

NON-DISCLOSURE AND NON-USE AGREEMENT

concluded on [●] 2020

by and between:

WPD Pharmaceutical Sp. z o.o., with its registered office ul. Żwirki Wigury 101, 02-089 Warszawa, KRS: 0000693186 Poland Tax Identification Number (NIP): 5252721500, represented by:

Mariusz Olejniczak - the Members of the Management Board

hereinafter referred to as the "Disclosing Party" or "Receiving Party"

and

....., with its registered office at

hereinafter referred to as the "Disclosing Party" or "Receiving Party"

Considering that the purpose of this Agreement is to regulate mutual relations related to the mutual transfer of Confidential Information between the Parties in relation to cooperation and protection of such information, the following agreement has been concluded:

§ 1

Definitions

In this contract, the following terms mean:

Cooperation – future and ongoing cooperation between Parties;

Disclosing Party - a party that discloses Confidential Information;

Receiving Party - party that receives Confidential Information;

Confidential Information - any information directly or indirectly including the trade secret of the Disclosing Party provided to the Receiving Party regardless of the form or manner of its disclosure, in particular all technical, technological, organizational, legal, financial, scientific and administrative information regarding the Parties' corporation, cooperation and other information, including business secrets, transferred between the Parties, both orally and in writing, including by electronic means, including drawings, photographs, recordings, files regardless of their format and saved on any electronic media, as well as data on development strategies and plans, patents, licenses and other intellectual property rights, know-how, trade secrets, product specifications, production data, procedures, analyzes, compositions, technological and technical data, preparations, equipment and tools used, samples and all information activities, which due to their nature are or may be treated by the Disclosing Party as Confidential Information. Confidential Information also includes the provisions of this Agreement.

Purpose – means the business relationship as agreed between the Disclosing Party and the Receiving Party and may be the provision of services by Receiving Party to Disclosing Party.

§ 2

Exclusions

Confidential Information shall not mean information, which:

- 1) at the time of disclosing to the Receiving Party were of public character;
- 2) became commonly known and lawfully available after disclosing to the Receiving Party, due to reasons other than disclosure by the Receiving Party or its affiliates (dependent, affiliated, related or dominant entities); or
- 3) were lawfully known or in possession of the Receiving Party before disclosing.

§ 3

Confidentiality obligation

1. In consideration of the disclosure Confidential Information, the Receiving Party is obliged to keep them confidential and ensure their protection to an extent at least equal to the level of protection at which it protects its own Confidential Information, but not less than justified in the given circumstances, in particular to:
 - a) not make any use whatsoever of the Confidential Information for any purpose, other than the Purpose for which Confidential Information has been disclosed;
 - b) not disclose Confidential Information until official and written consent of Disclosing Party is granted;
 - c) provide proper safe-keeping of Confidential Information, as well as to protect them from theft or unauthorised access, in particular to establish all technical, IT and organisational securities;
 - d) inform the Disclosing Party on any case of infringement of obligations arising from this agreement or other disclosure of the Confidential Information immediately, not later than 24 (twenty four) hours from the moment of discovering such infringement;
 - e) inform the Disclosing Party immediately, and not later than 24 (twenty four) hours, from the moment such demand is expressed of any request by legal courts or administrative authority to reveal any of the Confidential Information, before such disclosure of Confidential information.
2. In case of delivery to the Receiving Party of a demand stipulated in clause 1, the Receiving Party is obliged, regardless of action described therein, to:
 - a) apply the utmost care to fully inform the Disclosing Party of the circumstances under which the Confidential Information is to be disclosed and the extent of the Confidential Information to be disclosed;
 - b) agree with the Disclosing Party actions, which shall be performed to avoid or limit the disclosure of Confidential Information if such actions are permitted under applicable law.
3. Should the Receiving Party not be able, prior to the disclosure of Confidential Information, to satisfy obligations set forth in the preceding paragraphs, the Receiving Party shall be obliged to inform the Disclosing Party immediately, and no later than 24 (twenty four) hours after the disclosure of Confidential Information, of the circumstances of disclosure of Confidential Information, as well as Confidential Information that has been disclosed and its scope.

4. Receiving Party is authorised to pass Confidential Information to its Affiliates, employees, co-workers and advisors (collectively “Permitted Representatives”) for them to use it solely to assist in the undertaking of the Purpose. Receiving Party is obliged to ensure, that any Permitted Representatives, to whom it would disclose Confidential Information, will protect this information properly and will commit to not disclose this information to any third party nor use the Confidential Information for any purpose other than the Purpose. Receiving Party is liable for actions and omissions of all Permitted Representatives, to whom it disclosed Confidential Information as for its own actions and omissions, on a risk basis.

§ 4

Return of Confidential Information

1. Within 30 (thirty) days from the receipt of the written request of Disclosing Party, the Receiving Party shall promptly return to the Disclosing Party any documents or other tangible materials containing or representing Confidential Information received from the Receiving Party and all copies thereof, and shall destroy permanently any documents, notes, memoranda or other materials created by the Receiving Party or its employees which contain the Confidential Information, and shall delete any Confidential Information contained in any electronic or other data carriers or media, provided, however, that neither Party will be obligated, as the Receiving Party of any Confidential Information hereunder, to return or destroy any archival or back-up copies of such Confidential Information as may be made routinely by the Receiving Party’s computer data or email back-up systems so long as such archival or back-up copies are maintained in confidence from third parties and are not used for any purpose other than as permitted hereunder. Such obligation does not include the copy of this Agreement. If know-how which cannot be destroyed or returned was disclosed to the Receiving Party, the know-how will not be used by the Receiving Party except for the Purpose.
2. At the request of the Disclosing Party, the receiving Party shall, within 30 (thirty) days from receipt of such request, confirm to the Disclosing Party such destruction and deletion in writing.
3. The provisions of this Section do not exclude nor limit the obligation of the Receiving Party to observe obligations set forth in this Agreement.

§ 5

No grants of right

1. No rights or obligations in Confidential information are granted other than as expressly provided under this Agreement.
2. Nothing in this Agreement shall be construed as (i) giving the Receiving Party any right, license or title to the Confidential Information; (ii) granting the Receiving Party any rights by way of assignment, license or otherwise under any intellectual property rights owned or controlled by the Disclosing Party.
3. Any Confidential Information and any development materially based thereon are and shall remain the sole property of the Disclosing Party and the Receiving Party shall assert no patent, copyrights or other claim on such Confidential Information. Nothing herein shall be deemed to constitute by implication or otherwise the grant to the Receiving Party any license or intellectual property right to or interest in Confidential Information, and/or any information, technology and/or products materially developed there from.

§ 6

Termination

1. Each Party may terminate this Agreement with one month's notice.
2. In the event of disclosure of Confidential Information by the Receiving Party contrary to the provisions of this Agreement, the Disclosing Party shall be entitled to terminate this Agreement with immediate effect.
3. Obligations arising from this Agreement shall bind the Parties for a period of 10 (ten) years from the date of the last disclosure of Confidential Information and for a period of 10 (ten) years from the date of termination or expiry of this Agreement on any basis.

§ 7

Correspondence

1. In addition to any correspondence by e-mail or other electronic media, all correspondence in writing may be communicated between the Parties in person, either by the authorized representative or by a messenger or by post, by registered letter with confirmation of receipt. The letter is deemed to have been delivered at the moment of the confirmation of the receipt, and if it has been mailed to the mailing address of the Party listed above, as may be changed by a Party in writing from time to time – also in the case of return to the sender, due to the reason, that recipient did not pick up the letter from the post office within the specified period or moved out. The delivery is deemed to occur on the 4th day after mailing.
2. Addresses for correspondence are the addresses indicated in the introductory part of the agreement. In the event of a change of address for correspondence, the Party is obliged to notify the other Party of the new correspondence address immediately. Until such notice is given, the previous address will be considered valid.
3. Correspondence sent electronically will be sent to the following e-mail addresses of the Parties:

for WPD Pharmaceutical : office@wpdpharmaceuticals.com

for:

and will be deemed delivered if the message has been provided with a confirmation for delivery. In the event of a change of the above addresses, the Party is obliged to provide the other Party with a new address for correspondence in electronic form as soon as practicably possible.

§ 8

Final Provisions

1. If any provision of this Agreement, several provisions hereof or a part of these provisions is or becomes ineffective, this shall not invalidate the remaining provisions.
2. The entirety of the Agreement, and in particular its conclusion, performance (i.e. the enforcement of rights and fulfillment of obligations arising under it), the making of payments and any eventual claims, and the overall assessment of the Agreement, are governed by Swiss law.
3. All changes, additions and withdrawal from the Agreement must be made in writing under pain of nullity.

4. All disputes arising from the Agreement shall be settled by courts competent for the registered office of the Disclosing Party.
5. The contract has been drawn up in two counterparts, one copy for each Party.
6. This contract may be executed and delivered by electronic means, and may be signed in several counterparts, which if signed by all the Parties shall constitute a binding contract.

WPD Pharmaceuticals sp. z o.o.

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