

Non-Disclosure Agreement
_____ and Mississippi State University
v5.1.03

This Agreement is entered into by _____, having its office at _____, (hereinafter "COMPANY") and Mississippi State University having its main office at, P.O. Box 5282, Mississippi State, Mississippi 39762 (hereinafter "UNIVERSITY") effective as of the date of execution by both parties.

1. **PURPOSE OF AGREEMENT.** For a limited time ending on _____, the parties agree that it is desirable to exchange Confidential Information (defined below) relating to the _____.

2. **CONFIDENTIAL INFORMATION.** "Confidential Information" means information consistent with the purpose stated in Paragraph 1 which is disclosed in any tangible form and is clearly labeled or marked as confidential, proprietary or its equivalent, or information which is disclosed orally or visually, is designated confidential, proprietary or its equivalent at the time of its disclosure and is reduced to writing and clearly marked or labeled as confidential, proprietary or its equivalent within thirty days of disclosure. To be protected under this Agreement, Confidential Information disclosed to COMPANY shall be disclosed to _____ or other authorized employee of COMPANY and Confidential Information disclosed to MSU shall be disclosed to _____ or other authorized employee of UNIVERSITY.

3. **USE AND HANDLING OF CONFIDENTIAL INFORMATION.** From the effective date hereof, each party may use Confidential Information received from the other. To the extent allowed by law, the party receiving Confidential Information shall restrict the use of the Confidential Information to the purpose set forth in Paragraph 1 and shall safeguard against disclosure of the Confidential Information to third parties using the same degree of care to prevent disclosure as it uses to protect its own information of like importance, but at least reasonable care. A party may make only the minimum number of copies of any Confidential Information required to carry out the purpose of this Agreement. All proprietary and copyright notices in the original must be affixed to copies or partial copies.

4. **LIMITATIONS ON THE OBLIGATION WITH RESPECT TO CONFIDENTIAL INFORMATION.** Neither party shall be obligated to maintain any information in confidence or refrain from use if:

- a. The information was in the receiving party's possession or was known to it prior to its receipt from the disclosing party;
- b. The information is independently developed by the receiving party without the utilization of Confidential Information of the disclosing party;
- c. The information is or becomes public knowledge without fault of the receiving party.
- d. The information is or becomes available on an unrestricted basis to the receiving party from a source other than the disclosing party;
- e. The information becomes available on an unrestricted basis to a third party from the disclosing party or from someone acting under its control; or
- f. The information is publicly disclosed (i.e., not under adequate protective order) by the receiving party under an order of a court or government agency, provided that the receiving party provides prior written notification to the disclosing party of such obligation and the opportunity to oppose such order.

- g. Ordered to release by a court of competent jurisdiction or otherwise required to release by law.

5. **INTELLECTUAL PROPERTY RIGHTS.** No rights or obligations other than these expressly recited herein are to be implied from this agreement. No license is hereby granted, directly or indirectly, under any patent, trade secret, copyright, mask work right or other intellectual property right now held by, or which may be obtained by, or which are or may be licensable by either party.

6. **ASSIGNMENT.** Neither party may assign any of its rights or obligations under this agreement without the prior written consent of the other party.

7. **RETURN OF MATERIALS.** Upon completion of the purpose contemplated for the release of Confidential Information, or upon request by either party, whichever occurs first, each party shall immediately return to the other all Confidential Information received under this Agreement and all copies thereof or, if a party so requests, shall immediately destroy all Confidential Information and copies.

8. **TERM.** The obligations of the parties to restrain from disclosure of any of the Confidential Information received under this Agreement shall terminate five years (5) from the effective date of this Agreement between UNIVERSITY and COMPANY or until written permission is obtained from disclosing party.

9. **EXPORT CONTROL.** The parties acknowledge that the Confidential Information received hereunder may be subject to U. S. export control regulations and hereby agree to comply with such applicable regulations.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year set forth above.

MISSISSIPPI STATE UNIVERSITY

COMPANY

Charles T. Rivenburgh

Authorized Signatory

Title: Director, Intellectual Property
and Technology Licensing

Title: _____

Date: _____

Date: _____

Authorized MSU Employee

Title: _____

Date: _____