

CONFIDENTIALITY AGREEMENT

between

NAME, ADDRESS

and

the company Gerhardi Kunststofftechnik GmbH,
Schlittenbacher Str. 2, D-58511 Lüdenscheid, Germany

– hereinafter also referred to as “Gerhardi” –

– both hereinafter also referred to collectively as ‘Parties’ and/or each individually as ‘Party’–

Whereas the Parties are in the process of discussing a cooperation in the context of

INSERT (IF DESIRED),

and the present Agreement defines the rights and obligations of the Parties in the context of transmission, disclosure and communication of confidential information that require secrecy;

Now therefore, in order to maintain confidentiality and safeguard their mutual interests, the contracting Parties agree as follows:

§ 1 Confidential Information

(1) Confidential Information for the purposes of the present Agreement comprises in particular all and any:

- Business-related, personal and technical data,
- know-how, electronically stored data, templates, drawings, designs, prototypes,
- development, research and planning data,
- quotations, reactions to quotations, intentions,
- results obtained, negotiated or used in the course of the cooperation,
- descriptions of the cooperation,
- the envisaged timetables, goals and ideas for implementation of the cooperation,
- any other information obtained in the course of the exchange or cooperation,

and all and any related operations and processes, as well as all and any oral or written information, including information received on data carriers or by email, findings, work results, reports and materials delivered or prepared.

(2) Likewise, all information that was the subject of discussions before the entry into force of the present Confidentiality Agreement is also covered by the latter.

§ 2 Obligation to Secrecy

(1) The Parties undertake to treat as secret all Confidential Information under the present Agreement that the Parties may obtain directly or indirectly in the course of the discussions and/or cooperation. In particular, the Parties undertake to use this information exclusively for the purposes contractually agreed.

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(2) Furthermore, the Parties undertake not to disclose Confidential Information to any third parties, nor to make it accessible to third parties in any form whatsoever, and to take all reasonable precautions to prevent third parties from accessing Confidential Information.

(3) This includes in particular the stipulation that neither Party may

- use the Confidential Information without the express written consent of the Counterparty for purposes of manufacturing, reproducing or copying procedures, products, or the like;
- provide third parties with information on the findings and results obtained; nor
- permit unauthorised third parties to gain insight into the type and scope of the work during the execution of the contractual works.

(4) The obligation to secrecy under the present Confidentiality Agreement also extends to all employees and agents of the Parties, regardless of the type and legal details of the cooperation. The Parties undertake to impose corresponding obligations to secrecy on this group of persons, if and insofar as this has not been done yet.

(5) The obligations to secrecy under the present Confidentiality Agreement shall not apply if and insofar as the relevant Confidential Information can be demonstrated to have been, at the time of transmission,

- already generally known or obvious, i.e. already published or generally accessible, or
- made generally available through no fault of the respective Party, or
- lawfully obtained from a third party, or
- already available at the respective Party; or that are to be
- disclosed due to a binding regulatory or judicial order or mandatory legal regulations, and the Party in need of protection has been informed of this in writing with reasonable advance notice before the required disclosure.

§ 3 Affiliated Companies

Affiliated companies within the meaning of § 271 II HGB (German Commercial Code) and §§ 15 – 18 AktG (German Stock Corporations Act) as well as group companies and subsidiary companies in which the Parties hold a majority interest are not third parties for the purposes of the present Confidentiality Agreement, provided that these affiliated companies, group companies and/or subsidiary companies acknowledge the present Confidentiality Agreement in full and in writing as binding.

§ 4 Disclosure to a Third Party

(1) Should it be necessary to disclose any Confidential Information to a third party in the context of a project, the Party that discloses the information to the third party shall inform the Party in need of protection accordingly. The disclosing Party shall expressly require this third party to equally comply with the obligations assumed by it under the present Confidentiality Agreement.

(2) Disclosure of Confidential Information in the context of the commercial handling at distributors (dealerships) to the respectively producing enterprises is permissible without the special

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obligations of § 4 I 1, if and insofar as the producing enterprises have likewise been obliged to secrecy by the distributors.

(3) In the event of a violation, all rights are reserved.

§ 5 Intellectual and Industrial Property Rights and Copyrights

Neither the present Agreement nor the disclosure of any Confidential Information, whether protected by intellectual or industrial property rights or not, does confer any ownership, license, right of reproduction, right of use or any other right. The respective Party reserves all rights, including copyrights, with regard to your *[sic; recte: its]* Confidential Information domestically and abroad, also in the event of patent filing and/or utility model registration. Disclosed information does not constitute a prior publication or establish a right of prior use according to the definitions of the German PatG and GebrMG.

§ 6 Liability

The Parties do not represent or guarantee that the Confidential Information and work results made available in the context of the present Agreement have any particular general or special characteristics or fulfil any qualifications, are usable, complete, technically perfect or marketable, or that no industrial property rights of third parties are infringed by their application.

§ 7 Entry into Force and Persistence of the Obligation to Secrecy

(1) The obligations to secrecy under the present Confidentiality Agreement enter into force upon signature of the present Agreement by both Parties thereto, and shall remain effective and in force for another 5 years beyond the termination of the cooperation.

(2) At the request of the Counterparty or at the latest after termination of the cooperation, either Party shall return to the Counterparty all documents, data, drawings, samples, etc. received in the context of the cooperation, including any copies made, or to destroy them or delete them from all data carriers, unless this would conflict with legal or professional retention obligations. The respective Party shall also ensure that any persons outside its own company to whom Confidential Information has been made available shall act in accordance with the preceding clause. If and insofar as Confidential Information is stored as data on backup media, deletion of these data at the regular intervals is sufficient. The obligations of the present Agreement shall survive its termination with regard to such data until such time as the latter have been finally deleted by the receiving Party.

§ 8 Legal Venue and Applicable Law

The legal venue for all disputes arising from or in connection with the present Agreement shall be Lüdenschaid, Germany. All disputes arising out of or in connection with the present Agreement are subject to and to be resolved in accordance with the substantive law of the Federal Republic of Germany.

§ 9 Amendments/Additions

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- (1) Any amendments to the contract must be made in writing. This also applies to this requirement for written form itself.
- (2) No oral ancillary agreements have been concluded between the Parties.

§ 10 Severability Clause

Should any provision of the present Agreement be or become invalid, this shall not affect the validity of the remaining provisions of the present Agreement. The Parties shall act in good faith and make all reasonable efforts to replace the invalid provision by a permissible provision equivalent in terms of economic consequences, provided no significant alteration to the contents of the Agreement is made thereby.

Company stamp:

Company stamp:

Place, date

Place, date

Signature

Signature