



MUTUAL NON-DISCLOSURE AGREEMENT

THIS MUTUAL NON-DISCLOSURE AGREEMENT (this "Agreement") is made as of the last signature date set forth below (the "Effective Date") by and between NEXTEER AUTOMOTIVE POLAND SP. Z O.O., with its principal place of business at Towarowa 6, Tychy, Poland ("Nexteer") and, a corporation with its principal place of business at, identified herein ("Company"). Hereafter the two parties shall be referred to as Party or Parties.

Nexteer and Company desire to exchange information related to the Purpose, as defined below.

1. **Purpose.** The Parties have developed or otherwise obtained, use, and/or own rights in Confidential Information (defined below). As part of a prospective or actual business relationship between the Parties relating, without limitation, to the development of automotive component parts (the "Purpose"), each Party may receive or otherwise obtain Confidential Information.

2. **Confidential Information.** "Confidential Information" means:

(a) any information disclosed by or on behalf of a party ("Disclosing Party") to the other party ("Receiving Party") whether provided orally or in writing and on whatever medium, concerning the Disclosing Party's business, processes, products and/or operations and includes without limitation any materials, samples, prototypes, trade secrets, know-how, formulas, processes, algorithms, ideas, strategies, inventions, data, designs, flow charts, drawings, inspections, digital geometric models, proprietary information, business and marketing plans, financial and operational information, and all other non-public information, material or data relating to the current and/or future business, processes, products and/or operations of the Disclosing Party; and

(b) any analyses, compilations, studies, summaries, extracts or other documentation prepared by the Receiving Party or a third party based on the Information disclosed by the Disclosing Party.

3. **Non-Confidential Information.** Confidential Information shall not include any information that:

(a) is already in the public domain at the time of disclosure or later becomes available to the public through no breach of this Agreement by the Receiving Party or its employees;

(b) is disclosed to a third party by the Disclosing Party without a duty of confidentiality or lawfully in the Receiving Party's possession, without an obligation of confidentiality, prior to receipt hereunder;

(c) is received independently by the Receiving Party from a third party who was free to lawfully disclose such information to the Receiving Party; or

(d) is independently developed by the Receiving Party without the use of Confidential Information as evidenced by the Receiving Party's business records or other competent evidence; or

(e) is approved in writing by the Disclosing Party for public release or disclosure by the Receiving Party only to the extent of such approval.

4. **Marking.** Any information exchanged between the Parties that the Parties intend to be treated as Confidential Information, shall be marked or identified as "Confidential" or "Proprietary" or other similar marking conspicuously identifying the information as confidential. Information disclosed visually, orally or through plant visits and identified by the Disclosing Party as Confidential Information at the time of disclosure will be kept confidential by the Receiving Party pursuant to the terms of this Agreement, so long as, within thirty (30) days of the initial disclosure, the information is memorialized in a written notice identifying the information the Disclosing Party intends to be treated as Confidential Information in the manner described above. Any non-public samples or prototypes provided to the Receiving Party shall constitute the Disclosing Party's Confidential Information under this Agreement, whether or not so marked.

5. **Use of Confidential Information.** The Receiving Party agrees that:

(a) the Confidential Information shall be used solely for the Purpose described in this Agreement;

(b) it will not use any Confidential Information disclosed hereunder for any other purpose; and

(c) it will not distribute, disclose or disseminate Confidential Information to any third parties, without written consent of the Disclosing Party, except its employees, contractors, agents, officers, directors, sales representatives, affiliates, subsidiaries and/or independent contractors with a need to know the Confidential Information for the Purpose described in this Agreement and who, in each case, have been informed of the confidential nature of the Confidential Information and are bound by obligations of confidentiality to the Receiving Party no less restrictive than contained herein.

6. **Non-Disclosure Obligations.** Unless otherwise agreed to in writing by the Disclosing Party, the Receiving Party agrees:

(a) to make use of the Confidential Information only for the Purpose of this Agreement and for no other purpose; and

(b) not to make copies of Confidential Information unless those copies are strictly required for the Purpose of the disclosure.

7. **Protection.** The Receiving Party shall use the same degree of care and protection to protect the Confidential Information received by it from the Disclosing Party as it uses to protect its own Confidential Information of a like nature, and in no event such degree of care and protection shall be of less than a reasonable degree of care.

8. **Required Disclosure.**

(a) **Notice.** In the event that the Receiving Party is requested or required by subpoena or other court order to disclose any of Disclosing Party's Confidential Information, the Receiving Party will provide immediate notice of such request to the Disclosing Party and will use reasonable efforts to resist disclosure, until an appropriate protective order may be sought, or a waiver of compliance with the provisions of this Agreement granted.

(b) **Review.** If, in the absence of a protective order or the receipt of a waiver hereunder, the Receiving Party is nonetheless, in the written opinion of its counsel, legally required to disclose Disclosing

Party's Confidential Information, then, in such event, the Receiving Party may disclose such information without liability hereunder, provided that the Disclosing Party has been given a reasonable opportunity to review the text of such disclosure before it is made and that the disclosure is limited to only the Confidential Information specifically required to be disclosed pursuant to the written opinion of Receiving Party's counsel.

9. **Ownership.** No rights or licenses of any kind are granted by Disclosing Party to Receiving Party and all the Confidential Information disclosed to, delivered to, or acquired by Receiving Party from Disclosing Party hereunder shall be and remain the sole property of Disclosing Party. Neither the execution of this Agreement, nor the furnishing of any Confidential Information hereunder shall be construed as a grant by implication, estoppel or otherwise, of a license by either Party to the other to make, have made, use or sell any product using Confidential Information or as a license under any patent, patent application, utility model, copyright, maskwork right, or any other intellectual property right.

10. **Authority.** Each Party warrants that it has the authority to enter into this Agreement for itself.

11. **Warranties.**

a) **No Reliance.** Except as otherwise provided herein, neither party makes any representation or warranty, express or implied, with respect to any Confidential Information and Receiving Party agrees that it is entitled to rely solely on the representations and warranties made to it by Disclosing Party in any final definitive agreement regarding a possible Transaction.

b) **No Warranty.** Confidential Information is provided "as is" with all faults and Disclosing Party shall not be liable for and no warranty is made regarding the accuracy, usefulness, performance, or completeness of the Confidential Information. Moreover, unless and until a definitive agreement is entered into, neither Disclosing Party nor Receiving Party will be under any legal obligation of any kind whatsoever with respect to such Transaction except for the matters specifically agreed to in this Agreement.

12. **Return of Property.** Upon Disclosing Party's written request, all or any requested portion of Confidential Information (including, but not limited to, notes, copies,

etc.) will be promptly returned to Disclosing Party, or destroyed, and Receiving Party will, if requested, provide Disclosing Party with written certification stating that such Confidential Information has been returned or destroyed.

13. **No Obligation**. Neither party has any obligation under this Agreement to purchase from or furnish to the other party any products or services, or to enter into any other agreement. Either Party may stop furnishing Confidential Information to the other Party at any time. Upon request of a Party, the other Party will stop furnishing Confidential Information to the other Party.

14. **Publicity**. Without the prior written consent of the other Party, and subject to the terms of this Agreement, neither Party nor its Representatives shall disclose to any person (a) the Parties' interest in pursuing the Purpose, (b) the fact that any investigations, discussions or negotiations are taking place or have taken place, (c) the financial or other terms, conditions and other facts with respect to the Purpose, including the status thereof, (d) the existence of this Agreement or any correspondence relating thereto or to the Purpose and (e) the fact that either Party has received any Confidential Information from the other Party or the nature of such Confidential Information.

15. **Term**. This Agreement shall become effective as of the last date of signature by a Party and shall continue in effect for a period of three (3) years thereafter unless terminated earlier (for any reason or for no reason) by providing the other Party with thirty (30) days advance written notice. The Parties' obligations hereunder shall continue for a period of three (3) years after the expiration or termination of the Agreement.

16. **Remedies**. The Parties hereby acknowledge and agree that money damages may not be a sufficient remedy for any breach of this Agreement and that the Disclosing Party shall be entitled to seek injunctive or other equitable relief to remedy any such breach or threatened breach by the Receiving Party. Such remedy shall not be deemed to be the exclusive remedy for any breach of this Agreement, but shall be in addition to all other rights and remedies available at law or in equity.

17. **General Provisions**.

(a) **Entire Agreement**. This Agreement expresses the entire agreement and understanding of the parties with respect to the subject matter and supersedes all prior oral or written agreements and understandings. This Agreement shall not be modified or changed in any manner except in a writing signed by both parties. This Agreement

shall be binding upon each Party, its affiliates, respective employees, agents, representatives, successors, and assigns.

(b) **No Assignment**. Neither Party may delegate its obligations hereunder or assign any Confidential Information or its rights as a Receiving Party, except to a successor of the entirety of the business to which the Purpose pertains, without the prior written consent of the other Party, and any purported assignment or delegation in violation of this Agreement will be void and deemed a breach of this Agreement.

(c) **No Waiver**. No failure or delay by any Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder.

(d) **Governing Law**. This Agreement shall be governed, construed, and enforced in accordance with the laws of Poland, without regard to principles of conflicts of law. The Parties hereby agree that the forum and venue for any legal or equitable action or proceeding arising out of, or in connection with, this Agreement will lie in the appropriate federal or state courts in Poland and specifically waive any and all objections to such jurisdiction and venue.

(e) **Severability**. If any provision of this Agreement is determined by any court of competent jurisdiction to be invalid or unenforceable, such provision shall be interpreted to the maximum extent to which it is valid and enforceable, all as determined by such court in such action, and the remaining provisions of this Agreement will, nevertheless, continue in full force and effect without being impaired or invalidated in any way.

(f) **Notices**. All notices, demands, requests or other communications given under this Agreement shall be in writing and be given by personal delivery, certified mail, return receipt requested, or nationally recognized overnight courier service to the address set forth below or as may subsequently in writing be requested.

(g) **Counterparts**. This Agreement may be executed in any number of counterparts, all of which taken together will constitute one and the same agreement, and the Parties hereto may

execute this Agreement by signing such counterpart.

(h) **No Formal Business Relationship.** This Agreement is for the purpose of protecting Confidential Information only and shall not be construed to create any agency, partnership, joint venture or other such relationship between the Parties, nor shall the exchange of Confidential Information represent any commitment by the Parties to enter into any business relationship. If the Parties desire to pursue business opportunities, the Parties shall execute a separate written agreement to govern such business relationship.

(i) **Export Control Laws and Regulations.** Receiving Party acknowledges that the

Confidential Information and any related materials or information provided hereunder are subject to the export control laws and regulations of the U.S. and other countries. Receiving Party agrees to comply with those export control laws and regulations. Receiving Party will not export or re-export these items, directly or indirectly: (i) to any countries that are subject to U.S. export restrictions; and (ii) to anyone for the development or production of nuclear, chemical or biological weapons; or (iii) to any Party who has been prohibited from participating in the U.S. export transactions by any federal agency of the U.S. government without first obtaining such license or approval. These export requirements shall survive any expiration or termination of this Agreement.

THE PARTIES	
Nexteer Automotive Poland Sp. z o.o. Towarowa 6, Tychy, Poland Attn: Ewa Zemczak Email: ewa.zemczak@nexteer.com	Company: Address: Attn: Email:
Notices shall include a copy to:	
Legal Department, Nexteer Automotive Corp. 1272 Doris Rd., Auburn Hills, MI 48326 Email: nda@nexteer.com	

The Parties, through their duly authorized representatives are signing this Agreement on the Effective Date set forth above.

NEXTEER AUTOMOTIVE POLAND SP. Z O.O. SUPPLIER.....

Signature

Signature

Print Name

Print Name

Title/Position

Title/Position

Date

Date