

The University of Missouri System

**MUTUAL NON-DISCLOSURE AGREEMENT**

**THIS AGREEMENT** is made this [insert day] day of [insert month, year] (the “EFFECTIVE DATE”), by and between The Curators of the University of Missouri, a public corporation of the State of Missouri having a principal office at [insert TTO address info], hereinafter referred to as “UNIVERSITY” and [insert COMPANY Name] having a principal office at [insert COMPANY Address], hereinafter referred to as “COMPANY”. UNIVERSITY and COMPANY may hereinafter be referred to individually as a “Party” and collectively as the “Parties”.

**WHEREAS**, the Parties are owners of certain proprietary INFORMATION (as hereinafter defined) with all rights, title and interest vested therein and have the authority to disclose said INFORMATION to the other Party. “UNIVERSITY INFORMATION” is INFORMATION related to [insert description of subject matter] (hereinafter referred to as “UNIVERSITY SUBJECT MATTER”) and “COMPANY INFORMATION” is INFORMATION related to [insert description of subject matter] (hereinafter referred to as “COMPANY SUBJECT MATTER”); and

**WHEREAS**, UNIVERSITY is willing to disclose UNIVERSITY INFORMATION to COMPANY, and COMPANY is willing to disclose COMPANY INFORMATION to UNIVERSITY; and

**WHEREAS**, each Party desires to receive such INFORMATION solely for the purposes of evaluation in order to determine its interest in entering into a research collaboration or entering into licensing negotiations with the other Party related to the INFORMATION.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. **Definition.** For purposes of this Agreement the term "INFORMATION" means any information relating directly or indirectly to the SUBJECT MATTER of the disclosing Party not generally known to the public provided to the receiving Party by the disclosing Party. INFORMATION may be conveyed in written, graphic, oral, physical or electronic form. Consistent with the definition set forth above, INFORMATION includes, but without limitation, data, research, technology, biological materials, samples, discoveries, inventions, techniques, formulae, products, processes, procedures, know-how, models, visual or audio recordings, drawings designs, software, algorithms, tools, methods, non-published patent applications, trade secrets, technical and non-technical materials and specifications, and other results and outcomes which the disclosing Party has delivered to the receiving Party pursuant to this Agreement.

2. **Confidentiality.** Each Party, its subsidiaries and affiliates, agree to maintain in

confidence the other Party's INFORMATION with the same degree of care it holds its own confidential and proprietary information, but with not less than a reasonable degree of care. The receiving Party will disclose the disclosing Party's INFORMATION only to the receiving Party's officers and employees directly concerned with the evaluation of the INFORMATION and the receiving Party will not disclose the disclosing Party's INFORMATION to any third party nor will the receiving Party use the disclosing Party's INFORMATION for any other purpose. For purposes of this paragraph "subsidiaries and affiliates" means any corporation, firm, partnership or other entity which directly or indirectly controls, is controlled by, or is under common control with, the receiving Party.

3. **Use Limitations.** In connection with its evaluation hereunder, the receiving Party agrees to use disclosing Party's INFORMATION only for the receiving Party's evaluation and to keep confidential the results of any such evaluation or other tests that may be conducted on the INFORMATION. Specifically, but without limitation, the receiving Party will not (i) use any of the disclosing Party's INFORMATION for any commercial purpose or development of any products or technology; (ii) use or attempt to practice any invention arising from or disclosed in the INFORMATION or any part thereof without first entering into an agreement with the disclosing Party permitting such use or practice; or (iii) refer to or incorporate any part of the INFORMATION or any patent or patent application claiming the INFORMATION in the receiving Party's own patent prosecution. At the conclusion of its evaluation, or at the disclosing Party's request, the receiving Party will discontinue the use of the disclosing Party's INFORMATION and will return or destroy, at the disclosing Party's sole option, any portion of the INFORMATION, except that the receiving Party may retain one (1) copy of the INFORMATION in a secure location solely for the purpose of ascertaining its obligations under this Agreement.

4. **Exceptions.** The preceding obligations of the receiving Party of non-disclosure and the limitation upon the right to use the disclosing Party's INFORMATION (including test results) will not apply to the extent that the receiving Party can demonstrate that the INFORMATION is: (a) in the possession or control of the receiving Party prior to the time of disclosure hereunder as evidenced by its written records, or (b) at the time of disclosure or thereafter becomes public knowledge through no fault or omission of the receiving Party, or (c) lawfully obtained by the receiving Party from a third party which has an independent right to the INFORMATION, or (d) is independently developed by the receiving Party, as evidenced by its written records, without reference to the disclosing Party's confidential INFORMATION, or (e) is required by law to be disclosed.

5. **Proprietary Rights.** Subject to the provisions of paragraph 4 hereof, all proprietary rights (including, but without limitation, patents, copyrights, and trade secrets) in and to the INFORMATION will remain the property of the disclosing Party.

6. **No Further Obligations.** The INFORMATION being disclosed to the receiving Party pursuant to this Agreement is with the express understanding that neither Party will be obligated to enter into any further agreement relating to the INFORMATION and nothing in this Agreement will be construed as granting any license to the receiving Party relating thereto.

7. **Termination of Obligations.** All obligations of the receiving Party under this Agreement will terminate five (5) years from the date of disclosure of the disclosing Party's INFORMATION to the receiving Party.

8. **Termination of Agreement.** Either Party may terminate this Agreement, at its discretion, upon thirty (30) days' written notice to the other Party; provided, however, the receiving Party's obligations of confidentiality and limitations of use under this Agreement will survive termination.

9. **Entire Understanding.** This Agreement sets forth the entire agreement among the Parties as to the subject matter hereof, and none of the terms of this Agreement will be amended or modified except in writing signed by the Parties.

10. **Choice of Law.** This Agreement will be construed and enforced under the laws of the State of Missouri, excluding its conflict of law rules.

11. **Method of Execution.** This Agreement may be executed by facsimile, which will be deemed an original. Alternatively, this Agreement may be executed in several counterparts, all of which taken together will constitute the entire agreement among the parties.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed as of the EFFECTIVE DATE by representatives authorized to make such commitments on behalf of their institutions.

COMPANY

The Curators of the University of Missouri

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By:  
Title:

\_\_\_\_\_  
By:  
Title: