

MERRILLS NON-DISCLOSURE AGREEMENT

This non-disclosure agreement (“**agreement**”) is made on **2020-07-01**, between **Merrills (“Company”)** and the other party named on the signature page below (“**Other Party**”) to protect certain confidential information being disclosed between Company and the Other Party solely for the purpose of **Collaboration (“Purpose”)**. Company and Other Party may be referred to in this agreement individually as a “**party**” and collectively as “**parties**”.

1. Confidential Information. “Confidential Information” means the proprietary information exchanged between parties, which includes, without limitation, information (tangible or intangible) regarding a party’s technology, software code, software source documents, techniques, research, know-how, specifications, product plans, pricing, customer information, user data, current or future strategic information, current or future business plans, policies or practices, employee information, and other business and technical information, which is (i) marked “confidential” or “proprietary” at the time of disclosure by party disclosing it; or (ii) by its nature or content is reasonably distinguishable as confidential or proprietary to party receiving Confidential Information.

2. Mutual obligations. Each party discloses its Confidential Information to the other under this agreement. “Discloser” will mean party disclosing Confidential Information and “Recipient” will mean party receiving Confidential Information from Discloser. Each of parties is a Discloser in respect of Confidential Information owned by such party.

3. Nondisclosure of Confidential Information. Subject to clause 4 (Permitted disclosure), each party agrees to hold Confidential Information in confidence and to not use or disclose it to a third party for a period of 1 year from the date of initial disclosure of Confidential Information, and will use Confidential Information of Discloser only for Purpose. Recipient will also protect such Confidential Information with at least the same degree of care that Recipient uses to protect its own Confidential Information, but in no case, less than reasonable care (including reasonable security measures) to prevent the unauthorized use, dissemination or publication of Confidential Information.

Recipient must promptly notify Discloser of any misuse, misappropriation or unauthorized disclosure of Confidential Information of Discloser which may come to Recipient’s attention.

Recipient may disclose Confidential Information to its employees, agents, financial advisers and independent contractors with a need-to-know, only as necessary to fulfil Purpose and provided such parties have signed confidentiality agreements containing, or are otherwise bound by, confidentiality obligations at least as restrictive as those contained in this agreement.

4. Permitted disclosure. Information disclosed under this agreement will not be considered Confidential Information, if Recipient can prove that such information:

- 4.1. was in the public domain prior to the time of disclosure or has entered the public domain through no fault of Recipient;
- 4.2. was known to Recipient, without restriction, at time of disclosure;
- 4.3. was independently developed by Recipient without use of or reference to Confidential Information;
- 4.4. is rightfully disclosed to Recipient by a third party without confidentiality restrictions;
- 4.5. is disclosed with the prior written approval of Discloser; or
- 4.6. is disclosed pursuant to the order or requirement of a court, administrative agency, or other governmental body; provided, however, that Recipient will (i) notify Discloser in writing of the

requirement for disclosure, unless notice is prohibited by law; and (ii) disclose only that portion of Confidential Information legally required.

5. Return of information. Upon request of Discloser, Recipient will promptly return or certify the destruction of Confidential Information and all authorized copies thereof.

6. No rights to Confidential Information granted. Each party will retain all right, title and interest to its Confidential Information. This agreement does not grant to either party patent, copyright or other intellectual property right that has issued or that may issue, based on Confidential Information or other rights, except the limited right to use Confidential Information for Purpose.

Nothing in this agreement creates or will be deemed to create any employment, joint venture, or agency between Parties.

Nothing in this agreement requires Discloser to enter into any transaction with Recipient in connection with which Confidential Information may be disclosed.

7. No reverse engineering. Other Party will not modify, reverse engineer, decompile, reproduce, create other works from or disassemble any software programs contained in Confidential Information of Company. Any reproduction by Other Party of any Confidential Information of Company will remain the property of Company.

8. No warranty. All Confidential Information is provided “as is” for use by Other Party at its own risk. Company disclaims any warranties, express, implied, statutory or otherwise, regarding Confidential Information, including without limitation, any warranties of title, merchantability, fitness for a particular purpose or non-infringement.

9. No Publicity. Neither party will, without the prior consent of the other party, disclose to any person the fact that Confidential Information of Discloser has been or may be disclosed under this agreement, that discussions or negotiations are taking place between parties, or any of the terms, conditions, status or other facts with respect to this agreement, except as required by law.

10. Term. This agreement will terminate 1 year after the date of this agreement, or may be terminated by either party at any time upon thirty (30) days written notice to other party. Each Party’s obligations under this agreement will survive termination of this agreement and will be binding upon such party’s heirs, successors, and assigns.

11. Remedies. Recipient agrees that due to the unique nature of Discloser’s Confidential Information any breach of this agreement may result in irreparable damage to Discloser for which monetary damages would be an inadequate remedy. Therefore, in addition to any other remedies that may be available, in law, in equity or otherwise, Discloser will be entitled to obtain injunctive relief against the threatened breach of this agreement or the continuation of any such breach by Recipient.

12. Governing law. This agreement will be governed by the laws of South Africa, without giving effect to principles of conflicts of law.

13. Final provisions.

13.1. This agreement constitutes the entire agreement between parties with respect to its subject matter and supersedes all prior agreements between parties regarding the same subject matter.

13.2. This agreement can be modified only by a written amendment signed by parties.

13.3. Failure to enforce any provisions of this agreement will not constitute a waiver.

13.4. If any provision is unenforceable, the other provisions will remain effective.

13.5. Parties may execute this agreement in counterparts, which taken together will constitute one instrument.

13.6. Neither party may assign or transfer this agreement without the prior written consent of the other party.

13.7. Any notice under this agreement must be in writing and delivered personally or by overnight courier or sent by email.

1. Company

Merrills

By:

Name:

Title:

Address:

2. Other Party

By:

Name:

Title:

Address: