

# NONDISCLOSURE AGREEMENT

## 1. Participants

- (a) This AGREEMENT is made by and between FOPAT Production Inc, an Ohio company, having an office and place of business at 2411 Cross Pointe Drive, Miamisburg, Ohio 45342, (hereinafter referred to as "FOPAT") and \_\_\_\_\_, having an office and place of business at \_\_\_\_\_ (hereinafter referred to as "\_\_\_\_\_"), either or both of which may be referred to hereinafter, respectively, as a "Party" or the "Parties" to this AGREEMENT.
- (b) Under this AGREEMENT, PROPRIETARY INFORMATION may be disclosed by either FOPAT or \_\_\_\_\_, but neither Party has any obligation to disclose PROPRIETARY INFORMATION.
- (c) A Party disclosing PROPRIETARY INFORMATION under this AGREEMENT is referred to herein as the disclosing Party, and a Party receiving PROPRIETARY INFORMATION under this AGREEMENT is referred to herein as the receiving Party.

## 2. Scope of Disclosure

The PROPRIETARY INFORMATION to be disclosed under this AGREEMENT relates to a wax replacement foam pattern or FOPAT material, associated process, tooling, and apparatus for investment casting process and project information related to the development and commercialization of FOPAT.

## 3. Material to be Protected

- (a) All PROPRIETARY INFORMATION disclosed under this AGREEMENT:
  - i) in tangible form, shall be clearly identified at the time of disclosure as being PROPRIETARY INFORMATION by an appropriate and conspicuous marking.
  - ii) in intangible form (e.g., oral or visual) shall be identified as being PROPRIETARY INFORMATION at the time of disclosure, and shall be confirmed as such in writing to the Receiving Party within thirty (30) days after such disclosure.
- (b) Each Party agrees that it will not disclose any term or provision of the AGREEMENT, or provide the original or any copy of this AGREEMENT, to any third party without the prior written consent of the other Party.

## 4. Duty to Protect

- (a) With respect to the Disclosing Party's PROPRIETARY INFORMATION, the Receiving Party shall protect such PROPRIETARY INFORMATION from unauthorized use or accidental disclosure by the exercise of the same degree of care as it employs to protect its own PROPRIETARY INFORMATION of a like nature, but not less than reasonable care. PROPRIETARY INFORMATION of the Disclosing Party may not be disclosed to any third party without the express written consent of the Disclosing Party. Copies or reproductions, in whole or in part, of PROPRIETARY INFORMATION or documents which incorporate PROPRIETARY INFORMATION must be marked by the Receiving Party in accordance with Paragraph 3.
- (b) This AGREEMENT is subject to all applicable laws and regulations of the U. S. Government. Each Party shall be responsible for obtaining any necessary import licenses, export licenses, or other governmental authorizations required in connection with any disclosure by it under this PROPRIETARY INFORMATION, including its disclosure to foreign nationals located within a facility of a Party hereto, as the case may be. Furnishing of information shall be subject to prior receipt of all necessary government approvals.

## 5. Use

PROPRIETARY INFORMATION disclosed under this AGREEMENT shall be used solely for evaluation and furtherance of discussions on the subject matter listed in Paragraph 2.

## 6. Excluded Information

Information shall not be considered to be PROPRIETARY INFORMATION, and the Receiving Party shall not be liable for the use and disclosure thereof, if such information:

- (a) was in the public domain at the time of disclosure, or thereafter comes into the public domain through no fault of the Receiving Party;
- (b) is otherwise available to the Receiving Party without restrictions on use and disclosure similar to those in this AGREEMENT;
- (c) is independently developed by the Receiving Party; or
- (d) is provided by the Disclosing Party to a third party, except the U. S. Government, without restrictions as to disclosure or use of the kind provided for by this AGREEMENT.
- (e) was in the possession of Receiving Party prior to disclosure as shown by written records

**7. Term**

- (a) This AGREEMENT shall be effective as of the last date of signature at the end hereof, and shall terminate twenty-four (24) months from its effective date. However, it may be earlier terminated by either Party giving thirty (30) days prior written notice to the other Party. Termination shall not, however, affect the rights and obligations arising under this AGREEMENT with respect to PROPRIETARY INFORMATION disclosed hereunder.
- (b) The Receiving Party shall have a duty to protect the PROPRIETARY INFORMATION of the Disclosing Party for a period of five (5) years after receipt thereof, or until receipt of a written release of PROPRIETARY INFORMATION by the Disclosing Party, whichever first occurs. The Receiving Party may discharge this obligation by destroying all copies of PROPRIETARY INFORMATION received under this AGREEMENT, and, on request, furnishing a certification of destruction to the Disclosing Party; one copy may be retained by the Receiving Party for archival purposes.

**8. Right to Make Disclosure**

The Disclosing Party represents and warrants that it has the right to disclose the PROPRIETARY INFORMATION that it discloses under this AGREEMENT.

**9. Rights and Obligations**

The rights and obligations of the Parties with respect to PROPRIETARY INFORMATION shall be defined exclusively by the terms of the present AGREEMENT, irrespective of the language of any legend or marking on PROPRIETARY INFORMATION disclosed hereunder.

**10. License**

Except as provided in Paragraph 5, neither the execution of this AGREEMENT, nor the disclosure of any PROPRIETARY INFORMATION by any one Party hereunder, shall be construed as granting to the other Party either a license (expressly, by implication, estoppel, or otherwise) under, or any right of ownership in, such PROPRIETARY INFORMATION or in any invention, patent or patent application, or copyright now or hereafter owned or controlled by the Disclosing Party.

**11. Amendment**

This AGREEMENT may not be changed, modified, released, discharged, abandoned, or assigned (in whole or in part) except by an instrument in writing signed by an authorized representative of each Party hereto.

**12. Other Agreements**

Unless expressly agreed otherwise in an instrument in writing signed by an authorized representative of each Party hereto, nothing in this AGREEMENT shall supersede or in any way modify any of the terms and conditions, or the rights and obligations of the Parties, included in any other agreements, including purchase agreement(s), between the Parties.

**13. Controlling Law**

This AGREEMENT shall be construed, interpreted and applied in accordance with the laws of the State of Ohio, U. S. A.

**14. Merger and Severability**

This AGREEMENT constitutes the entire understanding and agreement between the Parties relating to the subject matter hereof and supersedes and cancels any and all previous or collateral agreements, negotiations, commitments, representations or understandings between the Parties with respect to this AGREEMENT and the subject matter hereof. If any of the provisions of this AGREEMENT are determined to be invalid under applicable law, they are, to that extent, deemed omitted. The invalidity of any portion of this AGREEMENT shall not render any other portion invalid.

IN WITNESS WHEREOF, the Parties have caused this AGREEMENT to be executed in duplicate originals by their duly authorized representatives.

FOPAT Production Inc.

\_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Typed: Robert Dzugan

Typed: \_\_\_\_\_

Title: Partner/President/CEO

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

Date: \_\_\_\_\_

Date: \_\_\_\_\_