

Mutual Confidentiality And Non Disclosure Agreement

BAUMANN (Full company name)
(Address)

who receive Confidential Information comply with the same conditions of confidentiality as are in this Agreement.

1. Agreement

(»Agreement«) is entered into and is effective as of this (Date) [] of (months), (Year) , by and between BAUMANN (Full company name) , a .(country). company, having a principal place of business at (Address) , and (Customer Company name) , a (Country) company, having a principal place of business or address at (Address).

2. Whereas

Both parties desire to evaluate certain potential business opportunities; and

During the evaluation process, either party may disclose to the other party certain information it deems confidential and proprietary;

3. Now, therefore

in consideration of either party's disclosure of Confidential Information (as hereinafter defined) and the mutual covenants contained herein, the parties agree as follows:

4. Confidential Information

»Confidential Information« shall mean any and all data, documentation and other information disclosed by one party (»the Disclosing Party«), or any affiliate of the Disclosing Party, to the other party (the »Recipient«), or any affiliate or other person acting on behalf of the Recipient, in whatever form disclosed, relating to either of the parties hereto, that is in writing and marked »Confidential« on its face, or if first disclosed to Recipient orally, is reduced to writing and delivered to Recipient within 14 days of such disclosure and marked »Confidential« on its face.

»Confidential Information« shall include, but is not limited to, financial data, business plans and strategies, business operations and systems, trade secrets, and information concerning sales representatives, employees, customers and vendors, or technology, such as systems, discoveries, inventions, improvements, research, development, know-how, designs, product specifications, software, codes, flow charts, schematics, blue prints, prototypes, devices, hardware, technical documentation, and manufacturing processes.

»Affiliate« means any affiliated company of one party in the meaning of Section 15 et sqq. German Stock Corporation Act (AktG).

5. Non-Disclosure and Non-Use of Confidential Information.

Recipient shall neither:

5.1 disclose, disseminate or publish Confidential Information received hereunder to any person or entity without the prior written consent of the Disclosing Party, except to employees of Recipient who have a need to know, who have been informed of Recipient's obligations hereunder, and who have agreed not to use or disclose Confidential Information; nor

5.2 use Confidential Information for any purpose other than for its Intended Use agreed to, in advance, by the Disclosing Party.

Recipient agrees to use reasonable care, but in no event less than the same degree of care that it uses to protect its own most highly confidential information, to prevent any unauthorized disclosures of Confidential Information. Recipient shall also ensure that employees of the Recipient

6. 6. Exceptions

Recipient shall have no obligation under this Agreement to maintain in confidence any information which Recipient can prove:

6.1 is disclosed in a printed publication available to the public; or

6.2 is otherwise in the public domain at the time of disclosure or subsequently becomes part of the public domain through no fault of the Recipient or persons or entities to whom Recipient has disclosed such information; or

6.3 is in the possession of Recipient prior to the time of disclosure by the Disclosing Party and is not subject to any duty of confidentiality; or

6.4 Recipient obtains from any third party not under any obligation to keep such information confidential; or

6.5 was developed by Recipient independent of the Confidential Information provided by the Disclosing Party; or

6.6 is approved for release in writing by the Disclosing Party; or

6.7 Recipient is compelled to disclose or deliver in response to a law, regulation, or governmental or court order (to the least extent necessary to comply with such order), provided that Recipient notifies the Disclosing Party promptly after receiving such order to give the Disclosing Party time to contest such order.

7. Ownership of Confidential Information

All Confidential Information shall remain the exclusive property of the Disclosing Party. This Agreement does not give Recipient a license or any other rights to any of the Confidential Information.

8. Return of Confidential Information

Recipient or any affiliate or other person acting on behalf of the Recipient will return, and will procure that any affiliate or other person acting on behalf of the Recipient will return, all tangible forms of Confidential Information, including, but not limited to, all documentation, brochure, computer programs, notes, prototypes, models, devices, and copies thereof, both in machine readable form and human readable form, to the Disclosing Party immediately upon its prior written request. Recipient shall be permitted to keep one record of the documents containing Confidential Information and, if applicable, one sample of each such compound in its legal files for archival purposes only.

9. Discussions

Recipient or any affiliate or other person acting on behalf of the Recipient shall not publicize or disclose beyond those persons to whom Confidential Information may be disclosed hereunder the existence of any relationship or discussions with the Disclosing Party, and said information shall be deemed Confidential Information for all purposes hereof.

10. No Business Obligation

Neither party shall be obligated to consummate any transaction or business relationship by virtue of this Agreement or their discussions.

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11. 11. Rights and Remedies

Recipient shall notify the Disclosing Party in writing immediately upon discovery by Recipient of any unauthorized use or disclosure of Confidential Information, and will cooperate with Disclosing Party in every reasonable way to regain possession of the Confidential Information and prevent its further unauthorized use. Recipient acknowledges that monetary damages may not be sufficient remedy for unauthorized disclosure or use of Confidential Information, and that the Disclosing Party may be entitled, in addition to all other rights or remedies in law and equity, to obtain injunctive or other equitable relief, without necessity of posting bond in connection therewith.

12. 12. Term of Agreement

The non-disclosure and non-use of Confidential Information obligations of this Agreement shall continue for a period of five (5) years from the date of the date of this Agreement unless otherwise agreed to in writing between the parties. Each party's obligations under this Agreement shall survive the termination of any discussions and business relationships it has with the other party.

13. 13. General

Entire Agreement. This Agreement constitutes the entire Agreement between both parties regarding the Confidential Information and Product and supersedes all oral or written agreements, either prior or contemporaneously with this Agreement, concerning the Confidential Information and Product.

13.1 Modification

This Agreement may not be modified except by written agreement dated subsequent to the date of this Agreement and signed by both parties.

13.2 Waiver

No waiver of any obligation under this Agreement shall be effective unless in writing, and shall then be effective only for the specific instance for which such waiver was given and no other.

13.3 Assignment

Recipient may not transfer, assign, convey, sublet or delegate any rights and obligations to a third party without the prior written consent of the Disclosing Party.

13.4 Governing Law

This Agreement and its Appendices shall be construed and governed by the laws of Germany.

If the Partners hereto are unable to resolve any controversy or claim arising out of or relating to this Agreement or any breach thereof amicably the dispute shall be submitted to a court of three arbitrators of the Zurich Chamber of Commerce with seat in Zurich, Switzerland, one arbitrator to be appointed by each of the Partners, unless the Partners agree on the name of a single arbitrator. Arbitration shall be held in the English language and be conducted in Zurich, Switzerland. The Partner agree that any final decision pursuant to the provisions of the

Conciliation and Arbitration Rules of the Zurich Chamber of Commerce shall be final and binding upon the Partners and be enforceable against them in any court of competent jurisdiction.

13.5 Severability

If any provision of this Agreement shall be held by a court of competent jurisdiction to be unenforceable, then such provision may be rewritten by such a court with least modification necessary to render such provision valid, and the remaining provisions of this Agreement shall remain in full force and effect. It is the parties' intention that this Agreement be enforced to the fullest extent permissible under equity or law.

13.6 Notice

Any notices required to be given under this Agreement shall be sent by registered or certified mail, return receipt requested, to the parties at the addresses first set above, or to such other address as a party may indicate by like notice.

13.7 Headings

The headings in this Agreement are for convenience only and are not intended to affect the interpretation of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

Company: BAUMANN (Full company name)

By: _____ By: _____

Name: _____ Name: _____

Title: _____ Title: _____

Company: SUPPLIER (Full company name)

By: _____ By: _____

Name: _____ Name: _____

Title: _____ Title: _____