

MUTUAL CONFIDENTIALITY AGREEMENT

(Email the following to tcmoncologypractice@gmail.com)

This Agreement is made and entered into, as of _____, 2020 (“Effective Date”), by and between _____, having a principal place of business at _____, California (“Potential Seller”); and _____, an individual residing in _____ (“Potential Buyer”).

Definition of Confidential Information. “Confidential Information” means (a) any technical and non-technical information related to a party’s business and current, future and proposed products and services of each of the parties, including for example and without limitation, each party’s respective information concerning research, development, design details and specifications, financial information, procurement requirements, engineering and manufacturing information, customer lists, business forecasts, sales information and marketing plans and (b) any information a party has received from others that may be made known to the other party and which such party is obligated to treat as confidential or proprietary; provided, however, that any such information disclosed by a party to this Agreement (the “Discloser”) will be considered Confidential Information of Discloser by the other party (the “Recipient”), only if such information would be considered confidential based on the circumstances surrounding its disclosure by a reasonable person familiar with the Discloser’s business and the industry in which Discloser operates.

Nondisclosure and Nonuse Obligations. Recipient will not use, disseminate, or in any way disclose any of Discloser’s Confidential Information to any person, firm or business, except to the extent necessary for the purpose described below the signatures to this Agreement (the “Purpose”). Furthermore, neither party may disclose the existence of any negotiations, discussions or consultations in progress between the parties to any form of public media without the prior written approval of the other party. Recipient shall treat all of Discloser’s Confidential Information with the same degree of care as Recipient accords to Recipient’s own Confidential Information, but not less than reasonable care. Recipient shall disclose Discloser’s Confidential Information only to those of Recipient’s employees, consultants and contractors who need to know such information. Recipient certifies that each such employee, consultant and contractor will have agreed, either as a condition to employment or in order to obtain Discloser’s Confidential Information, to be bound by terms and conditions substantially similar to those terms and conditions applicable to Recipient under this Agreement. Recipient shall immediately give notice to Discloser of any unauthorized use or disclosure of Discloser’s Confidential Information. Recipient shall assist Discloser in remedying any such unauthorized use or disclosure of Discloser’s Confidential Information.

Exclusions from Nondisclosure and Nonuse Obligations. Recipient’s obligations under Section 2 (Nondisclosure and Nonuse Obligations) shall not apply to any of Discloser’s Confidential Information that Recipient can document: (a) was in the public domain at or subsequent to the time such Confidential Information was communicated to Recipient by Discloser through no fault of Recipient; (b) was rightfully in Recipient’s possession free of any obligation of confidence at or subsequent to the time such Confidential Information was communicated to Recipient by such Discloser; (c) was developed by employees or agents of Recipient independently of and without reference to any of Discloser’s Confidential Information; or (d) was communicated by Discloser to an unaffiliated third party free of any obligation of confidence. A disclosure by Recipient of any of Discloser’s Confidential Information (a) in response to a valid order by a court or other governmental body; (b) as otherwise required by law; or (c) necessary to establish the rights of either party under this Agreement shall not be considered to be a breach of this Agreement by such Recipient; provided, however, such Recipient shall provide prompt

prior written notice thereof to such Discloser to enable Discloser to seek a protective order or otherwise prevent such disclosure.

Ownership and Return of Confidential Information and Other Materials. All of Discloser's Confidential Information, and any Derivatives (defined below) thereof, whether created by such Discloser or Recipient, are the property of Discloser and no license or other rights to such Discloser's Confidential Information or Derivatives is granted or implied hereby. For purposes of this Agreement, "Derivatives" shall mean: (a) for copyrightable or copyrighted material, any translation, abridgment, revision or other form in which an existing work may be recast, transformed or adapted; (b) for patentable or patented material, any improvement thereon; and (c) for material that is protected by trade secret, any new material derived from such existing trade secret material, including new material which may be protected under copyright, patent and/or trade secret laws. All materials (including, without limitation, documents, drawings, papers, diskettes, tapes, models, apparatus, sketches, designs and lists) furnished by Discloser to Recipient (whether or not they contain or disclose Discloser's Confidential Information) are the property of such Discloser. Within five (5) days after any request by Discloser, Recipient shall destroy or deliver to Discloser, at Discloser's option, (a) all such Discloser-furnished materials and (b) all materials in Recipient's possession or control (even if not Discloser-furnished) that contain or disclose any of such Discloser's Confidential Information. Recipient will provide Discloser a written certification of Recipient's compliance with Recipient's obligations under this Section.

Independent Development. Recipient may currently or in the future be developing information internally, or receiving information from other parties that may be similar to such Discloser's Confidential Information. Accordingly, nothing in this Agreement shall be construed as a representation or inference that Recipient will not develop or have developed products or services, that, without violation of this Agreement, might compete with the products or systems contemplated by such Discloser's Confidential Information.

Disclosure of Third Party Information. Neither party shall communicate any information to the other in violation of the proprietary rights of any third party.

No Warranty. All Confidential Information is provided by Discloser "AS IS" and without any warranty, express, implied or otherwise, regarding such Confidential Information's accuracy or performance.

Term. This Agreement shall govern all communications between the parties that are made from the Effective Date to the date on which either party receives from the other written notice that subsequent communications shall not be so governed; provided, however, that a Recipient's obligations under Section 2 (Nondisclosure and Nonuse Obligations) shall continue in perpetuity with respect to the Discloser's Confidential Information that such Recipient has previously received unless such obligations no longer apply pursuant to Section 3 (Exclusions from Nondisclosure and Nonuse Obligations).

No Assignment. Neither party will assign or transfer any rights or obligations under this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld.

Injunctive Relief. A breach by Recipient of this Agreement will cause irreparable and continuing damage to Discloser for which money damages are insufficient, and Discloser shall be entitled to injunctive relief and/or a decree for specific performance, and such other relief as may be proper (including money damages if appropriate).

Notices. Any notice required or permitted by this Agreement shall be in writing and shall be delivered as follows, with notice deemed given as indicated: (a) by personal delivery, when delivered personally; (b) by courier, upon written verification of receipt; (c) by email or facsimile transmission, upon acknowledgment of receipt of electronic transmission; or (d) by certified or registered mail, return receipt requested, upon verification of receipt. Notice shall be sent to the addresses set forth above or to such other address as either party may provide in writing.

Governing Law; Forum. This Agreement shall be governed in all respects by the laws of the United States of America and by the laws of the State of California, as such laws are applied to agreements entered into and to be performed entirely within California between California residents. Each of the parties irrevocably consents to the exclusive personal jurisdiction of the federal and state courts located in , as applicable, for any matter arising out of or relating to this Agreement, except that in actions seeking to enforce any order or any judgment of such federal or state courts located in California, such personal jurisdiction shall be nonexclusive. Additionally, notwithstanding anything in the foregoing to the contrary, a claim for equitable relief arising out of or related to this Agreement may be brought in any court of competent jurisdiction.

Severability. If a court of law holds any provision of this Agreement to be illegal, invalid or unenforceable, (a) that provision shall be deemed amended to achieve an economic effect that is as near as possible to that provided by the original provision and (b) the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected thereby.

Waiver; Modification. If a party waives any term, provision or a party’s breach of this Agreement, such waiver shall not be effective unless it is in writing and signed by the party against whom such waiver is asserted. No waiver by a party of a breach of this Agreement by the other party shall constitute a waiver of any other or subsequent breach by such other party. This Agreement may be modified only if authorized representatives of both parties consent in writing.

Entire Agreement. This Agreement constitutes the entire agreement with respect to the Confidential Information disclosed hereunder and supersedes all prior or contemporaneous agreements concerning such Confidential Information, written or oral.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

“Potential Seller”

“Potential Buyer”

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Please email this signed agreement to tcmoncologypractice@gmail.com