

## RECIPROCAL NON DISCLOSURE AGREEMENT

AGREEMENT made this day ..... by and between

and  
.....  
.....

In consideration of the mutual promises and covenants contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

- 1. Disclosing Party/Receiving Party.** The party disclosing confidential information is referred to herein as the “Disclosing Party”. The party receiving such confidential information is referred to herein as the “Receiving Party”.
- 2. Description of Confidential Information.** For purposes of this Agreement, Confidential Information means any information disclosed during the Disclosure Period (as hereinafter defined), which is or should be reasonably understood to be confidential or proprietary to the Disclosing Party, including, but not limited to, information disclosed in discussions between the parties in connection with the development of software or on-line applications, information concerning each party's business, products, services, content, finances, subscribers, source code, product designs and plans, customer lists, other marketing and technical information and other unpublished information. Confidential Information shall include all tangible materials containing Confidential Information including without limitation written or printed documents and computer disks and tapes, whether machine or user readable.
- 3. Use of Confidential Information.** The Receiving Party shall make use of the Confidential Information only for purposes of evaluating a possible contractual relationship between the parties.
- 4. Disclosure Period.** This Agreement and Receiving Party's duty to hold Confidential Information in confidence shall expire two years from the Effective Date of this Agreement (the “Disclosure Period”).
- 5. Standard of Care.** The Receiving Party shall protect the Confidential Information from disclosure to any person other than its employees, and agents who have a need to know, by using the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorized use, dissemination, or publication of the Confidential Information as Receiving Party uses to protect its own confidential information of a like nature.
- 6. Exclusion.** This Agreement imposes no obligation upon the Receiving Party with respect to information that: (a) was in the Receiving Party's possession before receipt from the Disclosing Party; (b) is or becomes a matter of public knowledge through no fault of the Receiving Party; (c) is rightfully received by the Receiving Party from a third party without a duty of confidentiality; (d) is disclosed by the Disclosing Party to a third party without a duty of confidentiality on the third party; (e) is independently developed by the Receiving Party; (f) is disclosed under operation of law, except that the Receiving Party will disclose only such information as is legally required; or (g) is disclosed by the Receiving Party with the Disclosing Party's prior written consent.

## RECIPROCAL NON DISCLOSURE AGREEMENT

7. **Warranty.** Each Disclosing Party warrants that it has the right to make the disclosures under this Agreement. NO OTHER WARRANTIES ARE MADE BY EITHER PARTY UNDER THIS AGREEMENT WHATSOEVER. ANY INFORMATION OR MATERIALS EXCHANGED UNDER THIS AGREEMENT ARE PROVIDED "AS IS."

8. **Transfer of Rights.** Neither party shall acquire any intellectual property rights under this Agreement. This Agreement shall not restrict reassignment of the Receiving Party's employees, nor in any manner affect or limit either party's present and future business activities, including business activities which could be competitive with the Disclosing Party. Nothing in this Agreement will be construed as a representation or agreement that the Receiving Party will not develop or have developed for its products, concepts, systems or techniques contemplated by or embodied in the Confidential Information, provided that the Receiving Party does not violate any of its obligations under this Agreement in connection with such development.

9. **Stock Trading.** If the information disclosed hereunder is material non-public information about the Disclosing Party, then the Receiving Party agrees not to trade in the securities of the Disclosing Party or in the securities of any appropriate and relevant third party until such time as no violation of the applicable securities laws would result from such securities trading.

10. **Return of Confidential Information.** The Receiving Party will immediately destroy or return all tangible material embodying Confidential Information (in any form and including, without limitation, all summaries, copies and excerpts of Confidential Information) upon the earlier of (i) the completion or termination of the dealings between the Disclosing Party and the Receiving Party or (ii) at such time that the Disclosing Party may so request.

11. **Notice of Breach.** Receiving Party shall notify the Disclosing Party immediately upon discovery of any unauthorized use or disclosure of Confidential Information, or any other breach of this Agreement by the Receiving Party, and will cooperate with the Disclosing Party in every reasonable way to help the Disclosing Party regain possession of Confidential Information and prevent its further unauthorised use.

12. **Injunctive Relief.** The Receiving Party acknowledges that disclosure or use of Confidential Information in violation of this Agreement could cause irreparable harm to the Disclosing Party for which monetary damages may be difficult to ascertain or an inadequate remedy. The Receiving Party therefore agrees that the Disclosing Party will have the right in addition to its other rights and remedies, to seek and obtain injunctive relief for any violation of this Agreement.

13. **Non-waiver.** Any failure by either party to enforce the other party's strict performance of any provision of the Agreement will not constitute an waiver of its right to subsequently enforce such provision or any other provision of this Agreement.

## RECIPROCAL NON DISCLOSURE AGREEMENT

### 14. Miscellaneous.

(A) This Agreement imposes no obligation on either party to purchase, sell, license, transfer, or otherwise dispose of any technology, services, or products. This Agreement does not create any agency or partnership relationship.

(B) Both parties shall adhere to all applicable laws, regulations, and rules relating to the export of technical data, and shall not export or re-export any technical data, any products received from the Disclosing Party, or the direct product of such technical data to any proscribed country listed in such applicable laws, regulations, and rules unless properly authorised.

(C) This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof. No provision of this Agreement shall be deemed waived, amended, or modified by either party unless such waiver, amendment or modification be in writing signed by the party against whom enforcement of such waiver, amendment or modification is sought.

(D) In the event that any one or more of the provisions of this Agreement shall be held invalid, illegal or unenforceable in any respect, or the validity, legality and enforceability of any one or more of the provisions contained herein shall be held to be excessively broad as to duration, activity or subject, such provision shall be construed by limiting and reducing such provisions so as to be enforceable to the maximum extent compatible with applicable law.

(E) In any action to enforce any of the terms or provisions of this Agreement or on account of the breach hereof, the party prevailing shall be entitled to recover all its expenses, including, without limitation reasonable solicitor's fees.

**RECIPROCAL NON DISCLOSURE AGREEMENT**

**Executed for and on behalf of** )  
..... by its duly )  
authorised officers without affixing the )  
Common Seal pursuant to Section 127 of the )  
*Corporations Act 2001 (Cth)* )

.....  
Signature of Director

.....  
Name of Director

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*Corporations Act 2001 (Cth)* )

.....  
Signature of Director

.....  
Name of Director

**Signed** in the presence of:

.....  
Signature of Witness

.....  
Name of Witness

.....  
Date