



Confidential Disclosure Agreement

Bilateral

This Confidential Disclosure Agreement (the "Agreement") made and entered into this _____ of _____, 20____ (the "Effective Date") by and between the Regents of the University of Colorado, a body corporate, having its principal office at 1800 Grant Street, 8th Floor, Denver, CO 80203 (hereinafter "University") and _____ (hereinafter, "Company"), having its principal place of business at _____.

WHEREAS, the parties mutually desire to engage in discussions concerning a possible business and technical relationship, and;

WHEREAS, either party (the "Disclosing Party") may elect to disclose to the other party (the "Recipient") in the course of such discussions certain Confidential Information (as defined in **Section 1**), and;

WHEREAS, the parties wish to protect such Confidential Information from further disclosure;

NOW THEREFORE, in consideration the parties hereby agree as follows:

SECTION 1. CONFIDENTIAL INFORMATION

- 1.1 For purposes of this Agreement the term "Confidential Information" shall mean any and all information, know-how, data, technical and non-technical materials, designs, concepts, processes, product samples and specifications, financial or business information and other expertise, whether or not patentable, furnished by Disclosing Party to Recipient, either directly or indirectly, and as described in **Exhibit A**.
- 1.2 Confidential Information shall include information provided in writing (including graphic material) or orally by Disclosing Party and/or observed by Recipient or upon review of Confidential Information provided by Disclosing Party, with the exception of:
 - a. information which at the time of disclosure had been previously published or was otherwise in the public domain through no fault of Recipient;
 - b. information which becomes public knowledge after disclosure unless such knowledge results from a breach of this Agreement;
 - c. information which was already in Recipient's possession prior to the time of disclosure as evidenced by written records kept in the ordinary course of business or by proof of actual use thereof;
 - d. information that is independently developed without use of the Confidential Information; and
 - e. information that is required to be disclosed by law, court order, or government regulation.

SECTION 2. DUE DILIGENCE & RETAINED RIGHTS

- 2.1 **Due Diligence:** Recipient, its employees, subsidiaries and affiliates agree to maintain in confidence the Confidential Information with the same degree of care Recipient holds its own confidential and proprietary information. Recipient will not use the Confidential Information except to evaluate whether the parties have a mutual interest in pursuing a business and technical relationship. Recipient will disclose the Confidential Information only to its officers and employees directly concerned with the evaluation of the Confidential Information, and Recipient will not disclose the Confidential Information to any third party nor will Recipient use the Confidential Information for any other purpose except as permitted by this Agreement. For purposes of this paragraph, "subsidiaries and affiliates" shall mean any corporation, firm, partnership or other entity that directly or indirectly controls, is controlled by, or is under common control with Recipient.
- 2.2 **Rights Retained:** Subject to the provisions of Section 1 hereof, all proprietary rights (including, but not limited to, patent rights, copyrights and/or trade secrets) in and to the Confidential Information shall remain the property of Disclosing Party.
- 2.3 **No Further Rights Granted:** The Confidential Information being disclosed to the Recipient pursuant to this Agreement is with the express understanding that neither party will be obligated to enter into any further agreement relating to the Confidential Information, and nothing in this Agreement shall be construed as granting any right, title, grant, option, ownership, interest in or license from one party to the other relating thereto.

SECTION 3. TERM & TERMINATION

- 3.1 The obligations of confidentiality and non-use of Confidential Information shall terminate seven (7) years after date of execution hereof, unless the parties enter into a definitive contract modifying or superseding the Agreement to the subject matter hereof, in which case the rights and obligations of the parties shall be governed by that contract.
- 3.2 **HIPAA Compliance:** Both parties agree to adhere to policies and procedures to be adopted to comply with final federal rules under the Health Insurance Portability and Accountability Act (HIPAA) governing the privacy, security, and use of protected health information, as applicable. Both parties hereby agree that as such federal rules become final, this agreement will be amended in a timely manner to comply with such rules, as applicable and necessary.

SECTION 4. GENERAL

- 4.1 **Choice of Law:** This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado.
- 4.2 **Merger:** This Agreement sets forth the entire agreement and understanding among the parties as to the subject matter hereof, and none of the terms of this Agreement shall be amended or modified except in writing signed by an officer of both parties.
- 4.3 **Scope:** It is understood and agreed by the parties that this Agreement does not constitute, and shall not be deemed, a partnership, association, or joint venture.
- 4.4 **Modification:** No modification or waiver of any of the provisions of this Agreement shall be valid unless in writing and signed by the parties hereto.

- 4.5 **Severability:** The unenforceability or invalidity of any provision of this Agreement shall not impair, affect or invalidate the other provisions of this Agreement.
- 4.6 **Assignment:** This agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto, but neither of the parties hereto shall assign Agreement without the prior written consent of the other party.
- 4.7 **Power to Agree:** Each party represents and warrants to the other party that the signatory of this document is signing and acting on behalf of the party listed and holds full authority to execute such agreements. Recipient acknowledges that only certain designated officers of the University have the delegated authority to execute these agreements.
- 4.8 **Headings:** Headings are included herein for convenience only and shall not be used to construe this Agreement.
- 4.9 **Counterparts, Electronic and Facsimile Delivery:** This Agreement may be executed in two or more identical counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute the Agreement when a duly authorized representative of each party has signed a counterpart. The parties intend to sign and deliver this Agreement by electronic or facsimile transmission. Each party agrees that the delivery of the Agreement by electronic or facsimile transmission shall have the same force and effect as delivery of original signatures and that each party may use such electronic or facsimile signatures as evidence of the execution and delivery of the Agreement by all parties to the same extent that an original signature could be used.

In Witness Whereof, the parties have executed this Agreement as of the Effective Date. Any communication or notice to be given shall be forwarded to the respective addresses listed below.

For University of Colorado:

Date

Official Mailing Address for Notices:

Office of Technology Transfer
 University of Colorado, 588 Sys
 Boulder, CO 80309 USA

For Company:

Signature of Authorized Official

Name and Title of Official

Date

Official Mailing Address for Notices:

EXHIBIT A

University of Colorado's Confidential Information:

Company's Confidential Information: