

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

保密协议

This Non-Disclosure Agreement ("Agreement") is entered into on _____, 20____ ("Effective Date") between [Lisa Dräxlmaier GmbH, Landshuter Straße 100, 84137 Vilsbiburg (or another DRAEXLMAIER company incl. its complete address)] ("Buyer") and _____, with its principal offices at [street, number, ZIP-Code, Country] and the supplier number 5xxxxx ("Supplier") and both hereafter also referred to as "Party" or "Parties".

本保密协议（“协议”）由 [莉莎德科斯米尔有限公司，地址：Landshuter Strasse 100, 84137 Vilsbiburg, Germany (或另一个德科斯米尔公司，包括其完整地址)]（“买方”）与 [供应商名称]，主要营业地 5xxxxx，供应商编号：_____（“供应商”）于20xx年xx月xx日（“生效日期”）订立。两方中的一方在下文中称为“一方”，两方合称为“双方”。

The Buyer wishes to disclose confidential or proprietary information to Supplier for the purpose of evaluating and negotiating any proposed transaction or business relationship as well as for the purpose of the actual implementation and conducting of any and all transactions or business relationships between the Parties (the "Purpose") and the Supplier agrees to protect Buyer's information from unauthorized use and disclosure in connection with it as well as to protect its proprietary interests.

为双方潜在交易或商务关系的评估与谈判，亦为双方任何交易或商务关系的实施和履行之目的（“目的”），买方拟向供应商披露保密信息或其拥有所有权的信息，供应商同意保护买方的保密信息，未经许可不得使用 and 披露相关信息，并保护买方对保密信息的所有权。

In consideration of this, Buyer and Supplier agree with each other as follows:

有鉴于此，买方和供应商共同达成下列条款：

1. **Definition:** "Confidential Information" means confidential information that is disclosed by Buyer and/or its Affiliated Company(ies) ("Disclosing Party") to the Supplier and/or its Affiliated Company(ies) ("Receiving Party") for the Purpose and which is marked or classified (a) in writing or orally identified as confidential at the time of disclosure, or (b) in any other manner marked and classified as confidential at the time of disclosure. For the Purpose of this Agreement an "Affiliated Company" in relation to a Party shall be defined as a company, which is directly or indirectly controlled by that Party, controls that Party, is under joint management with that Party or is under common control with that Party, whereby control means that at least 50% of the shares or voting rights are being held.

定义：“保密信息”指买方和/或其关联方（“披露方”）为特定目的而向供应商和/或其关联方（“接受方”）披露的、具有下列标识和分类的保密信息：（a）披露时以书面或口头形式标识为保密的信息；或（b）披露时以其他方式标识为保密的信息。基于本协议之目的，一方的“关联公司”是指由该一方直接或间接控制的公司，直接或间接控制该一方的公司，与该一方同处于共同管理之下的公司或与该一方受到相同控制的公司，该控制是指至少拥有 50% 的股份或投票权。

Confidential Information shall include, but not be limited to, the following:

保密信息应当包括但不限于下列信息：

- a) technical and non-technical information in any form, technical specifications, all source code, object code, screen displays, printed computer output, flowcharts, drawings or sketches, models, know-how, processes, algorithms, software programs, databases, formulae in any form, and all notes, memoranda or recordings, or videographic, alphanumeric, audiophonic or telephonic data, regardless of who prepared such work or on which medium it is stored, 不论由何者制作或存储在何种媒体之上的任何形式的技术或非技术性信息、技术要求、所有源代码、目标代码、界面显示、电脑输出打印、流程图、图纸或草图、模型、专有技术、工艺流程、计算方法、软件程序、数据库、任何形式的公式、所有的笔记、备忘录或录音、影像记录、字母数字、伴音或电话数据，
- b) product and marketing plans, customer lists, financial information or projections, business policies or practices, analyses, compilations, studies, regardless of the type of media on which it is stored,

不论存储在何种媒体之上的产品和营销计划、客户名单、财务信息或财务预测、商业策略与实践、分析、汇编、研究，

- c) quotes or any other commercial offers and pricing information exclusively prepared for Buyer and/or provided to Buyer by the Supplier,

专为买方和/或由供应商提供给买方的报价或任何其他商务要约和价格信息；

- d) any extract, summary, report, analysis, material antecedent to the development of any of the aforementioned, and any derivative work thereof, and

为开发上述任何信息而进行的摘录、总结、报告、分析或材料，以及上述信息所产生的任何衍生品，和

- e) Trade Secrets. “Trade Secret” means an information which (a) is secret in the sense that it is not, as a body or in the precise configuration and assembly of its components, generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question, (b) has commercial value for the Buyer because it is secret and (c) has been subject to reasonable steps under the circumstances, by the Buyer lawfully in control of the information, to keep it secret.

商业秘密。“商业秘密”是指以下信息：（a）作为整体或精确配比或配件组装而一般不为接触相关信息领域的人员所知悉或轻易获取的秘密，（b）因其秘密性而对买方具有商业价值的信息，以及（c）依法有权掌控该信息的买方在特定情形下采取合理措施对其予以保密的信息。

2. **Non Disclosure:** Supplier agrees (a) to keep Confidential Information received from the Buyer strictly confidential, (b) not to disclose Confidential Information received from the Buyer to any third party not included in Section 3 below, (c) to protect Confidential Information received from the Buyer with the same degree of care as it uses for its own information of like importance, but not less than reasonable care, (d) not to disassemble and/or decompile, decode, reproduce, redesign and/or reverse engineer any disclosed Confidential Information or any part of it, and (e) not to use Confidential Information for any purpose other than the Purpose mentioned above.

不披露： 供应商同意：（a）对从买方所获取的保密信息严格保密，（b）不将从买方所获取的保密信息向下述第3条所列举之外的任何第三方披露，（c）对从买方所获取的保密信息与自己所拥有的同等重要的信息予以同样谨慎的保护，但不得低于合理谨慎程度，（d）不对任何经披露的保密信息或其任何部分进行分解和/或反编译、解码、复制、重新设计和/或反向工程，及（e）不将保密信息用于除上述目的之外的任何其他目的。

3. **Exclusions:** Supplier agrees that all Confidential Information provided by Buyer shall be strictly limited in its use and distribution to those Supplier representatives whose review of the Confidential Information is absolutely necessary. Supplier shall take all reasonable measures, at its sole expense, to restrain its representatives from prohibited or unauthorized use or disclosure of the Confidential Information.

例外： 供应商同意对买方所提供保密信息的使用予以严格限制，仅将其分发给那些绝对对必要知悉该保密信息的供应商代表。供应商应自费采取一切合理措施杜绝其代表对保密信息未经同意或授权而进行使用或披露。

Release to Third Parties: Supplier must obtain prior written approval from Buyer to disclose any Confidential Information to third parties, including but not limited to their respective sub-suppliers, sub-contractors, customers, subsidiaries, or Affiliated Company(ies). Supplier shall ensure that all third parties receiving Confidential Information shall be bound by the same terms and conditions as stated in this Agreement.

向第三方披露： 供应商必须征得买方事先书面同意始得将保密信息披露给第三方，包括但不限于他们的相关分供应商、分包商、客户、分支机构或关联公司。供应商应确保收到保密信息的所有第三方皆受到与本协议相同的条款和条件的拘束。

4. **Term:** The term of this Agreement is five (5) years after the Effective Date referred to above, while the terms of confidentiality with regards to Confidential Information disclosed during the term of this Agreement shall remain binding for Supplier for three (3) years after the Agreement's expiration date.

有效期： 本协议在上述有效期开始之日起五（5）年内有效，对在本协议有效期内所披露保密信息的保密义务在本协议有效期届满后叁（3）年内依然具有拘束力。

5. **Non-Confidential Information:** Confidential Information will not include information that the Supplier can show with sufficient and verifiable evidence: (a) was legitimately known or in the possession of the Supplier prior to disclosure, or (b) was publicly available or known in the industry prior to disclosure through no wrongful act of the Supplier, or (c) subsequent to disclosure, became publicly available or generally known in the industry through no fault and/or no wrongful act of the Supplier, or (d) is lawfully obtained from a third party having no obligation of confidentiality, or (e) is independently developed by the Supplier without reference or access to the Confidential Information.
非保密信息: 保密信息不包括供应商能够充分并可验证地证实的下列信息: (a) 供应商在披露时业已合法知悉或拥有, 或 (b) 非因供应商不当行为而于披露前为行业所拥有或知悉, 或 (c) 披露后非因供应商的过错和/或供应商不当行为而为公众所拥有或在行业内广泛知悉, 或 (d) 从不负担保密义务的第三方处获悉; 或 (e) 由供应商在未参考或未接触保密信息的情况下独立开发所得。
6. **Permitted Disclosure:** If the Supplier is required by a judicial action and/or government or public authority mandate to disclose the Buyer's Confidential Information, it may do so, after giving the Buyer reasonable notice prior to any disclosure (if and to the extent permissible by law), and must limit the disclosure to the maximum extent permissible.
披露许可: 如果供应商基于司法行为和/或政府机关或公共机关的命令而必须披露买方的保密信息, 供应商应当在披露前向买方进行合理通知的情况下 (在法律允许的范围内) 进行披露, 该披露必须控制在最大允许限度之内。
7. **Return of Information:** Buyer may at the expiration of this Agreement or at any time during the term of this Agreement, with thirty (30) days notice, request the return or destruction of all Confidential Information disclosed to the Supplier, whether in written or other tangible form, including all copies, and the Supplier will thereafter have no right to make any use of any of the Confidential Information. This provision does not apply to: (a) any information referred to in Paragraph 6 above, (b) routinely made automatic back-up copies of electronically-exchanged Confidential Information, and/or (c) Confidential Information which must be retained in order to comply with applicable laws. Any retained Confidential Information under subsection (b) and (c) shall be subject to an additional fifteen (15) years confidentiality obligation after termination under the terms and conditions of this Agreement and no right of use or ownership shall be conferred to the Supplier.
信息的返还: 买方应在本协议期满后或本协议有效期内提前叁拾 (30) 日要求供应商返还或销毁披露给供应商的所有保密信息, 不论是书面的或以其他有形形式存在的保密信息, 包括所有副本, 供应商自此开始无权以任何方式使用任何保密信息。上述规则不适用于下列情形: (a) 上述第 6 条所提及的信息, (b) 计算机系统常规自动备份的以电子形式交换的保密信息, 和/或 (c) 为遵守当时有效的法律而必须保留的保密信息。依据本条款 (b) 和 (c) 的要求所保留的保密信息应当在本协议终止后额外十五 (15) 年内继续遵守本协议条款和条件所约定的保密义务, 未授予供应商任何形式的使用权或所有权。
8. **No License or Ownership Created, Reservation of Rights, No Warranties:** The Buyer reserves all rights in its Confidential Information. This Agreement shall not transfer, grant or confer any rights, licenses, proprietary, ownership or interests in the Confidential Information disclosed by the Buyer. Any information made available by Buyer under this Agreement is made available "as is" and no warranties are given or liabilities of any kind are assumed with respect to the accuracy of such information, including but not limited to its fitness for the intended purpose, completeness and non-infringement of third party rights.
不创设许可或所有权、权利保留、不保证: 买方保留对保密信息的所有权利。本协议不构成对买方所披露保密信息的任何权利、许可、所有者、所有权或利益的移转、许可或授权。本协议项下买方所提供的任何信息均按“原样”提供, 对此类信息的准确性不作任何保证或承担任何责任, 包括但不限于对其合乎目的性、完整性以及未侵犯第三方权利的保证。
9. **Remedies:** Supplier understands and agrees that the Buyer will be irreparably harmed by violation of this Agreement. Supplier shall immediately provide Buyer with written notice as soon as it becomes aware of any non-authorized disclosure of Confidential Information by it, their representatives or any third party or any misappropriation or improper use of any of the Confidential Information. Monetary damages alone will not be a sufficient remedy for any breach of this Agreement and, therefore, in addition to the Buyer's other rights and remedies including the reimbursement of all damages, costs and expenses the Buyer incurred in association with Supplier's breach of this Agreement, all of which will be

deemed cumulative, the Buyer will be entitled to specific performance and injunctive or other equitable relief to enforce this Agreement, and Supplier agrees to waive, and to use its best efforts to cause its representatives or third party to waive, any requirement for the securing or posting of any bond in connection with such remedy. In addition, the Buyer will be entitled to attorney fees and other costs incurred to enforce or to remedy any breach of this Agreement. The remedies available under applicable law remain unaffected hereby.

救济: 供应商理解并同意买方将因本协议的违约行为将会遭受无法挽回的损失。供应商一旦获悉其自身、其代表或任何第三方的任何未经授权而披露保密信息或任何其他盗用或不当使用保密信息的行为时，应立即书面通知买方。仅金钱补偿不足以救济本协议的违约行为，因此，买方除享有请求供应商累计赔偿其因供应商违反本协议所遭受的全部损失、成本和费用等其他权利和补救之外，买方为执行本协议有权申请实际履行、禁令救济或其他衡平法上的救济，供应商同意放弃并尽自己最大的努力促使其代表或第三方放弃要求与此类救济相关的任何保证金或任何担保的权利。此外，买方还有权请求因执行本协议或请求违约救济而支出的律师费和其他成本。现行有效法律规定的救济不会因此而受到影响。

10. **Export Control:** The Supplier shall comply with all applicable export control laws and regulations in regards to Confidential Information.

出口监管: 供应商应当遵循所有涉及保密信息的现行有效的出口监管法律和法规。

11. **Relationship Created:** This Agreement will not constitute or imply any commitment to enter into any business arrangement.

关系的创设: 本协议不构成创设或暗示创设任何商务关系的承诺。

12. **Entire Agreement:** This Agreement constitutes the entire agreement between the Parties with respect to its Purpose and supersedes all prior agreements relating thereto. No modification of this Agreement will be effective unless made in writing and signed by authorized representatives of the Parties. This Agreement shall be binding to each Party's respective successors or assignees. The Agreement is written in both English and Chinese. In the event of any conflict between the two versions, the English version shall prevail.

完整协议: 本协议构成双方就本协议目的达成的全部协议，并取代双方之间此前曾经就此达成的所有相关协议。除由双方授权代表正式签署书面文书对本协议予以修订以外，本协议不得以其他任何方式修订。本协议对任何一方的继受者或受让者均具拘束力。本协议以中英文草拟。中英文版发生歧义的，应以英文文本为准。

13. **Notices:** Each Party's address for purposes of notice and other correspondence under this Agreement is shown on the first paragraph of this Agreement.

通知: 本协议项下的通知和其他通讯应发送至本协议上述第一段中所列出的地址。

14. **Counterparts:** This Agreement may be executed in one or more counterparts, each of which is deemed an original document. An executed facsimile or electronic copy (PDF) of this Agreement shall be effective and enforceable to the same extent as an originally executed Agreement.

副本: 本协议可以一份或多份副本签署，每一副本都视为原件。本协议的传真形式或电子形式（PDF）与本协议原件具有同等效力且同样可执行。

15. **Severability:** In the event that any provision or portion of this Agreement is determined to be invalid or unenforceable, in whole or in part, the remaining provisions of this Agreement shall be unaffected thereby and shall remain in full force and effect to the fullest extent permitted by applicable law.

可分割性: 本协议的任何条款或部分被证明全部或一部无效或不可执行的，本协议其他条款的效力不因此而受到影响，在现行有效法律允许的最大限度内完全有效。

16. **Governing Law and Jurisdiction:** The terms of this Agreement shall be governed by and construed in accordance with the laws of the country (and state/province, if applicable) of the Buyer's principal place of business as listed above without regard to principles of conflicts of laws. The competent courts having jurisdiction over Buyer's principal place of business shall have exclusive jurisdiction and venue for any action or proceedings resulting from this Agreement. The terms and conditions set out in the United Nations Convention for the International Sale of Goods (CISG) are hereby expressly excluded.

适用法律和司法管辖: 本协议的条款受上述买方地址中买方主要营业地所在国家法律（如适用，州/省的法律）的管辖并依据其进行解释，排除冲突法的适用。仅买方主要营业地有管辖权的法院为管辖法院，对因本协议所引起的任何诉讼或程序具有司法管辖权。特此明确排除《联合国国际货物销售合同公约》（CISG）中所列条款和条件的适用。

This Agreement is effective on the date set forth above.
本协议于上述日期生效。

IN WITNESS WHEREOF, Buyer and Supplier have executed this Agreement under the hands of their properly authorized officers.

有鉴于此，本协议由下列买方和供应商的正式授权代表所签署。

SUPPLIER:
供应商:

(company name, company stamp 公司名称、公章)

name and function in letters & signature 1
姓名和职务（正楷和签名 1）

name and function in letters & signature 2
姓名和职务（正楷和签名 2）

BUYER:
买方:

[DRÄXLMAIER company / 德科斯米尔公司]
(company name, company stamp 公司名称、公章)

name and function in letters & signature 1
姓名和职务（正楷和签名 1）

name and function in letters & signature 2
姓名和职务（正楷和签名 2）