

# 北京奔驰保密协议

## BBAC NON-DISCLOSURE AGREEMENT

甲方：北京奔驰汽车有限公司 (以下简称“北京奔驰”)

Party A: Beijing Benz Automotive Co., Ltd. (Hereinafter referred to as “BBAC”)

地址：中国北京经济技术开发区博兴路 8 号 邮编：100176

Address: No.8 Boxing Road, Beijing Economic-Technological Development Area (BDA), Beijing 100176, P.R. China

乙方：(以下简称“供应商”)

Party B: (Hereinafter referred to as “Supplier”)

地址：

Address:

以下对北京奔驰和供应商，分别称为“一方”，或合称为“双方”。

BBAC and Supplier are referred individually to as “Party” or collectively to as “Parties”.

项目：

Project:

鉴于

### WHEREAS

1. 北京奔驰有意就其需求与供应商进行协商，以期供应商提供服务或产品(以下称“业务”)。

BBAC intends to negotiate with Supplier and expects Supplier to provide service and/or products in connection with demand of BBAC (hereinafter referred to as “Business”).

2. 为上述目的，一方有必要向对方披露一定的信息，并可能因进入对方营业场所、接触对方人员或生产对方所需货物而获知对方信息。为确保信息接受方对披露方的信息予以保密，双方特签订本保密协议。

It is necessary for a Party to disclose some information to the other Party for the aforementioned purpose. A Party may also learn about the other Party’s information by entering premises of the other Party, contacting the other Party’s staff or producing the goods demanded by the other Party. In order to secure that Recipient maintains the confidentiality of such information, both Parties conclude this Non-Disclosure Agreement.

## 1. 定义

### Definition

1.1. “保密信息”指：

a) 由披露方以任何形式向接受方提供的不为公众所知晓的信息；

b) 接受方在进入对方营业场所、接触对方人员或生产对方所需货物，而获知的对方的不为公众所知晓的信息；

上文 a) b) 中的信息包括但不限于：专有技术、保密资料、商业秘密、商业计划、投资信息、财务信息、营销策略、产品信息、技术资料、样件、成品、图像影音等。

“Confidential Information” shall mean:

a) any information which is provided by Disclosing Party to Recipient in any manner, but not known by public; and

b) any information which is known by Recipient when entering premises of the other Party, contacting the other Party’s staff or producing the goods demanded by the other Party, but not known by public;

Information of the a) and b) above includes but is not limited to know-how, confidential material, trade secrets, business plan, investment information, finance information, marketing strategy, product information, technical information, sample, finished product, image, video and audio etc.

1.2. “载体”指用于植入、记载或反映“保密信息”的任何和所有的仪器、模型、样品、原型、纸样文本、图纸、磁盘、磁带、光盘、储存器等物体。

“Media” shall mean any and all apparatus, modules, samples, prototypes, paper documents, drawings, disks, tapes, CD, memory, etc. in which the Confidential Information is embedded, recorded, contained or reflected.

- 1.3. “披露方”是指北京奔驰或供应商中向另一方提供保密信息的一方。

“Disclosing Party” is one Party of BBAC or Supplier, which provides the other Party with Confidential Information.

- 1.4. “接受方”是指北京奔驰与供应商中根据 1.1 接受或获知保密信息的一方；

“Recipient” is one Party of BBAC or Supplier, which receives or learns about Confidential Information from the other Party, according to Article 1.1.

- 1.5. “关联公司”是指控制或影响接受方、或被接受方控制或影响、或被接受方另一“关联公司”所控制或影响的任何企业、公司或其他实体。其中“控制”或“影响”意味着直接或间接地拥有该企业、公司或其他实体的表决权或选举董事(或拥有同等职能之人员)的表决权。“控制”或“影响”亦可通过其他任何选举或指派董事(或拥有同等职能之人员)的方式来实现。然而，只有在该等“控制”或“影响”存续期间，该企业、公司或其他实体才被认为是接受方的“关联公司”。

"Related Company" shall mean any corporation, company or other entity, which controls or affects Recipient, or is controlled or affected by Recipient or by another corporation, company or other entity controlled or affected by Recipient. In this case, "control" or "affect" means direct or indirect ownership of such corporation's, company's or other entity's voting shares or of the shares entitling the holders to vote for the election of directors or persons performing similar functions. "Control" or "affect" shall also exist through the direct or indirect right by any other means to elect or appoint directors, or persons performing similar functions. However, any such corporation, company or other entity shall be deemed to be a Related Company of Recipient only so long as such "control" or "affect" exists.

## 2. 保密规定

### CONFIDENTIALITY

- 2.1. 接受方只能因“业务”之目的使用披露方的“保密信息”，除非披露方以书面形式明确同意可作他用。

Disclosing Party's Confidential Information shall be used by the Recipient only for the purpose of the Business, unless other purposes are expressly agreed to by the Disclosing Party in writing.

- 2.2. 接受方不得以任何方式将保密信息发布或披露给任何人，除了那些因为“业务”而有必要知道该等保密信息的关联公司及接受方或其关联公司的雇员、咨询顾问，前提条件是该等关联公司、雇员及咨询顾问受到雇用协议或其他书面协议所规定的不亚于本协议保密义务的约束。接受方将对前述关联公司、雇员或其咨询顾问的任何未经披露方授权的发布、使用和/或披露保密信息的行为负责，无论该行为是由于疏忽或其他任何原因造成的。

Disclosing Party's Confidential Information shall not be distributed or disclosed in any way or form by the Recipient to anyone except to Related Company and the employees and consultants of Recipient or its Related Company, which/who of them is (are) necessary to know such Confidential Information for the purpose of the "Business", on condition that such Related Company, employees and consultants are bound either by their employment agreement or other written documents to an extent not less stringent than the obligations imposed on the Recipient under this Agreement. Recipient shall be liable for any unauthorized (without authorization by Disclosing Party) distribution, use and/or disclosure of Confidential Information by the aforesaid Related Company, employees or consultants, no matter such behaviors are caused by negligence or otherwise.

- 2.3. 接受方应对披露方的保密信息进行保密，以避免被披露给任何第三方，且该等保密等级不应低于对接受方自身同等重要的“保密信息”进行保密的程度。

Disclosing Party's Confidential Information shall be kept confidential by the Recipient with the confidential level which is not less stringent than the Recipient's confidential level for its own equally important confidential information, in order to avoid any disclosure to any third party.

- 2.4. 披露方的保密信息及其知识产权归披露方所有，除 2.1、2.2 款的规定外，接受方不因该等披露而拥有任何有关该等保密信息及知识产权的权益。

Disclosing Party's Confidential Information, together with the intellectual property rights reflected thereupon, shall be owned by Disclosing Party. Except for the right to use the Confidential Information for the BUSINESS stipulated in 2.1 and 2.2, Recipient shall not acquire any rights and interests of such Confidential Information and intellectual property rights arising from such disclosure.

- 2.5. 一方人员(包括其分包商人员)在对方营业场所中时，应遵守对方的对外来人员的管理规定，特别是保密方面的禁止性规定。

除经对方事先同意，一方不得于对方营业场所内抄录、拍照、录音、摄像、复印等。如获得对方事先同意，则通过上述方法获得的图文影音资料应视作“保密信息”。

Staff of a Party (including staff of its subcontractor) shall obey regulations of the other Party regarding management of external people, particularly prohibitive regulation about confidentiality.

A Party shall not transcribe, photograph, record audio/video and copy in the other Party's premises unless agreed by the other Party in advance. In case that a Party obtains permission from the other Party in advance, the images, text, video and audio acquired by the aforementioned method shall be regarded as "Confidential Information".

### 3. 例外

#### EXCEPTION

#### 3.1. 接受方在本协议下的保密义务不适用于以下情形：

The obligation of confidentiality of Recipient contained herein shall not apply to the circumstances as follows:

- a) 在披露方为业务提供保密信息之时，该等保密信息已经为公众所知，或在披露之后非由于接受方违反本协议而使公众知晓。

The Confidential Information, at the time of disclosure by Disclosing Party for the purpose of Business, is already known to the public, or subsequently becomes known to the public after disclosure without breach of this Agreement by Recipient.

- b) 在披露方披露保密信息之时，接受方已从不负有保密义务的第三方处知悉该等保密信息，前提是就接受方所知该第三方没有违反与该等保密信息相关的保密义务。

The Confidential Information, at the time of disclosure, is already obtained by Recipient from a third party without obligation of confidentiality, provided such third party is not, to Recipient's knowledge, in breach of any confidentiality obligation related to such Confidential Information.

- c) 法律和政府规章要求披露该等保密信息，前提是披露方收到该等司法诉求的书面通知，且接受方尽可能使该等披露控制在最小的范围内。

The Confidential Information is required to be disclosed by law or administrative regulations, provided that written notice of such judicial action is given to Disclosing Party and Recipient makes the Confidential Information disclosed in minimal scope as practically possible.

- d) 在“保密信息”被披露之前或之时，接受方已经独立地开发出保密信息，接受方拥有对该等保密信息相关的与披露方同样的权利。

The Confidential Information has been developed by Recipient independently prior to or at the time of disclosure, therefore, the aforesaid Recipient enjoy the same right of such Confidential Information as the Disclosing Party.

- e) 披露方书面同意披露该等保密信息。

The Confidential Information is agreed and approved for disclosure in writing by Disclosing Party.

- f) 如果接受方主张适用 3.1 a)至 e)的例外条款，则接受方负有举证责任。

Recipient shall prove the existence of such exception situations while invoking the provision stipulated from 3.1 a) to e).

### 4. 保密期限

#### CONFIDENTIALITY PERIOD

#### 4.1. 对于所有保密信息的相应保密的义务的期限均为保密信息披露之日起 10 年。

The obligations of confidentiality contained herein shall in respect of any Confidential Information continue for a period of 10 years as of the date of the aforesaid Confidential Information disclosed.

### 5. 载体的返还或销毁

#### RETURN OR DESTRUCTION OF MEDIA

#### 5.1. 在过程中或业务终止后的三个月内，根据披露方的书面要求，接受方必须把披露方给予接受方的任何载体或其复制品(如有)返还给披露方或由接受方按披露方要求销毁。

During the Term or within 3 months after termination of the BUSINESS, at the request by Disclosing Party in writing, any Media and copies thereof (if any) provided to Recipient by Disclosing Party shall be returned to Disclosing Party or destroyed by Recipient as instruction of Disclosing Party.

### 6. 赔偿

#### INDEMNITY

- 6.1. 如果接受方(包括其分包商、关联公司、咨询顾问、董事、雇员、代理人 and 代表)违反或未履行本协议下的任何规定、保证及陈述，接受方将对披露方由于其该等违反或未履行而造成的直接损失进行赔偿。

In case of breach or default of any provision, promise, assurance and statement of this Agreement by Recipient (including Recipient's subcontractor, Related Companies, consultants, directors, employees, agencies and representatives), Recipient shall indemnify Disclosing Party any direct losses, arising from such breach or default.

## 7. 其他

### MISCELLANEOUS

- 7.1. 双方同意对本协议及执行本协议所产生的争议将由中国法律进行管辖和解释。

The Parties agree that this Agreement and any disputes arising from implementation of this Agreement shall be governed by and construed in accordance with Chinese law.

- 7.2. 因保密协议引起或与保密协议有关的任何争议，如果双方不能协商解决，有争议一方应将争议提交北京奔驰所在地的中国国际经济贸易仲裁委员会进行仲裁。裁决是终局的，对双方均具有约束力。争议协商和仲裁期间，双方承诺继续履行保密协议或与保密协议有关的未受争议影响条款的权利和义务。

In case that any dispute arising from or in connection with the Non-Disclosure Agreement fails to be settled by Both Parties through consultation, the party with the dispute shall submit the dispute to the China International Economic and Trade Arbitration Committee in BBAC's place for arbitration. The result of arbitration is final and binding upon Both Parties.

During the dispute consultation and arbitration period, both Parties promise to continue performing the rights and obligations in the Non-Disclosure Agreement or in the terms and conditions related to the Non-Disclosure Agreement that are not affected by the dispute.

- 7.3. 本协议一式三份，以中、英文两种文字书就，甲方执两份，乙方执一份。两种文字具有同等法律效力，当中英文内容解释不一致时，以中文为准。

The Agreement shall be in duplicate. Party A holds two copies and Party B holds one. It is written in Chinese and English with equal legal force. In case of any inconsistency in interpretation between the above two languages, the Chinese one shall prevail.

- 7.4. 本协议自双方法定代表人或授权代表签字并盖章之日起生效。

The Agreement shall come into force upon the date when the legal representative or due representatives of both parties sign and seal on it.

<b>北京奔驰汽车有限公司</b> Beijing Benz Automotive Co., Ltd.		<b>供应商名称</b>
<b>采购部 P&amp;S</b>	<b>用户部门 User Department</b>	<b>Supplier Name</b>
工程师 Buyer	工程师 Engineer	项目经理 Project Manager
日期 Date:	日期 Date:	日期 Date:
高级经理 Senior Manager	高级经理 Senior Manager	授权代表 Due Representative
日期 Date:	日期 Date:	日期 Date: