



IFS AGR #XXXX

AGREEMENT FOR THE EXCHANGE, NON-DISCLOSURE AND RESTRICTED USE OF PROPRIETARY INFORMATION (Mutual Exchange)

This agreement (hereinafter referred to as the "Agreement"), effective as of XXX 2019 (hereinafter referred to as the "Effective Date"), is entered into by and between XXXX, having its place of business at _____, and XXXX, having its place of business at _____ (each hereinafter also referred to collectively as "the Parties" and individually as "Party").

PURPOSE

The purpose of this Agreement is to set forth rights and obligations of the Parties with respect to the use, handling, protection and safeguarding of proprietary information which is disclosed by and between the Parties in connection with XXXX (hereinafter the "Purpose").

IDENTIFICATION OF INFORMATION

The type of information, which the Parties intend to exchange, is described as follows:

Information provided by XXXX:

Information provided by XXXX:

AGREEMENT

Therefore, for and in consideration of a Party's (the "Disclosing Party") disclosure to the other Party (the "Receiving Party") of proprietary information ("Information") which includes technical information, software products, business plans, marketing plans, future potential business relationships, and/or financial information originated by or otherwise within the knowledge of the Disclosing Party or other data which the Disclosing Party treats as company private, and which is identified in writing as proprietary at the time of disclosure or which, in the case of orally disclosed information, is identified as proprietary at the time of disclosure and is reduced to writing within 30 days thereafter (and which Information during this 30 day period shall be provided the same protection as provided Information identified in writing in accordance with the above), the Receiving Party accepts and receives such proprietary information in confidence and trust, subject to the following terms and conditions:

1 DISCLOSURE

- 1.1 The Disclosing Party discloses such Information only for the Purpose stated above. Unless otherwise authorized in writing by the Disclosing Party, the Receiving Party shall not disclose the Disclosing Party's Information to any third party, nor circulate it within its own organization except to persons with a need to know. Such persons shall be instructed that such Information is proprietary to the Disclosing Party. They shall not utilize the Information except for the Purpose stated above and shall not reproduce or otherwise duplicate any portion of the Information except to employee(s) designated in accordance with section 10 of this Agreement without the prior written consent of the Disclosing Party.
- 1.2 Nothing in this Agreement may be construed as compelling either Party hereto to disclose any Information to the other, or to enter into any further contractual relationships.
- 1.3 Each Party hereto, to the extent of its right to do so, shall disclose to the other Party only such Information, which the Disclosing Party deems appropriate to fulfill the objectives of this Agreement. The Parties hereto hereby represent that at the time of entering into this Agreement the disclosure of Information by and between themselves is not contrary to the laws and regulations of their respective countries.

2 PUBLIC DOMAIN

- 2.1 The Receiving Party shall not be liable for disclosure to any third party of the Disclosing Party's Information if and to the extent that such Information:
 - 2.1.1 Has been published or was otherwise publicly known when disclosed to the Receiving Party;
 - 2.1.2 Was in the Receiving Party's possession free of any obligation of confidence when disclosed to the Receiving Party;
 - 2.1.3 Entered into the public domain through no fault of the Receiving Party after disclosure of it to the Receiving Party;
 - 2.1.4 Was rightfully communicated by a third party to the Receiving Party free of any obligation of confidence after the Disclosing Party disclosed it to the Receiving Party;
 - 2.1.5 Was developed by employees or agents of the Receiving Party independently of and without reference to the Disclosing Party's Information;
 - 2.1.6 Is released by the Disclosing Party to any third party free from any obligation of confidence;
 - 2.1.7 Is disclosed inadvertently, provided the Receiving Party uses the same degree of care (but no less than reasonable care) to safeguard such Information as it uses for its own information of like importance, and upon discovery of such inadvertent disclosure it shall use its best endeavors to prevent any further inadvertent use, publication, or dissemination; or
 - 2.1.8 Is disclosed pursuant to governmental or judicial order or request provided the Receiving Party shall, whenever practicable, promptly notify the Disclosing Party. Upon the Disclosing Party's request, the Receiving Party shall reasonably co-operate with the Disclosing Party in contesting such a disclosure (at the Disclosing Party's sole cost and expense).
- 2.2 The Party seeking the benefit of an exception from the confidentiality obligation according to clause 2.1 shall bear the burden of proof of its existence.

3 TITLE TO INFORMATION

- 3.1 The Disclosing Party's Information disclosed to the Receiving Party shall be and remain the property of the Disclosing Party. All such Information (including copies) shall be promptly destroyed, or returned to the Disclosing Party upon the Disclosing Party's written request or at the expiration or termination of this Agreement. If destruction is requested, the Receiving Party shall provide written certification of compliance within thirty (30) days of such request.

4 EXPORT REGULATIONS

- 4.1 This Agreement shall not authorize the export or re-export of export controlled Information.
- 4.2 Information disclosed under this Agreement may be designated as subject to export control under one or multiple jurisdictions, including, but not limited to, (i) Danish arms export control, (ii) EU dual use export

control, (iii) the International Traffic in Arms Regulations (ITAR, 22 CFR 120-130); and/or (iv) the Export Administrations Regulations (EAR, 15 CFR 730-799). Without derogating from such other obligations as the Receiving Party may have hereunder regarding its use, disclosure, or transfer of the Disclosing Party's Information, the Receiving Party expressly undertakes not to transfer such export controlled Information directly or indirectly to any third party (whether foreign or domestic), including any third country national or dual national unless in compliance with all applicable laws and regulations

5 CLASSIFIED INFORMATION

5.1 Any Information disclosed by and between the Parties under this Agreement which is Classified Information, i.e. information provided with a military security classification by the competent national military authorities, shall be identified by the Disclosing Party as Classified Information at the time of disclosure and the disclosure, protection, use, and handling of such information shall be in accordance with security procedures prescribed by the appropriate government in addition to the terms and conditions of this Agreement.

6 TERMINATION

6.1 Unless terminated earlier, termination will occur upon expiration of XX years from the Effective Date. This Agreement may be terminated earlier by either Party by ten (10) days' written notice to the other Party. Termination shall not, however, affect these rights and obligations with respect to Information disclosed prior to termination.

6.2 These obligations of non-disclosure shall exist and continue for XX years. Upon termination or expiration of this Agreement the Receiving Party shall no longer be entitled to use Information received from the Disclosing Party under this Agreement.

7 ASSIGNMENT

7.1 This Agreement shall not be assigned by either Party.

8 LICENSE

8.1 No license to manufacture, sell or use, or other authority of any kind under any intellectual property right including, but not limited to, any trademark, patent or copyright, shall be implied or granted by this Agreement or by conveying of Information hereunder.

9 NO WARRANTIES AND LIMITATION OF LIABILITY

9.1 Information disclosed under this Agreement is provided "as is" and the Disclosing Party shall not be liable for the accuracy or completeness of the Information, nor for any claims, losses, or damages of any kind incurred by the Receiving Party as a result of its reliance upon or use of the Information. The sole liability of the Parties is limited to the obligations specifically addressed in this Agreement as to the exchange of Information.

10 POINT OF CONTACT

10.1 Each Party designates in writing the following employee(s) as the main contact person to receive Information exchanged pursuant to this Agreement. Any change of individual(s) shall be communicated to the other Party in writing:

For XXXX

Name:

Title:

Phone: +

E-mail:

For XXXX

Name:

Title:

Phone: +

E-mail:

11 GOVERNING LAW AND VENUE

- 11.1 This Agreement shall be governed by the laws of the State of New York without giving effect to its conflicts of laws principles.
- 11.2 The Parties agree that, in the event of a dispute arising from this Agreement, they shall endeavor to reach a settlement by mutual agreement. Failing this, the settlement of this dispute shall be finally achieved by arbitration under the rules of conciliation and arbitration of the International Chamber of Commerce (ICC), by one or more arbitrators appointed in accordance with the said rules. Such arbitration proceedings will take place in New York, New York USA, and the procedural language shall be English. The decision(s) of the arbitration tribunal shall be final and binding upon the Parties.
- 11.3 Without derogating from the above provision, each Party recognizes and acknowledges that in the event of breach of this Agreement, a Party's remedies at law may be inadequate and accordingly, each Party agrees that in the event of any actual or threatened breach of this Agreement, it shall have the right to seek injunctive relief or similar appropriate orders before any competent court and under any law, to restrain the other Party as a remedy for such breach.

12 ENTIRE AGREEMENT

- 12.1 This Agreement contains the entire agreement, and supersedes all prior and collateral communications and agreements of the Parties with respect to the protection of either Party's Information disclosed to the other with regard to the Purpose. No change or addition to any provision of this Agreement shall be binding except by a written amendment signed by both Parties.
- 12.2 The Parties agree that an electronic version of this Agreement exchanged by e-mail, once duly signed by the authorized representatives of each Party, shall constitute a binding agreement and shall have the same force and effect as a document bearing original signatures.

For

For

Date: _____

Date: _____

Signature

Signature