

## **SECRECY AGREEMENT**

**between**



**MINTEK**

(hereinafter called "Mintek")

a statutory body and juristic person existing in terms of the South African Mineral Technology Act 30 of 1989, as amended, with its principal place of business at 200 Malibongwe Drive, Randburg, Republic of South Africa,

**And**

*[Company/Organisation Logo]*

**[FULL COMPANY/ORGANISATION/INSTITUTION NAME]**

(hereinafter called "The Recipient")

..... *[insert full company details, registration number and physical address]*

## **1. INTRODUCTION**

- 1.1. Mintek is in possession of valuable information relating to **design and fabrication of Top Blown Rotary Converter (TBRC)** ("the Technology").
- 1.2. Mintek has agreed to disclose certain information to the Recipient for **Fabrication drawing of TBRC** ("the Purpose").
- 1.3. "Confidential Information" as used in this agreement shall mean all information of Mintek relating to the Technology and disclosed or supplied by or on behalf of Mintek to the Recipient, including but not limited to prints, drawings, microfilms, notes, memorandae, reports, test results, specifications, computer disks or information obtained through the visual observation of written information, equipment or plant.

## **2. UNDERTAKING BY THE RECIPIENT**

The Recipient undertakes to –

- 2.1. maintain as confidential and not to disclose the Confidential Information without the prior written consent of Mintek, save to those employees, consultants or contractors of the Recipient who reasonably require the Confidential Information to give effect to the Project;
- 2.2. use the Confidential Information solely for the Purpose and for no other reason without Mintek's prior written authority;
- 2.3. enforce the provisions of this agreement in respect of employees, consultants, contractors or any third party to whom the Confidential Information may be lawfully disclosed, by separate agreement if necessary;
- 2.4. return or destroy any Confidential Information (including copies, notes summaries, transcriptions or any other records containing any of the Information), at Mintek's written request, the return of which will not diminish or otherwise affect the Recipient's obligations in terms of this agreement; and
- 2.5. to use and process the Confidential Information strictly in compliance with all applicable legislation, including without limitation in compliance with the provisions of the Protection of Personal Information Act, Act 4 of 2013.

## **3. EXCLUSIONS**

The Confidential Information excludes any information which –

- 3.1. is in the public domain, or subsequently comes into the public domain through no fault of the Recipient;
- 3.2. was at the time of disclosure known to the Recipient; or
- 3.3. is received from a third party not subject to similar obligations who may lawfully

disclose the information.

#### **4. FORCED DISCLOSURE**

In the event that the Recipient is required to disclose Confidential Information pursuant to a requirement or request by operation of law, regulation or court order, it will –

- 4.1. advise Mintek thereof in writing prior to disclosure, if possible;
- 4.2. take such steps to limit the disclosure to the minimum extent required to satisfy such requirement and to the extent that it lawfully and reasonably can;
- 4.3. afford Mintek a reasonable opportunity, if possible, to intervene in the proceedings; and
- 4.4. comply with Mintek's reasonable requests as to the manner and terms of any such disclosure.

#### **5. GENERAL**

- 5.1. This agreement shall be effective on the earlier of the date when the first disclosure of the Confidential Information is made or the last date of signature of this agreement and shall endure for a period of ten (10) years from the last date of signature of this agreement, unless Mintek expressly waives its rights in terms hereof by written notice to the Recipient.
- 5.2. This agreement shall be interpreted and enforced in accordance with the laws of South Africa.
- 5.3. The Recipient acknowledges that any breach of this agreement could cause substantial and irreparable economic harm to Mintek. Accordingly the Recipient hereby agrees that Mintek will be entitled to an injunction or other remedy of specific performance to enforce the provisions of this agreement, without prejudice to any other remedy that Mintek may have in law.
- 5.4. This document contains the entire agreement between the parties in regards to the subject matter thereof.
- 5.5. Neither party shall be bound by any express or implied term, representation, warranty, or promise not recorded herein.
- 5.6. No addition to, variation or consensual cancellation of this agreement shall be of any force or effect unless in writing and signed by or on behalf of all the parties.
- 5.7. No indulgence granted by any party to any other party shall constitute a waiver of any of that party's rights under this agreement; accordingly, that party shall not be precluded, as a consequence of having granted such indulgence, from exercising any rights against the other party which may have arisen in the past or which may arise in the future.
- 5.8. Where it is specified in this agreement that certain matters are to be agreed between the parties, failure to reach agreement in respect of such matter will not

affect the validity and enforceability of the whole or any other part of this agreement.

- 5.9. If any clause or term of this agreement shall be invalid, unenforceable, defective or illegal for any reason whatsoever, then the remaining terms and provisions of this agreement shall be deemed to be severable and shall continue in full force and effect unless such invalidity, unenforceability, defect or illegality goes to the root of this agreement.
- 5.10. This agreement may be executed in two or more counterparts all of which shall constitute the one agreement.

## **6. SIGNED ON BEHALF OF BOTH PARTIES**

Signed at \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_\_

As witnesses:

1. \_\_\_\_\_

2. \_\_\_\_\_

**FOR: MINTEK**

Name: \_\_\_\_\_

Capacity: \_\_\_\_\_

As witnesses:

1. \_\_\_\_\_

2. \_\_\_\_\_

**FOR: THE RECIPIENT**

Name: \_\_\_\_\_

Capacity: \_\_\_\_\_