**MUTUAL NON-DISCLOSURE AGREEMENT**

This Non-Disclosure Agreement (hereinafter referred to as the Agreement) is entered on \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Effective Date”) by and between

**Indian Institute of Technology Kanpur**, a research and educational institution of national importance, established under the Institute of Technology Act, 1961, enacted by the Parliament of Republic of India registered under the Societies Registration Act 1860, having its office at P.O. IIT Kanpur, Kalyanpur, Kanpur, U.P.-208016, India, hereinafter referred to as “IITK”, of the FIRST PART.

and

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a Company registered under \_\_\_\_\_\_\_\_\_\_having its address at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, hereinafter referred to as \_\_\_\_\_\_\_\_\_\_, which expression shall unless repugnant to the subject or the context mean and included its successors, nominees or assigns) of the SECOND PART.

The aforesaid institutions are hereinafter referred to individually as the Party and collectively as the Parties.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Department of \_\_\_\_\_\_\_\_\_\_\_, IITK will receive/disclose Confidential Information on behalf of IITK from/to \_\_\_\_\_\_\_ for the Purpose of this Agreement. He/She and his/ her team will execute the obligations of non-disclosure of Confidential Information received from \_\_\_\_\_\_\_.

**I. RECITALS**

IITK and \_\_\_\_\_\_\_\_\_ wish to disclose certain information pertaining to “\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_” (hereinafter referred to as Purpose). This Agreement will apply to all confidential and proprietary information disclosed by a Party (Disclosing Party) to the other Party (Receiving Party) and includes information which the Disclosing Party identifies in writing or otherwise as confidential before or within thirty days after disclosure to the Receiving Party (“Confidential Information”). For purposes of this Agreement, the term "Confidential Information" means (1) any information concerning the business, products, Trade Secrets, services or personnel of any Party or any affiliated company, or (2) any other information, whether owned by the Party or any third party, that is designated as “Confidential” or “Proprietary,” and that is provided to the other Party. “Trade Secrets” shall mean confidential or proprietary information of any Party that has economic value or provides a business advantage to that Party and that such Party takes reasonable steps to keep confidential. This exchange includes all communication of information between the Parties in any form whatsoever, including oral, written and machine-readable form, pertaining to the above which is indicated as confidential.

**A.** The Party wishes to disclose to the other Party information regarding the Purpose and certain parts of the Information disclosed by it is to be kept secret and to be protected from unauthorized disclosure or use which is:

1. Disclosed by or on behalf of the Disclosing Party to the Receiving Party,

2. Otherwise learned or ascertained by the Receiving Party from inspection and/or evaluation of sample(s) identified by the Disclosing Party as confidential and provided to the Receiving Party by or on behalf of the Disclosing Party (sample(s)) and/or,

3. Otherwise learned or ascertained by the Receiving Party from the Disclosing Party.

**B.** IITK and \_\_\_\_\_ are willing to exchange Confidential Information on the terms and conditions set forth herein.

**II. AGREEMENT**

In furtherance to the above mentioned, IITK and \_\_\_\_\_\_ agree to the following:

**1.** Such Confidential Information shall be disclosed in documentary or tangible form and to the extent marked to indicate its confidential nature. In the case of such Confidential Information disclosed orally or visually, the Disclosing Party shall confirm in writing the fact and general nature of each disclosure within (30) days after it is made.

**2.** The nature and scope of such Confidential Information to be disclosed shall be in the sole discretion of the Disclosing Party.

**3.** The use of Confidential Information to this Agreement is neither a sale nor offer for sale and is for use related to Purpose.

**4.** The Parties appoint the following representatives to monitor, receive, disclose and handle such Confidential Information:

For IITK For \_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_

Any change in representatives shall be made upon written notice to the other Party to this Agreement.

**5.** The Receiving Party will not disclose Confidential Information of the Disclosing Party to any other person and use at least the same degree of care to maintain the Confidential Information as Receiving Party uses in maintaining its own confidential information, but always at least a reasonable degree of care; due diligence will be taken by both the Parties in maintenance of Confidential Information.

**6.** The Receiving Party will use the Confidential Information only for the above mentioned Purpose.

**7.** The Receiving Party will restrict disclosure of the Confidential Information of the Disclosing Party solely to relevant division of the Receiving Party having a need to know such Confidential Information in order to accomplish the Purpose stated above.

**8.** The Receiving Party will advise relevant division, before it receives access to the Confidential Information, of the obligations of the Receiving Party under this Agreement, and require each such employee of relevant division to maintain those obligations.

**9.** The Receiving Party will within fifteen (15) days of notice furnished by the Disclosing Party return to the Disclosing Party or destroy all documentation, copies, notes, diagrams, computer memory media and other materials containing any portion of the Confidential Information disclosed by the Disclosing Party in which case written confirmation of such return or destruction will be delivered to the Disclosing Party.

**10.** This Agreement imposes no obligations on Receiving Party with respect to any portion of the Confidential Information received from Disclosing Party which:

a. was known to the Receiving Party prior to disclosure by the Disclosing Party,

b. is lawfully obtained by the Receiving Party from a third party under no obligation of confidentiality,

c. is or becomes generally known or publicly available other than by unauthorized disclosure,

d. is independently developed by the Receiving Party or

e. is disclosed by the Disclosing Party to a third party without a duty of confidentiality on the third party.

f. is required by law or decree.

**11.** The Confidential Information shall remain the sole property of the Disclosing Party.

**12.** The Disclosing Party does not make any representation with respect to and does not warrant any Confidential Information provided under this Agreement, but shall furnish such in good faith. Without restricting the generality of the foregoing, Disclosing party does not make any representations or warranties, whether written or oral, statutory, express or implied with respect to the Confidential Information which may be provided hereunder, including without limitation, any warranty of merchantability or of fitness for a particular purpose. The Disclosing Party shall not be liable for any special, incidental or consequential damages of any nature whatsoever resulting from receipt or use of the Confidential Information by the Receiving Party.

**13.** Neither the execution of this Agreement nor the furnishing of any Confidential Information hereunder shall be construed as granting either expressly or by implication, any license under or title to any invention, patent, copyright, trademark or trade name now or hereafter owned by or controlled by the Disclosing Party furnishing the Confidential Information.

**14.** The Receiving Party will not export, directly or indirectly, any technical data acquired from the Disclosing Party or any product utilizing any such data to any third party, without first obtaining approval of the Disclosing Party.

**15.** The rights and obligations of the Parties under this Agreement may not be sold, assigned or otherwise transferred.

**16.** In the event the Receiving Party is required by judicial or governmental administration process to disclose such Confidential Information of the Disclosing Party, the Receiving Party shall promptly notify the Disclosing Party so that the Disclosing Party may seek appropriate means to protect the confidentiality of its Confidential Information. Notwithstanding the absence of such means, if, in the opinion of the Receiving Party’s counsel the Receiving Party is compelled to disclose such Confidential Information, the Receiving Party may disclose only the Confidential Information that is required without liability hereunder.

**17.** This Agreement shall be effective from the Effective Date and shall remain in force for a period of \_\_\_\_\_ years. The Parties may extend the term by written agreement signed by both the Parties. The obligations in clause 5, 6, 7, 8, 9, 10, 16, 17 and 18 shall survive termination/expiration of this Agreement for 3 years. The Receiving Party’s obligations with respect to Trade Secrets shall continue in full force and effect for as long as the Trade Secret remains confidential in nature under applicable law. The Parties may terminate this Agreement by giving a prior written notice of 30 (thirty) days mentioning sufficient reason of termination.

**18.** This Agreement shall be constructed, governed, interpreted and applied in accordance with the laws of India and the courts of Kanpur shall have the exclusive jurisdiction.

**19.** The Parties shall attempt in good faith to resolve promptly any dispute arising out of or relating to this Agreement by negotiation. If the matter cannot be resolved in the normal course of business, within ten (10) days after the dispute arises, any interested Party shall give the other Party written notice of any such dispute not resolved, after which the dispute shall be referred to Director, IITK and \_\_\_\_\_\_\_\_ who will jointly resolve the dispute in a spirit of independence, mutual respect, and shared responsibility. In case an amicable settlement of any disputes arising out of or relating to this Agreement is not achieved within thirty (30) days after written notice is received, such dispute shall be referred to arbitration in accordance with the provisions of the Arbitration and Conciliation Act, 1996 (as amended from time to time), by one (1)/sole arbitrator appointed in accordance with said Act. The seat of the arbitration shall be New Delhi. The arbitration shall be conducted in the English language and the award shall be final and binding upon the Parties. Each Party shall bear its own costs of the arbitration unless the arbitrator otherwise directs.

**20**. The Receiving Party acknowledges and agrees that monetary damages alone are not sufficient remedy for any breach of this Agreement by the Receiving Party, its permitted affiliates, subsidiaries and its employees and that the Disclosing Party shall, in addition to claiming damages, also be entitled to seek injunctive relief against the Receiving Party as remedy for any such breach.

**21.** All additions or modifications to this Agreement must be made in writing and must be executed by both the Parties.

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the date first written above.

For For

Indian Institute of Technology Kanpur \_\_\_\_\_\_\_\_\_\_

Name Name

Date Date

Witness: Witness: