

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

This Agreement, effective _____, 2021, between the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College as represented by Pennington Biomedical Research Center, a component of the Louisiana State University System duly organized and existing under the laws of the State of Louisiana, having a principal place of business at 6400 Perkins Road, Baton Rouge, LA 70808, (PBRC”) and _____, having a principal place of business at _____ (“_____”) (collectively, the “Parties”) constitutes the terms under which the parties will disclose certain proprietary and confidential information and materials under the terms and conditions as set forth herein.

1. The Parties’ primary contacts for disclosing or receiving confidential information are:
For PBRC:
For _____:
2. The “Confidential Information” to be disclosed under this Agreement is described as:
Information from PBRC and _____:
3. The Parties agree that neither party nor its officers, directors, or employees, except to the extent authorized by the disclosing party in writing, will use such Confidential Information for any purpose other than this assessment, and in particular shall not use this Confidential Information in any commercial activity without the disclosing party’s prior, express, written consent.
4. A party receiving confidential information (a Recipient) shall limit disclosure of the Confidential Information to those of its officers, directors, or employees whom Recipient considers necessary to complete the assessment or to engage in discussions, consultations or negotiations concerning the Confidential Information, and whom agree to abide by the obligations under this Agreement.
5. A Recipient shall, for a period of three (3) years from the date of initial disclosure of Confidential Information, maintain the Confidential Information so disclosed as confidential and refrain from disclosing it to others.
6. Such Confidential Information shall be disclosed in writing or other tangible form and marked as “Confidential”, or if disclosed orally, shall be identified in writing or other tangible form and marked “Confidential” within thirty (30) days of disclosure.
7. No obligation of confidentiality shall exist as to such proprietary and confidential information and material that: (a) at the time of receipt is public knowledge, or after receipt becomes public knowledge through no act or omission of Recipient; (b) was known to Recipient as evidenced by written records prior to the disclosure; (c) is received from a third party who did not, directly or indirectly, obtain the information or material from the disclosing party; (d) is independently developed by Recipient as evidenced by written records, or (e) is required to be disclosed by a court or government agency, provided that the disclosing party is given reasonable notice and opportunity to contest the required disclosure.
8. Any and all proprietary written materials or other information in tangible form, including all copies

thereof, received by Recipient shall, upon request, be immediately returned to the disclosing party.

9. In the event that a Recipient or any of its officers, directors, or employees breach the obligation of confidentiality contained herein, they will be liable to the disclosing party, not only for damages arising out of such breach, but also for reasonable attorney's fees and reasonable costs incurred in enforcing the obligations of this Agreement.
10. All Confidential Information is provided "AS IS", without warranty or guarantee of any kind as to its accuracy, completeness, operability, fitness for a particular purpose, or any other warranty, express or implied. Neither party shall be liable to the other for any damages, loss, expense or claim of loss arising from use or reliance on the Confidential Information of the other.
11. It is understood that no patent license or other license is granted to a Recipient by this Agreement, and that the disclosure of proprietary and confidential information and materials shall not result in any obligation to grant the Recipient any rights in the subject matter disclosed.
12. This Agreement shall be construed according to the laws of the State of Louisiana.
13. This Agreement is not a joint research agreement under the CREATE Act and neither Party shall use this Agreement to invoke the CREATE Act (pursuant to 35 U.S.C. §103(c)) during patent examination to overcome prior art rejections.
14. Any notices or written information pursuant to this Agreement shall be sent to the following addresses:

Company

PBRC

Guy LaVergne

Associate Executive Director of Operations

6400 Perkins Road

Baton Rouge, LA 70808

15. This Agreement is not final until signed by all individuals indicated below. In the event an agreement is later negotiated with PBRC concerning the disclosed subject matter or any other subject matter, _____ understands that the agreement will not be final, and will not be binding on either party, until reduced to writing and signed by both: (1) an individual authorized to sign on behalf of _____, and (2) an authorized PBRC official.
16. Notwithstanding any other provision of this Agreement, the Parties agree to abide by, any and all applicable United States laws and regulations controlling the export of technical data, computer software, laboratory prototypes and other commodities. A Party will not provide or make accessible to their employees any export-controlled materials (including, without limitation, equipment, information and/or data) without first informing the Receiving Party of the export-controlled nature and classification of the materials or information and obtaining the Receiving Party authorized representative's written consent to accept such materials. Notwithstanding the above, the Parties reserve the right to decline the receipt of any export controlled materials and to terminate this Agreement, in whole or in part, in the event that the research specified therein cannot be performed

without export-controlled materials.

17. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. In the event that any signature is delivered by facsimile transaction or by email delivery of a “.pdf” or equivalent format data file, such signature shall create a valid and binding obligation on the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or “.pdf” or its equivalent format data file were an original thereof. No Party may raise the use of facsimile or electronic signature delivery as a defense to the enforcement of this Agreement.

BOARD OF SUPERVISORS OF LOUISIANA STATE UNIVERSITY AND AGRICULTURAL AND MECHANICAL COLLEGE AS REPRESENTED BY PENNINGTON BIOMEDICAL RESEARCH CENTER

By: _____ Date: _____
Guy LaVergne
Associate Executive Director of Operations

COMPANY

By: _____ Date: _____
Name
Title

Read and Acknowledged:

Name
Title