

**NON-DISCLOSURE AGREEMENT  
(ANONYMOUS)**

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Executed as of the \_\_\_\_\_ day of \_\_\_\_\_.

BETWEEN: **UNIVERSITI TEKNOLOGI MALAYSIA**, a body corporate incorporated under the Universities And University Colleges Act 1971 and having its office at 81310 UTM Skudai, Johor Darul Ta'zim (hereinafter referred to as "UTM")

AND: \_\_\_\_\_ a corporation incorporated under the laws of \_\_\_\_\_ having its principal establishment at \_\_\_\_\_

Herein referred to as "RECIPIENT".

**RECITALS:**

**WHEREAS:**

- A. UTM has developed and possesses informations relating to “  
\_\_\_\_\_”. Which it considers confidential and in which it has a proprietary interest, hereinafter referred to as “ **Confidential information**”;
- B. The Recipient is desirous to evaluate the confidential information with a view of assessing the appropriateness of establishing a Collaborative Agreement and UTM is willing to disclose the confidential information relating to it Recipient under conditions of confidentiality.

**1. INTERPRETATION**

- 1.1 For the purposes of this Agreement “Confidential Information” means any and all information which is now or at any time hereafter in the possession of UTM and which relates to any system, technique, processes and/or procedure in writing, software, plans oral or physical form including and without limitation to data, scientific knowledge, know-how, formulae, designs, photographs, drawings, specifications, biological and samples and any material bearing or incorporating any information developed or possessed by UTM.
- 1.2 All **Confidential information** disclosed hereunder shall be in writing, marked with the word “ **CONFIDENTIAL** ”, “ **SECRET** ”, OR “ **PROPRIETARY** ” , and dated the first instance, or if oral, shall be promptly confirmed in writing, marked with the word “ confidential “ and dated.

**2. UNDERTAKING OF THE RECIPIENT**

- 2.1 In consideration of UTM disclosing the Confidential Information to the Recipient, the Recipient hereby undertakes :
- 2.1.1 to use all the Confidential Information so disclose exclusively for the purpose of evaluating such information with a view of assessing the appropriateness of establishing a collaborative Agreement;
- 2.1.2 to maintain confidential all Information that it may acquire in any manner ;

- 2.1.3 that it will accordingly not directly or indirectly use or disclose any of the Confidential Information in whole or in part save for the purposes of and in accordance with this Agreement;
- 2.1.4 it will not in any way use the Confidential Information so disclosed to manufacture, sell, produce or invent any products or technologies for commercial purposes unless and until a release, option or license has been granted to the recipient on terms and conditions as agreed to between the parties;
- 2.1.5 it will not assign, transfer or otherwise grant its right of access to the Confidential Information to any third party without the written consent of UTM.

### **3. CONFIDENTIAL MEASURE**

- 3.1 To secure the confidentiality attaching to the Confidential Information, the Recipient shall:
  - 3.1.1 keep separate all Confidential Information and all information generated by the Recipient based thereon from all documents and other records of the Recipient;
  - 3.1.2 keep all documents and all other material bearing or incorporating any of the confidential Information at the usual place of business of the Recipient and within its own organization save and except to the extent reasonably necessary to fulfill the abovestated purposes ;
  - 3.1.3 not use, reproduce, transform or store any of the Confidential Information in an externally accessible computer or electronic information retrieval system or transmit it in any form or by any means whatsoever outside of its usual place of business;
  - 3.1.4 allow access to the Confidential Information exclusively to those employees of the Recipient who have reasonable need to see and use it for the purposes of its evaluation by the Recipient and shall inform each of the said employees of the confidential nature of the Confidential Information and of the obligations on the Recipient in respect thereof;
  - 3.1.5 wherever reasonably practicable obtain a written statement from each of its employees having access to the Confidential Information, undertaking to maintain the same confidential, and shall take such steps as may be reasonably desirable to enforce such obligations;

**3.1.6** make copies of the Confidential Information only to the extent that same is strictly required for the purposes of its evaluation by the Recipient;

**3.1.7** on request of UTM made at any time and/or upon completion of its evaluation shall deliver up to UTM all documents and other material in the possession custody or control of the Recipient that bear or incorporate any part of the Confidential Information.

#### **4. EXCEPTION**

**4.1** The foregoing restrictions on the Recipient shall not apply to any Confidential Information which :

**4.1.1** the Recipient can prove by documentary evidence produced to UTM within 7 days of disclosure that such Confidential Information was already in the possession of the Recipient and at its free disposal before the disclosure hereunder to the Recipient;

**4.1.2** is hereafter disclosed to the Recipient without any obligations of confidence by a third party who has not derived it directly or indirectly from UTM;

**4.1.3** is or become generally available to the public in printed publications in general circulation (in Malaysia or otherwise) through no act or default on the part of the Recipient or the Recipient's agent or employees;

**4.1.4** has been or in the future is disclosed in any non-confidential report, non-confidential request, or other non-confidential communication to any agency or government.

#### **5. INCLUSION**

**5.1** Without prejudice to the generality of Clause 4 information shall not be deemed to be generally available to the public by reason only that it is known to only a few of those people to whom it might be of commercial interest, and a combination of two or more portions of the Confidential Information shall not be deemed to be generally available to the public by reason only of each separate portion being so available.

#### **6. EXPIRY DATE**

The obligation of the Recipient as contained in this Agreement shall expire on the fifth anniversary of the date of receipt by Recipient of the Confidential Information from UTM.

**7. GENERAL**

**7.1 HEADING**

The headings in this Agreement are for convenience only and are not intended to have any legal effect.

**7.2 WAIVER**

A failure by either party hereto to exercise or enforce any rights conferred upon it by this Agreement shall not be deemed to be a waiver of any such rights or operate so as to bar the exercise of enforcement thereof at any subsequent time or times.

**7.3 COSTS**

Each of the parties shall be responsible for its respective legal and other cost incurred in relation to the preparation of this Agreement.

**7.4 NOTICE**

**7.4.1** Notice or other document to be given under this Agreement shall be in writing and shall be deemed to have been duly given if left at or sent by hand or by prepaid registered post to a party at the address set out below or such other address as one party may from time to time designate in by written notice to the other.

**7.4.2** Any such notice or other document shall be deemed to have been received by the addressee in three (3) working days following the date of dispatch if the notice or other document is sent by registered post, or simultaneously with the delivery or transmission if sent by hand or if given by telex, facsimile or other electronic means.

**7.4.3** UTM address for service is :

Address

Fax:

The Recipient's address for service is :

Address

Fax:

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**7.5 NO CREATION OF LICENCE ETC.**

Nothing in this Agreement shall be deemed to create a partnership, society or otherwise and none of the parties hereto shall have any authority to be the agent of any of the parties hereto in any manner whatsoever and the right hereunder is specifically established for the sole purpose as herein defined and shall not in any way be treated as giving the Recipient an exclusive right as a Licensee.

**7.5 GOVERNING LAW**

This Agreement shall be governed and construed in accordance with the laws in force in Malaysia.

**IN WITNESS WHEREOF**, the parties have duly executed this Agreement on the day and hereafter written:

**UNIVERSITI TEKNOLOGI MALAYSIA**

**RECIPIENT**

\_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_  
Name:  
Title:

Date: \_\_\_\_\_