

**UNM NONDISCLOSURE AGREEMENT
(OUTGOING)**

Date: _____ (hereinafter, "Effective Date")

WHEREAS, the regents of the University of New Mexico, acting by and through (Department Name) _____ (hereinafter, "UNM"), owns certain proprietary information relating to

_____ and

WHEREAS, _____ (hereinafter, "COMPANY") wishes to receive the Proprietary Information for the sole purpose of _____;

and

WHEREAS, the UNM contact is _____ and the COMPANY contact is _____;

THEREFORE, to assure UNM that all its Proprietary Information will be maintained for not less than three (3) years by COMPANY under circumstances of confidentiality, the Parties acknowledge and agree as follows:

1. "Proprietary Information" shall mean any information relating directly or indirectly to the Technology not generally known to the public provided to COMPANY by UNM or its representatives and conveyed in written, graphic, oral or physical form including but not limited to scientific knowledge, know-how, processes, inventions, techniques, formulae, products, business operations, customer requirements, data, plans or other records, and or software, and if provided orally reduced to writing within thirty (30) days of oral disclosure and provided to COMPANY. All disclosures shall be clearly marked confidential.
2. The following categories of information shall not constitute Proprietary Information:
 - i. information which is or becomes publicly known through no fault of the COMPANY;

- ii. information learned from a third party entitled to disclose it;
 - iii. information already known to or developed by the COMPANY before receipt from the UNM, as shown by the COMPANY's prior written records;
 - iv. information reasonably necessary to protect the COMPANY's interests in a lawsuit, alternative dispute resolution process, or government investigation, upon reasonable prior notice to UNM;
 - v. information reasonably necessary to process insurance claims;
 - vi. information required to be disclosed as a matter of law.
3. COMPANY may use the Proprietary Information only under the following restrictions:
 - i. COMPANY may duplicate or reproduce the disclosed Proprietary Information; if duplicated or reproduced in whole or in part, the Proprietary Information must carry a proprietary notice stating it is confidential and proprietary information of UNM;
 - ii. COMPANY shall not duplicate or use the disclosed Proprietary Information to manufacture, import or sell products or technologies for commercialization unless a release, option or license granting same is executed with UNM or its assignee(s); and
 - iii. any person employed by COMPANY utilizing the Proprietary Information will be advised of, and is subject to, the conditions in this Agreement.
4. COMPANY understands that disclosure of the Proprietary Information could destroy the value of said information, and COMPANY agrees to protect it from further disclosure using at least the same degree of care as it would use with its own proprietary information, but in no case less than a reasonable degree of care.
5. Proprietary Information delivered hereby is experimental in nature. UNM makes no warranties, representation or undertaking with respect to its utility, efficacy, nontoxicity, safety, or appropriateness for a particular purpose. The COMPANY hereby agrees to defend, indemnify and hold harmless UNM, its employees and agents from any loss, claim, damage or liability, of whatsoever nature, which may arise from possession or use of UNM's Proprietary Information by the COMPANY.
6. Upon completion of the COMPANY's stated need for Proprietary Information, upon UNM's written request, or upon termination, COMPANY shall discontinue the use

of all Proprietary Information and written materials embodying that information and return all such materials unless otherwise directed by UNM. Notwithstanding the preceding, COMPANY may retain one copy in a sealed envelope for archival purposes, to be used solely for the purpose of resolving a dispute or uncertainty as to the contents of the Proprietary Information.

7. The term of this Agreement shall be for _____. If the preceding blank is not filled in, then the term of this Agreement shall be for one (1) month from the date of execution. Either Party may terminate this Agreement upon thirty (30) days written notice. The confidentiality obligations set forth in this Agreement shall survive its termination, as follows: the requirements of confidentiality as to any disclosed Proprietary Information shall continue for three (3) years from the date of disclosure.
8. Any action arising out of this Agreement shall be decided in Bernalillo County, New Mexico. This Agreement shall be construed under the laws of the State of New Mexico.
9. Nothing in this Agreement shall be construed to constitute the grant of a license to the undersigned under any UNM patents, patent applications, copyrights, trade secrets or the Proprietary Information.
10. COMPANY agrees, to the best of its ability, that it will comply with all applicable state or federal regulatory requirements.

IN WITNESS WHEREOF, UNM and COMPANY hereby accept the terms and conditions of this Agreement and hereby signify their acceptance by the signing of their respective officers hereunto duly authorized on the day and year hereinafter written:

THE REGENTS OF THE UNIVERSITY OF NEW MEXICO

By: _____
Signature

Terry L. Yates
Printed Name

Vice Provost for Research
Title

Date

COMPANY _____

By: _____
Signature

Printed Name

Title

Date

Revised January 2004

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