

# **Non-Disclosure Agreement**

(mutual)  
between

**Trung Bùi**  
**701- V4 The Vesta**  
**Phu Lam, Ha Dong, Hanoi**  
**Vietnam**

- hereinafter also Trung Bùi -

and

**clevabit GmbH**  
**Neuenkirchener Straße 8**  
**D-48282 Emsdetten**  
**Germany**

- hereinafter also clevabit -

**Trung Bùi** and clevabit shall jointly also be referred to as PARTIES; depending on the party disclosing or receiving information, Trung Bùi and clevabit shall individually also be referred to as DISCLOSING PARTY or RECEIVING PARTY.

## **Preamble**

Trung Bùi is a software designer.

clevabit GmbH is a company focused on the development and distribution of new software and hardware in the field of sensor and actuator technology.

This relationship requires the mutual exchange of information, with the respective DISCLOSING PARTY having a special interest in its confidential treatment due to its relevance. For this purpose, the PARTIES agree as follows:

## **Section 1 Definition of Confidential Information**

(1) "Information" in the sense hereof shall mean technical or commercial information which was or will be directly or indirectly made accessible by the DISCLOSING PARTY to the RECEIVING PARTY in verbal, textual, written or objective form, for example drawings, specifications, models, individual parts, parts lists, data storage media, source code, layouts as well as all guided findings.

(2) "Confidential" information in the sense hereof shall mean all information made accessible by the DISCLOSING PARTY to the RECEIVING PARTY or its representatives in verbal, written or any other form, where it

(2a) has been clearly marked as confidential information, described as such or made identifiable as such in any other manner whatsoever.

(2b) is to be considered confidential due to its content.

(2c) was derived from provided confidential information.

(3) Information in the sense hereof shall also mean information transmitted to the RECEIVING PARTY by an affiliated enterprise (in the sense of section 15 AktG (German Stock Corporation Act)) of the DISCLOSING PARTY within the negotiations described in the Preamble.

## **Section 2 Treatment of the Confidential Information**

The confidential information received from the DISCLOSING PARTY must be kept secret and reasonably protected against access by third parties by the RECEIVING PARTY. This means that

it must not be directly or indirectly made accessible to third parties in any verbal, written or other manner and may be used only in the context of the negotiations between the PARTIES.

Any further use of the information for own or third-party purposes shall be admissible only with the explicit prior written consent of the DISCLOSING PARTY.

The DISCLOSING PARTY shall be entitled to reasonably verify compliance with the non-disclosure obligations and proper use of the confidential information in the business operations of the RECEIVING PARTY. The RECEIVING PARTY shall make confidential information accessible within its organisation only to employees who must be familiar with the provided confidential information to pursue the agreed purpose and who are obligated to maintain secrecy under the terms of their employment.

The PARTIES shall neither decompile the software handed over to the RECEIVING PARTY during the project nor reverse engineer hardware without the written consent of the DISCLOSING PARTY.

### **Section 3 Exclusion of or Exemption from the Confidentiality Obligation**

- (1) The non-disclosure obligation shall not cover information that
  - (1a) has demonstrably already been published at the time of its communication to the RECEIVING PARTY or
  - (1b) was demonstrably already known to the RECEIVING PARTY before its communication by the DISCLOSING PARTY.
  
- (2) The RECEIVING PARTY shall further be exempt from the non-disclosure obligation as per section 2 where it demonstrates that the confidential information under consideration
  - (2a) is generally known through no fault of the RECEIVING PARTY's own or
  - (2b) was lawfully disclosed to the RECEIVING PARTY by a third party not obligated to maintain secrecy towards the DISCLOSING PARTY (in this case, the DISCLOSING PARTY must be informed thereof in writing without delay, no later than after 3 days) or
  - (2c) is developed by the RECEIVING PARTY independently from the communication or
  - (2d) must be disclosed by the RECEIVING PARTY due to the obligation by a state court or state authority. The RECEIVING PARTY shall make every effort to ensure confidential treatment of this information by the court or authority and shall notify the DISCLOSING PARTY of the request for disclosure without delay to enable it to take measures against the disclosure in good time.

### **Section 4 Granting of Rights**

No obligation for the DISCLOSING PARTY to transmit information shall be established by this Non-Disclosure Agreement. The DISCLOSING PARTY reserves any and all rights regarding the information handed over by it. This shall apply, in particular, to copyrights, all kinds of industrial property rights as well as rights of exploitation and use.

The conclusion hereof shall not entitle the RECEIVING PARTY to take any action whatsoever for the DISCLOSING PARTY.

The RECEIVING PARTY shall under no circumstances register any property right also based on information it received from the DISCLOSING PARTY without the prior written consent of the DISCLOSING PARTY.

### **Section 5 Liability for Information Handed Over by Trung Bùi or clevabit**

Trung Bùi and clevabit shall review the accuracy of the content of the information provided by the respective other PARTY before any use. Unless expressly agreed otherwise, Trung Bùi and clevabit shall thus not assume any warranty regarding the accuracy, correctness, completeness or usability of the confidential information. The liability for damage caused by any use of the information provided hereunder shall be excluded in this respect.

## **Section 6 Term of the Non-Disclosure Agreement, Duration of the Non-Disclosure Obligations**

This Non-Disclosure Agreement shall enter into force once it has been signed by both PARTIES.

The Non-Disclosure Agreement shall apply for 2 years from its entry into force. Ordinary termination shall be excluded for both PARTIES. The right of extraordinary termination for good cause shall remain unaffected.

Regardless of the term of this Non-Disclosure Agreement, non-disclosure obligations established hereunder shall exist for 5 years from disclosure of the confidential information.

## **Section 7 Return Obligation, Erasure Obligation**

The RECEIVING PARTY shall return the information carriers provided to it as well as all copies of the information contained in them or other reproductions to the DISCLOSING PARTY at any time without delay at the DISCLOSING PARTY's first request. Information retained in electronic form must be erased by the RECEIVING PARTY without retaining copies or other reproductions thereof. This shall apply, in particular, upon termination of this Non-Disclosure Agreement.

## **Section 8 Written Form / Other Applicable Documents**

Amendments and modifications to this Non-Disclosure Agreement shall require written form for evidence purposes. This written form requirement may also be modified or cancelled only by a written agreement for evidence requirements.

## **Section 9 Choice of Law**

German law shall apply to all legal disputes from and on the occasion of this agreement. To the extent that this is admitted for statutory or other legal reasons, the parties hereto shall expressly opt for the laws of the Federal Republic of Germany.

## **Section 10 Place of Jurisdiction**

Unless otherwise mandatorily required by law, the place of exclusive jurisdiction for any and all disputes arising herefrom shall be the seat of clevabit.

## **Section 11 Severability Clause**

If individual provisions hereof are or become invalid or if any loophole which is to be filled arises, this shall not affect the validity of the remainder hereof. To replace the invalid provision or the loophole which is to be filled, the PARTIES shall agree upon a regulation coming closest within the legal possibilities to what the PARTIES wanted or would have wanted if they had taken this point into account.

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Place, date

Ha Noi - Viet Nam, 28/10/2020

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Trung Bùi



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Place, date

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clevabit GmbH