

## NON DISCLOSURE AGREEMENT

Ref. ....

### Between

**AIRBUS HELICOPTERS**, a French company, with capital of 581,614,047 Euros, registered with the RCS Aix-en-Provence as No. 352 383 715, whose registered office is situated at Aéroport International Marseille-Provence, 13725 - MARIGNANE CEDEX France, hereinafter referred to as “AIRBUS HELICOPTERS”

Represented by M.....  
Acting as .....

on the one part

and

X, a ..... company, with capital of ..... Euros, registered with the RCS ..... as No. ...., whose registered office is situated ....., hereinafter referred to as “X”

Represented by M.....  
Acting as .....

on the other part

hereinafter individually or collectively referred to as the “Disclosing Party” or the “Receiving Party” or the “Party” or the “Parties”.

## WHEREAS

The Parties agreed to begin discussions on .....  
.....

Each Party might disclose to the other Party, in connection with these discussions, confidential information it owns or holds.

The Parties agree as follows:

## ARTICLE 1 – PURPOSE OF THE AGREEMENT

(1) The purpose of this Non-Disclosure Agreement (hereinafter referred to as "the Agreement") is to define the terms and conditions governing the exchange of Confidential Information between AIRBUS HELICOPTERS and X ..... regarding ..... ("the Objective") and to determine the rules related to the use and protection thereof.

(2) Under this Agreement, each Disclosing Party may disclose to the other Receiving Party, information in connection with the Objective and the Receiving Party undertakes to use such information solely for the purposes of such Objective.

(3) No provision of this Agreement shall be construed as creating an obligation for either Party to disclose information to the other Party or to enter into further agreements with the other.

## ARTICLE 2 – CONFIDENTIALITY OF INFORMATION

The Parties agree that any and all information disclosed by either Party to the other shall be deemed confidential in relation to or in anyway connected with the Objective (hereinafter referred to as "Confidential Information") whatever the subject (such as, without limitation, technical, industrial, financial, commercial), the nature (such as, without limitation, know-how, methods, processes, technical or installation details), the form (such as, without limitation, written or printed documents, CD Rom, DVD, USB key, external hard drive, and any machine having the same data storage function such as PDA and others Smartphones, samples, drawings) and the mode of transmission (such as, without limitation, written, oral, computer, including networks and/or electronic mail), provided that :

- if transmitted in written or other tangible form, is designated as "Confidential Information" of the Disclosing Party by affixing a stamp indicating "Company Confidential" or "Program Confidential" or any other similar legend appropriate, comprehensible by the Parties and adapted to the support.
- if orally disclosed, the Receiving Party is told at the time of such disclosure of the confidential nature of the information, and recorded as such in the minutes of the meeting

Page 2 sur 7

CONFIDENTIAL DOCUMENT

Agreement N°

This document is the sole property of AIRBUS HELICOPTERS; it shall not be reproduce or communicate, in part or all, without the prior written authorization of AIRBUS HELICOPTERS and its content shall not be disclosed. © AIRBUS HELICOPTERS 10/2014

in which information was disclosed or, if not possible, confirmed in writing within thirty (30) days of such disclosure (during which period such information shall be treated as “Confidential Information” pursuant to this Agreement).

### **ARTICLE 3 – OBLIGATIONS OF THE PARTIES**

Each Receiving Party hereby undertakes, during this Agreement and for a period of ten (10) years from the date of expiration or any termination of this Agreement, whichever is earlier, that received Confidential Information:

- a) shall be protected and kept strictly confidential and shall be treated with the same degree of care and protection as it uses to treat its own Confidential Information equal in importance, but in no instance shall such standard be less than reasonable care.
- b) shall be disclosed internally only to those of its employees having a need to know such Confidential Information, duly informed of the strictly confidential nature of such Confidential Information, and shall be used subject to the provisions hereof. Each Party declares it has taken or agrees to take any necessary measures with its employees so that they may comply with the undertakings under this Agreement.
- c) shall not be used, in whole or in part, for any other purpose than the Objective specified in this Agreement, without the prior written consent of the Disclosing Party.
- d) shall not be disclosed nor likely to be disclosed either directly or indirectly to any third party including subcontractors or any persons other than those mentioned in Article 6 below, without the prior written consent of the Disclosing Party, and, in case of Disclosing Party’s authorization, provided that such third party undertakes in writing to comply with the same confidentiality obligations as provided herein.
- e) shall not be copied, nor reproduced, not duplicated in whole or in part without the prior written authorization of the Disclosing Party.
- f) shall not be used in order to obtain any intellectual property right (including but not limited to patent, trademark, design...) whatever the country maybe.

### **ARTICLE 4 – LIMITS TO OBLIGATIONS OF THE PARTIES**

(1) Confidential Information shall not include such information which the Receiving Party can prove:

- a) was in the public domain prior to or after disclosure but through no fault of the Receiving Party, or
- b) was already known by the Receiving Party at the time of disclosure, as evidenced by the Receiving Party's written records, or
- c) was lawfully received from a third party without fault of the Receiving Party and without restriction or breach of this Agreement, or

- d) was used or disclosed with the prior written consent of the Disclosing Party, or
- e) was independently developed in good faith by employees of the Receiving Party who did not have access to the Confidential Information.
- f) has not been designated as prescribed in Article 2 above.

## **ARTICLE 5 – MANDATORY DISCLOSURE**

The Receiving Party shall promptly notify the Disclosing Party in writing, if faced with legal action or request under its respective government regulations to disclose any of the Disclosing Party's Confidential Information. Such notification shall not be construed as an authorization for the Receiving Party to disclose such Confidential Information.

## **ARTICLE 6 – THE COORDINATORS**

- (1) The sole AIRBUS HELICOPTERS representatives entitled to receive and disclose Confidential Information are .....
- (2) The sole **X** ..... representatives entitled to receive and disclose Confidential Information are .....
- (3) Each Party may replace the above representatives and designate other individuals within its own company, who will then be alone entitled to receive and disclose Confidential Information under this Agreement. Such replacement and new designations by one of the Parties shall be notified in writing to the other Party.

## **ARTICLE 7 – INTELLECTUAL PROPERTY**

- (1) Transmission by one Party to the other Party of Confidential Information under this Agreement shall not be construed as expressly or impliedly granting the Receiving Party any Intellectual Property right (under any license or any other means) in respect of any items such as, without limitation, drawings and models, inventions, patents, software, trade marks, trade secrets, know-how, concepts or ideas in relation to such Confidential Information, or as a disclosure within the meaning of patent law.
- (2) The Parties undertake to comply with the notice of reservation of intellectual property and confidentiality indicated on the Confidential Information (including not delete, alter or unreadable), if any.
- (3) **X** ..... acknowledges that copyright and others rights concerning the intellectual and industrial property such as patents, trademarks, design, trade secret, know-how, ideas, concepts and inventions, any interest, covered or not, by the applicable law, concerning Confidential Information supplied by AIRBUS HELICOPTERS, including but not

limited to, any modifications, adaptations, improvements, amendments, updates or new version, derivative works and evolution, are owned by AIRBUS HELICOPTERS, anytime. Therefore, X ..... shall not submit any industrial property title from Confidential Information supplied by AIRBUS HELICOPTERS owned by AIRBUS HELICOPTERS.

## **ARTICLE 8 – PROPERTY OF CONFIDENTIAL INFORMATION**

(1) Any and all Confidential Information transmitted by one Party to the other Party under this Agreement, as also any copies, reproductions or duplications duly authorized and made for the sole purposes of the achievement of the Objective, and all rights related thereto, shall remain in any case the property of the Disclosing Party, subject to third parties' rights.

(2) The Receiving Party shall promptly cease to use the Confidential Information and all copies thereof upon the written request of the Disclosing Party or upon termination of the Agreement, and shall return (or destroy, as instructed by the Disclosing Party) such Confidential Information to the Disclosing Party.

## **ARTICLE 9 – PROTECTED OR CLASSIFIED CONFIDENTIAL INFORMATION.**

Nothing in this Agreement shall replace or prejudice any government security classification referenced on any part of the Confidential Information. Any and all Confidential Information disclosed by the Parties under this Agreement subject of a government security classification, shall be identified as such by the Disclosing Party at the time of disclosure. Disclosure, protection and use of such Confidential Information shall be made pursuant to the security procedures specified by the authorities concerned.

## **ARTICLE 10 – RIGHT TO DISCLOSE**

Each Party warrants that it has the right to disclose to the other all Confidential Information disclosed pursuant to this Agreement.

## **ARTICLE 11 – CONFIDENTIALITY OF THE AGREEMENT**

(1) The terms of this Agreement shall be kept confidential by the Parties and shall not be disclosed by either Party without the written prior consent of the other Party.

(2) The Parties also agree that the existence of discussions relative to the Objective shall be regarded as Confidential Information and no disclosure concerning such discussions or the Objective shall be made except with the prior written consent of both Parties.

## **ARTICLE 12 – EFFECTIVE DATE**

This Agreement shall become effective as of the date of signature by the Parties, and shall remain in force during twelve (12) months.

## **ARTICLE 13 – TERMINATION**

This Agreement may be terminated at any time by either Party by giving the other Party sixty (60) days prior written notice by registered letter.

## **ARTICLE 14 – SURVIVAL**

Expiration or termination, within provisions of Article 13 above, of this Agreement shall not relieve the Receiving Party of its obligation to comply with the provisions of the Agreement relating especially the articles 3, 5, 7, 8, 9, 10 11, 14, 15, to the use, protection and return of the Confidential Information received prior to the date of expiration or termination., and articles 17 and 18.

## **ARTICLE 15 – ASSIGNMENT**

This Agreement is concluded "intuitu personae". Therefore, neither Party shall assign or transfer all or part of its rights and obligations under this Agreement to any third party, without the prior written consent of the other Party.

## **ARTICLE 16 - MISCELLANEOUS**

(1) Each Party shall perform its respective obligations under this Agreement without charge to the other Party.

(2) Non-exercise, failure to exercise or delay in exercising any right, power or remedy vested in either Party under or pursuant to this Agreement shall not constitute a waiver by either Party of that or any other right, power or remedy.

(3) This Agreement is not intended to be, and shall not be construed to create a teaming agreement, joint venture, association, partnership, or other business organisation or agency arrangement and no Party shall have the authority to bind the other Party without the separate prior written consent of this other Party. No Party has an obligation under this Agreement to offer for sale products using or incorporating the Confidential Information.

(4) This Agreement shall not be amended except by a specific agreement in writing signed by duly authorised representatives of the Parties. The written form includes any changes, amendments and waivers of this clause as well.

(5) This Agreement constitutes the entire agreement between the Parties relating to the subject matter hereof and supersedes and cancels any and all previous declarations, negotiations, commitments, communications, approvals, agreements and confidentiality agreements, either oral or written, between the Parties in respect thereto. However, any rights

and obligations which, by their nature or as stated therein, are to remain in effect beyond expiration or termination of such previous confidentiality agreements, will survive.

(6) This Agreement shall be executed by all Parties with a written copy for each Party.

## **ARTICLE 17 - APPLICABLE LAW**

This Agreement shall be governed by and construed and shall take effect in accordance with the laws of France, excluding its provisions on conflicts of laws.

## **ARTICLE 18 –LITIGATION**

Any dispute arising in connection with the performance, interpretation and/or consequences of this Agreement which cannot be resolved amicably within one (1) month from the occurrence of the dispute shall be determined and settled by the competent courts of Marseilles, France.

IN WITNESS WHEREOF, each Party declares that the person signing this Agreement has full power and authority to bind this Party under this Agreement, on the day and date shown below.

Made in Marignane, on ....., in two (2) original copies.

**For AIRBUS HELICOPTERS:**

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**For X:**.....

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_