



CONFIDENTIAL DISCLOSURE AGREEMENT

THIS AGREEMENT, effective as of _____ is made by and between _____, (herein referred to as the “Party”), a _____ (state) corporation with its principal place of business at _____ and The Biodegradable Products Institute (herein referred to as the “BPI”), a Delaware corporation with its principal place of business at 888c 8th Avenue, #141, New York, NY 10019.

In connection with the Party’s request to participate in BPI’s certification scheme for compostable products and materials, either as an Applicant or a Supplier to an Applicant, the Party may disclose to BPI certain confidential and proprietary technical and business information which the Party desires BPI to treat as confidential.

1. Purpose. The purpose of the disclosure of Confidential Information by the Party to BPI under this Agreement is to permit the sharing of formulation and raw material information in pursuit of BPI’s Certification Program for biodegradability and/or compostability.
2. Definition of Confidential Information. The term “Confidential Information” shall mean all non-public business and/or technical information disclosed by the Party hereto to BPI which the disclosing Party considers to be confidential and proprietary.
 - a. Examples of Confidential Information include, without limitation, information regarding composition, formulation, raw materials, samples, manufacturing/processing information, packaging, sales and marketing information, and business plans and/or activities.
3. Exceptions. The term “Confidential Information” shall not include information:
 - a. which is within the public domain through no breach of this Agreement by a Party hereto;
 - b. which can be shown was already in BPI’s possession at the time of disclosure without any obligation of confidentiality to the disclosing Party, or any third party;
 - c. that is disclosed to BPI without an obligation of confidentiality by a third party having a legal right to do so; or
 - d. that can be shown by written records that it was developed independently without utilization of Confidential Information disclosed as a result of this Agreement.
4. Obligations of Confidentiality and Use.
 - a. BPI agrees only to use the Confidential Information in service of the Purpose.
 - b. BPI agrees not to disclose the other’s Confidential Information received hereunder to any third party (other than its affiliate DIN CERTCO and its employees, which are bound by written confidentiality agreements no less restrictive than this Agreement), unless the disclosing Party consents to such disclosure and the third party is advised of the confidential nature of the disclosure of Confidential Information and the terms of this Agreement and such third party is bound by a written agreement no less restrictive

than this Agreement to protect the confidentiality of the disclosing Party's Confidential Information.

- c. BPI agrees to exercise the same degree of care as it employs for protection of its own proprietary information, but no less than a reasonable degree of care, and to restrict disclosure of Confidential Information to only those employees and DIN CERTCO staff who have a need to know such information to carry out the Purpose.
 - d. All documents, drawings, writings and samples provided hereunder and any copies incorporating any Confidential Information of the Party, shall be returned promptly to the disclosing Party upon written request or certified as being destroyed by an officer of the receiving Party, except samples which shall be returned to the disclosing Party. Notwithstanding, BPI may maintain one copy of the Confidential Information disclosed hereunder for legal purposes.
 - e. BPI shall not file a patent application incorporating the Party's Confidential Information disclosed pursuant to this Agreement, unless written approval is received from the disclosing Party to do so.
5. Compelled Disclosure. BPI may disclose the Confidential Information if required to do so by the final binding order of a governmental agency or a court of competent jurisdiction, provided that any such compelled disclosure is only to the extent necessary to comply with the order and BPI has given the Party adequate notice of (no less than 10 business days), and the opportunity to contest, the order compelling disclosure.
6. No Warranty. All Confidential Information is provided "as is" and without any representation or warranty, whether express or implied, as to its accuracy or completeness.
7. No Rights or Relationships Established.
- a. This Agreement does not require disclosure of Confidential Information nor does it require the Party to proceed with any proposed transaction or relationship.
 - b. This Agreement does not, and shall not be construed to, constitute a grant of any license or other rights in the intellectual property of the Party to BPI.
 - c. This Agreement is not intended to be nor shall it be deemed to constitute an agency, partnership, joint venture, co-venture, or other association or business relationship between the Party and BPI, other than as expressly provided for herein.
8. Term.
- a. This Agreement shall expire THREE (3) years after the Effective Date.
 - b. Notwithstanding the provisions of Section 8(a), the Party shall have the right to terminate this Agreement at any time and for any reason upon thirty (30) days' written notice to BPI.
 - c. For each disclosure of Confidential Information, the obligations of confidentiality and use described in Section 4 shall survive any termination or expiration of this Agreement, and continue for five years following the date of termination, except for trade secrets which shall be held confidential as long as the disclosure or any part of the disclosure falls under the protection of trade secret.
9. Miscellaneous

888c 8th Ave, New York, NY, 10019

Ph: 888-274-5646 Email: info@bpiworld.org

Website: www.BPIworld.org Database: <http://products.bpiworld.org>

- a. Scope. This Agreement is binding upon the Party and BPI and upon their respective representatives, employees, successors, and permitted assigns.
- b. Choice of Law. This Agreement shall be governed by and interpreted in accordance with the law of the State of New York, without regard to its choice or conflicts of laws principles.
- c. Waiver. No failure or delay by either Party or BPI in exercising any right hereunder shall operate as a waiver thereof.
- d. Assignment. This Agreement may not be assigned, in whole or in part, by the Party or BPI without the written consent, which consent shall not be unreasonably withheld; provided, however, that either Party may, in its sole discretion and upon prior written notice to the other Party, assign this Agreement, in whole or in part, to any of its affiliates.
- e. Amendment. All amendments, modifications, or changes to this Agreement shall be made in writing and with the express written approval of both the Party and BPI.
- f. Severability. If any provision of this Agreement, or parts thereof, shall be held to be invalid, illegal or unenforceable, in an arbitral or judicial proceeding, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.
- g. Entire Agreement. This Agreement supersedes all prior agreements between the Party and BPI with respect to its subject matter and constitutes a complete and exclusive statement of the terms of the agreement between the Party and BPI with respect to its subject matter.

If the above terms and conditions are acceptable, please have an authorized representative sign and return one fully executed copy to BPI for our files.

(signature)

(signature)

(Name, position/title)

Rhodes Yepsen, Executive Director

(date)

(date)