

北京奔驰保密协议

BBAC NON-DISCLOSURE AGREEMENT

北京奔驰汽车有限公司（以下简称“北京奔驰”，亦包括其分公司），有意就非生产性所需的生产设施、设备及工装模具，非生产性支持物料、备品备件，办公用品，软件系统，服务等与供应商或潜在供应商（以下统称为“供应商”）进行协商，以期供应商在满足条件的前提下为北京奔驰提供相关货物和/或服务（以下称“业务”）。

Beijing Benz Automotive Co., Ltd (hereinafter referred to as 'BBAC', including its branches), intends to negotiate with a supplier or a potential one (hereinafter referred to as 'Supplier' collectively) on purchasing the production facilities, equipment and tooling, non-productive support materials, spare parts, office supplies, software, system, service, etc. necessary for automobile, expecting Supplier to provide BBAC with the corresponding goods and/or services (hereinafter referred to as 'Business'), provided that all and any requirements are fulfilled.

为业务目的，北京奔驰与供应商均可能且需要向对方披露一定的信息或通过进入对方营业场所、接触对方人员、履行合同等方式获知对方信息。为了有效保护双方利益，构建文明的商业环境，双方就应履行的保密义务和应遵守的保密规定达成本保密协议。

It is necessary for BBAC and Supplier to disclose some information to the other Party or learn about some information of the other Party by entering premises of the other Party, contacting the other Party's staff, performing contracts or other ways for the purpose of the Business. In order to effectively protect the interests of both parties, as well as construct a civilized commercial environment, both Parties enter into this Non-disclosure Agreement in terms of the confidentiality obligations to be fulfilled and confidentiality provisions to be observed

具体如下：

Specifically,

1. 定义

Definition

本协议中部分用语具有特定含义。该等用语将以括号注释的方式定义（如首段中的“业务”）或在本条中以列明的方式定义。

Some terms herein have specific meanings, which will be defined by annotations in parentheses (e.g. 'Business' in the first paragraph) or listed in this clause as below.

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) 一方因进入对方营业场所、接触对方人员或生产对方所需货物，履行合同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、询价、报价、合同、本告知函 2.6 条所述的资料等。

“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 a party when entering premises of the other Party, contacting the other Party’s staff , producing the goods demanded by the other Party or performing contracts, 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, audio, RFQ, quotation, contract, the material mentioned in 2.6 hereof, 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, 云端存储空间等。

“Media” shall mean any and all apparatus, modules, samples, prototypes, paper documents, drawings, disks, tapes, CD, memory, cloud storage, 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股权或选举董事(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 Receipt. 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. 保密义务、保密规定

Confidentiality Obligation and Provision

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。

The confidential Information of the Disclosing Party shall be used by the Recipient only for the purpose of Business, unless other purposes are expressly agreed to by the Disclosing Party in written.

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少于本协议保密义务的约束。接受方将对上述关联公司、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 接收方应采取必要的技术措施和管理措施，以确保数据的保密性，防止数据遭到破坏、泄露、非法获取或非法利用，包括但不限于遵循业务最小必要原则、访问控制、数据加密、日志审计、应急预案等。

Recipient shall take necessary technical and management measures to ensure the confidentiality of data, prevent data from being damaged, leaked, illegally obtained or utilized, including but not limited to following the principle of minimum business necessity, access control, data encryption, log auditing, emergency response plans, etc.

- 2.5 北京奔驰或供应商(包括其分包商)的员工在对方营业场所中时, 应遵守对方针对外来人员的管理规定, 特别是保密相关规定。

Staff of BBAC or Supplier (including the staff of its subcontractor) shall obey the regulations of the other party regarding the management of outsiders, particularly the regulation of confidentiality, when they are in the premises of the other party.

- 2.6 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".

- 2.7 除经双方另行书面约定外, 披露方的披露行为不构成相关知识产权的转移。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。

Unless otherwise agreed by both parties in written the disclosure by the Disclosing Party shall not constitute any transfer of the corresponding intellectual property rights. The 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.

- 2.8 在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:

- a) 把披露方给予接受方的任何载体及其复制品(如有)返还给披露方或按披露方要求销毁;
或
b) 在适当的情形下, 不可逆地消除载体中存储的保密信息。

In 3 months after the termination of the Business, upon the request by the Disclosing Party in written, the Recipient shall,

- a) return all and any Media and their copies(if any) provided to the Disclosing Party or destroy them according to the request of the Disclosing Party; or
b) eliminate the Confidential Information in Media irreversibly if appropriate.

3. 例外

Exception

在以下情形中，接受方不负有保密义务，但接受方应证明相应情形存在或属实。

The confidentiality obligation of the Recipient shall not apply to the circumstances as follows, but the Recipient shall prove the existence or authenticity of such circumstances.

- 3.1 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.

- 3.2 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时，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.

- 3.3 法律、法规要求披露该等保密信息，前提是接受方主动向披露方明示该等法律、法规或该等法律、法规诉求的书面通知，且接受方已尽可能地控制该等披露在最小范围内。

The Confidential Information is required to be disclosed by laws and regulations, provided that the Recipient has shown the Disclosing Party with such laws and regulations or the written notice of such judicial action expressly and initiatively and the Recipient makes the Confidential Information disclosed in minimal scope as practically possible.

- 3.4 在保密信息被披露时，接受方已独立地开发出保密信息，且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 the Recipient independently prior to or at the time of disclosure, and furthermore, the Recipient owns the same rights of such Confidential Information as the Disclosing Party.

- 3.5 披露方书面同意接受方披露该等保密信息。

The disclosure of Confidential Information by the Recipients agreed by the Disclosing Party in written

4. 责任

Liability

- 4.1 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义务、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.

5. 其他

Miscellaneous

- 5.1 北京奔驰和供应商另行书面约定, 双方同意对本协议及执行本协议所产生的争议将由中华人民共和国法律进行管辖和解释。

Unless otherwise agreed by and between BBAC and Supplier in written, this Agreement and any disputes arising from implementation of this Agreement shall be governed by and construed in accordance with the law of People's Republic of China.

- 5.2 保密协议引起或与保密协议有关的任何争议、索赔或争论(包括有关保密协议的存在、效力或终止的问题)、或违约、终止或无效, 最终均仅应由北京仲裁委员会按其现行有效的仲裁规则在北京进行仲裁。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。

Any dispute, claim or controversy arising from or in connection herewith (including any issue regarding the existence, validity or termination hereof), or the breach, termination or invalidity thereof, shall be finally and exclusively settled by arbitration in Beijing by Beijing Arbitration Commission) in accordance with its arbitration rules then prevail. The award shall be final and binding on both parties. During the dispute consultation and arbitration period, both parties shall continue performing the rights and obligations herein, which are not affected by the dispute, claim or controversy.

- 5.3 保密协议以中、英文两种文字书就, 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 Agreements 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.

- 5.4 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 afore said Confidential Information disclosed.

- 5.5 本保密协议自双方授权代表通过下述任何一种方式订立和或签署之日起成立并生效且长期有效, 对双方实施的所有采购项目均具有约束力:

a) 通过纸质书面签署保密协议时;

- b) 已通过线上链接了解电子版保密协议并邮件回复北京奔驰确认接受;
- c) 向北京奔驰报价;
如多份生效的保密协议版本并存, 版本相同的则以最新生效者为准; 版本不同的则以最新版本者为准。

This NDA shall come into effect as from the date of being concluded or signed by authorized representatives of both parties by any one of the following methods and shall be binding on all procurement projects implemented by both Parties.

- a) This NDA is signed in paper.
- b) The Supplier has understood the electronic version of NDA through the online link and replied to BBAC by email to confirm its acceptance.
- c) The Supplier has made a quotation to BBAC.

If multiple effective NDA coexist, the latest effective version shall prevail if the versions are the same. In case of different versions, the latest version shall prevail.

5.6 除经双方另行书面约定外, 双方合同的终止或失效不应导致本保密协议的终止或失效。

Unless otherwise agreed by both parties in written the termination or invalidation of the contract shall not lead to any termination or invalidation of this Non-disclosure Agreement.

尽管有上述规定, 双方同意: 本协议所述的保密义务和保密规定对于自双方就业务开始沟通之日起所产生的保密信息亦有效并适用。

Notwithstanding the aforementioned regulations, both parties agree that the confidentiality obligations and confidentiality provisions shall be valid and applicable to the confidential information arising from the date when both parties starts the communication on the Business.