**Unilateral Confidential Disclosure Agreement**

**For OSU Undergraduate Student Capstone Project**

This Confidential Disclosure Agreement (“Agreement”) is entered into between **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** on behalf of itself and its affiliated companies (“COMPANY”) Oregon State University (“OSU”) and the individuals listed in Exhibit A with their respective signatures (“Students”).

# The term "Affiliates" as used herein shall mean, with respect to COMPANY; (1) any organization or entity owning a majority of the outstanding voting stock or of the voting power of COMPANY: (2) any other corporation or entity of which a majority of the voting stock or voting power is owned or controlled by the immediate parent or ultimate parent of COMPANY; or (3) any other corporation or entity of which a majority of the voting stock or voting power is owned by COMPANY.

# **Purpose:**

The Purpose of this Agreement is: protection of Confidential Information and intellectual property relating to COMPANY \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Purpose”).

# **Terms:**

The *Effective Date* of this Agreement is: **\_\_\_\_\_\_\_\_\_\_\_\_\_\_**.

The *Termination Date*of this Agreement shall be: **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** unless earlier terminated by either party in a writing delivered to the other party giving thirty (30) days-notice of the termination.

The *Confidentiality Obligations* of this Agreement shall continueuntil **no longer three (3) years from the termination date**.

# **Confidential Information:**

Confidential Information may include, by way of example but without limitation, data, know how, formulas, formulations, algorithms, computer programs, processes, designs, sketches, photographs, plans, drawings, product concepts, specifications, samples, reports, laboratory notebooks, business and financial plans, vendor, customer and distributor names, pricing information, market definitions, inventions, and ideas. Any information marked “confidential” or “proprietary,” or identified in writing 10 days after disclosure as “confidential,” relevant to the Project and disclosed by COMPANY to Students or OSU, will be considered Confidential Information except for information which: (a) is already known or in the possession of OSU or Students; (b) is disclosed to Students or OSU by a third party who is not under any confidentiality restrictions; (c) is independently developed by or for Students or OSU as documented by the records of Students or OSU; (d) subsequently becomes publicly available other than by a breach of this Agreement; (e) is already published or otherwise in the public available at the time of disclosure, or (f) if COMPANY expressively permits such information to be disclosed.

OSU and Students may disclose Confidential Information if required by any judicial or governmental requirement or order including without limitation the Oregon Public Record Laws (ORS 192.410-192.505) provided that OSU and Students take reasonable steps to give COMPANY sufficient prior notice to contest such requirement or order and reasonably cooperates with COMPANY to secure an appropriate protective order. If COMPANY is not successful in obtaining such court order, OSU and Students may furnish only that portion of the Confidential Information that is legally required and will exercise commercially reasonable efforts to obtain reliable assurances that confidential treatment will be accorded the Confidential Information.

# **Confidentiality Obligations and Publication Review:**

# A. **Confidentiality Obligations**

# OSU and Students shall: (a) use the Confidential Information solely for the Purpose stated above; (b) not disclose Confidential Information to a third party without prior express written authorization from a duly authorized COMPANY representative; (c) use the same degree of care, but in any case no less than a reasonable degree of care, to prevent unauthorized use, dissemination or publication thereof as it uses to protect its own Confidential Information of similar nature; (d) not copy or duplicate Confidential Information except as necessary to comply with the Purpose or as otherwise permitted in this Agreement; and (e) not reverse engineer or decompile Confidential Information except as required to achieve the Purpose.

# Neither OSU nor Students shall use or provide to any third party any Confidential Information without the prior express written authorization of a duly authorized COMPANY representative.

# Students and OSU agree to fully comply with the United States Export Control Regulations. This obligation survives any termination of this Agreement. COMPANY acknowledges that a Student may be a foreign national. COMPANY agrees to inform OSU, before providing any Confidential Information subject to Export Administration Regulations or International Traffic in Arms Regulations and if so what Commerce Control List number(s) or U.S. Munitions List number(s) it is controlled under. OSU shall have the right to decline or limit the receipt of such Confidential Information to Students. The parties acknowledge OSU operates under a fundamental research exemption from export controls.

All materials containing Confidential Information shall remain the property of COMPANY. Upon receiving a written request, OSU or Students shall return all tangible Confidential Information to COMPANY, and shall delete any and all copies thereof, within fifteen (15) days of such request. The forgoing notwithstanding, in compliance with its archiving policy or legal obligations, OSU may retain one (1) copy of each record of Confidential Information OSU has received.

B. **Publication Review**

COMPANY acknowledges the mission of OSU to educate students and disseminate generalizable information to the general public as OSU’s intent to contract. To assist this mission, upon the request of OSU or a Student, COMPANY agrees to review Project presentations, publications, dissertations, poster boards or any other type of documents to identify any Confidential Information that should be removed from these documents. Any information of COMPANY that is not identified as Confidential Information objectionable to COMPANY shall be deemed permissible for public disclosure. COMPANY agrees to conduct the review within thirty (30) days of its request.

# **Warranty:**

NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, ARE MADE BY COMPANY, OSU, OR STUDENTS UNDER THIS AGREEMENT. CONFIDENTIAL INFORMATION AND INVENTIONS ARE PROVIDED AND GRANTED “AS IS” WITH NO WARRANTY AS TO ITS ACCURACY, COMPLETENESS.

# **Remedies:**

OSU and Students acknowledges that monetary remedies alone may not be an adequate remedy for any breach or threatened breach of any of the obligations of this Agreement. Therefore, COMPANY shall be entitled to seek injunctive or other equitable relief in addition to any other remedy to which it may be entitled at law or in equity without the need of posting a bond or other security or proving that monetary damages would be an inadequate remedy. Such remedies shall not be deemed to be the exclusive remedies for a breach of this Agreement but shall be in addition to all other remedies available at law or in equity.

**7. Miscellaneous**

Nothing in this Agreement, and no course of dealing between the parties, shall be construed to constitute the grant of a license, express or implied, to OSU or Students under any patent, patent application, trademark, copyright, trade secret or Confidential Information of COMPANY, except as stated herein. Neither this Agreement nor the disclosure of Confidential Information hereunder shall be construed as: (a) creating a commitment as to any product; or (b) soliciting any business or incurring any obligation not specified herein.

Nothing herein will prohibit COMPANY from developing products or having products developed for it that compete with the products or systems contemplated by this Agreement. Neither OSU nor Students, accept any product, infringement or other forms of liability for COMPANY. Neither OSU nor Students accepts in liability for the actions of the other. Parties agrees that there will no joint and several liability,

This Agreement imposes no obligation on COMPANY to disclose any of its Confidential Information to OSU or Students.

This Agreement shall be construed in accordance with the laws of the Oregon without regard to its choice of law provisions.

This Agreement shall not be assigned by COMPANY without the written consent of the COMPANY, which shall not be unreasonably withheld or delayed.

If any provision of this Agreement or its application is held to be invalid, illegal or unenforceable in any respect, the validity, legality or enforceability of any of the other provisions and applications therein shall not in any way be affected or impaired.

Any failure to enforce any provision of this Agreement shall not constitute a waiver thereof or of any other provision hereof. A waiver given by COMPANY on any one occasion is effective only in that instance and will not be construed as a waiver of any right on any other occasion.

This Agreement may be executed in one or more counterparts each of which when executed shall be deemed to be an original. This Agreement may be validly executed by means of signed facsimile or signed electronic transmission.

This Agreement contains the entire understanding between the Parties with respect to the Purpose and supersedes any agreement in place with any Student and COMPANY. No modifications of this Agreement or waiver of the terms and conditions hereof shall be binding on either party unless approved in a writing duly executed by both Parties.

**8. Contact Information**

Company’s contact point for matters concerning the Purpose is as follows:

Name (First and Last Name)

Internal Organization (Example - Business Unit)

Email address

Telephone number.

For formal notices send to:

Name or Title

Internal Organization (Example - Business Unit)

Address

Email address

Telephone number.

OSU’s contact point for matters concerning the Purpose is as follows:

Name (First and Last Name)

Internal Organization (Example - Business Unit)

Email address

Telephone number.

For formal notices send to:

Name or Title

Internal Organization (Example - Business Unit)

Address

Email address

Telephone number.

**AUTHORIZED SIGNATORIES FOR THE PARTIES:**

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