

Mutual Confidentiality/Non-Disclosure Agreement

Project: _____

Date: _____

WHEREAS, *the University of Notre Dame* (“Notre Dame”) is conducting ongoing research and is the owner of proprietary/confidential information relating to the above referenced research project, and wishes to exchange certain proprietary/confidential information with *Company* (“*Company*”) (collectively “parties”) for the sole purpose of analyzing and evaluating the research project; and,

WHEREAS, *Company* is conducting ongoing research and experiments and is the owner of proprietary/confidential information relating to the above referenced research project, and wishes to exchange proprietary/confidential information for the sole purpose of analyzing and evaluating the research project for possible licensing and commercial use;

THEREFORE, to assure the parties that all such proprietary/confidential information will be maintained for not less than three (3) years from the date of this agreement under circumstances of strict confidentiality, both parties acknowledge and agree as follows:

1. Proprietary/confidential information means any information relating directly or indirectly to the RESEARCH PROJECT not generally known to the public provided by either party or its assignors/inventors and conveyed in written, graphic, oral or physical form including but not limited to scientific knowledge, know-how, processes, inventions, techniques, formulae, products, business operations, customer requirements, data, plans or other records, biological materials, and or software.
2. Proprietary/confidential information does not include information either party can demonstrate and document that:
 - (a) was in its knowledge or possession prior to disclosure;
 - (b) was public knowledge or has become public knowledge through no fault of either party;
 - (c) was properly provided to either party by an independent third party who has no obligation of secrecy to Notre Dame, *Company* or its assignors; or
 - (d) is hereafter independently developed by *Company* or Notre Dame.
3. The parties may use the proprietary/confidential information only under the following restrictions:
 - (a) Either party may duplicate or reproduce the disclosed proprietary/confidential information; if duplicated or reproduced in whole or in part, the disclosed information must carry a proprietary/confidential notice similar to that with which it was submitted.
 - (b) Both parties accept the proprietary/confidential information for the sole purpose of evaluating the same for its own contemplated use and agree not to make use of the

disclosed proprietary/confidential information except for the purpose of evaluation and shall not duplicate or use the disclosed proprietary/confidential information to manufacture or sell products or technologies for commercialization or any other purpose without the expressed written permission of the other party.

- (c) any person employed by the COMPANY or Notre Dame utilizing the proprietary/confidential information will be advised of, and is subject to, the conditions in this Agreement.
 - (d) Both parties agree to utilize any transferred biological material solely for the purpose of research and development and will not distribute the material to any person external to either COMPANY or Notre Dame without the prior permission of the other party.
4. Both parties understand that disclosure of the proprietary/confidential information could destroy the value of said information, and each party agrees not to disclose the proprietary/confidential information and to protect it from further disclosure using at least the same practices and procedures as they would with their own proprietary/confidential information.
 5. Proprietary/confidential information delivered hereby is experimental in nature. There are no warranties, representation or undertaking with respect to its utility, efficacy, nontoxicity, safety, or appropriateness for a particular purpose. COMPANY hereby agrees to defend, indemnify and hold Notre Dame and its assignor harmless from any loss, claim, damage or liability, of whatsoever nature, which may arise from possession or use of the proprietary/confidential information by COMPANY.
 6. Upon completion of the evaluation of proprietary/confidential information or at either party's request, both parties will discontinue the use of and promptly return samples or specimens embodying that information.
 7. Either party may, at its sole discretion, terminate this contract without notice and require the return of all proprietary/confidential information and biological materials, if any, provided under this agreement.
 8. Any action arising out of this Agreement shall be decided in St. Joseph County, Indiana. This Agreement shall be construed under the laws of the State of Indiana. In the event of a dispute under this agreement, the prevailing party shall be entitled to collect its reasonable attorney's fees and costs.
 9. Nothing in this Agreement shall be construed to constitute the grant of a license to the undersigned under any patent, patent application or proprietary/confidential information.
 10. Both parties agree, to the best of its ability, that it will comply with all applicable state or federal regulatory requirements.

IN WITNESS WHEREOF, Notre Dame and COMPANY hereby accept the terms and conditions of this Agreement and hereby signify their acceptance by the signing of their respective officers hereunto

duly authorized on the day and year hereinafter written:

By The University of Notre Dame

Signature

Printed Name

Title

Date

Principal Investigator

Signature

Printed Name

Title

Date

By Company

Signature

Printed Name

Title

Date