

CONFIDENTIAL DISCLOSURE AGREEMENT

This Confidential Disclosure Agreement (“Agreement”) is made and entered into as of [DATE] (“Effective Date”) by and between [COMPANY NAME] having offices at [COMPANY ADDRESS] (“Company”), and the Regents of the University of California, on behalf of its San Francisco Campus, with an address at 3333 California St, S-11, San Francisco, CA 94143-1209 (“UCSF”), either a “party” in the singular or the “parties” in the plural, for the purpose of protecting certain confidential information disclosed by the parties subject to this Agreement. A party receiving confidential information shall be referred to as “Recipient” and a party disclosing confidential information shall be referred to as “Discloser.”

WHEREAS, Company and UCSF intend to enter into discussions of mutual interest concerning [DESCRIBE NATURE OF DISCUSSIONS] (“Proposed Transaction”); and

WHEREAS, the Company and UCSF may disclose and receive non-public, proprietary information in the course of discussing such Proposed Transaction.

NOW THEREFORE, Company and UCSF hereby agree to the following terms and conditions in this Agreement:

1. CONFIDENTIALITY

“Confidential Information” shall mean proprietary and confidential information communicated by one party (“Discloser”) to the other (“Recipient”) in writing, in the course of discussing the Proposed Transaction, and marked as “Confidential” or, in the case of oral disclosures, identified at the time of such oral disclosure as confidential, and reduced to writing and identified as “Confidential” within thirty (30) days of disclosure. Confidential Information will remain the property of the Discloser, and disclosure of such Confidential Information shall not be deemed to constitute a grant, by implication or otherwise, of a right or license to the Confidential Information.

The Recipient will use the Confidential Information only in the evaluation of the Proposed Transaction. The Recipient shall use reasonable efforts not to disclose the Discloser’s Confidential Information to anyone except those who have a need to know such Confidential Information for the purposes of evaluating the Proposed Transaction and are obligated to maintain the confidentiality of such Confidential Information. Company, however, acknowledges and accepts that UCSF as a public, non-profit, educational institution has no mechanisms to guarantee the confidentiality of information. Notwithstanding the foregoing, Recipient shall be relieved of its obligations under this Agreement only to the extent that the Recipient is required to disclose Confidential Information by law, court order, or judicial decree; in which case Recipient shall promptly notify Discloser of such requirement in order to allow Discloser to take whatever action it deems necessary to protect its Confidential Information.

The Recipient shall have no obligations under this paragraph with respect to information which:

- (a) was known to it prior to the Recipient hereunder, as demonstrated by written records;
- (b) at the time of disclosure was generally available to public, or which after disclosure becomes generally available to the public through no fault attributable to the Recipient;
- (c) is hereafter made available to receiving party for use or disclosure by Discloser from any third party having a right to do so; or
- (d) is independently developed by Recipient without reference to the Confidential Information.

2. NO PUBLICITY

Neither party will use the name of the other party or its employees in any advertisement, press release, or other publicity without prior written approval of the other party. Company understands that the California Education Code section 92000 provides that the name “University of California” is the property of the State and that no person shall use that name without permission of The Regents of the University of California. Such permission may be granted by the Chancellor or her designee.

3. NO OBLIGATION

The parties agree that unless and until a definitive agreement regarding the Proposed Transaction has been executed and delivered by Company and UCSF ("Definitive Agreement"), neither party will be under any legal obligation of any kind whatsoever with respect to the Proposed Transaction by virtue of this Agreement. In the event the parties decide to enter into the Proposed Transaction, the terms and conditions of the Definitive Agreement shall supersede the terms of this Agreement and such Definitive Agreement shall govern with regard to any Confidential Information disclosed under the Definitive Agreement.

4. TERM AND TERMINATION

This Agreement shall remain in effect for one (1) year following the Effective Date of this Agreement. Either party may terminate this Agreement for any reason by providing thirty (30) days written notice of termination to the other party. Notwithstanding termination of this Agreement, Recipient shall hold Discloser's Confidential Information in confidence for a period of five (5) years from the date of disclosure.

5. RETURN OF CONFIDENTIAL INFORMATION

Upon request, Recipient shall promptly return to Discloser all of Discloser's Confidential Information and all copies thereof, or, at Recipient's election, destroy all such Confidential Information (in which instance Recipient shall certify that such destruction has been completed). Subject to the restrictions of this Agreement, Recipient may, if Recipient so elects, retain one (1) copy of Discloser's Confidential Information for archival purposes only.

6. MISCELLANEOUS

- (a) Discloser certifies that it has the right to make the disclosures under this Agreement. NO OTHER WARRANTIES ARE MADE BY EITHER PARTY UNDER THIS AGREEMENT. ANY INFORMATION EXCHANGED UNDER THIS AGREEMENT IS PROVIDED "AS IS."
- (b) The parties agree to comply with all laws, regulations and rules applicable to the Confidential Information.
- (c) This Agreement, together with any attachments hereto, represents the entire understanding of the parties and supersedes any prior or contemporaneous agreements or understandings between UCSF and Company with respect to the subject matter hereof. Furthermore, no modification, supplement, or new agreement may be executed, prior to the expiration of this Agreement, between UCSF and Company with respect to the subject matter hereof, without formal written amendment to this Agreement, signed by all parties.
- (d) Neither party may assign this Agreement or any interest herein, without the other party's express prior written consent.
- (e) This Agreement shall be governed by the laws of the State of California. Any claim or controversy arising out of or related to this Agreement or any breach hereof shall be submitted to a court of applicable jurisdiction in San Francisco, California, and each party hereby consents to the jurisdiction and venue of such court. Recipient agrees that in the event of any breach or threatened breach by Recipient, Discloser may obtain, in addition to any other legal remedies which may be available, such equitable relief as may be necessary to protect Discloser against any such breach or threatened breach.
- (f) This Agreement may be executed in one or more counterparts. Delivery of an executed counterpart of this Agreement by facsimile or a .pdf data file or other scanned executed counterpart by email shall be equally as effective as delivery of a manually executed counterpart of this Agreement. Each duplicate and counterpart shall be equally admissible in evidence, and each shall fully bind each party who has executed it. The parties to this document agree that a copy of the original signature (including an electronic copy) may be used for any and all purposes for which the original signature

may have been used. The parties agree they will have no rights to challenge the use or authenticity of this document based solely on the absence of an original signature.

IN WITNESS WHEREOF, the undersigned have entered into this Agreement as of the date first set forth above.

Agreed and Accepted By:

[COMPANY NAME] ("COMPANY"):

By: _____

Name: _____

Title: _____

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA ("UCSF"):

By: _____

Name: _____

Title: _____