

CONFIDENTIALITY AGREEMENT

This Agreement is made as of this _____ day of _____ “The Effective Date”

between

(1) **Aker Solutions Holding AS** whose registered office is situated at Oksenøyveien 8, 1366 Lysaker, Oslo, Norway, organisation number 913 192 192 for and on behalf of entities in the Aker Solutions group (hereinafter referred to as “**Aker Solutions**”)

and

(2) _____, whose registered office is situated at _____ (hereinafter referred to as ‘**TENDERER** or **SELLER**’),

either or both of whom may hereinafter be referred to as the “**Party**” or the “**Parties**”

WHEREAS

- A. The Parties may wish to exchange information in the future in connection with discussions as to potential collaborations, requests for quotations issued by Aker Solutions to Tenderer and the resulting tenders submitted by Tenderer to Aker Solutions, and such information is likely to include information which is considered confidential and proprietary to one of the Parties; and
- B. The Parties wish to avoid negotiating separate confidentiality agreements for each potential collaboration or request for quotation or tender;
- C. Therefore the Parties have decided to enter into this Agreement which shall apply in the case of each request for quotation and/or tender to all communications between the Parties;

IT IS HEREBY AGREED AS FOLLOWS:

1. Definitions

The following words and phrases shall have the following meanings unless the context otherwise requires:

- 1.1 ‘Affiliate’ shall mean any corporation, company, or other entity, which: (i) is controlled by a Party to this agreement; or (ii) controls a Party (“Parent Company”); or is controlled by such

Parent Company or (iii) is under common control with a Party. For this purpose “control” means ownership or control, direct or indirect, of more than fifty percent (50%) of the controlled entity’s shares or ownership interest representing the right to make decisions for such entity. An entity is considered an Affiliate only so long as such ownership or control exists.”

- 1.2 'Information' means information disclosed by one Party to the other and shall include information provided in oral or documentary form, in writing, or in electronic form or by way of models or other tangible form or by demonstrations.
- 1.3 'Confidential Information' shall mean:
- (a) in respect of Information which at the time of provision to the other Party is marked or otherwise designated as being confidential; and/or
 - (b) Information of the Providing Party which relates to the business affairs, customers, products, developments, operations, processes, pricing, and other proprietary information, which might reasonably by its nature be regarded as confidential; and/or
 - (c) Information which is not generally known in the industry and has commercial value because it is kept confidential.
- 1.3 'Proper Use' shall mean use of Confidential Information necessarily and exclusively for the Purpose set out in Clause 2.1 of this Agreement.
- 1.4 'Providing Party' shall mean the Party providing Confidential Information.
- 1.5 'Receiving Party' shall mean the Party receiving Confidential Information.
- 1.6 “Request for Quotation” shall mean any request by Aker Solutions for Information from Tenderer with respect to a possible purchase of goods or services.

2. Handling of Confidential Information

- 2.1 The Proper Use to which Aker Solutions may put Confidential Information from Tenderer shall be limited to: (i) the evaluation of whether to enter into a contract with Tenderer or an affiliate of Tenderer for the purchase or other form of acquisition of goods and/or services; (ii) for inclusion within bids or tenders prepared by Aker Solutions to its clients; and (iii) disclosure to and discussion with clients with whom Aker Solutions is in a tendering situation.
- 2.2 The Proper Use to which Tenderer may put Confidential Information from Aker Solutions shall be limited to (i) the preparation of an offer to Aker Solutions for the supply of goods and/or services; and/or (ii) for the purposes of any clarifications of such offer and/or negotiation of a purchase order, contract or other agreement with Aker Solutions.
- 2.3 The Parties undertake in respect of Confidential Information to:

- (a) hold such Confidential Information in confidence and not exploit it commercially, or use it for acquiring intellectual property rights; and
- (b) use such Confidential Information only for the Proper Use; and
- (c) permit access to such Confidential Information only to such of its employees and consultants as need such Confidential Information for the Proper Use and who have been informed of the Confidential nature of the Information.

- 2.4 The Parties shall exercise no less a degree of care in protecting the confidentiality of Confidential Information as that which it uses to protect its own information of like sensitivity and importance and in no case shall the degree of care be less than is reasonable.
- 2.5 The Parties shall neither use nor duplicate the Confidential Information, in whole or in part, for any purpose other than for the Proper Use without the prior written consent of the other Party. All copies shall on reproduction contain the same confidential notices and legends as appear on the original Confidential Information
- 2.6 Any Confidential Information (and copies thereof) disclosed to the Receiving Party shall remain the property of the Providing Party and shall be destroyed or returned immediately upon request by the Providing Party.
- 2.7 If the Receiving Party becomes aware of any unauthorised disclosure concerning Confidential Information, it shall immediately inform the Providing Party and they shall seek to find a remedy to the situation and prevent its further unauthorised use.
- 2.8 This Agreement shall not be construed as granting to the Receiving Party hereunder, a licence to any Confidential Information or under any inventions, patents, trademarks or know-how now or hereafter owned or controlled by the Providing Party.
- 2.9 To the extent that the disclosure relates to the Proper Use, the Parties acknowledge that any Confidential Information provided by or to either Party's Affiliate or subsidiary shall be subject to the provisions of this Agreement.

3. Limitation on the Protection of Confidential Information

- 3.1 The obligations of confidentiality imposed under this Agreement shall not apply to any Information which the Receiving Party can show by evidence in writing:
- (a) was known to or in the possession of the Receiving Party before such Information was imparted by the Providing Party; or
 - (b) is legitimately in or subsequently comes into the public domain other than by breach by Receiving Party of its obligations hereunder or under any other agreement on confidentiality between the Parties or any of their affiliates; or

- (c) is rightfully received by the Receiving Party without restriction on disclosure or use from a third party whom the Receiving Party reasonably believes is free to make such disclosure on such terms; or
- (d) is approved for release or use by written authorisation of the Providing Party; or
- (e) is required by law to be disclosed but only to the extent and for the purpose of such required disclosure; or
- (f) is developed by the Receiving Party independently without reference to the Confidential Information, as demonstrated by relevant evidence; or
- (g) is disclosed pursuant to a requirement of a governmental agency or of law without similar restrictions or other protection against public disclosure, or as to which disclosure is required by operation of law; provided, however, that Receiving Party will first have given written notice of such required disclosure to the Providing Party, made a reasonable effort to obtain a protective order requiring that the Confidential Information so disclosed be used only for the purposes for which disclosure is required, and taken reasonable steps to allow Providing Party to seek to protect the confidentiality of the Information required to be disclosed.

3.2 If any portion of the Confidential Information falls within any one of the above exceptions, the remainder shall continue to be subject to the restrictions of this Agreement.

4. Term and Termination

4.1 This Agreement shall terminate ten (10) years from the Effective Date.

4.2 The expiration or termination of this Agreement shall not relieve the Receiving Party from complying with the obligations with respect to the use and protection of Confidential Information received under this Agreement.

5. Miscellaneous

5.1 No amendments, changes or modifications to this Agreement shall be valid except if the same are in writing and signed by a duly authorized representative of each of the Parties.

5.2 This Agreement shall also be binding on the legal successors of the Parties.

5.3 This Agreement comprises the full and complete agreement of the Parties with respect to the disclosure of the Confidential Information and supersedes and cancels all prior communications, understandings and agreements between the Parties relating to the Confidential Information, whether written or oral, expressed or implied. In the event that Aker Solutions awards a contract for the supply of goods and/or services by Tenderer, the terms of such contract or purchase order or a separate confidentiality agreement signed between the Parties for the project concerned, shall supersede the confidentiality obligations under this

Agreement with respect to disclosures of Confidential Information made on or after the date of such separate contract, purchase order or confidentiality agreement.

- 5.4 This Agreement shall be governed by and construed in accordance with the substantive laws of Norway without reference to any choice of law provision.
- 5.5 Disputes arising in connection with or as a result of this Agreement, including any question regarding its existence, validity or termination, and which cannot be amicably resolved by the Parties, shall be settled by court proceedings. Any court proceeding shall be brought before Oslo District Court.
- 5.6 If the court holds any provision of this Agreement to be invalid, void or unenforceable, the remaining provisions shall nonetheless continue in full force and effect without being impaired or invalidated in any way.
- 5.7 This Agreement may be executed in counterparts, each of which, when so executed, shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument.

Signed on behalf of Aker Solutions Holding AS

By: 

Printed Name: Svein Mellemseter

Position: Senior Vice President- Head of Group Supply Chain

Date: 13/09/2016

Signed on behalf of TENDERER

By:.....

Printed Name:

Position:

Date: