

CONFIDENTIALITY AGREEMENT

THIS AGREEMENT is made the _____ day of _____ 201X
BETWEEN

- (1) The University of Warwick whose administrative offices are at University House, Kirby Corner Road, Coventry, CV4 8UW (the “University”), and
- (2) <Company Name> Limited, a company registered in <England> under number <Company registration number> whose registered office is at <Company registered address> (the “Company”)

(each a “party” and together the “parties”)

RECITALS

- (A) The parties wish to explore the possibility of entering into a mutually beneficial collaborative agreement concerning [DEFINE AREA FOR DISCUSSION] (the “Purpose”) and for the Purpose, need to disclose confidential information to one another.
- (B) The parties are willing to disclose the said information on the basis that it is protected as provided in this Agreement.

In consideration of the mutual premises and covenants contained in this Agreement the parties HEREBY AGREE with each other AS FOLLOWS:

1. In this Agreement:
 - 1.1 “**Confidential Information**” shall mean all information including but not limited to information relating to a party’s operations, processes, plans or intentions, inventions, copyrights, designs, drawings, potential or actual products, production information, formulations, test methods, specifications, projections, documents, prototypes, product samples, plant and equipment, know-how, formulae, trade secrets, market opportunities, technical and commercial information and business affairs given by one party (the “**Disclosing Party**”) to the other party (the “**Receiving Party**”) which at the time of disclosure in the case of written information is or was clearly marked as such and in the case of oral information is or was identified by the Disclosing Party as being proprietary or confidential or is or was reasonably obvious to the Receiving Party (itself acting reasonably) to be regarded as confidential or proprietary in the circumstances of the disclosure
 - 1.2 the term “disclosure” means disclosure by any means including but not limited to oral transmission, written transmission, participation in a demonstration, and/or access to any premises where a party may carry on business, and “disclosed” and “disclosing” shall be construed accordingly
2. In respect of all Confidential Information disclosed before the date of this Agreement or during the period of 12 months from the date of this Agreement the Receiving Party shall:
 - 2.1 treat the Confidential Information in confidence and to use it only for the Purpose;
 - 2.2 not copy or write down any part of the Confidential Information except as is reasonably necessary for the Purpose;

- 2.3 not disclose the Confidential Information except to such of the Receiving Party's directors, employees or third parties as may need to know the Confidential Information for the Purpose; and
 - 2.4 treat the Confidential Information with the same degree of care and with sufficient protection from unauthorised disclosure as the Receiving Party itself treats its own confidential or proprietary information.
3. Notwithstanding clause 2 above, neither party shall be liable for release or disclosure of any Confidential Information that:
 - 3.1 is within the public domain and has so entered other than by a breach of this Agreement; or
 - 3.2 the Receiving Party can demonstrate was known by it or was in its possession (evidenced by being in its use or recorded within its files) prior to receipt from the Disclosing Party and either:
 - 3.2.1 was acquired by the Receiving Party other than under an obligation of confidence or non-use, or
 - 3.2.2 has been independently developed by the Receiving Party without recourse to the Confidential Information;
 - 3.3 has become available from a source other than the Disclosing Party without breach by either the Receiving Party or such source of any obligation of confidentiality or non-use;
 - 3.4 has been provided by the Disclosing Party to a third party without any restriction on disclosure or use;
 - 3.5 has been approved for release by the written consent of the Disclosing Party; or
 - 3.6 is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction provided that, to the extent it is legally permitted to do so, it gives the Disclosing Party as much notice of such disclosure as is reasonably possible to enable the Disclosing Party to seek appropriate protective relief and/or take steps to resist or narrow the scope of any required disclosure.
4. The Receiving Party shall:
 - 4.1 at the Disclosing Party's request promptly return to the Disclosing Party all documents, materials and records and all copies of the Confidential Information and permanently delete any such Confidential Information from any electronic storage media or memory, and
 - 4.2 notwithstanding the termination for whatever reason of this Agreement continue to be bound by its obligations under this Agreement not to use, disclose or disseminate any of the Confidential Information for a period of 5 years from the date the Confidential Information was disclosed by the Disclosing Party.
5. If a party does not enforce a right available to it under this Agreement in any particular instance, then that will not prevent it from enforcing that right in future or in any other instance.

6. Neither party shall assign or transfer any of its rights or obligations under this Agreement without the prior written consent of the other party.
7. This Agreement does not grant any right or licence in relation to either party's intellectual property rights.
8. Notices under this Agreement shall be addressed to the parties' respective addresses given below, or such other address as may hereafter be designated by notice in writing:

For the University:

Director, Research Support Services
University House
University of Warwick
Coventry
CV4 8UW

For the Company:

<Insert notices contact name and address>

9. The Recitals form part of this Agreement and shall have effect as if set out in full in the body of this Agreement and accordingly any reference to this Agreement includes the Recitals.
10. This Agreement constitutes the entire understanding between the parties related to the protection of Confidential Information disclosed under it.
11. The interpretation construction and effect of this Agreement shall be construed in all respects in accordance with English Law and the parties hereby submit to the exclusive jurisdiction of the English courts.

AS WITNESS the hands of the duly authorised representatives of the parties on the date above.

Signed for and behalf of
The University of Warwick

Signed for and behalf of
<Company Name> Limited

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____