



Mutual Nondisclosure Agreement

Form: 4-42
Rev: A (11/7/17)

THIS MUTUAL NONDISCLOSURE AGREEMENT ("Agreement") is made and entered into as of ____/____/ 20____ by and among B&R Machine, Inc., a Massachusetts corporation having its principal offices at 305A Moody Street, Ludlow, MA 01056, and its affiliates and subsidiaries (collectively, "B&R"), and:

Supplier's name

Supplier's business address and its affiliates and subsidiaries, (collectively, "SUPPLIER"),

B&R and Supplier either or both of which may be referred to hereinafter as a "Party" or, together, the "Parties".

1. INTRODUCTION. B&R and SUPPLIER wish to discuss the possibility of entering into a business relationship with each other and / or have entered into a business relationship and may have discussions with each other regarding such business relationship ("the Purpose").

2. DISCLOSURE OF CONFIDENTIAL INFORMATION. In the course of such discussions each Party may reveal, receive or otherwise have made available to it, or may be exposed or have access to, certain information of the other that is confidential and proprietary, including without limitation any and all information and trade secrets concerning the business and affairs of the other, such as, product specifications, data, know-how, methods, studies, formulas, compositions, designs, sketches, photographs, graphs, drawings, blue-prints, samples, plans, shop rights, engineering notebooks, models, prototypes, inventions, ideas, discoveries, concepts, manufacturing processes, treatment methods and processes, techniques, methodologies, procedures, equipment, specifications, computer software and programs, systems, structures and architectures and related processes, scientific, technical and non-technical information, Technology as defined by EAR, Technical Data as defined by the ITAR, trade, financial, and pricing information, business plans, methods of operating, customer / client, supplier and distributor lists and any other information of or related to the other having commercial value (collectively, "the Protected Information"), whether or not such information is identified or marked by the party making the disclosure (the "Disclosing Party") as "Confidential" or "Proprietary", but which under the circumstances surrounding the disclosure or the manner in which it is obtained by the other Party ("the Receiving Party") ought to be treated as confidential.

3. AGREEMENT TO PROTECT CONFIDENTIAL INFORMATION. Each party hereby acknowledges and agrees that the Protected Information of the Disclosing Party is to remain the confidential and proprietary, protected property of the Disclosing Party notwithstanding its disclosure to or acquisition by the Receiving Party. The Receiving Party shall hold the Disclosing Party's Protected Information in strict confidence and shall not, directly or indirectly, publish or disclose it to any third party, or use the Disclosing Party's Protected Information, or the nature of any of

it, for any purpose other than in performance and furtherance of the Purpose.

The Receiving Party agrees it shall not communicate the Disclosing Party's Protected Information to any third party except to its officers, directors, owners, employees, advisors, representatives, agents and contractors ("Personnel") who have a need to know it in order to allow the Receiving Party to perform its obligations with respect to the Purpose.

Before disclosing any Protected Information to any Personnel, each Party shall require such Personnel to be subject in writing to the same restrictions and requirements respecting use, nondisclosure, and confidentiality as contained in this Agreement. Each Party shall require its Personnel to adhere to such restrictions and requirements and shall take all necessary or appropriate action to prevent disclosure or use in violation of this Agreement. Each Party accepts full responsibility for any use or disclosure of any Protected Information by it or any of its Personnel in contravention of this Agreement.

The Receiving Party's and its Personnel's obligations to maintain confidentiality of the Disclosing Party's Protected Information and use it only for the Purpose shall survive the termination or cancellation of this Agreement and shall continue in perpetuity.

4. EXCEPTIONS TO CONFIDENTIALITY OBLIGATIONS It is understood and agreed that neither Party has an obligation to maintain the confidentiality of any Protected Information that: (a) such Party can establish to have been or become known to the general public, other than as a result of a violation of this Agreement or any other agreement; (b) such Party can establish to have become known to it from any independent third party that had the right to disclose such Protected Information; or (c) as shown by competent proof was independently developed by such Party. Nothing in this Agreement prohibits a Party from making disclosures to responsible government officials that are required or protected by laws in the United States. The United States Defend Trade Secrets act, 18 U.S.C. §1833(b), may provide immunity to each Party for certain disclosures of trades secrets to a Party's attorney or to government officials in the United States. Any disclosure of Confidential Information made in accordance with 19 U.S.C. §1833(b) will not, and shall not, cause any such information to cease to be Confidential Information which at all times continue to be subject to the provisions of Articles 2 and 3.

5. DISCLOSURE REQUESTS. If the Receiving Party or any of its Personnel is requested in any judicial or administrative proceedings, or by any governmental or regulatory authority to disclose any Protected Information, the Receiving Party will give the Disclosing Party written notice of such request as promptly as practicable. If, in the absence of a protective order, the Receiving Party or any of its Personnel are nonetheless compelled to disclose any Protected Information, the Receiving Party may make such disclosure without liability under this Agreement provided that (i) the Receiving Party gives the Disclosing Party written notice of the Protected Information requested as far in advance of the compelled disclosure as is practicable, (ii) the

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Receiving Party uses its reasonable good faith efforts to obtain assurances that confidential treatment will be accorded to such Protected Information, and (iii) the Receiving Party discloses the minimal amount of Protected Information necessary to meet the compelled disclosure.

6. RETURN OF PROTECTED INFORMATION. All Protected Information is and shall remain the property of the Disclosing Party. Upon the Disclosing Party's request, the Receiving Party shall immediately deliver to the Disclosing Party all materials and media containing or referring to the Protected Information, including any derivative documents or materials prepared by or for the Receiving Party.

7. NO WARRANTY. Neither Party makes any representation or warranty, express or implied, as to the accuracy or completeness of any of the Protected Information. The Receiving Party agrees that neither the Disclosing Party nor any of its Personnel will have any liability to the Receiving Party or the Receiving Party's Personnel resulting from the use of any of the Protected Information.

8. NO OBLIGATION TO DISCLOSE. Nothing contained in this Agreement shall be construed to obligate either Party to disclose any information or to negotiate with the other party for any contract or agreement.

9. EXPORT/IMPORT COMPLIANCE. The Parties' activities pursuant to this Agreement shall be subject to all applicable export, import and firearms laws and regulations of the United States of America ("U.S. Export Laws"). The Parties agree to comply and reasonably assist each other, upon request, in complying with all applicable U.S. Export Laws. The Parties acknowledge that they may not, without first obtaining the appropriate license(s), directly or indirectly export, re-export, distribute or transfer any Protected Information of any value to any nation, individual or entity that is prohibited or restricted by the U.S. Export Laws, including specifically, but without limitation: (i) the U.S. Dept. of State International Traffic in Arms Regulations ("the ITAR"); (ii) the U.S. Dept. of Commerce, Bureau of Industry and Security, Export Administration Regulations ("EAR"); (iii) the U.S. Dept. of the Treasury, Office of Foreign Assets Controls sanctions; (iv) the U.S. Dept. of State's "State Sponsors of Terrorism" designation; and (v) the U.S. Gun Control Act and National Firearms Act.

At either Party's request, the other Party shall provide a certification that the Personnel having access to the requesting Party's Protected Information (i) is a citizen or a lawful permanent resident of the United States of America, or (ii) is authorized by the U.S. Department of State or the U.S. Department of Commerce or any other U.S. Government agency, as applicable, to have access to such Protected Information; and (iii) is not a prohibited person under 18 U.S.C. § 922(d) of U.S. Gun Control Act.

10. INDEMNIFICATION. Each Party agrees to indemnify and hold harmless the other Party, and its respective officers, directors, shareholders, employees, representatives, agents, insurers and

re-insurers from and against all claims, demands, costs, fines, penalties, reasonable attorney's fees and all other expenses arising from the Receiving Party's or its' Personnel's breach or failure to comply with the provisions of this Agreement.

11. REMEDIES. The Receiving Party acknowledges and agrees that any violation hereof would result in substantial and irreparable injury to the Disclosing Party and that the Disclosing Party would not have an adequate remedy at law with respect to any such violation. Accordingly, the Receiving Party agrees that, in the event of any actual or threatened violation hereof, the Disclosing Party shall have the right to seek, in addition to any other remedies that may be available, equitable relief, including temporary and permanent injunctive relief, to cease or prevent any actual or threatened violation of any provision hereof.

12. EFFECTIVE DATE. This Agreement will be effective on the date of execution by the second Party to sign, and will continue in full force and effect from that date as necessary to enforce each Party's rights hereunder.

13. RELIANCE. Each Party is entitled to rely upon the provisions of the Agreement in disclosing any Protected Information to the other Party and in proceeding with any discussions regarding the Purpose.

14. HEADINGS. The article headings are for convenience of reference only and shall not function to limit, expand or interpret any provision of this Agreement.

15. JURISDICTION; VENUE. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the Commonwealth of Massachusetts, notwithstanding any Massachusetts or other conflict of laws, provisions to the contrary, and the Parties hereby consent to the exclusive jurisdiction and venue of the Massachusetts courts.

16. BINDING AGREEMENT. This Agreement shall be binding upon and inure to the benefit of each Party and each of its subsidiaries, affiliates, and their respective permitted successors and assigns.

17. ENTIRE AGREEMENT. This Agreement contains the entire understanding between the Parties and supersedes all prior written or oral understandings between the Parties regarding the subject matter hereof. No modification to this Agreement shall be effective unless made in writing and signed by both Parties. Each Party hereto acknowledges that each Party was actively involved in the negotiation and drafting of this Agreement and that no law or rule of construction shall be raised or used in which the provisions of this Agreement shall be construed in favor or against either Party solely because one is deemed to be the author thereof. The Parties agree that if a copy of this Agreement executed by a Party and transmitted to the other Party in the form of an Imaged Document, to which a Party has affixed a written or electronic signature, the copy received by the other Party shall be deemed for all legal purposes to be as valid an authentic as an original executed by the transmitting Party, and will be given the same legal effect as a written and signed paper original. "Imaged Document" means any document generated by a Party which

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scanned and stored in electronic form, including, by way of illustration and not limitation, portable document format or similar type (e.g. jpg., pdf, gif). Each Party agrees that the person signing this Agreement on such Party's behalf has been duly authorized and has full corporate authority to do so.

18. INVALIDITY. If any provision of the foregoing covenants is deemed invalid by a court of competent jurisdiction, the covenant shall be applicable and enforceable to the extent that such court may then or thereafter determine to be reasonable and proper under the circumstances. In the event that any of the foregoing covenants is deemed to be unenforceable, the remainder of such covenants shall not be affected thereby and each provision hereof shall be valid and enforced to the fullest extent permitted by law.

IN WITNESS WHEREOF, each of the Parties has caused this MUTUAL NONDISCLOSURE AGREEMENT to be executed by its duly authorized representative:

SUPPLIER COMPANY NAME

Signature: _____

Print Name: _____

Title: _____

Federal ID Number: _____

Date: _____

B&R Mfg., Inc.:

Signature: _____

Print Name: _____

Title: _____

Date: _____

B&R INTERNAL USE ONLY:

DATE OF SCREENING: ____/____/20____

SCREENING PERFORMED BY: _____

ATTACH RESULTS

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