

DATED THIS

Between

MEDIA SPECIALISTS ASSOCIATION

“the Disclosing Party”

And

()

“the Receiving Party”

NON-DISCLOSURE AGREEMENT

M Scully

Advocates & Solicitors

Suite B-8-13, Gateway Corporate Suites,
Gateway Kiaramas, No. 1, Jalan Desa Kiara,
50480 Mont Kiara, Kuala Lumpur

Tel: 03-6201 6210 Fax: 03-6211 7388

THIS NON-DISCLOSURE AGREEMENT is made this

..... day of, 20.....

BETWEEN

MEDIA SPECIALISTS ASSOCIATION an association with its address at Level 7, Unit 023, 129 Offices, Block J, Jaya One, 72A, Jalan Profesor Diraja Ungku Aziz, 46200 Petaling Jaya, Selangor, Malaysia (**hereinafter shall be referred to as “the Disclosing Party”**) of the first part;

AND

.....(**Company No**.....),
a Company incorporated under the laws of Malaysia at
.....
..... (hereinafter referred to as “**the Receiving Party**”) of the other part;

(collectively the Disclosing Party and the Receiving Party are hereinafter referred to as the “**Parties**”, or individually as the “**Party**”).

WHEREAS:

- A. The Disclosing Party possesses confidential information, sensitive information and/or trade secrets as will be defined in Clause 1 hereinbelow (“**Confidential Information**”).
- B. The Receiving Party acknowledges that they will have access to and become privy to the Disclosing Party’s Confidential Information in the course of their works and/or main contractual relationship with the Disclosing Party, irrespective of whether it is in a permanent, temporary, full-time, part-time, contractual, intern, or probationary capacity (“**main contractual relationship**”).
- C. The Receiving Party acknowledges that the Disclosing Party operates in a highly competitive environment and that all Confidential Information if disclosed whether directly or indirectly to a third party without the express authorization of the Disclosing Party would have a detrimental effect in the business of the Disclosing Party and is harmful and damaging to the interests of the Disclosing Party.
- D. In consideration of being made privy to the Disclosing Party’s Confidential Information , the Receiving Party herewith enter into this Agreement to hereby irrevocably warrant, undertake, declare and

agree to his/her/their Unconditional Undertaking for Non-Disclosure of the Disclosing Party's Confidential Information.

- E. For the avoidance of doubt, the parties acknowledge that the existence and the terms of this Agreement are themselves confidential.

NOW THEREFORE, THE PARTIES DO AGREE AS FOLLOWS:

1. **Definitions**

In this Non-Disclosure Agreement, the following words and expressions shall have the following meaning:

"Agreement" means this Non-Disclosure Agreement;

"Confidential Information" shall mean any communication and whatsoever information whether orally, in documentary form either in hard or soft copies, by demonstration or otherwise and contained in any form whatsoever (including data, documents, drawings, films, videos, computer readable media, magnetic tapes, manuals, specifications, flowcharts, program listings and data file printouts):-

- (i) which gives the Disclosing Party some competitive business advantage or the opportunity of obtaining such advantage or the disclosure of which could be detrimental to the interests of the Disclosing Party;
- (ii) which is owned by the Disclosing Party or in which the Disclosing Party has an interest; and/or
- (iii) which is either marked "Confidential Information", "Proprietary Information" or other similar marking; or known by the Receiving Party to be considered confidential, sensitive and proprietary by the Disclosing Party (whether or not owned or developed by the Disclosing Party); or from all the relevant circumstances whether marked or otherwise, should reasonably be assumed by the Receiving Party to be confidential and proprietary to the Disclosing Party; or intended to be for the sole knowledge of the Receiving Party alone;

and includes, but not limited to, the following types of information and other information of a similar nature (whether or not reduced to writing), in particular:-

- (a) Any information described above which the Disclosing Party obtains from another party and which the Disclosing Party treats as proprietary or designates as Confidential Information, whether or not owned or developed by the Disclosing Party;

- (b) Non-public information reasonably designated as being confidential or which, under the circumstances surrounding disclosure ought to be treated as confidential; and/or
- (c) Any information arising out of or deriving from any Confidential Information and contained in any form whatsoever (including any such materials produced by or on behalf of the Receiving Party) shall also be deemed to be Confidential Information .

2. **Obligations**

2.1. In relation to the Disclosing Party's Confidential Information, regardless of whatsoever or howsoever method the Disclosing Party's Confidential Information is obtained from, or other information of a similar nature that the Receiving Party has come in contact with, the Receiving Party unconditionally undertakes:-

2.1.1. that the Disclosing Party's Confidential Information that is disclosed to the Receiving Party, or that the Receiving Party acquires, sees, hears, or learns of as a direct or indirect consequence of the discussions contemplated herein, and all dealings, meetings and transactions that follow or result from such discussions, are the exclusive property of the Disclosing Party, and the Receiving Party will keep such Confidential Information strictly confidential;

2.1.2. to refrain from copying, reproducing and/or reducing to writing or any other form of recording any part thereof or taking of photos except as may be absolutely necessary only upon the express instructions of the Disclosing Party;

2.1.3. to refrain from disclosing the Disclosing Party's Confidential Information whether to other employees of the Disclosing Party or third parties except as may be absolutely necessary and only upon the express instructions of the Disclosing Party;

2.1.4. that this Agreement herein shall bind the Receiving Party and will survive the expiry and/or termination of the main contractual relationship;

2.1.5. not to take or retain, or dissipate any Confidential Information, details, files or other documents or copies

thereof or other information of any kind belonging to the Disclosing Party; and

- 2.1.6. not to retain any Confidential Information from the Disclosing Party, whether in soft copy or hard copy or stored in the Receiving Party's mobile phone of whatever documents or pictorial images, or to bring home.
- 2.2. Upon the expiry and/or termination of the main contractual relationship between the Receiving Party and the Disclosing Party, the Receiving Party shall surrender all Confidential Information and documents belonging to the Disclosing Party whether stored digitally or in any form. The Receiving Party shall not retain any copies or other reproductions in whole or in part of such material in relation to the Disclosing Party's Confidential Information.
- 2.3. It is acknowledged and agreed that Confidential Information obtained whether or not directly or indirectly, shall be treated as being completely and strictly private and confidential. The Receiving Party shall not [which includes assisting, aiding, or abetting any other person(s)] without limit in point of time, directly or indirectly reveal, report, publish, circulate or disclose the Disclosing Party's Confidential Information to any person, firm, or corporation not expressly authorized by the Disclosing Party.
- 2.4. It is acknowledged and agreed that the Receiving Party owes a duty of trust, fidelity and confidence to the Disclosing Party at all times.
- 2.5. For the avoidance of doubt, the Receiving Party shall keep the Disclosing Party's Confidential Information including any related information and/or documents in the strictest confidence and take all precautions necessary to preserve the secrecy and confidentiality of the said Confidential Information, including but not limited to the following confidentiality measures:
 - 2.5.1. The Receiving Party shall keep all Confidential Information including any related information and/or documents separate from other documents and records wherever possible;
 - 2.5.2. The Receiving Party shall take all steps necessary to protect the Disclosing Party's Confidential Information including any related information and/or documents from unauthorised or inadvertent disclosure and, shall be liable

for any loss, theft or inadvertent disclosure of Confidential Information including any related information and/or documents and unauthorized disclosure of Confidential Information including any related information and/or documents by persons, including but limited to, present and former employees of the Disclosing Party; and

2.5.3. The Receiving Party shall within the prescribed period of time from such written request by the Disclosing Party return or procure to return to the Disclosing Party the Disclosing Party's Confidential Information and any copies thereof, cease to use the Disclosing Party's Confidential Information which is to be returned and destroy, delete and remove the Disclosing Party's Confidential Information from any database or document retrieval system into which it has been placed, whether supplied to or reproduced by the Receiving Party. For Confidential Information which are in electronic form and stored in the computer system, the Receiving Party shall unconditionally ensure its destruction.

3. **Acknowledgement**

- 3.1. It is acknowledged that all Confidential Information including any related information and/or documents revealed or to be revealed and/or furnished or to be furnished to the Receiving Party remains the property and ownership of the Disclosing Party.
- 3.2. The Receiving Party shall not disclose or permit disclosure of any Confidential Information including any related information and/or documents revealed whether in writing, orally, or through social media platforms, to any third party which includes, but is not limited to, posting, sharing, or uploading any Confidential Information on social media websites, blogs, forums, WhatsApp or any other online platforms accessible to the public or a restricted group of individuals. The Receiving Party shall hold in absolute trust and strict confidence the Disclosing Party's Confidential Information including any related information and/or documents.
- 3.3. The Receiving Party acknowledges that a violation of the terms of this Agreement and the disclosure of Confidential Information including any related information and/or documents to any third party and/or any unauthorized usage of the same would place the Disclosing Party at a serious commercial disadvantage and would cause immeasurable (financial and other) damage to the Disclosing Party.
- 3.4. For the avoidance of doubt, this Agreement shall apply to Confidential Information including any related information and/or

documents that may have been previously provided to the Receiving Party or Confidential Information including any related information and/or documents where the Receiving Party has access to prior to the date of this Agreement.

4. **Survival of Receiving Party's Undertaking for Non-Disclosure of Confidential Information**

- 6.1. This Agreement shall continue in full force notwithstanding the expiry and/or termination of the main contractual relationship between the Disclosing Party and the Receiving Party for whatsoever reasons.
- 6.2. The Receiving Party's Unconditional Undertaking for Non-Disclosure of Confidential Information under this Agreement shall survive and remain in full force and effect irrespective of any circumstances which the Receiving Party hereby acknowledge has been sufficiently explained to him/her/them in the language that they are proficient in and the Receiving Party had consulted their own independent legal advice on the terms and conditions of this Agreement.

5. **Entire Agreement**

- 5.1. This Agreement expresses the full and complete understanding of the Parties with respect to the subject matter hereof and supersedes all prior or contemporaneous proposals, agreements, representations and understandings, whether written or oral.
- 5.2. This Agreement embodies the entire understanding of the Parties hereto and there are no promises, terms, conditions or obligations (oral or written) express or implied other than those contained herein.

6. **Waiver and Variation**

- 6.1. No failure or delay by the Disclosing Party in exercising any right, power or privilege shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder or otherwise.
- 6.2. No variation or amendment of this Agreement shall be effective and enforceable unless made and effected in writing and signed by the Parties hereto.

7. **Severability**

Notwithstanding any provision of this Agreement that may be unenforceable for any reason, the remaining provisions of this Agreement shall continue in full force and effect.

8. **Time**

Time whenever mentioned in this Agreement shall be of the essence.

9. **Effect**

The warranties, undertaking, declaration and agreement shall not in any respect be extinguished or affected by the Receiving Party for reason of failure to understand the severity of breach of undertaking which the Receiving Party hereby acknowledge has been sufficiently explained to him/her/them in the language that they are proficient in and that the Receiving Party had consulted their own independent legal advice on the terms and conditions of this Agreement.

10. **Governing Law and Jurisdiction**

10.1. This Agreement and its validity, construction and effect shall be governed by and construed in accordance with the laws of Malaysia and the Parties hereto hereby agree to submit to the jurisdiction of the courts in Malaysia.

10.2. No rules of construction shall apply to the disadvantage of the Party responsible for the preparation of this Agreement or any part of it.

10.3. The rights and remedies of the Disclosing Party hereto howsoever arising from or incidental to this Agreement are cumulative and do not exclude any other right or remedy provided by the law of Malaysia.

11. **Interpretation**

11.1. Words importing the singular or plural number shall be deemed to include plural or singular number respectively and words importing the masculine gender only shall include the feminine or neuter gender and vice versa as the case may require.

- 11.2. The Headings and Sub-headings in this Agreement are inserted merely for convenience of reference and shall be ignored in the interpretation and construction of any of the provisions contained herein.
- 11.3. An expression importing a natural person includes any corporation or other body corporate, partnership, association, public authority, appropriate authority, two or more persons having a joint or common interest, or any other legal or commercial entity.
- 11.4. Any part of speech or grammatical form of word or phrase defined in this Agreement has a corresponding meaning.
- 11.5. Any reference to a recital, sub-paragraph, paragraph, clause, schedule or party is to the relevant recital, sub-paragraph, paragraph, clause, schedule, or party of, or to, this Agreement and any reference to this Agreement or any of the provisions hereof includes all amendments and modifications made to this Agreement or any such provisions as may be mutually agreed to in writing by the Parties, from time to time and in force.
- 11.6. Recitals to this Agreement shall have effect and be construed as an integral part of this Agreement, but in the event of any conflict or discrepancy between any of the provisions of this Agreement, such conflict or discrepancy shall, for the purposes of the interpretation and enforcement of this Agreement, be resolved by giving the provisions contained in the Clauses of this Agreement priority and precedence over the provisions contained in the recitals to this Agreement.
- 11.7. Any reference to any statute or statutory provision includes a reference to that statute or statutory provision as from time to time amended, extended or re-enacted and shall include all by-laws, instruments, orders, rules and regulation made thereunder.

- 11.8. The words “hereto”, “herein”, “hereinafter”, “hereinabove”, “hereof”, “hereunder” and other words of similar import shall refer to this Agreement as a whole and not to any particular provision, unless otherwise stated therein;

(The remainder of this page is intentionally left blank)

IN WITNESS WHEREOF the Parties hereto have hereunto set their hands on the day and year first above written:

The Disclosing Party

Signed by for and behalf of)
MEDIA SPECIALISTS ASSOCIATION)
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)

Witnessed by:

The Receiving Party

Signed by for and behalf of)
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Witnessed by: