

## CONFIDENTIAL DISCLOSURE AGREEMENT

WHEREAS, the University of Maryland, a public agency and instrumentality of the State of Maryland (hereafter the "University") located at 0133 Cole Student Activities Building, College Park, MD 20742 has certain confidential and proprietary information relating to **University Invention Disclosure No. (enter docket number)** entitled: **(enter invention title)** that embodies scientific concepts or processes which may be needed for successful practice or commercialization of technology developed by staff members of the University (hereinafter "University Information ") and;

WHEREAS, **(company name and full address)**. ("Company"), company organized under the laws of the State of **(company's state)**, is interested in examining and evaluating University Information in order to determine the commercial potential of the technology;

WHEREAS, each party desires to disclose proprietary and confidential information to the other party (hereinafter "Information").

NOW, THEREFORE, the parties agree to the following terms and conditions:

1. All information disclosed to Company by the University shall be deemed confidential University Information. Any information that Company wishes to disclose to University that Company considers to be confidential or proprietary, Company shall mark "confidential", "proprietary", or a similar legend when disclosed in writing and when disclosed orally will summarize in a writing similarly marked and delivered to University within ten (10) days of initial disclosure. Subject to the obligations imposed by this Agreement, each party shall be permitted to retain possession of one copy of confidential Information it receives hereunder in order that a record of the material submitted may be preserved.
2. Each party agrees, for a period of five (5) years from the date it receives Confidential Information from the other party to treat such Information with reasonable care to avoid its unauthorized disclosure to any person, firm or corporation. The obligations of confidentiality will not apply with respect to Information, or any part thereof, that:
  - (a) At the time of disclosure is in the public domain;
  - (b) After disclosure, becomes part of the public domain by means other than breach of this Agreement by the undersigned;
  - (c) The receiving party can establish by competent proof was in its possession at the time of disclosure by the other party;
  - (d) The receiving party obtains from third persons not under a legal duty of confidentiality; or
  - (e) The disclosing party gives the receiving party written authorization to disclose under circumstances not covered by this Agreement; or

(f) The receiving party is obligated to produce to comply with applicable laws or regulations, including the Maryland Public Information Act, or pursuant to an order of a court of competent jurisdiction or a valid administrative or congressional subpoena provided the receiving notifies the disclosing party prior to making such a disclosure so that the disclosing party may take appropriate action.

3. A receiving party shall not use Confidential Information disclosed to it by the other party for any commercial purposes or in support of any purpose other than that specified in the preamble unless it first executes a license with the disclosing party.

4. The Company shall be entitled, at its option, to subject University Information disclosed to it to such tests, analyses, experiments, or studies as Company determines are necessary for purposes of evaluation and to disclose University Information to affiliated companies, subsidiaries or divisions of the Company and/or to their consultants and agents provided that all persons who are given access to University Information execute a written non-disclosure agreement containing terms and conditions at least as restrictive as those set forth herein.

5. No obligation of payment or of any other kind is assumed by nor may be implied against either party other than the obligations of confidentiality described above.

6. The University represents, to the best of its current knowledge, that it has the right and authority to disclose University Information to the Company and that there has been no sale, assignment, license or transfer to any third party that would be inconsistent with said representation.

7. Each party understands that the Information may have been developed under a grant or contract from the Federal Government of the United States, and, hence, the Federal Government may be entitled to certain rights to the University Information, including limited royalty-free licenses. Each party agrees to provide the other with the details of such Government rights as part of the information, if requested in writing.

8. Each party agrees to comply with all applicable United States export control laws and regulations, including the Export Administration Regulations ("EAR") maintained by the U.S. Department of Commerce; trade and economic sanctions maintained by the Treasury Department's Office of Foreign Assets Control, and the International Traffic in Arms Regulations ("ITAR") maintained by the Department of State. Company represents that for purposes of this paragraph, Company is a U.S. company. University shall disclose University Information to the following person designated by Company as its contact, subject to written notice designating a different Company contact: **(enter contact)**

Company represents that its contact qualifies as U.S. person under U.S. export control laws.

9. This agreement shall expire **(one year from date of signature)**. Subject to paragraph 1, a receiving party will collect and either return or destroy, at the option of the disclosing party, all Confidential Information that it received pursuant to this Agreement on or before the date this Agreement expires. The provisions contained in paragraphs 2, 3 and 8 will survive expiration as provided in this Agreement.

10. The failure of either party to enforce any term hereof shall not be deemed a waiver of any rights contained herein.

11. This Agreement may not be modified in any way without the prior written consent of the authorized representatives of each party. Any attempt to modify this Agreement in any way without the prior written consent of those persons shall render the proposed modification null and void.

12. This Agreement shall be governed and interpreted in accordance with the laws of the State of Maryland.

13. The terms and conditions herein constitute the entire agreement and understanding of the parties and shall supersede all other communications, negotiations, arrangements and agreements, either oral or written, with respect to the subject matter herein.

In WITNESS WHEREOF the parties have signed or caused this agreement to be signed as set forth below.

Authorized Approvals

UNIVERSITY OF MARYLAND

**COMPANY NAME**

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

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

Gayatri Varma

Title: Acting Executive Director

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

Date: \_\_\_\_\_

Date: \_\_\_\_\_