

Confidentiality Deed

[Recipient]_____

Dated _____

THIS DEED POLL is made on the _____ day of _____ 20____

BY

_____ of _____ ('You/Your/Yours')

Background

- A. You wish to obtain information from Us that is confidential in order to perform the Express Purpose.
- B. We have agreed to disclose Confidential Information to You for the Express Purpose on the terms of this Deed.

1.1. Definitions

The following definitions apply to this Deed:

Us/We/Our

JBLP Investments Co Pty Ltd trading as Sell My Childcare Centre ACN 680 300 163 and its Related Parties.

Confidential Information

means all information in any form (including without limitation oral or visual form, or recorded or stored in any document) which:

- (a) is disclosed by Us, or an owner, lessor or other advisor acting in relation to the Property, to You or to Your Representative or Related Party (whether before or after the date of this Deed); and
 - (b) relates directly or indirectly to the Property or its past, existing or future business, operations, administration or strategic plans or objectives and includes, without limitation:
 - i. the fact that You and Us are engaging in discussions and negotiations relating to the acquisition of the Property introduced by Us;
 - ii. owners and tenants, key suppliers and terms of trade, contractors or employees, clients and CRM data;
 - iii. the Business' trade secrets, intellectual property, strategies, processes, data, know how, concepts, improvements, techniques, processes, marketing plans, strategies, financial information, budgets and forecasts, pricing of services, business contacts, customer lists and other information or technology created;
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	<ul style="list-style-type: none"> iv. all compilations, analyses, extracts, summaries or other documents prepared by You or Your Representatives which reflect, utilise or relate to any of the information referred to in this definition; v. the fact that Confidential Information is being made available to You; and vi. the existence of this Deed, the fact that information is being made available to You and Your Representatives.
Deed	means this deed poll
Express Purpose	means the ongoing purpose of investigating, discussing, assessing, and evaluating Properties and considering potential acquisitions or commercial transactions relating to any Property.
Jurisdiction	New South Wales
Property	means any property, lease or business introduced to You by Us
Related Party	means any related body corporate (within the meaning of the <i>Corporations Act 2001</i>).
Representative	<p>in relation to You, means any director, officer, employee, employer, financier or adviser of Yours or of a Related Party of Yours;</p> <p>in relation to Us, means any director, officer, employee, employer, financier or adviser of Ours or of a Related Party of Ours.</p>

1.2. Interpretation

Unless the contrary intention appears, a reference in this Deed to:

- a) a document includes any note, memorandum, record, report, financial information, summary, analysis, calculation, strategic assessment, market survey, business plan, computer program, computer record, drawing, specification, circuit layout, material or any other means by which information may be stored or reproduced;
- b) anything (including any right) includes a part of that thing;
- c) a group of persons or things is a reference to any two or more of them jointly and to each of them individually;
- d) the word “including” is not a term of limitation;
- e) the singular includes the plural and vice versa;
- f) consent means prior written consent; and
- g) an obligation not to do a thing includes an obligation not to permit that thing to be done.

2. Confidentiality

2.1. Treatment of Confidential Information

You must, and must procure that Your Related Parties and Representatives must:

- a) hold the Confidential Information in strict confidence and not disclose, or cause or permit disclosure of the Confidential Information, except as permitted under this Deed, or with Our prior written consent;
- b) not directly or indirectly disclose or publish Confidential Information, without Our consent;
- c) not use the Confidential Information for commercial gain;
- d) take reasonable steps to enforce the confidentiality obligations under this Deed;
- e) comply with any reasonable request from Us in respect of the Confidential Information, including a request to prevent or restrain a breach or suspected breach of this Deed or any infringement or suspected infringement of Our rights by any person, whether by court proceedings or otherwise;
- f) not reproduce in any form any part of a document or other record which reproduces, incorporates, is based on, utilises or relates to the Confidential Information, other than for the Express Purpose, without Our consent;
- g) store the Confidential Information so that it can be retrieved later;
- h) do anything reasonably required by Us to prevent or stop a breach or threatened breach of this Deed or an infringement or threatened infringement of Our rights arising out of this Deed by any person, whether by court proceedings or otherwise.

2.2. Advice to Us

You must promptly advise Us in writing if You determine that You do not wish to proceed further with the carrying out of the Express Purpose.

2.3. Ownership of Confidential Information

All Confidential Information disclosed to You remains Our property.

3. Permitted use and disclosure

3.1. Use for Express Purpose

You, Your Related Parties and Representatives may only use the Confidential Information for the Express Purpose.

3.2. Incorporation of Confidential Information in documents

You, Your Related Parties and Representatives may prepare a document which reproduces, incorporates, is based on, utilises or relates to the Confidential Information only for the Express Purpose.

3.3. Disclosure

Subject to clause 3.4, You may disclose the Confidential Information in connection with the Express Purpose to Your Related Parties or Representatives who, prior to the disclosure of any Confidential Information:

- a) have a specific need to have access to the Confidential Information for the Express Purpose; and
- b) have been informed by You that they owe a duty of confidence to Us.

3.4. Breach by non-parties

You must ensure that none of Your Related Parties or Representatives to whom the Confidential Information is disclosed do or omit to do anything which, if done or omitted to be done by You, would constitute a breach of Your obligations under this Deed.

4. Privacy

If the Confidential Information contains any information or an opinion about an individual whose identity is reasonably ascertainable from that information, You must:

- a) comply with all applicable privacy laws or data protection laws as may be in force from time to time which regulate the collection, storage, use and disclosure of information, as if You were subject to those laws;
- b) promptly notify Us of any complaint or investigation under, or relating to, any of the laws, codes or policies referred to in a) above; and
- c) co-operate with Us in the resolution of any such complaint or investigation.

5. Limitations

The provisions of this Deed do not extend to any Confidential Information which:

- a) is in or becomes part of the public domain other than as a result of a breach of this Deed or any corresponding deed or agreement between Us and You or any Related Party or Representative of Ours or Yours, by You, any of Your Related Parties, any of Your Representatives or any other person;
- b) was known to You at the time of disclosure of the Confidential Information except as a result of a prior confidential disclosure to You by Us; or
- c) is required by any law, or any requirement of any court, tribunal, authority, regulatory body or stock exchange to be disclosed. However, to the extent legally permissible, before You make any disclosure under this clause 5c), You must provide Us with reasonable written notice of the full circumstances of the required disclosure together with the Confidential Information which You propose to disclose and consult with Us as to the form of the disclosure. When making any disclosure, You must only disclose the minimum Confidential Information required to comply with the applicable law or requirement.

6. Return of Confidential Information

6.1. Return or destruction

Subject to clause 6.2, if requested by Us, You must, and must procure that Your Related Parties and Representatives, promptly:

- a) return to Us or destroy all documents containing any Confidential Information, all documents referred to in clause 3.2 and any copies of those documents; and
- b) remove from electronic storage all Confidential Information, including such information combined with any other information.

6.2. Right to retain

Notwithstanding clause 6.1, You may retain any of the Confidential Information You are required to retain by law.

6.3. No release

No action by You under clauses 6.1 or 6.2 releases You, Your Related Parties or Representatives from their obligations under this Deed.

7. Remedies

- a) You acknowledge that We would suffer financial and other loss and damage if Our Confidential Information were disclosed to any other person or used for any purpose other than the Express Purpose and that monetary damages would be an insufficient remedy.
- b) You acknowledge and accept that, in addition to any other remedy which may be available in law or equity, We are entitled to injunctive relief to prevent a breach of this Deed and to compel specific performance of this Deed.
- c) You will immediately reimburse Us for all costs and expenses (including legal costs and disbursements on a full indemnity basis) incurred in enforcing Your obligations under this Deed.

8. Indemnity

- a) You indemnify Us against all costs, expenses, actions or claims directly or indirectly incurred or suffered by Us as a result of any breach of this Deed by You.
- b) The indemnity in clause 8a) extends to, and includes all costs, damages and expenses incurred by Us in defending and/or settling any such costs, expenses, actions, suits, proceedings, claims or demands (including legal costs and disbursements on a full indemnity basis).

9. Miscellaneous

9.1. Conflict of interest

- a) You warrant that, to the best of Your knowledge after making diligent inquiry, at the date of signing this Deed, no conflict of interest exists or is likely to arise in relation to the Express Purpose.
- b) If, during the term of this Deed, a conflict of interest arises, or appears likely to arise, You must:
 - (i) notify Us immediately in writing;
 - (ii) make full disclosure of all relevant information relating to the conflict; and
 - (iii) take such steps as We require to resolve or otherwise deal with the conflict.

9.2. Governing law

This Deed is governed by and construed in accordance with the laws of the Jurisdiction. The Parties irrevocably submit to the non-exclusive jurisdiction of the courts of the Jurisdiction.

9.3. Amendments

This Deed may only be amended in writing by the mutual agreement of You and Us.

9.4. No waiver

- a) Waiver of any right, power, authority, discretion or remedy arising on default under this Deed must be in writing and signed by Us.

- b) A failure or delay in exercise, or partial exercise, of a right, power, authority, discretion or remedy created or arising on default under this Deed does not result in a waiver of that right, power, authority, discretion or remedy.

9.5. Assignment

The rights and obligations under this Deed cannot be assigned.

9.6. Severability

If a term or condition in this Deed is void, voidable, unenforceable or illegal but would not be void, voidable, unenforceable or illegal if it were read down and it is capable of being read down, then the provision must be read down. In any other case, the minimum of the term or condition must be severed in order that it is no longer void, voidable, unenforceable or illegal, without invalidating the remaining provisions hereof.

9.7. Survival

You acknowledge and agree that the undertakings given in relation to the Confidential Information will survive the termination of this Deed and will continue in force until such time as the Confidential Information become public knowledge other than by breach of this Deed.

Date 20

SIGNED as a Deed

Executed by _____ in accordance with Section 127 of the *Corporations Act 2001 (Cth)*

Signature of Director

Signature of Director/Company
Secretary

Name of Director

Name of Director/Company Secretary