**Tender Ref. No.: T20230525**

# NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT

**THIS AGREEMENT** is made the Click here to enter text. day of Click here to enter text. 2023.

**BETWEEN**:

Click here to enter text., a company incorporated in Click here to enter text. with company registration number Click here to enter text. whose registered address is at Click here to enter text. (“The Party”) of the one part;

**AND**

The Hong Kong Research Institute of Textiles and Apparel Limited, a company limited by guarantee incorporated in Hong Kong whose registered office is situate at R906-08, Shirley Chan Building, The Hong Kong Polytechnic University, Hung Hom, Kowloon, Hong Kong (“**HKRITA**”) of the other part.

(The Party and HKRITA will be collectively referred to as the“**Parties**” and each a “**Party**”).

**RECITAL**:

The Parties wish to exchange Confidential Information (as defined herein below) for the purpose of “**Provision of the medical insurance services to HKRITA**” (the “**Permitted Purpose**”). The Parties recognise that the unauthorized disclosure or use of the Confidential Information by one Party could cause the other Party commercial harm. Therefore, the Parties are willing to enter into this Agreement in accordance with the provisions of this Agreement.

**IT IS AGREED** as follows:

**1. Definitions**

In this Agreement the following words shall have the following meanings:

“**Confidential Information**” shall mean:

(a) in respect of Information provided in documentary or by way of a model or in other tangible or electronic form, Information which at the time of provision is marked or otherwise designated to show expressly or by necessary implication that it is imparted in confidence;

(b) in respect of Information that is imparted orally, any information that the Disclosing Party or its representatives informed the Receiving Party or its representatives at the time of disclosure was imparted in confidence;

(c) in respect of Confidential Information imparted orally, any note or record of the disclosure;

(d) any copy of any of the foregoing; and

(e) the fact that discussions are taking place between the Disclosing Party and the Receiving Party.

“**Disclosing Party**” means the Party to this Agreement that discloses Information, directly or indirectly, to the Receiving Party under or in anticipation of this Agreement.

“**Information**” shall mean, but shall not be limited to, information and data prepared or made available pursuant to the Permitted Purpose concerning formulae, algorithms, sequences, processes, designs, specifications, drawings, blueprints, tracings, diagrams, models, samples, flow charts, circuit design, or chemical compositions/reactions. Such Information also includes knowledge or information of the Disclosing Party that is not in the public domain. The ideas, concepts, know-how, intellectual property rights (whether capable of being registered or not), research collaborations, commercial relationships, products, customer details, technical, financial or business information, and corporate development strategies of the Parties are also included in Information.

“**Permitted Purpose**” has the meaning given above in the Recital.

“**Receiving Party**” means the Party to this Agreement that receives Information, directly or indirectly, from the Disclosing Party.

**2. Receiving Party’s Obligations of Confidentiality**

For a term of 5 years from the date of this Agreement, the Receiving Party undertakes to the Disclosing Party to:

(a) receive and keep the Confidential Information as absolutely secret and in the strictest confidence and shall not at any time disclose such Confidential Information to any third party;

(b) take all reasonably necessary precautions to ensure that such undertaking is enforced and is enforceable and receive and keep the Confidential Information secret and confidential and not disclose such Confidential Information and take such action as to ensure that patentability is not destroyed through making information available to the public, for instance by written or oral description;

(c) use the Confidential Information only for the Permitted Purpose;

(d) only disclose the Confidential Information under binding obligations of confidence (which it undertakes to enforce and for which it is legally responsible) to those of its subsidiaries, employees, sub-contractors, seconded staff, officers, agents, consultants and collaborators as need to have access thereto wholly necessarily and exclusively for the purposes of the Permitted Purpose and whose identity the Receiving Party shall provide to the Disclosing Party at their request (which shall be in the form of a written notice);

(e) not without the Disclosing Party’s prior written consent make any commercial use of or make any commercial gain from the Confidential Information or seek to obtain any protection of the intellectual property contained in the Confidential Information; and

(f) promptly notify the Disclosing Party if it becomes aware that any of the Confidential Information falls within the provisions of Clause 3.

**3. Limitation of the Receiving Party’s Obligations of Confidentiality**

Clause 2 shall not apply to any part of the Confidential Information which:

(a) is already in the public domain or which becomes so through no default or fault of the Receiving Party or any person acquiring it from the Receiving Party;

(b) was already known to the Receiving Party prior to its communication by or through the Disclosing Party (as evidenced by the Receiving Party’s records);

(c) becomes known to the Receiving Party by the action of a third party owing no duty of confidentiality towards the Disclosing Party in respect thereof;

(d) is explicitly approved for release by written authorisation of the Disclosing Party;

(e) is developed by any of the Receiving Party’s employees who have not had any direct or indirect access to, or use or knowledge of, the Information imparted by the Disclosing Party; or

(f) is required to be disclosed by law or pursuant to a judicial order, or upon the written request of a governmental, regulatory or administrative authority having competent jurisdiction over the Receiving Party.

**4. Return of Confidential Information**

Upon termination of this Agreement, or in the event that the Receiving Party is in breach of any of the conditions of this Agreement, and at any time at the request of the Disclosing Party by way of written notice to the Receiving Party, the Receiving Party shall immediately return the Confidential Information and any copies thereof made by or in the possession of or under the control of the Receiving Party pursuant to this Agreement, and make no further use or disclosure of any of the Confidential Information. If the Disclosing Party so dictates, the Confidential Information shall be destroyed under the above circumstances.

**5. Limitation of Transferred Rights**

* 1. The Receiving Party acknowledges and agrees that the property (including intellectual property) and copyright in Confidential Information disclosed to it by the Disclosing Party, including any documents, files and any other items containing any Confidential Information, belongs to the Disclosing Party. It will not be removed from the Receiving Party’s address nor be given to any other person or parties.
  2. This Agreement shall neither prejudice nor limit the rights of the Disclosing Party in respect of any intellectual property rights in the Confidential Information.
  3. Except as provided for herein, the Receiving Party may not assign or transfer any rights or obligations hereunder without the prior written consent of the Disclosing Party.
  4. This Agreement shall not be construed (i) to grant the Receiving Party any licence or rights other than as expressly set out herein in respect of the Confidential Information, nor (ii) to require the Disclosing Party to disclose any Confidential Information to the Receiving Party.

**6. Foreground Intellectual Property**

6.1 In the event that the Receiving Party makes or observes any new discovery, improvement or invention (“**Invention**”) relating to the Confidential Information of the Disclosing Party, then the Receiving Party shall as soon as reasonably practicable bring this to the attention of the Disclosing Party.

6.2 The Receiving Party shall not make, or seek to make, commercial gain from such an Invention, or make any patent application or secure any other proprietary rights to legally protect any such Invention, except with the prior written agreement of the Disclosing Party.

6.3 The Disclosing Party will, at all times, retain the right to use an Invention.

**7. Limitation of Liability of Disclosing Party**

The Parties give no warranties in relation to the Confidential Information disclosed by it hereunder and in particular (but without limiting the foregoing) no warranty or representation, express or implied, is given by the Disclosing Party as to the accuracy, efficacy, completeness, capabilities or safety of any materials or information provided under this Agreement.

**8. Indemnity, Remedies and Relief**

8.1 In addition to any other rights or remedies of the Disclosing Party, the Receiving Party agrees to indemnify the Disclosing Party against any claim, loss, damage, cost or expense which the Disclosing Party may incur and which arise, directly or indirectly, from the breach by the Receiving Party and/or its subsidiaries, employees, sub-contractors, seconded staff, officers, agents and consultants of the undertakings and obligations contained or referred to in this Agreement.

8.2 The Receiving Party acknowledges and agrees that the breach of any provision of this Agreement and/or any unauthorised use of the Confidential Information by the Receiving Party and/or its subsidiaries, employees, sub-contractors, seconded staff, officers, agents and consultants will cause irreparable harm, damage and loss to the Disclosing Party, and that the Disclosing Party may seek injunctive relief against the said breach or threatened breach. Nothing contained in this Agreement shall be construed as prohibiting the Disclosing Party from pursuing any other remedies available to it, either in law or in equity, for such breach or threatened breach including specific performance and recovery of monetary damages.

**9. General Provisions**

9.1 Any notice required to be given hereunder shall be deemed to have been received by the address within 24 hours if sent by electronic mail to the correct electronic mail address of the address below, with the despatch of the transmission confirmed and/or acknowledged as the case may be:

9.1.1 Click here to enter text. (Email: Click here to enter text. ; Fax: Click here to enter text.)

9.1.2 HKRITA (Email: tender@hkrita.com Fax: (852) 2364-2727)

9.2 No amendment or variation of this Agreement shall be effective unless it is in writing and signed by the Parties hereto.

9.3 No failure or delay by a Party in exercising any right, power or remedy under this Agreement shall impair the same or operate as a waiver of the same nor shall any single or partial exercise of any right, power or remedy preclude any further exercise of the same or the exercise of any other right, power or remedy. The rights, powers and remedies provided herein are cumulative and are not exclusive of any rights, powers or remedies by law.

9.4 If any provision of this Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall not affect the legality, validity and enforceability of the other provisions of this Agreement. The said provision shall, to the extent required, be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement.

**10. Governing Law and Jurisdiction**

The validity and interpretation of this Agreement shall be governed in all respects by the laws of Hong Kong and the Parties shall submit to the non-exclusive jurisdiction of the Courts of Hong Kong.

**IN WITNESS** whereof the Parties hereto have executed this Agreement the day and year first above written.

For and on behalf of For and on behalf of

Click here to enter text. The Hong Kong Research Institute of

Textiles and Apparel Limited

………………………………………… …………………………………………..

Name: Click here to enter text. Name:

Title: Click here to enter text. Title:

Witness Witness

……………………………………….. ……………………………………………

Name: Click here to enter text. Name:

Title: Click here to enter text. Title: