

NON-DISCLOSURE AGREEMENT

This Non-Disclosure Agreement is entered into at Vadodara this **date** by and between:

KYB-CONMAT PRIVATE LIMITED, a company incorporated under the Indian Companies Act, 1956 and having its Registered Office at **702-703,N.H.8, Por,Dist.Vadodara-391243,Gujarat, India.**, hereinafter referred to as "**KCPL**" (which expression shall unless it be repugnant to the context or meaning thereof be deemed to include its successors and permitted assigns) of the One Part;

AND

..... having its Registered Office at and hereinafter referred to as "....." (which expression shall unless it be repugnant to the context or meaning thereof be deemed to include its successors and permitted assigns) of the Other Part shall be individually referred to as the "Party" and collectively as the "Parties").

WHEREAS **KCPL** is inter alia engaged in the business of manufacture of Construction Equipment, Conveyors, Material Handling Equipment, storage systems, and parts thereof;

AND WHEREAS “.....” is engaged in the business of
.....
.....
.....

AND WHEREAS **KCPL** is in the process of developing and sourcing fabricated articles for their manufacturing units located at Vadodara and regional offices all over India.

AND WHEREAS “.....” has approached **KCPL** and has agreed to provide **services** for **KCPL**;

AND WHEREAS for the purpose, **KCPL** is required to provide detailed technical information, design Data and any other such relevant information for the said purpose. The information, data which may be of a strategic, proprietary and confidential nature; (hereinafter referred to as the “Confidential Information”);

AND WHEREAS during the interaction between the Parties, “.....” may acquire certain knowledge/information concerning **KCPL** and its Products. (Hereinafter also referred to as the “Confidential Information”);

AND WHEREAS “.....” recognizes that careful protection and non-disclosure by it of the Confidential Information is of utmost importance to **KCPL**;

THEREFORE in consideration of the promises made herein, the Parties agree to disclose and receive certain Confidential Information under the terms and conditions hereinafter appearing.

1 CONFIDENTIAL INFORMATION

1.1 Definition

As used herein “Confidential Information” shall mean all information and data which is provided/disclosed or which will be provided/disclosed by **KCPL** to “.....” or which has been acquired or will be acquired by “.....” such as Drawings, IGS of Components, Sketches, Documents, FlowCharts, Arrangements, Specifications, Ideas, Data, Photographs, TradeSecrets, Processes, Formulas, Knowhow, Customerdetails, Businessplans, Strategies, Budgets, Administrative/Organizationalmatters, software, Software Documentns, License, Price, Cost, Intellectual Property etc. whether patentable, copyrightable or susceptible to any other form of protection. The terms and existence of this Agreement, the fact that Confidential Information has been made available hereunder, that discussions or negotiations are taking place concerning a potential business relationship involving the Parties and all of the terms, conditions and other facts with respect thereto (including the status thereof) shall also be considered Confidential Information that is subject to the provisions of this Agreement.

1.2 Purpose

The Purpose of the disclosure of Confidential Information is to enable “.....” to provide service and documents thereof; and same “.....” shall use the Confidential Information for this purpose only.

1.3 **Ownership**

The Confidential Information shall be considered as a valuable trade secret owned by **KCPL** and **KCPL** shall continue to retain all right, title, and interest in the Confidential Information. No license to “.....”, under any trademark, patent, design or copyright or applications for the same which are now or may thereafter be obtained by **KCPL**, is either granted or implied to have been granted, by the conveying of the Confidential Information to “.....”

1.4 **No Warranties**

KCPL assumes no responsibility for any loss or damages which may be suffered by “.....”, its customers or any third parties on account of or arising from the Confidential Information. **KCPL** makes no warranties of any kind, whether express or implied, as to the accuracy or completeness of the Confidential Information.

2. NON-DISCLOSURE

2.1 **Use of Confidential Information**

2.1.1 “.....” shall use the Confidential Information only for the purpose stated in Clause 1.2 hereinabove. “.....” recognizes that this Agreement imposes an affirmative duty on “.....” to hold such information in confidence and to protect the same from dissemination to and use by, unauthorized parties. In the absence of **KCPL**’s prior written consent, “.....” shall not disclose the Confidential Information to any third Party.

2.1.2 “.....” shall use the same degree of care to protect the confidentiality of the Confidential Information as it would exercise to protect its own trade secrets and information but in no case less than a reasonable degree of care. “.....” will grant access to the Confidential Information only to its employees who have a clear need to know, for the purpose of this Agreement and shall advise such employees of the existence and terms of this Agreement and of the obligations of confidentiality herein. “.....” shall be responsible for the breach of the terms of this Agreement by it or by its employees.

2.1.3 **Confidentiality of Product.** “.....” agrees that, the product being developed specially for “**KCPL**” for the purpose stated in clause 1.2. The product includes Advertisement Campaigns, Website development, Catalogues, Brochures, Videos, Photographs or any other data, reports, records, memoranda, analyses (such as root cause analyses), or written or oral statements (or copies of any of this material), which could improve the product, performance, quality, or the outcomes. “.....” shall not use, sell, transfer such product either in part or in full to any other manufacturer or competitors without prior consent in writing from “**KCPL**”. “.....” shall be responsible for the breach of the terms of this agreement by it or its employees.

2.2 **Return of Confidential Information**

Promptly following the written request of **KCPL**, “.....” will return to KCPL or certify in writing to KCPL as to the destruction of (without retaining any copy), all Confidential Information (and copies and extracts thereof) furnished to, or created by or on behalf of, “.....” shall also return to **KCPL** the three dimensional models of the Flow Charts, Products drawing any other such information.

2.3 **Exceptions**

The foregoing notwithstanding, no information shall be considered Confidential Information if such information is or becomes generally available to the public through no fault of or without violation of, any duty of confidentiality by “.....”.

2.4 Remedies

“.....” Recognizes and acknowledges that Confidential Information is of a special, unique and extraordinary character to **KCPL** and that disclosure, misappropriation or unauthorized use of such Confidential Information by may cause serious injury to **KCPL**. “.....” expressly agrees, therefore, that **KCPL** shall be entitled to seek injunctive and other equitable relief to prevent the breach or the threatened breach of any of the terms and provisions hereof and shall also be entitled to claim or recover from “.....” Any losses, damages, costs and expenses suffered/incurred by **KCPL** as a result of the breach by “.....” of its obligations hereunder.

2.5 Inspection

KCPL shall be entitled to visit the premises of “.....” with prior written or verbal notice and during nor KCPL business hours, to review “.....” compliance with the terms of this Agreement.

2.6 Public Statements

In addition to the limitations on the use and disclosures of Confidential Information set forth herein, it is agreed that “.....” shall not issue or release or confirm any statement, to the general public, to the news media, or to any third party, except with the prior written consent of **KCPL**, both as to the content and timing of any such issue or release or confirmation.

3. GENERAL

3.1 Term

“.....” shall maintain the Confidential Information in strict confidence in accordance with the terms of this Agreement for a period of ten (10) years from the date of receipt of the Confidential Information. Either Party may terminate this Agreement upon written notice of thirty (30) days to the other Party. Further, duties of non-disclosure as set forth in Clause 2 hereinabove shall survive any termination of the Agreement upto a period of ten (10) year from expiry of this Agreement.

3.2 No Obligation to Complete Transaction

Neither Party will be under any legal obligation of any kind whatsoever with respect to any legal obligation of any further transactions by virtue of this Agreement except for the matters expressly agreed to herein.

3.3 No Conflicts

Each Party represents and warrants that its actions with respect to this Agreement do not conflict with any of its prior obligations to any third party.

3.4 Non-circumvention

During the term of this Agreement, “.....” agrees that it shall not hire, solicit or attempt to solicit for itself or any third party, directly or indirectly, the services of any employee or sub “.....” of **KCPL**, without the prior written consent of **KCPL**.

3.5 General Terms

This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns. The waiver or failure of either Party to exercise in any respect any right provided for in this Agreement shall not be deemed a waiver of any further right under this Agreement. If any provision of this Agreement is deemed or held by a court of competent jurisdiction, to be contrary to law or otherwise unenforceable, it shall be enforced to the extent legally permissible and as necessary to reflect the intent of the Parties and shall not affect the remaining provisions of this Agreement, which shall remain in full force and effect. This Agreement may only be amended by a document executed by duly authorized representatives of both the Parties.

3.6 Arbitration

In case any disputes are not settled amicably then all such disputes shall be finally settled by a sole arbitrator appointed by **KCPL**, in accordance with the Arbitration and Conciliation Act, 1996, for the time being in force. The award of the sole arbitrator shall be a reasoned award and shall be final and binding on the Parties. The venue of arbitration proceedings shall be **VADODARA**. The arbitration proceedings shall be conducted and the award shall be stated in English language.

3.7 Jurisdiction

Subject to the above, the courts at **VADODARA** shall have exclusive jurisdiction over all matters arising out of this Agreement.

3.8 Entire Agreement

This Agreement represents the entire agreement and understanding between the Parties with respect to the subject matter herein and supersedes all prior agreements and understandings and writings of any kind, written or oral, express or implied, with respect to the subject matter hereof.

IN WITNESS WHEREOF, the Parties have through their respective duly authorized representatives executed this Agreement in two originals the day and the year first hereinabove written.

For and on behalf of
M/s KYB-Conmat Private Limited

For and on behalf of
M/s “.....”

Name: _____

Name: _____

Designation: _____

Designation: _____

Witness:

Name: _____

Name: _____

Designation: _____

Designation: _____

Witness: