

CONFIDENTIALITY AGREEMENT

BETWEEN:

1. **COSWORTH GROUP HOLDINGS LIMITED (06442393)**, whose registered office address is at The Octagon, 44 St James Mill Road, Northampton, NN5 5RA, (referred to as "Cosworth") **AND ALL ITS SUBSIDIARY COMPANIES**; and
- 2.

Jointly referred to as "the Parties" and individually by name or as "the Party" or "a Party".

The Parties agree to enter into this Agreement as follows:

1. DEFINITIONS

- 1.1 In this Agreement the following words and phrases shall have the following meanings unless the context otherwise requires:

"Associated Company"	means any parent or subsidiary undertaking of the relevant company and any parent or subsidiary undertaking of such companies (for the purposes of this Agreement parent and subsidiary undertakings shall bear the definitions ascribed to them in s.1162 Companies Act 2006).
"Confidential Information"	means any information or data relating to each Party and/or any of its Associated Companies and its technology, research, business, or affairs including without limitation any agreements entered into between such Party and any third party and any knowledge and expertise including but not limited to calculation procedures, data, models, software, know-how, inventions, operation and design know-how or other Intellectual Property Rights existing prior to the date of this Agreement or independently of this Agreement which a Party and/or any of its Associated Companies owns or brings to bear or provides in the course of carrying out the Purpose, disclosed or made available whether in writing, orally or by any other means, and whether or not in the public domain (but not including common knowledge in the relevant field) to the other Party by that Party or by a third party on that Party's behalf and whether before or after the date of this Agreement.
"Disclosing Party"	means the Party disclosing Confidential Information to the other.
"Document"	includes, in addition to a document in writing, any map, plan, graph, drawing or photograph, any film, negative, tape, software, CAD data, CAD software, electronic transmission, algorithm, model or other device embodying visual images and any disc, tape or other device embodying any other data.
"Intellectual Property Rights"	means all and any intellectual property rights of any kind and rights of a like nature wherever and whenever arising and whether registered or unregistered and including, without limitation, any patents, copyright, registered designs, design rights, topographic rights, database rights and rights in Confidential Information, trade marks, trade names.
"Purpose"	discussion between the parties relating to information transfer and commercial issues and fulfilling the Receiving Party's obligations under any subsequent agreement between the Parties relating to the same OR the supply of information for the purpose of (scope of work) for Cosworth by (company name)
"Receiving Party"	means the Party receiving Confidential Information from the other.

2. OWNERSHIP

2.1 The Disclosing Party shall retain ownership of all Confidential Information, together with all rights in and to Intellectual Property Rights in respect thereof, at all times, together with all notes, memoranda, drawings and data that have been made or compiled as a result of access to such Confidential Information or such materials related thereto. The Receiving Party shall receive the Confidential Information subject to the relevant Intellectual Property Rights of the Disclosing Party, including inter alia the relevant laws governing patents, trademarks, designs and copyrights.

3. USE OF THE CONFIDENTIAL INFORMATION

3.1 The Receiving Party shall use the Confidential Information for the Purpose only and shall not use or appropriate the Confidential Information for its own benefit or otherwise in any other manner without the prior written consent of the Disclosing Party. The Receiving Party shall only disclose Confidential Information to such of its employees, agents, directors and advisors whose position is such that such disclosure is necessary to achieve the Purpose.

3.2 The Parties undertake to inform their employees, agents, directors and advisors who receive Confidential Information of the confidential nature of such information and to direct them to treat it as "Confidential" and to use the same only in accordance with this Agreement. Each Party shall be responsible for any breach of this Agreement by any of its employees, agents, directors and advisors.

3.3 The Receiving Party shall not copy, reproduce or otherwise store the Confidential Information save to the extent reasonably necessary for the Purpose and any copies, reproductions or other manifestations of the Confidential Information shall be and remain the property of the Disclosing Party.

4. OBLIGATIONS OF THE RECEIVING PARTY

4.1 The Receiving Party shall not disclose to any third party other than those Associated Companies which have been identified to the Disclosing Party as having a need to know for the Purpose any Confidential Information without the prior written permission of the Disclosing Party. The Receiving Party shall be responsible for ensuring that any Associated Companies or third parties to whom it discloses Confidential Information comply with the terms of this Agreement and shall be liable to the Disclosing Party for any breach of this Agreement by such persons.

4.2 The Receiving Party shall use all reasonable care to maintain the confidentiality of the Confidential Information. "Reasonable care" shall mean a degree of care no less than that exercised by the Receiving Party with respect to its own information of the same nature as the Confidential Information.

4.3 Upon written request of the Disclosing Party, the Receiving Party shall return to the Disclosing Party all originals, copies and translations of the writings and hardware in its possession, save that the Parties shall be entitled to retain a copy of any necessary documentation for its own quality and audit procedures.

5. EFFECTIVE DATE AND DURATION

This Agreement shall become effective as soon as it is signed by both Parties and shall continue for as long as any of the Confidential Information disclosed remains Confidential Information

6. EXCLUSIONS

6.1 Information shall cease to be considered as Confidential Information for the purposes of this Agreement if a Party shows that:

6.1.1 The information at the time of the disclosure by one Party to the other is part of the public domain through no breach of the terms of this Agreement by either Party, or

6.1.2 The information subsequently becomes part of the public domain through no breach of the terms of this Agreement by either Party. The disclosure of Confidential Information to a third party prior to such information becoming part of the public domain shall nevertheless be considered a breach of the terms of this Agreement, or

- 6.1.3 The information is lawfully acquired from a third party who did not breach a confidentiality obligation by disclosing the same to either Party to this Agreement, or
- 6.1.4 The information was known by the Receiving Party prior to the effective date of this Agreement and was not obtained from a third party under an obligation of confidence, or
- 6.1.5 The Disclosing Party has authorised such disclosure by the other Party in writing, or
- 6.1.6 The disclosure is required pursuant to any Order of the Court or other competent judicial authority provided that, to the extent permitted by law, the Receiving Party notifies the Disclosing Party promptly of any requirement to disclose the Confidential Information and permits the Disclosing Party to take such steps as may be necessary to protect the Confidential Information.

7. SEVERABILITY AND NO WAIVER

- 7.1 If any provision of this Agreement is adjudged by a court of competent jurisdiction to be invalid, void or unenforceable such provision or part of such provision shall be deleted from this Agreement and the remaining provisions shall continue in full force and effect.
- 7.2 The failure of either Party to enforce any right or remedy arising under the terms of this Agreement shall not amount to a waiver of such right.

8. ENTIRE AGREEMENT

This Agreement sets out the entire understanding of the Parties in respect of their respective rights and obligations relating to the disclosure of Confidential Information to each other for the Purpose.

9. GENERAL

- 9.1 If any of the provisions of this Agreement is found by any Court, arbitrator or other competent authority to be void or otherwise unenforceable either in whole or in part such provision or part thereof shall be deleted and the remaining provisions shall continue to apply.
- 9.2 Nothing contained in this Agreement shall create a partnership or a joint venture between the Parties hereto.
- 9.3 Nothing contained in this Agreement shall prevent either Party from working with third parties.
- 9.4 No failure or delay on the part of either Party in exercising any of its rights under this Agreement shall be deemed to be a waiver of that right, and no waiver by either Party of any breach of this Agreement shall be considered to be a waiver of any subsequent breach of the same or any other provision.
- 9.5 Nothing in this Agreement shall grant to the Receiving Party any licence, title or right in the Confidential Information or any Intellectual Property Rights of the other.
- 9.6 Save for Associated Companies, who shall be entitled to enforce this Agreement in respect of any Confidential Information relating to such Associated Companies, a person who is not a Party to this Agreement has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

10. LAW

- 10.1 The Parties agree that this Agreement shall be governed and construed in accordance with English Law and subject to the non-exclusive jurisdiction of the English Courts.
- 10.2 Both Parties acknowledge that damages alone will not provide an adequate remedy for any breach by it of the provisions of this Agreement and accordingly, without prejudice to any and all other rights or remedies that either Party may have, each Party shall be entitled, without proof of special damages, to the remedies

Confidentiality Agreement

Template No 0285, Issue 10

COSWORTH

of injunction, specific performance and other equitable relief for any threatened or actual breach of the provisions of this Agreement.

For and on behalf of

For and on behalf of

Cosworth Group Holdings Limited

Signed:

Signed:

Print Name:

Print Name:

Position in Company:

Position in Company:

Date:

Date: