

## CONFIDENTIALITY AGREEMENT

**THIS AGREEMENT** is made

**BETWEEN**

**TÜV AUSTRIA Belgium NV/SA**  
Steenweg op Mechelen, 455  
B-1950 Kraainem  
Belgium  
(**"Confidentiality Party "**)

**AND**

(**"The applicant "**)

**RECITALS**

- A** The Parties wish to reveal Confidential Information to each other for the Disclosure Purpose;  
and
- B** the Parties agree to treat and maintain the confidentiality of such Confidential Information on the terms set out in this AGREEMENT.

**THE PARTIES AGREE AS FOLLOWS:**

### **1. Interpretation**

1.1 In this AGREEMENT, unless the context otherwise requires:

**'Associates'** of a Party means:

- (a) Related Body Corporates of the Party; and
- (b) directors, officers and employees of the Party and its Related Body Corporates.

**'Confidential Information'** means all information relating to **biodegradable and/or biobased materials** and the business of the Parties, which a Party receives or deduces from the other Party prior to, at, or after the execution of this AGREEMENT.

**'Discloser'** means each of the Parties to the extent that they disclose to the other Confidential Information.

**'Disclosure Purpose'** means the purpose described in **Schedule 1** to this AGREEMENT.

**'Parties'** means together the **"Applicant"** and the **"Confidentiality Party"** and  
**'Party'** means one of them.

**'Recipient'** means each of the Parties to the extent that they receive or deduce from the other Confidential Information.

## **2. Use of the Information**

- 2.1 The Recipient shall treat the Confidential Information and the fact that the Discloser has supplied the Confidential Information as private and confidential.
- 2.2 With effect on the date of this AGREEMENT, the Recipient shall not disclose or allow to be disclosed any Confidential Information except:
- (a) as required by law or by a stock exchange or by any order of any court, tribunal, authority or regulatory body;
  - (b) to its Associates or professional advisers to the extent that they have a need to know the Confidential Information for the Disclosure Purpose; or
  - (c) to any other person to whom the Discloser has consented in writing prior to the disclosure that the Confidential Information may be disclosed (such consent not to be unreasonably withheld).
- 2.3 The Recipient shall not use the Confidential Information nor allow the Confidential Information to be used in a manner detrimental to the Discloser or any of its Related Body Corporates.
- 2.4 The Recipient must ensure that all Confidential Information in the possession of the Recipient or any of its Associates or professional advisers is only used for the Disclosure Purpose.
- 2.5 If there is any uncertainty as to whether any information is Confidential Information, that information must be treated as Confidential Information unless the Discloser notifies the Recipient in writing to the contrary.
- 2.6 The Recipient must:
- (a) maintain effective security measures to protect all Confidential Information from unauthorized access, use, copying or disclosure;
  - (b) notify the Discloser immediately in writing if the Recipient becomes aware of any possible or actual breach of this AGREEMENT and take all reasonable steps required to prevent or stop that breach, at the Recipient's expense; and
  - (c) reasonably assist the Discloser in connection with any action or investigation by the Discloser regarding any possible or actual unauthorized disclosure or misuse of the Confidential Information.

## **3. Disclosure**

- 3.1 The Recipient will advise each person to whom the Confidential Information is disclosed under clause 2.2(c) that the Recipient is subject to a duty of confidence and will procure from each such person an undertaking to maintain the confidentiality of the Confidential Information on the terms of this AGREEMENT as if such person were the Recipient.
- 3.2 If the Recipient is required by law or by any order of any court, tribunal, authority or regulatory body or by a stock exchange to disclose any Confidential Information, the Recipient must:
- (a) first give reasonable notice to and consult with the Discloser;
  - (b) disclose no more Confidential Information than is strictly required; and
  - (c) do whatever is necessary to ensure that the disclosed Confidential Information is treated confidentially.
- 3.3 The Recipient is responsible for any use or disclosure of the Confidential Information by its Associates or professional advisers which is contrary to this AGREEMENT, and must do whatever is necessary to prevent any such use or disclosure.

#### **4. Limitations**

- 4.1 The provisions of Clauses 2 and 3 do not extend to any of the Confidential Information which, without breach of this AGREEMENT or other breach of confidence:
- (a) is in or becomes part of the public domain;
  - (b) was already known to the Recipient, on a non-confidential basis, at the time of disclosure of the Confidential Information; or
  - (c) has been independently developed and acquired by the Recipient.

#### **5. Ownership of the Confidential Information**

- 5.1 All Confidential Information disclosed remains the property of the Discloser and the Recipient obtains no right of any kind to any Confidential Information disclosed to it other than as expressly set out in this AGREEMENT.

#### **6. Return of the Confidential Information**

- 6.1 The Recipient shall upon the request of the Discloser return to the Discloser (or, if directed by the Discloser destroy) all Confidential Information received by it (or which is in the possession of any person to whom the Confidential Information has been disclosed in accordance with this AGREEMENT), including any copies of Confidential Information made by the Recipient (or any person to whom the Confidential Information has been disclosed in accordance with this AGREEMENT) and any data extracted by it from the Confidential Information.
- 6.2 The obligations of the Recipient and its Associates under this AGREEMENT will continue and will be enforceable at any time by the Discloser and its Related Body Corporates even if the materials containing the Confidential Information are returned to the Discloser or destroyed.

#### **7. Discloser's Liability**

- 7.1 The Recipient acknowledges that neither the Discloser nor any of its officers, shareholders, employees, agents or advisers makes any representation or warranty (express or implied) as to the accuracy or completeness of the Confidential Information or as to the reasonableness of any assumptions which may be contained in it.
- 7.2 Neither the Discloser nor any of its officers, shareholders, employees, agents or advisers are liable to the Recipient, its Associates or any other person in relation to the use of the Confidential Information by the Recipient, its Associates, or any other person.

#### **8. Injunctive Relief**

- 8.1 The Recipient acknowledges that because of the nature of the Confidential Information, damages or an account of profit would not be an adequate remedy for the Discloser if there is an unauthorized use or disclosure of the Confidential Information. Therefore, the Recipient acknowledges that the Discloser can seek an injunction to restrain any unauthorized use or disclosure of the Confidential Information.

#### **9. General**

- 9.1 The Recipient agrees to the obligations and restrictions this AGREEMENT imposes on it regarding the Confidential Information, in consideration for the Discloser:
- (a) disclosing the Confidential Information to the Recipient; and/or
  - (b) allowing the Recipient to use the Confidential Information on the terms of this AGREEMENT.

- 9.2 This AGREEMENT does not restrict:
- (a) the Discloser's right to use the Confidential Information, or disclose the Confidential Information to third parties, for any purpose; or
  - (b) any other right of the Discloser to deal with third parties for any purpose.
- 9.3 (a) Subject to clause 9.3(b), if a provision of this AGREEMENT is illegal or unenforceable in any relevant jurisdiction, it may be severed for the purposes of that jurisdiction without affecting the enforceability of the other provisions of this AGREEMENT.
- (b) Clause 9.3(a) does not apply if severing the provision:
- (i) materially alters the:
    - (A) scope and nature of this AGREEMENT; or
    - (B) the relative commercial or financial positions of the Parties; or
  - (ii) would be contrary to public policy.
- 9.4 This AGREEMENT contains the entire understanding between the parties as to the subject matter of this AGREEMENT.
- 9.5 This AGREEMENT may consist of a number of counterparts and, if so, the counterparts taken together constitute one AGREEMENT.
- 9.6 This AGREEMENT is not intended to create a partnership, joint venture or agency relationship between the Parties.

## **10. Governing Law**

- 10.1 This AGREEMENT is governed by and shall be construed in accordance with the law in force in Belgium and the Parties irrevocably and unconditionally submit to the nonexclusive jurisdiction of the courts of Belgium and courts competent to hear appeals therefrom and waive any right to object to any proceedings being brought in those courts.

## **11. Amendment**

- 11.1 A modification, variation or amendment of this AGREEMENT is not of any force unless it is in writing and duly executed by each of the Parties.

## **12. Period**

- 12.1 The Parties agree to continue to observe the obligations of confidentiality contained in this AGREEMENT until the expiration of 5 years from the date of receipt of the Confidential Information, notwithstanding termination of the AGREEMENT.

## **13. Non-Waiver**

- 13.1 Neither the failure of a Party to enforce at any time the provisions of this AGREEMENT nor the granting at any time of any other indulgence shall be construed as waiver of any provision or of the right of that Party to enforce that or any other provision.

## **14. Assignment**

- 14.1 A Party shall not assign or transfer all or any of its rights or obligations hereunder without the prior written consent of the other Party. Any dealing in breach of this clause is of no effect.

**Schedule 1 - Disclosure Purpose**

The assessment of **biodegradable and/or biobased materials** by the Confidentiality Party and all matters connected thereto.

**EXECUTED** by the Parties as an AGREEMENT.

**SIGNED & DELIVERED**

for and on behalf of

**TÜV AUSTRIA Belgium NV/SA**

by its duly authorized representative

Name :

Signature :

Date:

**SIGNED & DELIVERED** for and on behalf of

by its duly authorized representative

Name:

Signature:

Date: