

## CONFIDENTIAL DISCLOSURE AGREEMENT

This Agreement is entered into as of this \_\_\_\_\_ of \_\_\_\_\_ 201[ ] by and between, BioMed Laboratories LLC a Texas Limited Liability Company (“**Biomed**”), and shall include its Affiliates (defined below), with a primary business address of 8181 Eastpoint Drive, Suite 500, Dallas, TX 75227, and \_\_\_\_\_ (the “**Company**”), with a primary business address of \_\_\_\_\_.

### RECITALS

WHEREAS, Biomed possesses valuable information that is its own sole and unique property and is therefore confidential which, in some part, may provide the basis of a business relationship with the Company. The Company possesses valuable information that is its own sole and unique property and is therefore confidential which, in some part, may provide the basis of a business relationship with Biomed;

WHEREAS, Biomed and the Company acknowledge that the other has invested substantial funds and effort in developing its Confidential Information (as defined below);

WHEREAS, through the development and creation of a business relationship, Biomed and Company may exchange Confidential Information in relation to the Purpose; and

1. NOW, THEREFORE, Biomed and the Company agree as follows: As used within this Agreement;
  - (a) “**Affiliates**” shall mean when used with reference to a party, any person controlling, controlled by or under common control with such party, and “control” shall mean the possession of the power to direct the management of the party whether through ownership of voting stock, contract or otherwise;
  - (b) “**Confidential Information**” shall include any information, (howsoever recorded, preserved or disclosed) including but not limited to: writings, drawings, graphs, charts, photographs, recordings, patent applications, prototypes, samples, structures, models, compositions or compounds; any information that would be regarded as confidential by a reasonable business person relating to the business, affairs, customers, clients, suppliers, price, plan, intentions, market opportunities, operations, processes, product information, know – how, designs and trade secrets. Furthermore, “Confidential Information” shall include information or analysis derived from Confidential Information;
  - (c) “**Purpose**” \_\_\_\_\_  
*[STATE THE PURPOSE, FOR EXAMPLE, THE EVALUATION OR ESTABLISHMENT OF A COLLABORATION IN RESPECT OF A PARTICULAR PROJECT].*
  - (d) “**Representatives**” shall mean employees, agents, officers, advisors and other representatives of a party (and shall include such persons within an Affiliate of Biomed).
2. Biomed and the Company agree that notwithstanding any termination, expiration, or cancellation of this Agreement or earlier termination of discussions between the parties in relation to the Purpose, the obligation of the parties to maintain strict confidence and not disclose to any third party Confidential Information, except as approved in writing, or to use the Confidential Information other than in relation to the Purpose shall continue:

- (a) for a period of five years from the termination of this Agreement in relation to Confidential Information other than trade secrets; and
  - (b) without limit in time in relation to Confidential Information which constitutes the trade secrets of Biomed or the Company.
- 3. All Confidential Information shall remain the property of the party making the disclosure. Each party reserves all rights in its Confidential Information. No rights, including, but not limited to, intellectual property rights, in respect of a party's Confidential Information are granted to the other party and no obligations are imposed on the party making the disclosure, other than those expressly stated in this Agreement.
- 4. The Company acknowledges that Biomed is a global concern and Confidential Information may be disclosed by employees, agents, officers, advisors and other representatives who may be within an Affiliate. The Company agrees that the terms and conditions of this agreement shall also apply to the Confidential Information that it receives from Biomed Affiliates. Subject to section 5, either party may disclose the Confidential Information to those of its Representatives who need to know this Confidential Information for the Purpose.
- 5. Neither party shall (and each party shall procure that its Representatives shall not):
  - (a) use or exploit the Confidential Information except for the Purpose;
  - (b) disclose or make available the Confidential Information in whole or in part, except as expressly permitted by this agreement;
  - (c) copy, reduce to writing or otherwise record the Confidential Information except as strictly necessary for the Purpose (and any such copies, reductions to writing and records shall remain the property of the party making the disclosure);
  - (d) directly or indirectly use any of the Confidential Information received to obtain a commercial advantage over or otherwise to the detriment of the other party; or
  - (e) reverse engineer or analyze for chemical composition any samples submitted, and will not permit the use of the same without the prior written consent of the other party.
- 6. Biomed and the Company shall maintain reasonable procedures to prevent accidental or other loss of any Confidential Information. Biomed and the Company shall exert at least the same degree of care as it would employ to protect its own Confidential Information (including adequate protection from unauthorized disclosure copying or use). Biomed and the Company shall immediately notify the other in the event of any loss or unauthorized disclosure of Confidential Information.
- 7. The obligations of this Agreement shall not apply to Confidential Information which Biomed or the Company can demonstrate is:
  - (a) already in the possession of the other at or before the time of disclosure as shown by Biomed or the Company's files existing at the time of disclosure; or
  - (b) now or hereafter publicly known through no wrongful act of Biomed or the Company (provided that if Confidential Information becomes publicly known this shall not excuse a prior disclosure by either party); or

- (c) lawfully received by Biomed or the Company from a third-party without obligation of confidence; or
  - (d) independently developed by Biomed or the Company or by persons not having access to the Confidential Information; or
  - (e) approved for release by written authorization of the other; or
  - (f) as required to be disclosed by law, any governmental or other regulatory authority, or by a court or other authority of competent jurisdiction provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of this disclosure as possible
8. This Agreement shall terminate on receipt of notice to terminate from one party to the other; or three (3) years from the date hereof, whichever is sooner.
9. Upon termination of this Agreement, or upon written request of Biomed or the Company, the other shall promptly return (or if so requested, destroy and confirm in writing that it has done so) all documents or other tangible materials deemed to be Confidential Information under the terms of this Agreement and all copies, reproductions, and derivative works thereof and erase such Confidential Information from its computer systems or where it is stored in electronic form (to the extent possible). If the recipient of the Confidential Information develops or uses a product or process which, in the reasonable opinion of the other party, might have involved the use of any of the Confidential Information, the recipient shall, on request, supply to the other party information reasonable necessary to establish that the Confidential Information so provided has not been used or disclosed. Notwithstanding the foregoing, a party may retain one (1) copy of Confidential Information in order to comply or demonstrate compliance with any applicable law, regulation, professional standard or to defend or maintain any litigation related to this Agreement or the Confidential Information provided that any Confidential Information so retained will remain subject to the obligations and restrictions contained in this Agreement.
10. Neither party shall, while this Agreement is in force and for a period of 12 months after its termination (except with the prior written consent of the other party) directly or indirectly solicit or entice away (or attempt to solicit or entice away) from the employment of (or other relationship with) the other party any employee, agent or consultant of that party. Neither party shall be in breach of this clause as a result of running a national advertising campaign open to all comers and not specifically targeted at any of the staff of the other party.
11. This Agreement shall be governed by and construed in accordance with the laws of Texas as if executed and fully performed within Texas. Any disputes under this Agreement shall be subject to the exclusive jurisdiction and venue of Texas state courts and the Federal courts located in Texas. The parties hereby consent to the personal and exclusive jurisdiction and venue of these courts.
12. In the event of a breach, in addition to the monetary damages to which the non-breaching party may be entitled, the non-breaching party may also be entitled to any other remedies permitted by law, including but not limited to, injunctive relief.

13. This Agreement represents the entire understanding of the parties relative to confidentiality and non-disclosure and supersedes and extinguishes all previous drafts, agreements, arrangements and understandings between them.
14. This Agreement may not be amended except by a writing signed by both parties (or their authorized representatives).
15. The failure by any party to exercise, or any delay in exercising any right or remedy provided under this Agreement or by law shall not constitute a waiver of that right or remedy. No single or partial exercise of any right or remedy provided under this Agreement or by law shall preclude or restrict the further exercise of that or any other right or remedy.
16. No party may assign, subcontract or deal in any way with any of its rights or obligations under this Agreement except that either party may so deal where the party is an Affiliate or otherwise with the express written consent of the other party.
17. Except as expressly stated in this Agreement, no party makes any express or implied warranty or representation concerning the Confidential Information, or the accuracy or completeness of the information. In addition the disclosure of Confidential Information shall not form any offer by, or representation or warranty on the part of the other party to enter into any further agreement.
18. The party receiving the Confidential Information shall be liable to the other party for the actions or omissions of their Representatives under this Agreement, as if they were the actions or omissions of the recipient party.
19. This Agreement shall be binding upon the parties hereto and their successors in business.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date written above.

For and on behalf of _____	For and on behalf of BioMed Laboratories LLC
Acting by: _____	Acting by: _____
Name: _____	Name _____
Title: _____	Title: _____
Date: _____	Date: _____