



# Confidentiality Agreement

**The New Zealand Institute for Plant and Food Research Limited** a Crown Research Institute established under the Crown Research Institutes Act 1992. ("PFR")

*Thompson & Clark Investigations Ltd*  
("Recipient")

**PFR Contact:** [REDACTED]

**Phone:** [REDACTED]

**Physical Address:**  
120 Mt Albert Road, Sandringham,  
Auckland, 1025

**Fax:**

**Postal Address:**  
Private Bag 92169, Auckland Mail Centre,  
Auckland, 1142

**Email:**  
[REDACTED]@plantandfood.co.nz

**Recipient Contact:** [REDACTED]

**Phone:** [REDACTED]

**Physical Address:** [REDACTED]  
Albany, Auckland 0632

**Fax:**

**Postal Address:** PO Box 301775, Albany,  
Auckland 0752

**Email:** [REDACTED]@tcil.co.nz

**Information To Be Disclosed:** Documents, records and communications relevant to the PFR Mt Albert redevelopment project and the removal of asbestos from the Hamilton Building at Mt Albert.

**Permitted Purpose:** To assist PFR with an internal investigation into Health and Safety practices and establish relevant facts necessary to determine the reasons why asbestos is still being discovered following an asbestos removal operation as part of PFR's redevelopment of its Mt Albert Site.

**Effective Date:**

(If no date is stated, then the Effective Date is the date of execution of this Agreement.)

**Expiry Date:**

(If no date is stated, then the Expiry Date in respect of each item of Information shall be when that item of Information enters the public domain through no fault of the Recipient.)

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## TERMS AND CONDITIONS

### Definitions

1. "Information" means all information and tangible matter comprised in or related to the Information To Be Disclosed or the technical, business or financial affairs of PFR, and includes all Related Information.

"Related Information" means information derived, extracted, calculated or otherwise obtained in any way by the Recipient from or in relation to the Information To Be Disclosed or the technical, business or financial affairs of PFR, whether in combination with other information or not, and includes any development, modification or improvement relating to or arising out of the Information To Be Disclosed or the technical, business or financial affairs of PFR.

### Confidentiality and Security

2. As from and including the Effective Date, until the Expiry Date, the Recipient must:

- (a) not use, copy, or reproduce the Information, or permit use, copying, or reproduction of the Information, except for the Permitted Purpose; and
- (b) not publish or disclose, or permit publication or disclosure of, the Information, the Recipient's possession thereof, or the existence of this agreement, other than to such of its officers and employees as are necessary for the Permitted Purpose; and
- (c) ensure that its officers and employees who may gain access to the Information understand and comply with the requirements of this agreement; and
- (d) if PFR so requires, ensure that its officers and employees who may gain access to the Information sign undertakings for the benefit of PFR that they will comply with the requirements of this agreement; and
- (e) provide PFR with a copy of each such undertaking, upon request by PFR.

3. The Recipient shall take all reasonable steps to ensure that the Information is kept confidential, and the Recipient is liable to PFR for any breach of this agreement caused by any of its officers or employees.

4. If the Recipient becomes aware of the possession, use or knowledge of the Information by any unauthorised party, then the Recipient must:

- (a) immediately inform PFR; and
- (b) at PFR's request and expense, provide all assistance in relation to the unauthorised possession, use or knowledge as PFR requires, unless such unauthorised possession, use or knowledge is the fault of the Recipient, in which case such assistance shall be at the Recipient's expense.

5. The confidentiality provisions of this agreement do not apply to the extent that:

- (a) Information was lawfully in the Recipient's possession before PFR disclosed it to the Recipient; or
- (b) Information lawfully enters the public domain; or
- (c) Information is received by the Recipient in good faith from a third party having the lawful right to disclose such information, and such information is not subject to any obligation of confidentiality owed by the Recipient to the third party; or

- (d) information was or is independently developed by the Recipient without reference to the Information.

6. In the event that the Official Information Act 1982, or other law, requires the Recipient to disclose Information, the Recipient will promptly notify PFR and promptly take all reasonable steps to allow PFR to oppose disclosure, and shall disclose only that part of the Information that the Recipient is legally required to disclose and shall use all reasonable endeavours to obtain assurances that the Information disclosed will be treated with confidentiality.

### Return of Information

7. PFR may at any time request the return of the Information whereupon the Recipient will, at the Recipient's cost, promptly deliver to PFR the Information (including Related Information) and return or destroy all copies and reproductions thereof.

### Exclusion of Liability

8. PFR gives no warranty, express or implied, that any Information is accurate, useful and/or will not infringe third party rights.
9. PFR has no liability to the Recipient in relation to the Information, whether arising from default, negligence or otherwise.

### Reports

10. The Recipient will keep up to date and accurate records in relation to the Recipient's possession and use of the Information, and will upon request by PFR provide it with a copy of any such record, or any other information that the Recipient has in relation to the Information.

### Intellectual Property

11. The Information, including Related Information generated by the Recipient, and all rights in it, will at all times remain or vest as PFR's exclusive property. The Recipient will not at any time contest or dispute PFR's ownership and will not do or omit to do anything which may adversely affect PFR's intellectual property rights.
12. Nothing in this agreement will be construed as granting to the Recipient any interest in, licence or right to use any Information for its own benefit or for the benefit of any other party, other than for the Permitted Purpose.

### Injunctive Relief

13. The Recipient acknowledges that PFR will suffer irreparable damage if any breach of this agreement occurs, and in addition to any other remedy, PFR is entitled to seek injunctive relief in relation to any breach, whether actual or anticipated, without giving the Recipient prior notice.

### General

14. This agreement is governed by New Zealand law. Both parties submit to the non-exclusive jurisdiction of the New Zealand courts, and neither party will object to the exercise of jurisdiction by those courts, either for forum non conveniens, or on any other basis.
15. Nothing in this agreement creates a partnership, agency, or joint venture between PFR and the Recipient.
16. Nothing in this agreement affects the rights and obligations of PFR or the Recipient under any other agreement between them and nothing in this agreement imposes any obligation on either of them to enter into further agreements or transactions.
17. The obligations set out in this agreement are in addition to, and do not detract from any other obligations of





**TERMS AND CONDITIONS**

confidentiality or otherwise, imposed upon the Recipient by law, equity, contract, or otherwise.

- 18. Should any part or provision of this agreement be held unenforceable or in conflict with the applicable laws or regulations of any jurisdiction, the invalid or unenforceable part or provision shall be replaced with a provision which accomplishes, to the extent possible, the original business purpose of such part or provision in a valid and enforceable manner, and the remainder of the agreement will remain binding upon the parties
- 19. This agreement may be signed in any number of counterparts, each of which is an original, and all of which taken together constitute one single document.
- 20. Variations, waivers and modifications to this agreement shall be valid only if in writing and signed by the Recipient and PFR.
- 21. Any failure by PFR to enforce any provision of this agreement shall not constitute a waiver of any rights to enforce.

**Signature**

In consideration of PFR providing the Recipient with information, the Recipient agrees to the above Terms and Conditions. This agreement is executed on the date written below

<p>Signed by</p> <p></p> <p>Name: </p> <p>Position: Director</p> <p>Date: 12.02.2018</p>	<p>Witness signature</p> <p></p> <p>Name: </p> <p>Address: Albany Auckland</p> <p>Occupation: Office Manager</p>
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