



## MUTUAL CONFIDENTIALITY AGREEMENT

This **MUTUAL CONFIDENTIALITY AGREEMENT** (this “**Agreement**”) is entered into effective as of the date set forth on the signature page hereof (the “**Effective Date**”), by and between Daikin Applied Americas Inc., a Delaware corporation having an address for notices as set forth on the signature page hereof, (“**Daikin Applied**”) acting by itself or by and through the direct or indirect subsidiaries of Daikin Applied (the “**Affiliates**”) (Daikin Applied and its Affiliates collectively, “**Daikin Applied Group**”), and the party whose name is set forth as the “**Counterparty**” on the signature page hereof, and having an address for notices as set forth on the signature page hereof (“**Counterparty**”). Daikin Applied Group and Counterparty may be referred to individually as a “**Party**” and collectively as the “**Parties**.” The term “**Discloser**” means the Party disclosing Confidential Information and the term “**Recipient**” means the Party receiving Confidential Information.

The Parties agree as follows:

1. In connection with the contemplated transaction(s) between the Parties (the “**Purpose**”), Daikin Applied Group and Counterparty may find it mutually beneficial to disclose to each other certain information (hereinafter, “**Confidential Information**”), which may include, without limitation, the following: (i) business plans, strategies, forecasts, projects and analyses, (ii) financial information and pricing structures, including without limitation information regarding the disclosing Party’s assets and liabilities, (iii) business processes, methods and models, (iv) employee, customer and supplier information, (v) product, equipment, and system designs, (vi) information with respect to operations, including without limitation manufacturing, purchasing, logistics, sales and marketing information, and (vii) other business information in various mediums which such Party considers confidential. The Confidential Information shall include any (a) analyses, compilations, reports, studies or other information prepared by either Party from the other Party’s information; (b) any conversations between the Parties relating to such information; and (c) the fact that the Parties are discussing business opportunities. Information disclosed orally or visually but identified as confidential at the time of disclosure and thereafter designated as confidential in a writing sent to the other Party within 30 days of disclosure summarizing the information disclosed shall be considered Confidential Information. Confidential Information disclosed by Discloser shall remain the property of such Discloser.

2. With respect to the Confidential Information, Daikin Applied Group and Counterparty shall: (i) restrict disclosure of the Confidential Information solely to those of its employees, advisors or representatives with a need to know and not disclose any of the Confidential Information to any other third Parties; (ii) advise its employees, advisors or representatives who receive the Confidential Information of the obligation of confidentiality hereunder; (iii) use and advise its employees, advisors or representatives to use the same degree of care to protect the Confidential Information and to prevent disclosure of the Confidential Information as is used with the Party’s own confidential information, which shall be at least the degree of care which a reasonably prudent person would take to protect and prevent disclosure of confidential information; and (iv) use the Confidential Information only for the Purpose set forth in Section 1 above.

3. Notwithstanding anything to the contrary herein, neither Daikin Applied Group nor Counterparty shall have any obligation to preserve the confidentiality of the other Party’s Confidential Information which: (i) was previously known to such Party free of any obligation to keep it confidential; (ii) is or becomes publicly available, other than by disclosure to such Party which disclosure is known to such receiving Party to have been unauthorized; (iii) is made available to such Party by a source, other than the disclosing Party, which is not known to the receiving Party to be bound under an obligation of confidentiality with respect to the Confidential Information; or (iv) is independently developed by such Party, as evidenced by written records prepared prior to the date of this Agreement.

4. The Parties agree to be bound by the Defend Trade Secrets Act of 2016.

5. Recipient shall, upon termination of this Agreement, or upon written request of Discloser, whichever is earlier, immediately, but not later than 10 days after any notice thereof by Discloser, destroy all copies of such Discloser’s Confidential Information, except for one copy of such documents or records retained in confidence by the Recipient’s counsel solely for the purpose of any dispute or anticipated dispute arising out of the discussions or use of the Confidential Information. Further, upon request by Discloser, an officer or other appropriate representative of Recipient shall provide a certificate which shall confirm that the destruction of the Confidential Information (as applicable), have taken place.

6. In the event that a Party (the “**Requesting Party**”) or any of its representatives are compelled by a third party or any governmental entity having jurisdiction over a Party (by oral questions, interrogatories, requests for information or documents in legal proceedings, subpoena, civil investigative demand or other similar process) to disclose any of the other Party’s Confidential Information,



such Requesting Party shall provide the other Party with prompt written notice of any such request or requirement so that the other Party may at its expense seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Agreement.

7. In the event any Party breaches its obligations under this Agreement, the other Party shall have available to it all its rights and remedies at law and in equity, including the right to seek injunctive relief, it being acknowledged and agreed by both Parties that a breach or threatened breach of the terms of this Agreement by one Party will cause irreparable injury to the other Party and that money damages will not provide an adequate remedy to such other Party.

8. Confidential Information is provided "AS IS" and "AS AVAILABLE" without any warranty, express, implied or otherwise, regarding such Confidential Information.

9. This Agreement may not be assigned by either Party, whether by change of control, operation of law or otherwise, without the written permission of the other Party, which such consent shall not be unreasonably withheld or delayed; and shall bind and accrue to the benefit of the Parties hereto and their respective successors and permitted assigns.

10. Any notice or other communication required or permitted hereunder shall be given in writing to the other Party at the address first set forth on the signature page hereto, as applicable, or at such other address as shall be given by either Party to the other in writing.

**11. THIS AGREEMENT, AND ANY DISPUTE ARISING DIRECTLY OR INDIRECTLY THEREFROM, SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF MINNESOTA WITHOUT GIVING EFFECT TO THE CONFLICTS OF LAWS PRINCIPLES THEREOF. EACH PARTY AGREES THAT ANY LEGAL ACTION, SUIT OR PROCEEDING BROUGHT BY IT IN ANY WAY ARISING OUT OF THIS AGREEMENT WILL BE BROUGHT SOLELY AND EXCLUSIVELY IN MINNEAPOLIS, HENNEPIN COUNTY, MINNESOTA, AND EACH PARTY WAIVES ANY OBJECTION TO PERSONAL JURISDICTION IN MINNEAPOLIS, HENNEPIN COUNTY, MINNESOTA, AND SUBMITS TO SOLE AND EXCLUSIVE PERSONAL JURISDICTION IN MINNEAPOLIS, HENNEPIN COUNTY, MINNESOTA WITH RESPECT TO ANY ACTION, SUIT OR PROCEEDING BROUGHT BY IT OR AGAINST IT BY THE OTHER PARTY.**

12. This Agreement shall commence on the date set forth on the signature page of this Agreement (the "**Commencement Date**") and shall continue in effect until three (3) years after the Commencement Date, unless sooner terminated as follows:

Either Party may terminate this Agreement for any or no reason upon 10 days advance written notice to the other Party. However, any termination of this Agreement shall not relieve the Parties of their confidentiality and use obligations with respect to Confidential Information disclosed prior to the date of such termination. Except for the right to use Confidential Information for the purpose set forth in Section 1 above, which right terminates when this Agreement terminates or expires, Recipient's duty to protect Discloser's Confidential Information expires five (5) years after the date of termination or expiration of this Agreement. In addition, Sections 4, 5, 6, 7, 9, 11, 13, 14, 15 and this Section 12 shall survive the termination or expiration of this Agreement.

13. If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid and/or unenforceable, such invalidity/unenforceability shall not affect the validity of any other provision of this Agreement, and shall then be construed as if such invalid/unenforceable provision(s) had never been contained herein.

14. Neither Party is the agent for the other Party.

15. Both Parties shall adhere to the U.S. Export Administration Laws and Regulations and shall not export or re-export any of the other Party's technical data or products received under this Agreement or the direct product of such technical data to any proscribed country listed in the U.S. Export Administration Laws and Regulations unless properly authorized by the U.S. Government.

16. This Agreement represents the complete and entire agreement between the Parties hereto related to the subject matter hereof and shall not be amended without the written consent of both Parties hereto.

17. This Agreement may be executed in counterparts (including PDF-formatted counterparts sent by electronic mail) with the same effect as if all signing parties had signed the same document.

