

## RECIPROCAL NON-DISCLOSURE AGREEMENT

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2008, is made by and between Tennessee Technological University having an address at 1 William Jones Drive, Cookeville, Tennessee 38505, and \_\_\_\_\_.

### RECITALS

WHEREAS, both parties are in possession of certain research information, data, drawings, models, molds and the like (hereinafter "**INFORMATION**") pertaining to \_\_\_\_\_, which they consider confidential; and

WHEREAS, both parties desire to enter into an agreement for the purpose of exchange and evaluation of the commercial and/or technical merits of the **INFORMATION** and;

WHEREAS, both parties agree that a written understanding is desirable to affirm the establishment of their confidential relationship;

NOW THEREFORE, in consideration of the foregoing premises and subject to the terms and conditions set forth below, the parties agree as follows:

### TERMS & CONDITIONS

1. As used herein, the terms "Discloser" and "Recipient" shall apply to each of the parties depending upon whether the party is disclosing **INFORMATION** ("Discloser") or receiving it ("Recipient").
2. Recipient shall: (a) maintain the secrecy of Discloser's **INFORMATION**; (b) not disclose, use, disseminate or publish the **INFORMATION** to any third party without the prior written consent of Discloser; and (c) use the **INFORMATION** only for the purpose of evaluating it's commercial potential. **INFORMATION** shall be disclosed only to those employees of Recipient who are reasonably required to have access for the purposes described above, while Discloser agrees to provide all **INFORMATION** deemed necessary by Recipient, as and when requested, to accomplish the purpose.
3. **INFORMATION** shall be subject to secrecy only if it clearly marked as "CONFIDENTIAL" with Discloser's name on it when disclosed to Recipient. If disclosure is made orally or visually, then the secret nature of the **INFORMATION** must first be announced, and the disclosure must within thirty (30) days be reduced to writing and clearly marked "CONFIDENTIAL" with Discloser's name thereon.
4. The following categories of information are exempt from a Recipients' secrecy obligations:
  - a. Information which at the time of disclosure is already in the public domain;
  - b. Information which, after disclosure, becomes part of the public domain (except by breach of this Agreement by either party);

- c. Information which a Recipient can establish by competent proof was in Recipient's possession before or at the time of disclosure by Discloser;
- d. Information which is developed independently by Recipient as established by competent proof;
- e. Information which a Recipient receives from a third party as a matter of right; and
- f. Information which is disclosed by Recipient pursuant to any judicial or governmental request, requirement or order, provided that Recipient gives Discloser sufficient prior notice in order to contest such request, requirement or order.

5. A Recipient shall protect disclosed **INFORMATION** by using the same degree of care, but no less than a reasonable degree, to prevent the unauthorized disclosure, use or dissemination of the **INFORMATION**, as Recipient uses to protect its own confidential information.

6. A Recipient's obligations as contained in this Agreement shall expire one (1) year from the execution date hereof. Recipient shall then, or earlier if so requested in writing, return to Discloser all **INFORMATION** furnished in connection herewith. Return of **INFORMATION** shall not affect the obligations of a Recipient to treat the same as confidential, and not to use or disclose it.

7. Neither party acquires any intellectual property rights under this Agreement.

8. This Agreement constitutes the entire understanding between the parties regarding confidential **INFORMATION** and merges all prior discussions between them.

9. No amendment or modification of this Agreement shall be valid or binding on the parties unless mutually agreed, expressed in writing and signed on behalf of each party by their respective duly authorized agent.

10. This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee without regard to its Choice of Law principles, and shall be venued in Davidson County, TN.

AGREED TO AND ACCEPTED BY:

**Tennessee Technological University**

**Name of Company**

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

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

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

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

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

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

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

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