

CONFIDENTIAL DISCLOSURE AGREEMENT

This Agreement effective as of the last date of execution set forth by the signatures below, is made by and between, FLORIDA ATLANTIC UNIVERSITY BOARD OF TRUSTEES, at 777 Glades Road, Boca Raton, Florida 33431 ("FAU") and MBARI, a CA corporation located at 7700 Sandholdt Road, Moss Landing CA, ("CORPORATION").

WHEREAS FAU possesses certain ideas and information relating to *Inductive Power Transfer system for AUV Docking Station* that is confidential and proprietary to FAU and is provided to CORPORATION in writing and marked as confidential ("Confidential Information").

WHEREAS, CORPORATION possesses information relating to *RF Data Transfer System* that is confidential and proprietary to CORPORATION; and,

WHEREAS, FAU and CORPORATION desire to disclose such information to each other for the purposes described herein.

NOW THEREFORE, in consideration for the mutual undertakings of FAU and CORPORATION under this Agreement, the parties agree as follows:

1. Purpose. This Agreement is made in order for each party (in such capacity, such party shall hereinafter be referred to as the "Disclosing Party") to disclose to the other (in such capacity, such party shall hereinafter be referred to as the "Receiving Party"), during the term of this Agreement, such technical and business information as the Disclosing Party may elect to disclose, so that the Receiving Party may review and use the same solely for the purpose of considering the merits of a potential collaborative arrangement with the Disclosing Party (the "Opportunity for Collaboration"), under terms that will protect the confidential and proprietary nature of such information.

2. Confidential Information. Any and all business and technical information, including without limitation third party information, that the Disclosing Party discloses to the Receiving Party shall be deemed "Confidential Information" that is protected pursuant to this Agreement if:

- (a) with respect to information disclosed in writing, the Disclosing Party marks it on its face as confidential at the time it is disclosed; or,
- (b) with respect to information disclosed orally or visually, the Disclosing Party identifies it as confidential at the time of disclosure and then reduces it to writing, marks it as confidential, and delivers it to the Receiving Party within thirty (30) days of the non-written disclosure; or,
- (c) with respect to information disclosed by electronic transmission (e.g., facsimile, electronic mail, etc.) in either human readable form or machine readable form, the Disclosing Party marks it electronically as confidential within the electronic transmission, such marking to be displayed in human readable form along with any display of the Confidential Information; or,

- (d) with respect to information disclosed by delivery of an electronic storage medium or memory device, the Disclosing Party marks the storage medium or memory device itself as containing Confidential Information and electronically marks the stored information as confidential, such marking to be displayed in human readable form along with any display of the Confidential Information; or
- (e) with respect to any information disclosed pursuant to subparagraphs (a), (c) or (d) of this Paragraph 2 without a mark indicating that it is Confidential Information, the Disclosing Party describes and identifies such information as Confidential Information in a writing delivered to and received by the Receiving Party within thirty (30) days of such disclosure and the Receiving Party has not disclosed it in the interim

Disclosing Party shall mark the information as confidential by an appropriate legend, stamp, or other marking. Information not in fact confidential to Disclosing Party (or to another for which the Disclosing Party is acting) shall not be so claimed or marked, and the parties shall endeavor to keep to a minimum the amount of Confidential Information disclosed hereunder.

3. Covered Parties. For purpose of this Agreement, the definitions of the "Disclosing Party" and the "Receiving Part" shall be deemed to include any parent company, subsidiary, affiliate of, or entity controlled by, controlling or under common control of the Disclosing Party or the Receiving Party, as the case may be

4. Obligations of Receiving Party

- (a) No Use. The Receiving Party agrees not to use the Confidential Information in any way, or to manufacture or test any product embodying Confidential Information, except for the purpose set forth above.
- (b) No Disclosure. The Receiving Party agrees to use its best efforts to prevent and protect the Confidential Information, or any part thereof, from disclosure to any person other than the Receiving Party's employees having a need for disclosure in connection with the Receiving Party's authorized use of the Confidential Information.
- (c) Protection of Secrecy. The Receiving Party agrees to take all steps reasonably within its control to protect the secrecy of the Confidential Information, and to prevent the Confidential Information from falling into the public domain or into the possession of unauthorized persons.
- (d) No Duplication. The Receiving Party shall not duplicate confidential Information furnished in tangible form except for purposes of this Agreement.
- (e) Return of Information. Upon the request of the Disclosing Party, the Receiving Party shall return or destroy all Confidential Information received in written or tangible form, including copies, or reproductions or other media containing such Confidential Information, within ten (10) days of such request.

5. Limits on Confidential Information. The obligations and restrictions imposed by this Agreement will not apply to any information that:

- (a) The Receiving Party can demonstrate was already known to the Receiving Party prior to the disclosure by the Disclosing Party; or,
- (b) has become publicly known through no wrongful act of the Receiving Party; or,
- (c) was received by the Receiving Party without breach of this Agreement from a third party without restriction as to the use and disclosure of the information; or,
- (d) was independently developed by the Receiving Party without use of the Confidential Information; or
- (e) was ordered to be publicly released by the requirement of a government agency. In this regard, the Parties understand that FAU is subject to Florida's Public Records Act, Chapter 119, Florida Statutes, and that section 1004.22, Florida Statutes, provides limited protection of documents received by FAU.

6. Ownership of Confidential Information. The Receiving Party agrees that all Confidential Information shall remain the property of the Disclosing Party, and that the Disclosing Party may use such Confidential Information for any purpose without obligation to the Receiving Party. Nothing contained herein shall be construed as granting or implying any transfer of rights to Receiving Party in the Confidential Information, or any patents or other intellectual property protecting or relating to the Confidential Information.

7. Contact Person. The parties agree to appoint the following contact persons to control dissemination of the Confidential Information:

For FAU
Dr. Edgar An
Associate Professor
Florida Atlantic University
101 North Beach Road
Dania Beach, Florida 33004
(954) 924-7231
ean@oe.fau.edu

For CORPORATION
Brett Hobson
AUV Docking PM
7700 Sandholdt Road
Moss Landing, CA 95039
(831) 775-1941
(831) 775-1641
hobson@mbari.org

Each Contact Person shall maintain a list of all individuals who receive the Confidential Information, and such list shall be made available to the other party upon reasonable request.

8. Term and Termination. The obligations of this Agreement shall be continuing for five (5) years from the effective date of this Agreement.

9. Confidentiality of Agreement. Without the prior consent of the other party, neither party will disclose to any third person the existence or purpose of this Agreement, the terms or conditions hereof, or the fact that discussions are taking place regarding the Opportunity for

Collaboration and that Confidential Information is being shared, except as may be required by law, regulation or court or agency order or demand.

10. No Assignment. CORPORATION may not assign this Agreement or any interest herein without FAU's express prior written consent.

11. Survival of Rights and Obligations. This Agreement shall be binding upon, inure to the benefit of, and be enforceable by (a) FAU, its successors, and assigns; and (b) CORPORATION, its successors and assigns.

12. Governing Law. The laws of the State of Florida shall govern this Agreement. In the event of litigation arising out of this Agreement, venue shall be in Palm Beach County, Florida.

13. Severability. If a court of competent jurisdiction holds any term of this Agreement to be invalid or unenforceable, all of the remaining terms will remain in full force and effect as if such invalid or unenforceable term had never been included.

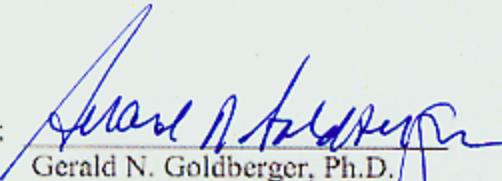
14. Entire Agreement / Amendment. This Agreement constitutes the entire Agreement between the parties with respect to the subject matter of this Agreement. This Agreement terminates and supersedes all prior understandings or agreements on the subject matter hereof. This Agreement may be modified only in writing that is duly executed by both parties.

15. Future Intentions. Should both parties desire to collaborate on further development of the Inductive Power Transfer System or RF Data Transfer System for an AUV Docking Station, they will seek a mutually satisfactory agreement for such collaboration.

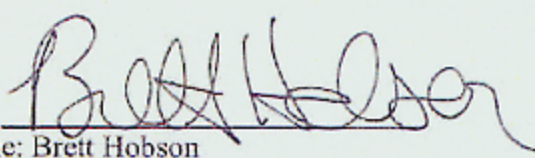
IN WITNESS WHEREOF, the parties have caused their duly authorized representatives to sign this Agreement as of the dates set forth below.

FLORIDA ATLANTIC UNIVERSITY

CORPORATION

By: 
Gerald N. Goldberger, Ph.D.
Assistant Vice President for Research

Date 9/6/05

By: 
Name: Brett Hobson
Title: Project Manager
Date 22 August, 2005