# Non-Disclosure Agreement

(hereinafter referred to as **"Agreement"**)

between

    **[company]**, [address], [country]

- hereinafter referred to as "**Recipient**" -

and

    **[Bauer Group company]**, [address], Germany

- hereinafter referred to as "**Principal**" -

Recipient and Principal collectively referred to as "**Parties**", individually as "**Party**"


**Recitals**:

The Parties have entered into the project relationship described below (hereinafter referred to as **"Project"**) and the Principal has disclosed, or will disclose, confidential information to the Recipient within the scope thereof.

| |
|---|
| <u>Project description:</u><br><br>[...] |


**Agreement**:

1. Definitions

    1.1.   **"Confidential Information"** means all financial, technical, commercial, economic, legal, and tax-related information as well as all information relating to the business activities and strategy, employees, and management and other information (including data, drawings, descriptions, records, data regarding the design, development, manufacturing and integration of equipment and/or parts, and know-how) relating to the Principal or its Affiliates and which is provided to the Recipient, its executive bodies, employees, consultants, or other third parties acting for the Recipient directly or indirectly, by the Principal or one of its Affiliates, or of which the Recipient obtains knowledge in any other manner, regardless in which data medium the information is stored. Verbal information shall also be included. It is further irrelevant if documents or other data media have been prepared by the Principal or the Recipient or third parties, if they contain information relating to the Principal or its Affiliates.

        Confidential Information also includes the fact itself that Confidential Information has been disclosed, the existence and content of this Agreement, and all other information relating to the performance of the Project, including the fact that talks will be held on the Project and the status of these talks.

        Confidential Information does not include any information for which the Recipient can prove that

-   it was already in the public domain at the time of disclosure to the Recipient, or later becomes part of the public domain without a breach of this Agreement,

-   the Recipient already held such information prior to its disclosure by the Principal or one of its Affiliates, regardless of the Project and without violating any non-disclosure agreements or obligations, or that it is being developed independently from the Project with the Principal, or

-   that the Recipient is required to disclose in order to comply with mandatory laws and regulations, court orders or instructions of a competent government authority, to defend or prosecute litigation, provided that the Recipient provides prior written notice of such disclosure to the Principal, to the extent permitted by applicable law. The Recipient shall take and implement appropriate and legitimate actions and measures for preventing such disclosure and/or reducing its scope to a minimum.

    1.2.   **"Affiliates"** are affiliated companies pursuant to sections 15 et sqq. of the German Stock Corporation Act [AktG - Aktiengesetz] at the date of this Agreement or companies that are affiliated in the future accordingly.

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2. The Recipient shall treat the Confidential Information strictly confidential and shall refrain from any unauthorized use, from performing reverse engineering, replication, reproduction, disclosure, publication, or dissemination of the Confidential Information. The Recipient shall disclose Confidential Information solely to its employees, vicarious agents, other natural persons or legal entities acting for the Recipient, if and insofar as disclosure is required within the scope of the Project, and these persons and entities have been obliged to maintain secrecy and use the Confidential Information in accordance with this Agreement, prior to disclosure of Confidential Information to these persons and entities.

3. The Recipient shall use the Confidential Information solely within the scope of the Project and shall refrain from using it in any other manner.

4. The Principal and/or its Affiliates shall retain all rights in and to the Confidential Information. The Recipient shall not derive nor be granted any rights from the disclosure of Confidential Information. The Recipient shall not claim nor derive any rights based on prior use regarding the Confidential Information, nor present objections to any property rights registrations submitted by the Principal or its Affiliates. The Recipient shall refrain from registering property rights based, or derived, entirely or in part on the disclosure of Confidential Information.

5. The Recipient shall return all Confidential Information received and any copies made thereof to the Principal or destroy and/or delete it at any time upon request of the disclosing Party, but no later than the expiry of this Agreement. The Principal's request to return, destroy or delete any Confidential Information received or copies thereof must not specifically designate the relevant information. Subject to Section 6, the right of retention, for whatever reason, shall be explicitly excluded.

6. The obligation to return, destroy and/or delete the Confidential Information under Section 5 above shall not apply if the Recipient is obliged to retain it for compliance with the law, regulations of a stock market, or compelling instruction of a competent government authority or court. The obligation under Section 5 shall further not apply to automatically generated electronic backup copies. This Confidential Information shall then be treated as confidential for the entire retention period in accordance with this Agreement.

7. In case of breach of the obligations arising from Sections 2 and 3, the Recipient shall pay to the Principal liquidated damages in the amount of EUR 30,000 for each culpable breach, unless the Principal can prove that the actual damage is higher, in which case the Principal is entitled to the amount of the actual damage. This also applies in the event that a breach is repeated. Payment of liquidated or actual damages shall not release the Recipient from its obligations according to this Agreement.

8. No failure or delay by the Principal in exercising any right, power, or privilege hereunder shall constitute a waiver of such right, power, or privilege, nor constitute a future waiver of  such right, power, or privilege. In the event of any breach of this Agreement by the Recipient, its Affiliates or its/their officers or employees, the Principal shall be entitled to equitable relief, including without limitation specific performance and injunction. Such remedies shall be in addition to other remedies available under applicable law or equity and the Recipient shall bear all reasonable expenses incurred in connection thereto.

9. This Agreement shall become effective upon signature and shall expire upon completion of the Project, but at the earliest after a term of five years. This Agreement shall also include Confidential Information disclosed or made accessible by the Principal within the scope of the Project prior to signature of the Agreement. The obligations arising out of this Agreement shall not be affected by the termination or expiry of this Agreement, for whatever legal reason, and shall continue to be valid and apply for five years from the date of termination or expiry of this Agreement.

10. This Agreement does not constitute an obligation to disclose information, including but not limited to Confidential Information, or to conclude further contracts. Neither Party may claim from the other Party compensation for expenses having arisen in connection with this Agreement and/or the Project or rely on the assumption that further contracts will be concluded with the other Party.

11. This Agreement is governed by the laws of the Federal Republic of Germany. All disputes arising out of or in connection with this Agreement or its validity shall be finally settled in accordance with the Arbitration Rules of the German Arbitration Institute (DIS) without recourse to the ordinary courts of law. The arbitral tribunal shall be comprised of one arbitrator for disputes with a value of up to EUR 1 million, of three arbitrators for disputes with a value of more than EUR 1 million. The place of arbitration shall be Ingolstadt, Germany. The language

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of the arbitration shall be English.

12. The invalidity or unenforceability of any provision of this Agreement, wholly or in part, and the existence of loopholes therein shall not affect the validity and enforceability of the remaining provisions of this Agreement. Any invalid or unenforceable provision shall be replaced and any loophole filled by a provision which fulfills to the closest possible extent the original economic intent behind the invalid or unenforceable provision, or which would have been agreed in line with the spirit and purpose of this Agreement, if the Parties had been aware of the invalidity, unenforceability or loophole.

<u>For and on behalf of</u> [•]                    <u>For and on behalf of</u> [•]

_____ ,                                      _____ ,
Place, date                                       Place, date


_____                             _____
Signature                                         Signature
Name: _____                             Name: _____

Position: _____                            Position: _____