Date:

2007

(1) THE SECRETARY OF STATE FOR THE HOME DEPARTMENT ACTING THROUGH THE IDENTITY AND PASSPORT SERVICE

and

(2)

Non-Disclosure Agreement

Contents

No	Heading	Page
	Clauses	
1.	INTERPRETATION	2
2.	OBLIGATIONS ON THE COMPANY	5
3.	FORCED DISCLOSURE	7
4.	GENERAL	8
5.	AUDIT RIGHTS	8
6.	WHOLE AGREEMENT AND CONDUCT OF NEGOTIATIONS	9
7.	ASSIGNMENT	9
8.	THIRD PARTY RIGHTS	9
9.	SEVERANCE	9
10.	VARIATION AND WAIVER	10
11.	GOVERNING LAW AND JURISDICTION	10
	Schedule	
	EDULE - INSTRUCTIONS ON HANDLING PROTECTIVELY	MARKED 10

THIS AGREEMENT is made this

day of

2007

BETWEEN:

(1) THE SECRETARY OF STATE FOR THE HOME DEPARTMENT ACTING THROUGH THE IDENTITY AND PASSPORT SERVICE of Globe House, 89 Eccleston Square, London SW1V 1PN (the "Authority"); and

(2)

whose registered office is at

(Company registration number

)(the "Company").

WHEREAS:

- (A) On behalf of the Agencies (as defined below) the Authority wishes to make available and/or has already made available to the Company certain NIS Information (as defined below) concerning the Agencies for the purposes of the NIS Programme (as defined below).
- (B) The work involved in the NIS Programme may involve contact with information, documents and other articles protected by the Official Secrets Acts 1911-1989 and will therefore require that the highest standards of security and confidentiality are maintained. Breach of the Official Secrets Acts is a criminal offence.
- (C) On the terms of this Agreement, the Company will be entitled to provide NIS Information to its Group and Corporate Recipients (all of which are defined below).

OPERATIVE TERMS

1. INTERPRETATION

1.1 In this Agreement the following definitions and rules of interpretation in this Clause 1 apply, unless the context otherwise requires:

"Agencies"

means the Identity and Passport Service, the Border and Immigration Agency, the Foreign and Commonwealth Office and UKvisas;

"Agreement"

means this agreement, any schedules and any annexes attached hereto;

"Copies"

means copies of the Protectively Marked NIS Information including any document, electronic file, note, extract, analysis or any other way of representing or recording and recalling information which contains, reflects or is derived from the Protectively Marked NIS Information;

"Corporate Recipient"

means any of the following which are not individuals:
subcontractors, shareholders, agents, consultants, suppliers, collaborators and professional advisers of the Company (whether directly or indirectly) which may have access to the NIS Information but not members of the Group;

"Deliverables"

means any quotes, technical documents, drafts, services, goods or products which may be provided by the Company in relation to the Authority's requirements under the NIS Programme from time to time prior to any contract award thereunder;

"Group"

means the Company and all of its wholly owned subsidiaries from time to time;

"Individual Recipient"

means any individual who may have access to the NIS Information who is a director, employee or member of seconded staff of and/or under the control of the Group;

"NIS Information"

means:

- (a) the terms of this Agreement; and
- (b) all information in whatever form (written, oral, visual and electronic) including all Copies thereof relating to the NIS

Programme or to the Community in connection with the NIS Programme which comes to the Company's attention or in to the Company's possession;

"NIS Programme"

means a long term programme creating a comprehensive identity management infrastructure for the UK, known as the National Identity Scheme, more particularly described in the Strategic Action Plan published in December 2006 and updated from time to time by the Authority; and

"Protectively Marked NIS Information"

means any NIS Information which is categorised other than Not Protectively Marked under Her Majesty's Government's policy for handling Protectively Marked material.

- 1.2 Clause and schedule headings do not affect the interpretation of this Agreement.
- 1.3 A reference to a law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.4 A reference to a person includes natural persons and all forms of legal entity.
- 1.5 Writing or written includes faxes and e-mail.
- 1.6 This Agreement is entered into by the Company for and on behalf of all members of the Group which shall be bound by its terms as if they had executed this Agreement themselves. When a company becomes a member of the Group it shall become a party to this Agreement and when a company ceases to be a member of the Group this Agreement shall immediately terminate for such company.
- 1.7 This Agreement is entered in to by the Authority for and on behalf of the Agencies and the Authority shall be entitled to enforce its provisions on their behalf.

2. OBLIGATIONS ON THE COMPANY

- 2.1 In consideration for the Agencies and others giving the Company the NIS Information, as from the date on which this Agreement is executed by the Company, the Company shall:
 - (a) keep the NIS Information
 - commercially confidential in accordance with English common law in relation to confidential material; and
 - (ii) secure in accordance with Her Majesty's Government's policy and best practice in relation to the handling of Protectively Marked material under Her Majesty's Government's policy for handling Protectively Marked material as specified in the Schedule;
 - use the NIS Information only for preparing and providing Deliverables under the NIS Programme;
 - (c) ensure that the NIS Information is only disclosed to persons who need to have access thereto necessarily and exclusively for the purposes of the NIS Programme, to inform each Individual Recipient of the restrictions contained within this Agreement and to ensure that such persons observe such restrictions;
 - (d) procure that any Individual Recipient is aware of the Official Secrets Acts 1911-1989 and of their application to them indefinitely and to ensure that each Individual Recipient observes the restrictions contained herein;
 - inform the Authority immediately upon becoming aware or suspecting that the NIS Information has been improperly disclosed or misused; and
 - (f) comply with and procure that all Individual Recipients shall comply with the written instructions of the Authority regarding the NIS Information which are notified to the Company in addition to the obligations referred to in the Schedule.
- 2.2 The Company shall be entitled to disclose NIS Information to members of the Group. The Company shall be entitled to disclose NIS Information to a Corporate Recipient in the terms of Clause 2.1(c) provided that the Company is first notified by the Authority in writing that such Corporate Recipient has

- executed a non disclosure agreement in favour of the Agencies in a form satisfactory to the Authority.
- 2.3 The obligations of confidence contained within this Agreement shall not extend to any part of the NIS Information which:
 - is or shall become generally available to the public otherwise than by reason of a breach of the provisions of this Agreement;
 - is known or is subsequently disclosed to the Company without obligations or confidence by a third party owing no such obligations to the Agencies in respect thereof;
 - (c) the Company can show was in its possession without obligation under this Agreement prior to such information being provided to it; or
 - (d) the Company can show was developed by it or for it at any time independently of the NIS Programme.
- 2.4 Save as permitted by Clauses 2.1, 2.2 and 2.3, the Company may disclose NIS Information only to the limited extent permitted by Clause 3 or with the prior written agreement of the Authority.
- 2.5 Immediately upon termination of the involvement of the Company in the NIS Programme, or immediately upon the written request of the Authority to the Company, a director or senior employee of the Company must confirm in writing that the Company has returned to the Authority or, at the Authority's discretion, has destroyed or permanently erased and (where appropriate) erased to Security Equipment Assessment Panel (SEAP) standards under Her Majesty's Government's policy for handling Protectively Marked material as specified in the Schedule, the NIS Information and all copies other than copies that:
 - (a) contain insignificant extracts from, or references to, the NIS Information which are not Protectively Marked NIS Information;
 - (b) the Company or an Individual Recipient is required to keep by law; or
 - (c) contain no NIS Information other than information disclosed under Clause 3.
- 2.6 Immediately upon termination of the involvement of an Individual Recipient in the NIS Programme upon the written request of the Authority to the Company,

- a director or senior employee of the Company must confirm in writing that that Individual Recipient has returned to the Company all Protectively Marked NIS Information and Copies.
- 2.7 The Company acknowledges and agrees that the property and copyright in the NIS Information disclosed to it by the Agencies, including any documents, files and any other items containing any NIS Information, belong to the Agencies.
- 2.8 This Agreement shall neither prejudice nor limit the rights of the Agencies in respect of any intellectual property rights in the NIS Information. Except as provided for herein, the Company may not assign or transfer any rights or obligations hereunder without the prior written consent of the Authority, such consent being exercised entirely within the discretion of the Authority.
- 2.9 This Agreement shall not be construed to:
 - grant the Company any licence or rights other than as expressly set out herein in respect of the NIS Information; nor
 - (b) require the Agencies to disclose any NIS Information to the Company.

3. FORCED DISCLOSURE

- 3.1 The Company and its Individual Recipients may disclose NIS Information to the minimum extent required by any order of any court of competent jurisdiction or any competent judicial, governmental or regulatory body.
- 3.2 Before the Company or its Individual Recipients disclose any NIS Information under this Clause 3, the Company must (to the extent permitted by law):
 - inform the Authority of the full circumstances of the disclosure and the NIS Information that will be disclosed;
 - give the Authority a copy of a legal opinion indicating that disclosure is necessary;
 - (c) consult with the Authority as to possible steps to avoid or limit disclosure and take those steps where they would not result in significant adverse consequences to the Authority;
 - (d) use all reasonable endeavours to gain assurances as to confidentiality from the body to whom the NIS Information is to be disclosed in similar

terms to this Agreement; and

- (e) where the disclosure is by way of stock exchange announcement, agree the wording with the Authority in advance.
- 3.3 The parties must co-operate with each other in bringing any legal or other proceedings to challenge the validity of the requirement to disclose and the Authority shall reimburse the Company in respect of one half of all reasonably incurred legal costs and expenses suffered by the Company in compliance with this Clause 3.

4. GENERAL

- 4.1 The Company acknowledges that it shall be liable to the Authority and all departments, offices and agencies of Her Majesty's Government in respect of any breach of this Agreement by the Company or any other member of the Group and the breaches by any Individual Recipients, including without limitation injunctive or other equitable relief.
- 4.2 Without prejudice to the foregoing, the Authority shall be entitled to terminate with immediate effect the Company's participation in the negotiation and tender process relating to the NIS Programme if the Company or an Individual Recipient fails to comply with the terms of this Agreement.
- 4.3 Save in respect of all obligations under the Official Secrets Acts, the obligations under this Agreement shall terminate 25 years after the date of this Agreement. Where the Company executes a contract for the provision of services in connection with the NIS Programme, such contract shall replace this Non Disclosure Agreement with appropriate terms.

5. AUDIT RIGHTS

In the event that the Company or any of its Corporate or Individual Recipients fails to comply with the requirements under this Agreement or at the sole discretion of the Authority, the Company and each of its Individual Recipients shall permit the Authority and such personnel or agents as the Authority shall at its sole discretion determine and notify in writing in advance to the Company, to gain entry and access to the premises and any and all records, computers and other property of the Company and such Individual Recipients containing or including any NIS Information, for the purposes of ensuring that the NIS Information and all associated Copies are secure in accordance with the terms of this Agreement or have been destroyed permanently or removed from their possession.

6. WHOLE AGREEMENT AND CONDUCT OF NEGOTIATIONS

- 6.1 This Agreement (including the provisions of the Official Secrets Acts 19111989 and HM Government's Manual of Protective Security) is the entire
 agreement between the parties in connection with the confidentiality and
 security of NIS Information and supersedes any oral or written arrangements,
 representations, understandings or previous agreements between them
 relating to the subject matter covered by the Agreement.
- 6.2 Nothing in this Clause 6 operates to limit or exclude any liability for fraud or fraudulent misrepresentation.
- 6.3 None of the Agencies gives any warranty, representation or undertaking in relation to the NIS Information and in particular (but without limiting the foregoing) no warranty or representation, express or implied, is given by the Agencies as to the accuracy, efficacy, completeness, capabilities or safety of any materials or information provided under this Agreement. The Agencies are not liable to the Company or to anyone to whom the Company discloses the NIS Information if it is relied upon.

7. ASSIGNMENT

The Agencies may assign or novate their respective rights to any department, office or agency of Her Majesty's Government which will be entitled to enforce this Agreement as if it was the Authority.

8. THIRD PARTY RIGHTS

Save for any department, office or agency of Her Majesty's Government, a person who is not party to this Agreement has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Agreement. The parties may terminate, rescind or vary this Agreement without the consent of any person who is not a party to this Agreement.

9. SEVERANCE

If any court or administrative body of competent jurisdiction finds any provision of this Agreement to be invalid, unenforceable or illegal, the other provisions of this Agreement will remain in force. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision will apply with whatever modification is necessary to make it valid, enforceable or legal.

10. VARIATION AND WAIVER

- A variation of this Agreement must be in writing and signed by or on behalf of all parties. A waiver of any right under this Agreement is only effective if it is in writing and it applies only to the person to which the waiver is addressed and the circumstances for which it is given. A person that waives a right in relation to one person or who takes or fails to take any action against that person does not affect its rights against any other person.
- 10.2 Rights arising under this Agreement are cumulative and do not exclude rights provided by law.

11. GOVERNING LAW AND JURISDICTION

This Agreement and all disputes and claims arising out of its subject matter are to be governed by and construed in accordance with English Law. The parties agree that the English Courts shall have the exclusive jurisdiction to settle any dispute that arises out of or in connection with this Agreement.

This Agreement has been entered into on the date stated at the beginning of this Agreement.

Schedule - Instructions on Handling Protectively Marked Information

The applicable instructions in relation to the NIS Information shall be those instructions which the Company has at the date of this Agreement in relation to all government information from or concerning Her Majesty's Government in the Cabinet Office Security Policy Division Manual of Protective Security (MPS), as may be superseded from time to time by any other instructions issued in respect of such government information or by any instructions which may be issued by the Authority in respect of the NIS Information.

SIGNED for and on behalf of the SECRETARY OF STATE for the	
HOME DEPARTMENT ACTING	
THROUGH THE IDENTITY AND	
PASSPORT SERVICE	
SIGNED by	
for and on behalf of)
	,