**TeX NDA template**

**FRONT COVER [Please delete this page before sending letter]**

This template has been prepared by TeX to assist Members to enter into appropriate management information confidentiality provisions in order to comply with its confidentiality obligations under the By-laws.

In relation to each individual who the Member wishes to receive confidential MI on its behalf, the Member must enter into a management information non-disclosure agreement ("**MI NDA**") in order to comply with its obligations under clause 8.5 of the TeX By-laws.

TeX has prepared this template so that you only need to populate the fields highlighted yellow, in square brackets below, remove the draft watermark, sign the letter and send it to your proposed MI Recipients.

Once you have received a signed copy of the signed letter from an individual, you should notify TeX and request that the NDA Register is updated accordingly.

Once details are published on the MI Register, confidential MI may be received in accordance with the By-laws.

This template does not contain legal advice. If you are unclear on any of the rights or obligations under this template agreement, you should seek independent legal advice.

***[To be printed on Member headed paper]***

[Insert name and address of recipient]

Date: [Insert date]

Dear [Insert name of NDA recipient]

**TISA EXCHANGE LIMITED ("TeX") DISCLOSURE OF MANAGEMENT INFORMATION**

As you are aware, [FIRM NAME] ("**we/us/our**") is a member of the TISA Exchange Limited contract club (the "**Contract Club**") and accordingly we are legally bound by the TeX membership agreement which is available here www.tisaexchange.co.uk) (the "**Membership Agreement**").

The Membership Agreement obliges us to keep information, in particular management information (which contains details of the performance of any specific member or members in relation to the Service Levels, but excluding any information which has been sufficiently anonymised so it is impossible to identify the Member to which the information relates) ("**Management Information/**"**MI**"), which we receive pursuant to the Contract Club confidential, and to procure that any person who receives Management Information on our behalf keeps such information confidential.

As a result of your [employment with us]/[engagement by us], we have agreed that you can receive confidential information including Management Information.

Prior to you receiving any Management Information, you must, by signing and returning this letter to us as set out below:

(a) confirm your agreement to the confidentiality obligations in relation to Management Information set out in Annex A to this letter; and

(b) acknowledge the general confidentiality obligations set out in your contract for [employment]/[services] with us.

You may only disclose or cause to be disclosed MI to persons who are recorded on the MI Recipient Register which is maintained and published by TeX. If you are in any doubt as to whether a person in an MI Recipient you must not disclose MI to that person.

This letter and any dispute or claim arising out of, or in connection with, it, its subject matter or formation shall be governed by, and construed in accordance with, the laws of England and Wales and the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, this letter, its subject matter or formation.

If you are in agreement with this letter, please indicate this by signing, dating and returning to us the enclosed duplicate of this letter. We cannot provide you with MI if we do not receive a signed copy of the letter from you.

Yours sincerely,

[Insert name – Relationship manager]

Authorised Signatory for and on behalf of [FIRM NAME]

**ENCLOSED DUPLICATE**

We acknowledge receipt of your letter dated as above, of which this is a true copy, and we agree to that letter.

………………………………………………………..

Signed by [insert name of NDA individual]

Date …………………………………………………..

**ANNEX A**

**EXTRACT FROM MEMBERSHIP AGREEMENT**

**Except where expressly stated otherwise, capitalised terms used in this Annex A shall have the meanings given to them in the Glossary to the Membership Agreement.**

### *CONFIDENTIAL INFORMATION*

* 1. *Each Party acknowledges and agrees that pursuant to the operation of the Contract Club it may receive Confidential Information in relation to another Party.*
  2. *In relation to the Confidential Information accessed by or disclosed to any Party ("****Recipient****") by or on behalf of another Party ("****Disclosing Party****"), the Recipient undertakes to the Disclosing Party:*
     1. *to keep all such Confidential Information confidential;*
     2. *not to use any such Confidential Information for any purpose other than the purpose for which it is supplied under the Membership Agreement;*
     3. *not to disclose any such Confidential Information except:*
        1. *to its employees, agents or sub-contractors if and to the extent they need to know such Confidential Information to perform the Recipient's obligations under the Membership Agreement or in connection with the proper operation of the Contract Club in accordance with the Membership Agreement and provided always that they will not use any such Confidential Information for any purpose other than the purpose for which it is supplied under the Membership Agreement; and/or*
        2. *(in the case of disclosure by TeX) to any Associates if and to the extent they need to know such Confidential Information in connection with the proper operation of the Contract Club in accordance with the Membership Agreement and the appointment of such Associate, and provided always that they will not use any such Confidential Information for any purpose other than the purpose for which it is supplied to such Associate;*
     4. *to use its best endeavours to prevent the disclosure of any such Confidential Information to, or access to any such Confidential Information by, any third party without the prior written consent of the Disclosing Party except for disclosure to or access by the Recipient's professional advisers or as may be required by law or any legal or regulatory authority; and*
     5. *to use a reasonable degree of care to protect all such Confidential Information and in any event not less than the degree of care which the Recipient uses to protect its own Confidential Information.*
  3. *In relation to the Confidential Information accessed by or disclosed to any Associate by or on behalf of any Member (also the "****Disclosing Party****"), TeX undertakes to the Disclosing Party that:*
     1. *such Associate will give undertakings to TeX equivalent to those in Clause* [*8.2;*](#bookmark13) *and*
     2. *TeX will take all reasonable steps to enforce those undertakings against such Associate.*
  4. *In relation to any Associate Confidential Information accessed by or disclosed to any Member (also a "****Recipient****") by or on behalf of any Associate, the Recipient undertakes to TeX and acknowledges and agrees that TeX shall be entitled to enforce such undertakings on behalf of the relevant Associate:*
     1. *to keep all such Associate Confidential Information confidential;*
     2. *not to use any such Associate Confidential Information for any purpose other than the purpose for which it is supplied;*
     3. *not to disclose any such Associate Confidential Information except to its employees, agents or sub-contractors if and to the extent they need to know such Associate Confidential Information to perform the Recipient's obligations under the Membership Agreement or in connection with the proper operation of the Contract Club in accordance with the Membership Agreement and provided always that they will not use any such Associate Confidential Information for any purpose other than the purpose for which it is supplied by or on behalf of such Associate;*
     4. *to use its best endeavours to prevent the disclosure of any such Associate Confidential Information to, or access to any such Associate Confidential*

*Information by, any third party without the prior written consent of the relevant Associate or TeX except for disclosure to or access by the Recipient's professional advisers or as may be required by law or any legal or regulatory authority; and*

* + 1. *to use a reasonable degree of care to protect all such Associate Confidential Information and in any event not less than the degree of care which the Recipient uses to protect its own Confidential Information.*
  1. *Without prejudice to the obligations in Clauses 8.2 to 8.4 inclusive, the additional confidentiality obligations in this Clause 8.5 shall apply in relation to Management Information (****"MI"****) only:*
     1. *Each Member may only disclose, or cause to be disclosed, MI to its employees, agents and/or sub-contractors pursuant to Clause 8.2.3(a) (each an "****MI Recipient****"**in respect of such MI), to the extent that each MI Recipient has agreed in writing to non-disclosure terms with the Member (or entity within the Member's Group) that are no less onerous than the confidentiality provisions set out in this Clause 8, by signing the MI NDA prior to such disclosure.*
     2. *Each Member undertakes that it shall not disclose, or cause to be disclosed, MI to any MI Recipient unless and until:*
        1. *that MI Recipient has signed an MI NDA;*
        2. *that Member has notified TeX of that MI Recipient's details; and*
        3. *TeX has published that MI Recipient's details on the MI Recipient Register;*
     3. *Each Member shall:*
        1. *maintain an up-to-date register of all its MI Recipients entitled to receive MI under this Clause 8.5; and*
        2. *promptly notify TeX in writing of any changes to the register it keeps pursuant to Clause 8.5.3(b).*
     4. *TeX shall maintain and publish an up-to-date register on the secure Members only area of the TeX Website of all MI Recipients entitled to receive MI under this Clause 8.5 (the "****MI Recipient Register****").*
     5. *Each Member shall, and shall procure that each MI Recipient shall:*
        1. *keep the MI confidential in accordance with the provisions of these By-Laws;*

* + - 1. *not use the MI for any purpose other than for understanding compliance with the SLAs and identifying opportunities for improving best practices;*
      2. *put in place appropriate safeguards to keep any MI received confidential within its organisation without prejudice to the generality of Clause 8.2.5;*
      3. *notwithstanding Clause 8.2.3 and Clause 8.7.1, but subject to Clauses 8.5 and 8.6, not disclose, or cause to be disclosed, any MI to any person (for the avoidance of doubt, whether or not that person is within the Member's or MI Recipient's Firm) unless that person is recorded on the MI Recipient Register;*
      4. *use best endeavours to prevent the disclosure of the MI to non MI Recipients, including by:* 
         1. *ensuring that only persons recorded on the MI Recipient Register are in the room when the MI is displayed;*
         2. *ensuring that only persons recorded on the MI Recipient Register have visibility of the screen when the MI is displayed; and*
         3. *not making any copies, records, notes, photographs or stills of the MI (or, in each case, attempting to do so); and*
      5. *immediately returning or destroying any MI on request from TeX.*
    1. *TeX may immediately stop providing MI to any Member and/or MI Recipient if it becomes aware, or reasonably suspects, that appropriate safeguards are not in place, or that any Member is in breach of this Clause 8.5.*
    2. *If any Member becomes aware of, or suspects, a breach of the provisions of this Clause 8.5, it must promptly (and in any event within 24 hours) report such breach to TeX and use its best endeavours to contain and remedy such breach and to prevent any further breach.*
    3. *For the avoidance of doubt, a Member may not receive MI unless they have at least one MI Recipient recorded on the MI Recipient Register.*
  1. *The obligations of confidentiality in this Clause* [*8*](#bookmark12) *will not apply to any Confidential Information or Associate Confidential Information to the extent that the information:*
     1. *concerns the Member's participation in the Contract Club and each Member consents to the publication of the fact that it is a Member of the Contract Club in accordance with Clause 6 or otherwise;*
     2. *concerns the Associate's participation as an Associate of the Contract Club;*
     3. *is in, or comes into, the public domain other than as a result of a breach of this Clause* [*8*](#bookmark12) *or any other duty of confidentiality relating to such information;*
     4. *was, is or becomes available to the Recipient on a non-confidential basis from a person who is not bound by any obligation of confidence in respect of, or otherwise prohibited from disclosing, such information to the Recipient;*
     5. *was known to the Recipient before its disclosure by the Disclosing Party; or*
     6. *is developed by or for the Recipient independently of the information disclosed by the Disclosing Party.*
  2. *Each Party will be permitted to disclose any Confidential Information and/or Associate Confidential Information to the extent it is required to do so:*
     1. *to enable the Recipient to perform its obligations, or exercise its rights, under the Membership Agreement;*
     2. *by any Applicable Law or by any court, arbitral or administrative tribunal in the course of proceedings before it, any Government agency or regulatory body lawfully requesting the same or by the regulations of any stock exchange provided that (to the extent not prohibited by law or order of court, arbitral or administrative tribunal, Government agency or regulatory body, or stock exchange regulation) the Recipient promptly notifies and consults with the Disclosing Party (or, in the case of disclosure of Associate Confidential Information, with TeX) in advance in relation to the timing and content of such disclosure; or*
     3. *in order to give proper instructions to any professional adviser of the Recipient who has an obligation to keep such Confidential Information and/or Associate Confidential Information confidential.*
  3. *Each Party acknowledges and agrees that each Associate will be permitted to disclose any Confidential Information to the extent it is required to do so:*
     1. *to enable the Associate to perform its obligations, or exercise its rights, under the terms of its appointment as an Associate; by any Applicable Law or by any court, arbitral or administrative tribunal in the course of proceedings before it, any Government agency or regulatory body lawfully requesting the same or by the regulations of any stock exchange provided that (to the extent not prohibited by law or order of court, arbitral or administrative tribunal, Government agency or regulatory body, or stock exchange regulation) the Associate promptly notifies and consults with the Disclosing Party (where appropriate, through TeX) in advance in relation to the timing and content of such disclosure; or*
     2. *in order to give proper instructions to any professional adviser of the Associate who has an obligation to keep such Confidential Information confidential.*
  4. *The Recipient will comply promptly with any and all reasonable instructions given:*
     1. *by the Disclosing Party, from time to time, in connection with the use of all or any of the Confidential Information of or relating to the Disclosing Party; and/or*
     2. *by TeX, from time to time, in connection with the use of all or any of the Associate Confidential Information.*
  5. *The Recipient will not acquire any right in, or title to, any Confidential Information belonging or relating to the Disclosing Party. No Member will acquire any right in, or title to, any Associate Confidential Information.*
  6. *Each Member agrees and acknowledges that, in addition to any other remedies and damages available to a Disclosing Party, a Disclosing Party is entitled to the remedies of specific performance, injunction and other equitable relief without proof of special damages for breach of the confidentiality obligations set out in this Clause 8.5. Such rights and remedies are cumulative with, and not exclusive of, any rights or remedies otherwise provided by law or in equity.*
  7. *The obligations in this Clause* [*8*](#bookmark12) *will survive the cessation of the Disclosing Party's and/or the Recipient's participation in, and/or the Associate's association with, the Contract Club.*