

Agreement for a Student Project with an Industry Client

THIS AGREEMENT is made the day of 2012

BETWEEN

[**NAME**], ABN [**Insert ABN**], of [**Address**] ("the **Client**")

AND

THE AUSTRALIAN NATIONAL UNIVERSITY, a body corporate established pursuant to the *Australian National University Act 1991* (Cth), as represented by the College of Engineering and Computer Science of Acton, in the Australian Capital Territory, 0200 ("the **University**")

AND

[**Name of students**] students of the University (individually referred to as "**Student**" or collectively referred to as "**Students**")

RECITALS

- A. The Student is enrolled in a course ("the **Course**") at the University that requires him/her to undertake a project ("the **Project**").
- B. Sponsoring the Project may offer the Client the chance to evaluate, design and/or implement a technical or business need and the Client has offered to sponsor the Project.
- C. The University, Client and the Student wish to collaborate in accordance with the terms of this Agreement to enable the Student to conduct the Project as part of the requirements for his/her Course.

IT IS AGREED

1. Permissions

- 1.1 The University agrees the Student may undertake the Project with the Client.
- 1.2 The Project may be undertaken by the Student individually or as part of a team. Where the Project is to be undertaken as part of a team, the Student agrees to undertake the Project as part of a team of students of the University ("the **Project Team**"). The Student acknowledges that as part of the Project Team he/she is severally liable.
- 1.3 The Student acknowledges that he/she has been given an opportunity to seek independent legal advice prior to executing this agreement.

2. Project

- 2.1 The Client has identified the Project, an outline of which is provided in Item A of Schedule 1 ("the **Project Outline**"). The Client wishes the Student to undertake the Project as detailed in Schedule 2 ("the **Project Requirements**").

- 2.2 To enable the Student to undertake the Project, the Client nominates the **Project Champion** detailed in Item B of Schedule 1 to be the contact point for the Project Team.
- 2.3 The Project will be conducted in accordance with the requirements set out in Schedule 2.
- 2.4 The University will supervise the Student throughout the Project, in consultation with the Client where appropriate. For the purposes of this Project the University appoints the Supervisor provided in Item C of Schedule 1 ("**Supervisor**").
- 2.5 The Client agrees to provide all reasonable, appropriate and related guidance and advice to the Student for the duration of the Project. The Client undertakes to mentor and guide the Student in consultation with the University as appropriate. Sponsorship of the Project and mentoring of the Student will be conducted in accordance with the codes of professional conduct of Engineers Australia and/or the Australian Computer Society.
- 2.6 At the completion of the Project the Client will provide the University with a written evaluation of the Student's performance during the project which the University may use to assess the Student's progress in the Course.
- 2.7 The contact details for each party are as specified in Item G of Schedule 1.

3. Costs and GST

- 3.1 The parties agree that the Student is not providing a consultancy or similar service and that there will be no fee payable in connection with the Student performing the Project.
- 3.2 The Client agrees that it will pay and be liable for all reasonable costs and expenses associated with the Student performing the Project, such costs may include travel, accommodation and purchase of hardware, software and experimental equipment . At the date of entering into this agreement the anticipated costs for the Project are set out in Schedule 3.
- 3.3 The Student agrees that he/she will not incur costs without the prior written approval of the Client.

4. Materials and Intellectual Property

4.1 For the purposes of this agreement:

- 4.1.1 "**Background Material**" means the materials described in Item E of Schedule 1 plus any other materials a party makes available for the purposes of the Project, including any Intellectual Property associated with such materials;
- 4.1.2 "**Developed Material**" means all material developed by the Student for the purpose of conducting and completing the Project, including any analysis, specifications, source code and Intellectual Property associated with such materials or modifications to a party's Background Material; and

4.1.3 “**Intellectual Property**” or “**IP**” means statutory and other proprietary rights in respect of trade marks, designs, patents, circuit layouts, copyright, plant breeders rights, confidential information, know-how and all other rights resulting from intellectual activity in the industrial, commercial, scientific, literary or artistic fields.

4.1.4 ‘**Moral Rights**’ means a person’s moral rights as defined in the Copyright Act (Cth) 1968.

4.2 Each party will continue to own its own Background Material.

4.3 Each party grants to the other parties a royalty free, non-exclusive right to use, reproduce and adapt its Background Material to the extent that it is necessary for the performance of the Project and any other activities as set out in this agreement and, in the case of the Client, to the extent necessary to exercise its rights in relation to the Developed Material.

4.4 The Student assigns all Developed Material to the Client and warrants that to the best of their knowledge and belief the Developed Material does not infringe nor is alleged to have infringed any third party’s Intellectual Property or Moral Rights.

4.5 The Client grants to the Student a royalty free, non-exclusive right to use, reproduce, adapt and communicate the Developed Materials subject to this agreement, including, but not limited to:

4.5.1 confidentiality restrictions set out in clause 5; and

4.5.2 publication conditions set out in clause 6.

4.6 The Student unconditionally and irrevocably consents, in relation to any Moral Rights under this agreement, to the Client and any person authorised by the Client, using without attribution, varying, adapting, altering, reproducing, publishing, adding to, deleting from, abridging, revising, redrafting, retitling, translating into other dimensions, formats or media, or otherwise altering and doing all other things necessary for the Client to operate, the Student’s Background Material and the Developed Material.

4.7 Notwithstanding any other provisions of this clause the University will have the right to:

4.7.1 use the Developed Material for research and teaching purposes subject to the confidentiality restrictions set out in clause 5; and

4.7.2 publish all or part of the Developed Material subject to the conditions set out in clause 6.

5. Confidentiality

5.1 For the purposes of this agreement “**Confidential Information**” means all information of whatever description, whether in permanently recorded form or not, which is by its nature confidential or which is identified as confidential at the time of disclosure and includes without limitation, information:

5.1.1 relating to the Project;

- 5.1.2 all know-how, trade secrets and other Intellectual Property of a party; and
- 5.1.3 all financial or marketing information and other commercial or scientific information of a party;

and excludes information:

- 5.1.4 which is or becomes part of the public domain other than through breach of this agreement or an obligation of confidence owed to another party;
- 5.1.5 which a party can prove by contemporaneous written documentation was already known to it at the time of disclosure by the disclosing party (other than if such knowledge arose from disclosure of information in breach of an obligation of confidentiality);
- 5.1.6 which the disclosing party acquires from a third party entitled to disclose it; or
- 5.1.7 which is required by a party to be disclosed by law.

5.2 Project Team Confidentiality: Except as required for the purposes of completing the Course, the Student will keep confidential all Confidential Information that comes into his/her possession or knowledge for a period of three (3) years following termination of this agreement.

5.3 Examiner Confidentiality: The Client must not prevent the Student from presenting a written report, thesis or other examinable piece of work that refers to the Project for examination purposes, provided appropriate steps are taken to ensure the protection of Client's Confidential Information. Accordingly, the Client may request, through the University:

- 5.3.1 that any examiner sign an appropriate confidentiality undertaking; and/or
- 5.3.2 that a limited time embargo be placed on access to information about the Project for examination purposes (being a time period mutually agreed by the parties), provided that the embargo does not prevent examination of a Student's Project within the time specified by the University rules for completion of the Course.

5.4 Client and the University Confidentiality: The University and the Client acknowledge that they may become aware of Confidential Information of the other party through the supervision of the Student as contemplated by this agreement, and agree to keep any such Confidential Information confidential for a period of three (3) years following termination of this agreement.

6. Publication

6.1 The Student will not copy, reproduce, divulge, publish or circulate (or authorise or permit anyone else to copy, reproduce, divulge, publish or circulate) any Developed Material which incorporates the Client's Background Material, any Confidential Information of the Client or any other information that is the property of the Client, without the prior written approval of the Client.

6.2 The University will not copy, reproduce, divulge, publish or circulate (or authorise or permit anyone else to copy, reproduce, divulge, publish or circulate) any Developed Material which incorporates the Client's Background Material, any Confidential Information of the Client or any other information that is the property of the Client, without the prior written approval of the Client.

6.3 The Client acknowledges that one of the aims of the University is to encourage the public dissemination of research results generated through University programs. As such, while the Client may restrict publication of the Developed Material, information relating to the Project to protect its Background Material, Intellectual Property or Confidential Information, the Client agrees to use its best endeavours to limit any restrictions it imposes on publication. The parties agree without limitation that the following circumstances warrant the Client restricting publication of information relating to the Project:

6.3.1 where the Client is arranging patent or other Intellectual Property protection; or

6.3.2 where the information relating to the Project contains Background Material or Confidential Information of the Client that is an integral part of ongoing research and development of the Client; or

6.3.3 where the information relating to the Project contains Background Material or Confidential Information of the Client that could jeopardise or hinder the Client's commercial activities if published.

7. Client and Student Relationship

7.1 The Student agrees, when using the Client's premises, it will comply with all reasonable directions of the Client, including but not limited to documented procedures relating to access to the Client's premises and occupational health, safety and security in effect at those premises. The Student acknowledges that its obligation extends to all procedures which are notified to the Student by the Client or which might reasonably be inferred by the Student in all the circumstances.

7.2 The Student will use his/her best endeavours not to do any act or omit to do any act which may compromise the Client, the University or the Project.

7.3 The Student will use his/her best endeavours to carry out the Project to the best of his/her ability.

7.4 The Client will ensure that any personal information of the Student is treated in accordance with the *Privacy Act 1988* (Cth).

8. Disclaimer and Indemnity

8.1 The University will use all reasonable efforts to ensure that the quality of work produced by the Student is of a high standard.

8.2 Notwithstanding the efforts of the University, the Client recognises that the Project is being undertaken as an educational exercise by the Student and that the Student may not be in any way qualified or experienced to produce the Project Outcome.

- 8.3 The Student warrants that it has not relied on and that it would be unreasonably for it to rely on any representations or warranties from the Client about the accuracy, reliability, completeness or suitability of the Client's Background Material for any particular purpose, otherwise than expressly provided under this agreement.
- 8.4 The Client warrants that it has not relied on and that it would be unreasonably for it to rely on any representations or warranties from the Student about the accuracy, reliability, completeness or suitability of the Developed Material for any particular purpose, otherwise than expressly provided under this agreement.
- 8.5 The Client indemnifies the University, its officers, employees, Students and agents from and against all loss, liability and expense (including the costs of defending or settling any such action, claim or demand) arising out of or in connection with any reliance on the outcomes of the Project or any unlawful, wilfully wrongful or negligent act or omission of the Client, its officers, employees, and agents in connection with this agreement, except to the extent that University caused or contributed to the loss.
- 8.6 Subject to clauses 8.3 and 8.4, the University indemnifies the Client, its officers, employees and agents from and against loss, liability and expense (including the costs of defending or settling any such action, claim or demand) arising out of or in connection with any unlawful, wilfully wrongful or negligent act or omission of the Student, the University, its officers, staff and employees in connection with this agreement, except to the extent that the Client caused or contributed to the loss, liability and expense.
- 8.7 Subject to clauses 8.3 and 8.4, the University indemnifies the Client, and its officers and employees from and against loss, liability and expense (including the costs of defending or settling any such action, claim or demand) arising out of or in connection with the Student's activities at the Client's premises, excluding any unlawful, wilfully wrongful or negligent act or omission of the Student, except to the extent that the Client caused or contributed to the loss.
- 8.7.1 Notwithstanding any other provision of this agreement a party will not be liable to another party for and in respect of all claims for consequential, indirect or special damages including but not limited to loss of business profits, anticipatory profits, business interruption or loss of business information.

9. Termination

9.1 This Agreement will terminate:

- 9.1.1 at the end of the Term identified in Item G of Schedule 1;
- 9.1.2 if a party gives the other parties thirty (30) days written notice of termination; or
- 9.1.3 immediately, if the Client gives the parties notice that there has been a breach of this agreement by either the Student or the University.

9.2 Clauses 4, 5, 6, 7 and 8 survive termination or expiry of this agreement.

10. Dispute Resolution

10.1 Before resorting to external dispute resolution mechanisms, the parties will attempt to settle by negotiation any dispute in relation to this agreement including by referring the matter to personnel who may have authority to intervene and direct some form of resolution.

10.2 If a dispute is not settled by the parties within 10 working days of one party first sending to the other party written notice that they are in dispute, the dispute may be the subject of court proceedings or may be submitted to some alternative dispute resolution mechanism as may be agreed in writing between the parties.

10.3 Notwithstanding clause 10.1 and 10.2, if a dispute arises as a result of the Student's misconduct, as that term is defined in the University's *Discipline Rules*, as amended, the Client and the Student agree that the University will resolve the dispute in accordance with the procedure set out in the *Discipline Rules*, as amended.

11. Negation of Employment and Agency

11.1 A party to this agreement will not represent itself, and will ensure that its officers, employees, agents and sub-contractors (if applicable) do not represent themselves, as being an officer, employee, partner or agent of another party to this agreement or as otherwise able to bind or represent another party to this agreement.

11.2 A party to this agreement is not by virtue of this agreement an officer, employee, partner or agent of another party to this agreement, nor does a party to this agreement have any power or authority to bind or represent another party to this agreement.

12. Applicable Law

12.1 This agreement is governed by and is to be construed in accordance with the laws applicable in the Australian Capital Territory.

12.2 Each party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of the Australian Capital Territory and any courts which have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts, including by claiming that the action has been brought in an inconvenient forum or that those courts do not have jurisdiction.

13. Additional Rights

13.3 The parties' rights set out in this agreement are in addition to any other rights at law, under statute or otherwise in equity.

12 EXECUTED AS AN AGREEMENT:

SIGNED on behalf of **THE AUSTRALIAN**)
NATIONAL UNIVERSITY by)
its duly authorised officer)

.....)
Print name & Title)

.....)
Signature

in the presence of:)

.....)
Date

.....)
Print name of witness)

.....)
Signature

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Date

.....)
Address of Witness)

SIGNED on behalf of [**Name of company**]

by)
its duly authorised officer)

.....)
Print name & title) Signature

in the presence of:)
.....) Date

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Print name of witness) Signature

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.....) Date

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Address of Witness)

SIGNED by [**Student name & ID**])

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Signature)

in the presence of:)
.....) Date

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Print name of witness) Signature

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Address of Witness)

SIGNED by [Student name & ID]

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SIGNED by [Student name & ID]

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Print name of witness

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Address of Witness

SCHEDULE 1

<p>Item A: Project Outline (detail the project to be undertaken, including any project specific outcomes and deliverables)</p>	
<p>Item B: Project Champion</p>	
<p>Item C: Supervisor</p>	
<p>Item D: Project Completion Date</p>	
<p>Item E: Background Material</p>	<p>University Background Material</p> <p>Client Background Material</p> <p>Project Team Background Material</p>
<p>Item F: Term of Agreement</p>	
<p>Item G: Contact Details</p>	<p>University</p> <p>Client</p> <p>Project Team</p>

SCHEDULE 2: PROJECT REQUIREMENTS

[This schedule should detail what the Student is expected to deliver to the Client, the following are some examples of the sorts of issues that should be documented]

1. The anticipated scope of the Project is [insert details].
2. The deliverables for the Project are [insert details].
3. The Project Champion will provide the students with an initial briefing on the Project within fourteen (14) days of execution of this agreement, at a time mutually agreeable to the Project Champion and students.
4. The initial briefing will comprise [Insert details of issues to be covered].
5. The Project Champion will work with the students to negotiate a **Project Plan** that will set out the aims, methods and timeframe for completion of the Project. The Project must be completed by the date set out in Item F of Schedule 1.
6. During the timeframe for the Project, the Project Champion will meet with the students and Supervisor, for a minimum of three one to one and a half-hour sessions to evaluate progress on the Project, provide relevant feedback and ensure the goals of the project are being met.
7. At each meeting the students will provide the Project Champion with an [oral and written] presentation on the Project.
8. [After each meeting, including at the completion of the Project, the Project Champion will provide the Students with feedback on the Students' progress and quality of work from the Client's perspective.]

SCHEDULE 3: PROJECT COSTS