

RECIPROCAL CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

This Reciprocal Confidentiality/ Non-Disclosure Agreement (“Agreement”) is hereby made and entered into this _____ day of the month of _____, year _____.

Between

UNIVERSITY OF SAN AGUSTIN, INC.
with address at **General Luna St., Iloilo City, Philippines 5000,**

And

With address at _____

WHEREIN, “Disclosing Party” refers to University of San Agustin and Consultant/ Client/ Contractor/ Employee/ Researcher/ Student when either is disclosing information to the other and “Receiving Party” refers to University of San Agustin and Consultant/ Client/ Contractor/ Employee/ Researcher/ Student when either is receiving information from the other.

RECITALS

- A. The success of an entity’s business depends on its possession of confidential, proprietary information, not generally known to others and not disclosed to the public, including specialized information about but not limited to research, development, production, marketing, know-how and management in the entity’s chosen fields.**
- B. Disclosing Party wishes to protect its confidential proprietary information and ensure that all Receiving Party agree to maintain the confidentiality of this information.**
- C. Receiving Party acknowledges that Disclosing Party desires to protect its confidential proprietary information, that his/her employment creates a duty of trust and confidentiality to Disclosing Party with respect to its confidential proprietary information and, as a condition of employment or continued employment with Disclosing Party, Receiving Party agrees to be bound by the terms of this Agreement.)**

AGREEMENT:

WHEREFORE, Disclosing Party and Receiving Party and Employer and Consultant/ Client/ Contractor/ Employee/ Researcher/ Student agree as follows:

ARTICLE I: CONFIDENTIAL INFORMATION

- A. The terms "Confidential Information" and "Proprietary Data" mean**
 - (1) all information and data owned by the Disclosing Party disclosed to the Receiving Party, not known outside the Disclosing Party and not disclosed to the public concerning the Disclosing Party or its businesses and the Disclosing Party’s business and technical information, including but not limited to, patent disclosures, patent applications, information relating to inventions not yet/ not disclosed to the public, discoveries, products under development, management strategic plans, calculations with novelty and industrial applicability, thesis or project manuscripts that are patentable and registrable, teaching instructions or methods and strategies of teaching with novelty, concepts, design sheets, design data, system design, blueprints, computer programs, algorithms, software, firmware, hardware, manuals, drawings, photographs, devices, samples, models, processes, specifications, research, test procedures and results, equipment, identity and description of computerized records, customer lists, supplier lists and identity, marketing and sales plans, financial information, business plans, costs, pricing information, and all other concepts or ideas involving or reasonably related to the business or prospective business of Disclosing Party, or information received by the Disclosing Party as to which there is a bona fide obligation, contractual or otherwise, on Disclosing Party’s part.**

- (2) Notwithstanding the provisions in the preceding paragraph, Confidential Information shall not include any information which can be objectively proved to fall into one or more of the following items by the Receiving Party:
- (i) information which was already known to or in possession of the Receiving Party prior to the time of the disclosure by the Disclosing Party to the Receiving Party;
 - (ii) information which was already known and/ or made available or disclosed to the public prior to the time of the disclosure by the Disclosing Party to the Receiving Party without the Receiving Party's breach of any obligation owed to the Disclosing Party;
 - (iii) information which is or subsequently becomes known or available or disclosed to the public other than through the fault or negligence of the Receiving Party after the disclosure by the Disclosing Party to the Receiving Party;
 - (iv) information which was obtained by the Receiving Party from a third party other than the Disclosing Party, which was disclosed to the Receiving Party without the third party's breach of any obligation owed to the Disclosing Party;
 - (v) information which is independently developed by the Receiving Party including the provision in this agreement on Article III, Section C; or
 - (vi) information with respect to which the Receiving Party obtained prior consent of the Disclosing Party that such information is not subject to the confidentiality obligation hereunder.
- (3) Wherein, the term "invention" relates to (a) concepts and ideas which can be reduced to practice, with or without industrial utility, has novelty and (b) design, actual inventions both having and not having embodiments enabling the said invention. The said invention in (b) also includes criteria defined in Chapter II, Sec. 21 to 27 of RA 8293.
- (4) Wherein the term, "prior art" is defined in Chapter II, Sec. 24 of RA 8293 and Sec. 9 of RA 165a.

ARTICLE II: DISCLOSURE AND CONFIDENTIALITY

- A. The statement "disclosed to the public" shall mean all available prior art/ state-of-the-art public enabling disclosures which may be either in oral, written disclosures including electronic publication.
- B. "Public Disclosure" shall mean any legally public enabling disclosure.
- C. The Receiving party hereby from the date of this Agreement agrees;
- 2.1 to keep confidential all Confidential Information that it may acquire in any manner and that the Receiving Party understands and agrees that the Confidential Information and Proprietary Data constitute trade secrets of Disclosing Party and that at all times material to this Agreement, Disclosing Party has taken all reasonable steps to protect the confidentiality of this information.
 - 2.2 to use such Confidential Information exclusively for the benefit of the Disclosing Party as well as its use by the Receiving party pertaining only to duties, responsibilities and all other work commissioned by Disclosing party to Receiving party.
 - 2.3 not to disclose such Confidential Information to any person or entity, either directly or indirectly, except to authorized employees or other agents of the Receiving party who need to have access to the Proprietary Data for the purpose of conducting their duties and responsibilities in relation with the commissioned work or duty performed by Receiving party to Disclosing party.

- 2.4 to inform everybody to whom it discloses Confidential Information that it is confidential and obtain their agreement to keep it confidential on the same terms as this Agreement;**
- 2.5 to protect and keep safe all hard copies of Confidential information provided by Disclosing Party and not modify or otherwise interfere with such items, to return them immediately upon Disclosing Party's request and in any event spontaneously when no longer required for the purposes of this Agreement;**
- 2.6 that Receiving Party agrees that the Confidential Information and Proprietary Data shall be and remain the exclusive property of Disclosing Party and shall not be removed from the premises of Disclosing Party under any circumstances whatsoever without the prior written consent of Disclosing Party, and if removed, shall be immediately returned to Disclosing Party upon any termination of Receiving Party's employment or contract.**
- 2.7 that the disclosure by a party hereunder does not, and shall not be construed to, constitute the grant to the Receiving party of (i) any right or license to use any Confidential information of the Disclosing party for any purpose other than those specified in this Agreement, (ii) any patent right or license or (iii) the right to file any patent application containing or based upon any Confidential Information. Nothing in this Agreement obligates Consultant/ Client/ Contractor/ Employee/ Researcher/ Student to disclose any information, other than stated in Article III, Section A, to the other or creates any agency or partnership relation between them.**

ARTICLE III: INVENTIONS

- A. Consultant/ Client/ Contractor/ Employee/ Researcher/ Student shall promptly disclose to University of San Agustin, in writing, all inventions, ideas, discoveries, and improvements whether or not patentable or registrable under Copyright or similar statutes, made or conceived or reduced to practice or learned by Consultant/ Contractor/ Employee/ Researcher/ Student, either alone or jointly with others, for all duties, responsibilities and work commissioned by the University of San Agustin obtained during the period of employment or contract with University of San Agustin. Consultant/ Client/ Contractor/ Employee/ Researcher/ Student agree that all such inventions (intellectual, visual or material) are the sole property of University of San Agustin.**
- B. Consultant/ Client/ Contractor/ Employee/ Researcher/ Student assigns to University of San Agustin all right, title and interest in and to any and all conceptions, inventions, ideas, discoveries, and improvements and combinations of such, with the exception of conceptions, inventions, ideas, discoveries, and improvements and combinations of such that qualify for protection under Article III, Section C.**
- C. This Agreement does not require assignment of an invention that is fully qualified for protection under existing Philippine Intellectual Property Law which may provide as follows:**
- (i) Any provision in any contract or agreement between University of San Agustin and Consultant/ Client/ Contractor/ Employee/ Researcher/ Student which provides that the latter shall assign or offer to assign any of his or her rights in an invention to the University of San Agustin shall not apply to invention for which no equipment, supplies, facility or trade secret information of the University of San Agustin was used and which was developed entirely outside the Consultant/ Contractor/ Employee/ Researcher/ Student's time of work for the University of San Agustin, wherein the said invention is a result of an inventive activity not part of the Consultant/ Contractor/ Employee/ Researcher/ Student's regular duties and responsibilities or resulting from any work performed by the Consultant/ Client/ Contractor/ Employee/ Researcher/ Student not commissioned by or for the University of San Agustin (Section 30, Chapter II, R.A 8293).**
 - (ii) Any inventions, ideas, discoveries, and improvements conceived or made by Receiving Party prior to the execution of this Agreement.**

ARTICLE IV: COVENANT NOT TO COMPETE

- A. After termination of employment with University of San Agustin, Consultant/ Client/ Contractor/ Employee/ Researcher/ Student agrees that if he/she engages in employment or other activities independently or in association with others in any business competitive with any business of University of San Agustin or any business which may reasonably be expected to compete with any business of University of San Agustin, Consultant/ Client/ Contractor/ Employee/ Researcher/ Student is required to inform the prospective University of San Agustin or association that Consultant/ Client/ Contractor/ Employee/ Researcher/ Student cannot divulge any trade secrets or Confidential information described therein that Consultant/ Client/ Contractor/ Employee/ Researcher/ Student may have learned, known, developed during his/ her employment or contract with University of San Agustin. "In association with others" shall include accepting any employment with, or rendering, directly or indirectly, advice or assistance of any kind to any person, partnership, corporation, association, or other organization.

ARTICLE V: PENALTIES AND REMEDY FOR BREACH

- A. Both the Disclosing and the Receiving party hereby agree that the breach of this Agreement or any other type of breach such as disclosure, use of any of the Confidential Information and/or Proprietary Data without Disclosing party's consent, may be a cause for an action at law or in equity in an appropriate court of the Republic of the Philippines. The aggrieved party shall be entitled to seek and collect money damages in the form of remedy or injunctive relief from the breaching party. Likewise, the aggrieved party shall also be entitled to an injunction prohibiting the further use, disclosure of the Confidential Information and Proprietary Data.
- B. In the event of any dispute or breach related to this Agreement, the prevailing party which sought legal action in the said dispute shall recover its attorney fees from the losing party.

ARTICLE VI: NATURE OF RELATIONSHIP

- A. It is expressly understood and agreed that this Agreement does not create or define the terms of any contract of employment, whether expressed or implied, nor does this Agreement create any guarantee of continuing employment or relationship between University of San Agustin and Consultant/ Contractor/ Employee/ Researcher/ Student.

ARTICLE VII: MISCELLANEOUS PROVISIONS

- A. This Agreement shall inure to the benefit of the successors and assigns of the Disclosing Party, and shall be binding upon the Receiving Party's heirs, assigns, administrators and representatives.
- B. All provisions of this Agreement shall be severable for purposes of enforcement. If any provision or clause of this Agreement is unenforceable at law or in equity, such clause or provision shall be severed from the remainder of this Agreement, and the remainder of this Agreement shall continue to be enforceable, according to its terms.
- C. This Agreement shall be interpreted under and governed by the laws of the Philippines as applied to an agreement made and wholly performed within said country.
- D. This Agreement sets forth the entire Agreement as to its subject matter. No modification, amendment, termination or waiver of this Agreement shall be binding unless in writing and signed by a duly authorized officer of Disclosing Party. Failure of Disclosing Party to insist upon strict compliance with any of the terms, covenants or conditions of this Agreement shall not be deemed a waiver of such terms, covenants or conditions.
- E. This Agreement constitutes the entire agreement between the parties hereto relating to the subject matter hereof and supersedes any previous agreements between the parties relating to inventions and confidentiality.
- F. This Agreement shall be effective on the date last written below.

UNIVERSITY OF SAN AGUSTIN, INC.
TIN: 006-460-526-000

By:

FR. FREDERICK C. COMENDADOR, OSA
President

TIN: 203-192-231

Signed in the presence of:

ACKNOWLEDGEMENT

REPUBLIC OF THE
PHILIPPINES) ILOILO CITY) S.S

BEFORE ME, a Notary Public for and in Iloilo City this ___ day of
___ 2 ___, personally appeared:

NAME	VALID IDENTIFICATION CARD
FR. FREDERICK C. COMENDADOR, OSA	LTO DL N02-03-504698

Known to me and to me known to be the same persons who executed the foregoing instrument and they acknowledged to me that the same is their free and voluntary act and deed and that of the entities they represent.

This instrument has been signed by the parties and their witnesses, consists of five (5) pages including this page, and relates to service agreement.

WITNESS MY HAND AND NOTARIAL SEAL on the date and place first above written.

Doc No. _____;
Page No. _____;
Book No. _____;
Series of 2017

Notary Public