NORTH CAROLINA AGRICULTURAL & TECHNICAL STATE UNIVERSITY
 NON-DISCLOSURE AGREEMENT

This Non-Disclosure Agreement (“Agreement”) is by and between North Carolina Agricultural & Technical State University, an agency of the State of North Carolina having an address at 1601 East Market Street Greensboro, NC 27411 (“RECIPIENT” or “Party”) and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ having an address at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“DISCLOSER” or “Party”) on behalf of itself and its Affiliates (as defined herein below), collectively “Parties”. This Agreement is effective as of the date of the last signature below (“Effective Date”).

**RECITALS**

A. Whereas, DISCLOSER has certain confidential information and proprietary rights which may include all or any of the following non-exhaustive types of confidential information: advanced technologies, patentable inventions, copyrightable materials, and other forms of intellectual property, supporting materials and other materials; and

B. Whereas, DISCLOSER wishes to explore possible collaborative research and development activities with RECIPIENT (“Purpose”); and

C. Whereas, DISCLOSER anticipates that sharing Confidential Information (as defined herein ) with RECIPIENT will further the Purpose;

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the Parties hereby agree as follows:

1. **Definitions**:
	1. “Confidential Information” means:
		1. Proprietary information disclosed to the Recipient in writing and suitably marked as “Confidential” or “Trade Secret”, and
		2. Proprietary information disclosed to the Recipient orally or visually, but only if
			1. Discloser informs Recipient of the confidential nature of the information at the time of initial disclosure, and
			2. such orally or visually disclosed information is reduced to writing and delivered to Recipient, suitably marked as confidential, within 30 days of the initial oral or visual disclosure.
	2. “Affiliates” means any person or entity directly or indirectly controlling, controlled by, or under direct or indirect common control with DISCLOSER, where the term “control” means the ability, whether by the ownership of shares or other equity interests, by contract or otherwise, to elect a majority of the directors of a corporation, to make management decisions on behalf of, or independently to select the managing partner of, a partnership, or otherwise to have the power independently to remove and then select a majority of those individuals exercising managerial authority over an entity. “Control” will be conclusively presumed in the case of the ownership of 50% or more of the equity interests.
2. RECIPIENT may receive and use DISCLOSER’s Confidential Information solely for the evaluating the Purpose, and for no other purpose.
3. RECIPIENT may not disclose the Confidential Information to any third party/ies without the prior written consent of the DISCLOSER. No express or implied license to use the Confidential Information for any purpose other than as specified in Section 2 is granted by this Agreement. This Agreement does not constitute an offer for license or sale by the DISCLOSER.
4. Confidential Information is owned by the DISCLOSER and will continue to be owned by the DISCLOSER after it is transmitted to RECIPIENT pursuant to this Agreement.
5. Upon expiration or termination of this Agreement, and upon written request, RECIPIENT must promptly return DISCLOSER’S Confidential Information and all copies thereof, including but not limited to prototypes, written documentation, drawings, photographs and models. Notwithstanding the foregoing or any other provisions of this Agreement, RECIPIENT’s legal department or outside counsel may maintain a copy of the Confidential Information in a restricted access file for actual or anticipated litigation, regulatory compliance, or corporate record keeping purposes, and shall not be required to destroy any computer records or files containing any Confidential Information that have been created pursuant to automatic electronic archiving and back-up procedures in the ordinary course of business where it would be unduly burdensome to do so or would be contrary to applicable law, rules or regulations.
6. RECIPIENT shall use reasonable efforts to preserve the confidentiality of the Confidential Information, which shall at a minimum be the same efforts it uses to preserve its Confidential Information. RECIPIENT must obligate its Affiliates with access to any portion of the Confidential Information to protect the Confidential Information in accordance with this Agreement.
7. Information disclosed under this Agreement is subject to the North Carolina Public Records Act (N.C. Gen. Stat. §132-1 *et seq*.) and information held by RECIPIENT may be disclosed under that Act except for information qualifying as Confidential Information under N.C. Gen. Stat. § 132-1.2 and information excluded from that Act under N.C. Gen. Stat. § 116-43.17 or other applicable law.
8. RECIPIENT has no obligation to refrain from disclosing or from otherwise using information which:
	1. is generally available to the public when this Agreement is signed by the Parties;
	2. becomes part of the public domain or becomes publicly known or available by publication or otherwise, but not through any unauthorized act or omission of RECIPIENT;
	3. was disclosed or provided by a third party who has represented to the RECIPIENT that it has the lawful right to disclose such information;
	4. has been independently developed by persons in RECIPIENT’s employ or otherwise who have no contact with Confidential Information, as shown by written records; or
	5. is required by law or process, and where feasible, with prior notice to be provided to DISCLOSER to allow it to limit disclosure or seek confidential status.
9. For the purpose of all written communications and notices between the Parties, their addresses unless modified in writing are:

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| RECIPIENT Notice | DISCLOSER Notice |
| Division of Research & Economic Development Fort IRCNC A&T State University1601 East Market StreetGreensboro, NC 27411 USAEmail: DivOfRes@ncat.edu LCollin1@ncat.edu | **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_****\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_****\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_****\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**Email:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

Technical Contact

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

Email: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Phone: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. The interpretation and validity of this Agreement is governed by the laws of the State of North Carolina, without reference to its conflict of laws provisions.
2. DISCLOSER must use reasonable efforts to notify RECIPIENT in writing of any Confidential Information which DISCLOSER believes to be subject to any export control laws or regulations of the United States and must do so in advance of providing any such Confidential Information to the RECIPIENT.
3. The term of this Agreement is three (3) years from the Effective Date hereof. All obligations of RECIPIENT with respect to the use and disclosure of the Confidential Information continue for a period of three years from the expiration or termination of this Agreement.
4. This Agreement is the entire agreement between the Parties regarding its subject matter, and all prior oral and written understandings or agreements are expressly superseded hereby.
5. Neither Party may assign any rights or obligations under this Agreement without the prior written consent of the other.
6. This Agreement is legally binding upon the undersigned Parties, their directors, officers, employees, successors and assigns.
7. The Parties make no representations with respect to, and do not warrant, any information provided under this Agreement but the information is furnished in good faith. Without restricting the generality of the foregoing, the Parties make no representations or warranties, whether written, oral, statutory, express, or implied, with respect to any Confidential Information which may be provided hereunder, including without limitation, any warranty of merchantability or fitness for a particular purpose. The DISCLOSER is not liable for any special, incidental, or consequential damages of any nature whatsoever resulting from the receipt or use of the Confidential Information by RECIPIENT.

In witness whereof, the Parties have executed this Agreement by their respective duly authorized officer or representative.

On Behalf Of:

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| **North Carolina Agricultural & Technical State University** | **[Discloser]** |
| By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| NameTitle | NameTitle |
| Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |