

CONFIDENTIALITY & NON-DISCLOSURE NOTICE

of

The ipXcellence Research Group

represented by:



– Researchers –

for

Participants of the ipXcellence Benchmarking Study

– Participant –

CONFIDENTIALITY & NON-DISCLOSURE NOTICE

- between:** **ipXcellence Research Group**
WHU - Otto Beisheim School of Management
Prof. Dr. Holger Ernst and Mr. Kolin Schunck
Chair of Technology and Innovation Management
Burgplatz 2 in 56179 Vallendar
Germany
(“ipXcellence” or “Receiving Party”)
- and:** **Participants of the**
ipXcellence Benchmarking Study
(“Participants” or “Disclosing Party”)

EFFECTIVE DATE: February 15th, 2018 (the “Effective Date”).

PURPOSE: Disclosure of Information to Receiving Party to conduct a benchmarking study for research purposes. The participants make confidential information about data and practices in IP management available to the Researchers (“Purpose”).

INFORMATION: Certain data, materials, and/or information provided for the above Purpose by Participants to Receiving Party, which relate to IP Management Information, as well as all studies, analyses and/or copies derived therefrom and any other non-public information of the Disclosing Party or its affiliates in written, verbal, or electronic form (“the Information”).

In consideration of the disclosure of the Information to the Receiving Party, such Information shall be provided on the following basis:

1) NON-DISCLOSURE

The Receiving Party will undertake under considerations of sections 2) and 3) in respect of all information disclosed to it in connection with the object of the contract

1. to treat it in confidence and keep it secret,
2. not to disclose it or make it accessible to third parties, and to prevent any unauthorised access by third parties,

3. to limit disclosure of the Information received hereunder to only those of its officers, representatives, advisors, agents and employees (collectively "Agents") who are directly concerned with the Purpose. Receiving Party shall (i) advise its Agents, upon disclosure to them of any Information, of the proprietary nature thereof and the terms and conditions of this Agreement and (ii) use all reasonable safeguards to prevent unauthorized disclosure by such Agents.
4. to immediately inform the participants if a breach of confidentiality becomes known and to assist the participants in any possible action against a person, or firm which has become aware of the information in an unauthorised manner.

2) USE OF THE INFORMATION

Within the framework of the Purpose of the CDA, the Receiving Party may

1. use the information provided for anonymous evaluation and present it in an anonymous manner to third parties, as long as no inferences about the identity of the participant who provided the information can be made. Only aggregate results will be made available,
2. name the participant, as long as the participant has agreed to it, as such to third parties, as long as no inferences about the information provided can be made,
3. any publication of scientific studies or results by Receiving Party related to the Purpose, whether containing Confidential Information or not, does not require prior approval from the participants as long as in compliance with section 2(1) and 2(2).

3) EXCEPTIONS TO THE NON-DISCLOSURE

Receiving Party agrees, for an unlimited period of time following the Effective Date, to retain in confidence all Information disclosed to it by or on behalf of the Participants whether or not in writing or recorded in electronic or other format. Receiving Party further agrees that it will not, either directly or indirectly, use such Information for any purpose other than the Purpose indicated above without the prior written consent of the Participants. These restrictions shall not apply to Information or parts thereof which the Receiving Party can establish by written documentation to:

1. have been in or become part of the public domain (through no breach of this Agreement by the Receiving Party), or
2. have been made available to the Receiving Party by an independent third party having the right to do so and was not obtained directly or indirectly from the Disclosing Party, or
3. have been already in the Receiving Party's possession at the time of receipt of the Information from the Disclosing Party, or
4. have been independently developed by the Receiving Party without use of such Information; or

5. have been required by law, regulation, rule, act or order of any governmental authority or agency to be disclosed by the Receiving Party, provided, however, that it (a) gives the Disclosing Party sufficient advance written notice to permit it to seek a protective order or other similar order with respect to such Information and (b) thereafter discloses only the minimum Information required to be disclosed in order to comply, whether or not a protective order or other similar order is obtained by the Disclosing Party.

Information consisting of several parts is only excluded from the confidentiality obligations if the Information as a whole falls under at least one of the aforementioned exclusion provisions.

4) MISCELLANEOUS

1. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective permitted successors and assignees. This Agreement shall not be assigned by either party hereto without the prior written consent of the other party hereto, which consent may be withheld in either party's sole discretion, and any purported assignment without such consent shall be void; provided, however, either party hereto may without such consent assign this Agreement in connection with the sale or transfer of all or substantially all of its business or in connection with a merger or other consolidation with another entity.
2. This Agreement shall be exclusively construed in accordance with the laws of Germany without regard to its conflict of law principles. It is understood and agreed that both parties hereby exclusively submit to the jurisdiction of the competent courts in Frankfurt am Main, Germany.
3. If any provision of this Agreement were to be or become fully or partly invalid or unenforceable for any reason whatever, or to violate any applicable law, the same shall be considered divisible as to such provision and such provision shall be deemed deleted herefrom, and the remainder hereof shall be valid and binding as if such provision were not included herein. The parties hereto shall then, if necessary, negotiate for an appropriate amendment of this Agreement.
4. This Agreement constitutes the entire agreement between the parties and supersedes any prior agreement or understanding with respect to the Information to be provided by the Disclosing Party. This Agreement may only be amended by a written instrument signed by both parties.

ipXcellence Research Group



Prof. Dr. Holger Ernst and Mr. Kolin Schunck
on behalf of the ipXcellence Research Group
Chair of Technology and Innovation Management
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