

NON-DISCLOSURE AGREEMENT

THIS NON-DISCLOSURE AGREEMENT (“Agreement”) is made on this day of ..., 2021 by and between:

CA Subodh Kumar Agrawal, being a registered insolvency professional bearing registration no. IBBI/IPA-001/IP- P00087/2017-2018/10183, and appointed as Interim Resolution Professional for **Ambient Computronics Private Limited** (“Company”) in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016 (“Code”), (“**Disclosing Party/IRP**”) of the **FIRST PART**;

And

.....company incorporated in and having its registered office at “**Recipient/ Resolution Applicant**”, which expression shall, unless excluded by or repugnant to the context or meaning thereof, include its successors, transferees and permitted assigns) of the **SECONDPART**.

(the Disclosing Party/ RP and the Recipient/ Resolution Applicant hereinafter also referred to individually as a “**Party**” and collectively as the “**Parties**”)

WHEREAS:

- A. Pursuant to the advertisement published by the IRP/RP in (.....newspapers.....), the IRP/RP had invited expressions of interest (“**EOI**”) from potential resolution applicants for the purpose of submission of resolution plans of the Company in accordance with the provisions of the Code. The Resolution Applicant, has accordingly, submitted its EOI to the IRP/RP on..... , 2021.
- B. As per the provisions of the Code, the Resolution Applicant has the right to submit a resolution plan for the Company to the RP. For the purpose of such preparation and submission of the resolution plan for the Company (“**Purpose**”), the IRP/RP is required to provide the Resolution Applicant with access to all relevant information in that respect, provided that the Resolution Applicant provides a Non-Disclosure Agreement to the IRP/RP with respect to such information provided.
- C. In view of the above, the RP will be sharing certain Confidential Information (*as defined in Clause 1 below*) with the Resolution Applicant and accordingly the Parties have agreed to enter into this Agreement and be bound by the terms and conditions hereinafter set forth governing, *inter-alia*, the disclosure, use and protection of such Confidential Information.

NOW THEREFORE THIS AGREEMENT WITNESSETH that for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. “**Confidential Information**” shall mean all information, whether in written, oral, pictorial, electronic, visual or other form relating, in any manner whatsoever, to the Company or to any group entity (including any holding, subsidiary, associate, joint venture or related entity) of the Company. Without prejudice to the generality of the foregoing, Confidential Information includes, without limitation :

- (i) any information which relates to the business, sales and marketing, operations, pricing arrangements, suppliers, customers, network, finance, technology, corporate, organisation, management, strategic initiatives and plans, policies and reports, of the Company;
- (ii) any drawing, calculation, specification, instruction, diagram, catalogue, manual, data, templates, models, prototypes, samples, presentations, proposals, quotations, computer programs, software;
- (iii) any unpatented invention, formula, procedures, method;
- (iv) any unregistered patent, design, copyright, trademark including any pending applications and any intellectual or industrial proprietary right vested in the Disclosing Party or in which Company has an interest of any kind;
- (v) any information belonging to identified third parties with whom the Company has business dealings; and
- (vi) any proposed business deals, contracts or agreements.

2. The Recipient shall at all times observe the following terms:

- (i) it shall hold in trust and in confidence the Confidential Information provided to the Recipient by the Disclosing Party;
- (ii) it shall not use the Confidential Information for any purpose other than for the Purpose mentioned in this agreement;
- (iii) it shall not disclose or reveal (or permit the disclosure or revelation of) any Confidential Information to any person or party whatsoever (save and except as provided below) without the prior consent of the Disclosing Party;
- (iv) it may disclose the Confidential Information to its employees, advisors, directors and/or its Affiliates (together the “**Representatives**”), strictly on a need to know basis and solely for the Purpose, provided always that, each of these Representatives shall, in the course of their duties be required to receive, observe and consider the confidentiality obligations set out hereunder when working towards the Purpose and shall be bound by confidentiality obligations that are at least as stringent as the obligations set out in this Agreement. The Recipient acknowledges that any agreement (written or otherwise) entered into between the Recipient and the employees/advisors would not discharge the Recipient from its confidentiality obligations under this Agreement. In any event, breach by any Representative of the Recipient shall be deemed as breach by the Recipient. For the purposes of this Agreement, the term “**Affiliate**” shall mean, with respect to the Recipient, any person or entity who is directly or indirectly Controlling, or is Controlled by, or is under the direct common Control of the Recipient and the term “**Control**” means a person who has the power to direct the management and policies of any person or entity, directly or indirectly, whether by ownership of voting securities, board control, by contract or otherwise. The terms “**Controlling**” and “**Controlled by**” or “**under common Control**” shall have corresponding meanings;
- (v) it shall use the same degree of care to protect the Confidential Information as the Recipient uses to protect its own confidential information but no less than a reasonable degree of care to prevent the unauthorised access, use, dissemination, copying, theft and/or republication of the Confidential Information;

- (vi) it shall at no time, discuss with any person, the Confidential Information or any other matter in connection with, or arising out of, the discussions or negotiations in relation to the Purpose (other than to the extent permitted hereunder);
 - (vii) it shall immediately, upon the earlier of (a) the conclusion of the Purpose; or (b) termination of this Agreement as per Clause 10 below; or (c) a notification by the Disclosing Party, surrender and return to the Disclosing Party, all Confidential Information and any notes, memoranda or the like, including any copies or reproductions in its possession, or destroy the same in accordance with the directives of the Disclosing Party, in each case, except to the extent, retention of such Confidential Information is required under applicable law, provided that the Recipient in these cases, shall notify the Disclosing Party of the information that has been retained as a result of such applicable law along with the corresponding details of the applicable law which warranted such retention;
 - (viii) it shall not publish any news release or make any announcements or denial or confirmation in any medium concerning this Agreement in any manner nor advertise or publish the same in any medium, without the prior written consent of the Disclosing Party; and
 - (ix) it shall promptly notify the Disclosing Party of any Confidential Information which has been lost or disclosed or used by any unauthorised third party provided that such notification shall not relieve the Recipient from any liability arising from its breach of this Agreement.
3. The Recipient shall not be liable for disclosure or use of the Confidential Information in the event and to the extent that such Confidential Information:
- (i) is or becomes available to the public domain without breach of this Agreement by the Recipient; or
 - (ii) is disclosed with the written approval of the Disclosing Party; or
 - (iii) was in the possession of the Recipient prior to its disclosure to them under this Agreement; or
 - (iv) is disclosed pursuant to any law or a court order or the stock exchange requirement provided that in the event the Recipient is required to make such disclosure in lieu of a court order/ stock exchange announcement, then in that case the Recipient shall, to the extent permissible, promptly notify the Disclosing Party in advance, so that the Disclosing Party has the opportunity to object to such disclosure or discuss the extent of disclosure by the Recipient.
4. The Recipient agrees that the Disclosing Party, by the disclosure of the Confidential Information to the Recipient, does not grant, express or implied, any right or license to use the Confidential Information for any purpose other than the Purpose contemplated under this Agreement or vest any intellectual property rights or legal or beneficial interest in the Confidential Information so disclosed to the Recipient.

5. The Recipient further agrees, acknowledges and confirms that the Confidential Information may contain certain unpublished price sensitive information under the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015 (“**Insider Trading Regulations**”), as amended, and thus, the Confidential Information shall be subject to the terms of such Insider Trading Regulations, if any applicable in this case.
6. For the avoidance of doubt, nothing in this Agreement shall compel the Disclosing Party to disclose to the Recipient, any or all the Confidential Information requested by the Recipient and the Disclosing Party shall, at all times during the subsistence of this Agreement, reserve the right to determine, in its sole discretion, whether it shall disclose such Confidential Information (in whole or part).
7. The Disclosing Party makes no representation, warranty or inducement, whether express or implied, as to the accuracy or completeness of the Confidential Information and shall not be liable to the Recipient for any damage arising in any way out of the use of, or termination of the Recipient’s right to use the Confidential Information.
8. The Recipient acknowledges that the Confidential Information is valuable to the Disclosing Party and that damages (including, without limitation, all legal fees and expenses on a solicitor and client basis) may not be a sufficient remedy for any breach of its obligations under this Agreement and the Recipient further acknowledges and agrees that the remedies of specific performance or injunctive relief (as appropriate) without the necessity of posting bond, guarantees or other securities, are appropriate remedies for any breach or threatened breach of its obligations under this Agreement, in addition to and without prejudice to, any other remedies available to the Disclosing Party at law or in equity.
9. The Recipient shall indemnify and hold harmless the Disclosing Party against all direct losses, damages and liabilities including but not limited to all legal fees and expenses arising from or connected with gross negligence or wilful misconduct caused by the Recipient and/or its Representatives.
10. The Recipient shall not, without prior written consent of the Disclosing Party, engage any advisor, whether professional, legal or otherwise, where a conflict of interest exists with the Disclosing Party in relation to the corporate insolvency resolution process of the Company.
11. This Agreement shall be effective and shall stay in force for a period of two (2) years from the date first stated above. Upon expiry of this Agreement, the confidentiality obligations of the Parties herein shall cease, provided that payment obligations if any that may arise under this Agreement (including under the indemnity Clause 9 above) shall survive the termination of this Agreement.

12. All notices and other communications provided for hereunder shall be: (i) in writing; and (ii) hand - delivered, sent through an overnight courier (if for inland delivery) or international courier (if for overseas delivery) to a party hereto or sent by electronic mail, at its address specified below or at such other address as is designated by such party in a written notice to the other parties hereto.

For Disclosing Party/ RP

Postal Address : Room No- 301, 1 Ganesh Chandra Avenue, Kolkata 700 013
Contact Person : CA Subodh Kumar Agrawal
Email : **subodhka@gmail.com**

Recipient/ Resolution Applicant

Postal Address :
Contact Person :
Email :

All such notices and communications shall be effective: (i) if hand-delivered, when delivered; (ii) if sent by courier, (a) one (1) business day after its deposit with an overnight courier if for inland delivery; and (b) 5 (five) calendar days after it deposit with an international courier if for an overseas delivery; and (c) if sent by registered letter, when the registered letter would, in the ordinary course of post, be delivered whether actually delivered or not; and (iii) if sent by electronic mail, when actually received in readableform.

13. If any provision of this Agreement is invalid or illegal, then such provision shall be deemed automatically adjusted to conform to the requirements for validity or legality and as so adjusted, shall be deemed a provision of this Agreement as though originally included. If the provision invalidated is of such a nature that it cannot be so adjusted, the provision shall be deemed deleted from this Agreement as though the provision had never been included, in either case, the remaining provisions of this Agreement shall remain in full force and effect.
14. No amendments, changes or modifications of any provision of this Agreement shall be valid unless made by a written instrument signed by a duly authorised representative of each of the Parties.
15. No failure or delay by any Party in exercising any right, power or privilege hereunder will operate as a waiver thereof, nor will any single or partial exercise thereof preclude any other exercise thereof or the exercise of any other right, power or privilege hereunder.
16. Neither Party may assign or transfer its rights or obligations contained in this Agreement or any interest therein without the prior written consent of the other Party.

17. This Agreement shall be governed by and construed in all respects according to the laws of the India and, the Parties hereto agree to submit to the exclusive jurisdiction of the Courts of Kolkata.
18. This Agreement comprises the full and complete agreement of the Parties hereto as at the date hereof with respect to the disclosure of Confidential Information and supersedes and cancels all prior communications, understandings and agreements between the Parties hereto, whether written or oral, expressed or implied.
19. The Disclosing Party acknowledges that, in the ordinary course of business, the Recipient is engaged through separate platforms in the origination of loans (including the provision of debt financing for transactions similar to the transactions contemplated herein) and syndicated bank debt, and nothing in this Agreement shall restrict such activities of such other platforms, provided that none of the Confidential Information is used or disclosed in connection therewith and such transactions are not in contravention with the corporate insolvency resolution process of the Company.
20. This Agreement may be executed in counterparts, each of which when taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorised representatives to set their hands the day and year first above written.

Signed by/
for and on behalf of
the Disclosing Party/ RP

Name: **Subodh Kumar Agrawal**
Designation: **Interim Resolution Professional for
Ambient Computronics Private Limited**

in the presence of

Name:
Designation:

Signed by
for and on behalf of
the Recipient/Resolution Applicant

in the presence of

Name:
Designation: