

NON-DISCLOSURE AGREEMENT (MUTUAL)

SCHEDULE

TERM	MEANING
Portal-iQ Limited (NZBN 9429050412761)	Address: 1 st Floor, 49 Courtenay Place, Wellington, New Zealand 6011 Phone: +64-21-651-724 Email: support@portal-iq.com
[Insert counterparty entity name] (NZBN [insert])	Address: [insert] Phone: [insert] Email: [insert]
Date	[insert date]
Purpose	The Parties would like to exchange Confidential Information solely in order to facilitate discussions about, and to exchange information regarding, HubSpot Audits and Reporting.
Confidential Information	Confidential Information includes but is not limited to: (a) any commercially sensitive documentation or information of the Discloser; (b) ideas, source code, designs, monetisation plans, analytical information and purposes with respect to the Purpose, functionality and features, and other information in relation to the development and implementation of the Purpose; (c) business models, business plans, information, ideas, concepts, knowledge, know-how, intellectual property, trade secrets, inventions, technology, operating procedures, processes, techniques, software, business methods, financial, accounting, monetisation, capital raising, marketing and technical plans and information, customer and supplier lists (including any prospective or proposed customer and supplier lists), analytical information, funding arrangements and other commercially valuable information belonging to the Discloser; and (d) notes, records and related information generated by the Recipient (or any of its Personnel) from the Confidential Information or generated by the Recipient (or any of its Personnel) for the Discloser and/or the Purpose, including any copies of the Confidential Information, and copies of the notes, records and related information generated, whether or not such information is reduced to a tangible form or marked in writing as “confidential” or is provided orally, and whether it is disclosed by the Discloser to the Recipient (or any of its Personnel) or received, acquired, overheard, or learnt by the Recipient (or any of its Personnel) in any way whatsoever.
Term	The Term of this Agreement is the period between the Date and the earlier of 5 years from the Date and execution of definitive legal documentation between the Parties in relation to the Purpose.

EXECUTION

EXECUTED for and on behalf of [Insert company or entity name] by a duly authorised representative:

EXECUTED for and on behalf of Portal-iQ Limited by a duly authorised representative:

Signature (Authorised representative)

Signature (Authorised representative)

Michael Anthony Eastwood

Name

Name

Date

Date

THIS AGREEMENT is made on the Date, between the parties named in the Schedule, together the **Parties** and each a **Party**, to ensure the protection of the Confidential Information and in consideration of the agreement to exchange information.

1. Confidentiality obligations

1.1 During the Term, the Recipient agrees to:

- (a) not disclose the Confidential Information to any third party;
- (b) to treat the Confidential Information as strictly confidential;
- (c) only use the Confidential Information for the Purpose and not for any other purpose;
- (d) prevent and protect the Confidential Information from unauthorised disclosure and immediately notify the Discloser of any loss or unauthorised disclosure of Confidential Information; and
- (e) only disclose Confidential Information to its employees, consultants, contractors, officers, professional advisers or agents (**Personnel**) for the Purpose and on a need to know basis. The Recipient will be responsible and liable for the acts and omissions of its Personnel.

1.2 The obligations under clause 1.1 do not apply to information:

- (a) which the Discloser agrees in writing is free of any nondisclosure obligations;
- (b) which at the time of disclosure, was known to the Recipient or any of its Personnel and was free of any nondisclosure obligations;
- (c) which is independently developed by the Recipient or any of its Personnel;
- (d) which is lawfully received by the Recipient or any of its Personnel from a third party free of any nondisclosure obligations;
- (e) that is already in the public domain, except as a result of the Recipient's (or its Personnel's) breach of this Agreement; and/or
- (f) that must be disclosed by law, regulation or an order of a court to disclose.

2. Ownership

2.1 The Recipient agrees that the Discloser owns all Intellectual Property Rights in the Confidential Information. Nothing in this Agreement constitutes a transfer of any Intellectual Property Rights in the Confidential Information.

2.2 Unless stated in this Agreement or with the Discloser's express written permission, the Recipient is not granted a licence to any of the Intellectual Property Rights in the Confidential Information.

2.3 This clause will survive termination or expiry of this Agreement.

3. No commitment

The Discloser has no obligation to disclose any Confidential Information to the Recipient. This Agreement does not constitute or imply any intention by the Discloser to enter into any other agreement or transaction, or continue discussions with, the Recipient.

4. Damages

4.1 The Recipient agrees that:

- (a) if the Recipient breaches its obligations under this Agreement, the Discloser may suffer loss and/or damage;
- (b) monetary damages may not be an adequate remedy for the Discloser in relation to such loss and/or damage; and

- (c) the Discloser is entitled to seek an injunction, specific performance or any other remedy available at law or in equity, to protect its Confidential Information from breach of this Agreement by the Recipient or its Personnel.

4.2 This clause will survive termination or expiry of this Agreement.

5. Term

5.1 This Agreement will apply for the Term. Upon expiry of this Agreement, the Recipient's obligations with respect to Confidential Information received prior to the expiry of this Agreement will continue for a period of 1 year after the date of expiry of this Agreement.

5.2 This clause will survive termination or expiry of this Agreement.

6. Return of Confidential Information

6.1 The Recipient must (and must ensure that its Personnel) immediately, upon the expiry of this Agreement, or when requested by the Discloser, return to the Discloser, or destroy, all information, data and/or documents containing or relating to the Confidential Information.

6.2 The Recipient may keep one copy of such information, in secure and confidential storage, if required by law for record keeping purposes. The Recipient's obligations in relation to Confidential Information will continue to apply to any Confidential Information in its custody or control under this clause 6.2.

6.3 This clause will survive termination or expiry of this Agreement.

7. General

7.1 **Governing law:** This Agreement is governed by the laws of the New Zealand. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts operating in New Zealand and any courts entitled to hear appeals from those courts and waives any right to object to proceedings being brought in those courts.

7.2 **Notices:** Any notice given under this Agreement must be in writing addressed to the relevant address last notified by the recipient to the Parties. Any notice may be sent by standard post or email, and will be deemed to have been served on the expiry of 48 hours in the case of post, or at the time of transmission in the case of transmission by email.

7.3 **Severance:** If a provision of this Agreement is held to be void, invalid, illegal or unenforceable, that provision is to be read down as narrowly as necessary to allow it to be valid or enforceable, failing which, that provision (or that part of that provision) will be severed from this Agreement without affecting the validity or enforceability of the remainder of that provision or the other provisions in this Agreement.

8. Definitions

In this Agreement, unless the context otherwise requires, capitalised terms have the meanings given to them in the Schedule, within the Agreement, and:

Discloser means the party disclosing Confidential Information to the Recipient as contemplated by this Agreement.

Intellectual Property means any domain names, know-how, inventions, processes, trade secrets or Confidential Information; or circuit layouts, software, computer programs, databases or source codes, including any application, or right to apply, for registration of, and any improvements, enhancements or modifications of, the foregoing.

Intellectual Property Rights means for the duration of the rights in any part of the world, any industrial or intellectual property rights, whether registrable or not, including in respect of Intellectual Property.

Recipient means the party receiving Confidential Information from the Discloser as contemplated by this Agreement.