

This Agreement is made as of the date signed by both parties ("Effective Date"), between

**Unique Micro Design Pty Ltd** of

Unit 1, 200 Wellington Road, Clayton VIC 3168  
("UMD")

and

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("Confidant")

**WHEREAS**, UMD and Confidant mutually desire to engage in discussions and share information for the purpose of developing a business relationship which may include new technology, products and or services, and in particular information relating to:

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\_\_\_\_\_ ; and

**WHEREAS**, UMD and Confidant in the course of their discussions may disclose to each other "Confidential Information" as defined in Paragraph 1 below and do not wish to convey any interest or copyright therein to the other or make such Confidential Information public or common knowledge.

**NOW, THEREFORE**, in consideration of each parties' assent to this Agreement, the joint nature of the anticipated disclosures, and the parties' agreement to engage in business discussions, UMD and Confidant hereby agree as follows:

**1. CONFIDENTIAL INFORMATION**

For purposes of this Agreement, the term "Confidential Information" shall mean any of the following which is received by either party prior to the earliest of the termination of their discussions, any future business relationship or this Agreement, and which pertains to the products and services of their clients and their potential clients and their own business.

Any information, know-how, data, process, technique, program, design, drawing, formula, test, work in process, engineering, manufacturing, marketing, financial or personnel matter, or sales, supplier, customer, employee, investor or business information, or other similar or dissimilar information, whether in oral, written, graphic, magnetic, electronic, or other form, that is learned or disclosed in the course of discussions, studies, or other work undertaken between the parties.

Anything contrary to the above notwithstanding, "Confidential Information" shall not include "Non-Protected Information" as defined in paragraph 5 below.

**2. JOINT UNDERTAKING**

All of UMD and Confidant and their respective employees, consultants and agents agree that during the period of their discussions and any future business relationship and for a period of five (5) years after the earliest of the termination thereof or the termination of this Agreement by either party giving notice to the other, the recipient of Confidential Information will not at any time disclose to any person other than under Section 3, or use for its own benefit or the benefit of anyone except use for the purpose provided in the first WHEREAS clause of this Agreement, Confidential Information of the other party, without the prior express written consent of a corporate officer of the disclosing party.

**3. THIRD PARTIES**

Prior to disclosure of any Confidential Information to any third party or consultants who will assist UMD or Confidant to use the Information as permitted hereunder, the disclosing party will advise the other party of such a disclosure and the recipient will obtain from said third party or consultants a written agreement:

- (a) to hold all Confidential Information in confidence and not to use it for any purpose except as it relates to discussions or any subsequent business relationship between the parties; and
- (b) to return all Confidential Information to the party from whom said Confidential Information was received immediately after said third party or consultant has completed its work.

**4. RETURN OF CONFIDENTIAL INFORMATION**

Confidential Information, including copies, extracts or derivative information therefrom, shall be deemed the sole and exclusive property of the disclosing party. A receiving party shall, within five (5) business days of receipt of a written request by the disclosing party, return all Confidential Information (or any designated portion thereof), including all copies thereof, to the disclosing party and destroy any extracts or derivative information derived therefrom and certify such destruction in writing to the disclosing party.

**5. NON-PROTECTED INFORMATION**

For purposes of this Agreement, "Non-Protected Information" shall mean the following:

- a) Information that, at the time it is disclosed, is already in the recipient's rightful possession or available to it or its employees from any other source having no obligation not to disclose it;
- (b) Information that is, or at any time hereafter becomes, available to the public;
- (c) Information that, after it is disclosed, is at any time obtained by the recipient from any other person, firm or company having no obligation not to disclose it; and
- (d) Information independently developed without the use of Confidential Information.

**6. NO CONVEYANCE OR LICENSE**

Except for limited use permitted hereunder, nothing in this Agreement shall be construed to convey to the recipient of Confidential Information any right, title or interest or copyright in any Confidential Information, or any license to use, sell, exploit, copy or further develop any such Confidential Information. This Agreement does not in any way bind the parties to enter into a business relationship of any nature.

**7. DISCLAIMER**

Except as may otherwise be set forth in a signed, written agreement between the parties hereto, UMD makes no representation or warranty as to the accuracy, completeness, condition, suitability, or performance of its Confidential Information, and UMD shall have no liability whatsoever to Confidant resulting from Confidant's use of UMD's Confidential Information.

Except as may otherwise be set forth in a signed, written agreement between the parties hereto, UMD makes no representation or warranty as to the accuracy, completeness, condition, suitability, or performance of its Confidential Information, and UMD shall have no liability whatsoever to Confidant resulting from Confidant's use of UMD's Confidential Information.

Except as may otherwise be set forth in a signed, written agreement between the parties hereto, Confidant makes no representation or warranty as to the accuracy, completeness, condition, suitability, or performance of its Confidential Information, and Confidant shall have no liability whatsoever to UMD resulting from UMD's use of Confidant's Confidential Information.

**8. GOVERNING LAW**

This Agreement shall be construed for all purposes in accordance with the substantive law of the State of Victoria. The state and federal courts of Victoria shall have exclusive jurisdiction over any and all disputes relating to this Agreement, other than the granting of equitable relief to enforce the Agreement.

**9. CAPTIONS**

Captions in this Agreement are for ease of reference only, and should not be considered in the construction of this Agreement.

**10. SEVERABILITY**

If any provision of this Agreement is declared void or unenforceable, such provision shall be severed from this Agreement which shall otherwise remain in full force and effect.

**11. REMEDIES**

The parties agree that if there is a breach of this Agreement by either party, the other may seek any remedy in law and/or equity including, but not limited to, appropriate injunctive relief or specific performance as may be granted by a court of competent jurisdiction, and the breaching party may not interpose the defence of adequate legal remedy when equitable remedy is sought.

**12. ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement between the parties with respect to the subject matters addressed herein. This Agreement may not be amended or modified except in writing signed by both parties.

**13. FAILURE TO ENFORCE**

Failure by either party to enforce any provision of this Agreement, or to exercise any option hereof, is not to be construed as a present or future waiver of such provision or option, or any other provision or option.

**14. COURT ORDERED DISCLOSURE**

In the event that a receiving party or any person to whom the receiving party transmits Confidential Information pursuant to this Agreement is/are requested or become legally compelled (by oral questions, interrogatories, request for information or documents, subpoena, civil investigative demand or similar process) to disclose any Confidential Information, the receiving party will provide the disclosing party with prompt written notice so that the disclosing party may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Agreement.

In the event that such protective order or other remedy is not obtained, or that the disclosing party waives compliance with the provisions of this Agreement, the receiving party will furnish only that portion of Confidential Information which is legally required.

**15. ASSIGNEES AND SUCCESSORS**

This Agreement shall be binding upon the parties hereto and their respective assigns and successors.

**IN WITNESS WHEREOF**, this Agreement has been duly executed by the parties hereto.

**Unique Micro Design Pty Ltd**

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Name

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