

1. Definition of Confidential Information.

"Confidential Information" means any non-public information of a Disclosing Party including but not limited to business plans, products, technical data, specifications, documentation, rules and procedures, contracts, presentations, know-how, product plans, business methods, product functionality, services, data, customers, markets, competitive analysis, databases, formats, methodologies, applications, developments, inventions, processes, payment, delivery and inspection procedures, designs, drawings, algorithms, formulas, or information related to engineering, marketing, or finance. Written confidential Information shall be clearly marked as confidential or designated as confidential via transmittal cover memo at the time of initial disclosure. Oral or visual disclosures of Confidential Information shall be designated as confidential at the time of initial disclosure and the Disclosing Party shall summarize such Confidential Information in writing to the Receiving Party within thirty (30) days.

2. Nondisclosure and Nonuse Obligations.

A. "Disclosing Party" is a party to this Agreement which discloses its Confidential Information to a Receiving Party. A "Receiving Party" is a named party to this Agreement which accepts, receives, views, or otherwise obtains Confidential Information from a Disclosing Party. "Affiliate" means, only to the extent necessary to perform the purposes of this Agreement on a need-to-know basis, a consultant, engineering/sales representative, or distributor of a named party to this Agreement, or a business entity which is majority controlled by, controlling, or under common control with a named party to this Agreement, but excludes direct competitors of a Disclosing Party.

B. Receiving Party shall use the same degree of care, but never less than a reasonable standard of care, to prevent the unauthorized disclosure, dissemination, and use of Confidential Information as it does to protect its own similar Confidential Information. No reverse engineering, decompiling, or similar activities are permitted.

C. Receiving Party agrees that it shall disclose and permit access to Disclosing Party's Confidential Information to only its employees and employees of Affiliates who must know such information for furthering the specific mutual objectives of the parties to this, provided that such employees and Affiliates agree in writing to be bound by the terms of this Agreement or substantially identical terms, and Receiving Party shall be jointly and severally responsible for such employees and Affiliates complying with the terms of this Agreement.

D. All Confidential Information shall remain the property of Disclosing Party and all Confidential Information and copies thereof shall be immediately returned upon termination of this Agreement or at the request of Disclosing Party.

3. Exclusions from Nondisclosure Obligations.

Receiving Party's obligations under this Agreement shall not apply to any information which:

- A. was rightfully in the possession of the Receiving Party prior to receiving it from the Disclosing Party;
- B. is independently developed by the Receiving Party without use of or reliance upon the Confidential Information from Disclosing Party;
- C. was in the public domain at or subsequent to the time of disclosure through no breach of Receiving Party);
- D. is obtained in good faith from a third party not under any obligation of confidentiality; or
- E. is required to be disclosed pursuant to a valid order by a court or other governmental entity with jurisdiction, provided that Receiving Party provides the Disclosing Party with prompt written notice of such demand (prior to any scheduled disclosure) in order to permit Disclosing Party to challenge such disclosure or obtain a protective order at Disclosing Party's expense.

4. Disclaimers.

No party shall have any right, license, or interest in or to any Confidential Information of the other party. This Agreement does not impose or imply an obligation by either party to enter into any contract or business relationship with the other party, and is not any agency or partnership between the parties. All Confidential Information is "AS IS" and without representation or warranty. If a party takes any action permitted hereunder and relies on the other party's Confidential Information, it does so at its own risk and expense. This provision survives the conclusion of the Term.

5. General.

This Agreement commences on the Effective Date and continues for five (5) years from the Effective Date ("Term"), but all accrued obligations, restrictions, and prohibitions with regard to Confidential Information shall continue for an additional five (5) years beyond the Term.

- A. For merchants, the court competent for the domicile of our company (Local Court Königstein / Taunus resp. the District Court Frankfurt am Main) shall have exclusive jurisdiction for any disputes, which arise directly or indirectly from a contract.
- B. Exclusively the law of the Federal Republic of Germany shall govern the contract, however, by

excluding the Agreement of the United Nations on Purchase Contracts on the International Sale of Goods dated April 11, 1980.

- C. Should any provision in these Terms of Business or any provision in any other agreement be or become invalid, the validity of all other provisions or agreements shall remain unaffected thereby. The Buyer and we shall instead be obliged to replace the invalid provision by a valid one which most effectively serves within the limits allowed by law the economic purpose of the invalid provision. If this will not be a success, the legal regulations will replace the invalid provisions.