



Reciprocal Confidentiality and Non-Disclosure Agreement

PREAMBLE

This Reciprocal Confidentiality and Non-Disclosure Agreement (this “Agreement”) is made effective as of _____ (the “**Effective Date**”), by and between KERRY HOLDINGS (PTY) LTD t/a Cleanme (Reg. No.: 2015/167178/07) located at Mandela Building 2nd Floor, Suite No. 14, 150 St Georges Mall, Cape Town 8001 (“**Cleanme**”) and _____ Passport /ID Number _____, located at _____

(“_____”) (each a “**Party**” and jointly, “**the Parties**” and each hereinafter referred to as “**Discloser**” or “**Recipient**” as the case may be).

Whereas, Discloser possesses valuable commercial, technical and non-technical confidential and proprietary information, about a social media aggregation and marketplace business on the internet.

Whereas, Recipient is interested in receiving certain Confidential Information (as defined below) from Discloser for the following purpose(s):

To assess business opportunities that the Discloser and the Recipient wish to have a full and open and confidential discussion concerning such opportunities, with the ultimate goal of establishing a business relationship between the Parties to Assess such opportunities (hereinafter referred to as “**the Purpose**”); and

To assess to the mutual advantage of the Discloser and the Recipient, such business opportunities as may be under confidential discussion from time to time.

Now therefore, in order to protect the Discloser’s Confidential Information during the term of evaluation, during the term of any ensuing relationship, and after the expiration or termination thereof, the parties, in consideration of the disclosure of Confidential Information by Discloser to Recipient for purposes of evaluation, negotiation, and/or other purposes, and for other good and valuable consideration, do hereby agree as follows:

AGREEMENT

- 1. **Definitions.** The following definitions in this clause apply in this agreement:
 - a. **“Affiliate”** means, as to either Party, any Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with that Party. The term “control” means the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise. The term “Affiliate” includes Persons who became Affiliates after the Effective Date of this agreement.
 - b. **“Confidential Information”** means, as to Discloser, all information relating to Discloser’s or his Affiliates’ business, whether Disclosed before, on or after the Effective Date, regardless of the medium on which the information is stored, recorded, conveyed or communicated, and whether or not specifically identified as “Confidential” or “Proprietary,” including but not limited to the following (i) cost, pricing, profit, production and other accounting, economic and financial data; (ii) technical drawings, blueprints, testing or inspection results, formulae, product designs, samples, prototypes, models, artistic and scientific data, product specifications, machine or equipment specifications, process flow documents, manufacturing and/or business know-how, methods and methodologies, scientific ideas, technology, research and development efforts and results; (iii) source code and other computer software (including software that is proprietary to third parties); (iv) records, photographs, graphic representations and audiovisual works; (v) inventions, APP ideas, Website ideas whether or not patentable; (vi) information about the identity of Discloser’s or his Affiliate’s customers or suppliers; (vii) business and marketing plans, strategies, policy statements and forecasts; (viii) trade secrets; (ix) information that Discloser or his Affiliates must keep confidential as a result of obligations to third parties; (x) summaries, excerpts, compilations and notes prepared by Recipient or

others related to any of the preceding information; any information, product design or development, methodology, or analysis derived from any Confidential Information; (xi) the fact that discussions and negotiations are taking place concerning the Purpose and the status of those discussions and negotiations; (xii) the existence of this agreement, or the fact that there was, is or may be a business relationship or business transaction between the Parties; (xiii) any other information that could be regarded as Confidential Information by a reasonable business person relating to any of the above.

- c. **“Confidential Document”** means a record containing or referring to Confidential Information, including without limitation, computer files, voice-mail, e-mail, WhatsApp messages, SMS messages, disks, CD ROMs, electromagnetic storage device or medium and papers.
- d. **“Disclose”** means to divulge, permit access to or convey, whether intentionally or inadvertently.
- e. **“Discloser”** means the Party Disclosing Confidential Information to Recipient.
- f. **“Person”** means a natural person, corporation, partnership, limited liability company, co-operative, association, government body and any other legal or governmental entity.
- g. **“Purpose”** has the meaning ascribed thereto in the preamble of this agreement.
- h. **“Receive”** means to gain access to, whether through intentional or inadvertent communication, transmission or other disclosure.
- i. **“Recipient”** means the Party Receiving Confidential Information from Discloser.
- j. **“Representatives”** mean employees, officers, directors, agents and other representatives of Recipient (including attorneys and accountants).

2. **Confidential Information** does not include:

- a. information that is or becomes available to the public (other than as a result of its disclosure by Recipient or his representatives in breach of this agreement) (except that any compilation of otherwise public information in a form not publicly known shall nevertheless be treated as Confidential Information); or
- b. was available to Recipient on a non-confidential basis prior to disclosure by Discloser; or
- c. was, is or becomes available to Recipient on a non-confidential basis from a person who, to Recipient's knowledge, is not bound by a confidentiality agreement with Discloser or otherwise prohibited from disclosing the information to Recipient; or
- d. is trivial, obvious or useless.

3. **Discloser's Reservation of Rights and Disclaimer.**

All Confidential Information disclosed by Discloser, that Discloser has proprietary rights in, shall, as between Discloser and Recipient, remain the property of Discloser. Discloser is not hereby granting or extending to Recipient any right of any kind under any patent, copyright, trademark, or other intellectual property right which Discloser may now have or may hereafter obtain with respect to the Confidential Information. This agreement imposes no obligations on Discloser other than those expressly stated in this agreement. In particular, nothing in this agreement shall be construed or implied as obliging Discloser to disclose any specific type of information under this agreement, whether it is Confidential Information or not. Except as expressly stated in this agreement, Discloser makes no express or implied warranty or representation concerning his Confidential Information, or the accuracy or completeness of the Confidential Information. The disclosure of Confidential Information by Discloser shall not form any offer by, or representation or warranty on the part of, Discloser, to enter into any further agreement in relation to the Purpose or the development or supply of any product or service to which the Confidential Information relates.

4. **Use of Confidential Information.**

Recipient shall use the Confidential Information only for the above-stated Purpose, unless otherwise agreed to by further written agreement of the Parties, and shall keep confidential and not disclose the Confidential Information to any other person, firm or corporation, except to the extent that any Confidential Information is to be shared with third parties agreed in writing between the recipient and discloser and which third parties will also sign an NDA agreement with the recipient with the discloser being a party to said agreement.

5. **Recipient's Obligations.** Recipient covenants that: (i) he shall maintain the confidential nature of the Confidential Information reasonably and with at least the same degree of care he uses to protect the confidentiality of his own confidential and proprietary information and trade secrets and prevent any unauthorized access, reproduction, disclosure, and/or use of any of the Confidential Information; (ii) he shall disclose the Confidential Information only to those Representatives (provided such Representatives agree to abide by the terms of this agreement) of Recipient who need to know such information in order to carry out the above-stated Purpose; (iii) he shall not remove any copyright notice, trademark notice, and/or other proprietary legend set forth on or contained within any of the Confidential Information; (iv) he shall not copy or reproduce any of the Confidential Information without the express permission of Discloser; (v) he shall not use any of the Confidential Information other than in furtherance of the Purpose and in strict compliance with the provisions hereof; (vi) he shall not contact or other attempt to enter into any type of relationship with any of Discloser's customers or suppliers; (vii) he shall not disassemble, decompile, or otherwise attempt to reverse engineer any software or data provided hereunder (if applicable); and (viii) he shall not directly or indirectly, either during or subsequent to the term of this agreement, disclose the existence, content, and/or substance of any of the Confidential Information to any third party without Discloser's prior written consent.

6. **Return of Confidential Information.** Recipient guarantees that all Confidential Information, existing in written form or recorded in any other tangible medium, shall be returned to Discloser within 15 (fifteen) days of request, together with any reproductions or copies thereof. Upon request,

Recipient shall also use best efforts to delete or destroy any copies of Confidential Information contained on any form of media, including but not limited to backup tapes, CD ROM, hard disk or any other electromagnetic or other storage device.

7. **Permitted Disclosure.** Upon written request of Recipient, Discloser may in his sole discretion give permission to Recipient (valid only to the extent given in writing and signed by a duly authorized representative of Discloser) to disclose Confidential Information otherwise required to be kept confidential by this Agreement. Recipient may disclose Confidential Information to the extent required by law or regulation pursuant to a valid subpoena, order of a government agency or by a proper order of a court of competent jurisdiction; provided, however, that Recipient will use his best efforts to minimize such disclosure and will immediately notify and consult with and assist Discloser at Discloser's request in obtaining a protective order prior to such disclosure.
8. **Injunctive Relief.** Recipient acknowledges that Discloser will suffer irreparable harm if Recipient fails to comply with his obligations set forth herein, and further acknowledges that monetary damages will be inadequate to compensate Discloser for any such breach. Accordingly, Recipient agrees that Discloser will, in addition to any other remedies available to him at law or in equity, be entitled to seek the issuance of injunctive relief to enforce the provisions hereof.
9. **Indemnity.** Recipient shall indemnify and keep fully indemnified Discloser and his Affiliates at all times against all liabilities, costs (including legal costs on an indemnity basis), expenses, damages and losses, including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and other reasonable costs and expenses suffered or incurred by Discloser and/or his Affiliates arising from any breach of this agreement by Recipient and from the related actions or omissions of any Representative.
10. **Disgorgement.** Recipient agrees that if he fails to comply with his obligations, as set forth herein, Discloser shall be entitled to an accounting and repayment of all profits, compensation, commissions, remunerations or benefits which Recipient directly or indirectly has realized and/or may realize as a result of, growing out of, or in connection with any injunctive relief or other remedies to which Discloser may be entitled, at law or in equity, under this agreement.

11. **Assignment.** Neither party shall have the right to assign or cede this agreement (or any portion hereof) without the prior written consent of the other party. Any assignment or cession without such consent shall be void and a material breach hereof. Subject to the foregoing, this agreement shall be binding upon the successors and authorized assigns or cedents of Recipient and shall inure to the benefit of the successors and authorized assigns or cedents of Discloser. No oral agreement, statement or representation shall alter its provisions.

12. **Termination and Survival.** If either Party decides not to become involved in pursuit of fulfilling the Purpose with the other Party, he shall immediately notify the other Party, in writing, and this agreement shall be deemed terminated upon receipt of such written notice. Notwithstanding the conclusion or termination of the Parties' relationship as described herein, whether due to cancellation by either Party upon written notice to the other or otherwise, Recipient shall continue to fulfill his covenants hereunder and to maintain the confidentiality of the Confidential Information for a period of not less than 5 (five) years from the date of termination of this Agreement. Termination of this agreement shall not affect any accrued rights or remedies to which the Discloser is entitled.

13. **Notices.** Any notice or other communication required to be given under this agreement, shall be in writing and shall be delivered personally, or sent by pre-paid first class post or recorded delivery or by commercial courier, to the Party required to receive the notice or communication at his address as set out in the preamble to this agreement, or as otherwise specified by the relevant Party by notice in writing to the other Party. A notice or other communication required to be given under this Agreement shall not be validly given if sent by e-mail. Any notice or other communication shall be deemed to have been duly received:
 - a. if delivered personally, when left at the address of the Party; or
 - b. if sent by pre-paid first class post or registered mail, at 9:00 am on the 5th calendar day after posting; or
 - c. if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

14. **No Partnership.** Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the Parties, constitute any Party the agent of the other Party, nor authorize any Party to make or enter into any commitments for or on behalf of the other Party.
15. **Third Party Rights.** Except as provided in this clause 15, this agreement is made for the benefit of the Parties to it and their successors and permitted assigns and is not intended to benefit, or be enforceable by, anyone else.

This agreement is made for the benefit of Discloser and his Affiliates from time to time, and any Affiliate of Discloser may enforce this agreement as if it were a Party to this agreement. The Parties may terminate, rescind or vary this agreement without the consent of any Person who is not a party to this agreement.

16. **No Waiver.** Failure to exercise, or any delay in exercising, any right or remedy provided under this agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prejudice or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this agreement or by law shall preclude or restrict the further exercise of that or any other right or remedy. A Party that waives a right or remedy provided under this agreement or by law in relation to another Party, or takes or fails to take any action against that Party, does not affect his rights in relation to the other Party.
17. **General Provisions.** This agreement shall be governed by and interpreted in accordance with the laws of the South Africa. Both parties consent to jurisdiction of the High Court located in Cape Town. This agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements, negotiations and understandings, whether oral or written. No variation of this agreement shall be effective unless it is in writing and signed by each of the Parties. Each Party agrees that he shall have no remedies in respect of any representation or warranty (whether made innocently or negligently) that is not set forth in this agreement. Should any provisions of this agreement be determined to be void, invalid or otherwise unenforceable by any court or tribunal of competent jurisdiction, such determination shall not affect the remaining provisions hereof, which shall remain in full force and effect so long as they fairly implement the intention of the Parties as reflected herein.

18. **Non-Circumvention.** The Parties hereby legally, wholly and irrevocably bind themselves and guarantee to one another that they shall not directly or indirectly interfere with, circumvent or attempt to circumvent, avoid, bypass or obviate each other's interests or the interest or relationship between the Parties by means of any procedures involving any third parties, for the purpose of changing, increasing or avoiding, directly or indirectly, payment the Remuneration or the continuance of pre-established relationships or to intervene in un-contracted relationships with potential purchasers, legal counsel, or to initiate any transactional relationship that by-passes any one of the Parties in favour of any other individual or entity, in connection with the subject Transaction or Project or any related future Transaction or Project, refrain from soliciting business and/or contracts from sources introduced or presented or made available by one or other of the Parties.

In witness whereof, the Parties have executed this agreement as of the date first written above.

Kerry Holdings (Pty) Ltd t/a Cleanme

Signature of Discloser: _____

Date: _____

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Signature of Recipient: _____

Date: _____