

NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT

This Non-Disclosure and Confidentiality Agreement (the "**Agreement**"), dated as of _____, 20__ (the "**Effective Date**"), is entered in by and between _____ ("Supplier") with an office at _____ and Würth Industry North America LLC, with an office at 9485 Winnetka Avenue North, Brooklyn Park, MN 55445 along with one or more of its subsidiary companies (collectively, "**Würth**").

WHEREAS, the parties anticipate ongoing business discussions regarding the potential purchase of parts, products and/or services from Supplier by Würth that may involve the disclosure by either party of Confidential Information (as defined below); and

WHEREAS, the parties desire to set forth their rights and obligations with respect to the use, dissemination and protection of Confidential Information.

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is understood and agreed as follows:

1. Confidential Information. All information (whether written, electronic, observed or oral) relating to the business, operations, plans, products, services, costs, prices, facilities, processes, software, methodologies, technologies, intellectual property, research and development, testing and/or evaluation of materials, products or services, customers, clients and Recipients, partners, principals, employees, consultants and authorized agents of a party, and information of third parties with respect to which such party has any obligation of confidentiality or restricted use, that is supplied by or on behalf of such party (the "Discloser") to the other party (the "Recipient") or otherwise acquired by Recipient from Discloser during the course of dealings between the parties or otherwise, shall be deemed "**Confidential Information**". All right, title and interest in and to a Discloser's Confidential Information is owned by the Discloser.
2. Use, Dissemination and Protection Obligations. In consideration of the disclosures hereunder, Recipient shall keep in confidence Confidential Information during the term of this Agreement and for a period of not less than five (5) years from the date of termination of this Agreement. To this end:
 - (a) Recipient shall use the Confidential Information only for the purposes of the particular business objective or written agreement pursuant to which the Confidential Information was disclosed. Upon the completion of the business objective or the termination of any written agreement pursuant to which the Confidential Information was disclosed, or upon the demand of Discloser, Recipient or an authorized officer of Recipient (as applicable) shall promptly, at the election of Discloser, either return to Discloser or destroy (including permanently deleting such

Confidential Information from all computer records) all (or any part thereof, as designated by Discloser) Confidential Information in Recipient's possession or control, and shall certify to Discloser as to such return or destruction. In the event Recipient is unable to permanently destroy or delete the Confidential Information, Recipient shall continue to treat such Confidential Information in accordance with the requirements of this Agreement.

- (b) Recipient may not disclose the Confidential Information to third persons without Discloser's prior written consent, provided that Recipient may disclose the Confidential Information to its employees and authorized agents, subcontractors, partners, principals and consultants on a need-to-know basis. Recipients shall be responsible for ensuring that any of its employees, authorized agents, subcontractors, partners, principals and consultants who receive the Confidential Information comply with the foregoing obligations.
- (c) Recipient shall exercise the same degree of care with respect to the Confidential Information as Recipient normally takes to safeguard and preserve its own very confidential and proprietary information, provided that in no event shall the degree of care be less than a reasonable degree of care. Upon discovery of any prohibited use or disclosure, Recipient shall immediately notify Discloser in writing and shall make its best efforts to prevent any further prohibited use or disclosure; however, such remedial actions shall in no manner relieve Recipient's obligations or liabilities for breach hereunder.

3. Limitations on Obligations. This Agreement shall not restrict disclosure or use of Confidential Information that:

- (a) was, at the time of receipt, otherwise known to Recipient without restrictions as to use or disclosure, as evidenced by written documentation;
- (b) was in the public domain at the time of disclosure or thereafter enters into the public domain through no breach of this Agreement by Recipient;
- (c) becomes known to Recipient from a source other than Discloser, which source has no duty of confidentiality with respect to the information;
- (d) is independently developed by Recipient without reliance on or access to any of the Confidential Information; or
- (e) is required to be disclosed by a government agency or bureau, by a court of law or equity with competent jurisdiction over Recipient, provided that Recipient will first have provided Discloser with prompt written notice of such required disclosure, unless expressly prohibited from doing so by a court, arbitration panel or other competent legal authority with jurisdiction, and will take reasonable steps to allow Discloser to seek a protective order with respect to the Confidential Information required to be disclosed. Recipient will promptly cooperate with and assist Discloser, at Discloser's expense, in connection with obtaining such protective order.

4. No Warranty. THE CONFIDENTIAL INFORMATION IS PROVIDED "AS IS". DISCLOSER HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED (INCLUDING DISCLAIMER OF WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-

INFRINGEMENT) WITH RESPECT TO ANY AND ALL OF THE CONFIDENTIAL INFORMATION. DISCLOSER SHALL NOT BE LIABLE IN DAMAGES OF ANY KIND AS A RESULT OF THE RECEIVING PARTY'S RELIANCE ON OR USE OF ANY CONFIDENTIAL INFORMATION, UNLESS SUCH RELIANCE OR USE IS EXPRESSLY PERMITTED IN A WRITTEN AGREEMENT SIGNED BY BOTH PARTIES.

5. No License. The parties recognize and agree that nothing contained in this Agreement shall be construed as granting any rights, by license or otherwise, to any Confidential Information disclosed pursuant to this Agreement.
6. No Formal Business Obligations. This Agreement shall not constitute, create, give effect to or otherwise imply (a) a joint venture, pooling arrangement, partnership, agreement to purchase or formal business organization of any kind, (b) any obligation or commitment of either party to submit a proposal or to enter into a further contract or business relationship with the other party, or (c) any obligation to disclose, supply or otherwise communicate any information, general or specific, to the other party. Nothing herein shall be construed as providing for the sharing of profits or losses arising out of efforts of either or both parties.
7. Confidentiality and Intellectual Property Notices. Recipient shall not (nor shall it permit or assist others to) alter or remove any confidentiality label, proprietary label, patent marking, copyright notice or other legend placed on Confidential Information, and shall maintain and place any such notices or legends on applicable Confidential Information or copies thereof as directed by Discloser. The rights and obligations set forth in this Agreement shall take precedence over any inconsistent specific legend contained on, or any statements made in connection with the disclosure of, any Confidential Information.
8. Governing Law. This Agreement shall be governed by and construed in accordance with the law of the State of Minnesota without regard to its conflicts of law principles.
9. Injunctive Relief and Damages. The parties hereby acknowledge that, due to the unique nature of the Confidential Information, the unauthorized disclosure or use of such Confidential Information, or the breach or threatened breach of this Agreement, will cause irreparable harm and significant injury for which monetary damages may be difficult to ascertain and will not be adequate. Accordingly, in such event, Discloser shall be entitled to seek immediate injunctive relief and to an order compelling specific performance, without a requirement to post bond, as well as the recovery of damages.
10. Amendments; Waivers; Assignment.
 - (a) This Agreement may be amended and any of its terms and conditions may be waived only by a written agreement signed by both parties. No provisions regarding the obligations of the parties with respect to Confidential Information set forth in any subsequent or contemporaneous agreement between the parties will take precedence over this Agreement unless (i) such provisions are specific to a particular business objective, license or other arrangement between the parties and (ii) either (A) such provisions are more stringent than those contained herein or (B) the subsequent agreement specifically refers to this Agreement and waives or amends the applicable provisions hereof.
 - (b) To the extent that any provision of this Agreement is held to be invalid or unenforceable because it is overbroad, that provision shall not be void, but rather shall be limited only to the extent required

by applicable law and enforced as so limited. The rights of the parties are cumulative and no exercise or enforcement by either party of any right or remedy hereunder shall preclude the exercise or enforcement of any other right or remedy consistent with the terms of this Agreement or available at law or in equity.

- (c) The failure of either party at any time or times to require performance of any provision of this Agreement shall in no manner affect its rights at a later time to enforce the same. No waiver by either party of any condition or term shall be deemed to be a continuing waiver of such condition or term or any other condition or term.
- (d) This Agreement shall be binding upon and inure to the benefit of the heirs, successors and permitted assigns of the parties. Neither this Agreement nor the obligations of either party hereunder shall be assignable or transferable by such party without the prior written consent of the other party; provided that Discloser may transfer this Agreement to any affiliate without such written consent of, but with notice to, the other party. Any attempted assignment of this Agreement, other than in accordance with the foregoing, shall be null and void and shall have no effect. Even after assignment of this Agreement, the assignor shall remain bound by its terms.

- 11. Notice. Any notice required to be given hereunder shall be in writing, sent to the addresses of the parties set forth in the first paragraph of this Agreement and made to the attention of the persons executing this Agreement below. Such notice shall be deemed duly delivered on the date of hand-delivery or one day after deposit with an overnight courier with tracking capabilities, or five days after deposit in first class U.S. mail, postage prepaid, return receipt requested.
- 12. Termination and Survival. This Agreement shall commence as of the date written above and shall remain in effect until terminated by either party (a) giving thirty (30) days' written notice of termination to the other party at any time, or (b) giving notice effective immediately following a material breach of this Agreement by the other party that is not susceptible to cure. Notwithstanding the foregoing, any obligations imposed on the parties by this Agreement that should by their nature or terms survive the termination of this Agreement shall so survive.
- 13. Entire Agreement; Counterparts. This Agreement constitutes the entire and exclusive agreement between the parties with respect to the subject matter hereof. All prior agreements, understandings and proposals, oral or written, between the parties with respect to the subject matter hereof are superseded by this Agreement. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which, when taken together, shall constitute one and the same instrument. Signature pages provided by facsimile or electronically in portable document format (a/k/a pdf) shall be as valid and binding as original signatures.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

By: _____

Name: _____

Title: _____

By: WÜRTH INDUSTRY NORTH AMERICA LLC

Name: _____

Title: _____

Name: _____

Title: _____