

MUTUAL NON-DISCLOSURE AGREEMENT

PARTIES:

██████████
1280 Main Street
██████████ ON ██████████

██████████
██████████ address

DATE:

██████████ ('Effective Date')

In consideration of the mutual covenants set out in this Agreement and for other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged by each of the Parties), the Parties agree as follows:

1. DEFINITION OF CONFIDENTIAL INFORMATION

██████████ means any information disclosed by one party (the ██████████) to the other (the ██████████) relating directly or indirectly to Name of Technology/Project, file # which is identified by the ██████████ either orally or in writing, as confidential, either at the time of disclosure or, if disclosed orally, confirmed in writing within ██████████ following the original disclosure.

2. EXCEPTIONS TO CONFIDENTIAL INFORMATION

This Agreement does not apply to information that:

- i. was available to the public at the time of disclosure, or subsequently became available to the public without fault of ██████████
- ii. was known to ██████████ at the time of disclosure or was independently developed by ██████████ provided there is adequate documentation to confirm such prior knowledge or independent development;
- iii. was received by ██████████ from a third party and ██████████ was not aware that the third party had a duty of confidentiality to ██████████ in respect of the information;
- iv. is used or disclosed by ██████████ with ██████████ prior written approval; or
- v. is required to be disclosed by law, provided that ██████████ gives ██████████ sufficient prior written notice of any such disclosure to allow ██████████ to contest the disclosure. Any action taken by ██████████ to contest the disclosure must not compromise the obligations of ██████████ under the order to disclose or cause ██████████ to be subject to any fine, penalty or prosecution.

3. DESIGNATED REPRESENTATIVES

Each party designates a representative for coordinating receipt, release and delivery of ██████████ ██████████ which for the ██████████ will be Name of Principal Investigator and/or Technology Transfer representative and for ██████████ Name of designated representative for company, or another individual(s) as the party may designate in writing to the other party.

4. USE OF CONFIDENTIAL INFORMATION

██████████ may only use the ██████████ for the purpose of type of purpose/or a research collaboration and not for any commercial purpose ('Permitted Purpose'). ██████████ must not use the ██████████ for any other purpose without the prior written approval of ██████████

5. NON-DISCLOSURE

██████████ must keep the ██████████ in confidence. ██████████ may only disclose the ██████████ to its employees, directors, officers, agents, students (in ██████████ case) and

consultants who have a need-to-know the [REDACTED] for the Permitted Purpose, provided that they are advised of the confidential nature of the [REDACTED] and are under an obligation to maintain its confidentiality. [REDACTED] must not otherwise disclose [REDACTED] to any person or third party without the prior written approval of [REDACTED]

6. STANDARD OF CARE

[REDACTED] must use at least the same standard of care in protecting the confidentiality of the [REDACTED] as it uses in protecting its own information of a similar nature and, in any event, no less than a reasonable standard of care. [REDACTED] must notify [REDACTED] promptly upon discovery that any [REDACTED] has been accessed or otherwise acquired by or disclosed to an unauthorized person.

7. RETURN OF CONFIDENTIAL INFORMATION

If requested in writing by [REDACTED] [REDACTED] must cease using, return to [REDACTED] and/or destroy all [REDACTED] and any copies of [REDACTED] in its possession or control. [REDACTED] may retain one archival copy of such [REDACTED] for the sole purpose of establishing the extent of the disclosure of such [REDACTED] provided that such information is not used by [REDACTED] for any other purpose and is subject to the confidentiality requirements set out in this Agreement.

8. NO LICENCE OR OTHER RIGHTS

All [REDACTED] remains the property of [REDACTED] and no licence or any other rights to the [REDACTED] is granted to [REDACTED] under this Agreement. This Agreement does not obligate the [REDACTED] to make any disclosure of [REDACTED] to the [REDACTED] or require the parties to enter into any [REDACTED] relationship or further agreement.

9. LIMITED WARRANTY & LIABILITY

[REDACTED] warrants that it has the right to disclose the [REDACTED] to [REDACTED] [REDACTED] makes no other warranties in respect of the [REDACTED] and provides all information "AS IS" without any express or implied warranty of any kind, including any warranty as to merchantability, fitness for a particular purpose, accuracy, completeness or violation of third party intellectual property rights. Neither party will be liable for any special, incidental or consequential damages of any kind whatsoever resulting from the disclosure, use or receipt of the [REDACTED]

10. TERM

This Agreement and [REDACTED] obligation to keep [REDACTED] confidential expires three [REDACTED] years after the Effective Date.

11. GENERAL PROVISIONS

Notices - All notices given under this Agreement must be in writing and delivered by courier or registered mail, return receipt requested, or facsimile, to the address of the party set out on page one of this Agreement. All notices to the [REDACTED] must be addressed to:

Executive Director

[REDACTED]
[REDACTED]
175 Longwood Road South
[REDACTED] Innovation Park, [REDACTED] 305
[REDACTED] ON [REDACTED]
Tel. [REDACTED] ext. 23164
Fax. [REDACTED]
yuyitun@mcmaster.ca

and all notices to the [REDACTED] must be addressed to:

title/contact name for position.

Notices will be deemed to have been received on the date of delivery, if delivered by courier, on the [REDACTED] following receipt, if delivered by registered mail or on the first [REDACTED] following the electronic confirmation of the successful transmission of the facsimile, if sent by facsimile.

Remedies - [REDACTED] agrees that damages may not be an adequate remedy for any breach or threatened breach of the [REDACTED] obligations under this Agreement. Accordingly, in addition to any and all other available remedies, [REDACTED] will be entitled to seek a temporary or permanent injunction or any other form of equitable relief to enforce the obligations contained in this Agreement.

11.3 **No waiver** – Failure of a party to enforce its rights on one occasion will not result in a waiver of those rights on any other occasion.

11.4 **Assignment** - Neither party may assign any of its rights or obligations under this Agreement without the prior written consent of the other party.

11.5 **Regulatory compliance** – Each party must comply with all applicable laws, regulations and rules in its jurisdiction, including but not limited to those relating to the export of information and data.

11.6 **Entire Agreement** – This Agreement represents the entire agreement between the parties with regard to the [REDACTED] and supersedes any previous understandings, commitments or agreements, whether written or oral. No amendment or modification of this Agreement will be effective unless made in writing and signed by authorized representatives of both parties.

11.7 **Severability** – If any provision of this Agreement is wholly or partially unenforceable for any reason, all other provisions will continue in full force and effect.

11.8 **Binding Effect** - This Agreement is binding upon and will enure to the benefits of the parties and their respective successors and permitted assigns.

11.9 **Execution** - This Agreement may be executed by the parties in counterparts and may be executed and delivered by facsimile or electronically by PDF and all such counterparts, facsimiles and PDF copies shall together constitute one agreement. The parties agree that facsimile or PDF copies of signatures have the same effect as original signatures.

Governing Law - This Agreement will be governed and construed in accordance with the laws of the [REDACTED] of [REDACTED] and the laws of [REDACTED] and the parties attorn to the exclusive jurisdiction of the courts of the [REDACTED] of [REDACTED]

The parties have duly executed this Agreement by their duly authorized representatives as of the Effective Date.

UNIVERSITY

COMPANY

Executive Director, _____

Date

Name of signatory
Title

Date

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The Principal Investigator for the _____ acknowledges the terms and conditions set out in this Agreement and agrees to be bound by the confidentiality obligations contained within it. The Principal Investigator will ensure that any faculty or staff dealing with the _____ are aware of the terms of this Agreement and agree to abide by them.

Name of Principal Investigator

Date