

Information Sharing Agreement

This is an Information Sharing Agreement (“Agreement”) dated as of _____, 20____, between Client, a California nonprofit corporation (“Client”), and _____, a _____ (“Recipient”).

Background

Client and Recipient are discussing a potential relationship (“Relationship”). In connection with those discussions, Client may make available to Recipient certain proprietary or confidential information. This Agreement describes the basis upon which Recipient will hold and use that information.

1. Confidentiality

1.1 Confidential Information

“Confidential Information” means all information, in any form, relating to Client and furnished to or obtained by Recipient during the term of this Agreement, including, without limitation, [employee, donor, and client data, budget and other financial data, product plans and strategies, technical data and research, know-how, and the fact that discussions are taking place concerning the Relationship]. It does not include information which: (a) is or becomes generally available to the public other than as a result of a disclosure by Recipient; (b) was known by Recipient prior to its being furnished by Client; (c) is or becomes available to Recipient on a non-confidential basis from a source other than Client; or (d) is independently developed by Recipient.

1.2 Use and Confidentiality

Recipient will use Confidential Information only in connection with discussions about the Relationship and will keep it confidential, [using at least the same degree of care used to protect its own confidential information]. Recipient will disclose Confidential Information only to Recipient’s officers, directors, employees, agents, consultants, and affiliates, if any, who need access to the information for the purposes contemplated by this Agreement (each an “Authorized Person”). Authorized Persons will be subject to, and Recipient will be responsible for ensuring that they comply with, the terms of this Agreement. [Recipient will promptly notify Client upon discovery of any loss or unauthorized disclosure of the Confidential Information.]

1.3 [Required Disclosure

If Recipient or any of its Authorized Persons is required or receives a request to disclose any Confidential Information by reason of legal requirements or legal proceedings of any nature, Recipient will promptly provide Client with written notice of the requirement or request so that Client may seek a protective order or other remedy or waive compliance with this Section 1.3. If, in the absence of a protective order or other remedy or the receipt of a waiver by Client, Recipient is nonetheless legally compelled to disclose Confidential Information, Recipient may disclose only that portion of Confidential Information which counsel advises is legally required to be disclosed.]

2. Relationship

2.1 Access to Facilities and Systems

In providing Confidential Information, Client may permit access, on a limited basis, to its facilities, equipment, personnel, and systems. Recipient will comply with Client’s facility, system, and other access and security requirements.

2.2 No Representations or Warranties

Client does not make any representation or warranty, express or implied, with respect to the accuracy or completeness of, or assumes any liability for, any Confidential Information provided under this Agreement.

2.3 No Obligation to Enter Relationship

The exchanges of information and discussions contemplated by this Agreement do not obligate Client or Recipient to enter into the Relationship or to discuss or negotiate the terms of, or enter into a definitive agreement relating to, the Relationship or any other contractual or other arrangement.

2.4 Ownership; No Rights Granted

Client retains all rights, title, and interest in and to all of its Confidential Information, including intellectual property rights. All Confidential Information furnished under this Agreement is and will remain the property of Client, [and no license or other rights to the Confidential Information are granted by Client or implied under this Agreement].

2.5 Publicity

Recipient will not use or permit the use of Client's names, logos, trademarks, or other identifying data in any notices to third parties, any study, policy, outreach, promotional, marketing, advertising, investment, or other materials, or in any website, social media vehicle, press release or other public communication, however characterized, without first obtaining Client's written consent.

2.6 Termination

This Agreement will terminate on the earlier of: (a) execution of a definitive agreement governing the Relationship that includes confidentiality provisions or that expressly supersedes this Agreement; or (b) delivery of written notice of termination by one party to the other under this Section 2.6, with termination to be effective on receipt of such notice. Recipient will take such actions as may be requested by Client with respect to the treatment of Confidential Information after termination. Notwithstanding termination of this Agreement, Recipient's obligations under Section 1 will continue in effect for [two years] after the date of this Agreement.

3. General Provisions

3.1 Injunctive Relief

Client and Recipient each recognize that a breach of this Agreement may cause irreparable harm to Client and that actual damages may be difficult to ascertain and in any event may be inadequate. Accordingly, Client and Recipient agree that in the event of such a breach, Client may be entitled to injunctive relief in addition to such other legal or equitable remedies as may be available.

3.2 Entire Agreement

This Agreement expresses the final, complete, and exclusive agreement between Client and Recipient, and supersedes any and all prior or contemporaneous written and oral agreements, arrangements, negotiations, communications, course of dealing, or understanding between Client and Recipient relating to its subject matter.

3.3 Amendment

This Agreement may be amended only as stated in and by a writing signed by both Client and Recipient which recites that it is an amendment to this Agreement.

3.4 Severability

If any provision in this Agreement is held invalid or unenforceable, the other provisions will remain enforceable, and the invalid or unenforceable provision will be considered modified so that it is valid and enforceable to the maximum extent permitted by law.

3.5 Waiver

Any waiver under this Agreement must be in writing and signed by the party granting the waiver. Waiver of any breach or provision of this Agreement will not be considered a waiver of any later breach or of the right to enforce any provision of this Agreement.

3.6 Assignment

Recipient may not assign its rights or delegate its duties under this Agreement to anyone else without the prior written consent of Client, except that Recipient may assign all of its rights and obligations under this Agreement without Client’s prior written consent in connection with a merger, acquisition, reorganization, sale or transfer of substantially all assets, or other operation of law.

3.7 Notices

Notices and consents under this Agreement must be in writing and delivered by mail, hand delivery, fax, or e-mail to the addresses set out below. These addresses may be changed by written notice to the other party.

3.8 Governing Law; [Jurisdiction]

This Agreement will be governed by California law. [Client and Recipient consent to the exclusive jurisdiction of the state and federal courts for _____, California.]

3.9 Counterparts

This Agreement may be executed in one or more counterparts, each of which will be deemed an original and all of which will be taken together and deemed to be one instrument. Transmission by fax or PDF of executed counterparts will constitute effective delivery.

* * * * *

Client and Recipient executed this Agreement as of the date stated in its first paragraph.

[Recipient]

[Client]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Email: _____

Email: _____

Address: _____

Address: _____
