

## Non Disclosure Agreement

Between

**PROTIQ GmbH - A Phoenix Contact Company, Flachsmarktstr. 54, 32825 Blomberg, Germany**

- hereinafter referred to as "**PROTIQ**" -

and

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- hereinafter referred to as "**CONTRACTUAL PARTNER**" -

the following agreement is concluded (hereinafter referred to as "**AGREEMENT**");

The AGREEMENT relates to the business cooperation between **PROTIQ** and the **CONTRACTUAL PARTNER** with regard to the PROTIQ-Marketplace on "protiq.com" ("**PURPOSE**"). For this PURPOSE it is necessary that PROTIQ and the **CONTRACTUAL PARTNER** disclose CONFIDENTIAL INFORMATION to the respective other CONTRACTUAL PARTNER.

### 1. Definitions.

**a) CONFIDENTIAL INFORMATION.** Confidential are - subject to the provision on "Exceptions" in the AGREEMENT - all information, facts, documents, data and / or knowledge, in particular technical and / or economic information, construction documents, specifications, drawings, samples, prototypes, test results, source codes, object codes as well as data from customers of the DISCLOSING PARTY and/or secret know-how and trade secrets of the DISCLOSING PARTY, ie identifiable findings that are only accessible to a limited number of people, eg in form of non-public information about manufacturing processes or audit results which the RECEIVING PARTY receives from the DISCLOSING PARTY within the PURPOSE, regardless whether conveyed in writing, in text form, electronically, verbally, visually or in any other form. CONFIDENTIAL INFORMATION also includes all copies made thereof, self-generated materials and compilations. **b) DISCLOSING PARTY and RECEIVING PARTY.** The CONTRACTUAL PARTNER disclosing CONFIDENTIAL INFORMATION is referred to as "DISCLOSING PARTY". The CONTRACTUAL PARTNER receiving CONFIDENTIAL INFORMATION is referred to as "RECEIVING PARTY".

**c) AFFILIATED COMPANIES.** AFFILIATED COMPANIES within the meaning of the AGREEMENT are companies in which PHOENIX CONTACT directly or indirectly (i) holds more than half of the voting rights; or (ii) can appoint or recall more than half of the members of the administrative, management or supervisory body or of the bodies appointed for legal representation; or (iii) has the right to conduct the business of the company; or (iv) viewed economically, bears the majority of the

risks and opportunities of a company which serves to achieve a narrowly limited and precisely defined objective of PHOENIX CONTACT (special purpose company) and such companies which directly or indirectly have the aforementioned possibility to influence PHOENIX CONTACT as well as its AFFILIATED COMPANIES, but only as long as the aforesaid requirements are met. AFFILIATED COMPANIES are no third parties within the meaning of the AGREEMENT.

**2. Ownership.** CONFIDENTIAL INFORMATION is and remains property of the DISCLOSING PARTY or the third party who has passed on CONFIDENTIAL INFORMATION to the DISCLOSING PARTY.

**3. Rejection.** No CONTRACTUAL PARTNER is obliged to disclose CONFIDENTIAL INFORMATION. The RECEIVING PARTY is entitled to reject the disclosure of CONFIDENTIAL INFORMATION by the DISCLOSING PARTY. Information that was disclosed despite previous rejection shall then not be subject to the provisions of the AGREEMENT. But these are subject to the regulations of the AGREEMENT, as far as the rejection took place only after the disclosure of the CONFIDENTIAL INFORMATION.

**4. Intended use.** CONFIDENTIAL INFORMATION may be used by the RECEIVING PARTY solely to achieve the PURPOSE.

**5. Disclosure by AFFILIATED COMPANIES.** Each disclosure of CONFIDENTIAL INFORMATION to the CONTRACTUAL PARTNER by AFFILIATED COMPANIES of PHOENIX CONTACT shall be deemed a disclosure of PROTIQ to the CONTRACTUAL PARTNER.

**6. Disclosure to third parties.** The RECEIVING PARTY has to protect all disclosed CONFIDENTIAL INFORMATION from access by third parties and keep it at least with the same diligence with which it treats its own CONFIDENTIAL INFORMATION, at least, however, with the diligence that is usual in such cases. CONFIDENTIAL INFORMATION may not be disclosed to any third party unless this is expressly permitted under the AGREEMENT. CONFIDENTIAL INFORMATION may only be disclosed to third parties after prior written consent of the DISCLOSING PARTY. If the disclosure to these third parties is necessary, the consent may not be unreasonably withheld. Before the disclosure of CONFIDENTIAL INFORMATION by the RECEIVING PARTY towards third parties, these third parties must be committed to secrecy to the same extent as the CONTRACTUAL PARTNERS under this AGREEMENT. For the disclosure to employees the provision under "Employees" shall be applicable.

**7. Employees.** The RECEIVING PARTY has to take care that the CONFIDENTIAL INFORMATION received is only made accessible to those employees of the RECEIVING PARTY whose assignment is essential to fulfill the PURPOSE. These employees are also committed to secrecy to an extent permitted under labor law unless there has already been a basic commitment to secrecy within the employment contract.

**8. Liability for third parties.** A breach of confidentiality by its AFFILIATED COMPANIES and other third parties within the meaning of the provisions under "Disclosure to third parties" and "Employees" shall be deemed a violation of the AGREEMENT by the respective CONTRACTUAL PARTNER.

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**9. Right to disclose.** The RECEIVING PARTY may disclose CONFIDENTIAL INFORMATION of the DISCLOSING PARTY as far as the RECEIVING PARTY is obliged to do so owing to an official or judicial order or mandatory legal provisions, provided that the RECEIVING PARTY obliged to disclosure promptly notifies the DISCLOSING PARTY for the purpose of asserting its rights, and the RECEIVING PARTY obliged to disclosure undertakes actions reasonable to him to warrant that the CONFIDENTIAL INFORMATION is treated as confidential.

**10. Obligation to return.** Upon written request of the DISCLOSING PARTY, the RECEIVING PARTY is obliged to return or destroy all CONFIDENTIAL INFORMATION received. However, the RECEIVING PARTY shall be entitled to retain CONFIDENTIAL INFORMATION or copies thereof if (a) the law applicable to the RECEIVING PARTY mandatorily requires retention to comply with legal obligations; or (b) a retention is required for its accounting or internal auditing purposes; or (c) a retention is required by its internal directives; or (d) routinely compiled backup copies are made of electronically exchanged CONFIDENTIAL INFORMATION. As far as the legislation does not foresee longer periods, the CONFIDENTIAL INFORMATION may be stored maximally for ten years after the termination of the AGREEMENT. The foregoing retention obligation does not give rise to the RECEIVING PARTY'S right to disclosure to third parties within the meaning of the provision "Disclosure to third parties".

**11. Exceptions.** The provisions of the AGREEMENT do not apply to information that (a) at the time of its disclosure was already public knowledge or has become public knowledge after its disclosure without breaching the AGREEMENT; or (b) was already known to the RECEIVING PARTY at the time of its disclosure; or (c) was made accessible to the RECEIVING PARTY by third parties after its disclosure in a lawful manner and without any restrictions regarding confidentiality or use; or (d) was developed by the RECEIVING PARTY independently and without recourse to CONFIDENTIAL INFORMATION or in accordance with the exceptions regulated in this paragraph lit. (a) - (c).

The CONTRACTUAL PARTNER who refers to the exception has to prove that the respective prerequisites are met.

**12. Licenses and rights of use.** Licenses and/or rights to use and / or assign any patents, rights of use, trademarks, samples, the intellectual property or any other property rights are not granted by the AGREEMENT and the exchange of CONFIDENTIAL INFORMATION neither expressly nor impliedly. The RECEIVING PARTY is in particular not entitled to apply for patents or other property rights with or on the basis of the CONFIDENTIAL INFORMATION received. Furthermore, the assignment of CONFIDENTIAL INFORMATION does not give rise to a right of prior use for the RECEIVING PARTY.

**13. Contract term.** The AGREEMENT shall become effective with the signature of the CONTRACTUAL PARTNER signing last and shall remain in force for an indefinite period. Each CONTRACTUAL PARTNER may ordinarily terminate it in writing by observing a period of notice of three months to the end of the calendar month. The right to extraordinary termination without notice for good cause shall remain unaffected. The provisions under the AGREEMENT shall survive the termination of the AGREEMENT for a further period of five years.

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**14. Written form.** No ancillary agreements have been made. Any amendments and supplements to the AGREEMENT require the written form and the mutual consent of the CONTRACTUAL PARTNERS. The same shall apply to a waiver of this written form requirement or to its cancellation. Para. 305 b German Civil Code (priority of individually agreed terms) shall remain unaffected. Where under this AGREEMENT a statement has to be made “in writing” or “in written form”, this statement must be signed - unless otherwise agreed in the AGREEMENT - by the person or persons authorized to proper representation of the respective CONTRACTUAL PARTNER (a) signing it with his own name or (b) by his notarially certified initials or (c) notarized and transmitted to the other CONTRACTUAL PARTNER as original or as fax. The written form described in sentence 5 may be replaced in each case by the electronic form (e-mail, EDI), with the exception of amendments, extensions and/or terminations of the AGREEMENT.

**15. Assignment.** Furthermore, rights and obligations are not transferable without the approval of the other CONTRACTUAL PARTNER. Para 354a HGB German Commercial Code shall remain unaffected.

**16. Applicable Law.** The AGREEMENT shall exclusively be governed by German law. German law shall also apply to current and future debt obligations covered by Regulation (EC) no. 864/2007 (Rome II) on the law applicable to non-contractual debt obligations. The provisions of the Vienna UN Convention of 11 April 1980 on Contracts for the International Sale of Goods (CISG) shall be excluded.

**17. Arbitration.** Any disputes arising out of or in connection with the AGREEMENT or its validity shall be finally settled in accordance with the rules of arbitration of the German Institution of Arbitration (DIS) without recourse to the ordinary courts of law. The place of arbitration shall be Cologne, Germany. The arbitration court shall consist of three arbitrators. The language of the arbitration proceedings shall be English.

**18. Severability Clause.** (a) Should a provision of the AGREEMENT be or become fully or partially invalid/void or unenforceable for reasons of the law on the General Terms and Conditions pursuant to para 305 to 310 German Civil Code, the statutory provisions shall apply. (b) Should an existing or future provision of the AGREEMENT be or become fully or partially invalid/void or unenforceable for reasons other than the provisions regarding the law on General Terms and Conditions pursuant to para 305 to 310 German Civil Code, the validity of the remaining provisions of the AGREEMENT shall not be affected as far as the execution of the AGREEMENT - also by considering the following provisions - would constitute an unreasonable hardship for a CONTRACTUAL PARTNER. The same shall apply if an omission needs to be filled after the conclusion of the AGREEMENT. (c) The CONTRACTUAL PARTNERS shall replace the invalid/void/unenforceable provision or omission that needs to be filled for reasons other than the provisions concerning the law on General Terms and Conditions pursuant to para 305 to 310 German Civil Code by a valid provision that in its legal and economic content corresponds to the invalid/void/unenforceable provision and the overall purpose of the AGREEMENT. Para 139 German Civil Code (partial invalidity) shall be expressly excluded - also in the sense of a regulation of the burden of proof.

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**PROTIQ GmbH**

**PROTIQ GmbH**

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(Place, Date)

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Dr.-Ing. Johannes Lohn  
Head of Development, Marketing & Sales

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Clemens Boesen  
Head of Production

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(Place, Date)

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