BILATERAL NON-DISCLOSURE AGREEEMENT

Elche, ….,…..20..

Dr. ..., in his capacity as Researcher of the Institute/Department... of the University Miguel Hernández of Elche (UMH) (hereinafter referred to as “RESEARCHER”)

of the one part

and Mr. …., in his capacity of ……of the company XXX (hereinafter referred to as “COMPANY”)

of the other part

**WHEREAS**

COMPANY desires to hold discussions with RESEARCHER relating to …(Field”).

COMPANY desires to receive from RESEARCHER information in the Field for the sole purpose of evaluating its interest in collaborating ... The parties recognize that in order to proceed, they might disclose to each certain of their confidential information.

And therefore, both parties agree the following **NON-DISCLOSURE AGREEEMENT** as follows:

It is agreed that the disclosure of confidential information by one party (the “Disclosing Party”) to the other party (the “Recipient”) is conditional upon and is in consideration of the following:

1. “Confidential Information” is defined as Know-how, trade secrets, data, information, and concepts including but not limited to confidential scientific, technical and/or business information relating to the Field, belonging to or originated by the Disclosing party which the Disclosing Party desires to protect against unrestricted disclosure or competitive use. Either party may disclose to the other party either orally or in writing (including graphic material) information that the Disclosing Party considers to be confidential. When disclosed orally, such information will be identified by the Disclosing Party as being confidential at the time of disclosure, with subsequent confirmation to the Recipient in writing thirty (30) days after disclosure identifying the date and type of information disclosed.
2. The Recipient shall keep all Confidential Information strictly confidential and use the Confidential Information only for the purposes stated herein. The Recipient shall segregate or otherwise maintain such Confidential Information so as to protect it and will not, without the prior written consent of the Disclosing Party, disclose any Confidential Information to any third party, except the Recipient’s officers and employees on a “need to know” basis in furtherance of the purposes stated herein, and for no other purposes.
3. Each party represents and warrants that itself and all of its respective officers and employees to whom Confidential Information is communicated hereunder are, and at the time of such disclosure will be, obligated not to use or to disclose any of the Confidential Information and each party shall insure that Confidential Information is not used or disclosed by such employees and officers except as permitted by this Agreement.
4. All Confidential Information shall remain the property of the Disclosing Party. Immediately upon the request of the Disclosing Party, the Recipient shall (a) return all tangible Confidential information (and any summaries of Confidential Information provided by the Disclosing Party), and all copies thereof, to the Disclosing Party and (b) destroy all notes, interpretations, compilations and other writings or recording based upon or containing any Confidential Information, confirming in writing such destruction to the Disclosing Party.
5. The foregoing obligations of confidentiality and non-use shall not apply to:
	1. Information known by the Recipient prior to the date of disclosure pursuant to this agreement and not obtained or derived directly or indirectly from the Disclosing Party; or
	2. Information which is or becomes available to the general public otherwise than through the direct or indirect act or fault of the Recipient or the direct or indirect act or fault of any of the Recipient’s officers employees; or
	3. Information obtained subsequent to any disclosure under this Agreement from a third party who is lawfully in possession of same and which information is not subject to any confidential or non-use obligation owed to the Disclosing Party or others; or
	4. Information which is proven by written records to be independently developed by the Recipient without the use of disclosed information hereunder, as shown by bona fide written records of the Recipient.

Each party agrees to provide thirty (30) days’ written notice to the other before using or disclosing any information disclosed to it under the terms of this Agreement, in the event the party believes that any such information is within one of the above subsections.

1. For purposes of this Agreement, information shall not be deemed to be in the public domain or in the prior possession of the Recipient if it is specific non-public information that is merely included, directly or indirectly, in more general information in the public domain or in the Recipient’s possession.
2. If the Recipient is requested or compelled to disclose information received under this Agreement by law, regulation or other applicable judicial or governmental order, the Recipient shall give notice promptly the Disclosing Party in writing so that the Disclosing Party may seek a protective order or another appropriate remedy or waive compliance with provisions of this Agreement. The Recipient shall reasonably assist the Disclosing Party in obtaining a protective order. If no such order or other adequate remedy is obtained, the Recipient will furnish only that portion of the Confidential Information and/or documentation which it is advised by legal counsel is legally required to be disclosed and only for the purpose for which a court order was issued, and the Recipient will use reasonable efforts to obtain assurance that confidential treatment will be accorded to any Confidential Information so furnished.
3. Nothing herein shall be construed as giving the Recipient any right, title, interest in or ownership of any information. Nothing herein shall be construed as granting a commercial license under any patent, or granting a technology know-how or show-how license or any other license of proprietary rights. The transmission of information hereunder shall likewise not be construed as representation, warranty, assurance, or guaranty of inducement by either party with respect to infringement of any patent or other proprietary right or as to any other matter.
4. This Agreement shall be effective as of the date of its signature and the obligations hereunder shall terminate five (5) years from the date of the last signature below.
5. This Agreement shall be construed in accordance with the laws of Spain and shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. The parties hereto submit to venue and jurisdiction of the courts sitting in Elche (Alicante, Spain).
6. All notices required to be given shall be considered as given upon certified or registered mailing, if post-paid and addressed as follows (unless the addresses have been changed by written notice):

If to COMPANY:

 Attn:

If to RESEARCHER:

 Attn: …

…

…

 …

…

1. If any provision (or any part thereof) contained in this Agreement shall be held to be invalid, illegal or unenforceable in any respect, then to the maximum extent permitted by law, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement and the remaining provisions of this Agreement shall remain in full force and effect; provided, however, that if the deletion of any provision hereof frustrates an essential purpose of this Agreement of a party hereto, the parties shall seek in good faith alternative provisions or arrangements to achieve the same purposes as the invalid, illegal or unenforceable provision.
2. This Agreement embodies the entire understanding between the parties pertaining to the subject matter hereof. The parties acknowledge that they are not relying on a representation, promise, or other statement, whether written or oral, that is not contained expressly in this Agreement. This Agreement shall not be modified except by a writing duly executed by, or on behalf of, both parties.

And to show their agreement to all the foregoing, the parties hereto sign this document in duplicate at the place and on the date stated above.

|  |  |
| --- | --- |
| **RESEARCHER** | **COMPANY** |
|  |  |
| Dr. … |  |