

**RENSSELAER POLYTECHNIC INSTITUTE  
NON-DISCLOSURE AGREEMENT**

This Agreement is entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the “Effective Date”) by and between \_\_\_\_\_, a \_\_\_\_\_ corporation, having an address at \_\_\_\_\_ (“[Company Name]”) and RENSSELAER POLYTECHNIC INSTITUTE (“Rensselaer”), with offices located at 110 Eighth Street, Troy, New York 12180. [Company Name] and Rensselaer may each be individually referred to as a “Party” and collectively, as the “Parties.”

WHEREAS [Company Name] and Rensselaer wish to explore and discuss the potential of certain mutually advantageous ventures; and

WHEREAS [Company Name] and Rensselaer, in furtherance of such exploration and discussions, may exchange certain scientific, financial, development or other proprietary confidential information and in particular [INSERT]; and

WHEREAS [Company Name] and Rensselaer each wish to maintain the confidentiality of such confidential information by preventing its unauthorized disclosure;

**WITNESSETH:**

That for and in consideration of the promises made herein, and other good and valuable consideration, the receipt and sufficiency of all of which is hereby acknowledged, the Parties agree as follows:

**1. DEFINITION OF CONFIDENTIAL INFORMATION**

Where used in this Agreement, “Confidential Information” shall mean any and all tangible and intangible information, whether oral or in writing or in any other medium, relating to the products, inventions, management and operations of either party hereto, including, without limitation, any and all trade secrets, know-how, designs, formulations, ingredients, samples, processes, machines, processing and control information, product performance data, manuals, supplier lists, customer lists, purchase and sales records, marketing information and computer programs, whether developed by that Party or furnished to said Party by other third parties, and all information which relates to the other Party’s analysis of the Confidential Information and the Inventions and the uses thereof, and which is conspicuously marked or labeled as confidential, or if oral, is identified as confidential at the time of disclosure and thereafter confirmed as confidential by a written communication from the disclosing party to the other party within ten (10) days after disclosure.

**2. PURPOSE OF AGREEMENT**

The Parties agree to exchange such Confidential Information, as that term is defined herein, as is reasonably necessary to evaluate opportunities of mutual interest. Such exchange of Confidential Information is only for the limited purpose of establishing a research program and or evaluating proprietary intellectual property information for the purpose of establishing a potential license agreement, or other business relationship between the Parties.

### 3. CONFIDENTIALITY

The Parties agree that the recipient of Confidential Information as defined in Article 1 shall not disclose, cause, or permit to be disclosed said Confidential Information to any third party or parties, or use the Confidential Information except as expressly permitted in Section 2 subject to the exceptions contained in Section 5 herein, without the prior written consent of the disclosing Party.

### 4. DISCLOSURE

Either Party may disclose such Confidential Information as it deems appropriate to its employees provided such employees have a need to know. The Parties agree to use its best reasonable efforts to enforce the terms and provisions of this Agreement as to any such employee, consultant, agent or advisor who receives information hereunder.

### 5. EXCEPTIONS

Notwithstanding anything to the contrary contained herein, the recipient of Confidential Information disclosed hereunder shall be under no duty to maintain the confidentiality of any such confidential information which:

- a) At the time of disclosure is within the public domain.
- b) After disclosure becomes a part of the public domain through no fault, act or failure to act, error, effort or breach of this Agreement by the recipient.
- c) Is known to the recipient at the time of disclosure.
- d) Is discovered by the recipient independently of any disclosure by the disclosing Party.
- e) Is obtained from a third party who has acquired a legal right to possess and disclose such confidential information.
- f) Is required by order, statute or regulation, of any government authority to be disclosed to any federal or state agency, court or other body, provided, however, that any Party directed to disclose Confidential Information pursuant to a subpoena or other legal compulsion shall use its best reasonable efforts under the circumstances to notify the Party claiming confidentiality of same so as to provide or afford that Party the opportunity to obtain such protective orders or other relief as the compelling court or other entity may grant.

### 6. TERM OF AGREEMENT; DURATION OF CONFIDENTIALITY OBLIGATION

The term of this Agreement shall begin on the Effective Date and shall end on the first (1<sup>st</sup>) anniversary thereof. All obligations of confidentiality as to any item of Confidential Information shall end two (2) years after disclosure of such item.

7. ENTIRE AGREEMENT

The terms and conditions contained herein express the entire Agreement between the Parties insofar as the exchange of Confidential Information is concerned, and creates no other obligation or relationship between them.

8. MODIFICATION

This Agreement may be changed, amended or otherwise modified only by a written statement, provided such statement is signed by both Parties, expresses their intent to change the Agreement, and specifically describes such change(s).

9. AUTHORITY OF PARTIES

Each Party represents and warrants to the other that it is fully authorized to execute this Agreement and to bind its principal, if any, and to perform its obligations hereunder according to the terms set forth herein. Each Party further represents that its execution of this Agreement and performance of its obligations hereunder, are not and will not be in violation of any obligations it may have to any third party.

10. INTELLECTUAL PROPERTIES

This Agreement grants no copyright, trademark, trade secrets, patent rights, or licenses, express or implied, to either Party. This Agreement pertains to the exchange of information only and does not call for the performance of experimental, developmental or research work in the field of the information exchanged. This Agreement shall not be construed to be a "joint research agreement" as that term is used in Section 102 of the Patent Act (35 U.S.C. §102). The recipient of any Confidential Information hereunder shall not invoke Section 102(b) or (c) of the U.S. Patent Act during patent examination to overcome prior art objections based on citation to prior art held by the disclosing Party.

11. EXPORT CONTROLS

It is understood that Rensselaer is subject to United States laws and regulations controlling the export of technical data, technology, computer software, laboratory prototypes and other commodities, and that its obligations hereunder are contingent on compliance with applicable U.S. export control laws and regulations (including the Arms Export Control Act, as amended, the Export Administration Act of 1979 and regulations promulgated by the Office of Foreign Assets Control of the U.S. Treasury Department). In the event that the Company intends to disclose to Rensselaer technical data, commodities, technology or other information which may be subject to the U.S. Export Administration Regulations (EAR), the U.S. International Traffic in Arms Regulations (ITAR), or any other similar regulations issued by U.S. Government agencies, the Company will so inform Rensselaer in a writing, specifying the nature of the controls and any applicable export control classification number(s) or ITAR designations, prior to any such disclosure. Such writing shall be sent by the Company to the Rensselaer representative who has signed this Agreement below. The Company will not disclose to Rensselaer any technical data, commodities, technology or other information that is export-

controlled without the express written permission of the Rensselaer. Rensselaer shall have the right to refuse to receive export-controlled technical data, commodities, technology or information.

12. GOVERNING LAW

Any and all actions between the Parties regarding the interpretation or application of any term or provision contained herein shall be governed by and interpreted in accordance with the laws of the State of New York. The Parties each do hereby respectively consent and agree that the courts of the State of New York shall have jurisdiction with respect to any and all action brought hereunder.

IN WITNESS of their Agreement to the terms and conditions contained herein, the Parties by their duly authorized representatives have caused the following signatures to be affixed hereto:

[COMPANY NAME]\_\_\_\_\_

RENSSELAER POLYTECHNIC INSTITUTE

By:\_\_\_\_\_

By:\_\_\_\_\_

TITLE:\_\_\_\_\_

TITLE: \_\_\_\_\_

DATE:\_\_\_\_\_

DATE:\_\_\_\_\_