

## NON-DISCLOSURE AND RESTRICTED USE AGREEMENT („Agreement“)

by and between **sitec systems GmbH**, at Ammonstr. 70, 01067 Dresden, Deutschland (“sitec systems”), and the party identified in the process (each a "Party" or jointly "Parties").

In order for the Parties to facilitate the disclosure to each other of information concerning “**wireless and positioning technologies, products, designs, components, market plans and related business information held by any of the Parties with the purpose of investigating business opportunities**” ("Purpose"), the Parties agree as follows:

**1. Definitions.** "Confidential Information" shall mean any information and data pertaining to the Purpose and disclosed by either Party or its Affiliates ("Discloser") to the other Party or its Affiliates ("Recipient"), irrespective of the medium of communication. Confidential Information shall be marked as "Confidential" or with a similar legend by the Discloser prior to disclosure or, if disclosed orally or visually, it shall be identified as such prior to or at the moment of disclosure and its disclosure shall be confirmed and summarized in writing by the Discloser shortly after disclosure. Unmarked or unidentified information shall only be treated as Confidential Information if the nature of or the circumstances surrounding such information make it obvious that it is confidential. "Affiliate" shall mean a Party's parent company or any company with which a Party is under common control or any company controlled by a Party. A Party or a company controls another company if it owns, directly or indirectly, more than fifty percent (50%) of such company's capital or equivalent voting rights.

**2. Restrictions.** All Confidential Information delivered pursuant to this Agreement shall

(a) be used by the Recipient for the Purpose only; and

(b) not be distributed, disclosed, or disseminated in any way or form by the Recipient to anyone except its own or its Affiliate's employees or other recipients, who have a legitimate need to know such Confidential Information for the Purpose and who are bound to confidentiality obligations not less stringent than the obligations of this Agreement; and

(c) be treated by the Recipient with the same degree of care to avoid unauthorized disclosure to any third party as with respect to the Recipient's own confidential information of like importance, but with no less than reasonable care.

**3. Exceptions.** The obligations in Section 2. shall not apply to any Confidential Information which the Recipient can show

(a) is at the time of disclosure already in the ic domain or thereafter becomes publicly available through no breach of this Agreement by the Recipient. However, Confidential Information shall not be deemed to be in the public domain merely because a part of the Confidential Information is embodied in general disclosures or because individual features, components or combinations thereof are now or become known to the public;

(b) was lawfully received by Recipient from a third party free from any confidentiality obligations;

(c) was in the Recipient's lawful possession prior to receipt from the Discloser as evidenced by written documentation;

(d) is independently developed by the Recipient without the benefit of any of the Confidential Information as evidenced by written documentation;

(e) is approved for release by the Discloser in writing;

(f) is required to be disclosed to comply with legal mandatory regulations, a judicial or official order or decree, provided that written advance notice of such judicial action was timely given to the Discloser.

**4. Refusal.** Either Party shall have the right to refuse to accept any information under this Agreement prior to any disclosure and nothing herein shall obligate either Party to disclose any particular information.

**5. No license.** It is understood that no license or right of use under any patent or patentable right, copyright, trademark or other proprietary right is granted or conveyed by this Agreement. The disclosure of Confidential Information and materials shall not result in any obligation to grant the Recipient any rights therein.

Nevertheless, each Party recognizes that the other Party may in the future develop or purchase products or services related to or similar to the subject matter of Confidential Information disclosed under this Agreement.

Accordingly, Recipient may use Residuals for any purpose, including use in the development, manufacture, promotion, sale, or maintenance of products and services; provided that this right to Residuals does not represent a license under any intellectual property and/or proprietary rights of Discloser. The term “Residuals” means information that is retained in the unaided memories of Recipient's employees or third parties as permitted herein who have had access to Discloser's Confidential Information. Memory is unaided if the employee or contractor has not intentionally memorized the Confidential Information for the purpose of retaining and subsequently using or disclosing it.

**6. No remuneration, warranty or liability.** The Parties are not entitled to any remuneration for disclosure of any information under this Agreement. No warranties of any kind are given and no liability of any kind shall be assumed with respect to such information or any use thereof, nor shall the Discloser indemnify the Recipient against or be liable for any third party claims with respect to such information or any use thereof. The Parties shall have no obligation to enter into any further agreement with each other regarding the Purpose. The Parties do not intend that any agency or partnership relationship be created between them by this Agreement.

**7. Confidentiality period and termination.** This Agreement is effective as of the confirmation notification sent by sitec systems to the other Party. Unless otherwise agreed by the Parties in writing, Recipient's duty to protect Confidential Information expires five (5) years from disclosure of such Confidential Information (“Confidentiality Period”). Either Party may terminate this Agreement with respect to further disclosures upon thirty (30) days prior notice in writing. The obligations accruing prior to termination as set forth herein, shall survive termination of this Agreement for the duration of the Confidentiality Period.

**8. Ownership, Return.** All Confidential Information exchanged pursuant to this Agreement shall remain the property of the Discloser and along with all copies thereof shall upon respective request of the Discloser either be returned to the Discloser or be destroyed by the Recipient after termination of this Agreement. Such request shall be notified in writing by the Discloser to the Recipient within ninety (90) days after termination of this Agreement, and the Recipient shall, in case of destruction, confirm such destruction to the Discloser in writing. The obligation to return or destroy Confidential Information shall not cover

information that is maintained solely or substantially for routine back-up purposes in the ordinary course of business provided that such backed-up information (a) is not used, disclosed or otherwise recovered from such storage devices and (b) remains at all times subject to the terms of this Agreement.

**9. No assignment.** This Agreement may not be assigned by either Party without the prior written consent of the other Party.

**10. This Agreement.** This Agreement is the Parties' entire agreement on this topic, superseding any prior or contemporaneous agreements. The provisions of this Agreement may only be amended or waived in a written instrument accepted by both Parties. The failure to enforce any of the provisions of this Agreement shall not be construed as a waiver to enforce any subsequent breach. The illegal, invalid or unenforceable character of a provision of this Agreement shall not affect the legal effect of the other provisions in any way. The Parties agree not to contest the validity or enforceability of this Agreement based on the fact that this document has never existed in paper form and/or that no handwritten signature has been affixed on it or for any other comparable reason.

**11. Governing law and dispute resolution.** This Agreement shall be subject to the substantive law in force in Germany without reference to its conflicts of law provisions. Disputes arising out of or in connection with the present Agreement shall be submitted to the courts of the city of Dresden, Germany.