

## Non-Disclosure Agreement (mutual)

The following Agreement has been made between

Rosenberger Hochfrequenztechnik GmbH & Co. KG, Hauptstr.1, D-83413 Fridolfing (ROSENBERGER)

and

\_\_\_\_\_ (CONTRACTUAL PARTNER)

### Preamble

ROSENBERGER and CONTRACTUAL PARTNER intend to enter into negotiations about potentially cooperating in the field of / project

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Regardless of whether or not a specific field or project is indicated above, this Non-Disclosure Agreement is deemed to apply to all contractual relations between ROSENBERGER and CONTRACTUAL PARTNER as well as to preliminary stages of contractual negotiations, no matter whether an agreement ultimately materializes or not.

### 1. Definitions

- 1.1. CONTRACTUAL PARTY is each ROSENBERGER and CONTRACTUAL PARTNER.
- 1.2. CONFIDENTIAL INFORMATION shall be the information disclosed or made accessible to the relevant INFORMATION RECIPIENT by the respective INFORMATION PROVIDER verbally, in writing or in any other form that is technical, business administrative in nature or any other kind of information, such as data, drawings, drafts, sketches, plans, models, descriptions, specifications, measuring results, calculations, experiences, processes, samples, including confidential technical know-how or applications for industrial property rights that have not yet been published with the exception of the cases listed under Section 4 below.
- 1.3. INFORMATION PROVIDER is the CONTRACTUAL PARTY or one of its AFFILIATED COMPANIES that discloses CONFIDENTIAL INFORMATION to the INFORMATION RECIPIENT.
- 1.4. INFORMATION RECIPIENT is solely the CONTRACTUAL PARTY to whom CONFIDENTIAL INFORMATION is disclosed by the INFORMATION PROVIDER.
- 1.5. PURPOSE is the use of the CONFIDENTIAL INFORMATION in conjunction with the business relationship with or on behalf of the INFORMATION PROVIDER, in particular for – but not exclusively – the field or project defined in the Preamble.
- 1.6. AFFILIATED COMPANY is a company that is directly or indirectly controlled by one of the CONTRACTUAL PARTIES, or that controls such a company or that is jointly controlled with the former. Having control as defined here means holding 50 % or more of the shares in or voting rights of the affected company.

## 2. Obligation to maintain confidentiality

- 2.1. The INFORMATION RECIPIENT shall undertake to use CONFIDENTIAL INFORMATION exclusively for the PURPOSE and not to disclose such information or parts thereof to third parties without the prior written consent of INFORMATION PROVIDER, even if respective non-disclosure agreements have been concluded with such third parties. Moreover, the INFORMATION RECIPIENT shall be required to keep CONFIDENTIAL INFORMATION confidential and to protect such information from any third party access while exercising the same amount of diligence that the INFORMATION RECIPIENT would apply to its own matters, but at least the due diligence of a professional business person.
- 2.2. However, if disclosure of CONFIDENTIAL INFORMATION to a third party (e.g. sub-contractor, consultant) is absolutely necessary as to the PURPOSE and such third party is not a competitor of the INFORMATION PROVIDER, the INFORMATION PROVIDER will not unreasonably withhold its consent to the extent necessary to achieve the respective objective. In such case the INFORMATION RECIPIENT shall commit such third party to compliance with the non-disclosure policies to the same extent as they are set forth in this Agreement, including for the time after the termination of the contractual relationship with such third parties.
- 2.3. Furthermore, the INFORMATION RECIPIENT shall undertake to make accessible the CONFIDENTIAL INFORMATION only to such employees or natural persons in employee-like positions who are working for the INFORMATION RECIPIENT who need it for the PURPOSE. The INFORMATION RECIPIENT shall subject these employees or persons to compliance with the non-disclosure policies to the same extent as they are set forth in this Agreement, including for the time after the termination of the contractual relationship with such employees or persons.

## 3. Affiliated companies

- 3.1. The CONTRACTUAL PARTIES are aware of the fact that ROSENBERGER and possibly also the CONTRACTUAL PARTNER are each part of a group of companies comprising numerous, legally autonomous companies in different legal systems and that it may therefore be necessary for the INFORMATION RECIPIENT to pass on CONFIDENTIAL INFORMATION to its AFFILIATED COMPANIES. Consequently, the CONTRACTUAL PARTIES agree that
- 3.2. the INFORMATION RECIPIENT may pass on CONFIDENTIAL INFORMATION to its AFFILIATED COMPANIES without having to obtain the consent of the INFORMATION PROVIDER if this is necessary within the scope of the PURPOSE, the AFFILIATED COMPANY is not a competitor of the INFORMATION PROVIDER and the AFFILIATED COMPANY is obligated to maintain confidentiality to the extent defined in this Agreement.

## 4. Exceptions

- 4.1. The confidentiality obligations entered into under this Agreement shall not or no longer extend to such CONFIDENTIAL INFORMATION or parts thereof,
  - a) that the INFORMATION RECIPIENT was aware of prior to it being passed on by the INFORMATION PROVIDER;
  - b) that was known to the public or in the public domain prior to the disclosure by the INFORMATION PROVIDER;
  - c) that was made available to the public after it was disclosed by the INFORMATION PROVIDER without the involvement and in the absence of any culpability of the INFORMATION RECIPIENT;

- d) that was made available to the INFORMATION RECIPIENT at any given time by an authorised third party not bound by any confidentiality obligations;
  - e) that the INFORMATION RECIPIENT developed or had developed without depending on the disclosures made by the INFORMATION PROVIDER or
  - f) that the INFORMATION RECIPIENT was mandated to release because of the acts of a government agency or a court ruling or order, provided the INFORMATION RECIPIENT notified the INFORMATION PROVIDER prior to releasing it.
- 4.2. The INFORMATION RECIPIENT claiming the existence of an exception under section 4.1. is obliged to prove such exception.
- 5. Rights to the CONFIDENTIAL INFORMATION, inventions**
- 5.1. The INFORMATION PROVIDER reserves all rights to the CONFIDENTIAL INFORMATION. Handing over, disclosing or making accessible CONFIDENTIAL INFORMATION to the INFORMATION RECIPIENT shall not constitute a granting of rights.
- 5.2. The INFORMATION RECIPIENT shall in particular not be permitted to use the CONFIDENTIAL INFORMATION or parts thereof in the absence of the prior written consent of the INFORMATION PROVIDER in any form that is directly or indirectly commercial. The INFORMATION RECIPIENT shall in particular not make any attempts to copy or reverse engineer products that the INFORMATION RECIPIENT has been provided with or to determine their chemical composition or any other characteristics.
- 5.3. Furthermore, the INFORMATION RECIPIENT shall not be permitted to apply for industrial property rights the subject matter of which aims at the CONFIDENTIAL INFORMATION or parts thereof. The INFORMATION PROVIDER reserves the right to apply for industrial property rights that pertain to the CONFIDENTIAL INFORMATION or parts thereof.
- 5.4. The INFORMATION RECIPIENT shall neither use the CONFIDENTIAL INFORMATION to derive rights of prior use concerning the content of such applications for industrial property rights, nor to file claims citing grounds of obvious prior use.

**6. Copies, return and destruction of the CONFIDENTIAL INFORMATION**

- 6.1. All written documentation, drawings, other documents, samples, data carriers, etc., which relate to CONFIDENTIAL INFORMATION and which the INFORMATION RECIPIENT is entrusted with by the INFORMATION PROVIDER, shall remain the property of the INFORMATION PROVIDER. The INFORMATION RECIPIENT shall make copies, duplicates and the like of the CONFIDENTIAL INFORMATION only if this is necessary for the PURPOSE.
- 6.2. Upon the INFORMATION PROVIDER's written request, the INFORMATION RECIPIENT shall be required to return the objects pursuant to Section 6.1 within the deadline set by the INFORMATION PROVIDER in their entirety or to destroy them upon request. The obligation of return shall not extend to copies of the CONFIDENTIAL INFORMATION received that the INFORMATION RECIPIENT archives as verification of the content and process of the negotiations on the basis of good faith or because of statutory provisions.
- 6.3. As to personal data, each CONTRACTUAL PARTY shall comply with the statutory data protection provisions and shall take the required technical and organisational precautions to protect such information accordingly.

## 7. Liability

- 7.1. The INFORMATION PROVIDER shall neither assume any liability for the completeness, correctness or usefulness of the CONFIDENTIAL INFORMATION communicated nor for its freedom from any third party rights or for any damages arising from its use.
- 7.2. If the INFORMATION RECIPIENT breaches its obligations under this Agreement, the INFORMATION PROVIDER shall be entitled to compensation for all damages resulting from such breach. This shall be without prejudice to claim further rights (e.g. as to injunctive relief).

## 8. Term

- 8.1. This Agreement shall be rendered effective upon its execution by the last signing CONTRACTUAL PARTY and shall remain in effect for an indefinite period of time.
- 8.2. Each CONTRACTUAL PARTY shall have the right to terminate this Agreement in writing giving 6 months advance notice effective at the end of any given month, however, no earlier than after a term of 5 years. This shall be without prejudice to the right to terminate for cause.
- 8.3. The confidentiality obligations and/or the usage restrictions as to the CONFIDENTIAL INFORMATION, which have been disclosed to the INFORMATION RECIPIENT during the term of this Agreement shall survive the termination of the Agreement until the affected CONFIDENTIAL INFORMATION has become publicly known.

## 9. Other provisions

- 9.1. Neither CONTRACTUAL PARTY may assign or transfer any claims under this Agreement without the prior written consent of the other CONTRACTUAL PARTY, which consent will not be unreasonably withheld.
- 9.2. Any changes or additions to this Agreement must be in writing and the clause to be amended must be quoted with express reference to this Agreement. This also applies to a waiver of the aforesaid written form and citation requirement. Unless otherwise provided by law, the written form required by the Agreement (e.g. execution, changes or additions) shall also be complied with by a signature by means of an electronic signature (e.g. via DocuSign).
- 9.3. This Agreement shall be governed by German law without regard to its conflict of laws rules. If any disputes arise from this Agreement, the CONTRACTUAL PARTIES shall make serious efforts to arrive at a mutually agreeable solution. If they are unable to arrive at such a solution, Traunstein, Germany, shall be the sole place of jurisdiction unless a different place of jurisdiction is mandated by law.
- 9.4. If individual components of this Agreement are legally ineffective, this shall not impair the effectiveness of the remaining provisions. The same shall apply if the Agreement contains any omissions. To close any gaps caused by omissions, those effective provisions shall be deemed to have been agreed upon that the CONTRACTUAL PARTIES would have agreed upon based on the business administrative purpose of the Agreement if they had been aware of the omission.

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Place, date

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Place, date

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Signature for ROSENBERGER

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Signature for CONTRACTUAL PARTY

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Signature for ROSENBERGER