

# CONFIDENTIALITY AGREEMENT

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## CONFIDENTIALITY AGREEMENT

**BETWEEN**     **DIGILOG ELECTRONICS LIMITED**                     (“Digilog”)  
**AND**     (“Collaborator”)

### BACKGROUND

- A.     Digilog owns intellectual property and has developed technology which could be integrated into or developed to work with Collaborator ‘s products
- B.     Collaborator owns the designs to products which it may want to integrate into or have work with technology developed by Digilog.
- C.     The parties have agreed to make certain confidential information available to each other so that the parties may decide if they wish to work together.

### OPERATIVE PART

#### 1.     DEFINITIONS

- 1.1     Unless the context otherwise requires, the following expressions shall have the following meanings:

“**Agreement**” means this agreement and the schedules attached to it or incorporated into it by reference;

“**Commencement Date**” means the date of this Agreement;

“**Confidential Information**” means information which is or has been disclosed by one party to the other party, including, without limitation, data and know-how, whether technical or not, which relates to the research, development or business activities of the parties, information about the parties’ respective organisations, operations, administration, methods, business, finances, customers, clients and shareholders (and similar information concerning any of the parties’ respective subsidiaries or associated companies); but does not include any information which is:

- (a)     on receipt by the recipient in the public domain or which subsequently enters the public domain without any breach of this Agreement;
- (b)     on receipt by the recipient already known by the recipient;
- (c)     required by law to be disclosed by the recipient;

“**Purpose**” means assessing the viability of technology developed by Digilog working with products developed by Collaborator.

#### 2.     TERM

- 2.1     This Agreement shall commence on the Commencement Date and shall continue in perpetuity.

#### 3.     CONFIDENTIAL INFORMATION

- 3.1     In consideration of each party disclosing the Confidential Information to the other, each party shall keep confidential all Confidential Information (including the existence of such Confidential Information) in accordance with this Agreement.

- 3.2     The parties further agree:

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- (a) that the Confidential Information, and all copyright and other intellectual property rights in the Confidential Information, at all times remains with and belongs to the disclosing party, notwithstanding the disclosure under this agreement.
- (b) to take all steps to prevent any unauthorised use or disclosure of the other's Confidential Information, except to the extent that disclosure is permitted under the terms of this agreement;
- (c) not to use any Confidential Information for any purpose other than the purpose it was provided or as subsequently directed by the other party; or
- (d) not to copy or reproduce any Confidential Information in any way.

#### 4. DISCLOSURE

- 4.1 Neither party shall disclose the Confidential Information to any person except as permitted under clause 4.2.
- 4.2 Each party shall restrict the disclosure of the Confidential Information to those of its directors, employees, contractors, sub-contractors and agents ("Representatives") who genuinely require the Confidential Information for the Purpose.
- 4.3 Each party shall within five days of receiving written notice from the other party return to the other party or destroy (and provide written certification of this fact to the other party) all copies of the Confidential Information and will certify that it has done so.
- 4.4 Each party must, before disclosing the Confidential Information under clause 4.2, ensure that each Representative will deal with the Confidential Information as though that Representative had the same obligations of confidentiality as the parties have under this Agreement, provided that a party shall be liable for any disclosure of the Confidential Information made by a Representative as if the party had made the disclosure.

#### 5. BREACH

- 5.1 Each party acknowledges that, in the event of any breach of this agreement by one party or by any of its Representatives, the other party shall be entitled to equitable relief, including without limitation, an injunction, in addition to damages.
- 5.2 As a separate and independent undertaking, each party (the "indemnifying party") agrees to indemnify the other (the "indemnified party"), and each of the indemnified party's directors, officers, employees and advisors against any losses, costs, claims, damages, expenses, liabilities, proceedings or demands which any of them may incur or suffer as a result of any breach of this agreement by the indemnifying party, or any of its Representatives.

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### 6. ASSIGNMENT

- 6.1 Neither party may assign its rights under this Agreement without the prior written consent of the other party.

### 7. ENTIRE AGREEMENT

- 7.1 This Agreement constitutes the complete and exclusive statement of the agreement between the parties, superseding all proposals or prior agreements, oral or written, and all other communications between the parties relating to the subject matter of this Agreement.

### 8. WAIVER

- 8.1 No exercise or failure to exercise or delay in exercising any right or remedy by a party shall constitute a waiver by that party of that or any other right or remedy available to it.

### 9. NON-MERGER

- 9.1 The agreements, obligations and warranties contained in this Agreement shall not merge on completion of the transactions contemplated by it, but will remain in full force until satisfied.

### 10. PARTIAL INVALIDITY

- 10.1 If any provision of this Agreement or its application to any party or circumstance is or becomes invalid or unenforceable to any extent, the remainder of this Agreement and its application shall not be affected and shall remain enforceable to the greatest extent permitted by law.

### 11. GOVERNING LAW

- 11.1 This Agreement shall be governed by New Zealand law, and the parties submit to the non-exclusive jurisdiction of the courts of New Zealand.

**EXECUTED** as an agreement on: \_\_\_\_\_

Day

Month

Year

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**SIGNED** by

\_\_\_\_\_  
Name or designation

\_\_\_\_\_  
As Collaborator Entity  
in the presence of:

\_\_\_\_\_  
Name or designation

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Occupation

\_\_\_\_\_  
City/town of residence

**SIGNED** by **DIGILOG ELECTRONICS  
LIMITED** in the presence of:

\_\_\_\_\_  
Director

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Director

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Occupation

\_\_\_\_\_  
City/town of residence