
DEED OF ASSIGNMENT OF INTELLECTUAL PROPERTY

between

CICERO SOFTCOM LTD
(ACN 123 456 789)

and

BLUEDOT LTD
(ACN 987 654 321)

SAMPLE



Adapt. Chart new markets.

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Date

Parties

Assignor	CICERO SOFTCOM LTD (ACN 123 456 789) Address: Australian Technology Park, Locomotive Street, South Eveleigh NSW 2015 Email: cicero@softcom.com.au (the <i>Assignor</i>)
Assignee	BLUEDOT LTD (ACN 987 654 321) Address: Australian Technology Park, Locomotive Street, South Eveleigh NSW 2015 Email: innovation@bluedot.com.au (the <i>Assignee</i>)

Recitals

- A The Assignor has created or otherwise acquired and will create, through the provision of services by the Assignor to the Assignee, the Relevant IP.
- B The parties have agreed that all IP Rights arising in connection with the Relevant IP will vest in the Assignee in accordance with the provisions of this deed.
- C This deed is intended to be legally binding and the parties agree to give effect to the arrangements contemplated by it.

Operative provisions

1. Definitions and interpretation

Definitions

- 1.1 The following definitions apply in this deed unless the context requires otherwise:

Assignee Warranties means the representations and warranties set out in Schedule 11, which are made and given by the Assignee to the Assignor pursuant to clause 6.

Assignor Warranties means the representations and warranties set out in Schedule 10, which are made and given by the Assignor to the Assignee pursuant to clause 4.

Assignor Warranty Claim means a claim under the Assignor Warranties.

Business Day means a day (other than a Saturday, Sunday or public holiday) when banks in Sydney, New South Wales are open for business.

Completion means the completion of the transactions contemplated by this deed in accordance with clause 3.

Completion Date means the date on which this deed is executed and delivered by all parties hereto.

Completion Place means the offices of the Assignor or any other place agreed in writing by the parties.

Completion Time means 11:00 AM, or any other time of day agreed in writing by the parties, on the Completion Date.

Connected means, in respect of two or more Assignor Warranty Claims, that they arise out of the occurrence of the same event or otherwise relate to substantially similar facts, matters or circumstances.

Contemplated Arrangement means the provision of services by the Assignor to the Assignee.

Controller has the meaning given in the Corporations Act.

Copyright Act means the *Copyright Act 1968* (Cth).

Corporations Act means the *Corporations Act 2001* (Cth).

Disclosed means, in respect of the making/giving of an Assignor Warranty at a Warranty Time, fairly disclosed to the Assignee by or on behalf of the Assignor in writing prior to that Warranty Time, with sufficient detail such that a prudent purchaser in the position of the Assignee, and possessing its experience of the industries and markets in which the Assignor operates, ought reasonably be able to identify (including by way of inference) the nature, scope and implications of the matter disclosed.

Documentation means all information (however recorded or preserved) relating to any Relevant IP (including manuals, notes, user guides, functional and technical drawings, specifications, data, reports, designs, modification manuals, flow charts and listings that are designed to assist or supplement the development, understanding or Exploitation of the Relevant IP and, in respect of software, includes all Source Code and Object Code.)

Encumbrance means any mortgage, charge (fixed or floating), pledge, lien, hypothecation, guarantee, trust, right of set-off or other third party right or interest (legal or equitable) including any assignment by way of security, reservation of title or other security interest of any kind, howsoever created or arising, or any other agreement or arrangement (including a sale and repurchase agreement) having similar effect.

Excluded Matter means, in respect of the making/giving of a Warranty at a Warranty Time, any fact, matter, event or circumstance that was:

- (a) Disclosed; or
- (b) actually known to the Assignee at that Warranty Time.

Exploit means, in respect of any IP Rights and/or any written materials or information (however recorded or preserved) relating thereto, to use, employ, apply, distribute, maintain, reproduce, copy or create Improvements of, or otherwise exploit, those IP Rights or written materials or information, in any fields and for any purposes (whether commercial or non-commercial).

Governmental Agency means any government or governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity whether foreign, federal, state, territorial or local.

Improvements means, in respect of any IP Rights and/or any written materials or information (however recorded or preserved) relating thereto, any developments, enhancements, modifications, derivatives, updates or other improvements thereof.

Insolvency Event means, in respect of a particular person, the occurrence of any one or more of the following events in relation to that person:

- (a) for a person that is a body corporate:
 - (i) except for the purpose of a solvent reconstruction or amalgamation:
 - (A) process is filed in a court seeking an order that it be wound up or that a Controller be appointed to it or any of its assets, unless the application is withdrawn, struck out or dismissed within 7 days of it being filed; or
 - (B) an order is made that it be wound up or that a Controller be appointed to it or any of its assets; or
 - (C) a resolution that it be wound up is passed or proposed;
 - (ii) a liquidator, provisional liquidator, Controller or any similar official is appointed to, or takes possession or control of, all or any of its assets or undertakings;
 - (iii) an administrator is appointed to it, a resolution that an administrator be appointed to it is passed or proposed, or any other steps are taken to appoint an administrator to it;
 - (iv) it enters into, or resolves to enter into, an arrangement, compromise or composition with any of, or any class of, its creditors or members, or an assignment for the benefit of any of, or any class of, its creditors, or process is filed in a court seeking approval of any such arrangement, compromise or composition;
 - (v) a reorganisation, moratorium, deed of company arrangement or other administration involving one or more of its creditors is proposed or effected;
 - (vi) any action is taken by the Australian Securities and Investments Commission with a view to its deregistration or its dissolution, or an application is made to the Australian Securities and Investments Commission that any such action be taken;
 - (vii) it is insolvent within the meaning of section 95A of the Corporations Act, states that it is unable to pay its debts or it is presumed to be insolvent under any applicable law;
 - (viii) as a result of the operation of section 459F(1) of the Corporations Act, it is taken to have failed to comply with a statutory demand;
 - (ix) it stops or suspends or threatens to stop or suspend the payment of all or a class of its debts;

- (x) any event or circumstance set out in section 461 of the Corporations Act occurs in relation to it; or
 - (xi) anything having a substantially similar effect to any of the events specified in paragraphs (a)(i) to (a)(x) of this definition happens to it under the law of any jurisdiction; and
- (b) for a person that is a natural person:
- (i) a bankruptcy notice is issued against the person;
 - (ii) a receiver or a trustee for creditors or in bankruptcy is appointed to any of the person's property;
 - (iii) the person proposes or enters into an arrangement or composition with, or an assignment for the benefit of, any of the person's creditors;
 - (iv) the person proposes or effects a moratorium involving any of the person's creditors;
 - (v) the person stops or suspends, or threatens to stop or suspend, the payment of all or a class of its debts;
 - (vi) the person is unable to pay all of the person's debts as they fall due or is presumed to be insolvent under any applicable law;
 - (vii) the person becomes an "insolvent under administration" as defined in section 9 of the Corporations Act; or
 - (viii) anything having a substantially similar effect to any of the events specified in paragraphs (b)(i) to (b)(vii) of this definition happens to the person under the law of any jurisdiction.

IP Rights means patents, rights to inventions, copyright and related rights, Moral Rights, trade marks and service marks, trade names and domain names, rights in get-up, rights to goodwill or to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights in confidential information (including know-how, trade secrets and marketing secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Moral Rights has the same meaning as that term has in Part IX of the Copyright Act.

Object Code means the executable version of a computer program.

Relevant IP means the IP Rights set out, described or referred to in Schedule 1.

Source Code means a computer program expressed in a source language or form that can be interpreted or compiled and then executed by a computer as commands, together with all documentation and tools reasonably required to enable a person having commercially available computer programming skills to read, understand and modify the computer program.

Stamp Duty means any stamp, transaction or registration duty or similar charge imposed by any Governmental Agency and includes any interest, fine, penalty, charge or other amount in respect of the above.

Warranty Time means the time of Completion and the time of delivery of any Documentation to the Assignee.

Works means all programs and programming and literary, dramatic, musical and artistic works within the meaning of the Copyright Act.

Interpretation

1.2 The following rules of interpretation apply in this deed unless the context requires otherwise:

- (a) headings in this deed are for convenience only and do not affect its interpretation or construction;
- (b) no rule of construction applies to the disadvantage of a party because this deed is prepared by (or on behalf of) that party;
- (c) where any word or phrase is defined, any other part of speech or other grammatical form of that word or phrase has a cognate meaning;
- (d) a reference to a document (including this deed) is a reference to that document (including any schedules and annexures) as amended, consolidated, supplemented, novated or replaced;
- (e) references to recitals, clauses, subclauses, paragraphs, annexures or schedules are references to recitals, clauses, subclauses, paragraphs, annexures and schedules of or to this deed;
- (f) in each schedule to this deed, a reference to a paragraph is a reference to a paragraph in that schedule;
- (g) a reference to any statute, proclamation, rule, code, regulation or ordinance includes any amendment, consolidation, modification, re-enactment or reprint of it or any statute, proclamation, rule, code, regulation or ordinance replacing it;
- (h) an expression importing a natural person includes any individual, corporation or other body corporate, partnership, trust or association and any Governmental Agency and that person's personal representatives, successors, permitted assigns, substitutes, executors and administrators;
- (i) a reference to writing includes any communication sent by post, facsimile or email;
- (j) a reference to time refers to time in Sydney, New South Wales and time is of the essence;
- (k) all monetary amounts are in Australian currency;
- (l) the word "**month**" means calendar month and the word "**year**" means 12 calendar months;
- (m) the meaning of general words is not limited by specific examples introduced by "**include**", "**includes**", "**including**", "**for example**", "**in particular**", "**such as**" or similar expressions;
- (n) a reference to a "**party**" is a reference to a party to this deed and a reference to a "**third party**" is a reference to a person that is not a party to this deed;
- (o) a reference to any thing is a reference to the whole and each part of it;