This **Know-how and Exclusive Rights Supply Agreement** is made and entered into as of \_\_\_\_ [**day**] \_\_\_\_\_\_\_\_\_\_ [**month**], \_\_\_\_\_\_\_ [**year**] between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a company established and existing under \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ laws (hereinafter calledthe **“Seller”**) having its registered office at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,

and

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ a company established and existing under \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ laws (hereinafter calledthe **“Buyer”**) having its registered office at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

1. **WHEREAS**, the Seller has the right and wishes to sell to the Buyer Know-how (as it defined below) and grant to the Buyer Exclusive Rights (as it defined below) over the Know-how; and

2. **WHEREAS,** the Buyer wishes to obtain the Know-how in accordance with the Exclusive Rights upon the terms and conditions hereinafter set forth.

Now, therefore, in consideration of the premises and the faithful performance of the covenants herein contained it is agreed as follows:

**Article I - Definitions**

For the purpose of this Agreement, the following definitions shall apply:

1. **Confidential Information:** Shall mean with respect to any Party, Documents, Know-how, Exclusive Rights all scientific, business, technical, engineering, financial or any other information as is defined in a confidentiality agreement to be entered by the Parties subject to the present Agreement.

2. **Buyer's Facilities:** shall mean **[place where training will take place]**.

3. **Business Day:** shall mean a day (other than a Saturday or Sunday) on which banks and financial markets in **[Moscow and Jersey insert locations relevant to the Parties]** are open for business and (if a payment is required to be made hereunder on such day) also a day on which banks and financial markets are open for business in the principal financial centre of the currency concerned.

4. **Date of Payment:** shall mean a date when the funds are debited from the bank account of the Buyer.

5. **Dispute:** means any dispute, controversy, claim or difference relating to or arising out of, or in connection with, this Agreement its existence, performance or any breach hereof.

6. **Documents:** Shallmean the documents specifically defined in **Appendix 2** to the present Agreement **[Note: set out in Appendix 2 a full and detailed listing of all documents to be provided]**.

7. **Exclusive Rights:**  Shall mean the list of exclusive rights agreed by the Parties in **Appendix 1** to the present Agreement **[Note: set out in Appendix 1 a full and detailed listing of all rights agreed by the Parties]**.

8. **Execution Date:** shall mean the date on which this Agreement is signed by both Parties (or where the Parties sign on different dates, the latest of these dates).

9**. Know-how:**  Shall mean (non exhaustively) any and all technical data, information, documents, manufacture information, samples, unregistered designs, spare parts, tools, formulae, calculations, materials, unpatented inventions, drawings, quality standards, engineering and production specifications, manuals, applicable process of manufacture and manufacturing techniques, test systems specifications and any other similar data relating to the manufacture and maintenance of any part of the Products, instructions and notes concerning the design, manufacture or use of the Product or any process related thereto, trade secrets, technology, formulas, processes, and ideas, including any improvements thereto, in any form in which the foregoing may exist, now owned by or in the possession of the Seller prior to the Execution Date of this Agreement. Without limiting the foregoing, a non-exhaustive list of the Know-how is agreed by the Parties in **Appendix 1** to the present Agreement.

10. **Incoterms:** shall mean Incoterms 2010, a set of uniform rules for the interpretation of international commercial terms defining the costs, risks, and obligations of buyers and sellers in international transactions adopted by the International Chamber of Commerce in Paris.

11. **Products:** Shall mean \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ including, but not limited to any products, materials including plants and/or seeds, compositions, techniques, devices, methods or inventions and technical documentation relating to or based on the **Know-how**, produced up to the Effective date or in the future. The Products shall conform to the characteristics set forth in the **Appendix 3**.

**ARTICLE II- CONTENT AND SCOPE OF THE AGREEMENT[[1]](#footnote-1)**

1. The Seller hereby agrees to sell and the Buyerhereby agrees to buy Know-how and Exclusive Rights to use Know-how for manufacturing the Products.
2. [In addition, and at no extra cost to the Buyer save as specified herein, the Seller shall be responsible for the training of the Buyer`s nominated technical personnel at the Buyer`s Facilities and shall use best endeavours to enable the Buyer`s technical personnel to become fully proficient in the design, manufacture, assembly, testing, inspection, painting and maintenance of the Products.

While the Buyer`s technical personnel are being trained in the Buyer`s Facilities, by the Seller, the Buyer shall meet the cost of a midday meal and local transportation to and from lodgings and the Buyer's Facilities for up to **[number]** of the Seller's personnel. All other expenses, including travel, living expenses, lodging and meals, will be at Seller`s costs.

The fees of the Seller for the training of the Buyer`s technical personnel is included in the amount of the Agreement fee.

The Seller shall start to proceed with training of the Buyer`s qualified technical personnel in the Buyer`s relevant facilities within \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (\_\_\_\_\_\_\_\_\_) calendar days after receipt of the corresponding Buyer`s requirement.

Without prejudice to the generality of the forgoing, the Buyer’s minimum training requirements are set out in Appendix 4.

1. The Documents under the present Agreement are to be delivered on the terms [ **DAP [CIP][DDP (“Delivered Duty Paid”) which requires Seller to meet costs and arrangements for import in addition to export]** (as defined in INCOTERMS), \_\_\_\_\_\_\_\_\_\_\_\_\_\_ [**to insert place of destination**] or such other destination as may be designated by the Buyer in the Buyer’s absolute discretion..

The Seller shall deliver the Documents and take all necessary steps and observe all the procedures and requirements (including any customs formalities) that are necessary and sufficient under any applicable laws for delivery of the Documents and for transfer of the Exclusive Rights from Seller to the Buyer within \_\_\_\_\_\_\_\_\_ **[to insert the period]** Business Days after the Execution date of this Agreement.

If any Documents are found lost or damaged when delivered **[Note; replace “delivered” with “received by the Buyer at the place of destination” if using CIP term]** (whether such loss or damage occurred during transportation or otherwise) the Seller shall deliver replacements for any such lost or damaged Documents free of charge within the shortest possible time after delivery but in any event not later than thirty (30) calendar days after receiving from the Buyer a written notice specifying that any Document has not been delivered or has been delivered damaged.

The Documents shall be packed for transportation in strong wooden cases suitable for long distance transportation, rain-proof and protected from moisture. The Seller shall comply with all other customary packing requirements for transport of material of the nature of the Documents. On the surface of each package the following items shall be marked in English:

1. Know-how and Exclusive Rights Supply Agreement No \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_;
2. Destination \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_;
3. Shipping mark \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_;
4. Weight \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_;
5. Case/Piece No \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_;
6. Recipient: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

It shall be a condition of this Agreement that the Documents are delivered to the Buyer not later than **[Insert number of days consistent with above]** Business Days after the Execution Date.

Following delivery of the Documents the Buyer shall send a notice of acceptance to Seller in respect of all Documents delivered in an undamaged condition. Damaged or missing documents shall be notified by the Buyer separately (the “**Notice of Acceptance**”).

The Documents transferred shall be considered Delivered to the Buyer as of the date the Buyer signs the Notice of acceptance for the Documents supplied in accordance with the provisions of the present Article. The execution by the Buyer of the Notice of Acceptance shall mean that Documents referred to in that Notice of Acceptance, are not damaged in a way that is apparent from initial inspection.

1. All Know-how and Exclusive Rights to use Know-how transferred by the Seller in accordance with this Agreement shall be transferred to the Buyer on an exclusive basis. Which means that the Seller hereby gives up all its rights in respect of such Know and Exclusive rights (other than as specified in this Agreement) including its right both to exploit Know-how or its rights to use Know-how in any way whatsoever whether by itself or by allowing the Know-how and/or the Exclusive Rights to use Know-how to be used or exploited by any third party.

**ARTICLE III- PAYMENTS**

1.For the Know-how, Documents and Exclusive Rights herein granted and in consideration of all other obligations of the Seller hereunder:

**The Buyer** agrees to pay \_\_\_\_\_\_\_\_\_\_\_\_\_ (\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_) [to insert an amount and a currency of the amount] (the “**Agreement fee**”) [including/excluding] VAT in the following order:

1. 20% of the Agreement fee shall be paid within seven (7) calendar days after the Execution date;
2. 60% of the Agreement fee shall be paid within seven (7) calendar days after execution by the Buyer of the Notice of Acceptance in accordance with the Article II (3) of the Agreement or, where any Documents are not received or received in a damaged condition, 7 calendar days after delivery of replacements for all lost or damaged Documents by the Seller ;
3. 20% of the Agreement fee shall be paid within seven (7) calendar days after execution by the Parties of the verification test in accordance with the Article IV, clauses 3-7.

2. All the banking and interbank charges incurred inside \_\_\_\_\_\_\_\_\_\_\_\_ **[to insert the name of the Buyer`s country of incorporation]**, including all currency conversions, shall be borne by the Buyer and all the banking and interbank charges incurred outside \_\_\_\_\_\_\_\_\_\_\_\_ [to insert the name of the Buyer`s country of incorporation], including all currency conversions, shall be borne by the Seller.

3. In the event the Buyer fails to pay the Agreement fee as it set above in this Article III, clause 1 the Seller shall be entitled to interest on the unpaid sums at the rate of \_\_\_\_\_\_\_\_\_ **[insert]** per **[day/week/month/year depending on the interest amount]**.

4. From the Execution date the Seller shall give up any and all ownership or similar proprietary rights to or in the Know-how and shall not use Know-how in any manner, and shall not have any right to make any claim against the Buyer for use of Know-how in accordance with the Exclusive Rights save to the extent of the Agreement Fee.

 **ARTICLE IV – MODIFICATION AND IMPROVEMENTS OF THE TECHNICAL DOCUMENTS. VERIFICATION TEST AND ACCEPTANCE.**

1. The Seller guarantees that the Documents, training and Know-how provided to the Buyer will enable the Buyer to manufacture Products conforming with the characteristics set out in Appendix 3. In the event that following receipt of the Documents and Know-how, the Buyer considers that the Documents and Know-how in the form received will not enable the Buyer to manufacture Products conforming with the characteristics set out in Appendix 3, then the Buyer may request that the Seller supplements, modifies or amends the Documents or Know-how to remedy or eliminate any deficiencies notified by the Buyer.

2. The supplementation, modification or amendment of the Documents shall be fulfilled by Seller within such reasonable period as the Buyer may specify after the Buyer’s request and notification of deficiencies .

3. **[It may be prudent if the verification exercise be carried out in all cases, not just where the Buyer has notified a deficiency as above. The wording has been amended accordingly]** Within **[insert period]** (or such longer period as may be agreed by the Parties) after receipt by the Buyer of the Documents and Know-how and in order to inspect the correctness and reliability of the Documents and Know-how supplied by Seller, a verification test for the first lot of the Products produced by the Buyer on the basis of the supplied Know-how and the Documents shall be jointly carried out at the Buyer`s Facilities with the participation of the Seller`s technical personnel. The Seller and the Buyer shall agree on the identity of an independent third party expert (the Expert”) to test the first lot of products for compliance with the requirements of Appendix 3 (“the Verification Test”). All findings of the Expert shall be final and binding on the Parties in the absence of fraud or manifest error. The costs of the Expert shall be divided equally between the Parties. In the event that the Seller and the Buyer are unable to agree on the identity of the Expert within seven (7) Business Days of a request to do so by either Party, either of the Parties may request **[Insert identity of a suitably qualified and independent third party depending on the nature of the Products who may be asked by the Parties to identify an Expert in the absence of agreement]** to identify an appropriate company or individual to act as the Expert and the Parties agree to follow the recommendation and appoint the recommended person as Expert as soon as is reasonably practicable.

4. If the Verification Test demonstrates that the characteristics of the first lot of the Products conforms to the characteristics set forth in the Appendix 3 such test and the lot of the product shall be considered qualified and the two Parties shall sign a performance quality certificate in two (2) copies.

5. If the verification test demonstrates that the characteristics of the first lot of the Products does not conform to the characteristics set forth in Appendix 3, both Parties shall, seek to identify the reason for any failure and the Seller shall take all necessary measures to supplement, modify or amend the Documents or Know-how in order to enable the Buyer to manufacture products conforming with the requirements of Appendix 3 within such reasonable time as may be specified by the Buyer. Following completion of any supplementation, modification or amendment, the Expert shall carry out a second Verification Test on Products manufactured following the supplementation, modification or amendment of Documents or Know-how. Where the second test demonstrates that the Products manufactured on the basis of the corrected Documents and Know-how conforms to the characteristics set forth in Appendix 3, the two Parties shall sign a performance quality certificate as stipulated in this Article IV, clause 4.

6. If the second Verification Test demonstrates that the characteristics of the second lot of the Products is not in conformity with Appendix 3 both Parties shall again, seek to identify the reason for any failure and the Seller shall take all necessary measures to supplement, modify or amend the Documents or Know-how in order to enable the Buyer to manufacture products conforming with the requirements of Appendix 3 within such reasonable time as may be specified by the Buyer. The Expert shall carry out a third Verification Test on Products manufactured following any further supplementation, modification or amendment.

7. If following a Third Verification test the Products do not conform with Appendix 3, and if the Documents and Know-how are the reason why the Products do not comply the Buyer shall have the right to terminate the Agreement and to make claims against the Seller as stipulated in the Article V, clause 9. Where the third test demonstrates that the Products manufactured on the basis of the corrected Documents and Know-how conforms to the characteristics set forth in Appendix 3, the two Parties shall sign a performance quality certificate as stipulated in this Article IV, clause 4.

**ARTICLE V – GUARANTEES AND CLAIMS**

1. Each Party hereby represents and warrants to the other that (i) it has the authority to enter into and perform its obligations under this Agreement, (ii) this Agreement has been duly executed and delivered on behalf of such Party, and constitutes a legal, valid, binding obligation, enforceable against such Party in accordance with its terms, (iii) it is a corporation duly organized, validly existing under the laws and regulations of its jurisdiction of incorporation or formation, and (iv) neither the execution of this Agreement nor its performance hereunder conflicts with any applicable law or regulation or any other agreement to which it is a party or any obligation to which it is subject.

2. The Seller guarantees and confirms that the Know-how and Documents supplied by the Seller under this Agreement shall be of the latest Documents, Know-how and technology being used by the Seller itself and the Know-how and Exclusive Rights to use Know-how have not been transferred to a third party at any time..

3. The Seller guarantees that Documents supplied by the Seller are complete, correct, legible and correspondent to the requirements of Appendix 1 and Appendix 2 of the Agreement.

4. The Seller guarantees that it has not applied for a patent and is not going to apply for a patent relating to the Know-how or any part and/or the Documents or any of them or the matters set out in the Documents and agrees and undertakes to indemnify the Buyer and to hold the Buyer harmless in respect of any liability, loss, damage or expense of whatsoever nature (including legal expenses) arisingfrom any claims brought by a third party against the Buyer for infringement of the third-party`s patent rights arising from the Buyers’ use of the Documents or Know-how.

5. The Seller guarantees that all necessary steps have been taken and all procedures and requirements that are necessary for transfer of the Exclusive Rights from Seller to the Buyer under any applicable laws have been observed and therefore the Seller undertakes to indemnify the Buyer and to hold the Buyer harmless in respect of any liability, loss, damage or expense of whatsoever nature arisingfrom any claims brought by any third party or legal entities in respect of the Buyer`s title to Know-how, Documents and Exclusive Rights.

6. The Seller hereby guarantees that prior to the Execution Date any licenses, permissions and/ or authorizations necessary for the proper use of the Know-how, the Documents and the Exclusive Rights by the Buyer will have been obtained by the Seller. The Seller undertakes to indemnify the Buyer and to hold the Buyer harmless in respect of any liability, loss, damage or expense of whatsoever nature suffered by the Buyer as a consequence of the Seller breaching this guarantee.

7. If any of the Documents supplied by the Seller are not in conformity with the provisions and requirements of Article V, clause 3 above or Appendix 2, the Seller shall, within the shortest possible time but not later than the thirty (30) calendar days after receipt of the Buyer`s written notice that any Document does not comply as aforesaid, deliver replacement Documents free of charge to the Buyer including any corrections necessary to conform the Documents with the provisions and requirements of Article V, clause 3 and Appendix 2 above.

8. Whenever the delay of the Documents delivery exceeds fourteen (14) calendar days from the dates set out in Article II, clause 3 and/or in Article V, clause 5, the Buyer shall be entitled to terminate this Agreement for breach or in the alternative claim liquidated damages for delayed delivery as follows. For each full calendar week that the Seller supplies the Know-how, Documents and Exclusive Rights after the timing specified in Article II, clause 3 and in Article V, clause 5, the Buyer shall be entitled to liquidated damages from the Seller for such delay in the amount equal to **[insert amount of damages payable]** for each week of delay beyond 14 calendar days. **[Note that for liquidated damages to be valid and not categorized as a penalty (and therefore unenforceable) the amount inserted here must represent a genuine attempt to pre-quantify Buyer’s loss likely to be suffered as a result of the delay in receipt of the Documents].**

9. In case the Buyer terminates the Agreement (1) for uncured breach of the Agreement by the Seller and/or (2) for the Products failing to comply with Appendix 3 during the third verification test and the Documents and Know-how are the reason why the Products do not comply with Appendix 3, the Seller shall refund to the Buyer the Agreement fee paid by the Buyer as under the Article III plus interest from the Date of Payment until receipt at the rate of **[insert rate]** per annum , and shall pay to the Buyer compensation equivalent to the Buyer’s loss of profit and any other direct or indirect damages arising from such termination less the amount of any refund.

10. The Seller hereby promises and guarantees at all times to defend, hold harmless and indemnify the Buyer from and against any and all claims, damages, losses, expenses (including legal expenses) and causes of action whatsoever which may arise from, out of, in the course of or by reason of the Buyer’s use of or reliance upon the Documents, Know-how or Exclusive rights for or in relation to the design, manufacture, testing, sale, installation or service of, customer support for or other business with regard to, the Products or in any other way contemplated by the terms of this Agreement **[unless caused by, the negligence, willful default or breach of this Agreement by the Buyer].**

11. In the event of any proceedings being commenced against the Buyer by a third party arising out of or in connection with the the Buyer’s use of the Documents, Know-how or Exclusive Rights, the Seller undertakes to provide the Buyer on demand with sufficient funds to defend the same. In the event that any such proceedings are commenced against the Buyer, the Buyer shall inform the Seller within ten (10) Business Days after the Buyer has been informed of the litigation. The Seller shall be solely responsible for the costs of such proceedings and shall reimburse the Buyer for any expenses and losses relating to the proceedings and shall assist the Buyer in providing any supporting documents, proofs and evidences required to defend the proceedings.

12. Neither of the Parties hereto shall under any circumstances be considered to be an employee or agent of the other, and none of the employees of either Party hereto shall be considered for any purposes to be employees of the other. Each of the Parties hereto shall assume full responsibility for its own account to and for all of its employees for their payment, either by salary, commission, or otherwise, and for all liability, worker`s compensation, unemployment insurance and other so-called social security acts, whether federal, state or local in origin.

13. The warranty period for the Documents, Know-how and Exclusive Rights is two (2) calendar years after signing of the performance quality certificate (the “Warranty period”). In the event that any defect is discovered within the Warranty period in any Documents, Know-how or Exclusive Rights the Buyer shall have the following rights provided such defect is notified to the Buyer on the last day of the Warranty Period or not later than **[insert]** Business Days after the end of the Warranty Period:

(i) to require the Seller to remedy the detected defects and to indemnify the Buyer and to hold the Buyer harmless in respect of any and all losses liability, damage or expense of whatsoever nature suffered by the Buyer as a consequence of the defects in the Documents, Know-how and the Exclusive Rights; Such remedy must be completed within **[insert]** Business Days after notification or such longer period as the Buyer considers reasonable.

(ii) to require from the Seller to refund the Agreement fee paid by the Buyer as under the Article III plus interest from the Date of Payment until receipt at the rate of **[insert rate]** per annum.

**ARTICLE VI – INFRINGEMENT AND CONFIDENTIALITY AND TRADEMARK USE**

1. The Seller guarantees that it is the legal owner of the Documents, Know-how and Exclusive Rights supplied to the Buyer according to the provisions of the Agreement and that it is lawfully in a position to sell the Documents, Know-how and Exclusive Rights to the Buyer. .

2. Treatment of the supplied Know-how:

(i) Know-how of the Seller shall be deemed to constitute valuable proprietary information of the Seller and have to be supplied in confidence and solely for acquisition by the Buyer as provided herein.

(ii) During the course of the performance of this Agreement, the Seller will become aware of certain of the Buyer’s confidential information including for example, trade secrets

1. On the Effective date of the Agreement the Parties shall enter into a confidentiality agreement in the form attached to the present Agreement as Appendix 5 to protect Confidential Information and the Know-how from its disclosure to any third party.

**ARTICLE VII – TAXES AND DUTIES**

1. **[Save as specified in Article II.3][Insert this introductory wording in the event DDP delivery is selected]** All taxes, customs and duties in connection with the execution and performance of the Agreement arising outside \_\_\_\_\_\_\_\_\_\_\_\_\_\_ **[to insert the name of the country of the Buyer`s incorporation]** shall be borne by the Seller and all the taxes, customs and duties in connection with the execution and performance of the Agreement arising inside \_\_\_\_\_\_\_\_\_\_\_\_\_\_ **[to insert the name of the country of the Buyer`s incorporation]** shall be borne by the Buyer.

**ARTICLE VIII –TERM AND Termination OF THE AGREEMENT**

## General

## This Agreement shall be effective and its term shall commence as on the Effective date and shall continue until all obligations of the Parties under the Agreement are fully performed

## Should the Seller fail to transmit any or all of the Documents, Know-how and Exclusive Rights to the Buyer in accordance with the terms and conditions set forth herein or breaches any other term of this Agreement and fails to remedy such breach within 7 Business Days of a notice from the Buyer to the Seller setting out details of such breach, the Buyer shall have the right to terminate this Agreement by sending to the Seller a termination notice with immediate effect. In this case the Seller shall return to the Buyer all the payments that have been made by the Buyer up to the date of such termination notice plus interest from the Date of Payment until receipt at the rate of [insert rate] per annum and shall pay to the Buyer compensation equivalent to the Buyer’s loss of profit and any other direct or indirect damages arising from such termination less the amount of any refund.. The repayment shall be effected by the Seller within 30 (thirty) calendar days from the date of termination notice. In the event that prior to the termination the Seller has transmitted to the Buyer any Documents and/or Know-how the Buyer shall return them to the Seller within 30 (thirty) calendar days from the date the repayment is effected by the Seller. The date of repayment is considered to be the date when funds are credited to the bank account of the Buyer.

2. **Termination by the Buyer.**

In addition to and not in substitution for any right the Buyer may have to terminate this Agreement in accordance with its terms or in accordance with the provisions of the governing law, the Buyer shall have the following further rights.

**Option of the Buyer:** In addition to any other provisions of the Agreement providing the Buyer a right of termination, theBuyer may terminate this Agreement, provided the Buyer shall not be in default hereunder, by giving the Seller ninety (90) days’ notice of its intention to do so. Where such notice is given, then upon the expiration of such ninety (90) days the termination shall become effective; but such termination shall not operate to relieve the Buyer from its responsibility to satisfy any obligations, accrued hereunder prior to the date of such termination.

The Buyer may terminate the agreement immediately and claim damages for all losses arising from such termination where there is any event of bankruptcy concerning the Seller, the filing of a petition or the making of an order or the passing of an effective resolution for the winding up of the Seller, or appointment of a receiver, administrator, administrative receiver or equivalent in respect of, or over the undertaking or property of, the Seller or the insolvency of the Seller or the inability of the Seller to pay its debts as they fall due or the cessation of the Seller’s business or the making by the Seller of any moratorium, arrangement or composition with its creditors generally.

3. **Termination by Seller.**

**Option of Seller:** The Seller may, at its option, terminate this Agreement by ninety (90) days written notice to the Buyer in case of:

a. Delay in payment by the Buyer of the Agreement fee for more than thirty (30) days from the schedule agreed by the Parties in Article III of this Agreement provided the Seller shall first have given the Buyer written notice by reference to this clause that the payment is 30 days overdue and given the Buyer a further 7 Business Days to make the payment.

b. Default in the performance of any other material obligation contained in this Agreement on the part of the Buyer to be performed and such default shall continue for a period of thirty (30) days after the Sellershall have given to the Buyer written notice of such default indicating its intention to terminate in the event the default is not cured.

c. Adjudication that the Buyer is bankrupt or insolvent.

4. **Survival**. Upon the expiration or termination of this Agreement howsoever arising, the following Articles shall survive such expiration or termination: Article I, Article VI.2 and Article IX.

**ARTICLE IX – Miscellaneous, CHOICE OF LAW AND ARBITRATION**

1. **Headings; Interpretation**. The article, section and subsection headings in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement. In this Agreement, the singular shall include the plural and vice versa and the word “including” shall be deemed to be followed by the phrase “without limitation”. The terms “herein” and “hereunder” and similar terms shall be interpreted to refer to this entire Agreement.

2. **Assignment**. Neither Party may assign this Agreement or any of its rights under this Agreement, without the other Party’s prior written consent, which consent shall not be unreasonably withheld or delayed. ). Any attempt at assignment in violation of this Article IX, clause 2 shall be null and void.

3. **Binding Effect**. The terms and conditions of this Agreement shall be binding upon, and shall inure to the benefit of, the Parties hereto and their respective permitted successors and assigns.

4. **No Third Party Beneficiaries**. It is the intention of the Parties that no term of this Agreement may be enforced by any person who is not a party to this Agreement (a “third party”) notwithstanding that any such term of this Agreement may purport to confer, or may be construed as conferring, any benefit on such third party and irrespective of whether such third party is identified in this Agreement. The Contracts (Rights of Third Parties) Act 1999 shall not apply to any provisions of this Agreement.

5. **Relationship of Parties**. The relationship hereby established between the Seller and the Buyer is solely that of the Seller and the Buyer. Each is an independent contractor engaged in the operation of its own respective business, and nothing in this Agreement shall be construed to create a partnership, agency, joint venture, pooling, franchise or employer-employee relationship between the Parties. NEITHER PARTY SHALL BE RESPONSIBLE FOR THE COMPENSATION, PAYROLL-RELATED TAXES, WORKERS’ COMPENSATION, ACCIDENT OR HEALTH INSURANCE OR OTHER BENEFITS OF EMPLOYEES OF THE OTHER PARTY. NEITHER PARTY HAS THE POWER OR AUTHORITY TO ACT FOR, REPRESENT, OR BIND THE OTHER PARTY (OR ANY OF THE OTHER PARTY’S AFFILIATES) IN ANY MANNER.

6. **Force Majeure**. Neither Party shall be liable to the other Party for any delay or failure to perform as required by this Agreement if the delay or failure to perform is (x) due to circumstances reasonably beyond such Party’s control, including any fires, strikes, embargoes, explosions, floods, drought, war, sabotage, a national health emergency, appropriations of property, civil disorder, government requirements, actions of civil or military authorities, acts of aggression, terrorism (or the threat thereof), acts of God or of the public enemy or any other causes beyond Party’s reasonable control (a “Force Majeure Event”), and (y) could not have reasonably been prevented by such Party taking commercially reasonable precautions or customary steps to circumvent or mitigate such circumstances (if and to the extent such events were reasonably foreseeable). Upon the occurrence of a Force Majeure Event, the time for performance under this Agreement by the Party whose performance is affected by such Force Majeure Event shall be suspended during the continuance of such Force Majeure Event and thereafter extended for the period equal to that during which such Force Majeure Event continued. The Party whose performance is affected by a Force Majeure Event shall provide written notice to the other Party of such Force Majeure Event, specifying the nature and the expected duration of the Force Majeure Event, within ten (10) Business Days after the Force Majeure Event begins, and shall take prompt action using its commercially reasonable efforts to remedy the effects of the Force Majeure Event. If requested by the Party not affected by a Force Majeure Event, the Parties shall discuss the Force Majeure Event and the remedying of the Force Majeure Event. The Party not affected by a Force Majeure Event shall have the right to terminate this Agreement unilaterally at any time by notice if the continuance of such Force Majeure Event exceeds more than two (2) months. Such termination shall be effected by written notification to the Party whose performance is affected by a Force Majeure Event and termination shall take effect thirty (30) calendar days after the date of notice**.** In this case the Seller shall return to the Buyer all the payments that have been made by the Buyer up to the date of such termination plus interest from the Date of Payment until receipt at the rate of **[insert rate]** per annum. The repayment shall be effected by the Seller within 30 (thirty) calendar days from the date of termination notice. In the event that prior to the termination the Seller has transmitted to the Buyer any Documents and/or Know-how the Buyer shall return them to the Seller within 30 (thirty) calendar days from the date the repayment is effected by the Seller (the date when the funds are credited to the bank account of the Buyer).

7. **Choice of Law; Jurisdiction**. This Agreement, the legal relations between the Parties and any related order shall be governed and interpreted, construed and enforced in accordance with the laws of England, notwithstanding the choice of law rules of any jurisdiction.

8. **Compliance with Laws**.

(а) Each Party shall, and shall cause its affiliates, and each of their respective directors, officers, employees, consultants, contractors, agents and owners to comply with all applicable laws and regulations relating to this Agreement and the performance of their obligations and exercise of their rights hereunder, including, as applicable, all applicable export control laws.

(b) Without limiting this Article IX, clause 8.(a), notwithstanding anything herein to the contrary, each Party shall, and shall cause its affiliates, and each of their respective directors, officers, employees, consultants, contractors, agents and owners, not to export, assign or otherwise transfer (whether by assignment, sale, operation of law, sublicense or otherwise but save as specified in Article IX.2) to any person, entity or country, this Agreement or Exclusive Rights, any other rights or obligations hereunder, Know-how or any Confidential Information, or exercise any rights hereunder, which, if done by the Party directly, would violate any applicable laws and regulations (including any export control laws or regulations) or which would otherwise result in that Party being in violation of any laws or regulations.

9. **Arbitration**. The Parties hereby waive any right to institute a court or other Dispute resolution proceeding and acknowledge that arbitration in accordance with this Article IX, clause 9 is the sole and exclusive means of resolving any Dispute hereunder or relating hereto, except that the Parties may initiate other formal proceedings as provided in the present Article IX, clause 10 below despite any such action, the Parties shall continue to participate in the arbitration procedures specified in this Article IX, clause 9.

(a) **Escalation; Arbitration**. The Parties shall initially attempt to resolve any Dispute through face‑to‑face negotiations between senior executives of each Party. If the Dispute is not resolved within thirty (30) calendar days (or such other period of time mutually agreed upon by the Parties) of commencing such face‑to‑face negotiations, or if the Party against which a claim has been asserted refuses to attend such negotiations or does not otherwise participate in such negotiations within thirty (30) calendar days (or such other period of time mutually agreed upon by the Parties) from the date of its receipt of notice of a Dispute, then the Parties agree that any such Dispute shall be submitted to binding arbitration as provided herein.

(b) **Arbitration Procedure**. All Disputes shall be finally settled by arbitration in accordance with the London Court of International Arbitration (“LCIA”) Rules (the “Rules”) and shall be held in English in London, England, by an arbitration board consisting of three (3) arbitrators appointed in accordance with the Rules. Unless otherwise agreed by the Parties, the chairman of the arbitration board shall be fluent in both English and Russian and have experience in acting as an arbitrator. Each Party consents to service of process with respect to any such Dispute by any method of notice specified in this Article IX, clause 11. Each Party may submit documents in English and in Russian, provided that the other Party shall be permitted to have a certified translation of such documents. Each Party shall have the right, at its sole cost and expense, to have an interpreter attend the arbitration hearings if it so chooses.

(c) **Effect of Arbitration**. The decision of a majority of the arbitrators shall be final and binding on the Parties, may be enforced by any court of competent jurisdiction and cannot be the subject of any appeal.

10. **Injunctive Relief; Specific Performance**. The Parties hereto acknowledge and agree that any breach of the terms of this Agreement could give rise to irreparable harm for which money damages may not be an adequate remedy and accordingly the Parties agree that, in addition to any other remedies, each Party shall be entitled to apply for preliminary or injunctive relief and/or apply to enforce the terms of this Agreement by a decree of specific performance before a court of competent jurisdiction in the case of urgency or the LCIA.

11. **Notices**. Any consent, agreement, approval or notice required or permitted to be given or made under this Agreement by one of the Parties hereto to the other Party shall be in writing and in English and shall be delivered in person or by Federal Express, DHL (or other recognized international courier service requiring signature upon receipt) or by facsimile or email (as evidenced by a paper copy of such email). Such notice shall be deemed effective upon receipt or, in the case of facsimile or email, upon written confirmation of receipt by the other Party (such confirmation to be transmitted in person, by fax, email or international courier as provided above). For purposes of notice, the addresses of the Parties shall be as follows:

**If to Seller:**

Name:

Address:

Attn to:

Tel:

Fax:

Email:

**If to the Buyer:**

Name:

Address:

Attn to:

Tel:

Fax:

Email:

12. **The date of receipt**. The date of receipt of the notice, demand or other communication will be the date of delivery thereof if hand delivered, the date of transmission if sent by fax or by email, or, the date when signed for where delivered by international courier.

13. **Change of details**. Either Party hereto shall promptly notify the other Party in writing as to the change of address or any other details of the Party and the new address to which notice shall be given to it thereafter until further changed. Until notice of change of details is given, notice sent in accordance with clause 11 shall bind the Parties.

14. **Validity of fax mails**. For the purposes of clause 11 of this Article, material transmited by fax or by email shall only be considered to be "in writing" where the terms of clause 11 are complied with.

15. **The originals provision**. Where any consent, agreement, approval or notice under clause 11 is transmitted by fax or by email, a hard copy of that communication shall also be sent by international courier, addressed in accordance with clause 11 of this Article.

16. **Language of the correspondence**. Any correspondence concerning the present Agreement shall be conducted in Russian and/or English languages.

17. **Waiver**. Any failure on the part of any Party hereto to comply with any of its obligations, agreements or conditions hereunder may only be waived in writing by the Party to whom such compliance is owed. Any such waiver by any Party will not be considered as a waiver of any subsequent failure to comply with any such obligation, agreement or condition hereunder.

18. **Severability**. If any part of this Agreement is deemed to be unenforceable, invalid or in contravention of any applicable law or regulation by a court or arbitral tribunal of competent jurisdiction, then such provision shall be of no effect, and the remainder of this Agreement shall remain in full force and effect, and the Parties shall negotiate in good faith to replace such provision with a provision which effects to the extent possible the original intent of such provision.

19. **Appendixes**. The following Appendixes are attached to this Agreement as of the Effective Date:

**Appendix # 1** – The List of the Know-How and the Exclusive Rights;

**Appendix # 2** – The List and Content of the Documents;

**Appendix # 3** – Required Characteristics of the Products.

**Appendix # 4** – Training Requirements

**Appendix # 5** –Non-disclosure Agreement

The Appendixes to this Agreement, and all terms and conditions contained therein, as amended or supplemented from time to time, are hereby incorporated by reference; provided that, in the event of a conflict between any term or/and condition of this Agreement and any term or condition of any of the Appendixes, the terms and conditions of this Agreement shall prevail.

20. **Entire Agreement**. This Agreement, together with the Appendixes hereto, constitutes the entire agreement between the Parties regarding the subject matter of this Agreement, and supersedes all other prior agreements, understandings and negotiations, both written and oral, among the Parties with respect to the subject matter of this Agreement.

21. **Amendments**. This Agreement, including, but not limited, this clause, may not be amended except by an instrument in writing signed by a duly authorized officer or representative of each of the Parties hereto.

22. **Counterparts**. This Agreement is executed in the English and Russian languages in two counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Both texts in the English and Russian languages, as well as both copies, have equal force and validity; provided, however, that both Parties acknowledge and agree that the English language is the language mutually chosen by the Parties and, in the event of a conflict between the Russian and English versions of this Agreement (or Appendixes to this Agreement), the English version shall control and be binding. Parties hereby acknowledge and agree that this Agreement has been prepared jointly and no rule of strict construction shall be applied against either Party.

In witness whereof, the parties hereto have caused this agreement to be executed by  their duly authorized representatives.

**Legal addresses and banking references**

|  |  |
| --- | --- |
| **THE SELLER**:  | **THE BUYER**: |
| Banking references | Banking references |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |
| **On behalf of Seller:** | **On behalf of Buyer:** |
|  |  |
| Name | Name\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Title\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Title\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  |  |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signature | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signature |
|  |  |
| [Stamp] | [Stamp] |

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| --- |
| Appendix №1to the Know-how and Exclusive Rights Supply Agreement № \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, dtd \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

**The List of the Know-How and the Exclusive Rights**

Know How

**[Insert list of Know-how]**

Exclusive Rights

(i) the Buyer (1) may advertise the Products for sale using the Seller`s trade-mark(s); (2) the Buyer can use the Seller`s trade-mark(s) for any Products which are exported by or through the Seller in the world market;

(ii) the Buyer may manufacture, sell, install, maintain and test the Products in accordance with the Seller`s Documents and Know-how furnished to the Buyer;

(iii) the Seller expressly permits to the Buyer to place its name on the Products.

(iv) the Seller`s trade-marks may be used by the Buyer only on or with respect to the Products. The Buyer agrees not to use a trade-mark for other products, except with the express written consent of the Seller

**[Insert other exclusive rights]**

|  |  |
| --- | --- |
| **THE SELLER**:  | **THE BUYER**: |
| **On behalf of Seller:** | **On behalf of Buyer:** |
|  |  |
| Name\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Name\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Title\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Title\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  |  |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signature | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signature |
|  |  |
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| Appendix № 2to the Know-how and Exclusive Rights Supply Agreement № \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, dtd \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

**The List and Content of the Documents**

|  |  |
| --- | --- |
| **THE SELLER**:  | **THE BUYER**: |
| **On behalf of Seller:** | **On behalf of Buyer:** |
|  |  |
| Name\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Name\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Title\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Title\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  |  |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signature | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signature |
|  |  |
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| Appendix № 3to the Know-how and Exclusive Rights Supply Agreement № \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, dtd \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

**Required Characteristics of the Products**

|  |  |
| --- | --- |
| **THE SELLER**:  | **THE BUYER**: |
| **On behalf of Seller:** | **On behalf of Buyer:** |
|  |  |
| Name\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Name\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Title\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Title\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  |  |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signature | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signature |
|  |  |
| [Stamp] | [Stamp] |

Appendix № 4

to the Know-how and Exclusive Rights Supply Agreement

№ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,

dtd \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Minimum Training Requirements**

**[Set out here the Buyer’s minimum training requirements for the particular Agreement to include matters such as the minimum number of trainers, the minimum number of people to be trained, the minimum period of training (number of days and hours per day per trainer) together with the particular matters to be covered within the training program]**

Appendix № 5

to the Know-how and Exclusive Rights

 Supply Agreement № \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,

dtd \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**NON-DISCLOSURE AGREEMENT**

THIS **NON-DISCLOSURE AGREEMENT** (this “**Agreement**”) is made and entered into as a deed as of this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_, 200\_\_\_ («**Effective Date**») by and between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “**Buyer**”) legally represented by the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, acting on the bases of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “**Seller**”) legally represented by the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, acting on the bases of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Together, the Buyer and the Seller shall be known collectively as the “Parties” and individually known as “Party”.

**WHEREAS,** the Buyer and the Seller wish to explore a business opportunity of mutual purpose regarding the subject matter of the Know-how and Exclusive Rights Supply Agreement № \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ executed by the Parties on the Effective date (the “Know-how and Exclusive Rights Supply Agreement”), the total value of Know-how and Exclusive Rights Supply Agreement is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “Total Value”), (the “**Purpose**”).

**WHEREAS**, in connection with the Purpose, each Party may disclose to the other Party, directly or indirectly, certain confidential proprietary information, whether oral or written, including information of a technical, engineering, operational or economic nature. For purposes of this Agreement, the term “Receiving Party” means a Party that is the recipient of or has access to Confidential Information (defined below) of the other Party (the “Disclosing Party”).

**NOW, THEREFORE**, in consideration of the undertakings of each to the other contained in this Agreement and intending to be legally bound hereby, the Parties hereby agree as follows:

**Information**. The term “**Confidential Information**” as used in this Agreement means all technical, confidential or proprietary information including information provided in accordance with the terms of the Know-how and Exclusive Rights Supply Agreement, provided to a Receiving Party by a Disclosing Party prior, on the date of and after this Agreement execution, either directly or indirectly, in writing, orally or by inspection of tangible objects (including, but not limited to, documents, business plans, software, documentation, financial analyses, marketing plans, customer names, customer lists, customer data, product plans, products, services, inventions, processes, designs, drawings, engineering or hardware configuration information, Know-how, trade secrets, or any other proprietary or business information), which is designated as “Confidential,” “Proprietary” or some similar designation, or the confidential or proprietary nature of which is reasonably apparent under the circumstances. Information communicated orally shall be considered Confidential Information if such information is confirmed in writing as being Confidential Information within 2 (two) calendar days after its initial disclosure. Confidential Information may also include information disclosed to the Disclosing Party by third parties. Save as set out in the Know-how and Exclusive Rights Supply Agreement each Party shall have the right to determine, in its sole judgment, what information it will provide to the other.

Confidential Information shall not include the following:

- information which at the time of disclosure by the Disclosing Party is publicly available, or information which later becomes publicly available through no act or omission of the Receiving Party provided the Receiving Party can prove it by documentary evidence;

- information which the Receiving Party can demonstrate was in its possession prior to disclosure by the Disclosing Party provided the Receiving Party can prove it by documentary evidence;

- information developed independently by the Receiving Party or on the Receiving Party's behalf without reference to the Confidential Information provided the Receiving Party can prove it by documentary evidence. ; or

- information received by the Receiving Party from a third party who, to the best of the Receiving Party’s knowledge, did not acquire such information on a confidential basis directly from the Disclosing Party provided the Receiving Party can prove it by documentary evidence.

**Disclosure and Use of Information**. Except as provided in this Agreement and the Know-how and Exclusive Rights Supply Agreement, the Receiving Party agrees to keep confidential all Confidential Information disclosed to it by the Disclosing Party and shall not, without the Disclosing Party’s prior written consent, disclose any Confidential Information to any third party. The Receiving Party shall use the same degree of care as is used to protect the Receiving Party’s own confidential information. In no event will this degree of care be less than a reasonable degree of care. Save as set out in the Know-how and Exclusive Rights Supply Agreement the Receiving Party shall limit the disclosure of the Confidential Information to only those affiliates and their respective officers, employees and agents (including attorneys, accountants, lenders and consultants) (each a “Representative”) of the Receiving Party who require the information for the Purpose and who have signed a confidentiality agreement at least as protective of the Confidential Information of the Disclosing Party as this Agreement. Save as set out in the Know-how and Exclusive Rights Supply Agreement the Receiving Party shall use the Confidential Information only for the purpose of its internal evaluation, performance and execution of the Purpose. The Receiving Party shall not make any other use, in whole or in part, of any such Confidential Information without the prior written consent of the Disclosing Party. Save as set out in the Know-how and Exclusive Rights Supply Agreement the Receiving Party shall not reverse engineer or disassemble any prototypes or other tangible objects which embody Confidential Information of the Disclosing Party. With respect to Confidential Information jointly generated by the Parties, each Party shall be deemed to be the Receiving Party for purposes of this Paragraph. The Parties agree to be responsible for any breach of this Agreement by their respective Representatives.

**Required Disclosure**. In the event that the Receiving Party is required by law, the rules of any stock exchange, interrogatories, requests of official bodies for information or documents, subpoena, civil investigation, governmental or regulatory authority (the "Permitted Causes") (a) to disclose any Confidential Information or (b) to disclose information about or relating to the Purpose, it is agreed that the Receiving Party will, unless prohibited by any applicable law or the rules of any stock exchange or regulatory body, provide immediate notice (within 24 (twenty four) hours) from receipt of such request(s) to the Disclosing Party and reasonably cooperate with the Disclosing Party in the event the Disclosing Party elects to legally contest or avoid disclosure. If, in the absence of a protective order or protective agreement, the Receiving Party is required by any of the above Permitted Causes to disclose any Confidential Information, then the Receiving Party may disclose only so much of such Confidential Information as is specifically required and shall use reasonable endeavours first to agree the scope of such disclosure with the Disclosing Party.

**Termination; Survival**. The term of this Agreement shall commence on the Effective Date and shall continue during five (5) years from the Effective Date, unless sooner terminated by written notice of one Party to the other. Termination of this Agreement shall not affect any Party’s obligations and rights hereunder with respect to Confidential Information disclosed prior to termination. The obligation and responsibility to maintain the confidentiality and covenants with respect to Confidential Information disclosed during the term of this Agreement shall continue during 5 (five) years beyond the date of this Agreement termination unless otherwise agreed in writing by both parties.

**No Other Agreement.** It is expressly understood that this Agreement is not and shall not be construed as any form of a letter of intent or agreement to enter into any type of transaction. This Agreement does not create a partnership, distributorship relationship, joint venture, agency relationship, employer-employee relationship, joint development agreement or any similar relationship. Nothing herein shall obligate either party to proceed with any transaction between them, and each party reserves the right, in its sole discretion, to terminate the discussions contemplated by this Agreement concerning the Purpose.

**No Representation or Warranties.** Save as set out in the Know-how and Exclusive Rights Supply Agreement the Disclosing Party does not make any representations or warranties, express or implied, as to the accuracy, completeness or fitness for a particular purpose of the Confidential Information. It is further understood and agreed that neither party nor its Representatives shall have any liability or responsibility to any third party (except as expressly provided in this Agreement) or to any other person or entity resulting from the use of any Confidential Information. Neither this Agreement nor the transfer of Confidential Information hereunder shall be construed as granting any license or rights to any information or data now or hereafter owned or controlled by a party to the other and all such Confidential Information shall remain the property of the Disclosing Party.

**Return of Materials.** Save for the Documents and the Know-how as defined in the Know-how and Exclusive Rights Supply Agreement and save as otherwise specified therein, all documents and other tangible objects containing or representing Confidential Information which have been disclosed to the Receiving Party by the Disclosing Party, and all copies, excerpts and summaries thereof shall be and remain the property of the Disclosing Party and shall be promptly returned to the Disclosing Party in 10 (ten) business days upon the Disclosing Party’s written request.

**Governing Laws and Arbitration.** This Agreement shall be construed by and governed in accordance with English Law. Any dispute, controversy or claim arising out of or in connection with the present agreement, or the execution, breach, termination or invalidity thereof, shall be finally settled by London Court of International Arbitration (LCIA), in accordance with its Rules (the "Rules"). The seat, or legal place, of arbitration shall be London, England. The parties undertake to keep confidential all awards in any arbitration, together with all materials in the proceedings created for the purpose of the arbitration and all other documents produced by another party in the proceedings not otherwise in the public domain - save and to the extent that disclosure may be required of a party by legal duty, to protect or pursue a legal right or to enforce or challenge an award in bona fide legal proceedings before a state court or other judicial authority. The language to be used in the arbitral proceedings shall be English. The number of arbitrators shall be three, appointed in accordance with the Rules and the chairman of the arbitration board shall be fluent in both English and Russian and have experience in acting as an arbitrator. The Parties agreed that during the arbitral proceedings any proofs and documents can be submitted in Russian as well as in English. In the event of any discrepancy arising between the Russian and English versions of a document, the English version shall prevail.

**Remedies.** Hereby each Party agrees and acknowledges that any violation or threatened violation of this Agreement may cause irreparable injury to the other party, entitling the other party to obtain injunctive relief in addition to any other rights and remedies available to such party at law or in equity. The Receiving Party is obliged to compensate the Disclosing Party in full value for all direct losses and damages, including, but not limited to material damage, material harm, property damage resulting from the breach of this Agreement by the Receiving Party. The Receiving Party shall pay such compensation within 30 (thirty) calendar days from the receipt of the Disclosing Party’s requirement by the Receiving Party.

**Severability.** In the event any term of this Agreement is found by any court to be void or otherwise unenforceable, the remainder of this Agreement shall remain valid and enforceable, and, to the fullest extent permitted by law, such offending term or terms shall be replaced with an enforceable term or enforceable terms that as nearly as possible effect the Parties’ intent.

**Miscellaneous.** This Agreement shall bind and inure to the benefit of the Parties hereto and their successors and permitted assigns.

This document contains the entire agreement between the Parties with respect to the subject matter hereof.

Any failure to enforce any provision of this Agreement shall not constitute a waiver thereof or of any other provision hereof. This Agreement may not be amended, nor any obligation waived, except in writing signed by both Parties hereto.

Neither Party may assign its rights or obligations hereunder without the other Party’s written consent.

IN WITNESS WHEREOF, the Parties, intending to be bound, have caused this Agreement to be signed, [sealed] and delivered as of the day and year first above written on their behalf by:

|  |  |
| --- | --- |
| Dmitriy Kotenko, CEO, acting on behalf ofNITOL SOLAR, LTD., being a person who inaccordance with the laws of Jersey is acting underthe authority of NITOL SOLAR, LTD.At presence of:Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Title:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [to insert the nameof the company-contractor representative], \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [to insert position], acting on behalf of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [to insert the name of the company-contractor], being a person who in accordance with the laws of \_\_\_\_\_\_\_\_\_\_\_\_ [to insert the reference to the corresponding country] is acting under the authority of \_\_\_\_\_\_\_\_\_\_\_\_\_\_ [to insert the name of the company-contractor].At presence of:Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Title:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

1. When applicable the Parties agree the table of equivalents between systems of units used in the Seller`s and Buyer`s countries. [↑](#footnote-ref-1)