



Mutual Non Disclosure Agreement

between

Novoplast - Verpackungen GmbH & Co. KG
Unterzeiler Weg 5
88299 Leutkirch

– represented by Ms. Vera Kowitz – (hereinafter referred to as “Novoplast”)

and

– represented by _____ – (hereinafter referred to as
“Contract partner”)

- hereinafter both individually or jointly referred to as "Party/Parties –

Preamble

The Parties consider having conversations about future business, possibly leading to the conclusion of contracts. To this end, the Parties intend to exchange confidential information. In order to avoid misuse of this confidential information, the Parties agree as follows:

§ 1 Project

The present confidentiality agreement (hereinafter "Agreement") is concluded for the purpose of exploring the possibilities of cooperation (hereinafter "Project"). The Project includes all future contracts between the Parties to the Agreement, as well as the phase of contract initiation and the phase following the conclusion of the respective contract.

§ 2 Definitions

The following definitions shall apply to this agreement:

2.1 "Trade secret" is an information,

- which is not generally known among or readily accessible, either in its entirety or in the precise configuration and assembly of its components, to persons within the circles that normally deal with the kind of information in question and which is therefore of economic value, and
- which is subject to reasonable steps under the circumstances, by the person lawfully in control of the information, to keep it secret, and
- in respect of which there is a legitimate interest in its confidentiality.

2.2 "Disclosure" means the opening of a trade secret and/or confidential information within the meaning of § 3 of this agreement (hereinafter referred to as "confidential information") to a third party, whereby "disclosure" shall not be equated with "publicity".

2.3 "Holder" means the party lawfully controlling a trade secret and/or confidential information.

2.4 "Recipient" means the party to which a trade secret and/or a confidential information is disclosed. The recipient has no control over the trade secret and/or confidential information and is not authorized to use or disclose the trade secret and/or confidential information contrary to this agreement. By disclosing the trade secret and/or confidential information, the recipient does not become "holder" within the meaning of the above definition.

§ 3 Confidential information

3.1 Confidential information within the meaning of this agreement is all information disclosed by one party to the other, regardless of whether in the course of an exchange in text form, in particular also by e-mail, orally or in the course of a site visit. The information shall be treated confidentially with the due diligence of a prudent businessman. The following in particular shall be regarded as confidential information:

3.1.1 Trade secrets, know-how as well as technical and/or economic interim results, results and other knowledge gained or used in the frame of the project, the description of the project, the prospective schedules, targets and ideas for carrying out the project, as well as other information not publicly available that the partners exchange in the frame of the project, in particular calculated, marketing, competition and other information. The information comprises technical, software-technical, design and/or copyright protected know-how, interim results and results, as well as reports and records drawn up in the frame of the project.

3.1.2 All documents and information of the respective holder which are subject to technical and/or organisational steps to keep them secret and which are marked as confidential and/or are to be regarded as confidential according to the type of information and/or the circumstances of transmission.

3.1.3 The existence of this agreement and its content, the fact of cooperation between the parties and, where supply contracts are concluded between the parties, their existence and content.

3.2 The parties agree that even if a confidential information does not qualify as a trade secret within the meaning of the German Trade Secret Act (“Gesetz zum Schutz von Geschäftsgeheimnissen”) shall nevertheless be subject to the confidentiality obligations pursuant to § 4 of this agreement.

§ 4 Confidentiality obligations

4.1 The contracting parties herewith undertake to treat all confidential information obtained directly or indirectly within the frame of the project from the respective other contracting party or jointly elaborated, as follows:

- to treat them confidentially and neither to pass them on to third parties nor to make them accessible to third parties in any other form;
- to protect them against unauthorized access by third parties through reasonable steps to keep them secret;
- to use the confidential information only in connection with the project described under § 1 or not to use the confidential information in projects other than the contractual project or to make it the subject of an application for intellectual property rights without the contractual partner's written consent.

4.2 Furthermore, the parties agree basically on a possible exchange of information between the parties by uncoded or unprotected e-mail communication, knowing the non-existing confidentiality in the internet and in e-mail communication, and declare that this is not a breach of this confidentiality agreement.

4.3 The confidentiality obligation under this agreement also extends to all employees and agents of the contractual parties as well as their affiliates within the meaning of §§ 15 ff. AktG (German Stock Corporation Act), irrespective of the nature and legal form of the cooperation. The parties undertake to impose corresponding confidentiality obligations on this group of persons, insofar as this has not yet been done. The parties shall also be liable in the event of a breach of confidentiality by their employees, agents or affiliated companies.

§ 5 Exceptions to the confidentiality obligation

Not to be regarded as confidential information within the meaning of § 3 of this agreement is information that verifiably:

- has already been generally known or published when this agreement was concluded, or
- has become generally known after conclusion of this agreement without fault of the respective recipient or
- has been or will be lawfully obtained by a third party.

- developed independently by one party without the use of confidential information of the other party, or
- have been released in writing for free use or disclosure by the party submitted, or
- which must be disclosed on the basis of mandatory legal, judicial or sovereign acts or orders, whereby the party obliged to disclose must inform the other party of this at the earliest possible time and limit the disclosure of the confidential information to the absolutely necessary scope.

In this case the parties also will agree on a passing on or own publication of information and take into account legitimate interests of the contracting partner. The parties agree that any disclosure or publication of information known to the parties, necessary and in accordance with the project (e.g. for obtaining permits or approvals, purchasing or presentation to customers/third parties) shall not constitute a breach of this agreement. Such disclosure by the receiving party of the confidential information to third parties shall require the written consent of the party providing the information.

The foregoing exceptions shall not apply if one or more of the conditions in Section 5. apply to individual components of one or more Confidential Information(s) taken individually, unless the Confidential Information(s) falls/fall in its/their entirety under the exceptions stated. As far as a party invokes the existence of one of the above exceptions, the party is obliged to prove its prerequisite.

§ 6 No acquisition of rights on confidential information

At no time the parties shall acquire any rights (for example ownership, license, reproduction or use rights) on the confidential information of the other party. The party (holder) who communicates the information to the other party (recipient) is solely entitled to exploit this confidential information and reserves all rights for applications for intellectual property rights (patents, trademarks, utility models or designs, national and international). The respective recipient must refrain from commercially exploiting or imitating the confidential information off the project in any form itself or through third parties (in particular by means of so-called "Reverse Engineering").

§ 7 Data Protection

The contractual partners comply with the applicable data protection regulations (in particular THE GDPR and the BDSG). You may process the personal data provided, transmitted or become known exclusively for the agreed purpose of the contract. The personal data are subject to the confidentiality obligations under this non-disclosure agreement.

All persons employed by them are effectively obliged to comply with data protection laws (obligation to maintain confidentiality).

The contractual partners shall inform the other contractual partner about special incidents (loss of data, unlawful access, etc.) with respect to personal data of the other contractual partner.

§ 8 Duration of the agreement

This agreement shall take effect upon signature and is valid for an unlimited duration. Either party may terminate this Agreement upon thirty (30) days written notice.

Termination or cancellation of this Agreement shall not affect the rights and obligations of the Parties with respect to the non-disclosure of confidential information arising during its term. The confidentiality obligation pursuant to clause 4. shall continue to apply after termination or cancellation of the agreement, unless an exceptional circumstance pursuant to clause 5. occurs.

§ 9 Surrender of documents

Each party (holder) may at any time request the other party (recipient) to surrender the confidential documents, drawings, data, objects and other embodied information received from it. Stored data shall be deleted. This also applies to copies of documents or backup copies of files. The destruction or deletion must be proven to the respective other party in a suitable manner. In addition to confidential information for which there is a legal obligation to retain data, confidential information whose destruction or return is technically impossible or only possible with disproportionate effort (e.g., because it was stored in a backup file due to an automated electronic backup system for securing electronic data) is excluded from this. In this case, it must be ensured that this information is only accessible to administrators, is not used for any purpose other than backing up the data or archiving, and that the receiving party assures the other party of this in writing no later than 10 working days after receipt of the request to return or destroy the information and specifies a concrete date for the final destruction of the information. In this case, the Confidential Information shall be subject to the confidentiality obligation beyond the periods specified in this Confidentiality Agreement until its destruction or return. The retention of copies is inadmissible; a right of retention is excluded unless it is asserted with regard to claims that are undisputed or established by a final judgment.

§ 10 Penalty

10.1 For each breach of the above confidentiality obligation, the infringing party undertakes to pay to the other (injured) party a reasonable contractual penalty which shall be determined by the other (injured) party at its reasonable discretion taking into account all circumstances of the case and which, in the event of a dispute, shall be subject to review by the competent court.

The parties acknowledge that they are aware that a breach of this agreement may result in the disclosing party suffering irreparable damage for which monetary damages will not be an adequate remedy and in that case the disclosing party may seek and obtain injunctive relief, including specific performance, against the breach or threatened breach of this agreement, in addition to any other rights or remedies which they may have.

10.2 The assertion of the contractual penalty shall not preclude the assertion of a claim for damages exceeding contractual penalty.

§ 11 Applicable law and place of jurisdiction

11.1 This agreement is exclusively subject to German law to the exclusion of private international law.

11.2 To the extent legally permissible, the parties agree on the District Court München I (“Landgericht München I”) as exclusive place of jurisdiction for any disputes arising out of or in connection with this agreement.

§ 12 Final provisions

12.1 This non-disclosure agreement does not need to be in writing to be effective. In the meaning of. § 126 BGB. By way of clarification, the parties agree that a signed copy of this non-disclosure agreement sent by fax, e-mail or other electronic means (in particular by means of a qualified electronic signature) shall have the same legal consequences as the sending of a signed original. Amendments and/or supplements to this agreement must be made in text form (e.g. letter, e-mail or fax). Written in the sense of the agreement means in text form.

12.2 If one of the provisions should be invalid, void or unenforceable for other factual or legal reasons, the parties agree to make a provision that comes closest to the omitted provision in its economic result. The same shall apply in the event of a loophole. The invalidity of individual provisions shall not affect the validity of the remaining provisions.

Date and Signature

Leutkirch, _____
place date

Vera Kowitz

for Novoplast – Verpackungen GmbH & Co. KG
Unterzeiler Weg 5
88299 LEUTKIRCH
GERMANY

_____, _____
place date

signature

for _____
