

NON-DISCLOSURE AGREEMENT

THIS DEED made on (date):.....

Between Attache Investments Pty Ltd (ABN 38 112 109 136) Trading as Attache Business Broking, 77, Mann Street, Gosford in the State of New South Wales ("the Broker") of the first part

AND:
(insert name of prospective purchaser)

of:.....
(insert address of prospective purchaser)

Ph:.....Mobile:Fax:.....

Email Address:

of the second part

WHEREAS

- A.** The Vendor(s) has(have) appointed the Broker as its broker and agent for the sale of the business(es) more particularly described in the Schedule hereto ("the Business(es)").
- B.** The Prospective Purchaser wishes to purchase a business and has approached the Broker requesting that the Broker introduce him to the Business(es).
- C.** The Vendor(s) is(are) willing to permit the Broker to introduce the Prospective Purchaser to the Business(es) and is agreeable to furnishing or permitting the Broker to furnish to the Prospective Purchaser information and data in relation to the Business(es) but only upon the terms and subject to the covenants provisos terms and conditions set out in this Deed.

NOW THIS DEED WITNESSES as follows:

- 1.** In this Deed "information and data in relation to the Business(es)" means any information data or material (whether in writing, recorded electronically, or in some other permanently recorded form or not) in any way forming part of, relating to or concerning the Business(es) or any part thereof and without limiting the generality thereof includes all accounting and financial records, client and / or customer lists, supplier lists, trade secrets or other confidential information or secret processes or inventions or other intellectual property or operational or procedural handbooks or manuals and in any way concerning the financial or other affairs of the Vendor(s) or any person, partnership, company or trust related whether directly or indirectly to the Vendor(s).
- 2.** The Prospective Purchaser hereby covenants and agrees with the other parties that any information and data in relation to the Business(es) disclosed divulged or furnished by the Vendor or Broker to the Prospective Purchaser or his duly authorised agents (firstly approved of by the Vendor or Broker) shall not be used for any purpose whatsoever other than to enable and assist the Prospective Purchaser (i) in assessing and determining whether or not he is prepared to purchase the Business(es) and (ii) in carrying out his due diligence on said information and data should he proceed with the purchase of the Business(es).
- 3.** Subject to Clause 2 of this Deed, the Prospective Purchaser hereby covenants with the other parties and undertakes that he shall not divulge, disclose or furnish to any third party or person whomsoever and he shall not use for any purpose whatsoever any information and data in relation to the Business disclosed, divulged or furnished to him/her/it (or his said duly authorised agents) either in writing or orally by the Vendor(s), the Broker or any other person whomsoever except with the prior written consent of the Vendor(s).
- 4.** The obligations and covenants under and on the part of the Prospective Purchaser contained in Clauses 3 shall not extend to any information which is in the public domain or which hereafter becomes a part of the public domain other than as a result of any unauthorised act or omission on the part of the Prospective Purchaser.
- 5.** Should the Prospective Purchaser not proceed further with the purchase of the business(es), the Prospective Purchaser shall within 10 working days delete, if received electronically, and/or return to the Vendor(s) or Broker all information and data which is in his possession or control or the possession or control of his said duly authorised Agents and which is in a permanently recorded or electronic form including all copies made thereof.
- 6.** The Prospective Purchaser hereby warrants that he is not the proprietor or employee or agent for any proprietor of any business nor has he or any member of his family (whether directly or indirectly) any beneficial or other interest of whatsoever nature in any partnership, company, corporation or trust which presently carries on or which intends to carry on business in competition with the Business(es) whether in the State of New South Wales or elsewhere and the Prospective Purchaser hereby acknowledges that he is aware that the Vendor(s) and Broker have entered into this Deed in strict reliance upon the warranties by the Prospective Purchaser contained in this Clause.
- 7.** If this Deed is executed by a person ("Agent") for and on behalf of the Prospective Purchaser in any capacity whatsoever then the Agent hereby warrants to the other parties:
 - (i) that the Agent is duly authorised by the Prospective Purchaser to execute this Deed on the Prospective Purchaser's behalf;
 - (ii) that the Prospective Purchaser was prior to the Agent's execution hereof aware of all the provisions of this Deed;
 - (iii) that the Prospective Purchaser expressly agrees to be bound by the provisions of this Deed as if the Prospective Purchaser himself has executed; and

Prospective Purchaser Signature _____ **Name** _____ **Date** ___/___/___

(iv) that the Agent prior to his execution of this Deed has carefully read this Deed and was fully aware of its provisions and its legal effect and the Agent hereby acknowledges that he is aware that the other parties have executed this Deed relying on the warranties contained in this Clause.

8. This Deed shall be binding upon and the covenants and the undertakings contained herein shall run to and may be enforced by or against the heirs, executors, administrators and assigns of the parties hereto and where any party hereto shall consist of two (2) or more persons such covenants and undertakings shall bind and be for the benefit and enjoyments of all of them jointly and each of them severally.

9. In this Deed the singular includes the plural and vice versa, and each gender includes each other gender and references to persons includes companies and corporations.

10. The failure of any party to require the performance or observation of any covenant undertaking or term of condition of this Deed shall not prevent a subsequent enforcement of such covenant undertaking or term of condition nor shall it prevent the party making the waiver from subsequent acting upon any subsequent breach or default or from enforcing all the provisions of this Deed.

11. This Deed constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes and by its own force terminates all prior arrangements between the parties whether oral or written to relating to the same subject matter.

12. Any professional advisor, accountant or business valuer retained by the prospective purchaser shall also be bound by this agreement.

13. The Prospective purchaser will **refrain from contacting or dealing directly with the vendor(s)** or visiting the premises without express permission/consent from the **Broker**.

14. The Prospective purchaser agrees they shall be **liable to the agent for damages in the case of breaching Clause 13, the amount of such damages totaling the amount of commission payable to the Broker by the vendor as stated in the signed agency agreement(s)**.

15. The Prospective purchaser will refrain from using the confidential information in any way which **might harm or prejudice the interests of the vendor(s)**.

16. Subject to Clause 2, the Prospective Purchaser hereby covenants with the other parties and undertakes that he shall not divulge or disclose that the business(es) is(are) for sale to any third party or person whomsoever, including any customer, supplier, employee, contractor or agent of the business(es).

Prospective Purchaser Signature _____ Name _____ Date ___/___/___

SCHEDULE
(Description of Business for Sale) - (Recital A)

This non disclosure agreement covers all businesses listed by Attache Investments Pty Ltd TAS Attache Business Broking, and introduced by Attache Investments Pty Ltd TAS Attache Business Broking to the undersigned.

Acknowledgment

I/We the undersigned acknowledge we have read and understood the following "Limitation of Liability" document and agree to adhere to its terms and conditions.

I/we hereby acknowledge that:

The **Broker** & its employees & associates has pointed out that the confidential information provided to me/us has been provided by the vendor, or the vendor's representatives or advisers or compiled by the **Broker** from material obtained from the vendor(s) the vendor(s)'s representatives or advisers, and should be checked independently for accuracy and truth.

The **Broker** informed me/us that it is not possible for the **Broker** to check the validity of such information and invited me/us to make my/own inquiries in relation to the financial and other data concerning the above business(es).

The **Broker** also warned me/us that any indication of past performance was in no way a warranty or representation that a new owner would be able to achieve such results in the future and advised me/us to seek independent advice as appropriate before proceeding with any purchase.

The **Vendor(s)** will suffer loss and damage from any breach by me/us of any of the duties under this agreement.

The **Broker** has been solely instrumental in my/our being introduced to the business and will suffer loss or damage if I/we contact or attempt to deal directly with the vendor(s).

The terms and conditions of this agreement shall continue to have full force and effect after the business(es) is(are) sold.

I/We have read and fully understand the above Deed & Acknowledgment.

Prospective Purchaser Signature _____ Name _____ Date ___/___/___