



## CENTURY FASTENERS CORP.

Century Fasteners Corp.

8-4-22

**READ ONLY - NDA COPY [For Reference Purposes Only] 01000-CPD-Form-159 Rev. 1**

The Parties hereby agree as follows:

1. Century may transfer or disclose confidential information (“CI”) under this Agreement to the Receiving Party, which may include, but not be limited to, any and all technical and business information pertaining to the business and commercial operations of Century regardless of whether the information is disclosed in writing, orally, electronically, visually, or in any other form or medium of disclosure. Such “technical and business information” may include, but is not limited to, information pertaining to: (i) designs, drawings, sketches, models, techniques, samples, materials, constructions, specifications, operation and operating characteristics of products and potential products; (ii) methods, techniques, processes, tools, equipment and systems; (iii) uses and applications of products and potential products; (iv) costs of producing products and services; (v) identities of existing and potential suppliers; (vi) identities of existing and potential customers, as well as point-of-sale information related to such customers; (vii) plans, strategies and tactics, and any other business, technical, financial and commercial information pertaining thereto; and (viii) any business, technical, financial and commercial information, computer programs and reports, and any designs, creations, inventions, discoveries, improvements, technical information, experimental results, data and reports. CI includes and any of the above received from third parties to whom Century owes the same duty of confidentiality and that is passed on to the Receiving Party.

2. If required by a governmental authority having jurisdiction over the Receiving Party, the Receiving Party may disclose CI to such governmental authority; provided, however, that prior to making any such disclosure, the Receiving Party will: (i) provide Century with the greatest advance written notice practical under the circumstances, of its intent to so disclose; (ii) make every reasonable effort to resist disclosure of the CI, and (iii) if compelled to disclose, use all reasonable efforts minimize the amount of CI to be provided consonant with the requirements of the governmental authority involved and attempt to secure confidential treatment of the CI provided.



## CENTURY FASTENERS CORP.

3. The obligations of confidentiality and restrictions on use specified in this Agreement shall not apply to any information that:

- a. is already in the possession of Receiving Party without obligation of confidentiality at the time of receipt from Century;
- b. is independently developed by Receiving Party as evidenced by appropriate documents;
- c. is or becomes publicly available, including by inspection of a commercially-available product, without breach of this Agreement by Receiving Party;
- d. is rightfully received, free of restrictions, by Receiving Party from a third party, unless Receiving Party is notified by Century of misappropriation by said third party promptly after Century knew, or should have known, of such misappropriation; or
- e. is released by Century to any third party without imposing similar restrictions.

4. Receiving Party agrees to use the same level of care and discretion as Receiving Party uses with respect to similar information of its own, but not less than reasonable care. Receiving Party agrees that any CI disclosed hereunder: (i) shall be used by Receiving Party solely in connection with its dealings with Century; (ii) shall not be distributed, disclosed or disseminated to any third party (except as provided for in this Agreement); (iii) shall only be disclosed to Receiving Party's direct employees on a need-to-know basis; and (iv) shall only be disclosed to third parties (such as, but not limited to, agents, representatives or consultants) on a need-to-know basis, with the consent of Century and provided that (a) such third party has executed a nondisclosure agreement with Century or (b) such third party executes a nondisclosure agreement with the Receiving Party containing terms consistent with the requirements herein prior to receiving such information. It is a requirement of this Agreement that Receiving Party notify any employee or third party who is to receive any CI of the existence and the contents of this agreement.



## CENTURY FASTENERS CORP.

5. Receiving Party shall be allowed to make copies of any CI disclosed by Century so long as the markings on the original information are affixed to all copies (including partial copies) and provided such copies are necessary to fulfill the Receiving Party's obligations to Century.
6. Nothing in this Agreement shall, by express grant, implication, estoppel or otherwise, create in Receiving Party any right, title, interest, or license in or to the inventions, patents, technical data, computer software, software documentation or other intellectual property of Century.
7. Either Party shall have the right to terminate this Agreement at any time by giving the other Party written notice of such termination at least thirty (30) days prior to the effective date of the termination. Upon termination, Receiving Party shall either return or destroy, with written certification of destruction to Century, all CI, and call copies of CI. Receiving Party's obligations under this Agreement shall survive and continue in effect for a period of five (5) years from the date on which Receiving Party returns or destroys all CI. Upon such termination, Receiving Party and its Agents shall immediately cease from using Century's CI for any purpose whatsoever.
8. Receiving Party acknowledges and agrees that, due to the unique nature of Century's CI, there can be no adequate remedy at law for any breach of its obligations hereunder, that any such breach will result in irreparable harm to Century, and, therefore, Century shall be entitled to seek appropriate equitable relief in addition to remedies it might have at law. Receiving Party shall notify Century in writing immediately upon the occurrence of any unauthorized release of CI, whether inadvertent or otherwise, and shall use reasonable efforts to prevent or limit any further dissemination of such Information.
9. In the event that any of the provisions of the Agreement shall be held by a court or other tribunal of competent jurisdiction to be unenforceable, that portion shall be severed and a new enforceable provision shall be negotiated by the Parties and substituted therefore to accomplish the intent of the severed provision as nearly as practicable. The remaining provisions of the Agreement shall remain in full force and effect.
10. No waiver or modification of this Agreement will be binding upon either Party unless made in writing and signed by a duly authorized representative of such Party, and no failure or delay in enforcing any right will be deemed a waiver.



## CENTURY FASTENERS CORP.

11. Export regulations may apply to any authorized release of CI by Receiving Party and Agents. This Agreement does not authorize export of technical data. Receiving Party shall control access to information received hereunder in accordance with all applicable U.S. Export laws and regulations.
12. Each Party shall bear all costs and expenses incurred by it under or in connection with this Agreement. Nothing in this Agreement shall be construed as an obligation by either Party to enter into a contract, subcontract, or other business relationship with the other Party.
13. Century warrants that it has the right to disclose its CI for the purposes of this Agreement. CENTURY MAKES NO REPRESENTATION, EITHER EXPRESSED OR IMPLIED, AS TO THE ADEQUACY, ACCURACY, SUFFICIENCY OR FREEDOM FROM DEFECT OF ANY KIND OF THE CI, INCLUDING FREEDOM FROM ANY PATENT INFRINGEMENT THAT MAY RESULT FROM THE USE OF SUCH CI, NOR SHALL CENTURY INCUR ANY RESPONSIBILITY OR OBLIGATION WHATSOEVER BY REASON OF SUCH CI, EXCEPT AS PROVIDED IN THIS AGREEMENT.
14. This Agreement shall be governed and interpreted by the laws of the State of New York, without making reference to its Conflicts of Laws provisions. In the event that a dispute cannot otherwise amicably be resolved between the Parties, the Parties agree that the mandatory venue for resolution of all disputes arising from or relating to this Agreement, including its formation, shall be solely in the state of New York. The Parties waive any claim that such venue is inconvenient.
15. The Receiving Party may not assign or otherwise transfer this Agreement or any of its rights and obligations hereunder to any third party (except to a legally recognized successor in interest to all or substantially all of the Party's assets) without the prior consent in writing from Century, which consent shall not be unreasonably withheld.
16. This Agreement supersedes all prior discussions and writings with respect to the subject matter hereof, and constitutes the entire agreement between the Parties with respect to the subject matter hereof. This Agreement cannot be changed in any respect except as agreed in a writing of subsequent date that is duly executed by authorized representatives of both Parties.

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