

## CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement ("Agreement") is entered into by and between AMERICAN AUTOCOAT, INC., a Michigan corporation ("AAI"), and \_\_\_\_\_, a \_\_\_\_\_ corporation, located at \_\_\_\_\_ ("Vendor"), both hereinafter referred to as the "Parties," either of which may be referred to hereinafter as a "Party."

### Recitals:

The Parties are considering a possible business relationship. In order to assess the potential of entering into a business relationship, certain discussions and evaluations will be necessary which will encompass the Parties' disclosure to each other of certain proprietary information relating to their respective products and processes, as well as providing product samples for testing and evaluation. This Agreement sets forth the basis upon which the Parties agree to furnish to each other the confidential and proprietary information. This is not intended to be a development agreement.

NOW, THEREFORE, the Parties agree as follows:

1. The term "Confidential Information" shall include any information, in whatever form, that: (a) is provided by one Party (the "Disclosing Party") to the other Party (the "Recipient") or the directors, officers, employees, agents or advisors ("Representatives") of the Recipient, such Recipient's Representatives or any other related party prior to, on or after the date of this Agreement, including information regarding such Disclosing Party's business, finances, prospects, operations, products, employees and/or technology (including not only written information but also information transferred verbally, visually, electronically or by any other means); or (b) consists of analysis and/or any other internal memoranda or other documents prepared by the Recipient or its Representatives derived from, or including material portions of, the Confidential Information.

2. The Recipient agrees that the Disclosing Party is and shall remain the exclusive owner of the Confidential Information disclosed to the Recipient and all patent, copyright, trade secret, trademark and other intellectual property rights therein. It is further understood that no intellectual property right or license is granted to the Recipient by this Agreement and the disclosure of Confidential Information shall not result in any obligation to grant the Recipient any rights in or to the subject matters of the Confidential Information.

3. The Recipient shall safeguard and keep confidential the Confidential Information and shall not disclose the Confidential Information to any party without the prior written consent of the Disclosing Party, in any manner whatsoever, in whole or in part. The Recipient shall disclose the Confidential Information only to those of its Representatives who have a need to know, who are instructed as to the confidential nature of the Confidential Information and who agree to be bound by the terms of this Agreement; provided, however, that the Recipient shall remain responsible for any breach of this Agreement by any of its Representatives.

4. The Parties acknowledge that the Confidential Information is valuable business information which could be unfairly used to interfere or compete with the Disclosing Party's business and its operations. The Confidential Information shall not be used by the Parties for any purpose other than evaluating the possibility of or actually entering into a business relationship. The Parties shall not, directly or indirectly, whether acting on its own behalf or as an agent, partner, consultant, affiliate or in any other capacity, in conceit with or on behalf of any third party, use the Confidential Information to interfere or compete in any way with the business operations, business relationships, contract rights or business opportunities of the Disclosing Party.

5. Neither the Recipient nor its Representatives shall make any public statement or otherwise disclose to any other person, without the prior written consent of the Disclosing Party, that the Confidential Information has been provided or other facts with respect to the Confidential Information.

6. In the event that the Recipient or its Representatives is requested or becomes legally compelled to disclose any of the Confidential Information (whether through oral questions, interrogatories, requests for information or documents, subpoena, civil investigative demand or other similar process), such Recipient shall provide the Disclosing Party with prompt notice so that the Disclosing Party may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Agreement. In the event such protective order or other remedy is not obtained or the Disclosing Party waives compliance with the provisions hereof, the Recipient and its Representatives shall furnish only that portion of the Confidential Information which is legally required to be disclosed and shall exercise its reasonable efforts to obtain reliable assurance that confidential treatment will be accorded the Confidential Information.

7. Upon written request by the Disclosing Party, all Confidential Information and all copies thereof, including that portion of the Confidential Information which consists of analysis, compilations, studies or any other documents internally prepared by the Recipient or its Representatives, in whatever form, shall be returned to the Disclosing Party immediately or destroyed by the Recipient or its Representatives. In the event the Disclosing Party requests that the Confidential Information be destroyed, such destruction shall be confirmed to the Disclosing Party in writing by the Recipient.

8. All Confidential Information shall be presumed to be and treated as confidential. However, the restrictions contained in this Agreement shall not be enforceable against the Recipient or its Representatives if the information: (a) is or becomes part of the public domain or otherwise publicly available without breach hereof by the Recipient or its Representatives; (b) is lawfully acquired by the Recipient or its Representatives from a person not under any obligation to the Disclosing Party with respect to disclosure of any Confidential Information; (c) is disclosed to any third party by or with the permission of the Disclosing Party without confidentiality restrictions; or (d) is developed independently by the Recipient or its Representatives without reference to, use of, or reliance on any Confidential Information of the Disclosing Party.

9. Neither the holding of discussions between the Parties, nor either Parties' disclosure of Confidential Information, either orally, in writing or by inspection of any records or facility, shall be construed as imposing an obligation on either Party to refrain from engaging in similar discussions with another party.

10. The Parties make no representations or warranties as to the accuracy or completeness of the Confidential Information. Neither the Parties nor any of their Representatives shall be subject to any liability resulting from the use of or reliance upon the Confidential information. Only those representations and warranties that are made in a definitive agreement when, as, and if it is executed, and subject to such qualifications, limitations and restrictions as may be specified in such agreement, shall have legal effect.

11. The Parties acknowledge the Confidential Information is valuable and unique and that disclosure shall result in irreparable injury to the Disclosing Party. In the event of a breach or threatened breach of any provision of this Agreement, the Disclosing Party shall be entitled to injunctive relief restraining and enjoining the Recipient, its Representatives or any other person or entity subject to the provisions of this Agreement, from violating any provision of this Agreement. In addition, the Disclosing Party shall be entitled to any and all additional and alternative legal and equitable remedies available.



12. The provisions contained in this Agreement are severable and in the event any provision shall be held to be invalid, unenforceable or overbroad, in whole or in part, by a court of competent jurisdiction, the remainder of such provision and of this Agreement shall not be affected thereby and shall be given full force and effect.

13. No failure or delay in exercising any right, power or privilege hereunder will operate as a waiver thereof, nor will any single or partial exercise of any right, power or privilege granted hereunder preclude any other or further exercise of the same.

14. This Agreement may be executed in more than one counterpart, each of which *is* an original, and all of which constitute one agreement. A party may bind itself by signing this Agreement and delivering its/his/her signature by facsimile or other artificial or electronic means.

15. This Agreement constitutes the entire understanding between the Parties regarding the Confidential Information superseding all prior or contemporaneous communications, agreements and understanding between the Parties relating to the Confidential Information. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, representatives, successors and assigns. This Agreement shall not be superseded, terminated, modified or amended except by written agreement of the Parties hereto. This Agreement shall be governed by and construed in accordance with the Laws of the State of Michigan, without giving effect to conflict of law principles. Each of the Parties irrevocably submits to the exclusive jurisdiction of the state courts of the State of Michigan and the federal district courts located in the Western District of the State of Michigan for the purpose of any suit, action or other proceeding related to or arising out of this Agreement.

EXECUTED on \_\_\_\_\_

AMERICAN AUTOCOAT ,  
INC

a Michigan corporation

\_\_\_\_\_  
a \_\_\_\_\_ corporation

\_\_\_\_\_  
Officer's Signature

\_\_\_\_\_  
Officer's Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

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Title

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Title

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Date