

EQUIPMENT LOAN AND EVALUATION AGREEMENT

This Agreement is dated the _____ day of _____ 2009.

Between: Avnet Pacific Pty Ltd (“Avnet”) - and - the person specified in the Schedule (“**the Borrower**”)

1. **Equipment:** Avnet agrees to lend and supply the equipment described in the Schedule (“the Equipment”). The Equipment shall be used only for the demonstration and evaluation purposes described in the Schedule.

2. **Title & Risk in the Equipment:** The Borrower acknowledges and agrees that:

- a. at all times the Equipment remains the property of Avnet but all risk of loss or damage to the Equipment will be borne by the Borrower and the Borrower shall insure the Equipment accordingly.
- b. it indemnifies Avnet fully against any loss, theft or damage to the Equipment.
- c. it will maintain the Equipment in good working order and condition at all times and not subject it to any adverse conditions; and
- d. it will take all necessary measures to safeguard the Equipment from damage, loss and theft.

3. **Pick up & Return of Equipment:** Unless otherwise agreed, the Borrower will at its own cost pick up the Equipment from Avnet and return it to Avnet. The Borrower must return the Equipment to Avnet within ten (10) days of the end of the Term (as defined in clause 11), upon termination of this Agreement, or upon Avnet’s written request to do so. If at the end of Term, Borrower does not, for whatever reason return Product to Avnet in good-working order or return with ten (10) days of the end of the Term, Borrower agrees (upon request by Avnet) that it shall purchase Product for the published list price. All packaging and materials supplied with the Equipment, including operating manuals and other documentation must be returned in good condition at the same time that the Equipment is returned to Avnet. To arrange return of the Equipment to Avnet, please call the relevant Avnet contact person (contact details on page 2 of this Agreement).

4. **Location of Equipment:** The Borrower agrees that it will at all times keep the Equipment at the location set out in the Schedule or any other address that is approved by Avnet.

5. **No reverse engineering:** The Borrower will not attempt or allow third parties to disassemble, decrypt, decompile, modify, reverse engineer or derive source code from the Equipment or part(s) thereof. Furthermore, the Borrower will not attempt or allow third parties to distribute the source code to any person. The Borrower will not remove any copyright or trade mark notices affixed to or contained in the Equipment or any part(s) thereof.

6. **Compliance with Reasonable Instructions:** The Borrower will comply with all reasonable instructions of Avnet relating to maintenance, security and operation of the Equipment and will inform Avnet immediately of any fault or breakdown in the Equipment.

7. **No Dealing with the Equipment:** The Borrower shall not sell or offer for sale, assign, mortgage, pledge, sub-let or lend out or part possession with or otherwise dispose of the Equipment, or any interest in it, and will not permit any such actions or allow the creation of any charge or lien over the Equipment or any part(s) thereof.

8. **No warranty:** To the full extent permitted by law, Avnet will not be liable to the Borrower for any loss or damage arising from the use of the Equipment, or any defect, in the Equipment, however it may arise. The Borrower hereby acknowledges that Avnet makes no representations of any kind concerning the merchantability or fitness of the Equipment, or any other representation concerning the Equipment.

9. **Disclaimer:** Avnet has no obligation to provide support, maintenance, upgrades, modifications or new releases under this Agreement. Avnet disclaims all liability and responsibilities pertaining to and arising under this Agreement as a result of Borrower integrating, connecting or networking the Equipment in any manner whatsoever. If technical advice or support is given or offered in connection with the use or implementation of any Equipment under this Agreement, it will be solely as an accommodation to the Borrower and without charge. Avnet shall have no responsibilities or liabilities whatsoever for the content or use of such advice.

10. **Exclusion of consequential losses and damages:** In no event will Avnet be liable to Borrower or any other person for special, consequential, indirect or incidental loss or damage of any kind or any direct loss or damage of any kind suffered or incurred by the Borrower or any other person in connection with the Equipment provided hereunder.

11. **Term & Termination:** The term (Term) for the loan of the Equipment is thirty (30) days from receipt of the Equipment from Avnet. The Term cannot be extended except in writing by Avnet’s authorised representatives. Either party may terminate this Agreement on five (5) working days written notice to the other party. Avnet may also terminate this Agreement immediately on written notice to the Borrower if the Borrower breaches any terms of this Agreement or the Borrower becomes or threatens to become subject to any form of external administration.

12. **Confidentiality:** the Equipment may contain valuable trade secrets proprietary to Avnet or Avnet's suppliers. Borrower shall safeguard the confidentiality of the Equipment and any evaluation results, using at least reasonable care. Borrower will disclose the Equipment and any related documentation only to those of its employees, contractors and consultants as are necessary for the use expressly authorized hereunder and only after such persons have agreed to be bound by the provisions of this Agreement.

13. **Governing Law:** This Agreement is governed by the laws of the State of New South Wales and the parties submit to the exclusive jurisdiction of the Courts of that State.

14. **No export:** Borrower understands and acknowledges that the Equipment provided hereunder may be used only in Australia and may not be exported.

15. **No assignment:** Neither the rights nor the obligations under this Agreement are assignable or transferable by the Borrower.

16. **Facsimile or electronic copy:** it is agreed that this Agreement may be executed and exchanged by facsimile or electronically scanned copy and will be deemed to be an original for the purposes of this Agreement.

Signed by the Borrower

Signature:

Signatory's Name:

Title:

Date:

*****Signed loan agreements to be faxed (02 8877 0702) or emailed back to Avnet as per following contact table:**

Vendor	Contact	Phone	Email
Juniper	David Jenkin	02 8907 4724	david.jenkin@avnet.com
IBM	Tasha Soltonovich	02 8877 0770	tasha.soltonovich@avnet.com
HP	Anthony Alleyn	02 8877 0779	anthony.alleyn@avnet.com
Google	Matin Kaddour	02 9816 8833	matin.kaddour@avnet.com
Data Domain	Matin Kaddour	02 9816 8833	matin.kaddour@avnet.com
Commvault	Matin Kaddour	02 9816 8833	matin.kaddour@avnet.com

SCHEDULE

Borrower's name and ABN	
Site address	
Description of purpose of loan & evaluation	
Quantity	
Equipment & Model number(s)	

<i>Office Use only:</i> Comments: Serial number (s):
--