

Mutual Confidentiality Agreement

This Mutual Confidentiality Agreement (the "Agreement") is effective on the date of the last authorized signature below (the "Effective Date"), between [insert name of other party] ("Organization"), with offices located at [insert address of other party], and the Arizona Board of Regents on behalf of the University of Arizona, an Arizona body corporate ("Arizona"), with offices located at University Services Building Room 515, 888 N. Euclid Ave., Tucson, Arizona 85719.

The Parties hereby agree as follows:

1. **Purpose of Disclosure and Responsible Agents.** Arizona and Organization wish to exchange information in order to evaluate a potential business relationship relating to [insert purpose of discussion] (the "Purpose"). Arizona will disclose and receive information through its agent, [insert name of Arizona investigator(s)]. Organization will disclose and receive information through its agent, [insert name of Organization responsible person(s)].
2. **Definition of Confidential Information.** For purposes of this Agreement, "Confidential Information" means all information, drawings, data, software, documentation, business plans and know-how relating to the Purpose that is disclosed by one Party (the "Disclosing Party") to the other Party (the "Recipient") that in any way relates or pertains to the Disclosing Party, its research, technology, personnel, operations or business and: (a) if disclosed in written, electronic or other tangible form is conspicuously marked as "confidential," or other similar designation; (b) if disclosed in oral or visual form or observed while on the premises of the disclosing party, is identified in writing as confidential at the time of disclosure or within thirty (30) days of such disclosure.
3. **Exceptions.** Confidential Information does not include any information that: (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 Recipient; (b) is developed by Recipient independently of and without use of or access to the Confidential Information; (c) is disclosed to Recipient by a third party who has a right to make such disclosure; (d) was already in Recipient's rightful possession prior to the time of receipt from the Disclosing Party, as evidenced by Recipient's written records; or (e) is required to be disclosed to a third party by applicable laws or court actions.
4. **Ownership.** The Recipient acknowledges and agrees that: (a) all right, title and interest in and to all Confidential Information is and will remain the exclusive property of the Disclosing Party; (b) nothing in this Agreement will be deemed to convey to the Recipient any rights to or license of any intellectual property rights possessed by the Disclosing Party; and (c) nothing in this Agreement will be deemed to grant to the Recipient any rights to modify, revise or alter the Disclosing Party's Confidential Information.
5. **Non-Use and Non-Disclosure.** The Recipient will treat as confidential and will not, directly or indirectly: (a) use any Confidential Information other than for the Purpose; (b) divulge or disclose any Confidential Information to any third party; or (c) permit any Confidential Information to be divulged or disclosed to or examined or copied by any third party. Without limitation of the previous sentence, the Recipient agrees not to divulge or disclose any Confidential Information to, or to permit any Confidential Information to be divulged or disclosed to or examined or copied by, any of its employees, agents, representatives, except on a "need to know" basis (each such person, a "Permitted Disclosee"). The Recipient will (i) inform each Permitted Disclosee of the requirements of this Agreement, and (ii) ensure that each Permitted Disclosee complies with each of the Recipient's obligations as set forth in this Agreement.

6. **Return of Materials.** Upon request by the Disclosing Party, the Recipient will immediately return to the Disclosing Party all Confidential Information, including all documents and copies of documents in its possession containing Confidential Information. The Recipient may keep a copy for archival purposes.
7. **Injunctive Relief.** The Recipient acknowledges and agrees that in the event that the Recipient or any Permitted Disclosee breaches any of the Recipient's obligations set forth in this Agreement: (a) the Disclosing Party will suffer severe and irreparable injury; (b) the Disclosing Party's remedy at law for damages will be inadequate; and (c) the Disclosing Party will be entitled to seek an injunction to restrain any threatened or continuing breach by the Recipient or any Permitted Disclosee. In addition to such injunctive relief, the Disclosing Party will be entitled to any and all court-awarded damages, costs and expenses including, without limitation, reasonable attorneys' fees, incurred in connection with the enforcement of this Agreement, in addition to any other rights and remedies it may have at law or in equity.
8. **Term.** The term of this Agreement (the "Term") will commence on the Effective Date and end on the earlier of (a) the first anniversary of the Effective Date, or (b) thirty days after one Party gives the other Party written notice of termination. The Parties' obligations set forth in this Agreement will survive until three years after termination of this Agreement.
9. **No Obligation.** Nothing in this Agreement shall obligate either party to proceed with any transaction between them or to disclose any specific Confidential Information.
10. **NO WARRANTY.** ALL CONFIDENTIAL INFORMATION IS PROVIDED "AS IS." NEITHER PARTY MAKES ANY WARRANTY, EXPRESS, IMPLIED OR OTHERWISE, REGARDING ITS ACCURACY OR COMPLETENESS OR ANY OTHER MATTER.
11. **Governing Law and Venue.** This Agreement will be governed by and construed in accordance with the laws of the State of Arizona. The Parties agree that all actions and proceedings arising from or related to this Agreement will be litigated in local, state or federal courts located in Pima County, Arizona. The Parties hereby acknowledge that this Agreement may be subject to arbitration in accordance with applicable law and court rules.
12. **Entire Agreement; No Modification.** This Agreement contains the entire agreement between the parties with respect to the subject matter hereof. Except as otherwise expressly agreed in writing, this Agreement supercedes any other agreement or provision relating to the subject matter hereof, regardless of whether such agreement was entered into before, after or contemporaneously with this Agreement. This Agreement may not be modified or amended except by a writing signed by both Parties.
13. **No Waiver.** No waiver by either Party of any provision of this Agreement, waiver of any default under this Agreement or failure to insist on strict performance under this Agreement will affect the right of such Party thereafter to enforce such provision or to exercise any right or remedy in the event of any other default, whether or not similar.
14. **Assignment.** This Agreement will be binding upon and enforceable by the Parties, their respective successors and permitted assigns. Neither Party may assign or transfer any interest in or obligation under this Agreement without the prior written consent of the other Party.
15. **Compliance with Laws.** The Parties agree to be bound by applicable state and federal rules governing equal employment opportunity, nondiscrimination and immigration.
16. **Export Control.** The parties acknowledge that the University may share information it receives under this Agreement with its employees or students who may be foreign persons, and that the University must comply with U.S. International Traffic in Arms Regulations, U.S. Export

Administration Regulations, and U.S. economic sanctions programs. Therefore, any information or materials requiring U.S. government authorization for access by foreign persons will not be provided to University under this Agreement.

17. **Conflict of Interest.** This Agreement is subject to cancellation under Arizona Revised Statutes section 38-511 regarding conflict of interest on the part of individuals negotiating contracts on behalf of the State of Arizona.
18. **Signatures.** The Parties agree that any xerographically or 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.

IN WITNESS WHEREOF, each Party to this Agreement has caused it to be executed by its duly authorized officer or representative as of the Effective Date.

ORGANIZATION AUTHORIZED SIGNATORY

By: _____

Name: _____

Title: _____

Date: _____

ARIZONA AUTHORIZED SIGNATORY

By: _____

Name: _____

Title: _____

Date: _____