

# CONFIDENTIALITY AGREEMENT

**Between:** Filehawk Pty Ltd (Discloser)  
302 West Street  
Umina Nsw 2257  
ABN: 47 003 900 472

**And:** .....(Recipient)  
.....  
.....  
.....

## Background

- A. The parties wish to have discussions in relation to the Project.
- B. In the course of those discussions there will be disclosure of Confidential Information.
- C. The Confidential Information has an unique value to the Discloser, and may be the basis of applications for patents, trademarks or registered designs.
- D. The Discloser will be prejudiced by any unauthorised use or disclosure of the Confidential Information, may be precluded from being granted patents, and may suffer financial loss as a result of unauthorised disclosure or unauthorised use of the Confidential Information.

## This agreement provides

### Meanings

1. In this Agreement, the following words have the following meanings:

**Confidential Information** means all information relating to the Project including inventions; discoveries; facts; data; ideas; manner, method or process of manufacture; method or principle of construction; chemical composition or formulation; techniques; products; prototypes; processes; names; know how; routines; specifications; drawings; trade secrets; technology methods; computer programs; works in respect to which copyright subsists; and other knowledge;

The Confidential Information also specifically includes: The intellectual property and financial information relating to "The Pie Shack" franchising proposal.

The Confidential Information also includes information which the Recipient or an employee or other person connected with the Recipient becomes aware of by observation, deduction, reasoning, inspection, and overhearing.

**Discloser** means a party to this Agreement who discloses Confidential Information to another party

**Project** means: The Pie Shack franchising proposal

**Purpose** means: To evaluate the Confidential Information to determine if the recipient wishes to invest in the project. The information may not be shared with any other person except the recipient's financial adviser.

**Recipient** means a party to this Agreement to whom Confidential Information is disclosed.

## Disclosure of confidential information

- 2.1 The Discloser will disclose the Confidential Information to the Recipient as soon as practicable after the date of this Agreement.
- 2.2 The Discloser will disclose to the Recipient only so much of the Confidential Information as the Discloser decides.

### **Use of confidential information**

- 3.1 The Recipient must use the Confidential Information only for the Purpose, and must not use the Confidential Information for any other purpose.
- 3.2 The Recipient must not lodge any patent application or any other application for the statutory protection of the Confidential Information, without the prior written consent of the Discloser.

### **Disclosure by recipient to employees and directors**

4. The Recipient must not disclose Confidential Information to any director, officer, or employee until:
  - (a) The Recipient has notified the Discloser the name of the person to whom disclosure is proposed;
  - (b) the Discloser has consented in writing to the disclosure of the Confidential Information to that person; and
  - (c) if the Discloser shall require, that person has signed a Confidentiality Agreement with the Discloser upon the same terms as are set out in this Agreement.
  - (d) this clause does not apply to disclosure of the information to the recipient's financial adviser.

### **Confidentiality**

- 10.1 The Recipient must keep the Confidential Information secret and confidential
- 5.2 The Recipient must not disclose to any person or make known in any manner any part of the Confidential Information.
- 5.3 The Recipient must keep the Confidential Information in a secure place so as to ensure that unauthorised persons do not have access to the Confidential Information.

### **Written consent**

- 6.1 The Discloser may consent to the Recipient making a disclosure or relieve the Recipient from complying with the whole or any part of this Agreement. Such a consent can only be in writing.
- 6.2 The Discloser may consent pursuant to the preceding clause subject to conditions, including a condition that the person to whom the Recipient proposes to disclose executes in favour of the Discloser a Confidentiality Agreement upon the same terms as this Agreement.

### **Ending of obligation of confidentiality**

7. The Recipient shall be relieved from the Recipient's obligations of confidentiality in this Agreement in respect to any part of the Confidential Information which:
  - (a) the Recipient can show was in the possession of the Recipient as at the date of

the disclosure, and the Recipient notifies the Discloser that fact within 21 days of the date of this Agreement; or

- (b) the Recipient can show is or becomes part of the public domain otherwise than by a breach of this Agreement; or
- (c) the Recipient can show was received in good faith from a person entitled to provide it to the Recipient; or
- (d) the Recipient can show was independently developed by the Recipient, by employees who did not have access to the Confidential Information.

#### **Ownership of confidential information**

8. The Recipient acknowledges that all of the Confidential Information, including any copyright that subsists in any part of the Confidential Information, shall at all times remain the absolute property of the Discloser.

#### **No rights to confidential information**

9. Nothing in this Agreement confers upon the Recipient any right or license to any part of the Confidential Information.

#### **Infringement of confidentiality**

- 10.1 If the Recipient shall learn or believe that:
- (a) any unauthorised person has come into possession of any part of the Confidential Information;
  - (b) any unauthorised person is doing any thing in contravention of rights that attach to and arise from the Confidential Information,
- 10.2 the Recipient must immediately report full particulars to the Discloser, and must provide to the Discloser all reasonable assistance and information it may request with respect to that information.

#### **Duration of confidentiality**

- 11.1 The parties acknowledge that the confidential nature of the Confidential Information can subsist for an indefinite period of time.
- 11.2 The parties acknowledge that the elapsing of a predetermined period of time does not by reason of that alone cause the Confidential Information to cease having its confidential character, and that the passage of any particular period of time does not extinguish the need to maintain the secrecy of the Confidential Information.
- 11.3 The parties acknowledge that the obligations upon the Recipient in this Agreement continue to subsist until one of the events set out in this Agreement ending the obligation of confidentiality occurs.

#### **Return of confidential information**

- 12.1 The Discloser may at any time by notice in writing to the Recipient require the return to it of the Confidential Information.
- 12.2 Within seven days of receipt of such a notice the Recipient must deliver to the Discloser all Confidential Information in its possession disclosed or provided by the Discloser together with all copies of all Confidential Information in its possession:

- (a) provided by the Discloser; or
- (b) which the Recipient has for any reason made,

12.3 Any part of the Confidential Information which cannot conveniently be returned by the Recipient to the Discloser shall be completely destroyed in such manner and at such time as directed by the Discloser, including by deletion from all computer records and electronic or magnetic storage devices.

**No assignment**

13. This Agreement may not be assigned by any party.

**Governing law**

14. This Agreement is made and entered into in New South Wales. The parties agree to submit themselves to the non-exclusive jurisdiction of the courts in that place.

**Signatures of parties**

This Agreement shall be effective when signed by all parties, and its effective date is the latest of the dates set out below.

SIGNED

on behalf of Filehawk Pty Ltd

Date

Signature

Signed by: Ron Bruns (Director)

Signature of witness

Print full name of witness

SIGNED

by .....

Date

Signature

Phone Number (Required to confirm legitimacy).....

Signature of witness

Print full name of witness