

MUTUAL CONFIDENTIAL NON-DISCLOSURE AGREEMENT

THIS AGREEMENT (the “**Agreement**”) made the [DAY] (*) day of [MONTH], [YEAR] (the “Effective Date”).

BETWEEN:

Prof. [PROFESSOR NAME] of Carleton University’s [NAME OF DEPARTMENT], an individual having an office at [ENTER BUILDING ADDRESS], 1125 Colonel By Drive, Ottawa, ON, K1S 5B6.

(hereinafter referred to as “Investigator”)

And:

[COMPANY NAME]

a corporation under the laws of [JURISDICTION]
with a place of business at [COMPANY ADDRESS]

(hereinafter referred to as the “**Company**”)

(individually Carleton and the Company are each a “**Party**” and collectively, the “**Parties**”)

WHEREAS [TITLE, PROFESSOR NAME] of Carleton University’s [NAME OF DEPARTMENT], and the Company each have proprietary knowledge and information relating to [DESCRIBE INFORMATION];

WHEREAS the Parties wish to enter into discussions to evaluate their mutual interest in pursuing a business relationship for [DESCRIBE PURPOSE] (the “**Purpose**”);

WHEREAS during the said discussions either Party may disclose to the other certain information deemed to be confidential in nature; and

WHEREAS the Parties wish to establish their respective rights and obligations with respect to such information.

NOW THEREFORE, in consideration of the foregoing and the mutual obligations and undertakings set forth below, the Parties hereto agree as follows:

1. The Preamble forms an integral part of this Agreement.
2. Definitions:
 - (a) “**Confidential Information**” means the information relating to the Purpose provided by one Party to the other Party and clearly marked “CONFIDENTIAL” or if related orally or

visually, identified as "CONFIDENTIAL" at the time of disclosure. Confidential Information includes, but is not limited to, formulations, know-how, manufacturing processes, inventions, products, processes, techniques, compositions, compounds, plans, practices, drawings, prototypes, recordings, instructions, manuals, papers or other materials in whatever form or nature;

- (b) "**Provider**" means, as appropriate, the Party providing Confidential Information to the other Party; and
 - (c) "**Recipient**" means, as appropriate, the Party receiving Confidential Information to the other Party.
 - (d) "**Representatives**" includes directors, officers, representatives, experts, employees, agents, advisors or consultants who have a need to know the Confidential Information.
3. The Recipient shall for a period of five (5) years from the date of this Agreement keep in strict confidence and not disclose to any third party any Confidential Information received from the Provider during the term of this Agreement. Obligations of confidentiality will not apply to information that:
- (a) at the time of disclosure is published or is otherwise in the public domain; or
 - (b) after the disclosure becomes part of the public domain, through no breach of this Agreement; or
 - (c) was known to the Recipient prior to receipt from the Provider and was not acquired by the Recipient, its employees, directors, agents, consultants, advisers, or other third parties directly or indirectly from the Provider; or
 - (d) is developed independently by the Recipient without reference to Confidential Information;
or
 - (e) The Recipient is required by law to disclose, provided the Recipient shall, where possible, so advise the Provider in advance of such disclosure so as to allow the Provider an opportunity to challenge such disclosure.
4. The Recipient agrees not to use the Confidential Information in any manner whatsoever, directly or indirectly, and the Recipient will not make use of such Confidential Information for any purpose, within or outside of its business, other than in connection with the Purpose. The Recipient agrees, upon the termination of this Agreement, to provide the Provider with written confirmation of the destruction of any work products incorporating or derived from the Confidential Information.
5. The Recipient may disclose the Confidential Information only to such of its employees and Representatives who have a need to know such information for the Purpose and according to the terms and conditions contained herein. The Recipient shall ensure that its employees and Representatives are fully aware of the confidential nature of the Confidential Information and of the obligations of confidentiality owed to the Provider. The Recipient agrees to protect the

Provider's Confidential Information using at least the same degree of care the Recipient uses to protect its own Confidential Information, but in no event less than reasonable care.

6. Confidential Information falling under Canadian or United States export control rules, controlled goods or arms regulations shall not be provided to the Investigator without the Investigator's express written permission. Where such permission is granted, the burden shall be on the Company to make it available only if the Investigator is eligible to receive such information, or to obtain the appropriate license or approval from the relevant agency, or to invoke an available exception, exemption or exclusion. The Company will so inform the Investigator in writing, as specified in Article 15, prior to any such disclosure.
7. This Agreement is effective as of the Effective Date and shall remain in full force and effect until [DATE] (*), unless terminated earlier by either Party. Either Party may terminate this Agreement for any reason upon sixty (60) days written notice to the other Party. The rights and obligations of the Parties under paragraphs 3 and 4 of this Agreement shall continue beyond termination.
8. No right or license whatsoever, expressed or implied, is granted by either Party to the other pursuant to this Agreement under any patent, patent application, copyright, trademark or other proprietary right now or hereafter held by or licensed to the Provider. No legal obligations, rights, relationship or duties shall be construed or inferred from the entering into of this Agreement other than as expressly set out herein.
9. The Confidential Information is disclosed by the Parties without any express or implied representation or warranty as to the accuracy or the completeness thereof. The Parties explicitly disclaim any liability relating to the information, or errors or omissions therefrom.
10. The Recipient recognizes that improper use of the Confidential Information disclosed hereunder shall cause irreparable damage to the Provider and agrees that the Provider may take any and all available legal action and shall be entitled to injunctive relief to prevent breaches of this Agreement.
11. If, for any reason, any provision of this Agreement is determined to be invalid or unenforceable in whole or in part, such provision shall be severed from this Agreement and the remainder of this Agreement shall be enforced to the fullest extent possible.
12. This Agreement constitutes the entire Agreement between the Parties hereto with respect to the subject matter hereof and cancels and supersedes any prior understandings and agreements between the parties hereto with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, or implied or statutory, between the Parties other than as expressly set forth in this Agreement.

13. This Agreement shall not be assignable or transferable and shall ensure to the benefit of and be binding upon the Parties hereto.
14. Nothing in this Agreement shall make either Party the partner of the other Party nor constitute either Party the agent or legal representative of the other Party, or create any fiduciary relationship between them.
15. Any demand, notice or other communication to be given in connection with this agreement shall be given in writing and shall be given by personal delivery, by registered mail or email addressed to Recipient as follows:

Investigator: **[CONTACT NAME]**
 [NAME OF DEPARTMENT]
 [ROOM NUMBER, NAME OF BUILDING]

1125 Colonel By Drive
Ottawa, ON K1S 5B6
Email:

Company: **[CONTACT NAME]**
 ADDRESS
 EMAIL

16. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument, and signatures transmitted by facsimile or in a PDF file shall be acceptable to bind each Party and shall not affect the validity of the Agreement in any way.
17. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and hereby submit to the jurisdiction of the courts of the Province of Ontario. Each Party hereto irrevocably waives an objection on the grounds of venue, forum non-conveniens or any similar grounds and irrevocably consents to service of process by mail or in any other manner permitted by applicable law and consents to the requisite jurisdiction as per above.
18. The Parties have requested that this Agreement and any related documents be drafted in the English language only. Les parties aux présentes ont exigé que la présente convention et tout document s'y rapportant soit rédigé en anglais seulement.

IN WITNESS WHEREOF the Parties have duly executed this Agreement, in duplicate, effective as of the date first above written.

INVESTIGATOR

Per: _____
Name:
Title:

[COMPANY NAME]

By its authorized signatory:

Per: _____
Name:
Title:

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