**MUTUAL NONDISCLOSURE AGREEMENT**

Date: xxxx 2020

This **MUTUAL NONDISCLOSURE AGREEMENT** is made as of the date set forth above between:

**HWA AG**, Benzstrasse 8, 71563 Affalterbach, Germany,

of the first part,

and

**Company: XXXXX**

of the second part.

1. Purpose. - The parties agree to enter into a business relationship (afterwards named “Relationship”) in which both parties agree to an exchange of confidential information within the scope of following project “xxx”.

2. Definition of Confidential Information. - Confidential Information means any information, technical data, or know‑how, including, but not limited to, that which relates to research, product plans, products, services, customers, consultants, markets, processes, designs, drawings, marketing or finances of the disclosing participant. The term - Confidential Information - includes trade secrets and to any and all information of any nature or kind whatsoever which relates to all proprietary and financial information relating to the participants’ business; to any and all information concerning the participants’ customers; and to the content of any and all working papers, discussion papers, business plans, documents and products of any nature or kind which either participant has created, amended or enhanced. Confidential Information does not include information, technical data or know‑how which (a) is in the possession of the receiving participant at the time of disclosure as shown by the receiving participant’s files and records immediately prior to the time of disclosure; (b) prior to or after the time of disclosure becomes part of the public knowledge or literature other than as a result of any improper inaction or action of the receiving participant; (c) is approved in writing by the disclosing participant for release; or (d) is required to be disclosed by applicable law or proper legal, governmental or other competent authority (provided that the participant whose information is to be disclosed shall be notified sufficiently in advance of such requirement so that it may seek a protective order (or equivalent) with respect to such disclosure, with which the other participant shall fully comply).

3. Nondisclosure of Confidential Information. Each participant agrees not to use any Confidential Information disclosed to it by the other participant for its own use or for any purpose other than to carry out discussions concerning, and the undertaking of, the Relationship. Neither participant will disclose any Confidential Information of the other participant to any persons other than persons who are required to have the information in order to carry out the discussions regarding the Relationship. In the case that either participant is required to disclose the Confidential Information of the other participant to a third party in order to effectively engage in discussions with the other participant, the disclosing participant will cause the third party to sign a nondisclosure agreement similar to this Agreement. Each participant agrees that it will take all reasonable measures to protect the secrecy of and to avoid the disclosure or use of Confidential Information of the other participant in order to prevent it from falling into the public domain or the possession of persons other than those persons authorized under this Agreement to have any such information. Such measures shall include, but will not be limited to, the highest degree of care that the receiving participant utilizes to protect its own Confidential Information of a similar nature. Each participant agrees to notify the other in writing of any misuse or misappropriation of Confidential Information of the disclosing participant which may come to the receiving participant’s attention.

4. Return of Materials. Any materials or documents that have been furnished by one participant to the other in connection with the Relationship will be promptly returned by the receiving participant, accompanied by all copies of such documentation, within 10 days after (a) the Relationship has been terminated, or (b) the delivery of written request on the part of the disclosing participant.

5. Trademark or Copyright Infringement. Nothing in this Agreement is intended to grant any rights under any trademark or copyright of either participant, nor shall this Agreement grant either participant any rights in or to the other participant’s Confidential Information other than the limited right to review such Confidential Information in connection with the Relationship between the participants.

6. Term. The foregoing commitments of each participant shall survive any termination of the Relationship between the participants, and shall continue for a period terminating on the later to occur of the date (a) 2 years following the date of this Agreement or (b) 5 years from the date on which Confidential Information is last disclosed under this Agreement.

7. Acknowledgement. Each participant acknowledges that the other party may, from time to time during the term of this Agreement, be in discussions with other entities operating in the same or a similar industry as the other party.

8. Inurement / no waiver. This Agreement shall be binding upon and for the benefit of the undersigned participants, their successors and assigns, provided that Confidential Information of the disclosing participant may not be assigned without the prior written consent of the disclosing participant. Failure to enforce any provision of this Agreement by a participant shall not constitute a waiver of any term hereof by such participant.

9. Governing law. This Agreement shall be governed by and shall be construed in accordance with both the procedural and the substantive laws of Germany, to the exclusion of the law of any other jurisdiction. By entering into this Agreement the participants agree:

(a) that any cause of action which arises in respect of the construction and/or the performance of this Agreement or any provision hereof shall be deemed to have arisen in Germany; and

(b) to accept and to attorn to the jurisdiction of Germany.

The participants agree that no resort shall be taken to any other Court or tribunal in any other jurisdiction, save only where and in those instances in which it shall become necessary to seek the enforcement of an Order of the german territorial jurisdiction.

10. Remedies. Each participant agrees that its obligations provided in this Agreement are necessary and reasonable in order to protect the disclosing participant and its business, and each participant expressly agrees that monetary damages would be inadequate to compensate the disclosing participant for any breach by the receiving participant of its covenants and agreements set forth in this Agreement. Accordingly, each participant agrees and acknowledges that any such violation or threatened violation will cause irreparable injury to the disclosing participant and that, in addition to any other remedies that may be available, in law, in equity or otherwise, the disclosing participant shall be entitled to obtain both mandatory and prohibitory injunctive relief against the threatened breach of this Agreement or the continuation of any such breach by the receiving participant, without the necessity of proving actual damages.

11. Delivery by email or fax. This Agreement may be executed in counterpart and shall be deemed to have been entered into on the date which appears at the head of the first page hereof. Counterparts of this Agreement may be delivered by fax transmission or by scanning and emailing it. A collection of counterparts of this Agreement bearing between them the signatures of both participants shall be deemed to be one original fully executed copy of it, to be for all purposes as effective as if the participants had executed and delivered manually signed copies of this Agreement each to the other.

12. The participants intend to be legally bound by the provisions of this Agreement.

IN WITNESS WHEREOF the participants execute and deliver this Agreement.

**HWA AG Date:**

by its authorized signatory

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Name: Martin Marx

Title: COO

**Company** **Date:**

by its authorized signatory

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Name: XXX

Title: XXX