

## MUTUAL NON-DISCLOSURE AGREEMENT

<b>FIRST PARTY</b>	Theta Technologies Limited registered in England and Wales with limited liability under number 6137537 whose registered office is at the Innovation Centre, University of Exeter, Rennes Drive, Exeter EX4 4RN
<b>SECOND PARTY</b>	
<b>DATE OF AGREEMENT</b>	
<b>PERMITTED PURPOSE</b>	The conduct of research and the development and manufacture of non-destructive acoustic test equipment
The Parties have agreed to furnish Confidential Information to each other for the Permitted Purpose and only in accordance with the terms of this Agreement.	

Duly Authorised and Signed on behalf of Theta Technologies Limited  Sign: .....  Print Name: .....  Position: .....	Duly Authorised and Signed on behalf of the Second Party  Sign: .....  Print Name: .....  Position: .....
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## TERMS AND CONDITIONS

### 1. Interpretation

1.1. In this Agreement the following words and expressions shall, unless the context requires, have the following meanings:

- “Agreement”** these terms and conditions and the Front Sheet;
- “Confidential Information”** means any and all technical, financial and/or other information which is proprietary to the Disclosing Party (or which the Disclosing Party is obliged to keep secret but is entitled to disclose on the terms of this Agreement) including (without limitation) information comprising or relating to IPR, trade secrets, analyses, compilations, forecasts, studies, inventions, designs, drawings and other material relating to the same, private financial information including (without limitation) business and marketing plans, business methods, pricing policies, product ideas and other business, technical, marketing or operating information, whether disclosed orally or in written hard copy or electronic form or in or on any other medium or format;
- “Disclosing Party”** a Party disclosing Confidential Information;
- “Front Sheet”** the front sheet attached to these terms and conditions;
- “IPR”** intellectual property rights of all kinds including (without limitation) copyright, registered designs, design rights, trademarks and service marks (whether registered or not), patents, know-how and database rights together with any overseas equivalent and the right to register, protect and exploit the same anywhere in the world;
- “Party”** any one of the parties to this Agreement whose particulars are detailed on the Front Sheet and **“Parties”** shall mean both such parties;
- “Permitted Purpose”** the purpose as detailed on the Front Sheet;
- “Recipient Party”** a Party receiving Confidential Information.

1.2. In this Agreement, where the context requires, a reference to a person shall include (without limitation) a reference to any individual, company, partnership, trust, association, government, non-departmental government body or local authority department or other authority or body (whether corporate or unincorporated).

## **2. Non-Disclosure**

In consideration of the Disclosing Party disclosing Confidential Information to the Recipient Party, the Recipient Party agrees:

- 2.1. To use the Confidential Information only for the Permitted Purpose;
- 2.2. To keep the Confidential Information confidential and (subject to clause 2.3) not to disclose the Confidential Information in whole or in part directly or indirectly in any manner whatsoever to any other person;
- 2.3. To disclose the Confidential Information only to such persons as necessarily need to know the Confidential Information for the Permitted Purpose and who either, prior to receiving the Confidential Information, have expressly agreed in writing to maintain its confidentiality, using it only for the Permitted Purpose and treating it as set out in clause 3, or are already subject to a binding obligation to maintain the confidentiality of the Confidential Information and to use it only for the Permitted Purpose by virtue of being employees of the Recipient Party;
- 2.4. To enforce the obligations and agreements referred to in clause 2.3 strictly and expeditiously;
- 2.5. To indemnify the Disclosing Party against any claim, damage, loss, cost and/or expense of any kind incurred by the Disclosing Party as a consequence of or in connection with any breach of this Agreement by the Recipient Party or any person to whom a disclosure has been made under clause 2.3.

## **3. Treatment of Confidential Information**

The Recipient Party shall:

- 3.1. keep a record of the location of hard or electronic copies of the Confidential Information and details of each person who has been given access to it pursuant to the provisions of clause 2.3;
- 3.2. only make copies of the Confidential Information to the extent that such copies are strictly required for the Permitted Purpose;
- 3.3. not use, reproduce or store any of the Confidential Information in an externally accessible computer or electronic information retrieval system unless the relevant computer or electronic system has reasonable security to prevent unauthorised or accidental access to the Confidential Information;
- 3.4. comply as expeditiously as possible with any request from the Disclosing Party to return to the Disclosing Party or to destroy the Confidential Information and all copies, records, adaptations or variations thereof without retaining any copies.

## **4. Limitation of the obligations of the Recipient Party**

- 4.1. Clauses 2 and 3 shall not apply to Confidential Information:

- 4.1.1. which was known to the Recipient Party prior to its communication by or through the Disclosing Party; or
  - 4.1.2. which is or becomes in the public domain, except through any act or failure of the Recipient Party or of any person to whom a disclosure has been made by the Recipient Party under clause 2.3; or
  - 4.1.3. which becomes known to the Recipient Party by the action of another person not in breach of any obligation of confidentiality owed to the Disclosing Party; or
  - 4.1.4. which is required to be disclosed pursuant to any law, regulation, rule, order or ordinance of any governmental body or court having jurisdiction over either Party or the subject matter of the Confidential Information, provided that the Recipient Party has given prompt written notice to the Disclosing Party of any such requirement prior to any such disclosure of Confidential Information so that the Disclosing Party may contest such requirement, if it wishes.
- 4.2. Without prejudice to the generality of clause 4.1, Confidential Information shall not be deemed to be in the public domain by reason of its being known to only a few of those people to whom it might be of commercial interest; and a combination of two or more portions of the Confidential Information shall not be deemed to be in the public domain by reason only of each portion being available separately; and a combination of two or more portions of the Confidential Information shall not be deemed to have been already known to the Recipient Party prior to its communication by or through the Disclosing Party unless the Recipient Party can prove by documentary evidence that the separate portions had previously been combined by the Recipient Party and the significance of the combination was known to the Recipient Party prior to the date of this Agreement.

## **5. Limitation of Liability**

- 5.1. The Recipient Party acknowledges that the Disclosing Party makes no express or implied representation, warranty or undertaking as to the accuracy, efficacy, completeness, capabilities or safety of any Confidential Information provided under this Agreement.
- 5.2. The Disclosing Party expressly disclaims any and all liability that may be based on any reliance on Confidential Information and any errors in or omissions from it.
- 5.3. Nothing in this Agreement shall exclude or restrict the liability of either Party for fraudulent misrepresentation and/or for death or personal injury resulting from the negligence of such Party or any of its officers, subcontractors, agents or employees.

## **6. IP Ownership and Rights**

- 6.1. The Recipient Party acknowledges and agrees that any Confidential Information disclosed by the Disclosing Party belongs to the Disclosing Party (unless and to the extent that the Disclosing Party indicates otherwise).
- 6.2. Neither the execution and delivery of this Agreement nor the furnishing of any of the Confidential Information by the Disclosing Party shall be construed as granting to the Recipient Party, expressly or by implication, any licence or rights other than those expressly set out in this Agreement.

## **7. General**

- 7.1. No failure or delay by either Party in exercising any right, power or privilege hereunder shall operate as a waiver of the same nor shall any single or partial exercise of the same preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder.
- 7.2. No variation to this Agreement shall be effective unless in writing and signed by a duly authorised representative on behalf of both Parties.
- 7.3. This Agreement shall be governed by and construed in accordance with the laws of England.
- 7.4. This Agreement contains the entire understanding between the Parties relating to the protection of the Confidential Information and supersedes all prior and collateral communications, reports and understandings between the Parties relating thereto.
- 7.5. The Recipient Party may not assign or transfer any rights or obligations under this Agreement without the prior written consent of the Disclosing Party.
- 7.6. No person other than a Party to this Agreement shall be entitled to enforce any term of this Agreement.
- 7.7. Nothing in this Agreement shall be deemed to oblige either Party to negotiate or enter into any other agreement between the Parties.