



CONFIDENTIALITY AGREEMENT

(One-way for situations where only CWRU is disclosing information)

THIS CONFIDENTIALITY AGREEMENT (“Agreement”) made this ___th day of ___, 20___ (“Effective Date”) by and between Case Western Reserve University, an Ohio nonprofit corporation having a place of business at 10900 Euclid Avenue, Cleveland, OH 44106-7219 (referred to as “CWRU”) and _____, a _____ [State of Incorporation and Profit Status] corporation having a place of business at _____ (referred to as “COMPANY”).

COMPANY is interested in working with CWRU and CWRU with COMPANY on various matters. CWRU is willing to disclose to COMPANY certain Confidential Information (as hereafter defined) related to the CWRU Technology but only in strict accordance with the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein and intending to be legally bound, the parties hereto hereby agree as follows:

1. For purposes of this Agreement, the term “CWRU Technology” shall mean non-public information that relates or refers to _____ including, without limitation, related documents, licenses, sublicenses, correspondence, agreements, technical information, research efforts, practices, data, or findings, patents, patent applications and all related foreign applications, continuations, continuations-in-part and divisional applications, physical models and know-how related to any of the foregoing subjects or material.
2. For purposes of this Agreement, “Confidential Information” shall mean any information, whether oral, written or otherwise recorded, disclosed by CWRU to COMPANY, unless such information (i) was already in COMPANY’S possession prior to the disclosure thereof by CWRU as demonstrated by written evidence, (ii) has been published or is published hereafter, unless such publication is a breach of this Agreement, (iii) is received by COMPANY from a third party not under any obligation of confidentiality with respect thereto, (iv) is independently developed by COMPANY without access to or knowledge of Confidential Information; or (v) is required by a court or government entity to be disclosed by COMPANY, provided COMPANY promptly notifies CWRU of such requirement prior to releasing information to enable CWRU reasonable opportunity to dispute such disclosure.
3. Confidential Information shall be used by the COMPANY solely for the limited purpose of evaluating a possible business transaction between COMPANY and CWRU (“Permitted Purpose”) and for no other purpose. COMPANY shall not reverse engineer, decompile, disassemble, alter, maintain, enhance or otherwise modify any Confidential Information received from CWRU and shall not remove, overprint or deface notices of copyright or ownership, trademark logo or legend, if any, from any information or material obtained from CWRU.
4. Confidential Information disclosed under this Agreement (including information in computer software or held in electronic storage media) shall be and remain the property of CWRU. Upon completion of the Permitted Purpose and/or the written request of the CWRU at any time, COMPANY shall promptly return or destroy (as directed by CWRU) all such tangible Confidential Information in its possession, and no such Confidential Information shall thereafter be retained in any form by COMPANY. In the event COMPANY is directed by CWRU to destroy Confidential Information, COMPANY shall, promptly upon such destruction and upon request of CWRU, certify in writing to CWRU that all such Confidential Information has been destroyed. Nothing herein will require COMPANY to delete records in electronic backup systems maintained in the normal course of business, provided that COMPANY shall maintain confidentiality of any Confidential Information contained in such systems.

5. No intellectual property right or license is hereby granted to a party by this Agreement and the disclosure of Confidential Information shall not result in any obligation to grant a party any rights in or to the subject matter of the Confidential Information. The COMPANY shall not have the right to intellectual property rights embedded in the Confidential Information for any purpose other than the Permitted Purpose. Nothing contained in this Agreement grants the COMPANY any right or license to or under any trademark, logo, copyright or patent or other intellectual property right of CWRU. Neither party shall use the other party's name or disclose the existence of this Agreement without the prior written consent of the other party.
6. COMPANY shall disclose Confidential Information to only those of its employees or representatives who have a need to know such Confidential Information for the Permitted Purpose. COMPANY shall hold CWRU'S Confidential Information in confidence and shall exercise all reasonable precautions to prevent the disclosure of Confidential Information by its employees or representatives, and in any event shall maintain with respect to such Confidential Information a standard of care which is no less than that standard it maintains to prevent the disclosure of its own confidential information. COMPANY shall notify CWRU promptly, in writing if it becomes aware of any unauthorized disclosure in breach of the obligations of this Agreement and will take all such steps as are necessary to prevent further disclosure.
7. COMPANY acknowledges that Confidential Information is a unique and valuable asset of CWRU, and that disclosure of it in breach of this Agreement may result in irreparable injury to CWRU which could not be remedied by monetary damages. Therefore, the parties agree that, in the event of a breach or threatened breach of the terms of this Agreement, CWRU would be entitled to an injunction prohibiting any such breach, or to specific performance or any other equitable remedy available. Any such equitable relief shall be in addition to and not in lieu of any other appropriate relief at law to which CWRU may be entitled.
8. Confidential Information is provided "as is" and CWRU makes no representations or warranties, express or implied, with respect to the Confidential Information and shall have no liability to COMPANY or any other person or entity for any reliance upon Confidential Information by COMPANY or any other such person or entity. CWRU SPECIFICALLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND THOSE WARRANTIES ARISING FROM A COURSE OF PERFORMANCE, A COURSE OF DEALING OR TRADE USAGE.
9. This Agreement may not be assigned by either party hereto without the prior written consent of the other party. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.
10. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio, excluding its choice of law provisions. COMPANY consents to the exclusive jurisdiction of the Ohio courts to interpret and enforce this Agreement. If any provision of this Agreement is found to be unenforceable, the remainder shall be enforced as fully as possible and the unenforceable provisions shall be deemed modified to the limited extent required to permit its enforcement in a manner most closely representing the intention of the parties as expressed herein. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and all of which shall constitute the same agreement.
11. All rights of CWRU heretofore and hereafter acquired under the patent and copyright laws of the United States and all foreign countries are hereby expressly reserved to CWRU. All rights of COMPANY heretofore and hereafter acquired under the patent and copyright laws of the United States and all foreign countries are hereby expressly reserved to COMPANY.

- 12. Unless agreed to in a written agreement executed by authorized representatives of the parties prior to transmission of information, neither party will directly or indirectly transmit information that is subject to restrictions under the United States export control laws and regulations.
- 13. For purposes of this Agreement, the term "CWRU" shall include inventors and creators of the Technology and those working with or under them (except that none of such persons have the authority to execute an authorizing agreement under this Agreement) and the term "COMPANY" shall not include any parent or subsidiary of COMPANY unless such parent or subsidiary becomes a party hereto by execution of an amendment to this Agreement executed by an authorized representative of such parent or subsidiary and CWRU.
- 14. This Agreement is effective on the Effective Date as written above and will expire two (2) years from the Effective Date, unless terminated by either Party upon thirty (30) days written notice. COMPANY's non-disclosure and non-use obligations shall survive for three (3) years from the earlier of termination or expiration of the Agreement.
- 15. This Agreement constitutes the complete and exclusive agreement between CWRU and COMPANY with respect to the subject matter hereof, and supersedes all prior oral or written understandings, communications, or agreements not specifically incorporated herein. This Agreement may not be amended except in writing and executed by both parties.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement the day and year first written above.

COMPANY

By: _____
 Name: _____
 Title: _____
 Date: _____

CASE WESTERN RESERVE UNIVERSITY

By: _____
 Name: _____
 Title: _____
 Date: _____