

## **Confidentiality Agreement**

between

Aug. Winkhaus GmbH & Co. KG  
August-Winkhaus-Str. 31  
48291 Telgte / Germany

- hereinafter referred to as "the Company",

and

(Supplier)

- hereinafter referred to as "the Partner",

-both hereinafter jointly referred to as "the Parties",

### **Preliminary remark**

Within the scope of the Parties conducting talks or beginning the cooperation, the Company shall make confidential information and documents accessible to the Partner and the Parties and wishing to avoid misuse of this information, the Parties agree the following:

#### **§ 1 Description of the cooperation**

The Company intends to disclose confidential information to the Partner with a view to their cooperation or their discussions.

#### **§ 2 Non-disclosure agreement**

- (1) The Partner undertakes to treat all information it receives directly or indirectly within the scope of this cooperation as confidential and only to use it in connection with the cooperation or preliminary discussions described in §1. This includes data, drawings, drafts, sketches, plans, descriptions, specifications, measurements, calculations, experiences, methods, models, knowledge and processes including confidential know how and announcements of intellectual property rights not yet published.
- (2) The Partner shall ensure that this information is not conveyed to third parties or made accessible to third parties in any form, and to take all appropriate precautions in order to prevent any third parties from gaining access to this information.
- (3) The Partner undertakes not to copy, publish or replicate any confidential information without prior written consent.
- (4) In the event that the cooperation does not proceed or it is terminated, all the documents received and copies thereof must be immediately returned to the Company without it having to request such return. In addition, the Company is entitled to reclaim the confidential information immediately from the Partner at any time without having to justify such demand.

### **§ 3 Scope of non-disclosure and persons affected**

- (1) The non-disclosure obligation relates to all information that the Partner or one of its employees has received or will receive in connection with the cooperation described in section 1, and in particular
  - know-how and results achieved or used within the scope of this project,
  - the description of the project,
  - the schedules, objectives and ideas envisaged for the completion of the project,
  - other information not publicly available, which the Partner receives within the scope of the project on the bearer of the know how.
- (2) The non-disclosure obligation pursuant to this agreement extends to all employees and agents of the Partner, irrespective of the type of legal arrangement for the cooperation. The Partner undertakes to impose corresponding obligations of non-disclosure on these persons, insofar as this has not yet been done.
- (3) The Parties agree that the Partner shall receive no rights, in particular of ownership of intellectual property, on the confidential information.

### **§ 4 Period of time**

- (1) The obligations of non-disclosure pursuant to this agreement shall continue to apply beyond the termination of the cooperation.
- (2) The obligations of non-disclosure pursuant to this agreement shall not apply or no longer apply if and insofar as the information in question demonstrably:
  - is or has become widely known, or
  - becomes widely known through no fault of the Partner, or
  - already was in the Partner's possession before the disclosure, or
  - significantly corresponds to information, which was revealed or made accessible to the receiving Partner at any time by an authorised third party.

The burden of proof for the presentation of these exceptions lies with the Partner.

### **§ 5 Penalties and compensation**

- (1) The Partner is aware that the violation of trade and business secrets is punishable under the §§17, 18 of the Unfair Competition Act (UWG).
- (2) The Parties agree that in the event of a violation of the obligations arising from this agreement, resulting damages shall be subject to compensation.

### **§ 6 Jurisdiction**

The Parties elect Münster, Westfalen as the sole place of jurisdiction for disputes arising from this agreement. The Company reserves the right to bring action at the legal venue of the Partner's head office or residence.

## § 7 Severability clause

Should a provision of this agreement be or become ineffective or contestable for any reason, the remaining content of this agreement shall remain unaffected, and shall be executed correspondingly.

An appropriate provision, which resembles as closely as legally possible the intentions of the contracting parties or what they would have intended pursuant to the sense and purpose of this agreement had they considered the point when concluding this agreement, shall replace the ineffective or contestable provision. The same shall apply in the event of loophole in the agreement.

Only modifications or additions made to this agreement in writing shall be valid, insofar as no other formal requirements are necessary and (cumulatively) that of the express reference to this agreement. This also applies to the waiver of this requirement for written form.

Telgte,  
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(Place, date)

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\_\_\_\_\_  
(Place, date)

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Aug. Winkhaus GmbH & Co. KG

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(Supplier)

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Aug. Winkhaus GmbH & Co. KG

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