

DATED

CONFIDENTIALITY AGREEMENT

[between/among]

STATE BANK OF INDIA (Party 1)

and

Party 2

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This agreement is dated [DATE]

Parties

- (1) [FULL COMPANY NAME] incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (**Party 1**)
- (2) [FULL COMPANY NAME] incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (**Party 2**)

BACKGROUND

- (A) Whereas, the parties intend to enter into an agreement relating to the Purpose which will involve the disclosure of confidential information from Party 1 to Party 2.
- (B) Whereas, party 1 (SBILB AND SBIUK) holds regular meetings with its Board, Senior Managers and others to discuss a range of issues relating to the activity and business of party 1 and those discussions which includes information that is disclosed in confidence (confidential information).
- (C) Whereas, the party 1 desires to be assured that the proprietary information owned by them shall not be disclosed to any third party without their consent and shall be maintained and protect by the party 2.
- (D) Whereas, the parties have agreed to comply with this agreement in connection with the disclosure and use of Confidential Information.

Agreed terms

1. Interpretation

1.1 Definitions:

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Confidential Information: has the meaning given in clause 2.

[Group: in relation to a company, that company, any subsidiary or holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company. Each company in a Group is a member of the Group.]

[Group Company: in relation to a company, any member of its Group.]

Holding company: has the meaning give in clause 1.2(e).

Purpose: [services of secretary (minute taker during all Board meetings)].

Representative(s): in relation to each party [and any member of its Group]:

- a) its officers and employees that need to know the Confidential Information for the Purpose;
- b) its professional advisers or consultants who are engaged to advise that party [and/or any member of its Group] in connection with the Purpose;
- c) its contractors and sub-contractors engaged by that party [and/or any member of its Group] in connection with the Purpose; and
- d) any other person to whom the other party agrees in writing that Confidential Information may be disclosed in connection with the Purpose.

Subsidiary: has the meaning given in clause 1.2(e).

1.2 Interpretation

- (a) A reference to legislation or a legislative provision is a reference to it as amended, extended or re-enacted from time to time. A reference to legislation or a legislative provision includes all subordinate legislation made from time to time under that legislation or legislative provision.
- (b) Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- (c) A reference to **writing** or **written** includes [fax and] email.
- (d) A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- (e) A reference to a **holding company** or a **subsidiary** means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006 [and a company shall be treated, for the purposes only of the membership requirement contained in section 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of:
 - (i) another person (or its nominee) by way of security or in connection with the taking of security; or
 - (ii) its nominee].
- (f) Any obligation on a party not to do something includes an obligation not to allow that thing to be done.

2. Confidential Information

2.1 **Confidential Information** means all confidential information relating to the Purpose which Party 1 or its Representatives [or any of its Group Companies, or their Representatives] directly or indirectly discloses, or makes available, to Party 2 or its Representatives [or any of its Group Companies, or their Representatives][, before, on or after the date of this agreement]. This includes:

- (a) the fact that discussions and negotiations are taking place concerning the Purpose and the status of those discussions and negotiations;
- (b) [the [existence and] terms of this agreement;]
- (c) all confidential or proprietary information relating to:
 - (i) the business, assets, affairs, customers, clients, suppliers[, **OR** or] plans[, intentions, or market opportunities] of Party 1 [or of any of Party 1's Group Companies]; and
 - (ii) the operations, processes, product information, know-how, technical information, designs, trade secrets or software of Party 1[, or of any of Party 1's Group Companies];
- (d) any information, findings, data or analysis derived from Confidential Information; [and]
- (e) any other information that is identified as being of a confidential or proprietary nature[; and **OR** .]
- (f) [any information detailed in Schedule [NUMBER],]

but excludes any information referred to in clause 2.2.

2.2 Information is not Confidential Information if:

- (a) it is, or becomes, generally available to the public other than as a direct or indirect result of the information being disclosed by Party 2 or its Representatives [or by any of Party 2's Group Companies or their Representatives] in breach of this agreement [(except that any compilation of otherwise public information in a form not publicly known shall still be treated as Confidential Information)];
- (b) it was available to Party 2 on a non-confidential basis prior to disclosure by Party 1;
- (c) it was, is, or becomes available to Party 2 on a non-confidential basis from a person who, to Party 2's knowledge, is not under any confidentiality obligation in respect of that information;

- (d) it was lawfully in the possession of Party 2 before the information was disclosed by Party 1; [and]
- (e) [it is developed by or for Party 2 independently of the information disclosed by Party 1 [and Party 2 provides documentary evidence of such independence to the reasonable satisfaction of Party 1]; and]
- (f) the parties agree in writing that the information is not confidential.

3. Confidentiality obligations

3.1 In return for Party 1 making Confidential Information available to Party 2, Party 2 undertakes to Party 1 that it shall:

- (a) keep the Confidential Information secret and confidential;
- (b) not use or exploit the Confidential Information in any way except for the Purpose;
- (c) not directly or indirectly disclose or make available any Confidential Information in whole or in part to any person, except as expressly permitted by, and in accordance with this agreement;
- (d) [not copy, reduce to writing or otherwise record the Confidential Information except as strictly necessary for the Purpose. Any such copies, reductions to writing and records shall be the property of Party 1;]
- (e) [not use, reproduce, transform or store the Confidential Information in an externally accessible computer or electronic information retrieval system or transmit it in any form or by any means outside its usual place of business;]
- (f) [apply the same security measures and degree of care to the Confidential Information as Party 2 applies to its own confidential information, which Party 2 warrants as providing adequate protection from unauthorised disclosure, copying or use;]
- (g) [keep a written record of:
 - (i) any document or Confidential Information received from Party 1 in tangible form; and
 - (ii) any copies made of the Confidential Information;]
- (h) [ensure that any document or other records containing Confidential Information shall be kept at its premises at [PREMISES] and shall not remove or allow those documents and records to be moved from those premises[; and **OR.**]]
- (i) **[[INCLUDE ANY OTHER SPECIFIC REQUIREMENTS.]]**

3.2 Party 2 shall establish and maintain adequate security measures (including any reasonable security measures proposed by Party 1 from time to time) to safeguard the Confidential Information from unauthorised access or use.

4. Permitted disclosure

4.1 The Recipient may disclose the Confidential Information to its Representatives[, any of its Group Companies, or their Representatives] on the basis that it:

- (a) informs those Representatives[, Group Companies, or their Representatives] of the confidential nature of the Confidential Information before it is disclosed; [and]
- (b) procures that those Representatives[, Group Companies, or their Representatives] comply with the confidentiality obligations in clause 3.1 as if they were Party 2 [and if the Discloser so requests, procure that any of them enters into a confidentiality agreement with Party 1 on terms equivalent to those contained in this agreement][; and **OR** .]
- (c) [Keeps a written record of those persons.]

4.2 Party 2 shall be liable for the actions or omissions of the Representatives, [any of its Group Companies, or their Representatives] in relation to the Confidential Information as if they were the actions or omissions of Party 2.

5. Mandatory disclosure

5.1 Subject to the provisions of this clause 5, Party 2 may disclose Confidential Information to the minimum extent required by:

- (a) an order of any court of competent jurisdiction or any regulatory, judicial, governmental or similar body or any taxation authority of competent jurisdiction;
- (b) the rules of any listing authority or stock exchange on which its shares are listed or traded; or
- (c) the laws or regulations of any country to which its affairs are subject.

5.2 Before Party 2 discloses any Confidential Information pursuant to clause 5.1 it shall, to the extent permitted by law, give Party 1 as much notice of this disclosure as possible. Where notice of such disclosure is not prohibited and is given in accordance with clause 5.2, Party 2 shall take into account Party 1's requests in relation to the content of this disclosure.

5.3 If Party 2 is unable to inform Party 1 before Confidential Information is disclosed pursuant to clause 5.1 it shall, to the extent permitted by law, inform Party 1 of the full

circumstances of the disclosure and the information that has been disclosed as soon as reasonably practicable after such disclosure has been made.

6. Return or destruction of Confidential Information

6.1 If so requested by Party 1 at any time by notice in writing to Party 2, Party 2 shall promptly:

- (a) destroy or return to Party 1 all documents and materials (and any copies) containing, reflecting, incorporating or based on Party 1's Confidential Information;
- (b) erase all the Confidential Information from its computer and communications systems and devices used by it, or which is stored in electronic form; [and]
- (c) [[to the extent technically and legally practicable,] erase all the Confidential Information which is stored in electronic form on systems and data storage services provided by third parties; and]
- (d) certify in writing to Party 1 that it has complied with the requirements of this clause 6.1.

6.2 Nothing in clause 6.1 shall require Party 2 to return or destroy any documents and materials containing or based on the Confidential Information that Party 2 is required to retain by applicable law, or to satisfy the requirements of a regulatory authority or body of competent jurisdiction or the rules of any listing authority or stock exchange, to which it is subject. The provisions of this agreement shall continue to apply to any documents and materials retained by Party 2 pursuant to this clause 6.2.

7. Reservation of rights and acknowledgement

7.1 Party 1 reserves all rights in its Confidential Information. The disclosure of Confidential Information by Party 1 to Party 2 does not give Party 2 or any other person any licence or other right in respect of any Confidential Information beyond the rights expressly set out in this agreement.

7.2 Except as expressly stated in this agreement, Party 1 makes no express or implied warranty or representation concerning its Confidential Information, including but not limited to the accuracy or completeness of the Confidential Information.

7.3 The disclosure of Confidential Information by Party 1 shall not form any offer by, or representation or warranty on the part of, Party 1 to enter into any further agreement with Party 2 [in relation to the Purpose or the development or supply of any products or services to which the Confidential Information relates to].

8. Indemnity

- 8.1 Party 2 shall indemnify Party 1 [and each member of its Group (each an Indemnified Person)] against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other [reasonable] professional costs and expenses) suffered or incurred by [Party 1 **OR** each Indemnified Person] arising out of or in connection with any breach of this agreement by Party 2, including as a result of the actions or omissions of any of its Representatives in accordance with clause 4.2.
- 8.2 If a payment due from Party 2 under clause 8.1 is subject to tax (whether by way of direct assessment or withholding at its source), the [Discloser **OR** Indemnified Person] shall be entitled to receive from Party 2 such amount as shall ensure that the net receipt, after tax, of the [Discloser **OR** Indemnified Person] in respect of the payment is the same as it would have been were the payment not subject to tax.

9. Inadequacy of damages

Without prejudice to any other rights or remedies that Party 1 may have, Party 2 acknowledges and agrees that damages alone would not be an adequate remedy for any breach of the terms of this agreement. Accordingly, Party 1 shall be entitled to the remedies of injunctions, specific performance or other equitable relief for any threatened or actual breach of this agreement by Party 2.

10. No obligation to continue discussions

Nothing in this agreement shall impose an obligation on Party 1 to continue discussions or negotiations in connection with the Purpose, or an obligation on Party 1[, or any of its Group Companies,] to disclose any information (whether Confidential Information or otherwise) to Party 2.

11. Ending discussions and duration of confidentiality obligations

- 11.1 If Party 1 decides not to continue to be involved in the Purpose with Party 2, it shall notify Party 2 in writing immediately.
- 11.2 Notwithstanding the end of discussions between the parties in relation to the Purpose pursuant to clause 11.1, each party's obligations under this agreement shall continue in full force and effect for a period of [two] years from the date of this agreement.
- 11.3 The end of discussions relating to the Purpose shall not affect any accrued rights or remedies to which either party is entitled.

12. No partnership or agency

12.1 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 another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

12.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

13. General

13.1 Assignment and other dealings. Neither party shall assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under this agreement.

13.2 Entire agreement.

(a) This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

(b) Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation [or negligent misstatement] based on any statement in this agreement.

13.3 Variation. No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

13.4 Waiver. No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

13.5 Severance

(a) If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement.

(b) If any provision or part-provision of this agreement is deemed deleted under clause 13.5(a), the parties shall negotiate in good faith to agree a replacement

provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

13.6 Notices

- (a) Any notice [or other communication] given to a party under or in connection with this agreement shall be in writing and shall be:
 - (i) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
 - (ii) [[sent by fax to its main fax number][or][sent by email to the address specified in [SPECIFY RELEVANT DOCUMENT OR CLAUSE]].]
- (b) Any notice [or communication] shall be deemed to have been received:
 - (i) if delivered by hand, at the time the notice is left at the proper address;
 - (ii) if sent by [pre-paid first-class post or other] next working day delivery service, at [9.00 am] on the [second] Business Day after posting; [or]
 - (iii) [if sent by [fax][or] [email], at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 13.6(b)(iii), business hours means 9.00 am to 5.00 pm Monday to Friday on a day that is not a public holiday in the place of receipt.]
- (c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
- (d) [A notice given under this agreement is not valid if sent by email.]

13.7 Third party rights.

- (a) [Unless it expressly states otherwise,] this agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.
- (b) [The rights of the parties to rescind or vary this agreement are not subject to the consent of any other person.]

13.8 Governing law. This agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

13.9 Jurisdiction. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual

disputes or claims) arising out of or in connection with this agreement or its subject matter or formation.

This agreement has been entered into on the date stated at the beginning of it.

Signed by [NAME OF
DIRECTOR] for and on
behalf of [NAME OF PARTY
1]

.....
Director

Signed by [NAME OF
DIRECTOR] for and on
behalf of [NAME OF PARTY
2]

.....
Director