

## **Non-Employee Intellectual Property Agreement**

This Non-Employee Intellectual Property Agreement ("Agreement") is entered into by and between the H. Lee Moffitt Cancer Center and Research Institute, Inc. ("Moffitt") and the Non-Employee<sup>1</sup> ("Individual", "I", "my", "myself", or "me") as of the day Individual signs on the NEMP Acknowledgment of Agreements, Policies, Consents & Codes. In consideration of my engagement or affiliation with Moffitt and any other valuable consideration, the sufficiency of which is hereby acknowledged, I agree to the following:

### 1. DEFINITIONS

**"Confidential Information"** shall mean any and all information and data of Moffitt (including any information and data obtained by Moffitt from a third party in confidence) including, without limitation, Moffitt Intellectual Property, and any other proprietary technologies, economic information, business or research strategies, and material embodiment thereof, business information, financial information, business forecast information, cash requirement information, organization information, valuation information, technical information and know-how, scientific information, research information, chemical structures, patents and patent applications, ideas, works of authorship, inventions, processes, experimental work, design details, specifications and engineering materials, in any form or format, including, without limitation, written or other tangible medium, graphic, oral, visual, digital, electronic and/or machine readable or other non-tangible medium; and all internal materials, data, results, reports and documents generated by or on behalf of Moffitt containing or regarding any of the foregoing or is furnished by or on behalf of Moffitt which would reasonably be considered to be proprietary or confidential, or that is marked "confidential" (or if provided in oral, visual or non-tangible form, made known at the time of disclosure to be confidential).

**"Moffitt"** shall mean H. Lee Moffitt Cancer Center and Research Institute, Inc. ("Moffitt Institute") as well as its subsidiaries, including H. Lee Moffitt Cancer Center & Research Institute Hospital, Inc.; H. Lee Moffitt Cancer Center & Research Institute Foundation, Inc.; H. Lee Moffitt Cancer Center and Research Institute Lifetime Cancer Screening Center, Inc. d/b/a Moffitt Medical Group; Moffitt Technologies Corporation; as well as any future subsidiaries, affiliates, successors, or predecessors of these entities.

**"Property Rights"** shall mean and collectively include ideas, inventions (whether patentable or unpatentable), discoveries, designs, schematics, formulae, processes, techniques, methodologies, computer software, experimental and clinical tests or procedures, confidential or proprietary technical or business information, trade secrets, know-how, trademarks, service marks, trade dress, logos, slogans, trade names, domain names, copyrightable materials (including software and computer code) and copyrights thereon, tangible research property (including without limitation, chemical materials, computer readable media or documents containing computer software, computer databases, circuit diagrams, engineering drawings, integrated circuit chips and prototype devices and equipment, cell lines, vectors, antibodies, transgenic mice, and knockout mice), improvements, and all Patent Rights or other protection applications, registrations, extensions and renewals.

**"Moffitt Intellectual Property"** shall mean and collectively include Property Rights that I conceive, invent, create, reduce to practice, make or author (in whole or in part, either, alone or jointly with others), during my affiliation or engagement with Moffitt (a) with the use of equipment, supplies, facilities or trade secret information of Moffitt, or with the use of the hours for which I am to be or was compensated by Moffitt, or (b) that relate to the actual or anticipated business or research activities of Moffitt, or (c) that result in whole or in part, from work performed by me for Moffitt or within the scope of my affiliation or engagement with Moffitt, or (d) that are specifically ordered or commissioned by Moffitt from me, or (e) in connection with my use of gift, grant, or contract

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<sup>1</sup> Non-Employee's **full** name appears on the NEMP Acknowledgment of Agreements, Policies, Consents & Codes.

research or any other funds received through or administered by Moffitt, or (f) (with respect to copyrightable materials and copyrights) that result from work made for hire (as defined in U.S. Copyright Law, specifically 17 U.S. Code § 101) funded by Moffitt or a work involving significant use of the Moffitt funded or administered resources.

**"Patent Rights"** shall mean and collectively include all U.S. and foreign patent applications on any of the Moffitt Intellectual Property, and provisionals, continuations, continuations-in-part, divisionals, parent applications, and renewals thereof, all U.S. and foreign patents which may be granted thereon, and all reissues, reexaminations and extensions thereof.

## 2. DISCLOSURE AND RECORD KEEPING

I understand that prompt disclosure to Moffitt of any Moffitt Intellectual Property is essential to ensure its proper protection. Accordingly, I will promptly disclose and fully describe in writing to Moffitt's Office of Innovation & Industry Alliances, or any future Moffitt office that handles patent matters ("Innovation Office") all Moffitt Intellectual Property that I conceive, invent, make, reduce to practice, or author (in whole or in part, alone or jointly with others) during my affiliation or engagement with Moffitt and for one year thereafter, if such subsequent developments relate in any way to my affiliation or engagement with Moffitt. With respect to any patentable invention, I will make such prompt and full disclosure to the Innovation Office prior to any public or other nonconfidential disclosure, and I agree that Moffitt has discretion to delay such disclosure until after a patent application covering the invention has been filed.

I shall make and maintain adequate and current written records of all Moffitt Intellectual Property in accessible electronic records, laboratory information management systems, or bound notebooks, in the form of notes, sketches, drawings, or reports relating thereto. Records shall be and remain the property of and available to Moffitt at all times.

## 3. INTELLECTUAL PROPERTY RIGHTS

I agree to assign, and do hereby assign, to the Moffitt Institute, my entire right, title and interest in and to any and all Moffitt Intellectual Property together with all claims for damages and profits by reason of any past infringement as fully and entirely as the same would have been held and enjoyed by me had this present assignment not been made. I understand that Moffitt shall, as between Moffitt and me, have the exclusive right to use, improve, enhance, exploit, commercialize, and perform the Moffitt Intellectual Property, and to file a patent application or seek registration of any other intellectual property right, or to abandon the prosecution of any patent application or other intellectual property right or maintenance of any patent or intellectual property right, and that Moffitt shall similarly have the right to not do any of those acts. The above assignment of all my right, title and interest in and to any copyrightable materials and copyrights within Moffitt Intellectual Property includes, without limitation: the right to make adaptations or versions of the works that are the subject matter of the copyrights or any part thereof for any purpose whatsoever; the right to use, produce, transmit, exhibit, and exploit such adaptations or versions, in whole or in part, or cause the same to be produced, transmitted, or exploited by any means or devices whatsoever now or hereinafter known, and any and all other rights granted to copyright owners under the United States and foreign copyright laws, all without any requirement of attribution of authorship; the right to copyright such works and any adaptation or version thereof in the United States or elsewhere in Moffitt's name or otherwise for its sole benefit and to secure renewals or extensions of such copyrights in Moffitt's name or otherwise.

In the event this assignment of Intellectual Property is found to be invalid, voidable, or otherwise unenforceable, or I am despite that assignment deemed to still own or have any rights in and to Moffitt Intellectual Property, I hereby grant to Moffitt an irrevocable, perpetual, nonexclusive, transferrable, sublicenseable, worldwide, royalty-free right and license to use, reproduce, publish, display, improve, enhance, exploit, commercialize and perform the Moffitt Intellectual Property and to prepare derivative or collective works based on the Moffitt Intellectual Property.

I agree as to all such Moffitt Intellectual Property to promptly execute all documents and perform all lawful acts reasonably required to assist Moffitt and its nominees to obtain and enforce Patent Rights, copyrights, or other rights on such Moffitt Intellectual Property. Moffitt agrees to reimburse me for any reasonable expense I am required to and actually do incur at Moffitt's request in fulfilling such obligations. If Moffitt is unable to secure my signature to any document reasonably desired to apply for or enforce any rights to and protections of Moffitt Intellectual Property, I hereby irrevocably designate and appoint Moffitt and its duly authorized officers and agents, as my limited agents and attorneys-in-fact solely for the purpose of executing such documents.

#### 4. CONFIDENTIAL INFORMATION AND RETURN OF MATERIALS

I shall not use or disclose to any person or entity other than Moffitt at any time, either during or after my affiliation or engagement with Moffitt, any Confidential Information of Moffitt I may learn, observe or possess during the course of my affiliation or engagement with Moffitt, except as may be necessary in performing my duties to Moffitt, including those duties specified in this Agreement.

Moffitt hereby provides notice to me pursuant to 18 U.S.C. § 1833 that an individual may not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that: (a) is made (i) in confidence to a federal, state or local government official, either directly or indirectly, or to any attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (b) is made in a complaint or other document that is filed under seal in a lawsuit or other proceeding. Further, an individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the employer's trade secrets to the attorney and use the trade secret information in the court proceeding if the individual: (a) files any document containing the trade secret under seal; and (b) does not disclose the trade secret, except pursuant to court order.

All Confidential Information, and any other documents, records, apparatus, equipment, materials, data, data sets, and electronic records of any kind made available to me by Moffitt or produced by myself or others in connection with my affiliation or engagement with Moffitt shall remain the sole property of Moffitt and shall be returned to Moffitt immediately when requested and at the latest upon termination of my affiliation or engagement with Moffitt.

#### 5. MISCELLANEOUS PROVISIONS

A. I understand that any use of Moffitt's name by me must be approved in advance by Moffitt, except for the use of Moffitt's name in connection with scientific presentations and publications according to standard practice.

B. The assignments in Section 3 shall survive termination of this Agreement, and are irrevocable and in perpetuity, or, with respect to copyrights, are for the longest period otherwise permitted by law. My obligations under this Agreement shall survive any termination of my affiliation or engagement with Moffitt.

C. This Agreement may not be modified or terminated except by an instrument in writing signed by an authorized representative of Moffitt. If any provision of this Agreement is held unenforceable, then such provision will be modified to reflect the parties' intention. All remaining provisions of this Agreement shall remain in full force and effect. By initialing, signing, or otherwise acknowledging this Agreement either electronically or in writing, I acknowledge that I have read and understand this Agreement and that it constitutes a binding contract between me and Moffitt. This Agreement shall be binding upon the parties' heirs, executors, administrators, successors, assigns, and other legal representatives.

D. Following a final determination of any claim to an ownership interest in intellectual property submitted by me to Moffitt for review pursuant to the Moffitt Intellectual Property Policy (Policy

#ADM-1007), any remaining controversy or claims arising between the parties shall first be subject to nonbinding mediation as a mandatory condition precedent to filing a lawsuit or other proceeding. The parties shall mutually agree on a mediator within thirty days of a written demand for mediation. Each party shall bear half of the mediator's fees and expenses and shall pay all of its own attorney's fees and expenses related to the mediation. If for any reason the controversy is not resolved within sixty days of the written mediation demand, then either party may initiate a lawsuit or other proceeding.

E. I understand that this Agreement shall be governed by Florida law. Any lawsuit or proceeding between the parties shall be subject to the mandatory, exclusive jurisdiction of state and federal courts in Hillsborough County. The prevailing party in any litigation between the Parties will be entitled to recover all expenses of any nature incurred in any way relating to the litigation whether incurred presuit, on appeal, or post-judgment, including attorney and expert fees. I acknowledge that my violation of this Agreement could cause material and irrevocable damage to Moffitt not fully compensable by money damages. If I breach this Agreement, Moffitt will have the right to seek injunctive relief. I waive any requirement for Moffitt to post a bond or other security in connection with an action seeking injunctive relief. I also waive any right to challenge the validity or enforceability of any Moffitt Intellectual Property directly or indirectly through a third party.

F. I understand that this Agreement is made in furtherance of and I am governed by applicable provisions of Moffitt's Intellectual Property Policy concerning patents, copyrights and other intellectual property rights. I have received, read, and understood a copy of Moffitt's Intellectual Property Policy. I also understand and acknowledge that Moffitt has the right to change the Policy from time to time, in its sole discretion, and the Policy in effect at the time an invention is disclosed to the Innovation Office shall govern the determination of rights in and to that invention.