

CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement (the **Agreement**) is entered into and made effective as of the **Effective Date** shown on the signature page hereof (being the date of signature by the Contracting Party) by and between **TJX UK**, whose registered office is at 73 Clarendon Road, Watford WD17 1TX (company number 03094828) (**TJX**) and the **Contracting Party** identified in the signature page hereof.

Whereas without prejudice to the generality of this Agreement and subject to the terms of this Agreement:

- A. TJX and the Contracting Party are interested in exploring possible transactions of one or more potential or proposed products and/or services arrangements between TJX and the Contracting Party, the identity of which the parties will separately agree (in each case a **Transaction**);
- B. in connection with each Transaction, TJX and the Contracting Party each expects to be in possession of corresponding Information (as defined below) which it expects to make available to the other party on a date to be agreed by the parties (in each case an **Effective Transaction Date**); and
- C. each party acknowledges that the Information supplied by the other in connection with each Transaction is of a confidential, proprietary and trade secret nature.

In consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the parties agree as follows:

1. **Discloser** shall mean the party and/or its Affiliates disclosing or transferring Information to the other party.
2. **Recipient** shall mean the party receiving Information from the other party and/or the other party's Affiliates.
3. **Information** shall mean any and all information (in whatever form) that is non-public, or of a confidential or proprietary nature with respect to Discloser's or its Affiliates' business or operations of Discloser, or any of its Representatives or Affiliates (or their Representatives), including without limitation: (a) the existence and terms of and any information relating to (i) this Agreement, (ii) the Transaction, and (iii) any request for proposal, request for information or bid to which the Transaction relates; (b) information concerning the Discloser's and its Affiliates', and their customers', suppliers' and other third parties' past, present and future business affairs including, without limitation, finances, customer information, supplier information, employee information, products, services, organisational structure and internal practices, forecasts, sales and financial results, records, budgets, business, marketing, development, sales and other commercial plans and strategies, (c) designs, specifications, documentation, images, icons, audiovisual components and objects, schematics, drawings, protocols, processes and other visual depictions; (d) inventions, ideas, methods, discoveries, trade secrets, know-how and other confidential intellectual property; (e) personal data and other personally identifiable information; and (f) third-party confidential information included with (or incorporated in); and any information provided by the Discloser and furnished to Recipient, by any means directly or indirectly, including orally or in writing or gathered by inspection and regardless of whether the same is

specifically marked or designated as “confidential” or “proprietary” together with any and all notes, memoranda, analyses, compilations, reports, forecasts, studies, samples, data, statistics, summaries, interpretations or other documents and materials prepared by Recipient or its Representatives, or by the Recipient's Affiliates (or the Affiliates' Representatives), before, on or after the Effective Date (including without prejudice to the generality of the foregoing, before, on or after each Effective Transaction Date as the case may be), which contain or otherwise reflect such information with respect to Discloser's or its Affiliates' businesses or operations, together with any and all copies, extracts or other reproductions of any of the same; provided, however, and except as required by applicable law that the term **Information** shall not include information which:

(a) is or becomes publicly known through no wrongful act of Recipient or its Representatives;

(b) was lawfully available in writing to Recipient or its Representatives on a non-confidential basis prior to its disclosure by Discloser;

(c) is received by Recipient or its Representatives on a non-confidential basis from a third party provided that such party is not and was not prohibited from disclosing such information by a legal, fiduciary, contractual or other obligation to the Discloser; or

(d) was or is independently developed by Recipient or its Representatives without violating any of the provisions of this Agreement without access to, or use or knowledge of, the relevant part of the Discloser's Information.

4. **Representatives** shall mean the directors, shareholders, officers, employees, agents or representatives (including attorneys, accountants, auditors and financial advisors).
5. **Affiliate** shall mean in respect of either party, an undertaking which is a holding company, a parent undertaking, a subsidiary or a subsidiary undertaking of that undertaking and any subsidiary or subsidiary undertaking of any such holding company or parent undertaking, in each case for the time being. The expressions "subsidiary" and "holding company" have the meanings given to them by section 1159 of the Companies Act 2006 and the expressions "parent undertaking" and "subsidiary undertaking" have the meanings given to them by section 1162 Companies Act 2006.
6. In this Agreement the words "including", "other", "in particular", "for example" and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words "without limitation".
7. Recipient shall keep the Information strictly private and confidential and take all steps necessary to preserve such confidentiality and protect the Information against theft or unauthorised access, including keeping the Information separate from all documents and other records of Recipient and using at least the same degree or care it uses to protect and safeguard its own non-public, confidential or proprietary information, but in no event less than a reasonable degree of care. Recipient will disclose the Information only to such of its Representatives who need to know such Information in order to assist Recipient in its evaluation of the possible Transaction, who are informed by Recipient of the confidential nature of the Information and who have agreed to be bound to enter into a confidentiality undertaking on terms substantially similar to the terms of this agreement prior to receipt of the Discloser's information. Otherwise, the Information, the fact that the Information was disclosed and the fact that discussions are taking place relative to the possible Transaction including the status thereof, will not be disclosed by the Recipient to any person or entity without the written



consent of the Discloser. Recipient shall be responsible for any breach of this Agreement by any of its Representatives and agrees to take all reasonable measures to restrain its Representatives from the unauthorised use of the Information.

8. Recipient shall use the Information only for purposes of discussions, negotiations and proposals relating to, and the consideration, evaluation and analysis of the possible Transaction (the "**Purpose**") and shall not, nor permit or assist a third party to, make use of the Information for any other purpose. Recipient shall not copy, reduce to writing or otherwise record the Information except as strictly necessary for the Purpose.
9. The Recipient shall give prompt (but in any event within seventy two (72) hours) written notice to the Discloser of any unauthorised use or disclosure of the Information and shall assist the Discloser in remedying any such unauthorised use or disclosure and preventing any further unauthorised use of the same. Neither the Recipient's assistance, nor the Discloser's acceptance of such assistance, in connection with any such unauthorised use or disclosure shall constitute a waiver of any breach of this Agreement.
10. In the event that Recipient or any of its Representatives receive a request or is required by applicable law to disclose all or any part of the Information to a court, tribunal or regulatory body, Recipient will immediately (provided it is not prohibited by law) notify Discloser of the request, consult with Discloser and (at Discloser's cost) take such lawful action as Discloser may reasonably require to assist Discloser in seeking an injunction or protective order or other appropriate remedy to avoid and/or minimise the extent of such disclosure. In the event that such protective order or remedy is not obtained or that Discloser waives compliance with the terms hereof, Recipient or its Representatives, as the case may be, shall disclose only that portion of the Information which, in the Recipient's reasonable opinion, is legally required to be disclosed, and will exercise its best efforts to assure that confidential treatment will be accorded to said Information by the party(ies) receiving the same. Discloser shall (provided it is not prohibited by law) be provided an opportunity by Recipient to review the Information disclosed by the Recipient.
11. On the request of Discloser at any time, Recipient and its Representatives shall immediately return all Information to Discloser or immediately destroy all such Information (including all copies thereof) and shall promptly certify said return or destruction in writing to Discloser. Without prejudice to the generality of the foregoing, Recipient and its Representatives shall immediately, following Discloser's said request, irrevocably erase and destroy all of the Information from its computer systems or other device in Recipient's possession or control and promptly certify in writing to Discloser that it has done so. Such destruction shall be done in a manner that is permanent and secure and that renders such Information unreadable, undecipherable and unable to be reconstructed. Recipient and its Representatives may retain, but shall not use, nor permit there to be used, any such copies of any Information that are stored on their respective IT backup and disaster recovery systems until the ordinary course deletion thereof ("Ordinary Course Deletion"). Recipient and its Representatives shall nevertheless and notwithstanding anything to the contrary continue to be bound by the terms and conditions of this Agreement with respect to all such retained Information until Ordinary Course Deletion and without limitation shall not be entitled to view, use, share or copy it during that period.
12. The disclosure of Information by the Discloser to Recipient confers no proprietary rights on the Recipient and is only for the purposes of evaluating the potential Transaction. No license, assignment or conveyance of any rights under any discoveries, inventions, patents, trade secrets, proprietary information, copyrights, database right, tradenames or trademarks, or applications therefore, or any other form of intellectual property, held now, or which may be obtained, is granted or implied with respect to any Information disclosed pursuant to the terms of this Agreement.



13. Discloser makes no representation or warranty (whether express or implied) about the accuracy or completeness of the Information and none of Discloser nor any of its Affiliates or Representatives (or Affiliates' Representatives) will have any liability to Recipient or any other person or entity resulting from the Information or any use thereof (except in the event of fraud by the Discloser). Only those representations and warranties that are made in a definitive agreement, subject to any limitations specified therein, shall have any legal effect.
14. Nothing contained herein shall be construed as committing the parties hereto to entering into any transaction including but not limited to the possible Transaction.
15. The parties acknowledge that either party may take legal proceedings against the other party or third parties if there is any actual, threatened or suspected breach of this Agreement. Recipient agrees that damages may not be an adequate remedy for any breach of this Agreement by it or its Representatives and that Discloser may be entitled to seek specific performance and injunctive relief as remedies for any such breach. Such remedies shall not be deemed to be the exclusive remedies for a breach of this Agreement but shall be in addition to all other remedies available at law or equity.
16. No failure or delay by either party in exercising any right, power or privilege hereunder shall operate as a waiver hereof nor shall any single or partial exercise thereof preclude any other or further exercise hereunder.
17. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of other portions hereof, which shall remain in full force and effect.
18. Neither party may assign, sub-contract or deal in any way with, any of its rights or obligations under this Agreement without the prior written consent of the other party.
19. Any notice to be given under this Agreement shall be in writing in English and shall be deemed duly given if:
 - (a) signed by or on behalf of a duly authorised officer of the party giving the notice; and
 - (b) if left at or sent by special delivery post (postage paid) or sent by courier (recorded delivery) to the relevant party's registered office for the time being.

Any such notice or other communication shall be deemed to be given at the time when: (i) the same is handed to or left or signed for at the address of the party to be served, or (ii) if served by post, on the day (not being a Sunday or public holiday) 4 days following the day of posting. In proving the giving of a notice, it shall be sufficient to prove that the notice was left or that the envelope containing the notice was properly addressed and posted (as the case may be).
20. The terms of this Agreement may not be amended or modified except by a written instrument executed by the parties hereto.
21. This Agreement sets out the entire agreement and understanding between the parties and supersedes all prior oral and written understandings, representations and discussions between them respecting its subject matter, save that nothing in this Agreement shall prejudice the statutory and common law rights of either party in relation to the Information.



22. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement.
23. The Parties do not intend any third party to have the right to enforce any provision of this Agreement under the Contracts (Rights of Third Parties) Act 1999 or otherwise, except:
 - (a) any Affiliate of TJX, who shall have the right as a Discloser to enforce any provision of this Agreement against the Recipient, subject to clause 24; and
 - (b) any other provision of this Agreement which expressly provides for enforcement by a third party shall be enforceable in accordance with its express terms.
24. Each party shall procure that any of its Affiliates, who receive Information from the other party and/or the other party's Affiliates, shall comply fully with the obligations under this agreement as if it were a Recipient.
25. Subject to clause 24, the Contracting Party shall on demand indemnify TJX from and against all claims, demands, actions, awards, judgments, settlements, costs, expenses, liabilities, damages and losses (including all interest, fines, penalties, management time and legal and other professional costs and expenses and loss or corruption of data) incurred by TJX and/or TJX's Affiliates and their respective directors, officers, agents, employees, successors and assigns, arising out of or in connection with any failure by the Contracting Party's Affiliates to comply fully with the obligations under this agreement as if it were a Recipient.
26. The parties agree that any claims in respect of losses suffered or incurred by any Affiliate of the Contracting Party under or in connection with this Agreement, shall be brought by the Contracting Party for and on behalf of its Affiliate. The parties acknowledge and agree that the Contracting Party shall have conduct and management of any such action or claim, except where the same is not permitted in the relevant jurisdiction in which proceedings take place.
27. The parties may terminate or vary this Agreement without the consent of any third party.
28. This Agreement and any non-contractual obligations shall be governed by and construed in accordance with the laws of England and Wales. The courts of England and Wales shall have exclusive jurisdiction over all claims arising under or relating to this Agreement, including disputes relating to any non-contractual obligations, whether arising in contract, tort, or otherwise, and regardless of whether persons or entities who are not party to this Agreement are parties to such action.
29. Notwithstanding anything to the contrary the parties acknowledge and agree that this Agreement shall continue in full force and effect for a period of five years from and including each Effective Transaction Date in respect of any Information which constitutes any part of the corresponding Transaction. For the avoidance of doubt, for Information which constitutes part of more than one Transaction, the Information shall remain confidential until the expiry of obligations under this Agreement relating to the later Effective Transaction Date.
30. Either party may terminate this Agreement at any time by providing written notice to the other party to that effect. Each party's rights and obligations under this Agreement shall then survive for two years following the date of any such notice notwithstanding any earlier termination of this Agreement and/or return or destruction of any Information whether pursuant to this Agreement or otherwise provided that



any right or obligation of the parties in this Agreement which should by its nature survive the termination of this Agreement will survive any termination of this Agreement (including without prejudice to the generality of the foregoing the provisions of paragraph 8 of this Agreement in respect of Ordinary Course Deletion).

31. Notwithstanding anything to the contrary any termination of this Agreement shall be without prejudice to the rights of the parties in respect of any antecedent breach of this Agreement.

IN WITNESS WHEREOF, the parties execute this Agreement as of the following Effective Date.

For: **TJX UK**

Signature:

Print name:

Title:

For: **Contracting Party**

Entity Name:

Entity Address:

Signature:

Print Name:

Title:

Date (Effective Date):

