**NON-DISCLOSURE AGREEMENT**

between

**AUDI AG**

85045 Ingolstadt

Deutschland

duly represented by the board of management

- hereinafter referred to as "AUDI AG" -

and

**[Company name] [legal form]**

[Address]

[City and postal code]

[Country]

- hereinafter referred to as "CONTRACTING PARTY 2" -

- hereinafter also referred to individually as "CONTRACTING PARTY" and collectively as "CONTRACTING PARTIES" -

**Preamble**

The CONTRACTING PARTIES are contemplating business cooperation and may already have business dealings with each other. In this context, the CONTRACTING PARTIES contemplate providing CONFIDENTIAL INFORMATION to each other that require confidential treatment.

**1. Definitions**

1.1 "COOPERATION" means business dealings contemplated or already begun between the CONTRACTING PARTIES without any reference to a specific project.

1.2 "CONFIDENTIAL INFORMATION" means **all** information, findings, results, and data, whether in tangible, electronic, oral, visual, or any other form, which the CONTRACTING PARTIES exchange, or of which they learn, when discussing their COOPERATION or in any other manner occasioned by or incidental to this COOPERATION, regardless of how the information etc. is provided or obtained (e.g. by means of an unencrypted e-mail) and regardless of whether it is expressly designated as information not to be disclosed (e.g. "confidential" or "secret"), as well as all copies and abstracts of such information etc. and all documents and materials created using such information etc.  
  
CONFIDENTIAL INFORMATION includes without limitation any of the following which one CONTRACTING PARTY receives or becomes aware of through the other CONTRACTING PARTY: all technical or business data, (such as personal data, project data, development data, research and planning data, offers/quotations and responses to offers/quotations, solicitation documents and all other information), non-production-version vehicles or vehicle components, equipment or devices, materials, technical and other processes, software programs, software codes, algorithms, documents (e.g. drawings, drafts, layouts, sketches, plans, descriptions, recorded images, calculations), experience, knowledge, commercial or other technical knowledge, procedures, specimens, samples, models, operations and reactions, demonstrations, experiments, and tests, including secret know-how, as well as all yet unpublished applications for industrial property rights.

1.3 "AFFILIATED ENTERPRISES" are all enterprises affiliated within the meaning of §§ 15 ff. of the German Stock Corporation Law (AktG).

1.4 "NON-THIRD PARTIES" are Volkswagen AG and all AFFILIATED ENTERPRISES of Volkswagen AG, e.solutions GmbH (Ingolstadt), Elektronische Fahrwerksysteme GmbH (Gaimersheim), Quartett mobile GmbH (München), FAW-Volkswagen Automotive Company, Ltd (Changchun, China) and Shanghai-Volkswagen Automotive Company, Ltd. (Shanghai, China).

**2. Confidentiality Obligations**

2.1 This Non-Disclosure Agreement governs the safeguarding of all CONFIDENTIAL INFORMATION, regardless of the manner in which knowledge thereof is acquired.

2.2 The CONTRACTING PARTIES obligate themselves to treat CONFIDENTIAL INFORMATION as follows:

• **to keep** CONFIDENTIAL INFORMATION **secret** as trade and business secrets,

• **to use** CONFIDENTIAL INFORMATION **exclusively for purposes of the COOPERATION**,

• **to limit disclosure** of CONFIDENTIAL INFORMATION **within their own organizations** to that which is necessary for the COOPERATION (disclosure on strict "need-to-know" basis - only to persons who need to know; only that which each needs to know),

• to retain, store, and safeguard CONFIDENTIAL INFORMATION in such a way as to prevent misuse and unauthorized access,

• to refrain from copying CONFIDENTIAL INFORMATION without prior consent of the disclosing CONTRACTING PARTY unless it is necessary due to the nature of the cooperation,

• to refrain from disassembling, altering, reverse-engineering, reconstructing, or decompiling CONFIDENTIAL INFORMATION without prior consent of the disclosing CONTRACTING PARTY.

2.3 Compliance with the contractual confidentiality obligations requires without limitation the following:

• if applicable, requesting information by CONTRACTING PARTY 2 from its contact person about the obligatory regulations of AUDI AG regarding the handling of prototypes;

• immediately reporting all confidentiality-relevant incidents to the other CONTRACTING PARTY, including without limitation contacts with journalists, photographers, or other persons (notifications to the AUDI AG to be sent by e-mail to Unternehmenssicherheit@audi.de);

• noting and complying with the IT Security Guidelines for External Companies of AUDI AG (available for download at www.audi.de/it-security-guidelines) when using data or systems of AUDI AG; and

• noting and complying with the prohibition on all audio and video recordings in force for the entire plant grounds of AUDI AG, in all offices and in all facilities of AUDI AG (photographic, film, video or magnetic image storage devices or media). Devices with video recording capabilities may not be brought into the areas on the plant grounds of AUDI AG with markings designating them as "Sicherheitsbereiche" (security areas or sectors) or otherwise indicating that the prohibition applies, into all buildings belonging to or used by "Technische Entwicklung" (technical development) and into all other offices, rooms and facilities of AUDI AG with markings designating them as "Sicherheitsbereiche" or otherwise indicating that the prohibition applies. Exceptions require prior written consent, which may be obtained from the respective specialist department of AUDI AG in accordance with the regulations from time to time in force. It is possible to have "photo-capable cell phones / smartphones" sealed in a manner meeting the requirements of AUDI AG; phones sealed in this manner may be brought into security areas.

2.4 Unless otherwise provided in this Agreement, CONFIDENTIAL INFORMATION may not be disclosed to others directly or indirectly, either gratuitously or for consideration, nor may others be allowed any access to such information; others are all kinds of natural and/or juristic persons, who are not CONTRACTING PARTY, including AFFILIATED ENTERPRISES of the CONTRACTING PARTIES.

2.5 Upon conclusion of the COOPERATION and/or termination of this Agreement, CONFIDENTIAL INFORMATION, especially documents or other materials delivered to the respective receiving CONTRACTING PARTY or created by it using CONFIDENTIAL INFORMATION, shall be promptly returned or handed over in their entirety to the respective disclosing CONTRACTING PARTY or, if so agreed, destroyed. The CONTRACTING PARTIES are required to immediately delete or destroy, as appropriate, in its entirety any CONFIDENTIAL INFORMATION that is not returned and, upon request by the disclosing CONTRACTING PARTY, confirm such deletion or destruction in writing. Excepted from this requirement are routine backup copies of electronic data communications which cannot be deleted and CONFIDENTIAL INFORMATION which the information recipient must retain in order to comply with mandatory provisions of statutory law. The confidentiality obligations established by this Agreement apply without time limit to such CONFIDENTIAL INFORMATION. Consequently, all use of such CONFIDENTIAL INFORMATION for any purpose whatsoever is likewise prohibited without time limit, unless otherwise contractually agreed by the CONTRACTING PARTIES.

2.6 CONTRACTING PARTY 2 is hereby informed, that in case of implementation of a business cooperation, i.e. after the assignment of CONTRACTING PARTY 2, AUDI AG or a partner company authorized by AUDI AG may assure itself of the extent and situation of the security arrangements taken by CONTRACTING PARTY 2. This shall ensure that the security level of CONTRACTING PARTY 2 generally complies with the requirements of the IT Security Guidelines for External Companies, the ISA catalogue of the VDA and the ISO/IEC 27001, in the absence of a corresponding certificate.

**3. Exceptions to Confidentiality Obligations**

3.1 The confidentiality obligations shall not apply with respect to CONFIDENTIAL INFORMATION

• that was already public knowledge, i.e. published or generally available, when disclosed to the receiving CONTRACTING PARTY by the disclosing CONTRACTING PARTY; or

• of which the receiving CONTRACTING PARTY was already in legitimate possession at the time of its disclosure by the disclosing CONTRACTING PARTY; or

• that became public knowledge through no fault of the receiving CONTRACTING PARTY after being disclosed to it by the disclosing CONTRACTING PARTY; or

• that was expressly released by the disclosing CONTRACTING PARTY through its written consent; or

• that, after being disclosed to the receiving CONTRACTING PARTY by the disclosing CONTRACTING PARTY, was provided to the receiving CONTRACTING PARTY by a third party in a legal manner without restriction as to the confidentiality and use of the information; or

• that was independently developed by employees of the receiving CONTRACTING PARTY who at no time had any contact with or access to such CONFIDENTIAL INFORMATION and who in no way used or relied on such CONFIDENTIAL INFORMATION.

3.2 Also, the confidentiality obligations shall not apply with respect to cases in which

• the receiving CONTRACTING PARTY is required to disclose the CONFIDENTIAL INFORMATION by a binding order issued by a government agency or a court of law or under mandatory provisions of applicable law, and

• written notice of the possibility of such disclosure was given to the disclosing CONTRACTING PARTY as soon as the receiving CONTRACTING PARTY was reasonably able to recognize that the agency or court or mandatory law might require the disclosure of CONFIDENTIAL INFORMATION, and

• the receiving CONTRACTING PARTY furnished full information, including copies of all pertinent documents, to the disclosing CONTRACTING PARTY, and

• the receiving CONTRACTING PARTY did everything reasonably possible to oppose or avoid the disclosure, and

• to the extent the disclosure of CONFIDENTIAL INFORMATION was not reasonably avoidable, the receiving CONTRACTING PARTY did everything reasonably possible to limit the scope of such disclosure, including without limitation taking all reasonable action (including court action) requested in writing by the disclosing CONTRACTING PARTY.

3.3 If the requirements of an exception stipulated in this section are met with respect to part but not all of the CONFIDENTIAL INFORMATION, the exception applies only to this portion of the CONFIDENTIAL INFORMATION, leaving unaffected its remaining parts.

3.4 The CONTRACTING PARTY seeking to rely on an exception stipulated in this section must prove that all requirements of the exception are met.

**4. Right of Disclosure**

4.1 AUDI AG is entitled to disclose CONFIDENTIAL INFORMATION to NON-THIRD PARTIES to the extent that confidentiality obligations equivalent to those established in this Agreement have been previously imposed on the company in question.

4.2 CONTRACTING PARTY 2 is entitled to disclose CONFIDENTIAL INFORMATION to all AFFILIATED ENTERPRISES of

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to the extent disclosure of CONFIDENTIAL INFORMATION to these companies is objectively necessary for the COOPERATION and confidentiality obligations equivalent to those established in this Agreement have been previously imposed on the companies in question.

**5. Rights and Licenses, Absence of Consideration**

5.1 The disclosing CONTRACTING PARTY reserves all rights to CONFIDENTIAL INFORMATION provided. The disclosing CONTRACTING PARTY in particular remains the owner respectively holder of all such CONFIDENTIAL INFORMATION. No licenses or other rights or claims of any sort whatsoever, in particular no rights relating to names, patents, utility models, no rights of use and/or trademarks, and no other industrial property rights are conveyed under this Agreement, nor does it give rise to any obligation to transfer or convey such rights.

5.2 CONFIDENTIAL INFORMATION is provided voluntarily and free of charge (without consideration) to the extent such information is not provided in direct connection with a separate contractual relationship between the CONTRACTING PARTIES existing alongside this Non-Disclosure Agreement.

**6. Employees and Subcontractors**

6.1 Unless service or employment agreements accomplishing the same purpose are already in place, each CONTRACTING PARTY is required to enter into appropriate, but not necessarily identical, agreements with any and all of its own personnel, consultants, and other performance assistants who have any involvement with the COOPERATION so as to ensure that these persons are bound, at a minimum, by the confidentiality obligations contained in this Agreement. In particular, each CONTRACTING PARTY shall ensure that these subcontractors are likewise subject to confidentiality obligations agreed to in writing equivalent to those contained in this Agreement.

6.2 Each CONTRACTING PARTY is liable to the other CONTRACTING PARTY for any transfer, utilization and/or disclosure of CONFIDENTIAL INFORMATION by its personnel, consultants, other performance assistants and/or subcontractors in contravention of this Agreement.

**7. Data Secrecy**

Before assigning data processing functions to any persons, each CONTRACTING PARTY is required to have such persons obligated to observe data secrecy. Such persons shall in particular be prohibited from collecting, processing or using personal data without authorization (data secrecy obligation under § 5 of the German Federal Data Privacy Protection Law). Such persons shall remain subject to the data secrecy obligation even after ceasing to perform data processing work.

**8. Entry into Force, Term**

8.1 This Non-Disclosure Agreement takes effect on the date of signature by the CONTRACTING PARTIES and terminates five (5) years from this date.

8.2 The confidentiality obligations under this Non-Disclosure Agreement remain in effect for a period of three (3) additional years after its termination, regardless of how it is terminated.

**9. Cancellation**

For important cause, any CONTRACTING PARTY choosing to invoke such cause may cancel this Agreement with immediate effect (extraordinary cancellation), unless the other CONTRACTING PARTY proves that neither willful nor grossly negligent conduct on its part gave rise to the important cause. Important cause includes without limitation the breach of a cardinal contractual obligation.

**10. Liability**

A CONTRACTING PARTY that violates this Agreement shall be liable for all damages suffered by the other CONTRACTING PARTY, unless the violating CONTRACTING PARTY proves that neither willful nor grossly negligent conduct on its part gave rise to the violation. The limitation on liability does not apply in the event of loss of life, bodily injury or harm to health, in the event of violation of cardinal contractual obligations or in cases of mandatory liability, e.g. under the German Product Liability Law (Produkthaftungsgesetz), for which the CONTRACTING PARTIES shall be liable to each other to the full extent of the statutory law.

**11. Further Business Relationship**

The nature and scope of any potential (future) business relationship extending beyond the COOPERATION, in particular the execution of specific projects, are matters requiring separate agreement between the CONTRACTING PARTIES. This Non-Disclosure Agreement does not give rise to any obligation to enter into a license agreement, cooperation contract, development contract or any other type of contract.

**12. Transferability**

Except for transfers by universal succession, the rights and obligations under this Agreement may, unless otherwise provided herein or by mandatory statutory provisions, only be assigned and delegated with the prior consent of the CONTRACTING PARTIES. This Agreement is binding on the CONTRACTING PARTIES' successors in interest, if any.

**13. Written Form**

This Agreement is subject to a requirement of written form; no oral collateral agreements exist. Amendments and additions hereto, including amendments of this clause, are invalid unless agreed in writing. For compliance with the written form, neither transmission by way of telecommunications nor electronic form nor text form is sufficient.

**14. Arbitration Clause**

14.1 Any and all disputes arising out of or relating to this Agreement or its validity in contract, tort or otherwise, whatever the cause thereof, shall be finally settled in accordance with the Arbitration Rules of the German Institute of Arbitration (DIS) without recourse to the ordinary courts of law.

14.2 The place of arbitration is Ingolstadt, Germany.

14.3 There shall be three (3) arbitrators.

14.4 The language of the arbitral proceedings is German.

14.5 This Agreement shall be governed by and interpreted in accordance with the laws of the Federal Republic of Germany, excluding the United Nations Convention on Contracts for the International Sale of Goods and any other conflict-of-laws provisions.

**15. Severability**

Should individual provisions of this Agreement be or become wholly or partly invalid, this shall not affect the validity of the remaining provisions. As far as the invalidity is not the result of violation of regulations about general terms and conditions, the invalid provision shall be replaced by a valid provision that approximates the originally intended arrangement as closely as possible. The same applies in case of a contractual gap.

This Agreement has been issued in two copies, of which each CONTRACTING PARTY has received one.

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|  | Ingolstadt, | ................................... |
|  |  | (date of signature) |
|  | **AUDI AG** | |
|  | i.V. | i.V. |
|  |  |  |
| Signature(s): | ......................................... | ......................................... |
| Signatory's name: | ......................................... | ......................................... |
| Signatory's dept.: | ......................................... | ......................................... |
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| Contact person at AUDI AG: | [Name] |
| Department at AUDI AG: | [Department] |

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|  | (place of signature) | (date of signature) |
|  | **CONTRACTING PARTY 2** | |
|  | i.V. | i.V. |
|  |  |  |
| Signature(s): | ......................................... | ......................................... |
| Signatory's name: | ......................................... | ......................................... |
| Signatory's dept.: | ......................................... | ......................................... |
| Supplier no.: | ................................... | |
| DUNS no.: | ................................... | |

**[Kindly print the name and department / title of each signatory under his or her signature]**