

CONFIDENTIALITY AGREEMENT

This Agreement is entered into as of the latest date written into the signature block below (the "Effective Date") between The Board of Regents for the University System of Georgia on Behalf of Medical College of Georgia with its principle offices located at 1120 15th Street, Augusta, GA 30912 including its Affiliates (as defined below), its agents, and representatives (hereinafter referred to as "**MCG**") and

_____ with its principle offices located at _____ (hereinafter referred to as

"_____")

(MCG and _____ may hereinafter also be referred to as "**Party**" and, jointly, as "**Parties**").

WHEREAS, MCG is in possession of certain confidential or proprietary information and know-how with regard to MCG's invention(s), technologies, know-how, intellectual property, and proprietary information, and _____ is in possession of certain confidential or proprietary information and know-how which has certain economic value (collectively, whether in the possession of MCG or _____, hereinafter referred to as the "**Information**"); and

WHEREAS, the Parties wish to exchange certain Information in confidence for business purposes and enter into this Agreement for the prevention of such disclosure to the public, and in order to do so, each Party will have to disclose to the other Party certain of the Information and to protect the business interests of both Parties, it is necessary that each party treats the Information received as secret and confidential (hereinafter referred to as the "**Purpose**"); and

WHEREAS, each Party is willing to receive certain Information from the other Party to be used for the Purpose and for no other Purpose and accordingly, each Party, for good and valuable consideration the sufficiency of which is hereby acknowledged, agrees to be bound by the conditions set forth herein; and

NOW, THEREFORE, the Parties in consideration of the mutual covenants and conditions set forth below, do hereby agree as follows:

I. The Parties agree to keep all Information strictly secret and confidential, being understood, for greater certainty, that Information does not include information which:

- a. is in the possession of the receiving Party prior to the Effective Date; or
- b. is independently developed after the Effective Date by the receiving Party or any of its Affiliates, without the aid, application or use of any information from the disclosing Party; or
- c. is available to the public in the public domain without a breach of this Agreement or without a violation of law or duty of confidentiality to the disclosing Party; or

- d. is disclosed to the receiving Party by a third party having no obligation of confidentiality with respect to the disclosing Party. Any disclosure of Information to the receiving Party by (i) the disclosing Party or any of its Affiliates or (ii) any unaffiliated third party at the request of the disclosing Party, shall be deemed to be a disclosure made by the disclosing Party under this Agreement.

Notwithstanding any other provision herein, neither Party shall be liable for disclosure of any Information that is to be disclosed pursuant to a judicial order or by law or by state or federal securities laws; provided, however, that the owner of the Information to be disclosed will first be advised by the enjoined Party of such intended disclosure so that it may seek an appropriate protective order or judicial or administrative relief to prevent disclosures of such Information.

The enjoined Party shall fully cooperate in connection with the Party in ownership of the Information to process efforts to obtain any such order or other remedy as may be reasonably necessary to protect the disclosure of such Information. If any such order or other remedy does not fully preclude disclosure, or if the owner of the Information to be disclosed waives such compliance, the enjoined Party will make such disclosure only to the extent that such disclosure is legally required and will use its best efforts to ensure confidential treatment of the disclosed Information.

2. The Parties undertake and agree that they will not use any of the Information for any other purpose than the Purpose.

3. Neither of the Parties will disclose, provide or otherwise make available any of the Information to any person, organization or other party than the other Party or its Affiliates and their directors, officers, employees and advisors who are first advised of the confidential nature of the Information and who are bound by obligations of confidentiality and non-use no less restrictive than those contained herein. For purposes of this Agreement, an entity shall be deemed to be an "**Affiliate**" of the Party if it is a company, whether a corporation or other business entity, that is controlling, controlled by, or under common control with such party. "**Control**" shall mean the direct or indirect ownership of more than fifty percent (50%) of the equity interest in such corporation or business entity, or the ability in fact to control the management decisions of such corporation or business entity.

4. Upon demand by either Party, the other Party shall immediately return or, at the disclosing Party's sole discretion, destroy all of the Information (including copies and extracts thereof); provided, however, that the receiving Party may retain one copy of the Information for archival purposes and subject to any copies remaining on the receiving Party's standard computer back-up devices. Such return or destruction will not affect the receiving Party's obligation to keep the Information confidential as set forth under this Agreement.

5. The disclosing Party does not make, and expressly disclaims, any representation or warranty (express or implied) with respect to the Information including, without limitation, any warranty of merchantability, fitness for a particular purpose, or non-infringement, or as to the accuracy or completeness of the Information. The receiving Party agrees that it shall assume full responsibility for all conclusions it derives from the Information and that neither the disclosing

Party shall have any liability hereunder with respect to the Information or any use thereof by the receiving Party.

6. The obligations contained in this Agreement shall come into force on the Effective Date and shall remain in force until one of the following conditions, whichever occurs first, shall occur: 1) the mutual written agreement of the parties as to termination is executed; or 2) at such time that all parties and their assigns no longer have any legal or equitable claim to any Confidential Information; 3) the expiration of five (5) years from the Effective Date.

7. Nothing herein shall be construed as a grant of license or shall in any way be regarded as conveying any rights in or to the Information. All Information disclosed by each Party shall solely remain and be the property of such Party.

8. This Agreement will not be assignable by either Party without the prior written consent of the other Party.

9. The Parties understand and agree that monetary damages may not be sufficient remedy for breach of this Agreement and that the disclosing Party will be entitled, without need of posting a bond, to seek equitable relief, including injunction and specific performance, for any such breach. Nothing contained in this Agreement shall be construed as limiting the disclosing Party's right to any other remedies it may have at law, including, without limitation, the recovery of damages for breach of this Agreement.

10. This Agreement constitutes the entire understanding between the Parties with respect to its subject matter and shall supersede any other prior arrangements as to the Information. This Agreement is binding upon the Parties and their successors.

11. Except to the extent required by law, neither Party shall disclose to any third party the terms of this Agreement nor the existence or subject matter of the negotiations or business relationship contemplated under this Agreement. The execution and performance of this Agreement does not obligate the Parties to negotiate or enter into any other agreement and neither Party shall have any authority or power to bind or obligate the other Party.

12. In the event any provision of this Agreement is held to be illegal, invalid or unenforceable, such provision shall be limited or eliminated to the minimum extent necessary so that this Agreement otherwise remains in full force and effect.

13. No waiver or modification of this Agreement will be binding upon either Party unless made in writing and signed by both Parties, and no failure or delay in enforcing any right will be deemed a waiver.

14. This Agreement shall be governed by the laws of the State of Georgia. In the event of a dispute, both Parties agree to be subject to at least the jurisdiction of the state and federal courts residing in the State of Georgia.

IN WITNESS WHEREOF, the Parties intending to be bound have caused this Agreement to be executed by their duly authorized representatives.

MEDICAL COLLEGE OF GEORGIA	Organization:
_____ Signature	_____ Signature
CARL CLARK Director Office of Technology Transfer	Name: Title: Department:
_____ Date	_____ Date

END OF DOCUMENT