

## MEGP Non-Disclosure Agreement

Contracting parties:

**S.C. Makita EU S.R.L. (MMR)**

Headquarters in I.C. Bratianu Street, No. 164, Branesti Village, 077030, Ilfov County, Romania,

**Makita Manufacturing Europe Ltd. (MME)**

Headquarters in Hortonwood Street, No. 7, Telford Town, TF1 7YX, Shropshire, England,

**Makita Engineering Germany GmbH (MEG)**

Headquarters in Jenfelder Strasse 38, 22045 Hamburg, Germany,

Hereinafter all the above jointly referred to as “MEGP” or the “Purchaser”

And, on the other side

.....

With its registered office in ....., street: ....., zip code: ....., Country.....

(Hereinafter referred to as the “Supplier”, the Purchaser and the Supplier are hereinafter jointly referred to also as the “Parties” and each of them as a “Party”)

### BACKGROUND

The parties wish to discuss and exchange information concerning the possible supply of parts/components for products to be manufactured by MEGP. This evaluation is expected to include the sharing of various technical and business information considered proprietary and confidential by the parties;

In consideration of the mutual promises and covenants contained herein, the parties hereby agree as follows:

### AGREEMENT

1. “Confidential Information” as used in this Agreement shall mean any and all technical and non-technical information disclosed by one party (the “Disclosing Party”) to the other party (the “Receiving Party”) regardless of disclosed orally or tangible and shall include without limitation, even if not marked as such shall be considered confidential (a) concepts and ideas relating to the current, future or proposed products or services of the Disclosing Party and its subsidiaries and Affiliates; (b) trade secrets, drawings, 3D data, works of authorship, inventions, know-how, software programs and software source documents, jigs, moulds, equipment and tools of the Disclosing Party and its subsidiaries and Affiliates; (c) information regarding research, development, new service offerings and products, marketing and selling, business plans, budgets, unpublished financial statements, licensing and distribution arrangements, prices and costs and suppliers and customers of the Disclosing Party and its subsidiaries and Affiliates; (d) the existence of any business discussions, negotiations or agreements between the parties; and (e) any information regarding the skills and compensation of employees, contractors or other agents of the Disclosing Party and its subsidiaries and Affiliates. For the purposes of this Agreement, “Affiliate” shall mean, with respect to any party, any third party that, directly or indirectly, through one or more intermediaries, owns a 50% or greater interest in, or has the ability, contractual or otherwise, to direct the management of the affairs of such party.

2. The Receiving Party agrees that it will keep confidential and further that it will not make use of, reproduce, disseminate, or in any way disclose to any of its subsidiaries and Affiliates any Confidential Information of the Disclosing Party, except to the extent necessary for negotiations, discussions and consultations with personnel or authorised representatives of the Disclosing Party regarding a potential business relationship between the parties (and their respective subsidiaries and affiliates in connection therewith (the “Purpose”).
3. The Receiving Party agrees that it shall disclose Confidential Information of the Disclosing Party and its subsidiaries and Affiliates only (i) to those of its employees, contractors and other agents who need to know such Confidential Information in order to carry out the Purpose and who have agreed in writing to be bound by terms and conditions substantially similar to, and no less restrictive with respect to limitations on use and disclosure than, those of this Agreement; and (ii) to those of the Receiving Party’s subsidiaries and affiliates who need to know such Confidential Information in order to carry out the Purpose and who have been instructed by the Receiving Party in writing (a) to abide by the confidentiality obligations contained in this Agreement and (b) that receipt of any Confidential Information hereunder by such subsidiary or Affiliate constitutes acceptance by such subsidiary or Affiliate of the terms of this Agreement c) Receiving Party will be obligated make subcontractors aware of this confidentiality agreement and shall obtain their signed confirmation of this notice.
4. The Receiving Party agrees that it shall treat all Confidential Information of the Disclosing Party and its subsidiaries and Affiliates with the same degree of care as it accords to its own Confidential Information of a similar nature and represents that it exercises at least reasonable care to protect its own Confidential Information.  
Subject to Section 2, the Receiving Party’s obligations under this Agreement with respect to any portion of the Confidential Information of the Disclosing Party and its subsidiaries and Affiliates shall terminate when the Receiving Party can document that such Confidential Information: (a) was in the public domain at the time it was communicated to the Receiving Party by the Disclosing Party or its subsidiary or Affiliate; (b) entered the public domain subsequent to the time it was communicated to the Receiving Party by the Disclosing Party or its subsidiary or Affiliate through no fault of the Receiving Party; (c) was in the Receiving Party’s possession, free of any obligation of confidence, at the time it was communicated to the Receiving Party by the Disclosing Party or its subsidiary or Affiliate; or (d) was rightfully communicated to the Receiving Party by a third party, free of any obligation of confidence, subsequent to the time it was communicated to the Receiving Party by the Disclosing Party or its subsidiary or Affiliate. In addition, the Receiving Party may disclose Confidential Information of the Disclosing Party and its subsidiaries and Affiliates in response to a valid order by a court or other governmental body, as otherwise required by law, or as necessary to establish the rights of either party under this (e) Is independently developed in good faith by employees of the receiving party who did not use or refer to the other Party’s Confidential Information, (f) is required for disclosure pursuant to the order of a court of competent jurisdiction; or otherwise required to be disclosed by law through no act of the receiving Party, provided, however, that the receiving Party has notified the disclosing Party upon learning of the possibility that disclosure could be required pursuant to any such law or legal order and has given the disclosing Party a reasonable opportunity to contest or limit the scope of such required disclosure and has cooperated with the disclosing Party in this regard.
5. All Confidential Information and materials furnished to the Receiving Party by the Disclosing Party and its subsidiaries and Affiliates shall remain the property of the disclosing Party or such subsidiary or Affiliate, as applicable. The Receiving Party shall promptly return to the Disclosing Party all documents and any tangible material or medium containing or representing such confidential Information and shall delete, or procure the deletion of, all electronically stored copies or extracts

of the same, upon the written request of the Disclosing Party and provide such evidence that said information was destroyed.

6. Neither party shall acquire any license, interest or right in or under any intellectual property rights of the other party under this Agreement. Neither party makes any representation or warranty in this Agreement, express or implied, with respect to the accuracy, completeness or utility of any Confidential Information provided pursuant to this Agreement.
7. Neither party will assign or transfer any rights or obligations under this Agreement without the prior written consent of the other party, nor shall any attempt of assignment or transfer without such consent be void.
8. The failure of either party to exercise, or any delay in exercising, any right or remedy under this Agreement shall not constitute a waiver of such right or remedy or any other right or remedy under this Agreement, and no single or partial exercise of any right or remedy shall prevent any further exercise of such right or remedy or the exercise of any other right or remedy.
9. This Agreement represents the entire understanding of both parties with respect to the subject matter hereof and supersedes any other prior or contemporaneous agreements or understandings, whether written or oral. This Agreement may only be changed by written mutual agreement of authorised representatives of both parties. If any provision of the Agreement is found by a proper authority to be unenforceable or invalid, such unenforceability or invalidity shall not affect the other provisions of this Agreement and this Agreement shall be construed as if such unenforceable or invalid provision had never been contained herein.
10. Each party acknowledges and agrees that a breach of any of its promises or agreements contained herein will result in irreparable injury to the other party for which there will be no adequate remedy at law, and the other party shall be entitled, in addition to any remedies available at law, to equitable relief in the event of any breach or threatened breach of this Agreement by the first party.
11. All notices or reports permitted or required under this Agreement shall be in writing and shall be delivered as follows with notice deemed given as indicated: (I) by personal delivery when delivered personally; (ii) by overnight courier upon written verification of receipt; (iii) by telecopy or facsimile transmission upon acknowledgement of receipt of electronic transmission; (iv) by email secure communications or (v) by certified or registered mail, return receipt requested, upon verification of receipt. Notices shall be sent to the addresses set forth at the beginning of this Agreement or such other address as a party may specify in writing.
12. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.  
This Contract has been executed in 2 copies, each copy as in English, one copy for each of MEGP members and the Supplier.
13. During the term of the Contract and after any termination, both Parties agree to keep secret any information that was received or disclosed to the Party as result of or in relation to the Contract or its performance for a period of no less than 3 (three) years and to make sure that their employees will keep the confidentiality of any such information. It will include, among others, contract terms, technical details, designs and drawings, intellectual property and market information.
14. The Supplier acknowledges that Makita, Maktec, Dolmar logos are registered trademark of Makita Corporation. All Confidential information should match with Non-Disclosure Agreement (NDA) sent before starting the discussion with suppliers.

15. If applicable, the supplier agrees to comply with the Makita GDPR agreement referred to herein and executed in conjunction with this NDA.
16. Limitation of liability :  
Responsibility for the correctness and completeness of the information of MEPG given according to this NDA will not be assumed unless MEPG acts deliberately or grossly negligently.
17. The Parties will make all the efforts to resolve amicably, in a friendly manner, any misunderstanding or conflict which may arise under or in connection with this NDA (“**Dispute**”).  
If a Dispute is not resolved after 1 month of the first written request by a Party for such meeting, all disputes arising out of or in connection with the present contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce (ICC) by one or more arbitrators appointed in Accordance with the said Rules. CISG (United Nations Convention on Contracts for the International Sale of Goods) does not apply. The proceedings of the court of arbitration shall take place in Hamburg, Germany *if not otherwise jointly consented by the parties*. The substantive law for the Parties and each MEPG member shall be German Law. *The arbitration proceedings shall be conducted in German or English – as the case may be.*
18. All disputes between the Parties, which the Parties are unable to resolve in accordance with Clause 17, shall be settled by the competent courts of Hamburg, Germany with applicable German law. Notwithstanding the above arbitration clause, without limiting the competence of the Arbitral Tribunal to take interim measures, including, without limitation, injunctive relief and measures for the protection or conservation of property and disposition of perishable goods, each Party shall be entitled to request such interim measures from applicable court of competent jurisdiction.

#### SIGNATURES

#### MEGP (Purchaser)

S.C. Makita EU S.R.L.

\_\_\_\_\_ [name]  
\_\_\_\_\_ [position]  
\_\_\_\_\_ [signature]  
\_\_\_\_\_ [Date]

.....

(Supplier)

\_\_\_\_\_ [name]  
\_\_\_\_\_ [position]  
\_\_\_\_\_ [signature]  
\_\_\_\_\_ [Date]

on behalf of and with the full authority of  
**Makita Manufacturing Europe Ltd.**  
[name]

on behalf of and with the full authority of  
**Makita Engineering Germany GmbH**  
[name]