**Confidentiality Agreement**

between

### **Bertrandt […]**

### **[street]**

### **[ postal code city]**

- hereinafter referred to as “Bertrandt” –

and

### **[name of the contractor]**

### **[street]**

### **[ postal code city]**

- hereinafter referred to as “Contractor” -

1. Bertrandt assigns the following services/tasks to the Contractor:

### **[detailed description of the scope of the assignments]**

Within the scope of these tasks/assignments, the Contractor, his employees, and vicarious agents (*Erfüllungsgehilfen* and *Verrichtungsgehilfen* as per German law § 278 and § 831 *BGB*) may gain access to confidential data, knowledge, documents, experiences, and information (hereinafter referred to as “information”).

1. The Contractor shall treat such information with strict confidentiality and shall not disclose it to any third party. Disclosure of such information to any third party requires the prior written approval of Bertrandt.
2. In order to ensure and protect the confidentiality of the information, the Contractor shall implement all appropriate measures on his premises and in his offices. Therefore, he will bind his staff and vicarious agents to strict confidentiality, too. In particular, the Contractor shall ensure that

* only authorized personnel gains access to the information/data;
* no information and/or data will be disclosed to any third party;
* no third party can gain access to the information in any way during the execution of the assignments subject to this contract;
* no copies or other reproductions – by any means whatsoever - shall be made unless Bertrandt has given its prior written approval.
* he will forward the provisions of this confidentiality agreement to his staff and vicarious agents by means of appropriate contracts and that they in turn will consider such contracts as binding;

1. If the Contractor is provided access to existing computer systems and/or networks and data connections of Bertrandt, he shall refrain from any actions which are capable of compromising or impairing Bertrandt’s systems in their function. In addition, the Contractor shall use his access to the existing computer systems of Bertrandt only and exclusively for the purpose of executing his contractually determined tasks/assignments.
2. With a period of notification of 2 days, Bertrandt is entitled to inspect, during the usual business hours, the Contractor’s premises and office space and/or place of performance of the contractually determined assignment for the purpose of assuring itself of the measures implemented by the latter.
3. If confidential information is made accessible to unauthorized third parties due to a negligent breach of the Contractor’s contractual duties, irrespective of whether it is disclosed in oral, written or any other form, the Contractor agrees to pay Bertrandt a contractual penalty of EUR 50,000.00 (in words: fifty thousand). If Bertrandt proves the damage to be higher, the actual damage is to be paid to Bertrandt taking into account the already paid contractual penalty. The burden of proof for the disclosure not being his fault lies with the Contractor.
4. The above mentioned confidentiality clause is not applicable insofar as

* the Contractor has already known the information at the time of receipt;
* the information is already publicly known or accessible or has already been made publicly known or accessible without the fault of the Contractor;
* the information has been or is legitimately disclosed or made accessible to the Contractor by a third person;
* the information must be disclosed due to legal regulations or orders or directives of the authorities;

The burden of proof for the existence of any of the above mentioned circumstances lies with the Contractor.

1. Bertrandt does not warrant or guarantee the correctness of the transmitted information. By matter of principle, the information remains the property of Bertrandt and can be reclaimed anytime. The Contractor is not entitled to claim any rights to the transmitted information and in particular, the information received does not entitle the Contractor to claim any rights of which type whatsoever.
2. These confidentiality obligations end with the termination of the fifth calendar year which follows the end of the cooperation during which the information has been disclosed to the Contractor.
3. If any current or future provision of this agreement is partially or wholly invalid or unenforceable or if any current or future provision of this agreement will become ineffective or unenforceable at a later point in time, the validity of the remaining provisions in this agreement shall not be affected hereby. In such case, the contracting parties are each entitled to request the stipulation of a valid provision which comes as close as possible to the originally intended purpose of the ineffective or unenforceable provision. The same applies to any gaps or missing stipulations in this agreement.
4. The parties agree on the exclusive applicability of German law, excluding the United Nations Convention on Contracts for the International Sale of Goods and any other conflict of law rules. The exclusive forum for all disputes arising in connection with this agreement, including but not limited to questions relating to its creation or termination, is the registered place of business of Bertrandt unless legal provisions require a different forum. Bertrandt is, however, entitled to institute legal proceedings against the Contractor in any other competent court as well.
5. This agreement contains all stipulations and agreements between the parties concerning the subject matter of the contract. Any amendments or supplements are required to be in writing; this shall also apply to any waiver of this written form requirement itself.

**[city], [date]**

Bertrandt Contractor