

## License Agreement for Use of the Distinctive PEAK Mark Issued in France by Cemafroid

N° PEAK/CMU/....IND N°...

New license agreement  
or  
 Delete et replace the license agreement signed the \_\_\_\_/\_\_\_\_/\_\_\_\_ N° .../..... IND N°

Entered into by and between

.....,.....at.....  
.....and registered under no.....,  
Here by represented by ....., President of .....

Here in after referred to as  
Cemafroid on one hand,

and

....., ..... at ..... and registered in  
the .....Register of Companies under no. ....,  
Here by represented by ....., acting as .....

Here in after referred to as the  
Licensee, on the other hand,

Whereas:

The Dutch Government has launched a standard for low-noise delivery vehicles and developed the PEAK certification system.

Cemafroid, an independent cold chain expertise centre, has been mandated in France to manage the rights of use of the PEAK mark and to perform type certification and related testing according to the certification and test protocols approved by RAI- NL.

The Licensee holds one or more type conformance certificates for products and equipment to which the Licensee wishes to affix the distinctive PEAK Marking issued in France by Cemafrid, the type being declared by the Licensee to be in conformity with the products and equipment defined by the type of conformance certificates it holds to which Cemafrid consents.

## Article 1 - Purpose of the Agreement

The purpose of this Agreement is to define the conditions in which Cemafrid grants a license to use the distinctive PEAK Mark in France, as embodied by the logotype and its conditions of use as listed in Article 2 of this Agreement.

## Article 2 - Description of the Distinctive PEAK Mark - Definitions

The distinctive PEAK Mark issued in France by Cemafrid comprises a 100mm X 175mm numbered label identical to the model shown in Figure 1, supplied by Cemafrid at the Licensee's request and showing:

- the "PEAK certificate" logotype on a brushed aluminium-like background;
- the Cemafrid (certification body) logotype on a white-background frame, preceded by a block intended for a unique reference number defined by Cemafrid at the Manufacturer's request.



Figure 1: Model  
Label

When the distinctive Mark is affixed to a component such as defined by the reference test protocol used to issue the type conformance certificate, the distinctive PEAK Mark issued in France by Cemafrid comprises a label identical to the model shown in Figure 1, with the term "component" additionally affixed by the manufacturer.

The size of the distinctive Mark may be changed at any time at the initiative of Cemafroid on condition that proportions which are homothetical to those of the model on Figure 1 be maintained.

It is specified that the Cemafroid logotype has been filed with INPI (French National Patent Office) under number 00 3 052 316. It is the exclusive property of Cemafroid. Use of the Cemafroid logotype alone by the Licensee is forbidden. The distinctive Peak Mark, except for the logo of the certification body (Cemafroid logo), is the exclusive property of RAI Vereniging Kennedylaan 925, 1079 MZ Amsterdam and the national partner organisations (Cemafroid in France) which have been mandated by RAI to grant usage rights.

### **Article 3 - Use of the distinctive PEAK Mark issued in France by Cemafroid**

The Licensee may affix the distinctive PEAK Mark issued in France by Cemafroid and conforming to the definition of Article 2 to the products it manufactures or assembles, subject to the Licensee meeting the following requirements:

The Licensee declares to be aware of the procedures for affixing the distinctive PEAK Mark issued in France by Cemafroid, including the characteristics covered by the type certification, the test protocols applied and the information procedures of Cemafroid and its mandater.

The Licensee declares by affixing the distinctive Mark that the product concerned is in every aspect identical to a product which was issued a type of conformance certificate drawn up by Cemafroid according to the test protocol applicable to PEAK type certification;

The Licensee shall implement in-house inspection procedures to demonstrate that the products to which the distinctive Mark has been affixed meet the specifications of the products which were issued a type conformance certificate.

The Licensee shall affix the distinctive Mark only by means of the marking labels supplied by Cemafroid and shall ensure traceability between the identification number of the affixed label, the identification numbers of the product concerned and the associated certificate of conformity.

The Licensee shall keep a management record for the marking labels supplied by Cemafroid and shall not build a stock deliberately in excess of the Licensee's actual needs.

The Licensee gives CEMAFROID, for each type conformance certificate issued, permission to use said certificates to the exclusion of any other document, including test reports. Only the certificates will be available online via the database [www.https://peak.cemafroid.com](https://peak.cemafroid.com)

The Licensee shall implement any actions made necessary by possible changes in the rules of use of the distinctive Mark as imposed by the

organisation which mandated Cemafrid in relation to declaration of PEAK-marked products or in the event of abusive use of the "Cemafrid" logotype or processing of a complaint relating to the characteristics of the product and the characteristics of the certified type.

The Licensee shall not affix any other distinctive Mark relating to the same certified characteristics to the products concerned.

The Licensee shall provide customers of products to which the distinctive Mark has been affixed with any and all information provided by Cemafrid or its mandatory whenever so requested by Cemafrid.

In addition, the Licensee is entitled to reproduce the distinctive Mark on any graphic or non-graphic medium (including, without limitation, sales documents, advertising messages and/or on the Internet). Any documents from the Licensee bearing reference to the obtained license to use the distinctive PEAK Mark issued in France by Cemafrid must explicitly mention the Certification body, i.e., Cemafrid. Designations such as "components or equipment for which a PEAK declaration of conformity has been issued by CEMAFROID" are acceptable. However, designations such as "*PEAK-authorized, PEAK-approved by Cemafrid*" are not allowed.

Use of the distinctive Mark is subject to the holding of at least one type conformance certificate as drawn up by Cemafrid for a product of similar design to that on which the distinctive Mark has been affixed. Therefore, the Licensee shall no longer use the distinctive PEAK Mark if the design of its products is modified, unless the new design has undergone review or further testing by CEMAFROID.

Should the Licensee have a test report for a product type which has been drawn up by a laboratory approved by an authorised representative of the distinctive Mark, the Licensee must have a type conformance certificate drawn up by Cemafrid as part of a test acknowledgement procedure, to claim the right to affix the distinctive Mark labels to such products, although another organisation representing RAI may have previously granted the Licensee a license or right of use in another State having an mandated certification body.

The Licensee shall take such actions deemed necessary to remove any reference to the distinctive PEAK Mark from any medium, should the Licensee no longer hold a type conformance certificate for the products concerned, or in the event of a change of design which may modify the characteristics of the certified type.

Should the Licensee fail to do so, Cemafrid reserves the right to take any legal action it deems appropriate under the applicable law.

The license is granted for use by the Licensee only and shall not be assigned or transferred under any circumstances. In no event may this authorisation become an element made valuable by the Licensee, and the Licensee shall not assign or transfer it, whether on a free-of-charge or paying basis.

The Licensee authorises Cemafrid to ensure that the provisions of this Agreement are complied with and shall provide, whenever so requested by Cemafrid, any and all information necessary for such inspection within a specified time period not to exceed 4 weeks after receipt of the Cemafrid notification.

#### **Article 4- Licensee Responsibility**

The Licensee acknowledges that the affixing of the distinctive PEAK Mark issued in France by Cemafrid to manufactured products, as performed under its sole authority, does not commit Cemafrid in any way to the conformity of the products thus marked.

Except for the cases mentioned in Article 5, regarding the obligations of CEMAFROID, the Licensee shall not take any action in warranty against CEMAFROID, for any contestation made by third parties or Administrations.

The Licensee acknowledges its obligation to perform any inspections and declarations of conformity of the products as defined in this Agreement, and to do everything possible to ensure traceability of the actions performed for purposes of subsequent inspection.

#### **Article 5 - CEMAFROID Warranties and Responsibilities**

Cemafrid warrants that it holds the rights of use of the distinctive PEAK Mark and that this license is not in violation of any other licenses and/or assignments which may have been granted to third parties.

Cemafrid indemnifies the Licensee against any disturbance, eviction, claim and/or action from any third party in relation to use of the distinctive PEAK Mark.

On account of the assessments consisting in a review of the type of a product representative of the production process based on the tests conducted on the prototypes provided or on a review of test results obtained in the test report

acknowledgement process (established according to the test protocol applicable to PEAK type certification), Cemafrid's responsibility remains limited to the declaration of conformity of the product which has been tested or holds a test report recognized by Cemafrid.

#### **Article 6 - Information**

The Licensee shall provide Cemafrid with a copy of the documents bearing reference to the distinctive PEAK Mark issued in France by Cemafrid within 8 weeks from the date of insertion of the distinctive PEAK Mark into its publications.

#### **Article 7-Term**

The license is granted for a period of one year, tacitly renewable subject to the holding of at least one type conformance certificate being maintained for one or several products included in the PEAK scheme.

## Article 8 - Financial Conditions

The license is granted against payment by the Licensee of a fixed annual sum of **€324 excluding VAT**.

This sum shall be paid to Cemafrid on receipt of the invoice.

This price is reviewed each years by the Cemafrid.

In addition to the annual license, the Licensee shall pay for the supplies (marking labels, promotional poster etc.) on the basis of an annual rate disclosed to the Licensee in January of each year.

## Article 9 - Termination

Cemafrid reserves the right to terminate this License Agreement if:

at least one of the provisions of Articles 2 and 3 and 4 has not been complied with;

abusive use has been made of the Cemafrid logotype or the distinctive PEAK Mark issued in France by Cemafrid. Abusive use means affixing, or making reference to, the distinctive Mark other than as provided for in this Agreement, or in circumstances potentially misleading as to the characteristics actually certified;

the distinctive Mark has been affixed by the Licensee, although the products differ from those for which a type conformance certificate was issued;  
the license fee or the fees relating to issuance of the distinctive Mark have not been paid; or

claims or complaints have been made about the characteristics of the products with regard to the applicable requirements.

Such termination shall be notified by registered mail with acknowledgement of receipt, after a first formal demand letter has been sent, mentioning the failed obligation, and remained without effect after 2 months; said termination will then become effective 2 months following receipt of the said letter by the Licensee.

In the event of termination, the Licensee shall not use the documents bearing reference to the Peak distinctive Mark during a period not exceeding four weeks after the date of notification by Cemafrid and shall immediately return any marking labels yet unused.

## Article 10 - Amendment

This Agreement is subject to change by amendment.

## Article 11 - Disputes

French law is applicable.

The parties shall strive to settle amicably any and all disputes arising in relation to the interpretation or performance of this Agreement. Should they fail to do so, the parties shall submit the dispute to the competent jurisdiction of the Département des Hauts de Seine (French Republic).

Executed in FRESNES, on ..... in ....., on .....

President of Cemafrid For the Licensee

Gérald CAVALIER .....