



NON-DISCLOSURE AGREEMENT

This non-disclosure agreement ("**Agreement**") is made on this the _____ day of _____ between: _____

VERGA ATTACHMENTS PVT. LTD., a company incorporated in India under the provisions of the Companies Act, 1956, having its registered office at 28B, Phase 1, KIADB Industrial Area, Malur – 563 130. Dist. Kolar, KARNATAKA. INDIA. (Hereinafter referred to as "**VERGA or Disclosing Party** ", which expression shall mean and include unless repugnant to the context, its successors and permitted assigns);

And

_____ A company incorporated in India under the provisions of the Companies Act, 1956, having its registered office at No: _____

(Hereinafter referred to as "**_____ or Receiving Party** ", which expression shall mean and include unless repugnant to the context, its successors and permitted assigns).

WHEREAS:

VERGA is in the business of Design, Manufacture and export of Attachments and other Engineering interalia to various engineering Equipment manufacturers for Railways under transportation and to renewable energy segment, in India and abroad.

Vendor is in the business of _____



VERGA and VENDOR are in the process of working out and negotiating a possible business relationship by which VENDOR may get into a Supply and Service Agreement with VERGA for manufacturing, processing as job work of VERGA's Attachments and other Engineering fabricated and machined components and products.

During the course of the negotiations with the VENDOR, VERGA has disclosed or may disclose certain information and may have loaned or may hereafter loan certain material and documents to the VENDOR which may be proprietary and/or of confidential from VERGA's viewpoint for the purpose of enabling the VENDOR to (a) quote, selling terms for, (b) sell to, (c) manufacture for, (d) provide to VERGA goods and/or services as requested by VERGA.

NOW THEREFORE in consideration of the mutual protection of Information herein by the parties hereto (VERGA and the VENDOR) and such additional promises and understandings as are hereinafter set forth, the parties agree as follows:

1. For purposes of this Agreement, "**Confidential Information**" means any business, financial or technical information or data in any form or medium, tangible or intangible, used in or relating to the assets, properties, business activities, or operations of Disclosing Party which was or is actually disclosed, either orally, electronically or in writing or in any other form, by the Disclosing Party or its representatives to the Receiving Party or its representatives, whether before or after the date of this Agreement, whether machine or user readable, including, without limitation, (a) information of a technical nature such as trade secrets, patents, product specifications, data, know-how, formulae, compositions, processes, designs, sketches, photographs, graphs, drawings, samples, inventions and ideas, innovations, improvements, past, current and planned research and development, computer software and programs (including object code and source code), and database technologies, systems, structures and architectures; (b) information of a business nature, such as financial statements, marketing plans, business plans, strategies, forecasts, unpublished financial information, budgets, projections, information and data concerning costs, profits, market share, sales, current or planned manufacturing or distribution methods and processes, plant layout, equipment specification, design specification, customer lists, current and anticipated customer requirements, price lists, market studies, business plans, or information regarding suppliers, dealers, or lenders, services rendered; (c) information regarding personnel and human resources such as organizational structure, salary, personnel training techniques and materials; (d) information generated



- a. or derived by the Receiving Party or its representatives that contains, reflects or is derived from any of the information described above; and (e) any other information obtained from the Disclosing Party or its representatives which is not known to the public and shall exclude any such information which (i) is known to the public (through no act or omission of the Receiving Party in violation of this Agreement); (ii) is lawfully acquired by the Receiving Party from an independent source having no obligation to maintain the confidentiality of such information; (iii) was known to the Receiving Party prior to its disclosure under this Agreement; (iv) was or is independently developed by the Receiving Party without breach of this Agreement; or (v) is required to be disclosed pursuant to a governmental or judicial order, in which case the party so required to disclose the Confidential Information, shall give the other party prompt written notice, where possible, and use reasonable efforts to ensure that such disclosure is accorded confidential treatment and also to enable such other party to seek a protective order or other appropriate remedy at the other party's sole cost.
2. This Agreement does not obligate either party to disclose any particular proprietary information to the other or to purchase, sell, license, transfer, or otherwise dispose of any technology, services, or products; or to enter into any other form of business, contract or arrangement. **Disclosing Party shall retain all right, title and interest in and to the Confidential Information.** Furthermore, nothing contained hereunder shall be construed as creating, conveying, transferring, granting or conferring by one party on the other party any rights, license or authority in or to the information provided. The Receiving Party shall use the Confidential Information only for the limited purpose of discussing the possibility of **VENDOR**, providing necessary service for **VERGA** to manufacture the attachments and other equipments and products.
3. The Receiving Party agrees and undertakes that it shall not, without first obtaining prior written consent of the Disclosing Party, disclose or make available to any person, reproduce or transmit in any manner, or use (directly or indirectly) for its own benefit or the benefit of others, any Confidential Information save and except that Receiving Party may disclose Confidential Information to their Affiliates, directors, officers, employees or advisors of their own or of Affiliates on a "need to know" basis so as to enable them to evaluate such Confidential Information in connection with the negotiation of the possible business relationship; provided that such persons have been informed of, and agree to be bound by confidentiality obligations which are at least as strict as the Receiving Party's obligations hereunder and such confidentiality agreements provide that **VERGA** can in its discretion directly proceeds against any person receiving Confidential Information from the



Receiving Party and violating the terms of confidentiality of the Confidential Information. The Receiving Party shall provide to VERGA a complete list of all persons to whom the Confidential Information has been disclosed along with a duly executed copy of the confidentiality agreement entered into with such person. For the purpose of this Agreement, Affiliates shall mean, with respect to any party, any other person directly or indirectly Controlling, Controlled by, or under direct or indirect common Control with, such party. "Control", "Controlled" or "Controlling" shall mean, with respect to any person, any circumstance in which such person is controlled by another person by virtue of the latter person controlling the composition of the Board of Directors or owning the largest or controlling percentage of the voting securities of such person or by way of contractual relationship or otherwise. Receiving Party agrees to notify the Disclosing Party in writing of any misuse or misappropriation of such Confidential Information which may come to its attention.

4. 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.
5. VENDOR agrees to keep the Confidential Information confidential and agrees not to disclose or give such Confidential Information to others except on a prior written authority of VERGA, and to the extent reasonably necessary for quoting for selling to, manufacturing for, or providing to VERGA such goods and/or services and further agrees to disclose such Confidential Information only to those of its employees whose use or knowledge of the Confidential Information is reasonably necessary for the purpose authorized by VERGA, but in all cases maintaining the confidentiality and secrecy of the Confidential Information. For the purpose of this Agreement, all engineering drawing and blue prints shall be deemed to be Confidential Information and covered under this Agreement.
6. Each party warrants that it has the right to make the disclosures under this Agreement and that it has due authority to enter into and bind itself by the terms of this Agreement. No other warranties are made by either party under this Agreement and all information exchanged under this Agreement is provided "as is". The Disclosing Party shall not be in any way responsible for any decisions or commitments made by Receiving Party relying on the Disclosing Party's Confidential Information.



7. The Receiving Party agrees to indemnify and keep indemnified the Disclosing Party against all loss and damage, which the Disclosing Party may suffer as a result of any breach of this Agreement by the Receiving Party; provided always that the Disclosing Party shall forthwith give written notice to the Receiving Party of the above loss and damage and reasonable documentary evidence of such loss and damage.
8. The Receiving Party agrees that if the proposed business transaction does not proceed within a reasonable time but in any event not later than one year or any time at the request of the Disclosing Party, the Receiving Party shall promptly deliver back to the Disclosing Party the Confidential Information including, but not limited to, material carrying company logo and copies thereof in its possession or under its direct or indirect control, and shall destroy all memoranda, notes and other writings prepared by the Receiving Party or its Affiliates or directors, officers, employees or advisors based on the Confidential Information and promptly certify such destruction in writing to Disclosing Party. Notwithstanding the return or destruction of any Confidential Information, the Receiving Party shall continue to be bound by its obligation of confidentiality and other obligations beyond the termination of this Agreement.
9. The Receiving Party acknowledges that the Confidential Information coming to its knowledge may relate to and/or have implications regarding the future strategies, plans, business activities, methods, processes and or information of the Disclosing Party, which afford the Disclosing Party certain competitive and strategic advantage. Accordingly the Receiving Party shall not use the Confidential Information in a manner that will jeopardise or adversely affect in any manner such future strategies, plans, business activities, methods, processes, information, and/or competitive and strategic advantage of the Disclosing Party.
10. The parties hereto acknowledge and agree that in the event of a breach or threatened breach by the other of the provisions of this Agreement, the party not in breach will have no adequate remedy in money or damages and accordingly the party not in breach shall in addition to other remedies available, whether at law or in equity, be entitled to seek specific performance of the Receiving Party's obligations under this Agreement as well as be entitled to injunctive relief against such breach or threatened breach by the party in breach of this Agreement.
11. No failure or delay by either party in exercising or enforcing any right, remedy or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise or enforcement of any right, remedy or power preclude any



further exercise or enforcement thereof of any other right, remedy or power. **No waiver of any of the terms of this Agreement will be effective unless set forth in writing signed by the Party against whom it is sought to be enforced.**

12. If any dispute arises between the parties hereto during the subsistence of this Agreement or thereafter, in connection with or arising out of this Agreement, the dispute shall be referred to arbitration by a sole arbitrator under the Indian Arbitration and Conciliation Act, 1996. Arbitration shall be held in Bangalore, India. The proceedings of arbitration shall be in the English language. The arbitrator's award shall be final and binding on the parties. Notwithstanding anything contain in this Agreement, nothing shall prevent a party from approaching a court of competent jurisdiction to obtain interim injunctive relief, irrespective of whether the subject matter of dispute is under negotiation or pending arbitration.
13. This Agreement will be governed exclusively by the laws of India and subject to Clause no.12; jurisdiction shall be vested exclusively in the courts at Bangalore.
14. This Agreement shall not be amended, assigned or transferred by either party without the written consent of the other party.
15. This Agreement will continue in full force and effect for so long as the Disclosing Party continues to provide Confidential Information to the Receiving Party and for as long as information disclosed remains Confidential Information. Notwithstanding the return or destruction of any Confidential Information, the Receiving Party shall be bound by its obligations of confidentiality and other obligations hereunder beyond the termination of this Agreement.
16. Each party will bear its own costs in connection with the activities undertaken in connection with this Agreement. The stamp duty and other taxes, if any, shall be borne by the parties in equal proportion.
17. Nothing in this Agreement is intended to confer any rights/remedies under or by reason of this Agreement on any third party.

This Agreement supersedes all prior discussions and writings with respect to the Confidential Information and constitutes the entire Agreement between the parties with respect to the subject matter hereof. If any term or provision of this Agreement is determined to be illegal, unenforceable, or invalid in whole or in



18. part for any reason, such illegal, unenforceable, or invalid provisions or part(s) thereof shall be stricken from this Agreement and such provision shall not affect the legality, enforceability, or validity of the remainder of this Agreement.
19. Unless otherwise required by law, without the prior written consent of the Disclosing Party, neither the Receiving Party nor its representatives shall disclose to any person (including any corporation, company, partnership or individual) either the fact that discussions or negotiations are taking place concerning a possible business transaction between the parties or any of the terms, conditions or other facts with respect to any such possible business transaction, including the status thereof. This Section shall be broadly interpreted to prohibit, without limitation, any discussions by either party with potential co-bidders or other transaction partners, without prior written consent of the other party.
20. Any notice or other communication provided for herein as given to a party hereto shall be in writing and shall be delivered by (i) first transmitted by facsimile transmission, and then confirmed by registered mail, return receipt required, postage prepaid or by internationally recognized courier service or (ii) registered mail, return receipt required, postage prepaid or by internationally recognized courier service to the address and authorised person listed below:

In the case of notices to **VERGA:**

Address : 28B, Phase 1, KIADB Industrial Area,
Malur, 563130 Kolar Dist. KARNATAKA, INDIA.
Facsimile : 08151 - 234835
Attention : Managing Director.

In the case of notices to: _____,

Address : _____

Facsimile : _____
Attention : _____

All notices shall be deemed to have been validly given on (i) the business date immediately after the date of transmission with confirmed answer back, if transmitted by facsimile transmission, or (ii) in case (i) does not apply, the expiry of seven (7) days after posting, if sent by post. Either Party may, from time to time, change its address or authorised person for receipt of notices



provided for in this Agreement by giving to the other Party not less than five(5) days prior written notice.

21. This Agreement may be executed in any number of counterparts and any party hereto may execute any such counterpart, each of which when executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument.

22. **Constrution.**

1. All references in this Agreement to statutory provisions shall be construed as meaning and including references to:
 - (i) any statutory modification, consolidation or re-enactment made after the date of this Agreement and for the time being in force;
 - (ii) all statutory instruments or orders made pursuant to a statutory provision; and
 - (iii) any statutory provisions of which these statutory provisions are a consolidation, re-enactment or modification.
2. Words denoting the singular shall include the plural and words denoting any gender shall include all genders.
3. Any reference to “writing” shall include printing, typing, lithography and other means of reproducing words in visible form.
4. The words “include” and “including” are to be construed without limitation.
5. The rule of construction that contracts are to be construed strictly against the drafter is expressly made inapplicable to this Agreement.

IN WITNESS WHEREOF the parties hereto have duly executed this Agreement (one set to be retained by either party) as of the date and year written above.



VERGA ATTACHMENTS PVT. LTD.,

Signature:

Signature:

Name: _____

Name: _____

Title

Title

1.Witness

1.Witness

2.Witness

2.Witness

