

Confidentiality and Non-Disclosure

Agreement

Entered into by and between

(Registration / ID No: _____)

Herein after referred to as (“_____”)

And

Navic (PTY) Ltd

(Registration No: 2017/138298/07)

Herein after referred to as (“Navic”)

(Collectively referred to as “the parties”)

AGREEMENT OF CONFIDENTIALITY AND NON-DISCLOSURE

1. Introduction

- 1.1. The parties are discussing certain matters which will require the disclosure to one another of information of a proprietary, secret and confidential nature. For the purposes of this agreement, the party disclosing such information shall be referred to as “the disclosing party” and the party receiving such information shall be referred to as “the receiving party”.
- 1.2. The parties warrant to each other that their respective officers, employees, agents, legal successors-in-title, associates and associated companies, whether existing now or incorporated in the future, to whom the information of the other party is disclosed, shall adhere to the terms of this agreement. For the purposes of this clause “associates” shall mean any individual, firm or other unincorporated body which is associated with a party by partnership or other form of shared equity interest, including any company directly or indirectly controlled by such individual, firm or unincorporated body and “associated company” shall mean any company or other legal entity which is a subsidiary or holding company of such company or a subsidiary of such holding company.
- 1.3. The parties wish to record the terms and conditions upon which they are prepared to disclose such information to one another.

2. The information “Information” shall for the purposes of this agreement mean:

- 2.1. any technical, commercial, financial, scientific, marketing or business information and knowhow, including without limitation, the trade secrets, software, software code, marketing strategies, information relating to shareholders or subsidiary companies, client and/or supplier lists, processes, machinery, designs, drawings, technical specifications and data in whatever form relating to the disclosing party’s business practices or the promotion of the disclosing party’s business plans, policies or practices, which information is communicated to the receiving party, or otherwise acquired by the receiving party from the disclosing party, during the course of the parties’ commercial interactions, discussions and negotiations with one another, whether such information is formally designated as confidential or not; and
- 2.2. without in any way limiting the generality of 2.1, any:
- 2.3. prices, terms and conditions contained in agreements with customers, clients and suppliers;
- 2.4. details relating to prospective customers and clients;
- 2.5. details relating to employees of the parties;
- 2.6. details of production management strategies and techniques.

3. Disclosure information

- 3.1. The parties agree to disclose certain of the information to one another.

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- 3.2. The parties acknowledge that the information is a valuable, special and unique asset proprietary to the disclosing party.
- 3.3. The parties agree that they will not, during the course of their association with one another, or thereafter, disclose the information to any third party for any reason or purpose whatsoever without the prior written consent of the disclosing party, save in accordance with the provisions of this agreement.
- 3.4. The receiving party agrees:
 - 3.4.1. not to utilize, employ, exploit or in any other manner whatsoever use the information disclosed pursuant to the provisions of this agreement for any purpose whatsoever without the prior express written consent of the disclosing party;
 - 3.4.2. that the unauthorized disclosure of the information to a third party may cause irreparable loss, harm and damage to the disclosing party.
- 3.5. Accordingly, the receiving party indemnifies and holds the disclosing party harmless against any loss, action, claim, harm, damage, or other liability of whatever nature, suffered by the disclosing party pursuant to a breach by the receiving party of the provisions of this agreement.
- 3.6. The receiving party acknowledges that monetary damages may not be a sufficient remedy for unauthorised disclosure of the information and that the disclosing party shall be entitled, without waiving other rights or remedies, to such injunctive or equitable relief as may deemed proper by a court of competent jurisdiction including, without limitation, direct and consequential damages.
- 3.7. Any reliance by a party on any information is solely at its own risk. Neither party nor any of its officers, employees or advisers:
 - (a) makes any representation or warranty as to the accuracy or completeness of its information, that its information has been audited, verified or prepared with reasonable care, or that its information is the totality of the information that a person in the other party's position may require, or expect to find, to satisfy the other party's requirements;
 - (b) accepts any responsibility to inform the other party of any matter arising or coming to its notice which may affect or qualify any information which it provides to the other party; and is liable for any loss of any kind (including, without limitation, damages, costs, interest, loss of profits, or special loss or damage) arising from an error, inaccuracy, incompleteness or similar defect in the information, or any default, negligence or lack of care in relation to the preparation or provision of the information.

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4. Title

All information disclosed by the disclosing party to the receiving party is acknowledged by the receiving party:

4.1. to be proprietary to the disclosing party; and

4.2. not to confer any rights of whatever nature in such information to the receiving party.

5. Restrictions on disclosure and use of the information

5.1. The receiving party may disclose the information only to its officers, employees and professional advisors and then only on a strictly need-to-know basis, provided that the receiving party takes whatever steps are necessary to procure that such officers, employees and professional advisors agree to abide by the terms of this agreement to prevent the unauthorized disclosure of the information to third parties.

5.2. The receiving party undertakes not to use the information for any purpose other than:

5.2.1. that for which it is disclosed; and

5.2.2. in accordance with the provisions of this agreement.

6. Standard of care

The parties agree that they shall protect the information disclosed pursuant to the provisions of this agreement using the same standard of care that each party applies to its own proprietary, secret or confidential information and that the information shall be stored and handled in such a way as to prevent any unauthorized disclosure thereof.

7. Return of information

7.1. The disclosing party, may at any time, request the receiving party to return any material containing, pertaining to or relating to the information disclosed pursuant to the terms of this agreement and may, in addition request the receiving party to furnish a written statement to the effect that, upon such return, the receiving party has not retained in its possession, or under its control, either directly or indirectly, any such material.

7.2. As an alternative to the return of the material contemplated in 7.1 above, the receiving party shall, at the instance of the disclosing party, destroy such material and furnish the disclosing party with a written statement to the effect that all such material has been destroyed.

7.3. The receiving party shall comply with a request, in terms of this clause 7, within 7 days of receipt of such a request.

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8. Excluded information

The obligations of the parties pursuant to the provisions of this agreement shall not apply to any information that:

- 8.1. is or was known to or in possession of the receiving party prior to disclosure thereof by the disclosing party
- 8.2. is or becomes publicly known, otherwise than pursuant to a breach of this agreement;
- 8.3. is developed independently of the disclosing party by the receiving party;
- 8.4. is disclosed by the receiving party to satisfy the order of a court of competent jurisdiction or to comply with the provisions of any law or regulation in force from time to time; provided that in these circumstances, the receiving party shall advise the disclosing party in writing prior to such disclosure to enable the disclosing party to take whatever steps it deems necessary to protect its interests in this regard; provided further that the receiving party will disclose only that portion of the information which it is legally required to disclose and the receiving party will use its reasonable endeavors to protect the confidentiality of such information to the widest extent possible in the circumstances;
- 8.5. is disclosed to a third party pursuant to the prior written authorization from the disclosing party;
- 8.6. is received from a third party in circumstances that do not result in a breach of the provisions of this agreement.

9. Term

This agreement shall commence on _____ (“the effective date”) and shall continue to bind the parties indefinitely.

10. Representations and warranties

- 10.1. Each party represents and warrants that it has the authority necessary to enter into this agreement and to do all things necessary to procure the fulfillment of its obligations in terms of this agreement.
- 10.2. The disclosing party warrants that disclosure of the information to the receiving party:
 - 10.2.1. will not result in a breach of any other agreement to which it is a party;
 - 10.2.2. will not, to the best of its knowledge and belief, infringe the rights of any third party; and the disclosing party hereby indemnifies and holds the receiving party harmless against any liability for third party claims on such a basis.

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11. Additional action

Each party to this agreement shall execute and deliver such other documents and do such other acts and things as may be necessary or desirable to give effect to the terms and provisions of this agreement.

12. Miscellaneous

12.1. Amendments

No amendment, interpretation or waiver of any of the provisions of this agreement shall be effective unless reduced writing and signed by both the parties.

12.2. Enforcement

The failure to enforce or to require the performance at any time of any of the provisions of this agreement shall not be construed to be a waiver of such provision, and shall not affect either the validity of this agreement or any part hereof or the right of any party to enforce the provisions of this agreement.

12.3. Entire agreement

This agreement contains the entire agreement of the parties with respect to the subject matter of this agreement and supersedes all prior agreements between the parties, whether written or oral, with respect to the subject matter of this agreement.

12.4. Governing law and jurisdiction

12.4.1. This agreement and the relationship of the parties in connection with the subject matter of this agreement shall be governed and determined in accordance with the laws of South Africa.

12.4.2. If a dispute or difference arises between the parties, the aggrieved Party must not commence any arbitration proceedings relating to the dispute or difference unless the following has been complied with:

(a) Deliver to the offending party a notice in writing providing details of the dispute or difference;

(b) Within fifteen (15) business days of the date of such notice, the parties must arrange for their respective authorised representatives to meet at a mutually convenient location and use best endeavours to settle the dispute or difference.

12.4.3. Should the dispute or difference not be resolved within five (5) business days after the meeting referred to in Clause 12.4.2 (b) the matter shall be referred to arbitration.

12.4.4. Such arbitration proceedings shall be held in Cape Town and shall be in accordance with the provisions of the Arbitration Act. Such arbitration shall be conducted by a mutually agreed upon single arbitrator or otherwise in accordance with the Act.

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12.4.5. The decision of the arbitrator shall be final and binding upon the Parties, who shall summarily carry out that decision and either of the Parties shall be entitled to have the decision made an order of any court with competent jurisdiction.

12.5. Addresses

12.5.1. Any written notice in connection with this agreement may be addressed:

In the case of _____ to:
 Address: _____

 Email: _____
 {To be marked for the attention of _____}

(b) In the case of Navic (Pty) Ltd to:

Address: 70 Victoria Street, Somerset West,
 Western Cape, 7130
 Email: legal@navic.cloud

{To be marked for the attention of "Legal Department"}

12.5.2 Notice shall be deemed to have been duly given:

(a) 20 days after posting, if posted by registered post to the party's address in terms of clause 12.5.1;

(b) On delivery, if delivered to the party's physical address in terms of the next subclause dealing with service of legal documents;

(c) On dispatch, if sent to the party's then telefax number and confirmed by registered letter posted no later than the next business day, unless the addressor is aware, at the time the notice would otherwise be deemed to have been given, that the notice is unlikely to have been received by the addressee through no act or omission of the addressee.

12.5.3 A party may change that party's address for this purpose, by notice in writing to the other party. No notice shall be necessary in respect of a new or changed telefax number.

12.6. Address for service of legal documents

12.6.1. The parties choose the following physical addresses at which documents in legal proceedings in connection with this agreement may be served (i.e. their domiciliae citandi et executandi):

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(a) In the case of _____ to:
 Address: _____

 Email: _____
 {To be marked for the attention of _____}

(b) In the case of Navic (Pty) Ltd to:

Address: 70 Victoria Street, Somerset West,
 Western Cape, 7130
 Email: legal@navic.cloud

{To be marked for the attention of "Legal Department"}

12.6.2. A party may change that party's address for this purpose to another physical address by notice in writing to the other party.

13. Costs

13.1. Each party shall bear that party's own legal costs of and incidental to the negotiation, preparation, settling, signing and implementation of this agreement.

13.2. Any costs, including attorney and own client costs, incurred by either party arising out of breach by the other party of any of the provisions of this agreement shall be borne by the party in breach.

14. Severability

In the event of any one or more of the provisions of this agreement being held for any reason to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this agreement, and this agreement shall be construed as if such invalid, illegal or unenforceable provision(s) was not a part of this agreement, and the agreement shall be carried out as nearly as possible in accordance with its original terms and intent.

Please ensure that all the details contained in this document are correct. You should only Digitally or otherwise sign this document if you are prepared and able to keep to its legal terms and conditions. By your Digital signature/s to this Agreement you acknowledge that you have read and understood its terms and conditions.

By checking this box, I _____, hereby approve & digitally sign this Agreement of Confidentiality and Non-Disclosure, for and on half of _____

Full name: _____ Date signed: _____

Email address: _____ Cellphone no.: _____

Physical address: _____

By checking this box, I _____, hereby approve & digitally sign this Agreement of Confidentiality and Non-Disclosure, for and on half of **Navic (PTY) Ltd**

Full name: _____ Date signed: _____

Email address: _____ Cellphone no.: _____