

**Confidential Disclosure Agreement  
Between TDA Research, Inc. and  
University of Puerto Rico – Mayaguez**

THIS AGREEMENT is entered into by **University of Puerto Rico – Mayaguez** and **TDA Research, Inc.**, and shall have an effective date as of the date of its execution. The address of University of Puerto Rico – Mayaguez for the purposes of this Agreement is 259 Blvd. Alfonso Valdez Cabian, Mayaguez, Puerto Rico. **University of Puerto Rico – Mayaguez** shall be referred to in this Agreement as "**UPR**". The address of **TDA Research, Inc.** for the purposes of this Agreement is 12345 West 52<sup>nd</sup> Avenue, Wheat Ridge, Colorado 80033. **TDA Research, Inc.** shall be referred to in this Agreement as "**TDA**".

**1 INTRODUCTION**

1.1. **TDA** possesses certain confidential and proprietary information relating to adsorption cycle and process schemes for CO<sub>2</sub> removal from various process streams.

1.2. **UPR** possesses certain confidential and proprietary information relating to the preparation of a strontium based silicoaluminophosphate, which can be used to selectively removed carbon dioxide from a mixture of light gases, particularly in mobile or closed volume applications. This material is part of a patent application US 12/334,768. Other variants are part of other pending patent applications.

1.3. **UPR** and **TDA** desire to use such confidential and proprietary information for the purpose of facilitating discussions relating to possible or existing business between **TDA** and **UPR**.

1.4. It is desirable that employees of **TDA** and **UPR** be free to discuss as much of said confidential and proprietary information as may be necessary to accomplish the objectives of this Agreement.

1.5. "Confidential and proprietary Information" means any information disclosed by either party to the other party, either directly or indirectly, in writing, orally or by inspection of tangible objects (including without limitation documents, prototypes, samples, plant and equipment). Confidential and proprietary Information shall include without limitation technical data, trade secrets and know-how, including, but not limited to, research, product plans, products, services, suppliers, customer lists and customers, prices and costs, markets, software, developments, inventions, laboratory notebooks, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing, licenses, finances, budgets and other business information. Confidential and proprietary Information shall not, however, include any information which: (i) was publicly known and made generally available in the public domain prior to the time of disclosure by the providing party; (ii) becomes publicly known and generally available after disclosure by the providing party to the receiving party through no wrongful action by the providing party; (iii) is already in the possession of the receiving party at the time of disclosure by the providing party, as shown by the receiving party's files and records immediately prior to the time of disclosures; (iv) is obtained by the receiving party from a third party without a breach of such third party's obligations of confidentiality; (v) is independently developed by the receiving party without use of or reference to the providing party's Confidential Information, as shown by documents and other competent evidence in the receiving party's possession; or (vi) is required by law to be disclosed by the receiving party, provided that the receiving party gives the providing party prompt written notice of such required disclosure prior to such disclosure and assistance in obtaining an order protecting said Confidential Information from public disclosure.

## **2 AGREEMENT AND OBLIGATIONS OF TDA AND UPR**

2.1. **UPR** and **TDA** agree to maintain confidential and not to use, except as expressly permitted by this Agreement, confidential or proprietary information disclosed or made available to it, directly or indirectly, by the other party. **UPR** and **TDA** agree to use such information solely for the purposes stated above and not to disclose such information, or any part thereof, to any third party without the prior written consent of the other party. All of the information, samples and documents provided by **TDA** to **UPR** or by **UPR** to **TDA** under this Agreement, including any copies, notes or summaries which

contain such information, and any information produced by or arising from the use of the providing party's information, remain the exclusive property of the providing party; UPR agrees to return to TDA, and TDA agrees to return to UPR, on demand, any and all information, samples and documents furnished hereunder, and to certify destruction of all notes, copies or summaries containing or derived from the confidential or proprietary information of the providing party, except for one archival copy of received confidential or proprietary information retained for compliance with this Agreement.

2.2. All confidential or proprietary information delivered by TDA to UPR or UPR to TDA under this Agreement shall, if in written or tangible form, be marked "Confidential" or similarly marked by the disclosing party before being delivered to the receiving party. All oral or visual disclosures of proprietary information shall be summarized in writing by the disclosing party and the written summary will be given to the receiving party within thirty (30) days of the oral or visual disclosure. The receiving party must make any objections to the contents of the written summary within thirty (30) days of receipt.

2.3. The obligations regarding confidentiality and limits on use shall cease to apply to any information which:

2.3.1 was known to the receiving party prior to receipt either directly or indirectly from the providing party, as evidenced by written records; or

2.3.2 is available to the public in the form of a printed publication or patent; or

2.3.3 becomes available to the public in the form of a printed publication or patent through no action of the receiving party; or

2.3.4 is subsequently disclosed to the receiving party without restriction by a third party having the lawful right to make such disclosure;

2.3.5 is required to be produced by judicial or governmental action, but only to the extent required by such action, and the receiving party shall inform the providing party of such requirement promptly to allow the providing party the opportunity to contest such requirement; or

2.3.6 is, whether now or in the future, developed by the receiving party independently of any information received from the providing party.

2.4. For the purposes of this Agreement, disclosures made under this Agreement which are specific (e.g., as to operating conditions and the like) shall not be deemed to be within the foregoing exceptions merely because they are included within general disclosures in the public domain or in the possession of the receiving party. In addition, any combination of information or features shall not be deemed to be within the exceptions merely because the individual features or elements of information are in the public domain or in the possession of the receiving party unless the combination itself and its principle of operation are in the public domain or in the possession of the receiving party.

2.5 Receiving party further agrees and understands that, even if relieved of its confidentiality obligations by the exceptions recited above, it will still retain in confidence the fact that any information supplied hereunder was obtained from the providing party as well as any correlation, identity, similarity or relation between (a) the information acquired from the providing party and (b) information which may become part of the public domain or which may be received from a third party.

2.6 Samples furnished to **UPR** by **TDA** or to **TDA** by **UPR** under this Agreement are submitted in confidence for the sole purpose of evaluation by the receiving party and the receiving party agrees that:

2.6.1 No attempt will be made by the receiving party to conduct analysis outside the scope agreed to between the Parties under Article 1.3. Receiving party shall not attempt to modify or reverse-engineer (or otherwise determine the chemical structure or sequence of) any of the samples without the prior written consent of providing party.

2.6.2 The samples will not be transmitted to any third party without the prior express written consent of the providing party.

2.6.3 Upon completion of the receiving party's analysis of each sample, the receiving party shall furnish the providing party with information regarding the results of such analysis.

2.6.4 Upon completion of the receiving party's analysis program or one year after the receipt of each sample, whichever first occurs, all unused portions of samples shall be returned to the providing party.

2.6.5 Receiving party shall not use the samples in any manner that confers on any third party any proprietary rights in or to the samples, or that creates obligations to disclose the results of receiving's use of the samples to any third party

2.6.6 The receiving party further agrees not to disclose the providing party's Confidential Information (i) to any third party without the prior written consent of the providing party, or (ii) to those employees or agents of the receiving party, who are **not** required to have that Information in order to evaluate or engage in discussions concerning the purpose of this Agreement as set forth in Article 1 above.

2.6.7 All of the information, samples and documents provided by **UPR** to **TDA** or by **TDA** to **UPR** under this Agreement, including any copies, notes or summaries which contain such information, and any information produced by or arising from the use of the providing party's information, remain the exclusive property of the providing party; **UPR** agrees to return to **TDA**, and **TDA** agrees to return to **UPR**, on demand, any and all information, samples and documents furnished hereunder, and to certify destruction of all notes, copies or summaries containing or derived from the confidential or proprietary information of the providing party, except for one archival copy of received confidential or proprietary information retained for compliance with this Agreement.

2.7 The information and any documents or samples supplied under this Agreement are subject to the export control laws and regulations of the United States of America. In no event shall **UPR** or **TDA** disclose, export or re-export any information obtained hereunder or the direct product thereof to any person where such disclosure would violate the export control laws and regulations of the United States of America.

2.8 **UPR** and **TDA** warrant that all of their employees who will have access to the information disclosed hereunder are under written obligation to their respective employers to hold such information in confidence and to use such information only in the performance of their employment and to observe the obligations of confidentiality of this Agreement.

2.9 In exercising its obligations of confidentiality hereunder the receiving party shall use the same standard of care that it would use with respect to its own information of similar nature, but no less than reasonable care.

2.10 Nothing herein shall obligate TDA or UPR to proceed with any transaction between them, and each said party reserves the right, in its/their sole discretion, to terminate the discussions contemplated by this Agreement concerning the business opportunity.

2.11 Nothing in this Agreement is intended to grant the receiving party any rights in or to any Confidential Information disclosed hereunder and belonging to the providing party, except as expressly set forth herein.

2.12 Each party agrees that any violation or threatened violation of this Agreement may cause irreparable injury to the other party, entitling the other party to seek injunctive relief in addition to all legal remedies.

### **3 TERM OF AGREEMENT**

3.1 Disclosure of Information and transmittal of samples by TDA to UPR or UPR to TDA shall take place within three (3) years from the effective date of this Agreement, unless extended as mutually agreed upon in writing by the parties hereto.

3.2 The obligations of this Agreement with respect to confidentiality and non-use shall continue after the termination, cancellation or duration of this contract ; it should be perpetual.

### **4 GENERAL**

4.1. Any disclosure under this Agreement is made without any right or license to utilize or to practice any of the providing party's intellectual property, including information, improvements, developments, inventions, patents, trade secrets and know-how, or to copy, reproduce or make derivative works under any of the providing party's copyrights, except as is expressly stated in this Agreement or is reasonably necessary for carrying out the limited purpose stated in this Agreement.

4.2. Should any provision or clause of this Agreement be declared to be invalid or unenforceable by a court or other agreed dispute resolution body, that particular clause or provision shall be modified by the court or dispute resolution body to the extent necessary to render it enforceable or valid if possible. If such modification is impossible, then the court or dispute resolution body shall reform the agreement as necessary to preserve the original intent as nearly as possible.

4.3. Neither this Agreement nor the providing of confidential or proprietary information shall extend any guarantees or warranties, express or implied, to the receiving party.


4.4. This Agreement is personal in nature and shall not be assigned by either party, except with the written consent of the other party.

4.5. The persons signing this Agreement on behalf of TDA and UPR personally warrant and represent that they have been authorized to sign this Agreement to legally bind their respective employers.

University of Puerto Rico – Mayaguez

TDA Research, Inc.

By:

  
[Company representative's name here]

By:

  
Michael Karpuk

Title:

Acting Chancellor

Title:

President

Date:

1/23/14

Date:

1/14/14

ACKNOWLEDGEMENT

By:

Researcher in charge UPRM

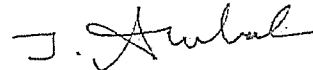
By:

AMBALAVANAN JAYARAMAN  
Researcher in charge TDA Research, Inc.

Signature:



Signature:



Title:

Professor

Title:

SENIOR ENGINEER

Date:

01/23/2014

Date:

01/14/14

Recommended by:

*Marisol Vera Colón*

Marisol Vera Colón, Ph.D.  
Acting Director *MVC*  
Research & Development Center