THIS AGREEMENT between Meritec, an Ohio Limited Liability Corporation, and its Divisions, with a principal place of business at 1382 West Jackson Street; Painesville, Ohio 44077 USA, on behalf of

*Division or Department*

(individually and/or collectively), and

*Company*

Hereinafter called ("Company") and collectively called "Parties" and/or "Party".

WHEREAS, both parties for their mutual benefit, desire that certain detailed proprietary and confidential information of each, relating to its proprietary technology and products, be disclosed by one to the other.

WHEREAS, both Meritec and Company agree that such information, when accepted and received by the other party, shall be governed by the following terms and conditions.

NOW THEREFORE, in consideration of these premises, it is agreed as follows:

**1. Definition:** The "Confidential and Proprietary Information" shall mean any information, technical data or know-how in whatever form relating to a Party, including, but not limited to, financial, operations and cost information, pricing information, sales and performance information, customers, strategies, personnel, product and manufacturing information, technology, architecture, and software associated therewith, equipment, designs, drawings, ideas, and inventions, documented information, software, architecture, machine readable or interpreted information, information contained in physical components, mask works and artwork, which are physically marked with the legend "Confidential", "Proprietary" and/or "Restricted." Information transmitted electronically, orally or visually shall be considered to be Confidential and Proprietary Information provided such Confidential and Proprietary Information is identified as such by the disclosing party prior to disclosure, reduced to written summary form, and are physically marked with the legend "Confidential", "Proprietary" and/or "Restricted" by the transmitting party, and transmitted to the recipient within thirty (30) days after such electronic, oral or visual transmission. During this thirty (30-day period, such electronic, oral or visual information so disclosed shall be provided the same protection as provided Confidential and Proprietary Information as set forth below. No information shall be subject to restriction unless physically marked as provided for herein.

**2. Handling of Confidential and Proprietary Information.** Each party shall maintain such Confidential and Proprietary Information in confidence for five (5) years from date of receipt, or until it is made publicly available to the other, whichever is sooner. Each party shall take reasonable precaution to limit the disclosure of such Confidential and Proprietary Information only to its employees having a need to know. Each party shall return the original and any copies of Confidential and Proprietary Information to the disclosing party promptly following their demand for same on the expiration or termination of this Agreement except for one copy which shall be held for filing purposes only, subject to Article 6.

**3. Limitation on Disclosure.** Each party shall not divulge, in whole or in part, such Confidential and Proprietary Information to any third party without the prior written consent of the disclosing party. Each party shall not disclose to any third party this Agreement or any provision on the substance of this Agreement without the prior written consent of the other party.

**4. Limitation on Use.** Each party shall use such Confidential and Proprietary Information only for the Purpose set out in Article 1. Neither party shall make any other use, in whole or in part, of any such Confidential and Proprietary Information without the prior written consent of the other party. Specifically, each party agrees to provide reasonable protection for Confidential and Proprietary Information while in its possession. Each party agrees not to divulge any of same information to any outside third party and further agrees to maintain such information in confidence to the point of taking all reasonable precautions to limit its dissemination to only those employees with an actual need to know.

The purpose of this Agreement and sharing of information shall be for

*Product or Project Purpose*

Confidential and Proprietary Information subject of this Agreement shall not include information which:
a) Is in the public domain, or
b) Was known to a party prior to its receipt from the other party, or
c) Received from a third party without a duty of confidentiality, or
d) Disclosed under operation of law, or
e) Disclosed with the prior written approval of the originating party, or
f) Independently developed by the receiving party, provided that the developer had no access to confidential and/or proprietary information.

**5. Remedies.** Each party agrees that its obligations provided herein are necessary and reasonable in order to protect the other party and its business and each party expressly agrees that monetary damages would be inadequate to compensate the disclosing party for any breach by the receiving party of its covenants and agreements set forth herein. Accordingly, each party agrees and acknowledges that any such violation or threatened violation will cause irreparable injury to the disclosing party and that, in addition to any other remedies that may be available, in law, in equity or otherwise, each party shall be entitled to seek injunctive relief against the threatened breach of this Agreement or the continuation of any such breach by the other party.

**6. Term.** This Agreement shall become effective on the day it has been duly signed by both parties and shall remain in effect for five (5) years, or such later date as the parties may agree to in writing. The provisions of this Agreement include Information which may have been disclosed in connection with discussions and negotiations regarding the Purpose prior to the effective date. Notwithstanding the foregoing, either party shall have the right to earlier termination of this Agreement if the other party fails to comply with any of its obligations under this Agreement. In any event, obligations with respect to maintaining in confidence Confidential and Proprietary Information disclosed to a party during the term of this Agreement shall survive any expiration or termination of this Agreement.

**7. Disclaimer.** This Agreement sets forth the entire Agreement and understanding between the parties and supersedes and merges all prior electronic, oral and written understandings, representations and discussions between them respecting its subject matter. This Agreement may be amended only by a written agreement executed by Meritec and Company. No rights, obligations, representations or terms other than those expressly recited herein are to be implied from this Agreement. In particular, without limitation, each party acknowledges that the information disclosed by the other party does not obligate it to develop, announce or deliver any product and no license is hereby granted directly or indirectly under any patent, trade secret, trademark, or copyright now held by, or which may be obtained by, or which is or may be licensable by either party.

**8. Governing Law.** This Agreement will be governed by the laws of the States of Ohio and Delaware, United States of America.

**9. Governmental Regulations.** Company shall not disclose any information furnished hereunder in any manner contrary to the laws and regulations of The United States, or any agency thereof, including but not limited to, export control laws and regulations.

Each of the parties to this Agreement has caused this Agreement to be signed in its name and on its behalf by its duly authorized representative as of the effective date of this Agreement.

*Effective Date of Agreement*

*Signature* — *Date Signed*

*Name* — *Position*

*Company* — *Contact: E-mail, Office/cell phone, Fax*

*Street Mailing Address*

*City, State, Zip-Postal Code & Country*

*Signature of MERITEC Representative* — *Date Signed*

*Representative for MERITEC* — *Position*

*Company - MERITEC* — *Contact: E-mail, Office/cell phone, Fax*

*Street Mailing Address*

*City, State, Zip-Postal Code & Country*

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