**NON-DISCLOSURE AND NON-USE AGREEMENT**

**Effective as of**

between

**Centre Hospitalier Universitaire Vaudois - CHUV,** Rue du Bugnon 21, CH-1011 Lausanne, Switzerland, represented for the purpose of this Agreement by      .

(hereinafter referred to as "CHUV"),

and

**,** whose registered office is at      , represented by       for its own account and on behalf of its “Affiliates”.

(hereinafter referred to as "COMPANY").

Whereby the parties to this Agreement are also hereinafter collectively referred to as “Parties” or individually as “Party”.

For the purpose of this Agreement an "Affiliate" of a Party shall mean any entity which now or hereafter, directly or indirectly, controls, is controlled by, or is under common control with, that Party, where “control” means ownership of at least fifty per cent (50%) of the outstanding shares or securities (representing the right to vote for the election of directors or other managing authority).

\* \* \* \* \* \* \* \* \*

1. **Purpose**: The purpose of disclosing Confidential Information is to facilitate discussions about, and the evaluation of, a potential and/or an on-going business relationship between the Parties in the field of (“Purpose”). Nothing in this Agreement or its operation shall obligate either Party to enter into the business relationship contemplated by the Purpose.

2. **Confidential Information**: “Confidential Information” means without limitation trade secret or proprietary information of a commercial, scientific and/or technical nature including any sample and/or material that a Party to this Agreement (“Discloser”) provides to the other Party (“Recipient”) within the Purpose. Confidential Information shall include information which:

1. is clearly marked “confidential”; or
2. if disclosed orally or visually, was at the time of disclosure characterized as “confidential”.

Notwithstanding the foregoing, the failure of the Discloser to designate information as “confidential“ shall not constitute a designation of non-confidentiality when the confidential nature is apparent from the content and subject matter, all of which a reasonable person would conclude is proprietary and confidential in nature.

3. Property of Discloser: All right, title, and interest in and to the Confidential Information shall be and remain vested in Discloser. Nothing in this Agreement shall grant the Recipient any license or right of any kind with respect to the Confidential Information other than to review and evaluate such Confidential Information solely for the Purpose. All Confidential Information is provided on an “AS IS” basis, and all representations and warranties, express or implied, are hereby disclaimed.

4. Recipient's Obligations:

**(A)** Recipient shall:

(i) use commercially reasonable efforts to safeguard the Confidential Information, and to prevent any unauthorized access, reproduction, disclosure, and/or use of any of the Confidential Information other than for the Purpose and then only in strict compliance with the provisions hereof and subject to any applicable laws, e.g., export control laws governing technical data;

(ii) disclose the Confidential Information only to its officers, directors, employees, consultants, and advisors (“Authorized Representatives”) who need to know such Confidential Information in order to carry out the Purpose and, who are aware of the obligations of confidentiality relating to the Confidential Information and are legally obliged not to disclose the same to any third party. Recipient shall be liable to Discloser for breaches of this Agreement by Recipient’s Authorized Representatives;

(iii) not remove any copyright notice, trademark notice, and/or other proprietary legend or indication of confidentiality set forth on or contained in any of the Confidential Information;

(iv) not disassemble samples and prototypes or decompile software, or otherwise attempt to reverse engineer the design and function of any of the Confidential Information, nor will it develop, manufacture, produce, and/or distribute any software or hardware product(s) derived from or which otherwise use any of the Confidential Information, without entering into a separate license agreement with Discloser;

(v) promptly notify Discloser in writing of any unauthorized use or disclosure of the Confidential Information, including a detailed description of the circumstances of the disclosure and the Parties involved; and

(vi) in the event that Recipient is legally required to disclose any portion of any Confidential Information received from Discloser, Recipient may do so, provided Recipient shall immediately notify Discloser in writing and each Party shall provide the other Party with reasonable cooperation and assistance in obtaining a suitable protective order, and in taking any other steps reasonably necessary, to preserve the confidentiality of any such Confidential Information.

**(B)** Notwithstanding Section 4(A) above, Recipient has no obligation to maintain the confidentiality of any Confidential Information which: (i) Recipient can demonstrate was known by Recipient prior to its disclosure by Discloser; (ii) properly came into the possession of Recipient from a third party which was not under any obligation to maintain the confidentiality of such information; (iii) has become part of the public domain through no breach of this Agreement by Recipient; or (iv) Recipient can demonstrate was independently developed by or for Recipient without the use of Confidential Information.

Furthermore, Recipient acknowledges and agrees that all oral, visual and written communications and information relating to the Purpose received from the Discloser or on its behalf prior to the Effective Date of this Agreement shall deemed to have been received under an obligation of confidentiality from the time of disclosure/viewing/receipt under the terms set out in this Agreement and forms a part of Confidential Information.

5. Return of Documents: Within ten (10) business days of Discloser’s written request, and at Discloser’s option, Recipient will either return to Discloser all tangible Confidential Information, or will provide Discloser with written certification that all Confidential Information of Discloser, has been destroyed, provided, however, that Recipient shall have the right to keep one copy of such Confidential Information in its archival only for the purpose to observe the obligations of Recipient hereunder. Any retained Confidential Information shall continue to be subject to the confidentiality and non-use terms of this Agreement.

6. Term: This Agreement commences on the Effective Date and shall continue for a period of two (2) years unless earlier terminated as provided below. Either Party may terminate this Agreement upon ten (10) days written notice; however, any termination or expiry of this Agreement shall not relieve Recipient of its confidentiality obligation with respect to Confidential Information of Discloser disclosed prior to the effective date of termination or expiration. Recipient’s duty to protect the Confidential Information of Discloser shall survive as long as the Confidential Information does not fall into one of the exceptions mentioned in Section 4(B) above.

7. Competition: Nothing in this Agreement shall prohibit or restrict either Party’s right to develop, use, or market products or services similar to or competitive with those of the other Party as long as it shall not thereby breach this Agreement. Additionally, each Party acknowledges that the other Party may already possess or have developed similar or competitive products or services.

8. Assignment: This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective permitted successors and assigns. This Agreement shall not be assigned by either Party hereto without the prior written consent of the other Party hereto, which consent may be withheld in either Party’s sole discretion, and any purported assignment without such consent shall be void; provided, however, either Party hereto may without such consent assign this Agreement in connection with the sale or transfer of all or substantially all of its business or in connection with a merger or other consolidation with another entity.

9. Announcements:Any announcement or publicity relating to this Agreement, to the name or logo of either Party or the name of its employees or students or to the possible business relationship between the Parties shall first be approved by both parties in writing.

10. Applicable Law and Venue: This Agreement shall be governed by the laws of Switzerland. The place of jurisdiction shall be Lausanne, Switzerland.

This Agreement may be executed in one or more counterparts, each of which when executed and delivered will be deemed to be an original, but all of which taken together will constitute one and the same agreement. This Agreement will become effective when counterparts have been signed by each of the Parties and delivered by facsimile or other means to each other Party. This Agreement may be executed and delivered by facsimile or by .pdf file and upon such delivery the facsimile or .pdf signature will be deemed to have the same effect as if the original signature had been delivered to the other Party.

**CHUV Company**

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:       Name:

Title:       Title:

Place and date:       Place and date:

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:       Name:

Title:       Title:

Place and date:       Place and date:

*One fully executed copy of this Agreement shall be sent to Knowledge Transfer UNIL CHUV (*[*kt.legal@chuv.ch*](mailto:kt.legal@chuv.ch)*)*