

## NON-DISCLOSURE AGREEMENT

THIS AGREEMENT is made on the \_\_\_\_\_ day of \_\_\_\_\_ between \_\_\_\_\_, a company incorporated in the Republic of Singapore and having its registered office at \_\_\_\_\_, (hereinafter referred to as “the Company”) of the one part and **ALEXANDRA HEALTH PTE LTD**, a company incorporated in the Republic of Singapore and having its registered office at **90 YISHUN CENTRAL SINGAPORE 768828** (hereinafter referred to as “**AHPL**”) of the other part.

### WHEREAS:

- (A) The parties, for their mutual benefit, may have exchanged and wish to further exchange certain information, including but not limited to, trade secrets and proprietary know-how in order that each of them may evaluate such information for the purpose of determining their respective interests in establishing a business relationship between them.
- (B) The parties wish to define their rights with respect to the said information and to protect the confidentiality thereof and proprietary features contained therein.
- (C) The Company acknowledges that all information or data relating to the Purpose whether in writing, orally or by any other means if disclosed (whether directly or indirectly) to a third (3<sup>rd</sup>) party without the express authorization of AHPL is highly confidential and would have a detrimental effect on the business of AHPL, and that its disclosure could not only expose AHPL to liability but also to judicial sanctions and that such disclosure might also adversely affect AHPL’s patients and under certain circumstances, disclosure by the Company could expose the Company to criminal prosecution. In consideration of being made privy to the Confidential Information, the Company hereby agrees to observe and be bound by the terms of the Agreement.
- (D) The Company acknowledges that all information or data relating to Purpose also applies to any organisation/institution that is related to AHPL (i) either by reason of AHPL directly or indirectly controlling the organisation/institution; (ii) by reason of both AHPL and organisation/institution being controlled by or under the common control of a third party; or (iii) by reason that AHPL is obliged to provide support services to that organisation/institution for any reason. In the context of

corporate entities, a person “controls” the entity if it owns and controls (i) more than fifty (50) percent of whose shares or other securities entitled to vote for election of directors (or other managing authority) in the entity, or (ii) more than fifty (50) percent of the equity interest in the entity, or (iii) is otherwise able to direct or cause the direction of the management and policies of such person or entity whether by contract or otherwise.

## **NOW IT IS HEREBY AGREED AS FOLLOWS:**

### **1. DEFINITIONS**

In this Agreement, the following expressions shall have the following meanings:

- 1.1 'Purpose' shall mean any discussions and negotiations between or within the parties concerning or in connection with the establishment of a business relationship between the parties.
- 1.2
- (a) 'Confidential Information' shall mean all information received from the other party which the latter has indicated in writing or labelled to be “Confidential”, “Proprietary Information” or with any other comparable legend to similar effect, at the time of disclosure [or if disclosed orally, confirmed in writing by the disclosing party as such within fifteen (15) days after its disclosure], which it may acquire in relation to the other party, including but without any limitation whatsoever:
- (i) all commercial, marketing and business information, strategic and development plans, intentions, any matter concerning AHPL, its affairs, business, operations, shareholders, directors, officers, business associates, clients or any other person or entity having dealings with AHPL;
  - (ii) information relating to the financial condition of AHPL, its accounts, audited or otherwise, notes, memoranda, documents and/or records in any form whatsoever, whether electronic or otherwise; and
  - (iii) scientific, technical, intellectual or other information in any form whatsoever, whether electronic or otherwise, relating to methods, processes, formulae, compositions, systems, techniques, product information, inventions, know-how, trade secrets, design rights, machines, computer programs, software, development codes and research projects; business plans, co-developer/collaborator

identities, data, business records of every nature, customer lists and client database, pricing data, project records, market reports, sources of supply, employee lists, business manuals, policies and procedures, information relating to technologies or theory and all other information which may be disclosed by AHPL to the other party which the other party may be provided access by AHPL, whether stored electronically or otherwise; all information which is deemed by AHPL to be Confidential Information or which is generated as a result of or in connection with the business of AHPL and which is not generally available to the public; and all copies, reproductions and extracts thereof, in any format or manner of storage, whether in whole or in part, together with any other property of AHPL made or acquired by the other party or coming into their possession or control in any manner whatsoever.

- (b) All information as stated in Clause 1.2(a) above shall be and remain the sole property of the Discloser and shall be returned to the Discloser forthwith on demand at any time or without demand upon the termination of the other party's services.
- (c) The Company shall ensure that none of the patients of AHPL can be identified in any reports, submissions and publications of the Company, which shall be deemed to be Confidential information of AHPL within the meaning of this clause. Confidential Information does not include information:
  - (i) which is or becomes public knowledge and public property in any way without breach of this Agreement by the Recipient;
  - (ii) which the Recipient can show has been known or has been developed by or for the Recipient at any time independently of the information disclosed to it by the Discloser;
  - (iii) which is hereafter disclosed or made available to the Recipient from a source other than the Discloser without breach by the Recipient or such source of any obligation of confidentiality or non-use towards the Discloser;
  - (iv) which is hereafter made generally available by the Discloser or a third party or is disclosed by the Discloser to a third party without restriction on disclosure or use, including without limitation, by way of the publication of a patent specification;

- (v) which is disclosed orally unless it is identified as confidential at the time of disclosure and confirmed as such in writing by the Discloser within thirty (30) days of disclosure;
- (vi) which is disclosed by the Recipient with the prior written approval of the Discloser; or
- (vii) in respect of which a period of five (5) years has elapsed from the date of signature of this Agreement

**PROVIDED HOWEVER THAT** the foregoing exceptions shall not apply to information relating to any combination of features or any combination of items of information merely because information relating to one or more of the relevant individual features or one or more of the relevant items (but not the combination itself) falls within any one or more of such exceptions.

- 1.3 Notwithstanding any other provision to the contrary in this Agreement, any information relating or pertaining to the patients of AHPL shall be deemed to be Confidential Information of AHPL.

## **2. HANDLING OF CONFIDENTIAL INFORMATION**

- 2.1 In consideration of the mutual exchange and disclosure of Confidential Information, each party undertakes in relation to the other party's Confidential Information:

- (a) to maintain the same in confidence and to use it only for the Purpose and for no other purpose and in particular, but without prejudice to the generality of the foregoing:
  - (i) not to make any commercial use thereof;
  - (ii) not to use the same for the benefit of itself or of any third (3<sup>rd</sup>) party other than pursuant to a further agreement with the other party; and
  - (iii) not to use the same for the purpose of guiding or conducting a search of any information, materials or sources, whether or not available to the public, for any purpose whatsoever, including without limitation, for the purpose of demonstrating that any information falls within one (1) of the exceptions in Clause 1;

- (b) not to copy, reproduce or reduce to writing any part thereof except as may be reasonably necessary for the Purpose and that any copies, reproductions or reductions to writing so made shall be the property of the Discloser;
  - (c) not to disclose the same whether to its employees or to third (3<sup>rd</sup>) parties except in confidence to such of its directors, employees, servants, agents, officers, representatives, consultants, independent contractors and professional advisors who need to know the same for the Purpose and that:
    - (i) such directors, employees, servants, agents, officers, representatives, consultants, independent contractors and professional advisors are obliged by their contracts of employment or service not to disclose the same; and
    - (ii) the Recipient shall enforce such obligations at its expense and at the request of the Discloser in so far as breach thereof relates to the Discloser's Confidential Information;
  - (d) to be responsible for the performance of sub-clauses (a), (b) and (c) above on the part of its employees or directors to whom the same is disclosed pursuant to sub-clause (c) above; and
  - (e) to apply thereto no lesser security measures and degree of care than those which the Recipient applies to its own confidential or proprietary information of similar nature and which the Recipient warrants as providing adequate protection of such information from unauthorised disclosure, copying or use.
- 2.2 The Company shall cause its directors, agents, employees, servants, officers, representatives, consultants, independent contractors and professional advisors involved in the Purpose to observe or be similarly bound by the terms of Agreement. The Company as the principal party shall be responsible and held liable for any breach of this Agreement by any of its directors, agents, employees, servants, officers, representatives, consultants, independent contractors and professional advisors.
- 2.3 Notwithstanding the foregoing, the Recipient shall be entitled to make any disclosure required by law of the other party's Confidential Information, but shall give the other party not less than two (2) business days' notice of such disclosure and shall consult with the Discloser prior to such disclosure with a view to avoiding such disclosure if legally possible.

### **3. RETURN OF CONFIDENTIAL INFORMATION**

Each party shall:

- (a) within one (1) month of completion of the purpose or receipt of a written request from the other party, return to the other party all documents and materials (and all copies thereof) containing the other party's Confidential Information and certify in writing to the other party that it has complied with the requirements of this sub-clause; and
- (b) notwithstanding the completion of the Purpose or return of the documents and materials as aforesaid, continue to be bound by the undertakings set out in Clause 2.

### **4. DATA PROTECTION**

- 4.1 Any data provided by AHPL to the Company and used by the Company directly or indirectly in the performance of this Agreement shall remain at all times the property of AHPL. It shall be identified, clearly marked and recorded as such by the Company on all media and in all documentation.
- 4.2 The Company shall take all reasonable precautions and adequate measures to preserve the integrity and prevent any corruption or loss, damage or destruction of AHPL's data.
- 4.3 In the event of termination of this Agreement, the Company shall when directed to do so by AHPL, and instruct all its agents and sub-contractors to erase all data provided by AHPL and all copies of any part of the data provided by AHPL from the Company's systems and magnetic data.
- 4.4 All data acquired by the Company from AHPL shall only be used for the purposes of this Agreement and shall not be further processed or disclosed without the prior consent of AHPL.
- 4.5 The data will not be transferred or made available to any Third (3<sup>rd</sup>) Party without the prior written consent of AHPL. The Company shall not use any data provided by AHPL, or any substance that is replicated or derived therefrom for any commercial or profit-generating purpose, or in the conduct of research that is subject to consulting, licensing or other similar legal or commercial obligations to another institution, corporation or business entity, unless the provider provides its prior written consent. Upon completion of this Agreement, the data will be either returned to

AHPL or disposed of under the Company's supervision in accordance with the applicable laws and regulations, and the written instructions of AHPL.

- 4.6 The parties shall comply at all times with the Personal Data Protection Act 2012.

## **5. DISCLAIMER AND WARRANTY**

- 5.1 Each party reserves all rights in its Confidential Information and no rights or obligations other than those expressly recited here are granted or to be implied from this Agreement. In particular, no licence is hereby granted directly or indirectly under any patents, patent applications, inventions, discoveries, copyrights or other intellectual property rights now or in the future held, made, obtained or licensable by either party.

- 5.2 Each party warrants its right to disclose its Confidential Information to the other party and to authorise the other party to use the same for the Purpose.

## **6. CONFIDENTIALITY OF THIS AGREEMENT**

Each party agrees to keep the existence and nature of this Agreement confidential and not to use the same or the name of the other party or of any other company in the Group of Companies of which the other party forms part in any publicity, advertisement or other disclosure with regard to this Agreement without the prior written consent of the other party, such consent not to be unreasonably withheld.

## **7. DAMAGES NOT AN ADEQUATE REMEDY**

The Recipient and Discloser both acknowledge that the Confidential Information has been developed or obtained by one another through the investment of significant time, effort and expense, and that such Confidential Information provides the other with a significant competitive advantage over its competitors. The Recipient and Discloser both understand and agree that any breach of this Agreement will result in irreparable harm to the Discloser and because of the unique nature of the Confidential Information, monetary damages may not be an adequate remedy in the event of such a breach or threatened breach of this Agreement. Accordingly, the Discloser and Recipient agree that the Party seeking remedy shall be entitled to seek equitable relief, including injunctive relief and specific performance, in the event of a breach or threatened breach of this Agreement in addition to all other remedies available to the Party seeking remedy at law or in equity.

## **8. NO GRANT OF INTELLECTUAL PROPERTY RIGHTS**

- 8.1 All Confidential Information remains the property of the Discloser.
- 8.2 The Discloser reserves all rights in the Confidential Information and no rights or obligations other than those expressly recited herein are granted or to be implied from this Agreement. In particular, no license is hereby granted directly or indirectly under any patent, invention, discovery, copyright or other industrial property right now or in the future held, made, obtained or licensable by the Discloser.
- 8.3 The Recipient shall not file any copyright registrations, patent applications or similar registrations of ownership on the Confidential Information. In the event that the Recipient does so in violation of this Agreement, the Recipient shall assign absolutely to the Discloser such registrations and applications without any cost to the Discloser.

## **9. LIMITATION OF LIABILITY**

In carrying out their respective obligations under this Agreement, the Company and AHPL shall comply with all laws and regulations applicable thereto but save for wilful acts, default or gross negligence on their respective parts, neither party shall be liable to the other party for any indirect, incidental, special, punitive or consequential damages however caused, including any loss of profits or business interruption costs and under any theory of liability, including but not limited to contract, strict liability and negligence; whether or not the other party has been advised of the possibility of such damage.

## **10. NOTICES**

- 10.1 Except as otherwise provided in this Agreement, notices which are required to be given under or permitted by this Agreement shall be in writing (unless expressly stated otherwise) and sent to the address of the recipient set out in this Agreement. All notices may be sent by hand or by AR Registered post or certified mail, return receipt requested, postage prepaid and properly addressed to the offices of the parties as specified in this Agreement or to such other address as the party may later specify.
- 10.2 Every notice or communication so sent shall be deemed to have been properly served and validly made, if by hand when delivered to the recipient's address or if sent by AR Registered post, two (2) days after posting if posted to an address within Singapore and eight (8) days after



posting, if posted to an address outside Singapore, notwithstanding the fact that the letter may be returned by the Post Office undelivered.

## **11. TERMINATION**

This Agreement shall continue to be in force from the date hereof until terminated by mutual consent or by either party giving to the other not less than thirty (30) days' prior written notice. The provision of Clauses 1 to 8, 11 to 15 and 17 to 21 shall survive any such termination.

## **12. NON-ASSIGNMENT**

Subject to the other provisions of this Agreement, all the terms and conditions of this Agreement shall be binding upon and inure to the benefit of the parties and their respective permitted assigns and successors-in-title except that:-

- (i) neither party shall transfer or assign all or any of its rights, obligations or benefits hereunder in whole or in part to any third (3rd) party, without the prior written consent of the other party, which consent shall not be unreasonably withheld;
- (ii) any permitted assignee or transferee shall agree in writing to comply with all terms and conditions of this Agreement; and
- (iii) any assignment shall not exceed the existing scope of this Agreement.

## **13. SEVERABILITY**

- 13.1 In the event that any term, condition or provision contained in this Agreement or the application of any such term, condition or provision shall be held by a court of competent jurisdiction to be wholly or partly illegal, invalid, unenforceable or a violation of any applicable law, statute or regulation of any jurisdiction, the same shall be deemed to be deleted from this Agreement and shall be of no force and effect; whereas the remaining terms and provisions of this Agreement shall remain in full force and effect as if such term, condition and provision had not originally been contained in this Agreement, unless the severed provisions render the continuing performance of this Agreement impossible, or materially change either party's rights or obligations under this Agreement; in which event such party may give written notice of its intent to terminate this Agreement to the other party.

13.2 Notwithstanding the aforesaid, in the event of such deletion, the parties hereto shall negotiate in good faith in order to agree to terms of mutually acceptable and satisfactory alternative provisions in place of the provision(s) so deleted.

#### **14. WAIVER**

14.1 No waiver of any breach of any covenant, condition, stipulation, obligation or provision contained or implied in this Agreement shall operate or be interpreted as a waiver of another breach of the same or of any covenant, condition, stipulation, obligation or provision in this Agreement.

14.2 Any time or other indulgence granted by AHPL under this Agreement shall be without prejudice to and shall not be taken as a waiver of any of AHPL's rights under this Agreement nor shall it prejudice or in any way limit or affect any statutory rights or powers from time to time vested in or exercisable by AHPL.

#### **15. DISPUTE RESOLUTION**

15.1 In the event of any dispute or difference arising out of or in connection with or in relation to this Agreement or the existence, validity, termination, application or interpretation of this Agreement or any of its provisions, both parties shall use their best endeavours to settle the dispute informally by agreement between the parties. Both parties shall always act in good faith and co-operate with each other to resolve any disputes.

15.2 Notwithstanding anything in this Agreement, if the dispute is not settled in accordance with Clause 14.1 above, no party shall proceed to litigation or any other form of dispute resolution unless the parties have made reasonable efforts to resolve the same through mediation in accordance with the mediation rules of the Singapore Mediation Centre. A party who receives a notice for mediation from the other party shall consent and participate in the mediation process in accordance with this clause. Failure to comply with this clause shall be deemed to be a breach of this Agreement.

15.3 In the event that mediation is unsuccessful, the dispute shall be resolved either by reference to arbitration or by court proceedings as elected by either party, by way of a written notice to the other party, which shall state the specific dispute to be resolved and the nature of such dispute.

- 15.4 Any reference to arbitration in Singapore shall be a submission to arbitration within the meaning of the Arbitration Act for the time being in force in Singapore. Such arbitration shall be conducted in the English language in accordance with the Arbitration Rules of the Singapore International Arbitration Centre (“SIAC Rules”) for the time being in force, which rules are deemed to be incorporated by reference into this clause, except in so far as such Rules conflict with the provisions of Clause 14 herein, in which event the provisions of Clause 14 herein will prevail.
- 15.5 The arbitration tribunal shall consist of one (1) arbitrator to be appointed by mutual agreement between the parties. Either party may propose to the other the name or names of one or more persons, one of whom should serve as an arbitrator. If no agreement is reached within thirty (30) days after receipt by one party of such a proposal from the other, the arbitrator shall be appointed by the Appointing Authority.
- 15.6 The Appointing Authority shall be the Chairman of the SIAC.
- 15.7 The arbitrator must not be a present or former employee or agent of, or consultant or counsel to, either party or any related corporation [as defined in Section 6 of the Companies Act (Cap. 50)] of either party.
- 15.8 Any decision or award of an arbitration tribunal appointed pursuant to this clause will be final and binding on the parties.
- 15.9 Interest at the annual rate of six per cent (6%) per annum will be due and payable to the party in receipt of an arbitration award from such date as the arbitral tribunal may decide until the date of payment to such party.
- 15.10 The parties hereto undertake to keep the arbitration proceedings and all information, pleadings, documents, evidence and all matters relating thereto confidential.
- 15.11 The application of Part II of the International Arbitration Act, and the Model Law referred thereto, to this Agreement is hereby excluded.
- 15.12 For the avoidance of doubt, it is agreed that nothing in Clause 14 shall prevent a party from seeking urgent equitable relief before any appropriate court and the commencement of any dispute resolution proceedings shall in no way affect the continual performance of the parties’ obligations under this Agreement.

## **16. PROFESSIONAL FEES**

In any suit or other proceeding relating to the subject matter of the Agreement, the prevailing party shall be entitled to recover from the other party all reasonable costs, fees and expenses by accountants, solicitors and other professionals for services rendered to the prevailing party in connection with the suit or other proceeding, including costs, fees and expenses of preparation and appeal.

## **17. EXPORT CONTROL LAWS AND REGULATIONS**

Each party agrees to comply with all export laws and regulations (including “deemed export” and “deemed re-export” regulations) of the United States and any other relevant local export laws and regulations (“Export Laws”) to ensure that no data, information, program and/or deliverable (or direct product thereof) is (a) exported, directly or indirectly, in violation of Export Laws; or (b) used for any purposes prohibited by the Export Laws, including without limitation, nuclear, chemical or biological weapons proliferation or development of missile technology.

## **18. ENTIRE AGREEMENT**

- 18.1 The parties expressly acknowledge that they have read this Agreement and understood its provisions. The parties agree that this Agreement and all Schedules annexed to the same constitute the entire agreement between them with respect to the subject matter of this Agreement and that it supersedes all prior or contemporaneous proposals, agreements, negotiations, representations, warranties, understandings, correspondence and all other communications (whether written or oral, express or implied) or arrangements entered into between the parties prior to this Agreement in respect of the matters dealt with in it. No promise, inducement, representation or agreement other than as expressly set forth in this Agreement has been made to or by the parties.

## **19. NO PARTNERSHIP**

Nothing contained in or relating to this Agreement shall be deemed to constitute a partnership or agency relationship between the parties and no party shall have any authority to act for or assume any obligation or responsibility of any kind, express or implied on behalf of the other party or bind or commit the other party for any purpose in any way whatsoever.

## **20. GOVERNING LAW**

- 20.1 This Agreement shall be deemed to be made in Singapore, subject to, governed by and construed in all respects in accordance with the laws of the Republic of Singapore for every intent and purpose.
- 20.2 The parties hereby agree to submit irrevocably to the non-exclusive jurisdiction of the Courts of the Republic of Singapore to settle any and all disputes in connection with this Agreement.

## **21. MISCELLANEOUS**

- 21.1 Words incorporating the masculine gender only shall include the feminine and/or neuter genders and vice versa and words incorporating the singular meaning shall include the plural meaning and vice versa and words denoting natural persons shall include bodies corporate, incorporate, associated partnerships, firms, trusts, associations, joint ventures, governments, governmental agencies or departments or any other entity, and all such words shall be construed interchangeably in that manner.
- 21.2 The clauses, paragraph or clause headings and marginal notes in this Agreement are inserted for ease of reference and convenience only and do not form part of this Agreement. They shall not be deemed to define, limit, construe or describe the scope or intent of the clauses hereof nor shall they in any way affect the interpretation of this Agreement.
- 21.3 References to clauses, schedules and annexes shall be references to Clauses of and the Schedules and Annexes to this Agreement. The Schedules and Annexes are to have effect and be construed as an integral part of, and shall be deemed to be incorporated into, this Agreement.
- 21.4 References to statutory provisions shall be construed as references to those provisions as respectively amended, consolidated, extended or re-enacted from time to time and all statutory instruments or orders made pursuant to them.
- 21.5 Any reference to “day” shall mean a period of twenty-four (24) hours, ending at twelve (12) midnight.
- 21.6 If any period of time is specified from a given day, or the day of a given act or event, it is to be calculated exclusive of that day. Where expressed by reference to a person in Singapore, business day means any day other than a Saturday, a Sunday or a day on which licensed

banks are authorised or required to be closed in Singapore and, where expressed by reference to the jurisdiction of a person other than Singapore, means any day other than a Saturday, a Sunday or a day on which licensed banks are authorised or required to be closed in the jurisdiction of that person, then that time limit is deemed to only expire on the next business day.

- 21.7 References in this Agreement to anything which any party is required to do or not to do shall include its acts, defaults and omissions, whether direct or indirect, on its own account, or for or through any other person and those which it permits or suffers to be done or not done by any other person.
- 21.8 In the event of a conflict between any of the terms of this Agreement, including its Schedules and Annexes, the conflict will be resolved in the following order of priority: (1) the Clauses of this Agreement; (2) the Schedules and Annexes.

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