

MUTUAL CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

Agreement Schedule

Parties:	
1. SekChek:	SekChek Information Protection Services CC of Box 805, Ferndale 2160, South Africa, registered in South Africa (No. 1998/047454/23) (“SekChek”);
2. Company	Full Name: _____ _____
	of (address): _____ _____ _____
	Reg Company No / Incorporation Number: _____
	Country (or State) of Registration / Incorporation: _____

The parties each agree to the terms of this Agreement (which expression includes this Agreement Schedule and the Mutual Confidentiality and Non-Disclosure Agreement Terms and Conditions).

Signed by:	Signed by:
_____	_____
For and on behalf of Company	For and on behalf of SekChek
_____	_____
Name (Print)	Name (Print)
_____	_____
Title	Title
_____	_____
Date	Date
_____	_____
*All pages to be initialed by signatories.	

NOTE: Once signed please fax back to: +27 (11) 461 7911 marked for the attention of Gordon Docherty and post the original to: SekChek (F.A.O. Gordon Docherty), PO Box 805, Ferndale 2160, South Africa.

MUTUAL CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

Terms and Conditions

WHEREAS: SekChek Information Protection Services CC and the company (the “**Company**”) whose name and address appears on the agreement schedule (the “**Agreement Schedule**”) to which these terms and conditions are attached, have agreed to enter into discussions (the “**Discussions**”) concerning the possibility of SekChek providing certain services (“**Services**”) and licensing certain related software to the Company and the parties wish to define the terms upon which each party shall disclose confidential information to the other and to ensure that the confidentiality of the Discussions and any Confidential Information provided in connection with these Discussions or the Services is maintained.

NOW IT IS HEREBY AGREED AS FOLLOWS:

1. DEFINITIONS

1.1 The terms defined in the preamble shall retain such definitions and for the purposes of this Agreement, the following words and phrases shall have the meanings ascribed to them below:

“**Agreement**” means this agreement incorporating the Agreement Schedule and these terms and conditions;

“**Confidential Information**” means, in relation to the obligations of either party, all information (whether in written, oral or electronic format and whether disclosed directly or indirectly) designated as such by the other party together with such other information which relates to the business, affairs, customers, products, programs, developments, operations, processes, trade secrets, design rights, know-how and personnel of that other party which might reasonably be regarded as the confidential information of that other party; and

“**Intellectual Property Rights**” means all title, rights or interest of either party in all patents, trade marks, service marks, registered designs, applications for any of those rights, trade and business names (including internet domain names and email address names), unregistered trade marks and service marks, copyrights, know-how, database rights, rights in designs and inventions and all rights of the same or similar effect or nature in any jurisdiction and including moral rights.

1.2 References in this Agreement to the parties shall include their respective employees, agents and successors (whether by operation of law or otherwise).

1.3 Headings are included in this Agreement for ease of reference only and shall not affect the interpretation or construction of this Agreement.

1.4 References to Clauses are, unless otherwise provided, references to Clauses of this Agreement.

2. CONFIDENTIALITY

2.1 Subject to Clauses 2.2 to 2.4, each party shall:

2.1.1 use Confidential Information only for the purpose of the Discussions and the Services;

2.1.2 disclose Confidential Information to a third party only with the prior written

consent of the disclosing party or otherwise in accordance with Clauses 2.3 and 2.4;

2.1.3 ensure that any third party to which Confidential Information is disclosed in accordance with Clause 2.1.2 executes a confidentiality undertaking on the terms of Clause 2 and 4; and

2.1.4 make all reasonable efforts to prevent the use or disclosure of the Confidential Information other than in accordance with the terms of this Agreement.

2.2 The provisions of Clause 2.1 shall not apply to any Confidential Information which:

2.2.1 is or comes into the public domain other than by the default of the recipient party;

2.2.2 can be shown to be or to have been independently generated by the recipient party;

2.2.3 can be shown to be or to have been in the possession of or to be known by the recipient party prior to its receipt from the disclosing party;

2.2.4 can be shown to have been provided to the receiving party by any third party who was free of any restriction as to its use or disclosure.

2.3 To the extent that such disclosure is required for the purpose of the Discussions or the provision of Services either party may disclose Confidential Information to its professional advisers and agents who are subject to an obligation of confidentiality on terms no less onerous than this Agreement.

2.4 Either party may make such disclosure of Confidential Information as shall be required to comply with the order of a Court of competent jurisdiction or with a mandatory requirement of a governing regulatory body. Each party shall, forthwith upon becoming aware of any requirement for such disclosure, notify the other party in writing.

2.5 Each party shall as far as reasonably practicable and within thirty (30) days of a request from the other party, return to such other party all media remaining in its possession provided to it by that party and containing Confidential Information and shall as far as reasonably practicable, expunge any Confidential Information contained in any media prepared by it. Provided that such obligation to return or expunge information shall not apply to internal correspondence or correspondence with advisors.

3. INTELLECTUAL PROPERTY

3.1 All Intellectual Property Rights in all Confidential Information disclosed by one party to the other and in all media comprising such Confidential Information shall as between the parties remain the property of the disclosing party and nothing in this Agreement shall be taken to represent an assignment, licence or grant of other rights in or under such Intellectual Property Rights.

4. PUBLICITY

4.1 Neither party shall, without the prior approval in writing of the other, directly or indirectly:

4.1.1 make any communication, public announcement, release or statement in any way connected with the Discussions; or

4.1.2 disclose to any person other than those referred to in Clause 2 the fact of the conduct of the Discussions.

4.2 Clause 4.1 shall not apply to a communication, public announcement, release or statement required by law or by regulation of a Stock Exchange or other governing regulatory body.

5. REPRESENTATIONS AND WARRANTIES

5.1 Save as expressly provided upon disclosure, neither party warrants or represents the accuracy of any information provided by one party to the other in connection with the Discussions and all such warranties and representations are hereby excluded to the extent permitted by law.

5.2 Unless otherwise expressed in writing the disclosure of the Confidential Information pursuant hereto and any prior or future discussions or communications between the parties about the Discussions shall not impose or create any obligation on either party to enter into any legally binding obligations with the other.

6. NOTICES

6.1 All notices required or authorised to be delivered by one party to the other party under this Agreement shall be in writing sent by prepaid registered post/airmail or by facsimile transmission (immediately confirmed by post) and shall be deemed to have been received forty eight (48) hours after such posting or transmission. Any such notice shall be sent to the relevant party at the address stated for that party in the Agreement Schedule.

7. LAW AND JURISDICTION

7.1 This Agreement shall be governed by South African Law.

7.2 The parties hereby submit to the exclusive jurisdiction of the South African courts.

8. ENTIRE AGREEMENT

8.1 Save as expressly stated herein, this Agreement represents the entire understanding between the parties relating to the subject matter hereof and supersedes all previous agreements, understandings or commitments between the parties whether oral or written in respect to the subject matter hereof.

9. DURATION

9.1 The Agreement shall commence the day it is executed by both parties and shall remain in effect for three years from that date.