



Elektromotorji in gospodinjski aparati, d.o.o.  
Otoki 21, 4228 Železniki

## NON-DISCLOSURE AGREEMENT

N<sup>o</sup>.: \_\_\_\_\_

**Effective Date:** The effective date of the Agreement is: \_\_\_\_\_

Agreed between:

**Domel Elektromotorji in gospodinjski aparati, d.o.o., Otoki 21, 4228 Železniki, Slovenia,**  
Identification No.: 5045401, tax No.: SI47263512, represented by the director Matjaž Čemažar  
(hereinafter referred to as the owner or DOMEL)

and

\_\_\_\_\_

Identification N<sup>o</sup>. \_\_\_\_\_, tax N<sup>o</sup>.: \_\_\_\_\_, represented by director \_\_\_\_\_, (hereinafter referred to as the Company)

DOMEL and Company may be referred to individually as a "Party" and, collectively as the "Parties".

### Recitals

The Parties enter into this Non-Disclosure Agreement as a consequence of the need to exchange Confidential Information and in order to stipulate the mutual rights and obligations with regard to the protection of Confidential Information.

THEREFORE, the Parties agree as follows, intending to be legally bound:

### 1. Definitions

Unless the context or circumstances clearly suggest otherwise, the following capitalized terms shall have the meanings stated below:

**"Confidential Information"** means all data and proprietary or confidential information (regardless of the communication mode) in relation to the Disclosing Party's general business operations, technology and products or their manufacture which is owned by, or which is in the possession of, the Disclosing Party and which the Disclosing Party is entitled to disclose and which proprietary or confidential information is disclosed to or obtained by the Receiving Party pursuant to this Agreement in any form (including but not limited to all written, oral, visual information or data, business data, reports, studies, drawings, designs, specifications, samples, analyses or other material recorded in whatever form or medium), whether or not such information is marked "confidential" or not as long as the Receiving

Party knew or ought reasonably to have known that the information is of a confidential or proprietary nature;

**"Disclosing Party or Discloser"** means a Party that has disclosed or will disclose Confidential Information in connection with this Agreement;

**"Receiving Party or Recipient"** means the receiving party or the addressee of the Confidential Information under this Agreement (including suppliers, subcontractors, manufacturers of production and inspection equipment, tools and machines as well as everyone involved in the planning process, according to the owner's discretion)

**"Documentation"** means all documentation relating to the Purpose of this Agreement, including but not limited to reports, descriptions and specifications;

**"Affiliate"** means any corporation, partnership, or other entity that, directly or indirectly, owns, is owned by, or is under common ownership with, such Party hereto, for so

long as such ownership exists. For the purposes of the foregoing, "own," "owned," or "ownership" shall mean ownership of more than fifty percent (50%) of the stock or other equity interests entitled to vote for the election of directors or an equivalent governing body.;

“**Agreement**” means this Non-Disclosure Agreement;

## **2. Purpose of the Agreement**

The aim of the agreement is to guarantee that Confidential Information is not communicated to third parties, except specially agreed otherwise in writing.

The Parties enter into this Non-Disclosure Agreement as a consequence of the need to exchange Confidential Information and in order to stipulate the mutual rights and obligations with regard to the protection of Confidential Information.

The Parties agree to exchange Confidential Information on the terms and conditions set forth in this Agreement, for the sole Purpose of \_\_\_\_\_.

Both Parties agree that the Recipient will deem any information sent or communicated by the Disclosing Party as confidential, regardless of whether it is designated as confidential at the time of disclosure or not.

## **3. Confidential data protection**

The Recipient shall undertake to use the Confidential Information exclusively in compliance with the Purpose set forth under Article 2 of this Agreement and in no case will use the Confidential Information contrary to the Purpose or for own benefit, nor will it facilitate its use by third parties.

Both Parties are bound to guarantee that I written or verbal Confidential Information or business data which are subjects of this contract shall not be disclosed to third parties. The list of Confidential Information includes in particular (but not limited):

- written or verbal information which the owner classifies as confidential,
- business discussions during the contract validity term,
- documents, letters, meeting minutes and e-mails,
- technical documentation, measurement and other reports, calculations and studies, drafts, photographs, and plans,
- lists of suppliers, specifications of material and tools, tools technical,
- know-how, inventions and ideas,
- promotional and presentational material, price information,
- other documentation.

The Receiving Party shall undertake:

- not to forward or disclose the Confidential Information to third parties in any way or facilitate their access to trade secrets;
- to handle the Confidential Information of the Disclosing Party as its own Confidential Information designated as trade secret and in any case at least as carefully as required by the standard of due diligence of an expert;
- to disclose the received Confidential Information only to those employees who need it for the performance of their professional tasks, but only to the extent necessary with regard to the Purpose; the Recipient will be permitted to disclose the Confidential Information to the extent necessary for their work to its lawyers, accountants, consultants, insurance agents and authorised representatives if the trade secrets of the Recipient are disclosed to them for the purpose of their work and if the Recipient has notified them of its confidential nature in advance, but only under the precondition that they have signed a non-disclosure agreement which comprises at least the commitments set forth in this Agreement;
- to prevent access to the Confidential Information by all employees, contract workers and other contractors who do not need it for their work;
- to promptly notify the Disclosing Party of any attempt of unauthorized access to the Confidential Information or of any other violation of this Agreement;
- not to analyse and/or have analysed samples, including but not limited to reverse engineering or any observation of

the chemical composition and/or physical characteristics, made available by Disclosing Party under this Agreement, unless otherwise agreed upon in writing or corresponding products are made available commercially. Obtaining information and/or data related to the form, fit and function of the samples by testing the samples for the purposes of the Project will not be deemed analysis of the samples. However, any findings, data, conclusions and other pertinent information obtained during such testing of samples will be deemed to have been disclosed to Receiving Party by Disclosing Party as Confidential Information for the purposes of this Agreement and will be subject to all relevant provisions of this Agreement;

- to promptly return the received Confidential Information to the Disclosing Party after it no longer needs them or on first request by the Disclosing Party and to destroy all the copies. This also applies if early termination of cooperation between both parties occurs for any reason.

The Recipient shall undertake to notify all of its employees or outworkers referred to under Paragraph 2, third indent, above of the contents of this Agreement prior to granting them access to the Confidential Information. The Recipient shall be held fully liable to the Disclosing Party for any breach committed by its employees and contract partners who had been legitimately granted access to the Confidential Information in compliance with the provisions of this Agreement.

The Recipient shall undertake to only use the information for its own needs and not to develop or apply – on the basis of such information – any software or hardware which could in any way compete with the software or hardware of the Disclosing Party, except if an explicit written consent is granted by the Disclosing Party. Neither will use the Confidential Information to develop, build or design a product which would compete with the Purpose referred to under article 2 of this Agreement.

The Recipient will refrain from any action by virtue of which it could comprehend the structure and functionality of any source code or product of the Disclosing Party, received as Confidential Information under this Agreement.

#### **4. Ownership of results and intellectual property**

All R&D results including, know-how, copyrights and intellectual property rights acquired prior to the conclusion of this Agreement shall remain the property of each individual party.

Each individual party shall be granted all the rights including, but not limited, any research and development results, intellectual property rights, copyrights, etc. attained of its own.

For the results of the development work attained by both parties, during the time of validation of this Agreement, the parties shall be granted their rights in proportion to their respective contributions to the attainment of the result. In such case, the parties will – by virtue of a special agreement – agree on the protection of intellectual property and on the resulting rights. Each party shall have pre-emptive right on the other party's share of the rights of intellectual property, which will be attained within the framework of this project.

#### **5. Exclusions**

Information received from the Discloser shall not be deemed to be Confidential Information if:

- a. the information is or becomes available to the public without breach of this Agreement by the Recipient;
- b. the Discloser agrees in writing that it can be disclosed by Recipient to a third party without restriction;
- c. had already been lawfully obtained by the Recipient before it received it from the Discloser;
- d. was disclosed to the Recipient by a third party, which was entitled to do so;
- e. the information is independently developed by employees of Recipient without use of the Confidential Information.

A disclosure of Confidential Information by the Recipient in response to a valid order by a court or governmental body or as otherwise required by law shall not be considered to be a breach of this Agreement; provided, however, that the Recipient shall provide prompt prior written notice thereof to the Discloser (including notice as to the extent and type of

information to be disclosed) in order to allow the Discloser to seek a protective order or to utilize other available procedures to protect such Confidential Information. Recipient agrees to provide reasonable assistance to the Discloser in protecting any such disclosure.

## **6. Confidentiality Period**

This Agreement shall enter into force on the date of signature of the last signing Party and shall remain in force for a period of five (5) years thereafter during which period the exchange of Confidential Information shall take place. The confidentiality and non-use obligations and all other obligations under this Agreement shall remain in force, however, for a period of ten (10) additional years after the termination of this Agreement.

In no case does the present Agreement oblige the parties neither to disclose trade secrets nor to receive Confidential Information. The parties will implement the present Agreement only to the extent required in accordance with the Purpose.

## **7. Affiliates**

Both Parties agree that Confidential Information, as described herein, disclosed by an Affiliate to a Party, by a Party to an Affiliate or between Affiliates will be governed by this Agreement, and that the Recipient is permitted to disclose Confidential Information to any of its Affiliates who have a reasonable need for such information for the purpose set forth in this Agreement. The Parties shall ensure that such Affiliates comply with the provisions of this Agreement.

## **8. Assignment**

Neither Party shall assign or transfer the Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party.

## **9. No Waiver**

Failure to enforce or delay in enforcing any provision of this Agreement will not constitute a waiver of any rights under any provisions of this Agreement

## **10. Controlling Law and Dispute Resolution**

This Agreement and all questions concerning the validity, interpretation or performance of any of its terms or provisions, or of any rights or obligations of the Parties hereto, shall be governed by and resolved in accordance with the substantive law of Germany/Austria without regards to its principles of conflict of laws.

Any dispute, controversy or claim arising out of or in connection with this Agreement, or the breach, termination or invalidity thereof, shall be finally settled by arbitration in accordance with the rules of International Chamber of Commerce (ICC). The arbitral tribunal shall be composed of three (3) arbitrators. The place of arbitration shall be Munich, Germany / Vienna, Austria. The arbitration shall be conducted, and the award shall be rendered, in the English language, and the arbitration shall be required to issue a reasoned written decision with respect to any determination.

Arbitration shall be in lieu of all other remedies and procedures available to the Parties; provided, however, that either Party may, to the extent possible and permissible under applicable law, seek preliminary injunctive relief prior to commencement of arbitration solely for the purpose of maintaining the status quo pending or to secure immediate injunctive or other equitable relief.

Both parties agree that eventual disputes arising from this contract are to be solved in agreement.

## **11. Breach of secrecy**

In the event of a breach of professional secrecy, the Contracting Party at fault shall be required to pay to the non-defaulting party a contractual penalty of € 1.000,00. If the damage suffered exceeds the contractual penalty, the Contracting Party at fault shall be required to pay to the non-defaulting party the contractual penalty as well as compensation for any damage exceeding the contractual penalty within 15 days of receiving a reasoned request from the non-defaulting party.

If the above-mentioned terms are not respected, the owner has the right to enforce

the protection of its rights in the competent court of law and the right to appropriate compensation.

## 12. Final provisions

As concerns Confidential Information, the Disclosing Party makes no warranties and is not liable for any flaws concerning it. In particular, it does not guarantee for accuracy, absence of flaws, non-existence of third-party rights to the Confidential Information and suitability for use – all within the scope permitted by the law.

The Parties agree that this Agreement does not obligate either Party to enter into any further agreements with the other Party.

The Disclosing Party guarantees that it is entitled to disclose the Confidential Information to the Recipient.

If any provision of this Agreement, or the application of such provision, is invalid or unenforceable under any applicable statute or rule of law, the remaining provisions of this Agreement shall remain in full force and effect. The failure by either Party to enforce any provision of this Agreement or to exercise any right in respect thereto shall not be construed as constituting a waiver of its right hereunder.

The changes and additional clauses to this agreement are only allowed in written form.

This Agreement may be executed by the Parties in any number of counterparts, each of which is an original but all of which together constitute one and the same instrument (whether originally signed or through facsimile, scan or other electronic copies of such signatures). Any Party may enter into this Agreement by executing any such counterpart.

**IN WITNESS WHEREOF**, DOMEL and the COMPANY hereby execute this Agreement.

DOMEL, d.o.o., Železniki  
Matjaž Čemažar, M.Sc

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\_\_\_\_\_

\_\_\_\_\_  
/town/city and date/

/authorized signature/

\_\_\_\_\_  
/town/city and date/

/authorized signature/