

# Deed Poll of Confidentiality and Privacy

..... (“We”)  
(insert name of the individual or Australian company which is the project proponent)

of .....  
(insert address)

**Dated** .....  
(insert date)

We covenant in favour of the State of Queensland (the “State”) on the terms of this document.

## Terms of confidentiality

### 1 Disclosure

#### 1.1 Consideration

We give the undertakings and warranties in this document in consideration of the State and third parties requested by the State disclosing the Confidential Information.

#### 1.2 Confidential Information belongs to the State

We acknowledge that:

- (a) the Confidential Information constitutes the State’s valuable and proprietary information; and
- (b) this document does not grant us any rights in relation to the Confidential Information, unless this document expressly states otherwise.

#### 1.3 Independent assessment and liability

We acknowledge that:

- (a) we must make our own assessment of all Information disclosed by the State; and
- (b) the State and the State’s Related Entities and Representatives are not responsible for and will not be liable in any way to us or our Related Entities or Representatives in relation to the use of or reliance on the Confidential Information by us or our Related Entities or Representatives.

### 2 Obligation of confidence

We must:

- (a) maintain the confidential nature of the Confidential Information; and
- (b) not, without the State’s prior written consent, disclose any of the Confidential Information to any person

other than those of our Representatives who need it for the Approved Purpose; and

- (c) not use or disclose or reproduce any of the Confidential Information for any purpose other than the Approved Purpose; and

- (d) establish and maintain effective security measures to safeguard the Confidential Information from unauthorised access, use, copying or disclosure.

#### 2.2 Our Representatives

We must procure that our Representatives (whether or not still employed or engaged by us) do not do or omit to do anything which, if done or omitted to be done by us, would be a breach of our obligations under this document.

### 3 Injunctive relief

We acknowledge that damages may not be a sufficient remedy for the State for any breach of this document and the State may seek specific performance or injunctive relief (as appropriate) as a remedy for any breach or threatened breach by us, in addition to any other remedies available to the State at law or in equity.

### 4 Supervening obligation

#### 4.1 Disclosure required by law

This document does not apply to the disclosure of any Confidential Information to the extent that it is required to be disclosed by us under any law, any order of any Government Agency or the rules of any stock exchange, but we must seek to limit that disclosure in any way the State reasonably request.

## 4.2 Obligation to inform the State

We must inform the State as soon as practicable if we are required to disclose the Confidential Information by law, any order of any Government Agency or the rules of any stock exchange.

## 4.3 Cooperation

We must cooperate with the State in any action the State reasonably take to protect the Confidential Information.

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## 5 Breach

We must inform the State as soon as practicable if we become aware or suspect there has been a breach of the obligations in this document or an unauthorised disclosure of Confidential Information by us, or a Representative of us (whether or not still employed or engaged by us).

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## 6 Indemnity

We indemnify the State against any liability or loss arising from, and any costs, charges and expenses incurred in connection with any breach or third party claim arising in connection with this document or its subject matter.

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## 7 Return of Confidential Information

We agree (at our own expense) to:

- (a) deliver to the State or destroy all documents and other materials in our or any of our Representatives' possession, power or control which contain or refer to any Confidential Information (whether or not those documents and other materials were created by the State); and
- (b) delete any Confidential Information that has been entered into a computer, database or other electronic means of data or information storage by us,

except that we may retain one copy for purposes of complying with our internal policies or requirements and applicable laws and regulations, on the earlier of:

- (c) demand by the State; or
- (d) the time the documents and other materials are no longer required for the Approved Purpose.

The return, destruction or deletion of the documents and other materials referred to in this clause 6 does not release us from our obligations under this document.

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## 8 Privacy

If, as a result of the disclosure by the State of Confidential Information to us, we are able to access any personal information about identifiable individuals, then we:

- (a) must comply with the *Privacy Act 1988* (Cth) and all other applicable privacy laws and such other data protection laws as may be in force from time to time which regulate the collection, storage, use and disclosure of information, as if we were regulated by these laws;
- (b) must comply with any privacy code or policy which has been adopted by the State (and notified to us in writing) as if we were bound by that policy; and
- (c) must co-operate with the State in the resolution of any complaint under, or relating to, any of the laws, codes or policies referred to in (a) and (b) above and in responding to any request from an individual whose personal information is held for access to that information.

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## 9 Term of obligations

Our obligations under this document survive indefinitely from the date of this document.

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## 10 General

### 10.1 Governing law

The law in force in Queensland governs this document. We submit to the non-exclusive jurisdiction of the courts of that place.

### 10.2 Waiver

If the State does not exercise a right at any time in connection with a default under this document, this does not mean that the State have waived the right or cannot exercise the right later.

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## 11 Interpretation

### 11.1 Definitions

Unless the contrary intention appears, these meanings apply:

**Approved Purpose** means the purpose of participating in the procurement process to obtain support from the "Land Restoration Fund" for our proposed project.

**Confidential Information** means all Information disclosed to us by or on behalf of the State, and information disclosed by a third party which the State is required to keep confidential for or in connection with the Approved Purpose and all Information created by us in the course of carrying out the Approved Purpose, including:

- (a) information which, either orally or in writing, is designated or indicated as being the State's proprietary or confidential information or proprietary or confidential information of a third party to whom the State owes an obligation of confidentiality;

- (b) information derived or produced partly or wholly from the Information including any calculation, conclusion, summary or computer modelling; and
- (c) trade secrets or information which is capable of protection at law or equity as confidential information,

whether the information:

- (d) was disclosed orally, in writing or in electronic or machine readable form;
- (e) was disclosed or created before, on or after the date of this document;
- (f) was disclosed as a result of discussions between the parties concerning or arising out of the Approved Purpose; or
- (g) was disclosed by the State, any of the State's Representatives or by any third person,

but excluding the Excluded Information.

**Excluded Information** means Confidential Information:

- (a) which is in or becomes part of the public domain otherwise than through breach of this document or an obligation of confidence owed to the State;
- (b) which we can prove by contemporaneous written documentation was already known to us at the time of disclosure by the State (unless that knowledge arose from disclosure of information in breach of an obligation of confidentiality); or
- (c) which we acquire from a source other than the State where that source is entitled to disclose it; or
- (d) is independently developed by us or our Representatives without reference to the Confidential Information.

**Government Agency** means any governmental, semi-governmental,

administrative, fiscal, judicial or quasi-judicial body, department, commission, authority, tribunal, agency or entity.

**Information** means all information regardless of its Material Form, relating to or developed in connection with:

- (a) the State's business, technology or other affairs;
- (b) the Approved Purpose; or
- (c) any systems, technology, ideas, concepts, know-how, techniques, designs, specifications, blueprints, tracings, diagrams, models, functions, capabilities and designs, (including computer software, manufacturing processes or other information embodied in drawings or specifications), or intellectual property, owned or used by, or licensed to the State.

**Material Form** in relation to Information, includes any form (whether visible or not) of storage from which the Information can be reproduced and any form in which the Information is embodied or encoded.

**Related Entity** has the meaning it has in the *Corporations Act 2001* (Cth).

**Representative** of a person includes:

- (a) that person's Related Entities;
- (b) an employee, agent, officer, director, adviser, consultant, financier, partner, joint venturer, contractor or sub-contractor of that person or of a Related Entity of that person; and
- (c) any person to whom that person gives the Confidential Information, directly or indirectly.

**We, our** and **us** refer to the party(s) named on page 1.

Executed as a deed poll

(SIGNING PAGE FOR A PARTY WHO IS AN INDIVIDUAL)

**SIGNED, SEALED AND DELIVERED**

by \_\_\_\_\_  
(print name in block letters)

in the presence of:

.....  
Signature of witness

.....  
Name of witness (block letters)

.....  
Signature

(SIGNING PAGE FOR A PARTY THAT IS AN AUSTRALIAN COMPANY)

*(Option 1 – For an Australian Company that has a sole director who is also the sole company secretary)*

<b>EXECUTED</b> by	)	
	)	
.....	)	.....
(print company name in block letters)	)	Signature
	)	
	)	of .....
in accordance with section 127(1) of the <i>Corporations</i>	)	(print name of signatory in block letters)
<i>Act 2001</i> (Cth) by authority of its director:	)	who states that they are the sole
	)	director and sole company secretary of
	)	the company

*(Option 2 – For an Australian Company that does not have a sole director who is also the sole company secretary)*

<b>EXECUTED</b> by	)	
	)	
.....	)	.....
(print company name in block letters)	)	
	)	
in accordance with section 127(1) of the <i>Corporations</i>	)	
<i>Act 2001</i> (Cth) by authority of its directors:	)	
	)	
.....	)	Signature of director/company
Signature of director	)	secretary*
	)	*delete whichever is not applicable
	)	
	)	
.....	)	.....
Name of director (print in block letters)	)	Name of director/company secretary*
	)	(print in block letters)
	)	*strike out whichever is not applicable