

MUTUAL CONFIDENTIAL DISCLOSURE AGREEMENT

This Mutual Confidential Disclosure Agreement (this “**Agreement**”) is made as of _____, 2022 (the “**Effective Date**”) by and between _____ (“**Company**”) and Shyft Network Inc. (“**Shyft**”).

Shyft and Company have expressed an interest in entering into one or more potential business transactions or relationships with each other (the “**Opportunity**”). In the course of the discussions, each Party may disclose confidential and proprietary information. The rights and obligations of the Parties with respect to such information are as follows:

1. “**Party**” means either Company or Shyft, and “**Parties**” means Company and Shyft collectively. “**Disclosing Party**” means a Party that discloses Proprietary Information under this Agreement and “**Receiving Party**” means a Party that receives Proprietary Information under this Agreement. “**Proprietary Information**” means any and all information of a confidential or proprietary nature relating to the Opportunity disclosed by Disclosing Party or any of its employees, officers, directors, advisors, consultants, representatives, or agents, to Receiving Party or any of its Representatives (as defined below), or otherwise acquired by the Receiving Party or any of its Representatives, concerning or related to the business, operations, finances or affairs of the Disclosing Party, whether or not such information is specifically identified as being confidential, and includes without limiting the generality of the foregoing: any technical information, plans, reports, records, studies, drawings, maps, charts, models, spreadsheets, logs, calculations, compilations, analyses, evaluations or interpretations; design and marketing information; intellectual property; trade secrets; research and development information; information relating to business methods, operations and techniques; marketing strategies; sales and pricing policies; compliance information; financial information; accounting records; personnel information and information concerning any customers, users, suppliers and strategic relationships of Disclosing Party, together with any notes, summaries, compilations, copies, electronic or magnetic reproductions and any other derivative information created therefrom by the Receiving Party or any of its Representatives.
2. Notwithstanding the foregoing, Proprietary Information shall not include any information that: (a) is publicly available prior to the Effective Date, or that subsequently becomes publicly available through no breach of this Agreement by Receiving Party; (b) Receiving Party can demonstrate was known to it prior to its discussions with the Disclosing Party regarding the Opportunity or that subsequently becomes known to it from a third party that has no obligation to Disclosing Party to keep such information confidential; or (c) Receiving Party can demonstrate (through written records) was independently developed by it by individuals employed (or engaged) by Receiving Party who did not participate in any meetings with the Disclosing Party and who developed such without having had any access to, or the benefit of, Proprietary Information of Disclosing Party.
3. In consideration of Disclosing Party’s disclosure of the Proprietary Information, Receiving Party agrees that, for the term of this Agreement and for a period of three years from the date of termination of this Agreement, it will maintain the Proprietary Information in confidence using a reasonable standard of care, and no less than the standard of care taken to protect its own Proprietary Information.
4. Neither Receiving Party or its employees, partners, officers, directors, advisors, consultants, representatives, or agents (each, a “**Representative**”) shall use the Proprietary Information or any part of it, directly or indirectly, for any purpose other than in connection with the Opportunity.
5. Receiving Party may reveal or permit access to the Proprietary Information only to those Representatives who need to know the Proprietary Information in connection with the Opportunity, who are informed of the confidential nature of the Proprietary Information, who are directed to hold the Proprietary Information in the strictest confidence and who agree to act in accordance with the terms and conditions of this Agreement. Each of the Parties shall take all necessary precautions or measures as may be reasonable in the circumstances to prevent improper use or disclosure of the Proprietary Information by its Representatives and shall be responsible for any breach of this Agreement by any of its Representatives.

6. Receiving Party may disclose Proprietary Information if (and only if) legally compelled or required by regulatory authorities having appropriate jurisdiction, provided that Receiving Party provides Disclosing Party with prior written notice of such obligation and the opportunity to oppose such order or requirement.
7. If either Party determines that it does not wish to proceed in any arrangements between the Parties in relation to the Opportunity, it will promptly notify the other Party in writing of that fact. Upon receipt of such notice, Receiving Party shall return or dispose of any tangible records of the Proprietary Information as directed by Disclosing Party promptly upon the request of Disclosing Party, and Receiving Party shall certify that it has returned or disposed of, as the case may be, all such Proprietary Information; provided, however, that one copy of each document or other matter constituting the Proprietary Information may be retained by Receiving Party, in secure storage, permanently subject to the terms of this Agreement, for use only in disputes relating to this Agreement.
8. No rights or obligations other than those expressly set out herein are to be implied from this Agreement. No license (express or implied) is hereby granted, directly or indirectly, under any patent, trade secret or copyright, mask work right or other intellectual property right now held by, or which may be obtained by, or which are or may be licensable by, either Party. Each Party reserves the right, in its sole discretion and without prior notice to the other Party, to disclose its own Proprietary Information to any third party for any purpose.
9. Nothing contained in this Agreement shall obligate the Parties either to negotiate or enter into any future business arrangement with respect to the Opportunity. If, as a result of the discussions contemplated under this Agreement, the Parties decide to enter into a business arrangement with respect to the Opportunity, then such arrangement shall be the subject of a separate negotiation between the Parties.
10. Notwithstanding anything contrary in this Agreement, each Party may disclose the fact that the Parties are discussing an opportunity to engage in an ongoing business relationship with one another, as well as the existence of this Agreement.
11. Each Party represents and warrants to the other Party that any personal information as part of its Proprietary Information it has disclosed or caused to be disclosed to the other Party has been disclosed to the other in accordance with applicable law.
12. Each Party acknowledges that Disclosing Party makes no representation or warranty (express or implied) as to the accuracy or completeness of the Proprietary Information, and agrees that Disclosing Party shall have no liability, direct or indirect, to Receiving Party relating to or resulting from the Proprietary Information or the use thereof, errors therein or omissions therefrom, provided that, for greater certainty, the foregoing shall not serve to limit the liability of Disclosing Party with respect to any specific representations and warranties made in any definitive agreement entered into by the Parties in relation to the Opportunity.
13. This Agreement will be governed by the laws of Barbados and all disputes related to this Agreement shall be subject to the exclusive jurisdiction of the courts of Barbados.
14. No failure or delay by either Party in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof, nor will any single or partial exercise preclude any other or further exercise of any right, power or privilege hereunder.
15. Each of the Parties acknowledges that disclosure of Disclosing Party's Proprietary Information or any other breach of this Agreement would cause serious and irreparable damage and harm to Disclosing Party and that remedies at law would be inadequate to protect against breach of this Agreement, and each agrees in advance to the granting of injunctive relief in favour of Disclosing Party for any breach of the provisions of this Agreement and to the specific enforcement of the terms of this Agreement, without proof of actual damages, in addition to any other remedy to which Disclosing Party would be entitled.
16. This Agreement constitutes the entire agreement of the Parties with respect to its subject matter. No amendment, supplement, modification or waiver or termination of this Agreement and, unless otherwise

specified, no consent or approval by either of the Parties, shall be binding unless executed in writing by the Party to be bound thereby.

17. Neither Party may assign this Agreement, without the prior written consent of the other Party, such consent not to be unreasonably withheld or delayed. Notwithstanding the foregoing, Shyft may assign this Agreement to an affiliate thereof without consent.
18. This Agreement will be binding upon the successors, assigns, associates, agents or affiliates of the Parties. Every part of this Agreement is intended to be severable. If any term of provision is illegal or invalid for any reason whatsoever, such illegality or invalidity will not affect the validity of the remainder of this Agreement.
19. This Agreement may be validly executed by facsimile or electronic transmission and in counterparts, which taken together shall constitute one and the same agreement and each of which shall constitute an original.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF the Parties have caused this Agreement to be executed in a legally binding manner as of the Effective Date.

SHYFT NETWORK INC.

By
: _____
Name:
Title:
*I have the authority to bind the
corporation.*

COMPANY

By
: _____
Name:
Title:
*I have the authority to bind the
corporation.*

Address
:

Email: _____