

CONFIDENTIAL DISCLOSURE AGREEMENT

This Agreement is made by and between the National Cancer Institute, an agency of the United States Government, having a place of business at 9000 Rockville Pike, Bethesda, Maryland, 20892 (hereinafter referred to as "NCI"), and COMPANY NAME, an entity organized and existing under the laws of STATE, having a place of business at: ADDRESS (hereinafter referred to as "Company").

WHEREAS, both Parties have certain confidential and/or proprietary information relating to DESCRIPTION OF CONFIDENTIAL INFORMATION (hereinafter referred to as the "Confidential Information"); and

WHEREAS, each Party is interested in examining the Confidential Information of the other Party in order to determine the desirability of entering into an agreement relating to the development of such Confidential Information, and Company is interested in examining the Confidential Information of NCI in order to determine the desirability of acquiring rights in and to such Confidential Information and/or under any patent rights obtained therefore;

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, the Parties hereto agree as follows:

1. Each Party shall disclose and transmit Confidential Information to the other Party solely for the purpose of and in sufficient detail to enable such other Party to make the determinations set forth above.
2. Each Party agrees to employ all reasonable efforts to maintain the Confidential Information of the other Party secret and confidential, such efforts to be no less than the degree of care employed by each Party to preserve and safeguard its own confidential information. The Confidential Information of a Party shall not be disclosed, revealed, or given to anyone by the other Party except employees of such other Party who have a need to have the Confidential Information in connection with such other Party's evaluation, and who have entered into a secrecy agreement with such other Party under which such employees are required to maintain confidential and secure the Confidential Information, and such employees shall be advised by such other Party of the confidential nature of the Confidential information and that the Confidential Information shall be treated accordingly.
3. It is hereby acknowledged by each Party that neither Party shall incur any liability merely for examining and considering the Confidential Information; however, each Party agrees that it will not use the Confidential Information of the other Party for any purpose except as set forth herein, provided that such limitation shall not apply to the Company if and when a further signed agreement is first made providing the terms and conditions under which rights are to be acquired by Company .
4. The obligations of a Party under Paragraph 2 and 3 above shall not extend to any part of the Confidential Information of the other Party:
 - (a) that can be demonstrated to have been publicly known at the time of disclosure; or

(b) that can be demonstrated to have been in the possession of or that can be demonstrated to have been readily available to such Party from another source prior to the disclosure; or

(c) that becomes part of the public domain or publicly known by publication or otherwise, not due to any unauthorized act by such Party;

(d) that can be demonstrated as independently developed or acquired by such Party without reference to or reliance upon such Confidential Information; or

(e) that is required to be disclosed by law, provided that such Party takes reasonable and lawful actions to avoid and/or minimize such disclosure.

5. The obligations of both Parties under Paragraphs 2 and 3 shall extend for a period of three (3) years from the date of this Agreement, unless either Party informs the other Party that the Confidential Information is still secret and confidential, in which case the obligations of Paragraphs 2 and 3 hereof shall extend for a further period of two (2) additional years.
6. All information to be deemed confidential under this Agreement shall be clearly marked "**CONFIDENTIAL**" by the disclosing Party. Any Confidential Information that is orally disclosed must be identified by clear written reference or notice as "**CONFIDENTIAL**" at the time of disclosure or in a written communication by the disclosing Party within thirty (30) days of such disclosure. Such written communication should clearly identify the Confidential Information that was orally disclosed.
7. It is understood that nothing herein shall be deemed to constitute, by implication or otherwise, the grant to either Party by the other of any license or other rights under any patent, patent application or other intellectual property right or interest belonging to the disclosing Party or as permitting the Party receiving the Confidential Information to unfairly obtain the right to use any Confidential Information which becomes publicly known through an improper act or omission on its part.
8. It is understood and agreed by both Parties, that each represents and warrants to the other Party, that the Official signing this Agreement on behalf of the Party represented has authority to do so.
9. The illegality or invalidity of any provision of this Agreement shall not impair, affect or invalidate the other provisions of this Agreement.
10. The construction, validity, performance and effect of this Agreement shall be governed by Federal law, as applied by the Federal Courts in the District of Columbia. Federal law and regulations will preempt any conflicting or inconsistent provisions in this Agreement.

SIGNATURES

Each of the undersigned expressly certifies or affirms that the contents of any statements made or reflected in this document are truthful and accurate, and further, agrees to examine and consider the subject matter of the Confidential Information on the foregoing basis.

For the NATIONAL CANCER INSTITUTE:

_____ Date _____

Michaele Christian, M.D.
Associate Director
Cancer Therapy Evaluation Program (CTEP)

_____ Date _____

Robert Kneller, J.D., M.D.
Senior Technology Development Specialist
Office of Technology Development

Address correspondence related to this Agreement to:

Sherry Ansher, Ph.D.
Cancer Therapy Evaluation Program (CTEP)
National Cancer Institute
6130 Executive Boulevard (EPN), Suite 718
Rockville, MD 20852
Phone (301) 496-7912, FAX (301) 402-1584

FOR THE COMPANY:

For **COMPANY NAME**. (the COMPANY):

_____ Date _____

(Signature)

Authorized Signer and Title

Address correspondence related to this agreement to:

Company Name
Contact Name
Address