

NDA 약정, CDA 계약, 비밀보호계약, 비밀유지약정 영문 조항 – 비밀정보 범위, 적용 배제 대상, 비밀 관리 의무, 위반시 조치 등 계약조항 샘플



16. CONFIDENTIALITY.

16.1 Confidentiality.

During the Term and for a period of ten (10) years thereafter, each Party shall maintain in confidence all Information and materials of the other Party disclosed or provided to it by the other Party (either pursuant to this Agreement, or the Confidential Disclosure Agreement entered into by the Parties dated January 11, 2013 (the "Confidential Disclosure Agreement") (together with all embodiments thereof, the "Confidential Information"). Confidential Information also includes Information generated hereunder, and Information regarding intellectual property and confidential or proprietary Information of Third Parties, in each case as described by one Party to the other Party.

In addition and notwithstanding the foregoing, any Information under Article 9 constituting Inventions and discoveries owned by one Party shall be deemed to be Confidential Information disclosed by such Party and received by the other Party, even if such Information is initially generated and disclosed by the other Party. The terms and conditions of this Agreement and the Confidential Disclosure Agreement shall be deemed Confidential Information of both Parties.

16.2 **Degree of Care; Permitted Use.**

Each Party shall take reasonable steps to maintain the confidentiality of the Confidential Information of the other Party, which steps shall be no less protective than those steps that such Party takes to protect its own Confidential Information of a similar nature, and in no event less than a reasonable degree of care.

Neither Party shall use or permit the use of any Confidential Information of the other Party except for the purposes of carrying out its obligations or exercising its rights under this Agreement or the Confidential Disclosure Agreement, and neither Party shall copy any

Confidential Information of the other Party except as may be reasonably necessary or useful for such purposes.

All Confidential Information of a Party, including without limitation all copies and derivations thereof, is and shall remain, as between the Parties, the sole and exclusive property of the disclosing Party and subject to the restrictions provided for herein.

Neither Party shall disclose any Confidential Information of the other Party to Third Parties, other than to those of its directors, officers, Affiliates, employees, actual or potential licensors, independent contractors, actual or potential Sublicensees, actual or potential assignees, agents and external advisors directly involved in or concerned with the carrying out of this Agreement, on a strictly applied "need to know" basis; provided, however, that such persons and entities are subject to confidentiality and non-use obligations at least as stringent as the confidentiality and non-use obligations provided for in this Article 16.

Except to the extent expressly permitted under this Agreement, the receiving Party may not use Confidential Information of the other Party in applying for Patents or securing other intellectual property rights without first consulting with, and obtaining the written approval of, the other Party (which approval shall not be unreasonably withheld, delayed or conditioned).

16.3 **Exceptions.**

The obligations of confidentiality and non-use set forth in Section 16.2 shall not apply to any portion of Confidential Information that the receiving Party or its Affiliates can demonstrate by contemporaneous written records was: (a) known to the general public at the time of its disclosure to the receiving Party or its Affiliates, or thereafter became generally known to the general public, other than as a result of actions or omissions of the receiving Party, its Affiliates, or anyone to whom the receiving Party or its Affiliates disclosed such portion; (b) known by the receiving Party or its Affiliates prior to the date of disclosure by the disclosing Party; (c) disclosed to the receiving Party or its Affiliates on an unrestricted basis from a source unrelated to the disclosing Party and not known by the receiving Party or its Affiliates to be under a duty of confidentiality to the disclosing Party; or (d) independently developed by the receiving Party or its Affiliates by personnel that did not have access to or use of Confidential Information of the disclosing Party.

Any combination of features or disclosures shall not be deemed to fall within the foregoing exclusions merely because individual features are published or known to the general public

or in the rightful possession of the receiving Party or its Affiliates unless the combination itself are published or known to the general public or are in the rightful possession of the receiving Party or its Affiliates.

16.4 **Permitted Disclosures.**

The obligations of confidentiality and non-use set forth in Section 16.2 shall not apply to the extent that the receiving Party or its Affiliates: (a) is required to disclose Information pursuant to: (i) an order of a court of competent jurisdiction; (ii) Applicable Laws; (iii) regulations or rules of a securities exchange; (iv) requirement of a governmental agency for purposes of obtaining approval to test or market Licensed Products, or maintaining Regulatory Approval of a Licensed Product; (v) disclosure of Information to a patent office for the purposes of filing a Patent as permitted in this Agreement; or (vi) the exercise by each Party of its rights granted to it under this Agreement or its retained rights; or

(b) discloses such Confidential Information solely on a "need to know basis" to Affiliates, potential and future collaborators (including without limitation Sublicensees), potential or actual acquirers, merger partners, licensees, or assignees permitted under Section 19.3,

potential or actual Development collaborators, subcontractors, investment bankers, investors, lenders, or other potential financial partners, and their respective directors, employees, contractors and agents, provided that such Third Party or person or entity in subsection (b) agrees to confidentiality and non-use obligations with respect thereto at least as stringent as those specified for in this Article 14; provided that, in the case of (a)(i) through (iv), the receiving Party shall provide prior written notice thereof to the disclosing Party and provide the opportunity for the disclosing Party to review and comment on such required disclosure and request confidential treatment thereof or a protective order therefor; provided, however, that in connection with filings made pursuant to this Section 16.4 in connection with the transaction contemplated under this Agreement, Licensor shall redact from such filings terms and information as requested by Licensee so long as such redactions are not inconsistent with Applicable Law.

16.5 Return of Confidential Information.

Each Party shall return or destroy, at the other Party's instruction, all Confidential Information of the other Party in its possession upon termination or expiration of this Agreement, or destroy such Confidential Information; provided, however, that each Party

shall be entitled to retain one (1) copy of such Confidential Information of the other Party, (a) to the extent reasonably required to allow the relevant Party to carry out any remaining obligations under this Agreement or to exercise any of its rights that expressly survive termination or expiration of this Agreement, and (b) for legal archival purposes and/or as may be required by Applicable Law. The receiving Party shall provide a written confirmation of such destruction within thirty (30) days of such destruction.

16.6 **Public Disclosure.**

The Parties agree that Licensor's initial announcement of the execution of this Agreement shall be in the form of a filing with the Korea Exchange that is mutually acceptable to each of the Parties and attached to this Agreement as Exhibit 16.6-1 (the "Filing"). The Parties agree to release a limited joint press release upon the Effective Date, attached to this Agreement as Exhibit 16.6-2, (the "Press Release") and a second joint press release upon the Closing; provided that the form and content of each joint press release shall be mutually agreed by the Parties. Unless otherwise required by Applicable Laws, beginning with the initial announcement of the execution of this Agreement and continuing through the duration of the Term, in all cases other than the announcement set forth in the Filing,

Licensor shall submit to Licensee for review and approval all proposed press releases, academic, scientific, and medical publications and public presentations relating to activities performed under this Agreement that have not been previously reviewed and approved by Licensee or disclosed.

Such review and approval shall be conducted for the purposes of preserving intellectual property protection and determining whether any portion of the proposed publication or presentation containing the Confidential Information of Licensee should be modified or deleted, and to determine whether such disclosure is in the best interests of the Parties in connection with the Development of Licensed Products in the Territory.

Written copies of such proposed publications and presentations (other than press releases) shall be submitted by Licensor to Licensee no later than thirty (30) days before submission for publication or presentation, and Licensee shall provide written comments, if any, within fifteen (15) days of receipt. Unless otherwise required by Applicable Laws, written copies of proposed press releases shall be submitted to the other Party no later than four (4) Business Days before release and the receiving Party shall provide written comments, if

any, within two (2) Business Days of receipt.

기술탈취, 부정경쟁, 영업비밀, 손해배상, 형사고소, 국제계약, 민사소송, A~Z 수행경력

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