

CONFIDENTIAL DISCLOSURE AGREEMENT

This agreement (the "Agreement"), is made and entered into the ___ day of _____ 20__ (the "Effective Date") by and between MONTANA STATE UNIVERSITY ("MSU") and ("[INSERT FULL LEGAL NAME]") a [insert state of incorporation] corporation, with its principal place of business located at [insert address] ("RECIPIENT"). This Agreement shall govern the terms and conditions of disclosure by MSU to RECIPIENT of certain proprietary or confidential information of MSU, whether disclosed in written form, orally, by demonstration, or otherwise ("CONFIDENTIAL INFORMATION") for the purpose of [evaluating a potential collaboration / evaluating possible interest in conducting research / evaluating possible interest in licensing rights to certain MSU inventions] [(the "PURPOSE").]

THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

1. MSU shall disclose to RECIPIENT the CONFIDENTIAL INFORMATION for the PURPOSE. RECIPIENT agrees to hold in strict confidence the CONFIDENTIAL INFORMATION and to use the CONFIDENTIAL INFORMATION only for such PURPOSE and for no other purpose whatsoever. CONFIDENTIAL INFORMATION shall also include, without limitation, patents and patent applications, trademarks, mask works, algorithms, software programs, models, ideas, know-how, technology, biological materials, genes, gene sequences, cell lines, proteins, protein sequences, inventions, methods, processes, procedures, and other proprietary information of MSU.

2. RECIPIENT shall disclose CONFIDENTIAL INFORMATION only to its principals, employees, or agents having a "need to know" and who are bound by obligations of confidentiality at least as restrictive as those contained herein. RECIPIENT shall not disclose, publish or otherwise provide CONFIDENTIAL INFORMATION or any portion thereof to any third party without the prior written consent of MSU. RECIPIENT shall protect the CONFIDENTIAL INFORMATION with the same degree of care it uses to protect its own confidential information, but in no event less than reasonable care. RECIPIENT will not reproduce CONFIDENTIAL INFORMATION in any form except as required by the PURPOSE stated herein. RECIPIENT shall immediately notify MSU upon discovery of any breach or unauthorized disclosure of CONFIDENTIAL INFORMATION.

3. Nothing herein shall be construed as granting RECIPIENT any property or other proprietary rights, by license or otherwise, to any CONFIDENTIAL INFORMATION or to any patent, patent applications, copyrights, trademarks or other intellectual property that has issued or may issue, based on such CONFIDENTIAL INFORMATION. RECIPIENT agrees that, except for the PURPOSE described above, it will not, without the express written consent of MSU, use or utilize in any way for RECIPIENT's own benefit, or that of others, the CONFIDENTIAL INFORMATION.

4. RECIPIENT will not have any obligations under this Agreement with respect to any portion of the CONFIDENTIAL INFORMATION which the RECIPIENT can demonstrate with competent evidence: (a) was in RECIPIENT's possession prior to RECIPIENT's receipt hereunder; (b) is now or subsequently becomes, through no act or failure to act by RECIPIENT, part of the public domain; or (c) is furnished to RECIPIENT by an unaffiliated third party who is not under an obligation of confidentiality to MSU with respect to such information. Notwithstanding the foregoing, RECIPIENT may disclose CONFIDENTIAL INFORMATION in response to a valid order by a court or other governmental body having competent jurisdiction or as otherwise required by applicable law; provided, however, that RECIPIENT shall provide prompt, prior written notice thereof to MSU to permit MSU to obtain a protective order or otherwise prevent such disclosure and shall cooperate with MSU in its efforts with respect thereto and will otherwise limit such disclosure to only that CONFIDENTIAL INFORMATION necessary to be disclosed for the purposes required by the applicable law or regulation or for which the order was issued.

5. RECIPIENT agrees that, upon expiration or termination of this Agreement, all information or materials representing MSU's CONFIDENTIAL INFORMATION, and any copies thereof, shall be returned to MSU, or at MSU's request, destroyed by RECIPIENT.

6. This Agreement shall terminate one (1) year after the Effective Date, or may be terminated by either party upon thirty (30) days written notice to the other party. Notwithstanding any termination or expiration of this Agreement, the RECIPIENTS' obligations with respect to the confidentiality, non-use and non-disclosure of CONFIDENTIAL INFORMATION under this Agreement shall expire five (5) years from the Effective Date.

7. This Agreement shall be governed in accordance with the laws of the State of Montana, without regard to conflicts of law principles. Each party acknowledges that its breach of this Agreement may cause irreparable damage to the other party for which monetary damages may not be an adequate remedy and agrees that the other party may be entitled to seek injunctive relief under this Agreement, as well as such further relief as may be granted by a court of competent jurisdiction. The rights and remedies provided to each party herein are cumulative and in addition to any other rights and remedies available to such party at law or in equity. The prevailing party in any dispute hereunder shall be entitled to recover all costs and reasonable attorney's fees incurred thereby. The parties further agree that nothing contained herein shall be construed or interpreted as a waiver of sovereign immunity of the State of Montana beyond the waiver provided in Title 2, Ch. 9, Montana Codes Annotated.

8. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute the same instrument. RECIPIENT will not assign or transfer any rights or obligations without the prior written consent of MSU, and any attempted transfer or assignment will be null and void. The terms of this Agreement shall be binding upon and inure to each party's successors and assigns. This Agreement is the final, complete and exclusive agreement of the parties with respect to the subject matter hereof and supersedes and merges all prior discussions between the parties with respect to such matters.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

[INSERT LEGAL NAME] (RECIPIENT)

By _____

Name _____

Title _____

Date _____

MONTANA STATE UNIVERSITY (MSU)

By _____

Rebecca W. Mahurin, Ph.D.
Director, Technology Transfer Office

Date _____