CONFIDENTIALIALITY/NON-DISCLOSURE AGREEMENT

**THIS AGREEMENT**, dated this 1st day of June, 2016 between the **Florida A&M University, acting for and on behalf of its Board of Trustees**, a public body corporate of the State of Florida (FAMU or UNIVERSITY), located at 1700 Lee Hall Drive, Suite 416 FHAC, Tallahassee, Florida 32307 and\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Corporation, (COMPANY), with an address of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. FAMU and COMPANY shall be referred to individually as “Party” and collectively as the "Parties."

In consideration of any existing or potential business relationship between the Parties and any disclosure of Confidential Information by any Party hereunder and recognizing certain information and material is proprietary and confidential to the Parties, the Parties agree to the following terms and provisions in order to provide an appropriate basis by which such Confidential Information can be made available to each Party from the other Party:

1. As used in this Agreement, the term “Confidential Information” is any technical or business information furnished by the Disclosing Party to the Receiving Party in connection with the proposed business relationship. Such Confidential Information shall include, without limitation: drawings, data, materials, software, documentation, trade secrets, know-how, inventions, technical data or specifications, processes, testing methods, business or financial information, research and development activities, samples, product and marketing plans, customer and supplier information, and other materials, whether patented or not patented.
2. **Term/Termination**: The term of this Agreement shall be One (1) year from the Effective Date. Either Party may terminate this Agreement without cause upon thirty (30) days prior written notice to the other Party, provided that each Party’s obligations with respect to Confidential Information disclosed during the term of this Agreement will survive any termination for the period set forth in Paragraph 6.
3. Neither Party shall be obligated by this Agreement to provide to the other Party any Confidential Information; each Party may at its sole discretion determine which of its Confidential Information it will provide to the other Party.
4. The Confidential Information is provided on an “as is” condition. The Disclosing Party makes no warranties expressly, impliedly or otherwise, and shall not be liable for the accuracy, completeness, or utility of the Confidential Information or any damages of any nature as a result of or arising out of the Receiving Party’s reliance on or use of the Confidential Information.
5. All Confidential Information provided in tangible form shall be marked as such. A Party providing Confidential Information by verbal communication(s) shall provide the receiving party a written notice within thirty (30) days after each such communication/disclosure that identifies what was considered Confidential Information in the communication. Such notice shall summarize the Confidential Information disclosed to the Receiving Party and reference the date and time, place of disclosure and parties involved in receiving the confidential information.
6. Each Party will treat as confidential all Confidential Information which is or has been made available, directly or indirectly, to it by the other Party, and will treat it with the same degree of care that it would treat Confidential Information of its own. From the date received, the receiving Party will not disclose Confidential Information of the other Party to others for a period of five (5) years.
7. Each Party will use Confidential Information received from the other Party only to the extent necessary for the aforesaid purpose.

The receiving Party shall not divulge, in whole or in part, such Confidential Information to any third party without the prior written consent of the disclosing Party. The receiving Party shall make no commercial use, in whole or in part, of any such Confidential Information without the prior written consent of the disclosing Party. Each Party shall further restrict disclosure and limit access of such Confidential Information to only those persons who have a need to know for the purpose of performing a contract pursuant to this Agreement and who have been advised of the restrictions on disclosure and use, and who also have signed a Confidentiality and Non-Disclosure Agreement.

1. Each party agrees to comply with all applicable laws, rules and regulations, including Export Administration Regulations and Export Control Regulations of the United States of America, relating to the export or re-export of technical data and products produced as a result of the use of such data, insofar as they relate to the information disclosed under this Agreement.
2. The non-disclosure obligations of each Party under this Agreement do not apply to Confidential Information received from the other Party which:

(a) at the time of the disclosure is generally available to the public or thereafter becomes generally available to the public through no act or omission of the receiving Party or its employees; or

(b) is in the possession of the receiving party prior to disclosure, known to the receiving party at the time of disclosure without restrictions on its use and for which there is adequate documentation to so evidence; or

(c) is disclosed to the receiving party by a third party having no obligation of confidentiality with respect to such information; or

(d) independently developed by the receiving party without reference to Confidential Information belonging to the disclosing party; or

(e) is required to be disclosed by law, regulations or court order.

1. If the disclosing Party at any time requests the receiving Party to do so, the receiving Party will return all materials, drawings, data, memoranda, software, samples, and written information in its possession relating to such Confidential Information of the disclosing Party, including copies thereof, to the other Party, except that the receiving Party may retain one copy solely for legal archival purposes. The party receiving such a notice shall comply with the request and return the Confidential Information within five (5) working days, excluding weekends and holidays, from the date of receipt of the notice.
2. All Confidential Information is and shall remain the property of Disclosing Party. No rights or obligations other those expressly stated herein are to be implied from this Agreement. Nothing herein grants or shall be construed to grant any right, title, license or other interest in any Confidential Information or other confidential or proprietary information to either party. Disclosing Party retains all rights and remedies afforded under all U.S. laws which are designated to protect proprietary and/or trade secret information.

Nothing herein shall create or be construed to create any obligation on the part of either Party to continue discussions or to enter into any joint development project or agreement which may become apparent during the performance of a contract pertaining to the Parties. If, however, both parties later agree to pursue a license or property right, such license or property interest shall be described and governed by an agreement to be negotiated by the Parties.

1. The Parties agree that any electronically reproduced copy of this fully-executed agreement shall have the same legal force and effect as any copy bearing original signatures of the parties.
2. No waiver or modification of this Agreement will be binding upon either party unless made in writing and signed by both parties, and no failure or delay in enforcing any right will be deemed a waiver.
3. In the event that any of the above mentioned provisions are deemed invalid, the parties agree that such invalidity shall not affect the validity of the remaining portions of this Agreement.
4. This Agreement may not be assigned by either party without the prior written consent of the other party.
5. In the event of a breach in which Confidential Information is disclosed to unauthorized parities, the non-breaching party shall be entitled to seek equitable relief in a form or manner that protects the value of the non-breaching party’s confidential information.
6. The parties are and shall be, in the performance hereunder, independent contractors and not employees, agents or partners of the other. Neither party shall have the power or authority to bind the other in any promise, agreement or representation other than as specifically provided for in this Agreement. Nothing in the Agreement shall be deemed to constitute, create, initiate or otherwise recognize a joint venture, partnership, or formal business entity of any kind. Neither party shall in any manner use the credit, name, logo trademarks and/or copyrights of the other in connection with its business or affairs except as specifically authorized in this Agreement or as approved in writing prior to such use. Both parties shall carry all necessary and appropriate insurance for itself, its employees and agents.
7. **Notices**: All notices shall be in writing sent by United States certified mail, postage prepaid, return receipt requested, or by hand delivery or as designated in the Agreement to the parties at the addresses that follow:

**Florida A&M University** **COMPANY**

**Office of Technology Transfer** Address:

1700 Lee Hall Drive

416 Foote-Hilyer Administration Center

Tallahassee, FL 32307

Attn: Reis Alsberry, Attn:

Director of Tech Transfer Title:

or at such other place as the parties may designate in writing.

1. **Governing Law**: This Agreement shall be governed by the laws of State of Florida. Venue for any litigation arising out of or in connection with this Agreement shall be in Leon County, Florida.

**IN WITNESS WHEREOF**, the parties intending to be bound have caused this Agreement to be executed by their duly authorized representatives.

**FLORIDA A&M UNIVERSITY COMPANY**

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**Timothy E. Moore, Ph.D. Name:**

**Vice President for Research Title:**

**Date: Date:**