

# Non-disclosure agreement

## THE PARTIES

- Verstrekkeende partij, having its place of business at Den Haag, registered under trade register number 98765432 in Nederland on the one hand,

and

- Ontvangende partij, having its place of business at Utrecht, registered under trade register number 12312312 in Nederland on the other hand,

## CONSIDERING, THAT

- and are considering entering into a commercial transaction regarding the purchase or sale of products, licensing of software or the providing of services;
- The parties for this transaction wish to enter into confidential negotiations (hereafter: the Purpose);
- the parties for the purpose wish to exchange certain information, including samples,
- The parties wish to record their respective obligations regarding Confidential Information;

HAVE AGREED AS FOLLOWS,.

## Article 1. Confidentiality obligations

1.1. Information is defined as all information and data concerning business operations, marketing, research, development, inventions, know-how, samples, product and service specifications, business relations, customers or suppliers, irrespective of the form in which this has been recorded or is provided (including e-mail, digital files, paper documents and oral disclosures).

1.2. Confidential Information is defined to include all Information that can be assumed from, from its context or its contents, to be deemed confidential by the disclosing party would deem this to be confidential or of which the receiving party should reasonably have recognized its confidential nature from the content of the Information. Information marked as confidential or of which the confidential nature is reported as such within 30 days after distribution is in any case deemed as Confidential Information.

1.3. The receiving party shall treat all Confidential Information obtained from the disclosing party as strictly confidential and use such information solely for the Purpose. This confidentiality shall exist for the duration of this non-disclosure agreement and a period of two years thereafter. The analysis of properties of any samples supplied is only permitted if necessary for the Purpose.

1.4. The receiving party shall protect Confidential Information with the same level of

- can be derived without extraordinary effort from products freely available on the market.

3.2. Information will, however, not lose its confidential nature solely because individual aspects pertaining to it are available as meant in the previous paragraph.

#### **Article 4. No warranties**

4.1. All Confidential Information is issued without any claims regarding correctness or guarantees of any nature whatsoever.

4.2. The disclosing party accepts no liability on any grounds for any damages whatsoever suffered by the receiving party arising from the use of Confidential Information. 4.3. Nothing in this agreement shall be construed as requiring either party to license or assign any intellectual property rights to the other party, except where explicitly noted otherwise.

#### **Article 5. Liability and contractual fine**

5.1. The receiving party is fully liable for all damages suffered by the disclosing party arising from a violation of the obligation to observe confidentiality of Confidential Information.

5.2. Damage is defined to include to mean loss of turnover and profit, loss of income, fines, as well as damages payable by the disclosing party to third parties from whom certain Confidential Information was obtained.

5.3. In case the receiving party violates the obligation to observe confidentiality, it shall immediately and without the need for a notice of default owe to the other party a contractual fine of € 123.123,00. In case the actual damages exceed the amount of the fine, the disclosing party may elect to demand payment of actual damages instead.

#### **Article 6. Other provisions**

6.1. This non-disclosure agreement is entered into on the last date indicated below and remains in force for a period of one year thereafter. Early termination is possible only with the mutual consent of the parties.

6.2. In the event that any one or more of the provisions of this non-disclosure agreement is determined by a court of competent jurisdiction to be invalid, unenforceable, or illegal, such invalidity, unenforceability, or illegality shall not affect any other provisions of this non-disclosure agreement. In such event, the parties shall negotiate a suitable replacement provision.

6.3. This non-disclosure agreement nor any Information exchange within its scope shall be regarded as an obligation or commitment for either party to enter into any further agreement with the other party.

6.4. The laws of the Kingdom of the Netherlands shall apply to this non-disclosure agreement. Any disputes that may arise in connection with this non-disclosure agreement shall be brought before the competent Dutch court for the principal place of business of the disclosing party.