



## CONFIDENTIALITY AGREEMENT

between **GRAMMER Company**  
**address**  
**address**

-hereinafter referred to as "**GRAMMER**"-

and **Company name**  
**address**  
**address**

- hereinafter referred to as "**COMPANY**" -

- hereinafter referred to as "**PARTY**" or collectively as **PARTIES**"-

### PREAMBLE

This Confidentiality Agreement shall be concluded within the project [Project], as far as such project relation is not given, this Agreement shall apply generally ("**Purpose**"). The initiation and implementation within the Purpose requires that information is made available or exchanged by a PARTY by itself and/or through its Affiliates (as defined hereinafter) ("**disclosing PARTY**") to the other PARTY ("**receiving PARTY**") that contains, inter alia, knowledge and experiences including protectable inventions that are not part of the best available techniques.

"**Information**" for the purpose of this Confidentiality Agreement includes but is not limited to know-how, knowledge, technical and/or commercially sensitive data and information of any other nature of a PARTY or its Affiliates which a PARTY makes available to the other PARTY within the scope or in connection with the Purpose, whether directly or indirectly, in particular by data transfer, the handing over of documents, designs, models, equipment, technologies, manuals, drawings, samples, diagrams, data, databases and/or applications, software, tools, raw materials, prices, figures, formulae, calculations, whether by CD ROM, in writing or orally, in particular also during meetings of the PARTIES or their employees, or in connection with demonstrations, visits or presentations, of whatsoever form.

In order to prevent abuse of knowledge gained therefrom and in order to avoid disadvantages to the PARTIES, the PARTIES have entered into the following

## CONFIDENTIALITY AGREEMENT

### 1 CONFIDENTIALITY

1.1 The PARTIES shall keep the gained Information strictly confidential. They will treat and keep such Information confidential at least as they do with respect to their own business- or trade secrets. This Information may be used and exploited by the PARTIES within the Purpose. The Information may not be used, neither directly nor indirectly, for other purposes. It shall not be passed on to third parties or used for own commercial purposes or for other customers or third parties without prior written agreement. The disclosure of Information to third parties on a need to know basis within a Project shall only be allowed if such third party is bound to confidentiality as stipulated in this Agreement. Affiliates to either PARTY are not considered as third parties provided that they are bound to confidentiality.

"Affiliate" means any company or legal entity which (a) controls either directly or indirectly a PARTY, or (b) is controlled directly or indirectly by such PARTY, or (c) is directly or indirectly controlled by a company or entity which directly or indirectly controls majority-owned such PARTY.

1.2 The duty of confidentiality applies to all employees, company officers and authorised agents of the PARTIES without regard to the type and legal framework of their employment and/or authorisation. The PARTIES will inform the above-mentioned group of persons about the duty of confidentiality and will ensure that they comply with it. The PARTIES will make their best efforts to ensure that the group of persons falling under the duty of confidentiality remains as small as possible.

1.3 The duty of confidentiality does not apply to information which:

1.3.1 was known to the receiving PARTY or which was in its legal possession before its disclosure and which was, neither directly nor indirectly, provided by the disclosing PARTY,

1.3.2 is made available to the receiving PARTY by third parties, which are not bound to maintain confidentiality vis-à-vis the receiving PARTY, after the signing of this Confidentiality Agreement,

1.3.3 was publicly known at the time of disclosure of the Information to the receiving PARTY or which then becomes publicly known without any violation of this duty of confidentiality,

1.3.4 was generated independently by the receiving PARTY without the information provided by the disclosing PARTY, or which

1.3.5 must be disclosed by a PARTY due to statutory provisions, an official order or a court order after having informed, to the extent permitted by law, the disclosing PARTY in advance and in writing about the nature and extent of such disclosure requirement.

The PARTY invoking to an aforementioned derogation rule shall carry the burden of proof of its applicability.

If only a portion of the Information falls under any of the above exceptions, then only that portion of the Information shall be excluded from the use and disclosure restrictions of this Agreement.

- 1.4 The providing of Information hereunder shall under no circumstances neither be or be deemed to constitute a license or implied license to use any industrial or intellectual property contained in the Information, nor shall it result in an obligation of the PARTIES to conclude a contract. Only the disclosing PARTY shall remain the owner of intellectual property rights, copyrights and other rights in the disclosed Information.
- 1.5 The disclosing PARTY makes no warranty, express or implied, with respect to Information delivered hereunder, including implied warranties of merchantability, fitness for a particular purpose, or freedom from intellectual property infringement.
- 1.6 Nothing in this Agreement shall grant a PARTY the right to make commitments of any kind, for or on behalf of the other PARTY. This Agreement is not intended to be, nor shall it be construed as a joint venture or any similar form of partnership between the PARTIES. This Agreement further shall not be construed as the PARTIES duty to conclude further agreements, if any.
- 1.7 The PARTIES will return all Information, in particular samples, documents and records, including all copies made thereof, received upon a PARTY's request to do so at the end of their cooperation and delete all electronically stored data unless such deletion infringes statutory provisions or is impossible or unless it involves an inordinate amount of time and effort. Notwithstanding the above provision, the PARTIES will provide for their immediate return as soon as their return has been requested. This obligation to return also applies if a petition for the opening of composition or insolvency proceedings over the other PARTY's assets is filed.
- 1.8 If a PARTY breaches this Agreement at least with negligence it has to indemnify and hold harmless the disclosing PARTY. Furthermore the disclosing PARTY may at its sole discretion terminate any contract with immediate effect and/or cease any form of cooperation and/or search for a restraining order and/or injunctive relief.

## **2 VALIDITY/ENTRY INTO FORCE/DURATION**

This Agreement enters into force upon its signing by the PARTIES for a period of five years ("**Initial Period**"). The duties of confidentiality continue to apply for another period of five years following the Initial Period.



**3 OTHER PROVISIONS**

- 3.1 The PARTIES agree that for any disputes arising or relating from this Agreement the courts having jurisdiction over the principal place of business of GRAMMER shall have exclusive jurisdiction.
- 3.2 The terms of this Agreement shall be governed in accordance with the laws of the country of GRAMMER'S principal place of business. Application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) of 11 April 1980 and the applicable conflict of laws principles are hereby expressly excluded.
- 3.3 If any of the provisions of this Agreement is or becomes invalid or if this Agreement contains a gap, the validity of the remaining provisions will remain unaffected thereby. The PARTIES will replace the invalid provision by a valid and enforceable provision which comes as close as possible to the economic purpose of the PARTIES. The same applies in the event of a gap.
- 3.4 Modifications or amendments of this Agreement must be in writing. The same applies to any deviation from this formal requirement.
- 3.5 For the purpose of executing this Agreement or any amendment or supplement thereof, facsimile signatures, PDF image signatures or electronic signatures rendered via an electronic signature service (e.g. DocuSign, AdobeSign) shall be treated as original signatures if in accordance with the applicable law and any such document shall be deemed to be in writing.
- 3.6 Neither PARTY may assign this Agreement or any of their respective rights and obligations hereunder to any third party without the prior written consent of the other PARTY.
- 3.7 This Agreement also applies to legal successors of the PARTIES.

Place, Date

GRAMMER

COMPANY

The undersigned confirms that he is duly authorised to represent the COMPANY.

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name  
function

.....  
name  
function

.....  
name  
function

.....  
name  
function