

# Non-Disclosure Agreement

Between *Name, Surname, Company*

with its registered offices in *street, zip code, city, country*.

and

**EnerKite GmbH with its registered office in Fichtenhof 5, 14532 Kleinmachnow, Germany (EnerKite)**

**Subject of cooperation ("PURPOSE"): Business Development**

The above contracting parties are hereinafter called individually "CONTRACTING PARTY" or jointly "CONTRACTING PARTIES".

In connection with discussions on the above named PURPOSE the CONTRACTING PARTIES will provide each other with information.

For this reason the CONTRACTING PARTIES agree as follows:

1. **Definitions.** "CONFIDENTIAL INFORMATION" means any and all hard copy or oral information and data, such as technical or business data, documents or knowledge and possibly samples which the CONTRACTING PARTIES exchange in connection with the above-named PURPOSE. CONFIDENTIAL INFORMATION includes all copies and summaries made of these.

"AFFILIATED COMPANIES" means companies in which a CONTRACTING PARTY directly or indirectly holds an interest of more than 50% or more than 50% of the voting shares ("subsidiaries") and those companies which directly or indirectly hold the afore-mentioned controlling interests ("parent companies"), and their subsidiaries. AFFILIATED COMPANIES are not deemed to be third parties, provided that they are subject to similar obligations of confidentiality in respect of the information provided. Competitors of the other CONTRACTING PARTY, however, are not deemed to be AFFILIATED COMPANIES.

2. **Non-disclosure.** Each CONTRACTING PARTY agrees to treat all CONFIDENTIAL INFORMATION as follows:

- a) to use it exclusively for the PURPOSE specified in the preamble;
- b) not to make it accessible to third parties, that is, to make it accessible only to those of its employees or employees of its AFFILIATED COMPANIES or to consultants acting on behalf of the CONTRACTING PARTY and/or its AFFILIATED COMPANIES who by reason of their contract of employment or by reason of any other written agreement are bound by a non-disclosure agreement which is at least equivalent to this Agreement. Before a CONTRACTING PARTY passes on CONFIDENTIAL INFORMATION to an AFFILIATED COMPANY or to a consultant it must ensure that there exists a written agreement with such AFFILIATED COMPANY or such consultant

which obliges them to treat CONFIDENTIAL INFORMATION in a manner at least equivalent to that applying under this Agreement. Each CONTRACTING PARTY is responsible to the other CONTRACTING PARTY for any unauthorized transmittal, use and/or disclosure of CONFIDENTIAL INFORMATION by an AFFILIATED COMPANY, by employees of an AFFILIATED COMPANY or by a consultant, and

- c) to treat it as confidential and to exercise the same care as in respect of its own information of similar significance, however to exercise at least reasonable care.

3. **Exceptions.** The obligations specified in Art. 2 of this Agreement do not apply to CONFIDENTIAL INFORMATION

- a) of which prior to its release the recipient CONTRACTING PARTY was already legally aware without any duty of confidentiality;
- b) which is or was accessible to the public, whereby the recipient CONTRACTING PARTY, its AFFILIATED COMPANIES and/or their consultants are not responsible for such accessibility, provided that the reason the CONFIDENTIAL INFORMATION is deemed to be publicly accessible is not that merely parts of such information are or are being made publicly accessible;
- c) legally or without any obligation of confidentiality advised or released to the recipient CONTRACTING PARTY by a third party, provided that the third party as far as the recipient CONTRACTING PARTY is aware does not violate any obligation of confidentiality of its own in releasing such information;
- d) which has been developed independently by the recipient CONTRACTING PARTY without recourse to CONFIDENTIAL INFORMATION or in accordance with the exceptions specified in Art. 3 a) - c) or f); or
- e) which must be disclosed because of a binding official or court directive or imperative provision of the law, provided that the other CONTRACTING PARTY has been informed in writing about such disclosure.

Should a CONTRACTING PARTY invoke an exception it must prove that the conditions are met.

4. **Rejection.** Each CONTRACTING PARTY is entitled to refuse to accept the information prior to its release; information which is nevertheless released shall not be subject to the duty of confidentiality under this Agreement. No CONTRACTING PARTY is obliged to disclose particular information.
5. **Exclusion of rights.** Licences or other rights of whatever nature, particularly the right to bear a name, and rights to patents, utility models and/or marks or other protected industrial rights, are not granted by this Agreement and no corresponding duty to grant such rights shall arise from this Agreement.
6. **Term.** This Agreement shall become effective upon signature and shall apply for a term of 5 (five) years. The obligations arising out of this Agreement concerning the CONFIDENTIAL INFORMATION received up to the end of the contractual term shall remain in force for each of the CONTRACTING PARTIES and its AFFILIATED COMPANIES after the end of the contractual term for a further period of 5 (five) years from the end of the term.
7. **Relation to subsequent contracts.** The CONTRACTING PARTIES are not obliged to conclude further contracts in respect of the PURPOSE stated in the preamble. However, should a contract subsequently be concluded any provision in respect of non-disclosure concluded in such a (subsequent) contract shall have priority over this Agreement.
8. **Return.** The CONTRACTING PARTY providing the information may within 3 (three) months after expiry of this Agreement require the recipient CONTRACTING PARTY in writing to return or destroy, immediately and in full, CONFIDENTIAL INFORMATION in hard copy and/or electronic form, including all copies and any samples which had been supplied. The recipient CONTRACTING PARTY shall undertake the return or destruction within 14 (fourteen) days of receipt of the request and shall confirm this in writing
9. **Applicable law.** This Agreement shall be governed by German law excluding the provisions which refer to other legal systems.
10. **Written form.** No amendments and supplements to this Agreement shall become legally effective unless they are made in writing. Any waiver of this requirement must be made in writing.

EnerKite  
Kleinmachnow,

Company  
City, date

Alexander Bormann  
CEO

Name, Surname  
Position