

DEED OF CONFIDENTIALITY

dated ***

Between

Queensland Police Service (the "Customer")

And

*** (the "Confidant")

Recitals:

- A. In the course of the Confidant performing certain services for the Customer (whether directly or indirectly), the Confidant may become aware of information belonging to or in the possession of the Customer that is confidential.
- B. Improper use or disclosure of that information would severely damage the Customer's ability to perform its governmental/statutory functions.
- C. The Customer requires, and the Confidant agrees, that it is necessary to take all reasonable steps (including the execution of this Deed) to ensure that the Customer's Confidential Information is kept confidential and that the Confidant performs those services faithfully and without any conflicting interest.

Agreed Covenants:**1. Recitals**

- 1.1 The Parties acknowledge the truth and accuracy of the Recitals in every particular.

2. Interpretation**2.1 Definitions**

In the interpretation of this Deed unless the contrary intention appears or the context otherwise requires or admits the following expressions shall have the following meanings:

"Confidential Information" means, in relation to a Party, information that:

- (a) is by its nature confidential;
- (b) is communicated by a Party to the other Party as being confidential; or
- (c) the other Party knows or ought to know is confidential.

Subject to (a), (b) and (c) above, Confidential Information includes information that is:

- (i) comprised in or relating to any Intellectual Property Rights of the Party;
- (ii) relating to the internal management and structure of the Party, or the personnel, policies and strategies of the Party unless otherwise made public;
- (iii) of any actual or potential commercial value to the first Party or to the person or corporation which supplied that information;
- (iv) in the case of the Customer, information relating to the policies, strategies, practices and procedures of the Commonwealth, State or Territory Government and any information in the Confidant's possession relating to the Commonwealth, State or Territory Government public services;

- (v) any trade secret, proprietary information, technical information, Documentation, price list, pricing and payment condition and schedule, financial and accounting detail, data, drawing, plan, report and all other information and documents; or
- (vi) in the Party's possession relating to the other Party's clients or suppliers, and like information.

"**Intellectual Property Rights**" includes copyright, trade mark, design, patent, semi-conductor or circuit layout rights, trade, business or company names, or other proprietary rights, or any rights to registration of such rights existing in Australia, whether created before on or after the commencement date of a Customer Contract.

2.2 *General*

2.2.1 Unless the contrary intention appears:

- (a) monetary references are references to Australian currency;
- (b) the clause and sub-clause headings are for convenient reference only and have no effect in limiting or extending the language of the provisions to which they refer;
- (c) a cross reference to a clause number is a reference to all its sub-clauses;
- (d) words in the singular number include the plural and vice versa;
- (e) words importing a gender include any other gender;
- (f) a reference to a person includes a partnership and a body whether corporate or otherwise;
- (g) a reference to a clause or subclause is a reference to a clause or sub-clause of this Deed; and
- (h) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.

3. **Non Disclosure**

- 3.1 The Confidant must not disclose the Confidential Information to any person without the prior written consent of the Customer.
- 3.2 The Customer may grant or withhold its consent in its absolute and unfettered discretion.
- 3.3 If the Customer grants its consent, it may impose conditions on that consent. In particular, but without limiting the generality of the preceding sentence, the Customer may require that the Confidant procure the execution of a Deed in these terms by the person to whom the Confidant proposes to disclose the Confidential Information.
- 3.4 If the Customer grants consent subject to conditions, the Confidant must comply with those conditions.
- 3.5 The obligations of the Confidant under this Deed shall not be taken to have been breached where the Confidential Information is legally required to be disclosed.

4. **Restriction on Use**

- 4.1 The Confidant will use the Confidential Information only for the purpose of its dealings with the Customer (whether directly or indirectly).

5. **Survival**

- 5.1 This Deed will survive the termination or expiry of the Contract providing for the performance of services by the Confidant (whether directly or indirectly).

6. Powers of the Customer

6.1 Production of Documents

- 6.1.1 The Customer may demand (without needing to reduce the demand to writing) the delivery up to the Customer of all documents in the possession or control of the Confidant containing the Confidential Information.
- 6.1.2 The Confidant must immediately comply with a demand under this clause 6.
- 6.1.3 If the Customer makes a demand under this clause 6, and the Confidant has placed or is aware that documents containing the Confidential Information are beyond his or her possession or control, then the Confidant must provide full particulars of the whereabouts of the documents containing the Confidential Information, and the identity of the person in whose custody or control they lie.
- 6.1.4 In this clause 6, "documents" includes any form of storage of information, whether visible to the eye or not.

6.2 Legal Proceedings

- 6.2.1 The Confidant acknowledges that the Customer may take legal proceedings against the Confidant or third parties if there is any actual, threatened or suspected breach of this Deed, including proceedings for an injunction to restrain such breach.

7. Conflict of Interest

- 7.1 The Confidant warrants that before entering into this Deed it has disclosed to the Customer all the past, current and anticipated interests of the Confidant which may conflict with or restrict the Confidant in performing services to the Customer fairly and independently.
- 7.2 The Confidant shall not during the course of this Deed engage in any activity or obtain any interest likely to conflict with or restrict the Confidant in providing services to the Customer fairly and independently and shall immediately disclose to the Customer such activity or interest.

8. No Exclusion of Law or Equity

- 8.1 This Deed must not be construed to exclude the operation of any principle of law or equity intended to protect and preserve the confidentiality of the Confidential Information.

9. Variation and Waiver

- 9.1 This Deed shall not be varied either in law or in equity except by agreement in writing signed by the Customer and the Confidant.
- 9.2 A waiver by one party of a breach of a provision of this Deed by another party shall not constitute a waiver in respect of any other breach or of any subsequent breach of this Deed. The failure of a party to enforce a provision of this Deed shall not be interpreted as a waiver of that provision.

10. Applicable Law

- 10.1 The laws of the State of Queensland govern the Customer Contract and the Parties submit to the non-exclusive jurisdiction of the courts of Queensland.

11. Remedies Cumulative

11.1 Rights Cumulative

- 11.1.1 The rights and remedies provided under this Customer Contract are cumulative and not exclusive of any rights or remedies provided by law or any other such right or remedy.

11.2 Other Instruments

- 11.2.1 Subject to the other covenants of this Deed, the rights and obligations of the Parties pursuant to this Deed are in addition to and not in derogation of any other right or obligation between the Parties under any other deed or agreement to which they are Parties.

12. Notices

- 12.1 A notice or other communication which may be given to or served on either Party under this Agreement is deemed to have been duly given or served if it is in writing, signed by the Party giving the notice ("the first Party") and is either delivered by hand, posted, sent via facsimile or a copy transmitted via electronic mail or other electronic means to the other Party at the address set out in item 14 of Schedule A1 or such other address as is notified in writing to the first Party from time to time.
- 12.2 Such notice or other communication is deemed to have been duly received:
- (a) if delivered by hand – at the time when the first Party holds a receipt for that document signed by a person apparently employed at that address for service;
 - (b) if sent by post – at the time when, in the ordinary course of the post, it would have been delivered at the address to which it is sent;
 - (c) if sent via facsimile – at the time when the machine on which the notice is sent reports in writing that the notice has been transmitted satisfactorily; or
 - (d) if sent via electronic mail or other electronic means – at the time when the other Party acknowledges receipt by any means.
- 12.3 If delivery or receipt of a notice or communication occurs on a day other than a Business Day or is later than four (4.00) pm (Customer local time) it will be taken to have duly occurred at nine (9.00) am (Customer local time) on the next Business Day.

