Deed of Confidentiality

Commonwealth of Australia as represented by the Department of Agriculture, Fisheries and Forestry

**Department**

[insert]

**Organisation**

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Deed of confidentiality

**Parties** **Commonwealth of Australia as represented by the Department of Agriculture, Fisheries and Forestry** (**Department**)

***[Insert name and ABN of Organisation]* of *[insert address]*** (**Organisation**)

Background

1. The Organisation has agreed to provide the Department with the Confidential Information.
2. The Department has agreed not to disclose the Confidential Information, except as set out in this Deed.

Operative provisions

# Definitions

## Definitions

In this Deed, unless the context requires otherwise:

1. **Business Day** means a day that is not a Saturday, Sunday, public holiday or bank holiday in the Australian Capital Territory.
2. **Confidential Information** means the information described in Annexure A, except for any information that:

### is or becomes public knowledge otherwise than by breach of this Deed; or

### has been independently developed or acquired by the Department.

1. **Deed** means this deed of confidentiality.
2. **Personal Information** means the information described in the *Privacy Act 1988 (Cth),* as amended from time to time.

## Interpretation

In this Deed, unless the context requires otherwise:

### the singular includes the plural and vice versa, and a gender includes all other genders;

### another grammatical form of a defined word or expression has a corresponding meaning;

### a reference to a clause or annexure is to a clause or annexure to this Deed, and a reference to this Deed includes any annexure;

### a reference to a document or instrument includes the document or instrument as assigned, novated, altered, supplemented or replaced from time to time;

### a reference to a party is to a party to this Deed, and a reference to a party to a document includes the party's executors, administrators, successors, permitted assignees and substitutes;

### a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;

### the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;

### a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this Deed or any part of it;

### if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day; and

### headings are for ease of reference only and do not affect interpretation.

# Term of deed

## Term of Deed

This Deed:

### commences on the date that it is executed by the parties, and, if signed on different dates, the date the last party to this Deed executes it; and

### continues in perpetuity.

# Disclosure of Confidential Information

## Keep information confidential

The Department must not, without the prior written consent of:

### the representative of the Organisation who disclosed the relevant Confidential Information to the Department; or

### where the Organisation is a company, any director of the Organisation, or

### where the Organisation is an incorporated association, a committee member or the secretary of the Organisation,

disclose any Confidential Information including any Personal Information to a third party except as set out in this Deed.

## Exceptions to obligation

### The Department may aggregate the Confidential Information with information provided to it by third parties (**Aggregated Information**). The Department will ensure that the Aggregated Information is de-identified and cannot be re-identified. The Department may publish or otherwise disclose the Aggregated Information.

### The Department's obligation under clause 3.1 will not be taken to have been breached to the extent that the Confidential Information is disclosed by the Department:

#### in response to a request by a House or a Committee of the Parliament of the Commonwealth of Australia;

#### to the Auditor-General or a delegate of the Auditor-General or to the Office of the Australian Information Commissioner, if required to do so for accountability purposes; or

#### in circumstances in which the disclosure is authorised or required by law.

### If the Department discloses Confidential Information pursuant to clause 3.2(b) it must notify the receiving person that the information is Confidential Information.

# Notices

## Service of Notices

### A notice under this Deed must be:

#### in writing, in English and signed by a person duly authorised by the sender; and

#### hand delivered or sent by prepaid post or email to the recipient's address for notices specified below:

**Department of Agriculture, Fisheries and Forestry**

***[Insert contact details]***

**Organisation**

***[Insert contact details]***

### Subject to clause 4.1(c), a notice given in accordance with clause 4.1(a) takes effect when it is taken to be received (or at a later time specified in it), and is taken to be received:

#### if hand delivered, on delivery;

#### if sent by prepaid post, on the second Business Day after the date of posting (or on the seventh Business Day after the date of posting if posted to or from a place outside Australia); or

#### if sent by email, when the sender's system indicates that the notice has been successfully transmitted.

### If a notice is given after 5:00pm on a Business Day, it will be taken to have been received at 9:00am on the next Business Day.

# General

## Applicable Law

### This Deed is to be construed in accordance with, and any matter related to it is to be governed by, the laws of the Australian Capital Territory.

### The parties submit to the non-exclusive jurisdiction of the courts of that jurisdiction.

## Variations

This Deed may be varied only in writing signed by each party.

## Assignment

A party may only assign its rights under this Deed with the prior written consent of the other party.

## Costs

Each party must pay its own costs of negotiating, preparing, executing and complying with this Deed.

## Counterparts

This Deed may be executed in counterparts. All executed counterparts constitute one document.

## Entire agreement

This Deed constitutes the entire agreement between the parties in connection with its subject matter and supersedes all previous agreements or understandings between the parties in connection with its subject matter.

## Relationship

### The parties must not represent themselves, and must ensure that their officers, employees, agents and subcontractors do not represent themselves, as being an officer, employee, partner or agent of the other party, or as otherwise able to bind or represent the other party.

### This Deed does not create a relationship of employment, agency or partnership between the parties.

**Executed** as a deed.

|  |  |  |  |
| --- | --- | --- | --- |
| **Signed, sealed and delivered** on behalf of the **Commonwealth of Australia as represented by the Department of Agriculture, Fisheries and Forestry** by: |  |  |  |
|  |  |  |  |
| Print name of delegate |  |  | Signature  |
|  |  |  |  |
| in the presence of:  |  |  |  |
| Print name of witness |  |  | Signature of witness |
| Date |  |  |  |

|  |  |  |  |
| --- | --- | --- | --- |
| **Executed by [*insert name of Organisation*] ABN [*insert*] in accordance with section 127 of the Corporations Act 2001 (Cth):** |  |  |  |
|  |  |  |  |
| **Signature of director** |  |  | **Signature of company secretary/director** |
|  |  |  |  |
| **Full name of director** |  |  | **Full name of company secretary/director** |
| **Date** |  |  |  |

1. - Confidential Information

The entirety of any conversation held between [insert company name] and the Department and any information provided to the Department relating to their specific circumstances that would enable a third party to identify them.