

Confidentiality and Non-Disclosure Agreement

AGREEMENT by and between _____ of _____
("Company") and Dawnbreaker, of Rochester, NY (collectively "Parties").

WHEREAS, the parties hereto anticipate that Company will disclose to Dawnbreaker, its employees or agents confidential or proprietary information relating to DOE SBIR/STTR Phase I, Phase II, Phase III awards or other non-public information (all confidential and related business information referred to herein as the "Information");

WHEREAS, the Parties desire the Confidential Information disclosed by Company to Dawnbreaker under this Agreement be maintained in confidence; and

NOW, THEREFORE, the Parties agree as follows:

1. Dawnbreaker agrees to hold the Information in confidence, and not disclose the Information to any third party. Access to the Information by Dawnbreaker's employees and associates shall be limited to persons who are directly participating in activities involving Company and who require such Information in the performance of these activities. Dawnbreaker agrees to inform all such associates of the confidential nature of the Information.
2. Information that is transmitted in written form will be marked "Confidential". Any verbal Information otherwise disclosed must be identified as Confidential at the time of transmission.
3. Dawnbreaker further agrees that it:
 - a. will use all transmitted Information only for the purpose of providing commercialization assistance to Company during the period covered by their Phase I and/or Phase II awards,
 - b. will not at any time make any commercial use of any Information, except as permitted by agreement between Dawnbreaker, and Company.
 - c. will take all steps reasonably necessary to protect the Information and prevent access of third parties to the Information received from Company.
4. The duty of confidentiality and non-use under this Agreement shall not apply to any portion of the Information which:
 - a. is public information at the time of disclosure by Company to Dawnbreaker,
 - b. subsequently becomes public information other than by act or omission of Dawnbreaker,
 - c. at the time of first disclosure by Company to Dawnbreaker is already in the possession of or subsequently becomes known lawfully and independently to Dawnbreaker without obligations of confidentiality to a third party.
5. Dawnbreaker agrees that upon termination of the activities for which the Information was transferred to Dawnbreaker or upon request by Company Dawnbreaker shall destroy any Information provided by the Company.

6. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware.

IN WITNESS WHEREOF, the Parties have executed this Agreement by their respective authorized representatives as set forth below.

Dawnbreaker

By: _____

Name: _____

Title: _____

Date: _____

Company:

By: _____

Name: _____

Title: _____

Date: _____