
NON-DISCLOSURE AGREEMENT

BETWEEN

(1) DALETECH ELECTRONICS LTD

AND

(2)

DATED_

THIS AGREEMENT is made

BETWEEN:

(1) Daletech Electronics Ltd a company registered in England & Wales under number 2092372 whose registered office is at Regency House Valley Road Pudsey Leeds LS28 9EN (“the First Party”) and

(2) “The Second Party” is

Name	
Address	
Company registration number if applicable	

WHEREAS:

(1) The First Party wishes to disclose certain information to the Second Party for The Project to this Agreement which it wishes to keep confidential and wishes to prevent the Second Party from further disclosing to third parties.

(2) Further to the First Party’s disclosure, the Second Party will be required to disclose certain information to the First Party for The Project to this Agreement which it wishes to keep confidential and wishes to prevent the First Party from further disclosing to third parties.

(2) Both Parties hereby agree to keep confidential the Confidential Information (and any further information designated as confidential by either Party) subject to, and in accordance with, the terms and conditions of this Agreement.

IT IS AGREED as follows:

1. Definitions and Interpretation

1.1 In this Agreement, unless the context otherwise requires, the following expressions have the following meanings:

“**The Project**” means:

“Confidential Information” means any and all drawings, designs, specifications, models, samples, devices, manuals, reports, plans, diagrams, prototypes, computer programs, documentations and other things in which copyright subsists together with any and all information results, data, calculations, know-how and other things which are received by either party from the other during or as a consequence of any exchange of information or discussions, (verbally or visually transmitted information to be confirmed in writing within thirty days of its disclosure) but shall not include anything which:-

- a) was already properly and provably in the possession of the Receiving Party or
- b) was already in the public knowledge at the time it was received from the other party hereto or
- c) subsequently becomes public knowledge through no default on the part of the Receiving Party or
- d) is received from a third party having good legal title thereto and not under any obligation of confidentiality or
- e) is independently acquired by the Receiving Party as a result of work carried out by or for the Receiving Party by personnel to whom no disclosure of the relevant Confidential Information has been made.

“Disclosing Party” means either Party to this Agreement when disclosing Confidential Information to the other Party

“Intellectual Property Rights” means (a) any and all rights in any patents, trade marks, service marks, registered designs, applications (and rights to apply for any of those rights) trade, business and company names, internet domain names and e-mail addresses, unregistered trade marks and service marks, copyrights, database rights, know-how, rights in designs and inventions;

(b) rights under licences, consents, orders, statutes or otherwise in relation to a right in paragraph (a);

(c) rights of the same or similar effect or nature as or to those in paragraphs (a) and (b) which now or in the future may subsist; and

(d) the right to sue for past infringements of any of the foregoing rights; and

“Receiving Party” means either Party to this Agreement when receiving Confidential Information from the other Party;

- 1.2 Unless the context otherwise requires, each reference in this Agreement to:
- 1.2.1 "writing", and any cognate expression, includes a reference to any communication effected by electronic or facsimile transmission or similar means;
 - 1.2.2 a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;
 - 1.2.3 "this Agreement" is a reference to this Agreement and each of the Schedules as amended or supplemented at the relevant time;
 - 1.2.4 a Schedule is a schedule to this Agreement;
 - 1.2.5 a Clause or paragraph is a reference to a Clause of this Agreement (other than the Schedules) or a paragraph of the relevant Schedule; and
 - 1.2.6 a "Party" or the "Parties" refer to the parties to this Agreement.
- 1.3 The headings used in this Agreement are for convenience only and shall have no effect upon the interpretation of this Agreement.
- 1.4 Words imparting the singular number shall include the plural and vice versa.
- 1.5 References to any gender shall include the other gender.
- 1.6 References to persons shall include corporations.

2. Disclosure

- 2.1 The Confidential Information to be disclosed by the Parties to one another following the execution of this Agreement contains and incorporates confidential information in which each respective Party has an interest.
- 2.2 The Receiving Party shall, subject to the provisions of Clause 6, at all times maintain as confidential and shall not use any part or the whole of the Confidential Information directly or indirectly for any purposes other than The Project without the express written consent of the Disclosing Party.
- 2.3 Following the conclusion of The Project or otherwise upon demand by the Disclosing Party, the Receiving Party shall return all Confidential Information forthwith to the Disclosing Party and shall further provide a certificate to the Disclosing Party certifying that no copies of the Confidential Information have been made or retained.

3. Employee Undertakings

- 3.1 Each Receiving Party shall obtain from any and all of its employees to whom the Confidential Information or any part of it is to be disclosed or to whom the Confidential Information may be accessible, enforceable undertakings which are binding upon those employees to the same extent as this Agreement is binding upon the Receiving Party.
- 3.2 Neither Party shall disclose any Confidential Information until any and all undertakings as described in sub-Clause 3.1 have been obtained by both Parties.

4. Third Party Disclosure and Undertakings

- 4.1 In the event that either Receiving Party requires or otherwise engages the services of a third party who is not an employee and that third party reasonably requires access to the Confidential Information in accordance with the Stated

Purposes, that Receiving Party must not disclose the Confidential Information or any part of it to the third party:

- 4.1.1 without the express written consent of the Disclosing Party; and
 - 4.1.2 without first obtaining an enforceable undertaking from the third party which is binding upon the third party to the same extent as this Agreement is binding upon the Receiving Party.
- 4.2 The Disclosing Party shall not grant the consent referred to in sub-Clause 4.1.1 without evidence of the third party undertaking set out in sub-Clause 4.1.2

5. **Proprietary Rights**

The Confidential Information and all Intellectual Property Rights subsisting therein shall remain the property of the respective Disclosing Party and the disclosure of the Confidential Information shall not confer upon the Receiving Party any rights whatsoever in any part of the Confidential Information.

6. **Exceptions to Non-Disclosure and Confidentiality**

The obligations of confidentiality set out in this Agreement shall not apply to any information where it can be proven using documentary evidence produced by the Receiving Party which:

- 6.1 is already known to, or in the possession of, the Receiving Party at the time of its disclosure by the Disclosing Party, and the Receiving Party is free of any obligations of confidentiality with respect to the same;
- 6.2 is, or becomes through no wrongful act or default of the Receiving Party, public knowledge;
- 6.3 is received from a third party free of any similar obligations of confidentiality, provided such receipt is not of itself a breach of this Agreement or any similar agreement between that third party and the Disclosing Party];
- 6.4 is already in the possession of the Receiving Party having been independently developed by the Receiving Party;
- 6.5 is disclosed to a third party by the Disclosing Party free of any similar obligations of confidentiality; or
- 6.6 is approved for disclosure in writing by the Disclosing Party.

7. **Term and Termination**

The obligations of Non-Disclosure set forth in this Agreement shall apply for a period of five years from the date of this Agreement.

8. **Limitation of Liability**

Neither Party, nor any of their respective employees, officers, agents, subsidiaries or any other third parties associated therewith accepts any responsibility or liability for, or makes any representation or warranty, express or implied, that the Confidential Information disclosed by either Party is accurate or complete.

9. **Non-Assignment of Agreement**

Neither Party may assign, transfer, sub-contract, or in any other manner make over to

any third party the benefit and/or burden of this Agreement without the prior written consent of the other Party, such consent not to be unreasonably withheld.

10. Communication

- 10.1 All notices under this Agreement shall be in writing and be deemed duly given if signed by the Party giving the notice or by a duly authorised officer thereof, as appropriate.
- 10.2 All notices under this Agreement shall be addressed to the most recent address, e-mail address, or facsimile number notified to the other Party.

11. Force Majeure

Neither Party to this Agreement shall be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, Internet Service Provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the Party in question.

12. Further Assurance

Each Party shall execute and do all such further deeds, documents and things as may be necessary to carry the provisions of this Agreement into full force and effect.

13. Costs

Subject to any provisions to the contrary each Party to this Agreement shall pay its own costs of and incidental to the negotiation, preparation, execution and carrying into effect of this Agreement.

14. Relationship of the Parties

Nothing in this Agreement shall constitute or be deemed to constitute a partnership, joint venture, agency or other fiduciary relationship between the Parties other than the contractual relationship expressly provided for in this Agreement.

15. Third Party Rights

- 15.1 No part of this Agreement is intended to confer rights on any third parties and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement.
- 15.2 Subject to this Clause 17 this Agreement shall continue and be binding on the transferee, successors and assigns of either Party as required.

16. Entire Agreement

- 16.1 This Agreement contains the entire agreement between the Parties with respect to its subject matter and may not be modified except by an instrument in writing signed by the duly authorised representatives of the Parties.
- 16.2 Each Party acknowledges that, in entering into this Agreement, it does not rely on any representation, warranty or other provision except as expressly provided

in this Agreement, and all conditions, warranties or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

17. Severance

The Parties agree that, in the event that one or more of the provisions of this Agreement is found to be unlawful, invalid or otherwise unenforceable, that / those provisions shall be deemed severed from the remainder of this Agreement. The remainder of this Agreement shall be valid and enforceable.

18. Law and Jurisdiction

18.1 This Agreement (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of England and Wales.

18.2 Subject to the provisions of Clause 20, any dispute, controversy, proceedings or claim between the Parties relating to this Agreement (including any non-contractual matters and obligations arising therefrom or associated therewith) shall fall within the jurisdiction of the courts of England and Wales.

THIS Agreement has been duly executed the day and year first before written

SIGNED by

for and on behalf of Daletech Electronics Ltd

SIGNED by

for and on behalf of