

## RECIPROCAL NONDISCLOSURE AGREEMENT

This Reciprocal Nondisclosure Agreement, effective as of the date of last signature (“Effective Date”) is entered into by \_\_\_\_\_ (“Company”), having principal offices located at \_\_\_\_\_ and the University of Louisville Research Foundation, Inc. (“ULRF”) a Kentucky 501 (c) 3 non-profit corporation having an office at 300 East Market Street, Suite 300, Louisville, KY 40202-1959 as the agent of the University of Louisville (“UofL”) for receiving grants and research agreements from external funding sources and which owns and controls intellectual property on behalf of UofL, and confirms the terms and conditions under which ULRF and Company will exchange Confidential Information, as hereinafter defined, with one another for the sole purpose of permitting the parties to ascertain any interest in pursuing joint collaborations, research and/or commercialization interactions relating to \_\_\_\_\_ (the “Purpose”).

1. (a) "Confidential Information" is defined as samples, materials, data, information (oral or written), protocols, research proposals, concepts, drawings, sketches, and other information of a secret, confidential, or proprietary nature which is owned or controlled by the disclosing party and which information, if in tangible form, is marked or otherwise identified as "CONFIDENTIAL" by the disclosing party at the time of disclosure, or if disclosed orally or visually is identified at the time of disclosure as confidential by the disclosing party and is reduced to writing and delivered to the receiving party within thirty (30) days of disclosure.

(b) The parties do not anticipate the need to disclose to each other any Confidential Information in the form of technology, software source code or technical data identified on any US export control list, including the Commerce Control List at 15 CFR 774 and the US Munitions List at 22 CFR 120-130 (“Export Control-listed Information”). Because of its large foreign national student population and its commitment to openly conducted research, UofL will generally not agree to receive Export Control-listed Information. UofL engages in fundamental research as defined by the Export Administration Regulations (EAR) and the International Traffic in Arms Regulations (ITAR). Accordingly, UofL does not generate Export Control-listed Information. Company shall not provide ULRF with any Export Control-listed Information hereunder. In the event that Company believes it is necessary to disclose Export Control-listed Information to ULRF having a classification other than EAR99, Company shall clearly mark Export Control-listed Information with a statement identifying the specific export control classification number under the Commerce Control List or the specific US Munitions List entry, as applicable. Company shall submit the marked Export Control-listed Information to UofL’s Administrative Contact identified below. ULRF shall have the option to decline acceptance of Export Control-listed Information. If the parties cannot mutually agree to modify disclosure to accomplish the purpose of the Agreement without requiring ULRF’s access to export-controlled items, either party may terminate this Agreement immediately by providing written notice to the other or the parties may agree to amend this Agreement accordingly as needed to address these additional requirements. UofL abides by all U.S. export control laws, including the EAR, ITAR, and OFAC economic sanctions regulations, when applicable. For purposes of this provision UofL’s Administrative Contact is as follows: \_\_\_\_\_.

2. Confidential Information that is disclosed hereunder shall be maintained in trust and confidence by the receiving party and shall not, directly or through others, be disclosed, patented, copyrighted, or published. The receiving party agrees to use all reasonable diligence to prevent

disclosure of disclosing party's Confidential Information except to employees or agents of the receiving party and/or to third parties including, as applicable, the members of review committees, who have a need to know for the Purpose and who have agreed to or are otherwise under an obligation to abide by the terms and conditions contained herein prior to obtaining access to disclosing party's Confidential Information) unless so authorized in writing by the disclosing party, and to refrain from using disclosing party's Confidential Information for any purpose other than the Purpose stated herein.

3. Receiving party's obligations under this Agreement shall survive for a period of three (3) years from the date of its receipt of Confidential Information. A receiving party shall not have any obligation of confidentiality with respect to any Confidential Information of the disclosing party that:

- (a) Was already in the receiving party's possession on a non-confidential basis prior to receipt from the disclosing party; or
- (b) Is in the public domain by public use, general knowledge or the like, or after disclosure hereunder, becomes general or public knowledge through no fault of the receiving party; or
- (c) Is properly obtained by the receiving party from a third party not under a confidentiality obligation to the disclosing party; or
- (d) Is explicitly approved for release by written authorization of the disclosing party; or
- (e) Is independently developed by employees or agents of the receiving party who had no knowledge of or access to the Confidential Information as evidenced by the receiving party's business records; or
- (f) Is required to be disclosed by operation of law, regulation, or an order of a court or other governmental authority of competent jurisdiction, including an opinion issued by the Kentucky Attorney General, which carries the force of law in Kentucky open-records cases.

Receiving party shall notify disclosing party promptly of making a determination that any Confidential Information falls within subcategory (a), (b), (c), (e) or (f) of Section 3 and will cooperate with the disclosing party's efforts to contest or limit the scope of any disclosure required by subsection (f).

4. (a) The term of exchange of Confidential Information under this Agreement shall be one (1) year from the Effective Date, unless earlier terminated by either party for any reason by providing written notice to the other party.

(b) Upon termination of this Agreement, the receiving party will promptly return to the disclosing party all tangible Confidential Information and copies thereof in the receiving party's possession, except that receiving party may retain a copy of the Confidential Information in order to monitor its obligations with this Agreement. The parties acknowledge that Confidential Information communicated and/or stored in electronic form may be routinely backed up for disaster recovery archival purposes such that return or destruction is not practical and/or feasible until such time that the back-up copy expires or is recycled or destroyed, in which case the receiving party will keep such back-up copies secure in accordance with the provisions of this Agreement until the back-up media expires or is recycled or destroyed. The obligation of confidentiality of back-up copies will continue after this Agreement ends or is terminated until

all such back-up copies have expired or been recycled or destroyed or the period of confidentiality ends as specified in Section 3 above.

(c) Receiving party's obligations under this Agreement shall survive termination of this Agreement for the period specified in Section 3 above.

5. No license, express or implied, in the disclosing party's Confidential Information is granted to the receiving party other than to use the disclosing party's Confidential Information in the manner and to the extent authorized by this Agreement.

6. This Agreement contains the entire agreement between the parties with respect to the disclosed Confidential Information and supersedes any prior agreement, oral or written, concerning such Confidential Information.

7. This Agreement may be executed in counterparts, each of which shall be deemed an original instrument, and all of which shall constitute a single agreement. The parties may execute this Agreement by facsimile, scanned Portable Document Format ("PDF") or other electronically transmitted signature, and such facsimile, scanned PDF or other electronically transmitted document, including the signatures thereon, shall be treated in all respects as an original instrument bearing an original signature.

8. This agreement shall be governed and construed in accordance with the laws of the Commonwealth of Kentucky.

[remainder of page left blank intentionally]

**ACKNOWLEDGED AND AGREED:**

**THE UNIVERSITY OF LOUISVILLE  
RESEARCH FOUNDATION INC.**

By:

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Name - printed or typed

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

The individuals below, while not parties, agree to abide by these obligations of confidentiality and will ensure that any others with whom they share such Confidential Information understand and agree to abide by these obligations.

**INDIVIDUAL DESIGNATED BY ULRF  
TO RECEIVE/DISCLOSE  
CONFIDENTIAL INFORMATION FOR  
THE PURPOSE**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name - printed or typed

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**COMPANY**

By:

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Name - printed or typed

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**INDIVIDUAL DESIGNATED BY  
COMPANY TO RECEIVE/DISCLOSE  
CONFIDENTIAL INFORMATION FOR  
THE PURPOSE**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name - printed or typed

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date