

## **Non-disclosure/confidentiality agreement**

between

Festo Didactic SE,  
Rechbergstr. 3, 73770 Denkendorf,  
Germany

– hereinafter referred to as “Festo” –

and

– hereinafter referred to as “the Partner” –

– hereinafter jointly referred to as “the Parties” –

### **PREAMBLE:**

- In particular, the following information / CAD data will be handed over to the partner as STEP files:

- In the context of which project and for what purpose will the CAD data be used by the partner?  
Please briefly describe the project including name, companies involved, topic, task and the objective.

- Is this a research project?

Yes              No

If yes, is Festo involved in the project?

Please describe the project briefly and submit any project documents as well.

In light of this, the Parties agree the following:

1. The Partner hereby undertakes to treat as confidential any Information obtained from Festo and, subject to the rules in point 2. of this agreement, to ensure that third parties have no access whatsoever to any or all of that Information, and to protect it from third-party access. Within the meaning of this agreement, "Information" shall mean all deliverables marked as confidential or recognizable as confidential, plus any Information – particularly of a technical and financial nature – intentions, expertise, knowledge, structures, drawings, documents, prototypes and models, plus any knowledge derived therefrom, to which Festo gives/has given the Partner access, directly or indirectly, in verbal, written, digital or object form, as part of their dealings and work with each other. This includes in particular, but not exclusively, the information or data mentioned in the preamble.
2. The Partner shall protect this Information with the same care that he applies to his own commercial and operational secrets. Within his organisation, the Partner shall give Information access only to those members of staff who deal with the tasks mentioned in the Preamble. Passing Information on to third parties in any form or way whatsoever, directly or indirectly, is forbidden. Within the meaning of this agreement, third parties shall also include enterprises affiliated with the Partner via a majority shareholding, unless it is essential that those companies have the Information in order to carry out the tasks mentioned in the Preamble.

The Partner receiving the Information shall in advance oblige its employees and any affiliated enterprises concerned according to the rules of this agreement.

3. The transfer of Information shall not constitute a transfer of rights of ownership or use thereof; licences re patent and/or other trade patent rights shall not be granted therewith. Consequently, the Partner shall also not be entitled to register separate patent rights of any kind based on Information received from Festo. Nor is he entitled to use that Information to produce, have produced, and/or distribute or sell products which are the object of Information received from and/or of orders placed by Festo. None of this shall apply if the Parties have made other agreements (e.g. licence agreements, development agreements, etc.) that provide for different rules to those in the above clauses.
4. However, the Partner shall be released from the obligations listed under points 1.–3., provided there is evidence that
  - a) the Information was or is disclosed by other means than breach of this agreement, or
  - b) the Partner was already aware of the Information at the time when it was handed over, or
  - c) unrestricted access to the Information is given to an authorized third party, or
  - d) the Information is standard industry practice, or
  - e) a government institution or the law governing the Partner requires that the Information be disclosed, in which case the Partner must – if not legally prohibited – inform Festo in writing, without delay, after receiving the disclosure request, and agree a procedure with Festo to limit the method and scope of disclosure as much as possible.

If there is any lapse in the obligations under points 1.–3. respectively in satisfying the requirements under point 4., the Partner shall inform Festo as soon as it is in a position to do so.

5. At the request of Festo, the Partner undertakes to return all Information, including duplicates, to Festo insofar as this is physically possible, or to confirm in writing that all Information and copies thereof have been destroyed.
6. **FOR EACH CASE OF VIOLATION OF POINTS 1.–3. ABOVE, THE PARTNER AGREES THAT IN ADDITION TO ALL OTHER REMEDIES THAT MAY OTHERWISE BE AVAILABLE IN ANY SPECIFIC CASE, THE PARTNER SHALL BE REQUIRED TO PAY A PENALTY TO FESTO IN THE AGGREGATE AMOUNT OF EUR 50.000,00 FOR EACH VIOLATION OR BREACH. FESTO SHALL BE ENTITLED TO CLAIMS FOR DAMAGES THAT EXCEED THE AMOUNT OF THE PENALTY. IN RELATION TO SUCH CLAIMS FOR DAMAGES, NEGLIGENCE OF THE DEFAULTING PARTNER IS ASSUMED WHEREAS THE DEFAULTING PARTNER IS ENTITLED TO EVIDENCE THAT THEY DID NOT ACT IN A NEGLIGENT WAY. PAYMENT OF THE PENALTY SHALL NOT RELEASE THE DEFAULTING PARTNER**

**OF THE UNDERLYING OBLIGATIONS. OTHER RIGHTS AND REMEDIES BESIDES THE ENFORCEMENT OF THE CONTRACTUAL PENALTY REMAIN RESERVED.**

7. Any amendments and additions must be in writing. This shall also apply to any waiver of the written form requirement. Should individual clauses of this agreement be or become invalid, or should there be a gap therein, the validity of the remainder of the agreement shall remain unaffected. The Parties undertake to replace the invalid clause by agreeing a rule that is legally viable and most closely approaches the meaning of what was intended.
8. The Parties agree that the substantive law of Switzerland shall be the only law applicable to this agreement, to the exclusion of international conflict of laws rules.
9. Any dispute, controversy, or claim arising out of, or in relation to, this Agreement, including regarding the validity, invalidity, breach, or termination thereof, shall be resolved by arbitration in accordance with the Swiss Rules of International Arbitration of the Swiss Arbitration Centre in force on the date on which the Notice of Arbitration is submitted in accordance with those Rules. The number of arbitrators shall be three (3) unless the Parties agree on the use of one (1) arbitrator. The seat of the arbitration shall be zurich. The arbitral proceedings shall be conducted in English.

Esslingen, date \_\_\_\_\_

Place, date \_\_\_\_\_

\_\_\_\_\_  
Name of signatory  
Festo Didactic SE

\_\_\_\_\_  
Name of signatory

\_\_\_\_\_  
Name of signatory  
Festo Didactic SE