



Nemko North America, Inc.  
303 River Road, Ottawa, Ontario, Canada K1V 1H2  
Attn.: Director of Certification

**Re: Request for Long-Term Confidential Treatment  
Application for Equipment Authorization by Echodyne Corp.  
FCC ID: 2ANLB-MESA00054**

To Whom it May Concern:

Echodyne Corp. (Echodyne) respectfully requests that certain exhibits submitted with the above-referenced equipment authorization application be afforded confidential treatment in accordance with Section 552(b)(4) of the Freedom of Information Act, 5 U.S.C. § 552(b)(4), and Sections 0.457(d)(2) and 0.459(b) of the Commission's Rules, 47 C.F.R. §§ 0.457(d)(2), 0.459(b).

Section 552(b)(4) of the Freedom of Information Act permits an agency to withhold from public disclosure any information that qualifies as "trade secrets and commercial or financial information obtained from a person and privileged or confidential.", 5 U.S.C. § 552(b)(4).

Section 0.457(d)(2) of the Commission's Rules allows persons submitting materials that they wish withheld from public inspection in accordance with Section 552(b)(4) to file a request for non-disclosure, 47 C.F.R. § 0.457(d)(2). The requirements governing such requests are set forth in Section 0.459(b) of the Commission's Rules as well as informal guidance provided by the Office of Engineering and Technology.<sup>1</sup> Echodyne's request for long-term confidential treatment is described in the following showing.

**1. Identification of the specific information for which confidential treatment is sought:**

Echodyne seeks the maximum long-term confidential treatment for the following exhibits:

- User Manual
- Internal Photos
- Block Diagram
- Schematics
- Parts List & Placement/BOM
- Operational Description
- Tune-Up Procedure

We also request the following exhibits withheld from public view for a period of one-hundred and eighty days from the date of the Grant of Equipment Authorization and prior to marketing. This is to avoid premature release of sensitive information prior to marketing or release of the product to the public:

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<sup>1</sup> Equipment Authorization Confidentiality Request Procedures, KDB 726920 D01, April 8, 2016.

- External Photos
- Test Setup Photos

**2. Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission:**

FCC Form 731 application for equipment authorization, FCC ID 2ANLB-MESA00054.

**3. Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged:**

These materials contain trade secrets that are not customarily released to the public. The public disclosure of this information might be harmful to the company and provide unjustified benefits to our competitors. Echodyne does not sell its radars, or release information related to its products, to third parties without execution of a non-disclosure agreement.

The confidential submission contains information about Echodyne that is clearly “confidential.” Under well-settled case law, such material “is ‘confidential’ . . . if disclosure of the information is likely to have either of the following effects: (1) to impair the government’s ability to obtain necessary information in the future; or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained.” *National Parks and Conservation Ass’n v. Morton*, 498 F.2d 764, 770 (D.C. Cir. 1974) (footnote omitted); *see also Critical Mass Energy Project v. NRC*, 975 F.2d 871 (D.C. Cir. 1992), *cert. denied*, 113 S. Ct. 1579 (1993).

**4. Explanation of the degree to which the information concerns a service that is subject to competition:**

Echodyne’s radar products are part of a global competitive business for the provision of security and navigational aids.

**5. Explanation of how disclosure of the information could result in substantial competitive harm:**

Disclosure of the confidential information could have a significant impact on Echodyne’s commercial operations by enabling competitors to have a better understanding of its devices, enabling such competitors to better compete against Echodyne. Under these circumstances, it is “virtually axiomatic” that the information qualifies for withholding under Exemption 4 of the Freedom of Information Act, *see National Parks and Conservation Ass’n v. Kleppe*, 547 F.2d 673, 684 (D.C. Cir. 1976), and under Sections 0.457(d)(2) and 0.459(b).

**6. Identification of any measures taken by the submitting party to prevent unauthorized disclosure:**

Echodyne keeps this kind of sensitive commercial information confidential and does not make it publicly available. The radar is not a consumer device but is sold to commercial customers under NDA. The NDA restricts sharing or display of the device itself and information relating to the device. Also, the circuit board and internal components are not accessible to users. They are

enclosed in a permanently sealed, water-tight, tamper-proof aluminum housing. The radar can only be serviced by returning it to Echodyne. The NDA includes a provision that the customer will not disassemble, reverse engineer or x-ray the device. Customers will integrate the radar into an integrated security or navigation system and the device will not be accessible to the public. The user manual contains proprietary technical information intended to help commercial customers integrate the radar into an integrated security or navigation system. The customer is obligated under NDA to keep the user manual confidential.

**7. Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties:**

As described above, none of the information in the referenced exhibits for which Echodyne seeks confidential treatment is or has been provided to the public. Parties that purchase the device are required to keep the information within the user manual confidential under an NDA (see appendix) entered into with Echodyne.

**8. Justification of the period during which the submitting party asserts that material should not be available for public disclosure:**

Echodyne respectfully requests that the Commission withhold the materials for which it requests long-term confidentiality from public inspection indefinitely. Echodyne would not, in the normal course of business, provide this information to the public.

If you should have any questions or need further information, please contact the undersigned.

5/26/2023

Respectfully submitted,

Signed by:   
*Signature*

Hanna Cox

*Print name*

**Echodyne Corp.**

Assistant General Counsel

Appendix: Echodyne Mutual Confidentiality Agreement



## MUTUAL CONFIDENTIALITY AGREEMENT

This Mutual Confidentiality Agreement (the "Agreement"), dated and effective as of the last signature date below (the "Effective Date"), is made and entered into by and between the undersigned parties. The parties agree as follows:

### 1. DEFINITIONS

**1.1 "Confidential Information"** means any trade secrets or other information of Discloser that is not generally available to the public, whether of a technical, business or other nature (including, without limitation, information relating to Discloser's technology, software, products, services, designs, methodologies, business plans, finances, marketing plans, customers, prospects or other affairs), that is disclosed to Recipient during the Term and that is labeled as "Confidential" or "Proprietary" or that Recipient knows or has reason to know is confidential, proprietary or trade secret information of Discloser. Confidential Information also includes any information that has been made available to Discloser by third parties that Discloser is obligated to keep confidential. Confidential Information does not include any information that: (a) is or was acquired by Recipient from a third party and is not subject to an unexpired obligation to such third party restricting Recipient's use or disclosure thereof; (b) is independently developed by Recipient without reliance upon or use of any of the Confidential Information; or (c) is or has become generally publicly available through no fault or action of Recipient.

**1.2 "Discloser"** means a party that discloses any of its Confidential Information to the other party under this Agreement.

**1.3 "Recipient"** means a party that receives any Confidential Information from the other party under this Agreement.

**1.4 "Term"** means the period beginning with the Effective Date and ending two (2) years after the Effective Date, unless terminated sooner by one party providing ten (10) days' written notice of termination to the other party.

### 2. CONFIDENTIALITY

**2.1** Confidential Information is made available to Recipient solely for the purpose of pursuing a business relationship between the parties. Recipient will not use, disclose, disseminate or distribute any Confidential Information for any other purpose without the prior written consent of Discloser.

**2.2** Recipient will protect Confidential Information from any unauthorized use, disclosure, copying, dissemination or distribution. Without limitation of the foregoing, Recipient will: (a) make the Confidential Information available only to those of its employees, agents and other representatives who have a need to know the same for the purpose specified in paragraph 2.1, who have been informed that the Confidential Information belongs to Discloser and is subject to this Agreement, and who have agreed or are otherwise obligated to comply with this Agreement; (b) not disclose the Confidential Information to any

third party; (c) reproduce or copy the Confidential Information only as reasonably required for the purpose specified in paragraph 2.1; (d) not deliver, distribute, display, demonstrate or otherwise make available the Confidential Information to any third party except as provided in clause (a) above; (e) not reverse engineer, decompile or disassemble any Confidential Information and (f) not remove or obliterate markings (if any) on Confidential Information indicating its proprietary or confidential nature.

**2.3** Recipient will use reasonable and appropriate methods to protect Confidential Information from disclosure pursuant to paragraph 2.2, provided that such methods are no less stringent than the methods Recipient uses to protect its own Confidential Information.

**2.4** Notwithstanding paragraph 2.2, Recipient may disclose or produce any Confidential Information if and to the extent required by any discovery request, subpoena, court order or governmental action, provided that Recipient gives Discloser reasonable advance notice of the disclosure so Discloser may object and obtain a protective order or other appropriate relief regarding the disclosure.

**2.5** All Confidential Information is the property of Discloser. This Agreement will not be interpreted or construed as granting any license or other right under any patent, copyright, trademark, trade-secret or other proprietary right. Recipient will promptly destroy Confidential Information or deliver it to Discloser upon Discloser's request. Upon Discloser's request, Recipient will certify in writing its destruction of such Confidential Information.

**2.6** Recipient will comply with any and all applicable laws relating to the use, disclosure, copying, dissemination and distribution of any Confidential Information (including, but not limited to, any and all laws relating to Discloser's proprietary rights).

### 3. MISCELLANEOUS

**3.1** Discloser warrants that it has the right to make the Confidential Information available to Recipient as provided for in and subject to this Agreement. Discloser does not make any other representation or warranty, express or implied, with regard to any Confidential Information. Without limitation of the foregoing, the Confidential Information is made available under this Agreement "AS IS," with all defects, errors, and deficiencies, and without any representation or warranty as to completeness or accuracy.

**3.2** Recipient's obligations with respect to any Confidential Information will survive the expiration of the Term for a period of seven (7) years.

**3.3** The Parties agree that any breach or threatened breach of this Agreement by Recipient may cause harm to Discloser for which money damages may not provide an adequate remedy. In the event of a breach or threatened breach of this Agreement, in addition to any other available remedies, Discloser may seek temporary or permanent injunctive relief restraining Recipient from disclosing or using its Confidential Information.

**3.4** The protections afforded to the Confidential Information under this Agreement are in addition to, and not in lieu of, the protections afforded under any applicable trade secrets laws, including the Uniform Trade Secrets Act.

**3.5** The Parties acknowledge that the Confidential Information covered by this Agreement may be subject to export laws and regulations. The Recipient will not export any of the Discloser's Confidential Information by any means, including electronically, in violation of any applicable export laws or regulations, including without limitation the laws of the United States and the regulations of the United States Department of Commerce and Department of State. The Recipient shall first obtain the written consent of the Discloser to request authority to export Discloser's Confidential Information.

**3.6** This Agreement shall be governed by and construed under Washington law without reference to its choice of law principles.

**3.7** This Agreement may not be amended, except by a writing signed by both parties.

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Full Legal Name of Company (please print)

By \_\_\_\_\_  
Signature/Date

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Name/Title (please print)

**ECHODYNE CORP.**

By \_\_\_\_\_  
Signature/Date

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Name/Title (please print)