

NON-DISCLOSURE OF PROPRIETARY INFORMATION
AGREEMENT

This is an Agreement, effective _____ 2000, between Norfolk State University (hereinafter referred to as "NSU") and _____ (hereinafter referred to as "_____"). It is recognized that it may be necessary or desirable to exchange information between NSU and _____ for the purpose of discussions regarding the _____ Contract (_____) Procurement. With respect to the information exchanged between the parties subsequent to this date, the parties agree as follows:

- (1) "Proprietary Information" shall include, but not be limited to, performance, sales, financial, contractual and special marketing information, ideas, technical data and concepts originated by the disclosing party, not previously published or otherwise disclosed to the general public, not previously available without restriction to the receiving party or others, nor normally furnished to others without compensation, and which the disclosing party desires to protect against unrestricted disclosure or competitive use, and which is furnished pursuant to this Non-Disclosure Agreement and appropriately identified as being proprietary when furnished.
- (2) In order for proprietary information disclosed by one party to the other to be protected in accordance with this Non- Disclosure Agreement, it must be: (a) in writing; (b) clearly identified as proprietary information at the time of its disclosure by each page thereof being marked with an appropriate legend indicating that the information is deemed proprietary by the disclosing party; and (c) delivered by letter of transmittal to the individual designated in Paragraph 3 below, or his designee. Where the proprietary information has not been or cannot be reduced to written form at the time of disclosure and such disclosure is made orally and with prior assertion of proprietary rights therein, such orally disclosed proprietary information shall only be protected in accordance with this Non-Disclosure Agreement provided that complete written summaries of all proprietary aspects of any such oral disclosures shall have been delivered to the individual identified in Paragraph 3 below, within 20 calendar days of said oral disclosures. Neither party shall identify information as proprietary, which is not in good faith believed to be confidential, privileged, a trade secret, or otherwise entitled to such markings or proprietary claims.
- (3) In order for either party's proprietary information to be protected as described herein, it must be submitted in written form as discussed in Paragraph 2 above to:

NSU

Name: Paula R. D. Shaw

Title: Director

Address: 700 Park Avenue
Norfolk, VA 23504

Telephone No: 757-823-9053

Fax No.: 757-823-2823

E-mail Address: pshaw @nsu.edu

Name:

Title:

Address:

Telephone No:

Fax No.:

E-mail Address:

- (4) Each party covenants and agrees that it will keep in confidence, and prevent the disclosure to any person or persons outside its organization or to any unauthorized person or persons, any and all information which is received from the other under this Non-Disclosure Agreement and has been protected in accordance with paragraphs 2 and 3 hereof; provided however, that a receiving party shall not be liable for disclosure of any such information if the same:
- A. Was in the public domain at the time it was disclosed, or
 - B. Becomes part of the public domain without breach of this Agreement, or
 - C. Is disclosed with the written approval of the other party, or
 - D. Is disclosed after three years from receipt of the information, or
 - E. Was independently developed by the receiving party, or
 - F. Is or was disclosed by the disclosing party to a third party without restriction, or
 - G. Is disclosed pursuant to the provisions of a court order.

As between the parties hereto, the provisions of this Paragraph 4 shall supersede the provisions of any inconsistent legend that may be affixed to said data by the disclosing party, and the inconsistent provisions of any such legend shall be without any force or effect.

Any protected information provided by one party to the other shall be used only in furtherance of the purposes described in this Agreement, and shall be, upon request at any time, returned to the disclosing party. If either party loses or makes unauthorized disclosure of the other party's protected information, it shall notify such other party immediately and take all steps reasonable and necessary to retrieve the lost or improperly disclosed information.

- (5) The standard of care for protecting Proprietary Information imposed on the party receiving such information, will be that degree of care the receiving party uses to prevent disclosure, publication or dissemination of its own proprietary information.
- (6) Neither party shall be liable for the inadvertent or accidental disclosure of Proprietary Information if such disclosure occurs despite the exercise of the same degree of care as such party normally takes to preserve its own such data or information.
- (7) In providing any information hereunder, each disclosing party makes no representations, either express or implied, as to the information's adequacy, sufficiency, or freedom from defect of any kind, including freedom from any patent infringement that may result from the use of such information, nor shall either party incur any liability or obligation whatsoever by reason of such information, except as provided under Paragraph 4, hereof.
- (8) This Non-Disclosure Agreement contains the entire agreement relative to the protection of information to be exchanged hereunder, and supersedes all prior or contemporaneous oral or written understandings or agreements regarding this issue. This Non-Disclosure Agreement

shall not be modified or amended, except in a written instrument executed by the parties.

- (9) Nothing contained in this Non-Disclosure Agreement shall, by express grant, implication, estoppel or otherwise, create in either party any right, title, interest, or license in or to the inventions, patents, technical data, computer software, or software documentation of the other party.
- (10) Nothing contained in this Non-Disclosure Agreement shall grant to either party the right to make commitments of any kind for or on behalf of any other party without the prior written consent of that other party.
- (11) The effective date of this Non-Disclosure Agreement shall be the date upon which the last signatory below executes this Agreement.
- (12) This Non-Disclosure Agreement shall be governed and construed in accordance with the laws of the State of Virginia.
- (13) This Non-Disclosure Agreement may not be assigned or otherwise transferred by either party in whole or in part without the express prior written consent of the other party, which consent shall not unreasonably be withheld. This consent requirement shall not apply in the event either party shall change its corporate name or merge with another corporation. This Non-Disclosure Agreement shall benefit and be binding upon the successors and assigns of the parties hereto.

NSU

Name: Paula R. D. Shaw

Title: Director

Address: 700 Park Avenue
Norfolk, VA 23504

Telephone No: 757-823-9053

Fax No.: 757-823-2823

E-mail Address: pshaw@nsu.edu

Name:

Title:

Address:

Telephone No:

Fax No.:

E-mail Address:

Paula R. D. Shaw

Date

Date