

## MUTUAL NONDISCLOSURE AGREEMENT

[Source: [Schaner and Lubitz, PLLC](#)]

This Mutual Nondisclosure Agreement (this “Agreement”) is entered into as of the date of the last signature hereto (the “Effective Date”) by and between \_\_\_\_\_ (“Foundation”), a non-profit corporation headquartered in \_\_\_\_\_ and \_\_\_\_\_, a company with offices at \_\_\_\_\_ (“Company”). Foundation and Company may be referred to in this Agreement individually as a “party” and collectively as the “parties.”

1. Purpose. The parties wish to explore: (i) the possibility of a collaboration on a topic of mutual interest, which is \_\_\_\_\_; and/ or (ii) the possibility of multiple collaborations involving scientific research into causes of, and research tools, cures and therapies for \_\_\_\_\_ and/or its complications (collectively, the “Purpose”). In connection with the Purpose, each party may disclose (the “Disclosing Party”) to the other party (the “Receiving Party”), Confidential Information, defined below, that the Disclosing Party desires the Receiving Party to treat as confidential.
2. Confidential Information. “Confidential Information” means any proprietary information or material of the Disclosing Party or a related entity disclosed orally or in writing to the Receiving Party by the Disclosing Party or its agent that is: (i) designated in writing as “Confidential” or “Proprietary,” at the time of disclosure or within fifteen (15) days thereafter; and/or (ii) all business, financial, technical, medical and scientific information. Confidential Information does not include information, data or know-how that the Receiving Party can demonstrate: (a) was known to the Receiving Party prior to disclosure by the Disclosing Party; (b) was independently developed by the Receiving Party without any use of the Disclosing Party’s Confidential Information; (c) became known to the Receiving Party without restriction from a source other than the Disclosing Party that had no duty of confidentiality to the Disclosing Party with respect to such information; or, (d) was in the public domain at the time it was disclosed or came into the public domain through no act or omission of the Receiving Party.
3. Rights to Disclosed Information. Each party represents that it has the right to disclose its Confidential Information in connection with this Agreement and that any such disclosure shall not breach any agreement with any third party. Nothing in this Agreement shall restrict Disclosing Party’s: (i) ownership of all right, title and interest in its Confidential Information; and (ii) release of its Confidential Information to any third parties.
4. Treatment of Confidential Information. The Receiving Party agrees not to use the Confidential Information received from the Disclosing Party for any purpose except for the Purpose. The Receiving Party shall not disclose any Confidential Information of the Disclosing Party to any third party except those of its directors, officers, employees, consultants, agents and contractors who are required to have such information in order to carry out the Purpose. The Receiving Party shall remain liable to the Disclosing Party for any disclosure of the Disclosing Party’s Confidential Information by any director, officer, employee, consultant, agent and/or third party to whom Confidential Information of the Disclosing Party is disclosed by the Receiving Party or who have access to Confidential Information of the Disclosing Party through the Receiving Party. The Receiving Party shall take all reasonable measures: (a) to protect the secrecy of and avoid disclosure or unauthorized use of Confidential Information of the Disclosing Party; and (b) to prevent such Confidential Information from falling into the public domain or the possession of persons other than those persons authorized hereunder to have such information. Such measures shall include using the highest degree of care that the Receiving Party uses to protect its own Confidential Information of a similar nature. Each Receiving Party agrees to notify the Disclosing Party in writing of any misuse or

misappropriation of the Disclosing Party's Confidential Information that may come to such Receiving Party's attention.

5. Mandatory Disclosure. In the event that a Receiving Party or its respective directors, officers, employees, consultants, agents and/or contractors is required by legal process to disclose any Confidential Information of the Disclosing Party, the Receiving Party shall, if permitted by law, send prompt written notice to the Disclosing Party so that the Disclosing Party may at Disclosing Party's expense seek a protective order or other appropriate relief. In the event that a protective order is not obtained, the Receiving Party shall disclose only that portion of the Confidential Information that the Receiving Party's legal counsel advises must be disclosed to comply with the law.
6. No Obligation. Nothing herein shall obligate the parties hereto to proceed with any other agreement or transaction, and as set forth in Section 10 each party reserves the right, in its sole discretion, to terminate its participation in this Agreement at any time, provided that the terms and conditions of this Agreement shall apply to any Confidential Information disclosed to the Receiving Party.
7. No Bar to Competition. The parties each acknowledge that they may be engaged now or in the future in a business or activity similar to or competitive with each other, and/or that they may engage in business relationships with third parties that are similar to or competitive with the other party, and the parties shall in no way be restricted by the terms of this Agreement from engaging in such other business, activities or relationships, except that each party shall be bound by this Agreement as it relates to the Confidential Information of the other party.
8. Return of Materials. Upon the request of the Disclosing Party, the Receiving Party shall promptly return to the other or destroy any materials or documents that have been furnished to such party by the other hereunder, along with all copies thereof, except that each party may retain one (1) copy of such Confidential Information to comply with any document retention or other legal obligations.
9. No License. This Agreement shall not grant any rights to either party in or to Confidential Information except as expressly set forth herein. In addition, this Agreement shall not grant any licenses or rights under any patent, copyright, trademark or service marks of either party.
10. Term. This Agreement shall commence upon the Effective Date and shall continue for one (1) year, unless earlier terminated by a party, for any reason or no reason, upon written notice to the other party. Each party's obligation with respect to Confidential Information received from the other party during the term shall survive after the end of the term, for so long as such information is Confidential Information in accordance with the terms hereof.
11. Remedies. Each party agrees that its obligations hereunder are necessary and reasonable in order to protect the other party and such other party's business and interests and that money damages may be inadequate to compensate the other party for breach by such party of any covenant or agreement set forth herein. Accordingly, each party agrees that any violation or threatened violation of the material terms of this Agreement may cause irreparable injury to the other party and that, in addition to any other remedies that may be available, in law, in equity or otherwise, the other party shall be entitled to request injunctive relief against the threatened breach of this Agreement or the continuation of any such breach, without the necessity of proving actual damages.
12. Notice. Any notice required or permitted under this Agreement shall be sent by email to the individual executing this Agreement on behalf of a party, or such other individual that a party may designate to the other in writing for receipt of notices. Receipt of any notice shall be deemed to have occurred as of the date that such notice was sent, except that if a reply of nondelivery is received by

the sending party in response to email notification and no other email address for the recipient is available, then the sending party shall send such notice by facsimile or certified mail (“Alternative Delivery Methods”) and the earlier of the two successful Alternative Delivery Methods shall constitute the receipt date.

13. Miscellaneous. This Agreement shall bind and inure to the benefit of the parties hereto and their successors and assigns. This Agreement shall be governed by the laws of \_\_\_\_\_ without reference to its conflict of laws principles. If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful, such provision shall be construed to render such provision lawful, if permissible by law, and any unlawful provision shall not affect any other provision of this Agreement. This Agreement contains the entire agreement between the parties with respect to the subject matter hereof. Any failure to enforce any provision of this Agreement shall not constitute a waiver thereof or of any other provision hereof. This Agreement may not be amended, nor any obligation waived, except by a writing signed by both parties hereto. This Agreement may be executed in counterparts which taken together shall constitute one agreement, and the parties may exchange copies of this Agreement electronically in Portable Document Form without providing executed hard copies to each other.

**IN WITNESS WHEREOF**, the parties by their authorized representatives agree to the terms and conditions of this Agreement.

**[FOUNDATION]**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Email: \_\_\_\_\_

Date: \_\_\_\_\_

**[COMPANY]**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Email: \_\_\_\_\_

Date: \_\_\_\_\_