



CONFIDENTIAL DISCLOSURE AGREEMENT

This Confidential Disclosure Agreement ("**Agreement**"), effective as of ("**Effective Date**"), is made by and between **Encapsula NanoSciences** ("**ENS**") having its principal office at **6 Cadillac Dr. Suite 245 Brentwood, TN 37027**, and having its principal office at

ENS and are hereinafter referred to singularly as "**Party**" or collectively as the "**Parties**".

WHEREAS, each Party controls or has developed certain proprietary or non-public information that it desires to provide or make available to the other Party in accordance with the terms and conditions of this Agreement, solely for the following purpose: *to hold discussions relating to a potential business relationship between Parties.*

NOW, THEREFORE, in consideration of the foregoing and subject to the covenants and conditions set forth herein, the Parties agree as follows:

1. **Confidential Information.** As used in this Agreement, "**Confidential Information**" means any and all written, oral, electronic, graphic or other information relating directly or indirectly to a disclosing Party or the company, markets, products, customers, suppliers, condition (financial or otherwise), operations, assets, liabilities, results of operations, or prospects of such Party that is distributed, disclosed or furnished in connection with the agreement by or on behalf of a disclosing Party to the receiving Party or its Representatives (as hereinafter defined), or which the receiving Party or its Representatives otherwise learns or obtains, through observation or through analysis of such information, and shall also be deemed to include all compilations, notes, analyses, studies, or other documents prepared by the receiving Party or its Representatives to the extent such material reflects or is directly based upon, in whole or even in part confidential information. Confidential Information may include business plans, technical information, identification or characterization of biological or other materials, methods, methodologies, results or designs of experiments or preclinical or clinical testing, trade secrets, designs, specifications, clinical protocols, data, inventions, intellectual properties, devices, processes, procedures, and procedures, employee compensation and benefits, manuals and marketing and advertising strategies disclosed directly or indirectly by a Party to the other Party (whether prepared by the disclosing Party, its advisors or otherwise). The existence, terms and conditions of this Agreement, and the Parties' discussions relating to the Purpose shall be considered Confidential Information.

2. **Use of Confidential Information.** The receiving Party shall hold the distributing Party's Confidential Information in strictest confidence; that the receiving Party may, solely in connection with the agreement, disclose such Confidential Information on a need-to-know basis to those of its Representatives who are bound by obligations of confidentiality and non-use with respect to such Confidential Information. Except as may be expressly granted in writing by the distributing Party, the receiving Party shall not otherwise disclose, use, copy, sell or license the distributing Party's Confidential Information, and the receiving Party hereby waives any right to use the distributing Party's Confidential Information to obtain licenses "**Representatives**" shall include the members directors, principals, shareholders, employees, officers, agents, affiliates and advisors of a Party.

3. **Representations and Warranties.** Each Party hereby represents and warrants

that (a) it has the full authority to enter into this Agreement, and (b) it will treat the distributing Party's Confidential Information with the degree of care and protection as it treats its own valuable information. Each Party acknowledges that the Confidential Information of the disclosing Party is provided "as is," and neither the other Party nor any of its Representatives has made any representation or warranty as to the correctness or completeness of the Confidential Information made available by the distributing Party or its Representatives.

4. Required Disclosure. Each receiving Party shall be entitled to disclose the distributing Party's Confidential Information as required by applicable law, regulation or court order. However, only to the extent necessary to comply with the receiving Party shall, if reasonably practicable, give the distributing Party a chance to seek to prevent disclosure of such Confidential Information by giving advance notice of such required disclosure that the receiving Party shall make such required disclosures in consultation with the distributing Party.

5. Exclusions to Confidential Information. Confidential Information shall not include information that is:

- a. comes into the public domain without breach of this Agreement and through no unauthorized action of the receiving Party; or
- b. properly known to the receiving Party at the time of disclosure, as evidenced by written records; or
- c. if the receiving Party from receives material from a third party whose rights to disseminate such information are without restriction; or
- d. demonstrated as being independently developed or acquired by the receiving Party without reference upon the distributing Party's Confidential Information, as evidenced by written records.

Specific elements of Confidential Information shall not be deemed to be in the public domain or in the possession of the receiving Party merely. Furthermore, any combination of individual elements of Confidential Information shall constitute Confidential Information and shall not be deemed to fall within the foregoing exclusions merely because one or more individual elements of such combination fall within the foregoing exclusions.

6. Injunctive Relief. Each Party agrees that its obligations hereunder are reasonable and necessary in order to protect the other Party and its continued work, and expressly agrees that monetary damages would be inadequate to compensate the other Party for any breach or threatened breach. Accordingly, each Party acknowledges and agrees that any such breach or threatened breach will cause irretrievable injury to the other Party and that, in addition to any other remedies that may be available, in law, in equity or otherwise, the other Party shall be entitled to injunctive relief against the threatened breach or actual breach of this Agreement.

7. Ownership; No Further Commitment. Confidential Information disclosed shall remain the property of the distributing Party. Distribution of Confidential Information shall not obligate either Party to enter into any future agreement relating to such Confidential Information. Neither delivery of this Agreement nor delivery of Confidential Information shall constitute an endowment or estoppel or otherwise, of any right in or license under any present or future invention, trade secret, trademark, copyright, or patent, now controlled by either Party. This Agreement provides only for the handling and protecting of Confidential

Information and shall not be construed as a teaming, scheme, or other similar arrangement.

8. **Export Control Restrictions.** In the course of exchanging Confidential Information, each Party acknowledges that it may desire to have access to certain information about the production or development of materials that is subject to export controls by the U.S. Department of Commerce and requires a specific license from that agency before such technology can be transferred outside the United States or disclosed in the United States to nationals of other countries (unless such individuals have been granted U.S. citizenship, permanent residence, or asylee status) ("**Controlled Technology**"). Each Party agrees that Controlled Technology will not be transferred (as that term is defined in Title 15 CFR Sect. 734.2(b)(3)) to the other Party unless and until the disclosing Party notifies the prospective receiving Party that such information constitutes Controlled Technology and the prospective receiving Party agrees in writing to receive such Controlled Technology, and that any such ultimate disclosure shall be authorized by the laws of the United States.

9. **Term and Termination; Binding Effect.** This Agreement will continue in effect for five (5) years from the Effective Date ("**Term**") unless terminated earlier by either Party upon thirty (30) days' written notice to the other Party. Notwithstanding any termination the rights of a distributing Party and the obligations of a receiving Party concerning the Confidential Information will continue following expiration or termination of this Agreement. Additionally, any provision of this Agreement that is intended to survive termination will survive and apply. All provisions of this Agreement shall be binding on the Parties and their respective Representatives.

10. **Return/Destruction.** Upon request of the distributing Party at any time during the Term or upon termination/expiration of this Agreement, the receiving Party shall promptly return all such Confidential Information to the disclosing Party, they must also destroy or redact all copies of such Confidential Information from all documents, samples, summaries, extracts, records or other materials that contain any such Confidential Information, in whatever form or medium stored; *provided, however*, that the receiving Party may retain one copy of such Confidential Information in secured storage only for legal archival purposes.

11. **No Waiver/Severability.** No waiver of any of the provisions of this Agreement shall constitute a waiver of any other provision from now on, nor shall such a waiver constitute a continuing waiver. If any provision or provisions of this Agreement are determined be unenforceable, the remaining provisions shall stand to the fullest extent and be permitted by law. The failure of a Party at any time to perform any provision hereof shall in no manner affect the right of such Party at a later time to enforce such provision or any other provision of this Agreement.

12. **Governing Law.** This Agreement shall be governed in accordance with the laws of the State of Tennessee without reference to conflicts of law or choice of law rules.

13. **Amendment or Modification/Assignability.** This Agreement may only be modified or amended by mutual written agreement of the Parties. This Agreement may not be assigned by either Party to any third party without the express, prior written approval of the other Party. Either Party may assign this Agreement to any direct or indirect, current or future subsidiary of a Party, or any other entity which is controlled, "**Control**" as used shall mean direct or indirect possession of at least fifty percent (50%) of the voting equity.



14. **Entire Agreement; Counterparts.** This Agreement contains the entire understanding of both Parties with respect to the agreement and succeeds all prior oral and written understandings. This Agreement may be executed and delivered by any standard means and in any number of counterparts, each of which shall be an original with respect to the Party signing such counterpart, but all of which taken together shall constitute but one and the same instrument.

15. Points of Contact for this Agreement.

.....	Encapsula NanoSciences
Name:	Name:
Title:	Title:
Address:	Address: 6 Cadillac Dr. Suite 245 Brentwood, TN 37027
Work:	Work: 800-387-0620
Fax:	Fax: 615-250-8747
Email:	Email: info@encapsula.com

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the Effective Date.

.....	Encapsula NanoSciences
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____