

NON-DISCLOSURE AGREEMENT

Effective Date: Date of last signature (See Section 14)

This Agreement (“Agreement”) is made by and between _____ (“Member”), a corporation with its principal place of business at _____ and The University of North Carolina at Charlotte ("University") having its principal place of business at 9201 University City Blvd. Charlotte, NC 28223, acting for and on behalf of the **Center for Identification Technology Research (“CITeR”)**.

Member and University are sometimes hereinafter referred to individually as a “Party” and collectively as “Parties”. As either Member or University may act alternately as a provider (“Disclosing Party”) or as a recipient (“Receiving Party”) of information, this Agreement defines obligations of the respective Parties.

1. Definition of Confidential Information. "Confidential Information" as used in this Agreement shall mean any and all technical and non-technical information including, but not limited to, patent, copyright, and proprietary information, concepts, ideas, techniques, sketches, drawings, models, inventions, know-how, processes, apparatus, equipment, algorithms, software programs, software source documents, and formulae disclosed to a Receiving Party, directly or indirectly, at any time on after the Effective Date related to the future and proposed products and services of each of the Parties, and includes, without limitation, their respective information concerning research, experimental work, development, design details and specifications, engineering, financial information, procurement requirements, purchasing, manufacturing, customer lists, business forecasts, sales and merchandising, and marketing plans and information. "Confidential Information" also includes proprietary or confidential information of any third party who may disclose such information to either Party in the course of the other Party's business. The Disclosing Party shall mark Confidential Information provided in a tangible form as “Confidential” or other similar marking, and if Confidential Information is disclosed orally, indicate that the information is proprietary or confidential at the time of disclosure and provide a summary by written notice to the Receiving Party identifying the confidential aspects of the disclosure within twenty (20) business days after each such disclosure.

2. Nondisclosure and Nonuse Obligation. Each of the Parties agrees that it will not make use of, disseminate, or in any way disclose any Confidential Information of the other Party to any person, firm, business, or other entity or agency, except to the extent necessary for negotiations, discussions, and consultations with personnel or authorized representatives of the other Party, and any purpose the other Party may hereafter authorize in writing. Each of the parties agrees that it shall treat all Confidential Information of the other Party with the same degree of care as it accords to its own Confidential Information, and each of the parties represents that it exercises reasonable care to protect its own Confidential Information. If either Party is not an individual, such Party agrees that it shall disclose Confidential Information of the other Party only to those of its officers or employees who need to know such information and certifies that such officers or employees have previously agreed, either as a condition to employment or in order to obtain the Confidential Information, to be bound by terms and conditions substantially similar to those of this Agreement. The Receiving Party will immediately give notice to the Disclosing Party of any unauthorized use or disclosure of the Confidential Information of which it becomes aware or suspects. The Receiving Party agrees to assist the Disclosing Party in remedying any such

unauthorized use or disclosure of the Confidential Information.

3 Exclusions from Nondisclosure and Nonuse Obligations. Each Party's obligations under Section 2 of this Agreement with respect to any portion of the other Party's Confidential Information shall terminate when the Party seeking to avoid its obligation under such Section can document that: (i) the applicable information was in the public domain at or subsequent to the time it was communicated to Receiving Party by the Disclosing Party through no fault of the Receiving Party; (ii) it was rightfully in Receiving Party's possession free of any obligation of confidence at or subsequent to the time it was communicated to Receiving Party by Disclosing Party; (iii) it was developed by employees or agents of Receiving Party independently of and without reference to any information communicated to Receiving Party by Disclosing Party; (iv) it was communicated by the Disclosing Party to an unaffiliated third party free of any obligation of confidence; or (v) the communication was in response to a valid order by a court or other governmental body, was otherwise required by law, or was necessary to establish the rights of either Party under this Agreement; provided, however, that prior to any communication under Section 3(v) hereof, the communicating Party will have given written notice to the other Party of its intended disclosure. The Receiving Party agrees to identify and furnish reasonable proof of the facts supporting any of the exclusions set forth in this Section 3 to the satisfaction of the Disclosing Party prior to Disclosing the other Party's Confidential Information outside of the permitted uses under Section 2 hereof.

4 Ownership of Confidential Information. All Confidential Information shall remain the property of the Disclosing Party and no license or other rights to Confidential Information to the Receiving Party is granted or implied.

5 Right to Refusal. Receiving Party has the right to refuse trade secret and any proprietary information deemed unnecessary for research related to scope of work.

6 Warranty of Right to Disclose. Each Party warrants that it has the right to disclose the information disclosed under this Agreement to the other Party. Neither Party shall communicate any information to the other in violation of the proprietary rights of any third party.

7 No Warranty of Accuracy of Disclosure. All Confidential Information is provided "AS IS" and without any warranty, express, implied or otherwise, regarding its accuracy, completeness, or performance.

8 No Export. The parties do not anticipate needing to exchange any export-controlled information, data, or technology under this Agreement. If University wishes to disclose information, data or technology it knows to be controlled under U.S. Export Control laws and regulations, it shall first notify the Receiving Party via email to the Receiving Party's export control office and provide the export control classification, if known, to obtain prior approval from the Receiving Party for such disclosure. University will separately mark the information, data or technology as "Export Controlled," whether or not the disclosure is also marked as Confidential Information. University shall not provide any export-controlled data or information under this agreement without first obtaining prior written approval from the Receiving Party. Each Party acknowledges its obligations under U.S. laws and regulations with respect to Export-Controlled information, data and technology."

9 Termination Without Cause. This Agreement may be terminated by either Company or University at any time and for any reason upon thirty (30) days written notice by registered mail to the other Party at the address given below or as such other address as may designated in writing by the parties hereto.

If to University:

The University of North Carolina at Charlotte
Attn: Executive Director Office of Research Commercialization and Partnerships 9201
University City Blvd.
Charlotte, NC 28223
invent@charlotte.edu

If to Member:

It is mutually understood that the termination of this Agreement does not relieve either Party of its duty of confidentiality hereunder.

10 Termination With Cause. In the event of any unauthorized disclosures by either Party of Confidential Information or any copies, photographs, or reproductions thereof howsoever made by others, or any neglect by either Party to take proper precautions to prevent unauthorized disclosures, the other Party shall have the right to immediately terminate this Agreement by giving notice of termination in writing by registered mail.

11 No Assignment. The rights or obligations created under this Agreement may not be assigned or transferred in whole or in part without the prior written consent of the other Party. In the event such consent is provided, the terms and provisions of this Agreement shall be binding on and inure to the benefit of the parties' respective successors and assigns. Either Party may transfer its rights and obligations under this Agreement to its parent company and/or its commonly owned subsidiaries or affiliated companies; provided, however, that it provides written notice to the other Party of such assignment.

12 No Advertising. Trade names or Trademarks owned by the other Party or any of its related entities may not be released to any form of public media, or used in any publicity, advertising, or otherwise without prior written consent of the other Party.

13 Return of Proprietary Information. All Confidential Information furnished to the Receiving Party shall remain the property of and shall be returned to the Disclosing Party along with any copies, photographs, or reproductions thereof.

14 Effective Date. The effective date of this Agreement shall be the date of the last signature hereto. This Agreement shall terminate five (5) years after the effective date unless extended by mutual agreement of the parties or otherwise terminated in accordance with Section 3.

15 Notices. Any notice required or permitted by this Agreement shall be in writing and shall be delivered as follows with notice deemed given as indicated: (i) by personal delivery when delivered personally; (ii) by overnight courier upon written verification of receipt; (iii) by telecopy or facsimile transmission upon acknowledgement of receipt of electronic transmission; or (iv) by certified or registered mail, return receipt requested, upon verification of receipt. Notice shall be sent to the addresses set forth above or such other address as either Party may specify in writing.

16 Severability. Should any provisions of this Agreement be held by a court of law to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected or impaired thereby.

17 Waiver. The waiver by Disclosing Party of a breach of any provision of this Agreement by receiving Party shall not operate or be construed as a waiver of any other or subsequent breach by receiving Party.

18 Remedies. A breach or threatened breach of any of the promises or agreements contained herein for which there is no adequate remedy at law shall entitle the injured Party to seek injunctive relief in whole or in part and/or a decree for specific performance, and any such other relief as may be proper (including monetary damages if appropriate) or available in equity or in law.

19 No Rights Granted Other Than Those Provided For. Other than the specific rights granted or provided for under this Agreement, nothing contained herein shall be interpreted or construed as granting any other rights or any license under any patents, patent applications, know-how or Confidential Information of a Party hereto

20 No Obligation to Proceed with any Other Transaction. Neither Party has an obligation under this Agreement to purchase or license any product or service from the other Party

21 Entire Agreement. This Agreement constitutes the entire agreement with respect to the Confidential Information and supersedes all prior or contemporaneous oral or written agreements concerning such Confidential Information.

22 Amendments. This Agreement may only be changed by mutual agreement of authorized representatives of the Parties in writing.

23 Jurisdiction. Reserved.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

Member:

University:

Name:

Title:

Name:

Title:

Date: _____

Date: _____