

NON DISCLOSURE AGREEMENT

Effective Date: Last signature dated below

Expiration Date: Two (2) years from the Effective Date

The Non Disclosure Agreement (the "Agreement") is entered into by and between:

CSIR-....., a constituent Laboratory of Council of Scientific & Industrial Research (CSIR) a Society registered under the Societies Registration Act (XXI of 1860), having its registered office at Anusandhan Bhavan, 2 Rafi Marg, New Delhi 110001, Republic of India whose address is Address of the Institute..... hereinafter referred to as "CSIR-.....",

and

The XXXXXXXX, a Company incorporated under, and having its registered office at \$\$ADDRESS OF COMPANY\$\$ Phone - \$PHONE NO\$\$, Fax \$\$FAX NO\$\$, hereinafter referred to as "XXXXX",

Hereinafter individually and collectively referred to respectively as a "Party" or the "Parties", which together would be disclosing (hereinafter referred to as "Disclosing Party") or receiving (hereinafter referred to as "Receiving Party") the information.

WITNESSETH

WHEREAS, XXXXX and CSIR-..... wish to collaborate on "Area....." (hereinafter referred to as "the Purpose"); and

WHEREAS, during the course of discussions, it may become desirable or necessary for the Parties to communicate to each other certain information of a proprietary or confidential nature (hereinafter referred to as "Confidential Information"); and

WHEREAS, the parties are willing to provide for the conditions of such disclosure of Proprietary information and the rules governing the use and the protection thereof;

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS :

1. Confidential Information. The term "Confidential Information" means any and all non-public information, in whatever form (written, verbal, or visual), that has been or may be disclosed by or on behalf of the Disclosing Party to the Receiving Party including but not limited to any and all trade secrets, inventions, discoveries, models, materials, samples, product specifications and

prototypes, technology, experiments, formulations, compositions, computer programs, software, algorithms, and any and all records, data, methods, techniques, processes, projections, plans, marketing information, business information (including the business relationship between the parties) records, memoranda, chemical analyses, physical analyses, notes and any other data or information, as well as improvements and knowhow related thereto and all analyses, compilations, and other documents prepared by the Receiving Party or on its behalf, related thereto.

Confidential Information excludes information that (a) shall have become public knowledge, except as a result of breach of this Agreement by the Receiving Party, its affiliate(s) or their successors; (b) shall have been lawfully received by the Receiving Party from another person or entity having no obligation to the Disclosing Party, its affiliate(s) or their successors; or (c) was already known to the Receiving Party at the time of its disclosure without reference to or reliance upon the Confidential Information received from the Disclosing Party as evidenced by contemporaneously written records acceptable to the Disclosing Party; or (d) is independently developed in good faith by employees of the Receiving Party who did not have access to the Confidential Information;

2. Confidentiality and Non-Use Undertakings. The Receiving Party agrees to treat all Confidential Information in strictest confidence, to take all reasonable steps to maintain the secrecy and restrict the access to the Confidential Information and not to directly or indirectly in any way exploit, analyze, reverse-engineer or reproduce Confidential Information for any purpose whatsoever, without the express prior written consent of Disclosing Party. The Receiving Party may use the Confidential Information only for and to the extent required to fulfil the Permitted Purpose hereunder.
The Receiving Party agrees not to disclose Confidential Information to any party, except to authorized employees or other agents of the Receiving Party ("Authorized Persons") who need to have access to the Confidential Information for the purpose of carrying out their duties in connection with the Permitted Purpose. The Receiving Party shall be fully responsible for enforcing this Agreement upon its Authorized Persons and shall be fully responsible for any breach of the provisions of these agreement by the Authorized Persons.
3. Authorized Disclosure. Notwithstanding anything to the contrary contained in this Agreement, Confidential Information may be disclosed by the Receiving Party only to the extent required by applicable law, legal process or stock exchange rule, provided the Receiving Party notifies in writing the Disclosing Party sufficient time in advance, prior to such disclosure so as to afford the Disclosing Party a reasonable opportunity to object or seek an appropriate protective order with respect to such disclosure.
4. Return of Confidential Information. All forms and copies of Confidential Information, including materials and samples, delivered by the Disclosing Party to the Receiving Party, including all copies thereof, as well as all related reports, analyses, compilations, studies, or other documents created or prepared by the Receiving Party or those acting on its behalf, shall be transferred to the Disclosing Party or destroyed immediately upon request or upon termination of this Agreement (if not requested prior to termination), and the Receiving Party shall retain no copies thereof. The

Receiving Party shall provide evidence of such transfer or destruction upon request of the Disclosing Party. Notwithstanding the above, the Receiving Party may retain one (1) electronic backup copy generated automatically by the IT System of the Receiving Party, unless the Disclosing Party requires otherwise.

5. Representation. The Disclosing Party warrants that it has the right to disclose the Confidential Information to the Receiving Party. Other than such express warranty, all Confidential Information is provided "as is" and without any warranty, express or implied, regarding its accuracy, performance, non-infringement or otherwise.
6. Ownership of Intellectual Property Rights. All Confidential Information shall remain the property of the Disclosing Party, and no license or other right in or to the Confidential Information is granted hereby. The Receiving Party agrees not to file any application to register or protect any intellectual property right related to, or containing any Confidential Information of the Disclosing Party or its Affiliates. The Receiving Party agrees and declares that unless specifically agreed otherwise in any written agreements signed between the parties following the Effective Date, all proprietary information, including but not limited to inventions, trade secrets and know-how, patents and other rights related to or containing any Confidential Information of the Disclosing Party of its Affiliates shall be the sole property of the Disclosing Party. The Receiving Party represents and warrants that it has no obligations to any other person that would create a conflict regarding the aforementioned assignment and transfer of rights to the Disclosing Party, and that no obligations to any third party prohibit the Receiving Party's engagement by, or association with, the Disclosing Party. This undertaking shall survive any termination of the Agreement.
In case any Joint IP is generated during the course of this NDA, the same should be protected in accordance with the national legislations of both the countries, while also keeping in view the provisions of the Biological Diversity Act of India, 2002. [The modalities of securing it shall be determined by way of a separate agreement.](#)
7. Full Agreement and Amendment. This Agreement constitutes the full agreement between the parties with respect to the subject matter herein and supersedes any and all prior agreements and understandings relating thereto. No modification of or addition to any provision of this Agreement shall be binding unless in writing and executed by or on behalf of both parties.
8. Independent Status of the Parties; Publications. This Agreement does not create any form of continuing business relationship and does not constitute a partnership, joint venture or agency between the parties. Nothing contained herein shall require the Disclosing Party to disclose any Confidential Information nor to proceed with any contemplated business relationship with the Receiving Party. Neither party shall have the authority to make any statement, representation or commitment of any kind, or to take any action which shall be binding on the other, without the prior consent of the other party. Receiving Party may not issue any publication or otherwise disclose any information with respect to the works or services performed or any business relationship between the parties unless approved in advance and in writing by the Disclosing Party.
9. Access to the Disclosing Party Facilities. The Receiving Party acknowledges that he/she and/or its employees may receive access to the Disclosing Party facilities and equipment only in order to perform the Permitted Purpose, and the Receiving Party and any of the Receiving Party's

employees will perform any instructions, directions and the general rules, policies and other regulations imposed by the Disclosing Party at its facilities.

10. Successors and Assigns. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties to this Agreement and to their respective affiliates, heirs, successors, assigns and legal representatives. Receiving Party shall not assign or otherwise transfer any of its rights, obligations or undertakings under this Agreement to any person or entity, in whole or in part, without the prior written consent of the Disclosing Party. The Disclosing Party may assign its rights and obligations under this Agreement in their entirety, by notice to the Receiving Party and without requiring any further action.
11. Term of the Agreement; Survival. The term of this Agreement shall commence on the Effective Date and shall continue until terminated. Either party may terminate this Agreement by a 30-days prior written notice delivered and accepted by the other party, to its address indicated above. Except as otherwise indicated, the undertakings herein shall be binding upon the Receiving Party, its affiliate(s) and their respective successors and assigns and shall be in effect during the term of this Agreement and for a period of five (5) years thereafter. The foregoing notwithstanding, Confidential Information of a nature which the Receiving Party knows, or reasonably should know, to be a trade secret of the Disclosing Party, shall remain indefinitely subject to the restrictions of Article 2 herein and survive termination.
12. Severability. If any one or more of the terms contained in this Agreement shall for any reason be held to be excessively broad with regard to time, geographic scope or activity, that term shall be construed in a manner that enables it to be enforced to the extent consistent with applicable law. A determination that any term is void or unenforceable shall not affect the validity or enforceability of any other term or condition.
13. Governing Law and Jurisdiction. This Agreement shall be governed by, and construed in accordance with, the laws of a neutral third country, Singapore. The venue for mediation or arbitration shall be in a neutral location - the Singapore International Arbitration Centre (SIAC) in Singapore. Both parties hereto hereby submit to the jurisdiction of the selected neutral arbitration venue with respect to any dispute arising in connection with this Agreement.
14. Other Points
 - It is expressly agreed that in no event shall either Party be liable for any special, indirect, contingent or consequential loss or damage (including, without limitation, loss of contract, loss of goodwill, loss of market, loss of profit or loss of anticipated profit), expense or cost whatsoever or howsoever suffered or incurred, whether or not the same are foreseeable and whether arising in contract, tort or otherwise, relating to or arising out of performance of this Agreement either party has been advised, knew or should have known of the possibility thereof.
 - The execution, existence and performance of this Agreement shall be kept confidential by the Parties and shall not be disclosed in any way by either Party without the prior written consent of the other.
 - The effective date of this Agreement shall be the date on which it is executed by both Parties hereto.

Commented [C1]: Either this or UNICITRAL Rules:

In case any doubt or difference or dispute arises in the interpretation and application of the provisions of this NDA, the Parties shall consult with each other and settle such doubts or differences amicably between them. In case of disputes which cannot be solved amicably, the disputes would be finally settled under the UNICITRAL Rules of Arbitration by one or more arbitrators appointed in accordance with the said Rules. The language to be used in the arbitration shall be English unless otherwise agreed upon.

Or

This Agreement shall be governed by, and construed in accordance with, the laws of a neutral third country, (Paris), France. The venue for mediation or arbitration shall be in a neutral location - the ICC International Court of Arbitration in Paris. Both parties hereto hereby submit to the jurisdiction of the selected neutral arbitration venue with respect to any dispute arising in connection with this Agreement.

- This Agreement is on a non-exclusive basis i.e. both the Parties are free to explore other collaborations that do not infringe on the terms and conditions laid out in the current/subsequent agreement(s) signed by the parties, but either Parties shall not disclose information provided by other Party to any third Party by any means.
- If any of the provisions of the Agreement is found by a competent authority to be void or unenforceable, such provision shall be deemed to be deleted from the Agreement and the remaining provisions of the Agreement shall continue in full force and effect. Notwithstanding the foregoing, the Parties shall thereupon negotiate in good faith in order to agree the terms of a mutually satisfactory provision to be substituted for the provision so found to be void or unenforceable.

IN WITNESS WHERE OF, each of the Parties has caused this Agreement to be executed by its duly authorized officer(s) or representative(s).

Parties:

\$\$NAME OF COMPANY\$\$	CSIR-.....
\$\$ADDRESS\$\$	Address
SIGNATURE:	SIGNATURE:
NAME: Mr. XXXX XXXX	NAME:
TITLE: \$\$DESIGNATION\$\$	TITLE:
DATE:	DATE:
SEAL:	SEAL: