

NON-DISCLOSURE AGREEMENT

**This Mutual Non-Disclosure agreement (the « Agreement »)** is entered into on [DATE]………………. by and between:

**SOCOMEC INC.,** a company duly organized and existing under the laws of Delaware, headquartered at 9 Galen Street, Suite 120, Watertown, MA 02472.

Hereinafter called **« SOCOMEC »**

AND

[COMPANY]…………………..., a company duly organized and existing under the laws of [WHERE]………………………, headquartered at [ADDRESS]…………………………………………………, represented by [WHO]………………………….. as [TITLE] …………………………….

Hereinafter called **COMPANY**

**SOCOMEC** and **COMPANY** are hereinafter individually referred to as the « Party » and collectively the « Parties ».

**WHEREAS** the Parties contemplate cooperating in the areas of/in view of [PROJECT DESCRIPTION]…………………………. and related equipment (hereinafter the “Project”). In this context, they will exchange information of various natures and acknowledge the confidential character of this information. The Parties therefore agree to protect this information as set forth in the present non-disclosure Agreement.

1. **Definitions**

**Confidential Information** of a Party means all information concerning or related to the business, products operations, financial condition or prospects of such Party or any of its Affiliates (as hereinafter defined), regardless of if such information is disclosed in oral, written, graphic, electronic or any other form, tangible or intangible, previously disclosed or is hereafter disclosed to the other Party and/or is expressly marked as confidential, and specifically includes, without limitation, (a) all information regarding the officers, directors, employees, equity holders, customers, suppliers, distributors, sales representatives and licensees of such Party and its Affiliates, in each case whether past, present or prospective, (b) all inventions, discoveries, trade secrets, processes, techniques, methods, formulae, ideas, software programs, applications, designs, drawings, programs, test data, work in progress, engineering, manufacturing, and know-how of such Party and its Affiliates, (c) all documents, diagrams, photographs, drawings, computer programs, notes, correspondence, facsimile transmissions, e-mail messages, recordings, or other communication or other material containing any proprietary information of such Party and its Affiliates; (d) all financial statements, audit reports, budgets, business plans or forecasts, and marketing materials and efforts of such Party and its Affiliates, and (e) all information concerning or related to the Purpose; provided, that the Confidential Information of a Party does not include (x) information which is or becomes generally known to the public through no act or omission of the other Party, and (y) information which has been or hereafter is lawfully obtained by the other Party from a source other than the Party to whom such Confidential Information belongs (or any of its Affiliates or their respective officers, directors, employees, equity holders or agents) so long as, in the case of information obtained from a third party, such third party was or is not, directly or indirectly, subject to an obligation of confidentiality owed to the Party to whom such Confidential Information belongs or any of its Affiliates at the time such Confidential Information was or is disclosed to the other Party.

**Affiliate** shall mean a corporation, company, division, or other entity directly or indirectly owned or controlled by, or under common control of, the same ultimate parent company as Recipient, and shall include the ultimate parent company. **Control** means, with respect to any entity, the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of such entity, whether through ownership of voting securities, by contract or otherwise

**Discloser** shall mean the Party communicating any Confidential Information to the other Party.

**Recipient** shall mean the Party receiving any Confidential Information from the other Party.

1. **Commitments of the Parties**

2.1 Each Party undertakes to:

(a) Use all or part of the Confidential Information only for the purpose of achieving the Project and strictly forbidding itself to disclose it outside its organization, except a Party may disclose the Confidential Information to Project sponsors in order to gain their approval (the ultimate owner of the project may also disclose SOCOMEC’s identity to other educational institutions when discussing the system and services ultimately delivered by SOCOMEC;

(b) Copy, reproduce or duplicate the Confidential Information in whole or in part solely for the purpose of assessing the possibilities for cooperation between the Parties for the performance of the Project or to copy, reproduce or duplicate the Confidential Information only when it has been expressly authorized by the Party that owns the Confidential Information;

(c) Disclose Confidential Information only to its employees having a "need to know" justifiable for the purpose of the Project, and to inform them of the confidentiality of the Confidential Information. In particular and without limiting the foregoing, each Party shall treat the Confidential Information with at least the same degree of precaution and protection as it confers to its own most highly confidential information;

(d) Not use the Confidential Information directly or indirectly to the detriment of the other Party or for the purposes of competition with the other Party or its subsidiaries, whether in France or in the rest of the world;

(e) Notify the other Party in writing as soon as possible in case of any circumstances which may lead to the presumption of a violation of the obligations under the Agreement or any disclosure of Confidential Information, being understood that this violation or disclosure has not necessarily its origin in the fault of one of the Parties, and to take all necessary measures to limit its effects;

All Confidential Information and any reproductions thereof shall remain the property of the Party from which they originate. At the end of the Agreement or at any time during the execution of the Agreement, each Party that owns Confidential Information may require the other Party to return it or destroy it.

2.2 The Parties shall not be bound by the obligations under this Agreement and shall not be subject to any restriction in respect of any Confidential Information:

1. which entered into the public domain prior to or subsequent to its disclosure but in this case in the absence of any fault attributable to the disclosing Party ; or
2. which is already known to the disclosing Party ; this shall be demonstrated by the existence of appropriate documents in its files; or
3. which has been lawfully received by a third party without restriction or violation of this Agreement; or
4. which has been published without violating the provisions of this Agreement; or
5. which has been expressly designated as non-confidential by the disclosing Party; or
6. which is the result of internal developments undertaken in good faith by members of its staff who have not had access to this Confidential Information; or
7. the use or disclosure of which has been authorized in writing by the Party proprietary of the Confidential Information ; or
8. the disclosure of which is imposed by law, judicial decision or arbitral award, insofar as it has been previously notified to the Party that owns the Confidential Information. The Party subject to such an injunction undertakes, in this case, to communicate only the minimum of Confidential Information and, to the extent possible, in consultation with the Party that owns the Confidential Information.
9. **Remedies**

The Parties agree that the obligations hereunder are necessary and reasonable to protect each the Discloser. The Parties agree that due to the unique nature of the Confidential Information, monetary damages would be not sufficient to compensate the Discloser party for beach of this Agreement. Accordingly, the Parties agree that any violation or threatened violation may cause irreparable injury to the respective Disclosing party and that, in addition to monetary damages and to any other remedies available in law, equity or otherwise, the Disclosing Party shall be entitled to seek injunctive relief against the threatened breach of this Agreement or the continuation of any such breach by the Receiving Party.

1. **Export**

The Parties commit to comply with all applicable United States and foreign export laws and regulations. The obligations in this Section shall survive the term of this Agreement and shall apply so long as the Confidential Information remains subject to U.S. jurisdiction.

1. **Warranties**

Each Party warrants that it has the right to make the disclosures under this Agreement, any information (confidential or otherwise) disclosed hereunder is provided “AS IS” and no warranties are given for the information as well as any use thereof.

1. **No license**

Nothing in this Agreement is intended to grant any rights to either Party under any patent, mask work right, copyright and related rights, trademark, trade secret or other intellectual property right of the other Party, nor shall this Agreement grant any party any rights in or to the Confidential information of the other Party except the limited right to use this Confidential Information for the purposes of the Project.

Nothing in this Agreement shall obligate either Party to disclosure any Confidential Information to the other Party.

1. **Reverse Engineer**

The Parties each agree not to modify, reverse engineer, decompile, create other works from, or disassemble any hardware or software contained in or containing the Confidential Information of the other Party unless permitted in writing by the Discloser.

1. **Term**

This Agreement shall enter into force on [DATE] ………… and remain valid until DATE] ……………..

1. **Entire agreement - Amendment**

This Agreement represents the entire confidentiality and non-disclosure agreement of the Parties and supersedes all prior confidentiality and non-disclosure agreements relating to the subject matter hereof. The provisions of this Agreement may not be modified, amended, in whole or in part, except by a written document duly executed by both Parties.

1. **Non-assignment**

The Non-Disclosure Agreement may not be assigned or otherwise transferred by either Party to any third party without prior approval in written by the other Party.

1. **Severability**

If a court of law holds any provision of this Agreement to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected.

1. **Governing Law - Settlement of dispute**

This Non-Disclosure Agreement shall be governed by, and construed in accordance with the laws of the Commonwealth of Massachusetts. Any dispute regarding this Non-Disclosure Agreement shall be finally settled by the jurisdiction of Massachusetts if not settled amicably within a reasonable time.

This Non-Disclosure Agreement may be executed in two or more counterparts and on separate counterparts by each Party. Each counterpart will be deemed an original, but all of them together will constitute one and the same instrument.

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| **For and on behalf of SOCOMEC** | **For and on behalf of COMPANY** |
| Name :  Position:    Place and Date:  Stamp and Signature: | Name :  Position:  Place and Date:  Stamp and Signature: |