

**Product Lab Pty Ltd Limited
Mutual NDA
(Mutual Obligations)**

THIS AGREEMENT is made by and between the parties listed in the Schedule on the date shown in the Schedule.

IT IS HEREBY AGREED AS FOLLOWS.

1. Definitions

In this Agreement:

1.1 'Confidential Information':

- (a) means any information disclosed by one Party (the "Disclosing Party") to any other Party (the "Receiving Party") or which is otherwise communicated to or comes to the attention of the Receiving Party whether such information is in writing, oral or in any other form or media and whether such disclosure, communication or coming to the attention of the Receiving Party occurs prior to or during this Agreement; and
- (b) includes, without limit:
 - (i) any information which can be obtained by examination, testing or analysis of any hardware, any component part thereof, software or material samples provided by the Disclosing Party under the terms of this Agreement;
 - (ii) all information disclosed by one Party to any of the other Parties relating directly or indirectly to the Purpose;
 - (iii) the fact that the Parties are interested in or assessing the Purpose and/or are discussing the Purpose with each other; and
 - (iv) the terms of any agreement reached by the Parties or proposed by any of the Parties (whether or not agreed) in connection with the Purpose ;
 - (v) all knowledge, information or materials (whether provided in hardcopy or electronic or other form or media) whether of a technical or financial nature or otherwise relating in any manner to the business affairs of the Disclosing Party (or any parent, subsidiary or associated company of that party) software, samples, devices, demonstrations, know-how or other materials of whatever description, whether subject to or protected by copyright, patent, trademark, registered or unregistered design.

1.2 'Disclosing Party' shall have the meaning set out in clause 1.1 (a) above;

1.3 'Party' means each of the parties listed in paragraph 1 of the Schedule and 'Parties' shall be construed accordingly;

1.4 'Purpose' means the purpose set out in paragraph 2 of the Schedule;

1.5 'Receiving Party' shall have the meaning set out in clause 1.1 (a) above;

1.6 'Schedule' means the schedule to this Agreement which shall form part of this Agreement.

1.7 The singular shall include the plural and vice versa.

2. Undertakings

Subject to clause 3 below and in consideration of the disclosure of Confidential Information by the Disclosing Party, the Receiving Party agrees:-

- (i) to keep confidential and not disclose to any third party, copy, reproduce, adapt, divulge, publish or circulate any part of or the whole of any Confidential Information except with the prior written consent of the Disclosing Party; and
- (ii) not to combine any part of or the whole of the Confidential Information with any other information; and
- (iii) not to use Confidential Information disclosed to it under this Agreement for any purpose other than the Purpose; and
- (iv) to restrict access to the Confidential Information disclosed to it under this Agreement to those of its employees and officers who need to know the same strictly for the Purpose; and
- (v) to procure that each employee and officer to whom Confidential Information is disclosed under this Agreement is, prior to such disclosure, informed of the terms of this Agreement and agrees to be bound by them; and
- (vi) not to disclose the whole or any part of the Confidential Information to any third party without (a) the prior written consent of the Disclosing Party and (b) prior to disclosure to such third party procuring that the third party is bound by obligations which are no less onerous than those contained in this Agreement; and
- (vii) to procure that the Confidential Information in its possession is stored securely and that physical access to it is controlled.

3. Exclusions

3.1 The protections and restrictions in this Agreement as to the use and disclosure of Confidential Information shall not apply to any information which the Receiving Party can show:-

- (a) is, at the time of disclosure hereunder, already published or otherwise publicly available; or
- (b) is, after disclosure hereunder published or becomes available to the public other than by breach of this Agreement; or
- (c) is rightfully in the Receiving Party's possession with rights to use and disclose, prior to receipt from the Disclosing Party; or
- (d) is rightfully disclosed to the Receiving Party by a third party with rights to use and disclose; or
- (e) is independently developed by or for the Receiving Party without reference or access to Confidential Information disclosed hereunder.

3.2 The Receiving Party shall not be in breach of Clause 2 if it can demonstrate that any disclosure of Confidential Information was made solely and to the extent necessary to comply with a statutory or judicial obligation.

4. No Right of Use

Nothing contained in this Agreement shall be construed as conferring upon the Receiving Party any right of use in or title to Confidential Information received by it from the Disclosing Party, other than as expressly provided herein.

5. No Obligation to Disclose, No Representations

Nothing in this Agreement shall be construed as

- (i) creating an obligation on any of the Parties to disclose particular information; or
- (ii) creating an obligation on the parties to negotiate; or
- (iii) as a representation as to the accuracy, completeness, quality or reliability of the information.

6. Term & Termination

6.1 Subject to clause 3, the obligations contained in clause 2 shall continue to apply for so long as the Receiving Party has in its possession or has procured that any third party authorized under this Agreement has in its possession any Confidential Information.

6.2 The Receiving Party shall, on the request of the Disclosing Party, return to the Disclosing Party (whose property they shall remain) all documents and things containing Confidential Information, together with all relevant samples and models which it has in its possession pursuant to this Agreement.

6.3 The Receiving Party shall comply with the Undertakings in Clause 2 and keep all Confidential Information confidential and private for at least 10 years. The Parties acknowledge and accept that:

1. should the Disclosing Party wish to vary the 10 year time period, the Disclosing Party has the right to do so, by written notice from the Disclosing Party to the Receiving Party; and
2. each Party signs this document as a Deed, and that both Parties agree to be legally bound by these terms on the date that the last Party signs this document.

7. Miscellaneous

- 7.1 (a) No Party shall assign its rights and/or obligations pursuant to this Agreement without the prior written consent of the other Party;
- (a) in the event that there is a change of control in relation to one party, the other party may at its discretion terminate this Agreement on written notice such termination to take effect on the date specified in the notice;
 - (b) for the purposes of this clause 7, 'control' in relation to a party means:
 - (i) holding more than one third of that party's voting rights;
 - (ii) having the right to remove or appoint a majority of that party's voting rights;
 - (iii) controlling alone or pursuant to an agreement with other members a majority of the voting rights in that party;

- (iv) being a person who the directors of that party (or of another company who has control of that party) are accustomed to act in accordance with that persons directions or instructions.

- 7.2 No failure or delay by either party in exercising any rights, power or legal remedy available to it hereunder shall operate as a waiver thereof.
- 7.3 In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement but this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been set forth herein, and the Agreement shall be carried out as nearly as possible according to its original terms and intent.
- 7.4 This Agreement shall be construed and governed in all respects in accordance with the laws of Australia and the Parties hereby submit to the jurisdiction of the Australian courts.
- 7.5 A person who is not a Party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement but this does not affect any right or remedy of a third party which exists or is available apart from that Act.
- 7.6 The signing of this Agreement shall not be construed as the forming of an agency, joint venture, employment or partnership.

SCHEDULE

1. Parties

1.1 Product Lab Pty Ltd (ACN 143 414 420) of
2/199 Gympie Terrace
NOOSAVILLE, QUEENSLAND 4566, AUSTRALIA

1.2

2. Purpose

3. Date

Signed for and on behalf

Product Lab Pty Ltd

By its duly authorised representative

By its duly authorised representative

(Signature)

(Signature)

(Name)

(Name)

(Title/position)

(Title/position)

(Date)

(Date)