



Mutual Non-Disclosure Agreement

between

Alphawave Golf Proprietary Limited,

a company duly incorporated in accordance with the laws of the Republic of South Africa with its principal place of business at 18 Techno Avenue, Techno Park, Stellenbosch, South Africa, 7600, registration number: 2017/160832/07 ("**Alphawave**"),

(**"the Disclosing Party"**)

and

_____,
a _____, with its principle place of business at

_____,
(**"_____"**)

(**"the Receiving Party"**)

WHEREAS:

- A. The parties intend to engage in discussions in relation to entering into a possible business relationship in terms of which the Disclosing Party will in the course of such discussions disclose certain Confidential Information to the Receiving Party.
- B. The Parties wish to enter into this agreement to regulate the use and disclosure of the Confidential Information.

1. DEFINITIONS

In this agreement, including the preamble, unless the context otherwise requires:

- 1.1 “Confidential Information” Means all confidential information relating to either party which comes into possession or under the control of the Receiving Party in any manner whatsoever, in the course of negotiations, involvement, and discussions with the Disclosing Party and whether such information is oral or written or recorded or stored in electronic or in any other medium, as well as confidential information of relating to either party and its business or products including information constituting trade secrets including, without being limited to methods, processes and procedures, quality control measures and systems formulas and know-how and other information and irrespective of whether such information is marked “confidential” or “proprietary” or otherwise. The Receiving Party acknowledges that even though certain information included within the Confidential Information may be available to the public, it is the combination of the various components of the Confidential Information that renders the information confidential and proprietary.
- 1.2 “the Disclosing Party” Alphawave Golf Proprietary Limited who is disclosing the Confidential Information to the Receiving Party;
- 1.3 “the Parties” Means the Disclosing Party and the Receiving Party;
- 1.4 “the Receiving Party” _____

- 1.5 words and expressions defined in the Companies Act, 1973, shall bear the same meanings in this agreement.

2. UNDERTAKINGS

- 2.1 The Receiving Party undertakes in favour of the Disclosing Party that it:
- 2.1.1 shall not disclose, directly or indirectly, to any other party, any of the Confidential Information;
 - 2.1.2 shall not permit or allow the disclosure, directly or indirectly, to any party, any of the Confidential Information;
 - 2.1.3 shall not make any use of, or use by any means, either directly or indirectly, any Confidential Information;
 - 2.1.4 shall not use the Confidential Information for any purpose other than in connection with the assessment and negotiations relating to a possible transaction with;
 - 2.1.5 shall not take or make copies of any Confidential Information or authorise any other persons to do so;
 - 2.1.6 shall take all such steps as are necessary to prevent the Confidential Information falling into the hands of unauthorised third parties; and
 - 2.1.7 without limiting the generality of the foregoing, shall not use or attempt to use the Confidential Information in any manner which may cause injury or loss to the Disclosing Party.
- 2.2 Notwithstanding the provisions of 2.1, the Parties agree that the Confidential Information may be disclosed by the Receiving Party to its professional advisers, provided that the Receiving Party shall procure that such professional advisers, agree to abide by the terms of this agreement in order to prevent the unauthorised disclosure of the Confidential Information to third parties.
- 2.3 All documentation furnished to the Receiving Party by the Disclosing Party pursuant to this agreement shall remain the property of the Disclosing Party and the Receiving Party shall return all such documentation to the Disclosing Party forthwith upon request by the Disclosing Party. The Receiving Party shall not duplicate or make copies by any means of any such documentation other than for purposes of this Agreement without the prior written consent of the Disclosing Party.

3. **DURATION**

This agreement will, irrespective of the date of signature hereof, be deemed to have commenced on the date upon which any part or element of the Confidential Information was disclosed to the Receiving Party or became known to the Receiving Party and shall continue for a maximum of twenty four (24) months or until the Confidential Information loses its confidential nature by being purchased by the Receiving Party or clearly becoming part of the public domain, otherwise than by a wrongful act by the Receiving Party or any person to whom the Disclosing Party disclosed it. The Receiving Party's obligations under this Agreement shall survive termination of the Agreement between the parties and shall be binding upon the Receiving Party's heirs, successors and assigns. The Receiving Party's obligations with respect to all Confidential Information shall be terminated only pursuant to Section 4.

4. **EXCLUSION**

Any information that:

- 4.1 was clearly in the public domain prior to its disclosure by the Disclosing Party to the Receiving Party or subsequently clearly became part of the public domain by publication or otherwise than by a wrongful act by the Receiving Party or any person to whom the Disclosing Party disclosed it; or
- 4.2 was in the Receiving Party's possession immediately prior to its disclosure by the Disclosing Party to the Receiving Party; or
- 4.3 was or is subsequently supplied to the Receiving Party by a third party otherwise than in breach of a similar undertaking in favour of the Disclosing Party; or
- 4.4 is or has been lawfully published by any third party,

shall be excluded from the undertakings set out in clause 2 above.

5. **COMPELLED DISCLOSURE**

If the Receiving Party becomes compelled to disclose any of the Confidential Information pursuant to a court or administrative order, legal process, law or regulation, the Receiving Party shall promptly notify the Disclosing Party in writing before such disclosure and shall seek a confidentiality agreement or other protection of the confidentiality of the Confidential Information as the Disclosing Party may request.

6. **CESSION AND DELEGATION**

None of the Parties may cede any of its rights or delegate any of its obligations in terms of this agreement without the prior written approval of the other Parties.

7. **ADDRESSES**

7.1 The Parties choose for the purposes of this agreement the following addresses,-

7.1.1 the Receiving Party:

7.1.2 the Disclosing Party:

18 Techno Avenue, Techno Park, Stellenbosch, South Africa, 7600

7.2 Any legal process to be served on a Party may be served on it at the address specified for it in clause 7.1 and it chooses that address as its domicilium citandi et executandi for all purposes under this agreement.

7.3 Any notice or other communication to be given to a Party in terms of this agreement shall be valid and effective only if it is given in writing, provided that any notice given by telefax shall be regarded for this purpose as having been given in writing.

7.4 The Parties may by written notice to the other Parties change their address for the purposes of this clause 7 to any other address (other than a post office box number) provided that the change shall become effective on the seventh day after the receipt of the notice.

8. **BREACH**

8.1 If a breach of the terms of this agreement occurs or is threatened, the Disclosing Party shall be entitled to an interdict or injunction restraining the Receiving Party, from continuing such breach without showing that the Disclosing Party, has sustained any actual damage.

8.2 Notwithstanding anything to the contrary in this agreement, if a breach of this agreement occurs the Disclosing Party shall, in addition and without prejudice to the relief referred to in clause 8.1 be entitled to any other remedy provided for by law, including but not limited to an award of damages.

9. GENERAL

9.1 This document contains the entire agreement between the parties and no agreement to vary, add to or cancel this agreement shall be of any force or effect unless reduced to writing and signed by or on behalf of the Parties.

9.2 No failure by any Party to enforce any provision of this agreement shall constitute a waiver of such provision or affect in any way a Party's right to require performance of any such provision at any time in the future, nor shall the waiver of any subsequent breach nullify the effectiveness of the provision itself.

10. INTERPRETATION

10.1 For the purposes of this agreement, unless the context requires otherwise-

10.1.1 the singular shall include the plural and vice versa;

10.1.2 a reference to any one gender, whether masculine, feminine or neuter, includes the other two;

10.1.3 any reference to a natural person includes an artificial person and vice versa.

10.2 All the headings in this agreement are for convenience only and are not to be considered for the purposes of interpreting it.

10.3 This agreement shall be governed by and interpreted in accordance with the law of the Republic of South Africa in all respects.

[Signature page follows immediately.]

Signature Page

Signed at _____

on this _____ day of _____, _____.

For **Alphawave Golf Proprietary Limited:**

Signatory:

Capacity:

Signed at _____

on this _____ day of _____, _____.

For _____:

Signatory:

Capacity: