

NON-DISCLOSURE AGREEMENT

between **Staiger GmbH & Co. KG**  
Johannes-Bieg-Straße 8  
74391 Erligheim

and

– hereafter jointly referred to as the **“Contract Parties”** and each individually referred to as a **“Contract Party”** –

**Whereas:**

The Contract Parties are planning a collaboration in respect of “ ” – hereafter referred to as the **“Collaboration”**.

In connection with this, confidential information may be provided by one party (the **“Disclosing Party”**) to the other (the **“Receiving Party”**).

This Agreement is intended to regulate the disclosure and protection of confidential information and to summarise the information which the Disclosing Party has already disclosed to the Receiving Party in connection with the Collaboration prior to this Agreement being drawn up.

**On this basis, the Contract Parties hereby agree the following:**

	SKB	Date	FB 7.4-08 Non-disclosure Agreement
Owner	MWEK		
Revision/Release	MWEK	17/10/2016	
Checked	MWEK	17/10/2016	

**§ 1**

**Definition of Know-how**

1. Know-how is all information (in particular documents, plans, drawings, samples) which one Contact Party provides to the other in connection with this Collaboration in verbal, written, electronic or any other format including any materials (“**Know-how**”).
2. Know-how includes in particular any trade secrets, inventions, ideas formulae, processes, examples, test data, formulations, specifications, knowledge, data, intentions regarding acquisitions, developments and exploitation, requirements for development, documentation and manufacture and any other internal company information, regardless of whether the Receiving Party received said information prior to or after signing this Agreement.

**§ 2**

**Confidentiality/Use/Imitation**

1. The Receiving Party shall treat all know-how received from the Disclosing Party as strictly confidential and shall not make this either directly or indirectly accessible to third parties without prior written consent from the Disclosing Party. Any know-how recorded in writing shall be kept under lock and key by the relevant Contract Party. A third party means any person who is not a Contract Party in the meaning intended within this Agreement. By contrast, employees, subcontractors or freelance workers employed by the relevant Contract Party within the framework of this Collaboration shall not be deemed third parties insofar as the obligations as per § 2 para. 2 below have been met and provided that the relevant Contract Party involving subcontractors and/or freelance workers in this Collaboration is permitted.
2. Insofar as this has not already occurred under employment law, the relevant Contract Party shall hereby bind its employees in writing to maintain confidentiality in the meaning intended by this Agreement and draw their attention to the fact that this duty of non-disclosure persists even after their employment has terminated. The same obligations apply in the event that subcontractors or freelance workers are employed within the framework of this Collaboration.
3. The Receiving Party shall only make use of the know-how received from the Disclosing Party within the framework of this Collaboration.
4. The Receiving Party shall not in any way imitate the know-how acquired from the Disclosing party itself, nor shall it allow it to be imitated by third parties.

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**§ 3  
Exceptions**

1. The aforementioned obligations do not apply to know-how that:
  - a) had already been published prior to the disclosure or which was in any other way generally known or which was published or otherwise made generally known after the disclosure without this being in any way due to the Receiving Party;
  - b) was demonstrably already known to the Receiving Party prior to disclosure;
  - c) was legally made accessible to the Receiving Party by a third party without any limitation in respect of confidentiality or use after disclosure without this being due to the Disclosing Party;
  - d) has to be disclosed in court, administrative or other proceedings on grounds of binding legal regulations (with the exception of regulations relating to evidence or the burden of proof), provided that the disclosure is strictly limited to what is legally required. Insofar as proceedings are pending or starting which might entail a duty of disclosure for the Receiving Party, the Receiving Party must immediately inform the Disclosing Party of these proceedings in writing in order to give the latter the opportunity to take appropriate protective measures;
  - e) was developed independently by the Receiving Party without using the know-how provided by the Disclosing Party.
2. The burden of proof for the existence of these prerequisites lies with the Receiving Party.
3. Unless legally obliged otherwise, even in the cases cited above, the Receiving Party must also maintain confidentiality regarding the fact that it has received know-how from the Disclosing Party.

**§ 4  
Property/Protective rights**

1. The know-how thus disclosed is and remains the property of the Disclosing Party.
2. The Receiving Party acknowledges that the Disclosing Party may hold commercial protective rights in respect of the know-how.
3. By disclosing the know-how the Disclosing Party does not grant to the Receiving Party any manufacturing rights, distribution rights, licenses or other rights in respect of the know-how disclosed.
4. The Receiving Party shall desist from registering any commercial property rights such as patents, industrial or utility models using the know-how disclosed and from exploiting the disclosed know-how commercially themselves or allowing third parties to exploit it commercially in any way.

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**§ 5  
Disclaimer**

The Disclosing Party accepts no responsibility for the correctness, completeness or usability of the know-how which is exchanged within the framework of this Agreement. Any liability in respect of the know-how provided is excluded.

**§ 6  
Return**

1. If requested in writing by the Disclosing Party, the Receiving Party must immediately return the know-how disclosed to the Disclosing Party or destroy it.
2. In this case, the Receiving Party shall not retain any copies or other records of know-how disclosed in writing unless it is legally required to do so. The Receiving Party may not use the know-how directly or indirectly in any way.
3. If requested in writing by the Disclosing Party, the Receiving Party, as the party which is obliged to return items, must confirm in writing that the documents are complete.

**§ 7  
Consequences of violations/contractual penalty/liability**

1. In the event that the Receiving Party violates its obligations under this Agreement, it must pay the Disclosing Party a contractual penalty of 5,000 Euro for each individual infringement, unless the Receiving Party is able to prove that it is not guilty of intent or negligence. The penalty shall fall due when each infringement occurs.
2. Payment of a contractual penalty in no way releases the Receiving Party from its obligations under this Agreement and more extensive claims shall not be affected by this provision.
3. In particular, in the event of a violation of its obligations, the Receiving Party shall not only pay the contractual penalty to the Disclosing Party, but shall also reimburse it for any and all damages incurred as a result of the violation (including appropriate legal fees) and/or shall indemnify the Disclosing Party against any claims made against the Disclosing Party as a result.

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- 4. The Receiving Party further acknowledges that payment of compensation may not suffice to protect the rightful interests of the Disclosing Party, and hereby agrees that the Disclosing Party is entitled to apply to the relevant court for interim relief, irrespective of any other legal measures available.

**§ 8**  
**Duration**

This Agreement shall enter into effect once it has been signed by both Contract Parties and can be terminated in writing by either Contract Party in respect of the know-how disclosed by it to the other party at any time. In the event of a termination, all rights and obligations arising from this Agreement in respect of (1) the know-how disclosed by the terminating party up to the point of termination and (2) all know-how disclosed by the other party shall remain in force.

**§ 9**  
**Miscellaneous**

- 1. This Agreement is subject to the law of the Federal Republic of Germany (with the exception of the international conflict laws and the UN Sales Convention). Insofar as this is legally permissible, the Parties hereby agree that the exclusive court of jurisdiction for all disputes arising from or in connection with this Agreement shall be Stuttgart.
- 2. In the event that individual or multiple provisions of this Agreement are or become ineffective or unenforceable or if this Agreement is found to contain an omission, the effectiveness and enforceability of the remaining provisions shall not be affected. If individual provisions in the Agreement are ineffective or unenforceable, the Contract Parties hereby agree to negotiate a suitable effective and enforceable replacement provision which accords with the aim of this Agreement and the interests of the Parties.
- 3. This is the full text of the Non-disclosure Agreement. No verbal supplementary agreements have been made. Any amendments to this Agreement must be made in writing; this also applies to any waiver of the written form requirement.

Erligheim, dated \_\_\_\_\_, dated \_\_\_\_\_

**Staiger GmbH & Co. KG**

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