

CONSERVATION X LABS – MICROFIBER INNOVATION CHALLENGE

NON-DISCLOSURE AGREEMENT

This Agreement (the “Agreement”) is made by and between the Reviewer (as named and signed on the final page) and Conservation X Labs (CXL), for the benefit of innovators participating in the CXL-run Microfiber Innovation Challenge (“Beneficiaries”) (each hereafter referred collectively as the “Parties”).

WHEREAS the Reviewer and Conservation X Labs have entered into an agreement to support the Microfiber Innovation Challenge (the “Program”); and

WHEREAS the Program has been established for the benefit of Conservation Innovators (“Beneficiary” or collectively “Beneficiaries”) participating in the Microfiber Innovation Challenge; and

WHEREAS, innovators will submit project applications to this Program and the Reviewer has agreed to review project applications submitted for this Program; and

WHEREAS, in the course of such reviews, the project applications and their content shall be treated by the Parties as proprietary and/or confidential information (hereinafter “Proprietary and/or Confidential Information”), whether or not a statement is included that specifically indicates its proprietary and/or confidential nature;

NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:

A. Confidentiality

1. “Proprietary and/or Confidential Information” means (a) any Information disclosed by or on behalf of the Disclosing Party to the Receiving Party, which the Disclosing Party: (i) considers proprietary and confidential, (ii) has not voluntarily disclosed or made available to the general public or (iii) under the circumstances, appear to a reasonable person to be confidential or proprietary, including, without limitation, any business information, technical information, inventions, designs, prototypes, ideas, concepts, know how, plans, strategies, customer lists, markets, developments, or any other similar information relating to the current and/or future business and operations of the Disclosing Party; (b) any information, material or data provided by a third party in connection with the Proposed Relationship; (c) any analyses, compilations, studies, summaries, extracts or other documentation prepared by the Receiving Party in any manner or in any medium based on or related to the Confidential Information disclosed by the Disclosing Party; and (d) all terms of the Proposed Relationship including, without limitation, all discussions, negotiations and instructions relating thereto. The parties agree that this Agreement also relates to Information that may have been disclosed by the parties prior hereto with regard to or in connection with the Proposed Relationship. In addition, the term “Confidential Information” shall include any Information of Disclosing Party’s subsidiaries, parents and/or affiliates (collectively, “Affiliates”) disclosed by Disclosing Party or the subject Affiliate pursuant to this Agreement.

2. "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that: (i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.
3. Parties acknowledge that propriety information is the exclusive property of the disclosing party. The Reviewer shall protect the Proprietary and/or Confidential Information as confidential information and, except with the prior written consent of CXL or the Beneficiaries, shall not disclose such Proprietary and/or Confidential Information to any third party, including any other individual, corporation or firm, for a period of five (5) years from the date of this Agreement. Except as expressly provided herein, under no circumstances shall the Parties distribute or otherwise disclose the Proprietary and/or Confidential Information without the prior written consent of the Disclosing Party.
4. The duty to maintain the confidentiality of trade secret information remains so long as that trade secret information remains a trade secret.
5. The Reviewer that receives Proprietary and/or Confidential Information shall use such Proprietary and/or Confidential Information solely for the purpose of assessing and discussing the Program applications with CXL staff only and is restricted from sharing with any external party. Neither Party shall make any other use of the Proprietary and/or Confidential Information whether for the benefit of the Parties or for the benefit of any third party.
6. The Reviewer may not use any Proprietary and/or Confidential Information received through review of the Beneficiaries' application in any future products developed by the Reviewer, or any third party.
7. Reviewers shall protect the Proprietary and/or Confidential Information with at least the same degree of care such Party uses to protect its own Proprietary and/or Confidential Information, but in any event not less than reasonable care under the circumstances.
8. Reviewers shall immediately advise Conservation X Labs and the respective Beneficiary in writing if such Party becomes aware of any misappropriation or misuse by any person of the Proprietary and/or Confidential Information.
9. The foregoing restrictions shall not apply to information contained in the Proprietary and/or Confidential Information that the Reviewer can demonstrate was:
 - (a) was in the public domain at or subsequent to the time such Confidential Information was communicated to Reviewer by CXL, such as through printed or electronic publication; or
 - (b) was rightfully in Reviewer's possession free of any obligation of confidence at or subsequent to the time such Confidential Information was communicated to Reviewer by CXL; or
 - (c) was developed by Reviewer independently of and without reference to any Confidential Information communicated to Reviewer by CXL; or

(d) can be shown by competent evidence (i) to have been obtained from a third party prior to the time of receipt of such information under this Agreement and (ii) such information was not obtained by such third party directly or indirectly from the Disclosing Party under circumstances that made such information subject to any confidentiality restrictions.

10. A disclosure of any Confidential Information by Reviewer (a) in response to a valid order by a court or other governmental body or (b) as otherwise required by law shall not be considered to be a breach of this Agreement or a waiver of confidentiality for other purposes; provided, however, that Reviewer shall provide prompt prior written notice thereof to CXL to enable CXL to seek a protective order or otherwise prevent such disclosure.

11. Any documents or materials that are furnished by CXL or the Beneficiaries, and all other Proprietary and/or Confidential Information provided through the Microfiber Innovation Challenge, in whatever form, including notes, memoranda, and other documents or files prepared by the CXL's officers, employees, or agents, including all copies of such material, shall be promptly returned by the Reviewers to CXL upon written request by CXL or the Beneficiary, or destroyed and/or erased in full, for any reason at any time in the process.

B. No Licenses or Warranties

1. No license of any intellectual property (whether patents, trademarks, trade secrets, or of any other type) to the Reviewers are granted or implied by conveying Proprietary and/or Confidential Information by either Conservation X Labs or the Beneficiaries, and none of the information transmitted or exchanged shall constitute any representation, warranty, assurance, guaranty or inducement with respect to the infringement of patents or other rights of others.

C. Miscellaneous

1. Entire Agreement. This Agreement contains the entire understanding as to mutual non-disclosure obligations between the Parties and supersedes all prior written and oral understandings related to the subject hereof. This Agreement may not be modified except by written amendment signed by all parties. Only written amendments, made with the clear intent to amend this Agreement, and which all parties have signed, acknowledging that intent, are enforceable.

3. No Waiver. No waiver of any terms or conditions of this Agreement shall be deemed to be a waiver of any subsequent breach of any term or condition hereof.

4. Severability. The provisions of this Agreement are to be deemed severable and if any part of this Agreement shall be held unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall nevertheless remain in full force and effect.

5. Jurisdiction and Arbitration. This Agreement shall be governed by the laws of the District of Columbia. The parties hereby agree that, in the event of any dispute, controversy or claim between the parties relating to this Agreement, the parties shall first seek to resolve the dispute through informal discussions. If those discussions fail, the parties agree to arbitration before one (1) arbitrator in Washington, D.C., in accordance with the Commercial Arbitration Rules of the American Arbitration Association in effect at the time of commencement of the arbitration, and the parties agree that

judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

6. Legal fees. The prevailing party in any legal dispute involving this agreement will receive attorney fees and other legal costs associated with enforcement of agreement.

7. No Agency. This Agreement does not create a partnership, joint venture, or similar relationship.

8. No evidence beyond this Agreement itself may be used to interpret its terms.

10. Notice provided under the agreement shall be sent by email to legal@conservationxlabs.org.

11. To the extent there is conflict between two provisions, or a provision is susceptible to multiple interpretations, the interpretation that is more protective of confidential and trade secret information governs.

12. Non-Assignability. The duties and obligations of this agreement cannot be assigned to a third party. The signatory assumes the liabilities from any third party to which it has disclosed confidential information.

IN WITNESS WHEREOF, the Reviewer, and Conservation X Labs, acting for the benefit of the Beneficiaries, agree to the terms of this agreement, for 5 years, from the date and year as below written. The agreement is executed when both parties have signed.

AGREED AND ACCEPTED:

AGREED AND ACCEPTED:

(signature)

(signature)

As Reviewer

As Conservation X Labs

Name:

Name: Barbara Martinez

Organization:

Organization: Conservation X Labs

Date:

Date: