agreement without the prior written consent of the other.

10. TERMINATION

10.1 This Agreement may be terminated by either Party on **thirty (30)** days written notice to the other provided, however, that no such termination shall serve to release the Recipient from its obligations as to the Confidential Information and use thereof, and from the obligation under **Clause 5 and 6** above, which shall remain in force in accordance with the provisions hereto.

10.2 This Agreement may be terminated in terms of the provisions of **Clause 11** hereof.

10.3 In the event of such termination, each Party undertakes to return to the other all documents and copies, whether paper or electronic, of the Confidential Information disclosed in terms of this Agreement.

11. BREACH

If any Party (the "Defaulting Party") breaches this Agreement and such breach goes to the root of this Agreement, and the Defaulting Party fails to remedy that breach within ten (10) days of receipt of written notice from the other Party (the "Non-Defaulting Party") calling for the breach to be remedied, then the Non-Defaulting Party shall be entitled, without prejudice to any other rights that it may have, whether under this Agreement or in law, to cancel this Agreement without notice or to claim immediate specific performance of all the Defaulting Party's obligations, whether or not due for performance, in either event without prejudice to the Non-Defaulting Party's right to claim damages.

12. NOTICES AND LEGAL PROCESS

12.1 Each Party chooses as its address for all purposes under this Agreement ("chosen address"), whether for serving any court process or documents, giving any notice, or making any other communications of whatsoever nature and for any other purpose arising from this Agreement ("notice"), as according to page one.

12.2 Notwithstanding anything to the contrary herein, a written notice actually received by a Party, including a notice sent by telefax, shall be an adequate notice to it notwithstanding that it was not sent or delivered to its chosen address.

13. GENERAL AND MISCELLANEOUS

13.1 NO AMENDMENTS EXCEPT IN WRITING

No addition to, variation of, or agreed cancellation of, this Agreement shall be of any force or effect unless reduced to writing and signed by or on behalf of the Parties.

13.2 INDULGENCIES AND WAIVERS

No relaxation or indulgence, which any Party may grant to any other, shall constitute a waiver of the rights of that Party and shall not preclude that Party from exercising any rights which may have arisen in the past or which might arise in future.

13.3 GOVERNING LAW AND DISPUTE RESOLUTION

This Agreement shall be governed by the laws of the Republic of Zimbabwe and any dispute arising out of this Agreement shall be submitted to arbitration by a single arbitrator chosen by the Parties. Should the parties fail to agree on an arbitrator, President of the Harare Commercial Arbitration Centre shall appoint an Arbitrator. The arbitration seat shall be Harare, Zimbabwe.

13.4 WHOLE AGREEMENT

This Agreement constitutes the entire Non-Disclosure Agreement between the Parties regarding the subject matter of this Agreement and may be amended only in writing and signed by both Parties.

SIGNED AT HARARE ON _____ SEPTEMBER 2024

For BORROWDALE VALLEY ESTATE

AS WITNESSES -:

1.....

2.....

SIGNED AT HARARE ON _____ SEPTEMBER 2024

CLIENT

AS WITNESSES -:

1.....

2.....