

CONFIDENTIALITY AGREEMENT

This Agreement is made and entered into this _____ day of _____, 20____, by and between the Board of Trustees of the University of Arkansas acting for and on behalf of the University of Arkansas, Fayetteville campus, 535 Research Center Boulevard, Innovation Center Suite 107 Fayetteville, Arkansas 72701 (hereinafter referred to as "University") and _____ having its principal place of business at _____ (hereinafter referred to as "Company").

WITNESSETH:

WHEREAS, each of the parties hereto has disclosed or will be disclosing to the other certain information which is regarded as confidential and proprietary by the disclosing party; and

WHEREAS, the parties desire to enter into an agreement to define and protect their rights with respect to said confidential and proprietary information;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and intending to be legally bound, the parties hereto agree as follows:

1. The University shall, in its discretion, disclose to Company certain CONFIDENTIAL INFORMATION relating to **RFID**, for the sole purpose of pursuing collaborative research.
2. The Company shall, in its discretion, disclose to the University certain CONFIDENTIAL INFORMATION relating to **RFID**, for the sole purpose of pursuing collaborative research.
3. Nothing in this Agreement shall require either party to disclose any particular CONFIDENTIAL INFORMATION to the other.
4. CONFIDENTIAL INFORMATION means information of a proprietary, trade secret or confidential nature, disclosed pursuant to this Agreement, which may include but is not limited to research data, technical information, software, samples, devices, specifications, financial data, business plans, production, laboratory or engineering techniques or manuals or other intellectual property or its physical embodiments, whether disclosed orally, visually, in writing or in document form, by observation or inspection of a party's item, or facilities or by conversation with a party's officers, directors, employees or agents.
5. Each party agrees to use the other party's CONFIDENTIAL INFORMATION only for the sole purpose identified in Paragraphs 1 and 2 of this Agreement.
 - a) Each party agrees not to use or exploit any of the other party's CONFIDENTIAL INFORMATION directly or indirectly for its own benefit or for the benefit of any third party in a manner inconsistent with that purpose.
 - b) If disclosed orally, visually or through observation or inspection of a party's facilities, devices, samples or other items, the disclosing party shall notify the receiving party at the time of disclosure that the information is confidential or proprietary and shall confirm to the receiving party in writing within sixty (60) days after disclosure that the information is CONFIDENTIAL INFORMATION. The written confirmation shall reference the place and date of disclosure and the persons to whom disclosed and shall describe and summarize in reasonable detail the CONFIDENTIAL INFORMATION disclosed.
6. Each party agrees not to disclose the other party's CONFIDENTIAL INFORMATION in any way or in any form to third parties without the disclosing party's prior specific written authorization and each party agrees to disclose the CONFIDENTIAL INFORMATION only to those of its officers, directors, employees, Affiliates or others under its control who have a need to know the CONFIDENTIAL INFORMATION to achieve the purpose set forth in Paragraphs 1 and 2 hereof, all of whom will be required by the party receiving the CONFIDENTIAL INFORMATION to protect it in accordance with this Agreement. The term "Affiliate", when used with respect to one of the parties hereto, shall mean a) the Parent Company thereof; or b) any legal entity directly or indirectly controlled by, controlling or under common control with that party. For the purpose of this definition, owning 50% or more of the stock, equity or property of such legal entity, or having the right to appoint 50% or more of the members or owner representatives of such legal entity are examples of forms of control.

7. Each party agrees not to copy, duplicate, reproduce or transcribe the other party's CONFIDENTIAL INFORMATION except as may be necessary for the purpose set forth in Paragraphs 1 and 2 hereof. All copies shall contain the same confidential or proprietary designations that appear on the original CONFIDENTIAL INFORMATION.
8. The obligations set forth in Paragraphs 3, 4 and 5 hereof shall be satisfied if the receiving party maintains and protects the disclosing party's CONFIDENTIAL INFORMATION with the same degree of care and the same controls that it normally uses to protect its own trade secrets and confidential or proprietary information to prevent disclosure, publication, dissemination or unauthorized use thereof.
9. The restrictions set forth in Paragraphs 3, 4 and 5 hereof shall not apply to information which:
 - a) is established to have been in the public domain at the time of disclosure or is thereafter established to be in the public domain other than through a breach of this Agreement.
 - b) is established through documentary evidence to have been in the possession of the receiving party prior to its receipt from the disclosing party.
 - c) is lawfully obtained from a third party under circumstances permitting the receiving party to use or disclose the information without restrictions.
 - d) is independently developed by the receiving party other than through knowledge or use of the disclosing party's CONFIDENTIAL INFORMATION, as established through documentary evidence.

No information which is specific shall be deemed to be within any of the foregoing exceptions merely because it is embraced by more general information which falls within any one or more of the foregoing exceptions.

Any combinations of features shall not be deemed to be within any of the foregoing exceptions merely because individual features fall within any one or more of the foregoing exceptions.

10. If the receiving party receives a request under authority of any Federal, State or Local law or regulation purporting to require disclosure of the disclosing party's CONFIDENTIAL INFORMATION, the receiving party shall notify the disclosing party promptly of such request so that the disclosing party has an opportunity, at its discretion, to take appropriate action. Receiving party shall, in any event, limit such disclosure to those persons or agencies to the extent possible.
11. To the extent that any disclosure by the receiving party of CONFIDENTIAL INFORMATION received hereunder constitutes an export of technical data within the meaning of the U.S. Office of Export Administration regulations, the disclosure shall be made in accordance with those regulations (15 C.F.R. 379.1 et. seq. or its successor regulations). Each party agrees that it will not disclose or permit disclosure of the other's CONFIDENTIAL INFORMATION or sell or permit the sale of the direct product of the other's CONFIDENTIAL INFORMATION if such disclosure or sale would be in violation of or cause the other party to be in violation of U.S. export laws or regulations now or hereafter in effect. Irrespective of any other provisions in this Agreement, the obligations set forth in this Paragraph shall be binding so long as relevant U.S. regulations remain in effect.
12. ALL CONFIDENTIAL INFORMATION shall be and remain the property of the disclosing party and no present or future intellectual property rights or licenses are offered, granted or implied by either party in the disclosure of any CONFIDENTIAL INFORMATION hereunder.
13. This Agreement does not constitute any representation, warranty or guarantee by the disclosing party to the receiving party with respect to the non-infringement of intellectual property rights of third parties nor shall the disclosing party be liable to the receiving party for any errors or omissions in the CONFIDENTIAL INFORMATION or for the results of the use of the CONFIDENTIAL INFORMATION by the receiving party.
14. This Agreement shall be effective as of the date first written above and shall remain in effect for a period of three (3) years from that date; provided, however, that the obligations of this Agreement governing the confidentiality and use of the CONFIDENTIAL INFORMATION survive such termination for a period of two (2) years. Upon termination of this Agreement or earlier if requested by the disclosing party, the receiving party shall at the written request of the disclosing party, promptly return all CONFIDENTIAL INFORMATION and copies thereof, except that the receiving party may retain a copy for archival and compliance purposes.

15. The exclusive points of contact with respect to the delivery and control of CONFIDENTIAL INFORMATION disclosed hereunder are designated by the parties as follows:

For Company:

For The University of Arkansas:
Bill Hardgrave
Director, University of Arkansas RFID Center
bhardgrave@walton.uark.edu

16. The Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto, but neither of the parties hereto shall assign the Agreement without prior written consent of the other party.

17. This Agreement is entered into within the State of Arkansas shall be governed and interpreted in accordance with the substantive laws of the State of Arkansas, and with the applicable laws of the United States of America. Any dispute arising under this Agreement shall be reviewed by a competent legal authority within the State of Arkansas. Notwithstanding the foregoing, nothing in this Agreement shall be deemed or construed as a waiver of any immunities to suit legally available to the University of Arkansas, its officers, agents or employees.

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed in duplicate by its duly authorized representative.

COMPANY NAME: _____

COMPANY ADDRESS: _____

Signed By: _____

Printed Name: _____

Title: _____

Date: _____

BOARD OF TRUSTEES OF THE UNIVERSITY OF ARKANSAS
ACTING FOR AND ON BEHALF OF THE
UNIVERSITY OF ARKANSAS, FAYETTEVILLE

Signed By: _____

Printed Name: _____

Title: _____

Date: _____