



Form
FB74A-X-08
Title: **Agreement of Confidentiality**



Agreement of Confidentiality

Between

(Referred to as **Buyer** in the following)

and

SUPPLIER'S COMPANY
STREET
POSTCODE + PLACE
(Referred to as **Supplier** in the following)

Introduction

The contractual parties are planning or already maintain a mutual business relation. In the frame of this business relation, the Supplier provides the service and delivery of products, which do not conform to the serial stat or which have not been integrated in the serial production yet on request of the Buyer. For this purpose, the Buyer shall provide to the Supplier any plans, samples, drawings, descriptions, documents, data, know-how, experience and any other information (referred to as "information" in the following). The following agreement governs the handling of this information:

1. The Supplier shall keep strictly confidential any information obtained from the Buyer during the mutual business relationship. The Supplier shall not disclose the information to a Third Party without previous and explicit authorization from the Buyer in written. The obligation of secrecy also remains valid after termination of the supply relationship with the Supplier. The obligation expires if and to the extent to which the know-how specified in the obtained information is already well known or has already been published or 5 years have passed since the termination of the supply relationship. This 5-year period does not apply if the product, which shall be or has been produced, is still being produced by the Buyer or another supplier on request of the Buyer and has not been integrated in the serial production of the Buyer or a third manufacturer yet and the Buyer has not

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yet renounced of a serial use. Should one of these cases arise, the 5-year period begins with occurrence of one of the mentioned cases. Where applicable, the Buyer shall inform the Supplier.

2. The obligations mentioned in the present agreement do not apply to information, which can be proved to
- have been already obvious at the moment of their receipt,
 - have been legal property of the Supplier at the moment of their receipt,
 - become obvious after their receipt without any intervention by the Supplier or
 - have been made available to the Supplier by a Third Party after their receipt in legally admissible way and without any restriction regarding the secrecy or use, proved that this Third Party has not received the information directly or indirectly from the contractual partner.

The aforesaid exceptions are not only therefore to apply, if one or more of the requirements apply according to the single information in case of the connection and combination with other single information is decisive for their judgement as confidential.

3. The Supplier shall ensure, that any kind of information, including information received through verbal communications or telephone calls, are handled confidential and are not made accessible for a Third Party no matter in which form or in what way (see above clause 1). Likewise any knowledge acquired about basics, working methods, manufacturing, development, improvement or other details regarding products, the Buyer has inquired, ordered or supplied shall not directly or indirectly be disclosed to a Third Party and shall be kept secret according to clause 1 of this agreement.

The Supplier shall ensure that information is made accessible only to the employees of the own company, execution agents or vicarious agents who need such information with view to the collaboration. The Supplier shall ensure that these persons are obliged to keep confidentiality according to this agreement unless they have already been committed to confidentiality by their contract of employment or of consultation. In terms of this agreement, also the Supplier's sub-contractors are considered as execution agents or vicarious agents. Therefore these are also obliged to secrecy.

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4. The Supplier shall send the products, which the Buyer has requested and which have been produced for the Buyer solely to the Buyer. Any delivery to a Third Party requires the previous and explicit authorization from the Buyer in written.
5. Further, the Supplier shall immediately inform the Buyer if suspicion arises that enquiries or orders for the same or similar products with the same function from a Third Party are based on copies or slightly revised copies drawings and /or descriptions of the originals from the Buyer without the Third Party being authorized to their utilization. This also applies for production or delivery of products, which has been produced with tools owned by the Buyer.
6. No right of property, patent, reproduction, utilization or any other right shall be granted through this agreement or through mutual communication of information, irrelevant if property rights (patents, brands, utility patents or registered designs) exist or not. Where applicable, acquisition of the corresponding rights needs a separate agreement.
7. Any revisions or supplements of this agreement of confidentiality shall be made in written.
8. In case of the supplier has negligently breached the obligations imposed by the present agreement with the result that information has been disclosed to a Third Party, the Supplier shall be fined with generalised damages of 20% of the order value (realised orders and scheduled ones). The Supplier is free to prove that no damage or decrease in value has been caused to the Buyer or that the real damage is considerably lower than the lump sum. If it can be proved that the actual damage was higher, the Supplier shall reimburse the actual damage under consideration of the lump sum.
9. If any stipulation of this agreement of confidentiality is or becomes partly or completely ineffective or unrealisable the validity of the other stipulations remains unaffected. In this case every contractual party has the right to require agreement of a new stipulation, which meets the purpose of the ineffective or unrealisable one as close as possible. Likewise if any stipulation is missing in this agreement

The law of the Federal Republic of Germany shall be applied. The Buyer's official business location is the exclusive place of Fulfilment and Jurisdiction for all disputes resulting from or in the context

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of this agreement of confidentiality, irrespective of legal basis,. . The Buyer has the right to file claims at the Supplier's official business location as well.

The scope of this agreement of confidentiality is applicable to all companies directly or indirectly connected to one of the parties, in particular sister, subsidiary or parent companies. Any information subject to this agreement of confidentiality shall be kept secret also towards these companies.

....., on

....., on

.....
 (Company)

.....
 (Supplier)

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