

**OKLAHOMA STATE UNIVERSITY - CENTER FOR HEALTH SCIENCES
/COMPANY
MUTUAL CONFIDENTIALITY AGREEMENT**

THIS AGREEMENT is made as of _____, 20____ (**"Effective Date"**), by and between _____ (hereinafter referred to as "**Company**"), a corporation duly organized under the laws of the State of _____, and having its principal place of business at _____, and Oklahoma State University Center for Health Sciences (hereinafter referred to as "**OSU-CHS**"), an institute of higher education of the State of Oklahoma, having its principal place of business at Stillwater, Oklahoma, 74078.

A. The parties to this Agreement have developed or acquired technical and other proprietary information relating to "_____" (hereinafter referred to as "**Confidential Information**") and the parties wish to ensure that the information which may be disclosed to each other is treated in strictest confidence.

B. Each of the parties desires to receive such **Confidential Information** from the other for the limited purpose of evaluating the suitability of entering into a business relationship or sponsorship of research, and each party recognizes the importance of safeguarding such **Confidential Information** against unauthorized use or disclosure.

NOW, THEREFORE, in consideration of the disclosures made hereunder, and covenants entered into herewith, **Company** and **OSU-CHS** agree as follows.

Company and **OSU-CHS** are willing to disclose such information to each other under the following conditions:

1. Each party's **Confidential Information** shall be supplied to the other party in written, graphic, photographic, recorded, prototype, sample, or in any other tangible form and shall be identified as being disclosed under this Agreement. Any **Confidential Information** that is disclosed in oral form shall be identified as such at the time of disclosure and confirmed in written summary form within thirty (30) days after its disclosure to the receiving party.

2. As used in this Agreement, "**Confidential Information**" shall mean all data, samples, technical and economic information, commercialization, clinical and research strategies, trade secrets and know-how disclosed or provided by one party to the other in accordance with Paragraph 1, except such information which (a) can be shown by the receiving party to have been in its possession prior to disclosure to it by the other party; (b) at the time of disclosure hereunder is, or thereafter, becomes, through no fault of the

receiving party, part of the public domain by publication or otherwise; (c) is furnished to the receiving party by a third party after the time of disclosure hereunder as a matter of right and without restriction on its disclosure; (d) is independently developed by employees or agents of the receiving party who have not had access, direct or indirect, to the **Confidential Information** received from the other; (e) is furnished to others by the disclosing party without restriction on disclosure; (f) is disclosed to a third party with the written approval of the disclosing party; or (g) is required by law to be disclosed.

3. Each party agrees to limit its use of any **Confidential Information** received from the other party to the evaluation of the suitability of entering into a business relationship, for negotiating in good faith the terms and conditions of a research or license agreement between them, or for use in conducting research under a research agreement between the parties and for no other purpose unless the parties shall otherwise agree in writing. Each party agrees to not make, use, sell, offer for sale, or have made, any product or service based upon the **Confidential Information** provided to it without first executing a licensing agreement with the other party. Each party further agrees not to reverse engineer or disassemble the technology disclosed to it.

4. Each party agrees to maintain in confidence and not to disclose any **Confidential Information** received from the other party other than to employees or agents who have a need to know the **Confidential Information** for the purpose described in Paragraph 3.

5. Each party agrees not to make any copies in whole or in part of **Confidential Information** or analyze samples of tangible materials included therein, which are not available on the open market or from other sources, for any purposes other than the purposes set forth in Paragraph 3, and will, upon request by the disclosing party, return all tangible materials furnished hereunder and any notes or memoranda of conversations relating thereto, including any copies thereof.

6. The party receiving **Confidential Information** under this Agreement shall be held to the same standard of care in protecting such information as the receiving party normally employs to preserve and safeguard its own **Confidential Information** of similar kind.

7. The parties acknowledge that performance of this Agreement is subject to compliance with applicable United States laws, regulations, and orders, including those that may relate to the export of technical data and equipment, such as International Traffic in Arms Regulations ("ITAR") and/or Export Administration Act/Regulations ("EAR"), as amended, and each party agrees to comply with all such laws, regulations and orders. Neither party will export, directly or indirectly, any Confidential Information received hereunder without first obtaining written permission from the disclosing party and any required export license or government approval. In the event any Confidential Information is export-controlled, such information (except for that which is categorized as EAR 99) shall not be disclosed to the other party hereunder unless, after having been given written

notice containing the nature of the export-controlled information, the other party consents in writing to receive such information.

8. The term of this Agreement shall be for three (3) years from the later date of: (a) the Effective Date of this Agreement; or (b) termination of any Sponsored Research Agreement between the parties arising from this Agreement; or (c) termination of any licensing agreement between the parties arising from this Agreement, including, without limitation, a licensing agreement arising from the results of work conducted under a Sponsored Research Agreement between the parties arising from this Agreement.

9. No right or license under any patent application, patent or other proprietary right is granted hereunder by implication or otherwise.

10. This Agreement may not be changed or modified or released, discharged, abandoned, or otherwise terminated in whole or in part, except by an instrument in writing signed by a duly authorized officer of each of **Company** and **OSU-CHS**.

11. The rights and obligations under this Agreement shall be personal to the parties and the same shall not be sold, assigned, or transferred, either voluntarily or by operation of law, without the express written consent of the non-assigning party. This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and permitted assigns.

12. This Agreement shall be construed under the laws of the State of Oklahoma, notwithstanding any conflict of law provision to the contrary. The parties agree that any claim arising out of this Agreement asserted in any legal proceeding by one party against the other shall be commenced and maintained in Payne County District Court of the State of Oklahoma, or in the United States District Court for the Western District of the State of Oklahoma. Each of the parties submits to the personal jurisdiction of such courts, and in connection with such litigation, waives any objection to venue in such courts and any claim that such forum is an inconvenient forum.

(signature page to follow)

IN WITNESS WHEREOF, the authorized representatives of the parties have executed this Agreement on the date indicated by their signatures.

OKLAHOMA STATE UNIVERSITY - CENTER FOR HEALTH SCIENCES

By: _____
Dr. Charles Amlaner, D.Phil. (Oxf)
Vice President for Research and Chief Research Officer

Date: _____

COMPANY

By: _____
(Insert Name)
(Insert Title)

Date: _____

Acknowledgment of **Confidentiality Agreement** terms and conditions by certain OSU-CHS faculty and/or staff:

Name: _____ Date: _____

Title: _____

Name: _____ Date: _____

Title: _____

Name: _____ Date: _____

Title: _____

Name: _____ Date: _____

Title: _____