

Issue/Term	Croda's standard position	What does this mean	Parameters for negotiation
<b>Croda's Standard Confidentiality Agreement</b>	Croda should contract on its standard form confidentiality letter agreement.	You should bring this letter form agreement to customers' attention asap.	The Legal team are unable to review all third party CDA. The business may be happy to agree a third party CDA, however caution should be taken regarding IP rights.
<b>General</b>	Croda is happy to tolerate errors/inconsistencies in confidentiality agreements, provided a common sense interpretation of the relevant provisions is likely to resolve the relevant issue.	Minor amendments to Croda's standard confidentiality agreement are acceptable provided that the meaning and intention of the terms are not changed.	Negotiable. If you are unsure of the effect of any such amends please contact Legal.
<b>Parties</b>	Ensure that the correct Croda entity is a party to the agreement i.e. the entity to be bound by any relevant confidentiality provisions/providing the information.	Unless informed otherwise you should determine the relevant Croda contracting entity, where possible, depending on which entity will do the majority of the disclosing.	n/a
<b>Confidential Information</b>	Croda is relaxed about the definition of confidential information provided that: (a) it does not potentially exclude any information to be disclosed by Croda; and (b) the definition is consistently either general or specific (i.e. the confidentiality agreement does not contain a general definition and later restrict this only to information relating to a particular subject area). If the definition does fall foul of (b), the specific element should be deleted. Trade secrets should not be dealt with separately under the confidentiality agreement (i.e. they should be included in the definition of, and subject to the same obligations as, "Confidential Information").	You should not accept a definition of confidential information that does not cover all information that is to be disclosed by Croda pursuant to any agreement to the other party or the definition is not general and then later limited to a specific purpose/subject area.	Negotiable in accordance with Croda's standard position.
<b>Identification of Confidential Information</b>	Any information provided by Croda does not need to be marked as confidential in order to be treated as such under any confidentiality agreement.	If an agreement has a provision requiring information to be marked as confidential, it should be deleted, it's a commercial burden.	Croda's standard position is non-negotiable.

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<b>Period of disclosure</b>	The period of disclosure should generally last no more than two (2) years. Under no circumstances should the period of disclosure be for an "evergreen" period i.e. automatic renewal clauses . In the event that it is proposed that disclosure shall last longer than two (2) years, the period should be restricted to max five (5) years.	The duration of the agreement should not be longer than 5 years. See guidance on period of confidence.	Croda's standard position is non-negotiable.
<b>Purpose</b>	Croda is prepared to accept a general definition of the "Purpose" of the disclosure of confidential information.	It is preferred that you are as specific as possible as to the reasons for entering into the confidentiality agreement	Negotiable in accordance with Croda's standard position. If you are unsure of the effect of any such amends please contact Legal.
<b>Period of confidence</b>	For a mutual confidentiality agreement the period of confidence must be no longer than 10 years.	Where the confidentiality agreement is intended to be mutual the normal position adopted by Croda is that the obligation for parties to keep information confidential may extend for a maximum ten (10) years from the effective date of the confidentiality agreement (including post-termination). This position should always be adopted in the first instance.	Croda's standard position is non-negotiable.
	<p>For a one-way agreement (where Croda is the disclosing party) the period of confidence may be longer than 10 years.</p> <p>For a one-way agreement (where Croda is the receiving party) the period of confidence may be shorter than 10 years.</p>	Where the agreement is one-way, with Croda being the party making the disclosure, a period of confidence in excess of ten (10) years will be acceptable and, conversely, where only Croda is receiving, a period of confidence shorter than ten (10) years will be acceptable.	Croda's standard position is non-negotiable.

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<b>Carve outs</b>	<p>Each confidentiality agreement should include all of the standard carve outs i.e. the following shall not be considered confidential information:</p> <ul style="list-style-type: none"> <li>• information that is in/enters the public domain other than through breach of the agreement;</li> <li>• Information that was available to the recipient on a non-confidential basis prior to any disclosure;</li> <li>• information that is in/enters the possession of the receiving party free of any obligation of confidence; and</li> <li>• information that is independently developed.</li> </ul> <p>In addition, the “embraced by more general information” wording (see Clause 1(a) of the Croda standard) should be included.</p>	<p>There are certain classes of information that are not usually considered confidential, that is: information that is in the public domain, that the recipient already possesses or has received from another source.</p>	<p>Croda's the inclusion of the standard carve outs is non-negotiable. However, Croda is otherwise relaxed about the precise scope of the exceptions.</p>
<b>Confidential obligations</b>	<p>Prescriptive confidentiality obligations (e.g. requiring confidential information to be stored separately) should be opposed.</p>	<p>You should oppose detailed confidentiality obligations being placed on Croda, it's a commercial burden.</p>	<p>Croda's standard approach should be considered the default, however, Croda is prepared to accept a “secure storage” requirement.</p>
<b>Permitted disclosees</b>	<p>Croda is happy for any person that has a need to know its confidential information for the purpose to be given access to that information, provided that the receiving party remains responsible for the actions of its permitted disclosees (see Clause 2(e) of the Croda standard).</p>	<p>The recipient party must remain responsible for the failure of any of its employees (or other related parties) to keep any confidential information, confidential.</p>	<p>Croda's standard position is non-negotiable.</p>
<b>Disclosure to affiliates</b>	<p>Croda should always be entitled to disclose confidential information to its affiliates.</p>	<p>The provisions should allow for Croda to share any confidential information</p>	<p>Croda's standard position is non-negotiable.</p>

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	Croda's group companies fall within standard definitions of affiliates.	with its group companies.	
<b>Non-analysis clauses</b>	Croda's standard position is that the non analysis (of samples) clause should always be inserted. In the event that the other party's agreement does not have a non-analysis clause, one must be inserted (see clause 9 of the Croda standard).	Croda requires the agreement to ensure that the recipient of its confidential information shall in no way analyse, test, or attempt to reverse engineer any chemical or physical sample provided to it.	Croda's standard position is non-negotiable, unless we are not providing samples, in which case the clause can be removed.
<b>Intellectual property clauses</b>	Subject to guidelines relating to Reports below, if a confidentiality agreement includes provisions in respect of intellectual property rights ownership, these should always be deleted.	Each party retains any ownership of intellectual property it has prior to entry into the confidentiality agreement. The agreement should not seek to attribute intellectual property rights.	Croda's standard position is non-negotiable. Where complex IP clauses are found within a third party agreement, please consult the IP team.
<b>Reports</b>	Croda is happy for the confidentiality agreement to state that any reports (or similar items) the receiving party produces based on confidential information shall be deemed to be the confidential information of the disclosing party and cannot be further disclosed by the receiving party. However, you should resist any provision that requires those reports to be provided/returned to the disclosing party where the disclosing party is not Croda.	Anything created or generated from the confidential information of the disclosing party e.g. reports should remain the property of the disclosing party. Croda will not accept obligations to return any such reports or otherwise generated materials.	Croda's standard position is non-negotiable.
<b>No patenting</b>	A no patenting clause (see Clause 8 of the Croda standard) must be inserted if not already present.	The recipient of any confidential information shall not be permitted to apply for any intellectual property rights in relation to anything that stems from results of any test, analysis, investigation or development based upon any confidential information.	Croda's standard position is non-negotiable. If further discussion is required, please contact the IP team.
<b>No representation or warranty</b>	The confidentiality agreement must contain a clause stating that no representation or	Croda makes no guarantee or warranty that any confidential information	Croda's standard position is non-negotiable.

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	warranty is given as to the accuracy or completeness of information disclosed (see clause 5 of the Croda standard). If one is not included it must be inserted. See also guidelines relating to Freedom to disclose.	disclosed is complete or accurate.	
<b>Freedom to disclose</b>	Croda is prepared to accept a warranty confirming that it is free to disclose its confidential information (however defined in the confidentiality agreement). However, this should <u>not</u> be inserted if not present in the confidentiality agreement as originally drafted.	That Croda is authorised to disclose the confidential information as defined in the confidentiality agreement.	Croda prefer that this not be included in the confidentiality agreement, but is willing to accept such a provision if pressed.
<b>Indemnities</b>	Any indemnity that is given in whole or in part by Croda should be deleted.	Croda offers no indemnities i.e. will not enter into any obligation compensate the other party for any particular loss it suffers.	Croda's standard position is non-negotiable.
<b>Entire Agreement</b>	Where the confidentiality agreement does not contain a specifically defined purpose, any entire agreement clause in the confidentiality agreement should be deleted.	If the purpose of the confidentiality agreement is not clear then you will need to ensure that there is no statement that the confidentiality agreement is the "entire agreement."	Croda's standard position is non-negotiable.
<b>Non-solicitation</b>	Croda is happy to accept a provision restricting the receiving party from soliciting the employment of the disclosing party's employees provided the provision contains the standard carve out with respect to responses to general employment advertisements.	This means that Croda shall not entice or solicit away any employee of the other party and vice versa.	Negotiable in accordance with Croda's standard position.
<b>US export regulations wording</b>	Croda is happy to accept wording commonly inserted into confidentiality agreements involving US entities requiring	Parties must comply with export regulations.	Non-negotiable at law.

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	compliance with US export regulations.		
<b>Assignment</b>	Croda does not insist on either party being permitted to/restricted from assigning.	Either party is free to assign the confidentiality agreement.	The ideal position is for Croda to be able to assign the agreement and the other party not to. However, this is not a 'deal breaker.'
<b>Early termination</b>	It is essential that the obligation of confidence survives early termination.	Confidentiality provisions should express continue past early termination.	Croda's standard position is non-negotiable.
<b>Governing law and Jurisdiction</b>	Croda's preference is the governing law and jurisdiction should be the territory where disclosure will take place.	This means that Croda does not require that the laws of England apply in the event of a dispute, nor does it require that the courts of England have jurisdiction to hear such a dispute.	Croda is flexible and anything reasonable is acceptable. You should avoid accepting a territory where the other party has a significant presence (or which otherwise substantially favours the other party over Croda). Subject to this, acceptable territories include the domicile of either party, the location of the actual businesses involved or the territory where disclosure will occur. If in any doubt, the specific territory should be queried with Legal. Croda's prefers a "non-exclusive" jurisdiction to be specified.
<b>Arbitration</b>	Croda is not prepared to accept arbitration clauses.	Parties may not agree to arbitration.	Croda's standard position is non-negotiable.
<b>Remedies clauses</b>	A provision should be included to state that the parties will be entitled to an injunction/damages in the event of breach.	There should be consequences for breach.	Croda's standard position is non-negotiable.
<b>Return/destruction of confidential information</b>	Croda's preference is for the receiving party to have the option to either return or destroy confidential information.	On expiry of the agreement the recipient party should be required to either return or destroy the confidential information.	Croda's standard position is non-negotiable.
<b>Undertakings from individual</b>	Any requirement that employees or other representatives of Croda shall sign an confidentiality agreement related to the	There should be no requirement that any individual employee must be required to sign its own confidentiality	Croda's standard position is non-negotiable.

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<b>employees/agents</b>	disclosure dealt with in the confidentiality agreement must be deleted.	agreement.	
<b>Signature on behalf of affiliates</b>	You should resist wording that purports to require the contracting Croda entity to sign on behalf of the entire Croda group.	The signature wording should not bind the entire group.	Croda's standard position is non-negotiable
<b>Ancillary issues</b>	If unsure of the position which should be taken/ agreed, or any issue becomes a "deal-breaker", he/she should discuss with Legal.		