**Confidentiality & Non-Disclosure Agreement**

Made and entered in force as of the date of the last signature (“**Effective Date**”)

**Between**

**European Paediatric Translational Research Infrastructure, internationale vereniging zonder winstoogmerk, abbreviated to EPTRI IVZW,** registered within the Belgian Crossroads Database for Enterprises under n. BE1006.717.468 (hereinafter to be referred to as “**EPTRI**”),

Duly represented by (contact name/title): M. Karel Marcel Allegaert, in his quality of President

Address (registered office): Herestraat 49, ON3 in 3000 Leuven (mailbox 611)

E-mail: president@eptri.eu

**and**

[**Organization’s name**] (hereinafter to be referred to as “**Potential** **User**”), registered within the [to be filled]

Duly represented by (contact name/title): [to be filled]

Address (registered office): [to be filled]

E-mail: [to be filled]

Individually a “**Party**” and collectively referred to as the **“Parties”**

**Whereas:**

EPTRI and the Potential User are considering to start a collaboration with the purpose of obtaining services in the field of [report here the main information related to the service request] (hereinafter the “**Service**”).

The Potential User is in possession of certain confidential and/or proprietary ideas, know-how, data, information and/or materials of a scientific, technical or business/commercial nature in a tangible or intangible format, whether written, oral, electronic or otherwise in relation to the Service.

**and Whereas:**

EPTRI is interested in receiving and evaluating this confidential information for the sole purpose of deciding being able to collaborate with the Potential User.

The purpose of this Agreement is to provide appropriate protection for confidential information to be supplied by the Potential User to EPTRI for the sole purpose of investigating a possible collaboration between the Parties.

**Therefore, it is agreed as follows:**

1. **DEFINITIONS** **AND INTERPRETATION**

1.

The above recitations, as well as any schedules, exhibits and addenda constitute an integral part of this Agreement and shall bind the Parties.

In this Agreement the following words and expressions shall have the following meanings:

1. **Agreement**: this Confidentiality and Non-Disclosure Agreement;
2. **Service Agreement**: the agreement that the Parties should sign if they start a collaboration.
3. **Service**: the services and activities to be provided to the Potential User if the Parties enter the **Service Agreement**;
4. **Confidential Information**: any information provided in a tangible or intangible format, whether written, oral, electronic or otherwise, before, on or after the date of this Agreement, by the Potential User to EPTRI relating directly or indirectly to the Purpose. Confidential Information includes (but is not limited to) all information of whatever nature relating to EPTRI the Potential User and its activity, the content of this Agreement and any other agreement reached by the Parties in connection with the Purpose and the fact that the Parties have been discussing and/or negotiating with each other regarding the Purpose. Confidential Information also includes data, know-how, trade secrets, devices, demonstrations, notes memoranda, summaries, analyses and any other information and/or materials of a scientific, technical or business/commercial/financial nature, whether subject to or protected by copyright, patent, trademark, registered or unregistered.
5. “**Improper Disclosure**”: any improper disclosure, unauthorised access, and/or misappropriation of the Confidential Information by the Potential User, its Representatives or third parties.
6. “**Intellectual Property**”: means anything invented, devised, originated by, or otherwise belonging to a Party. Intellectual Property shall include all titles, rights and interests in any patent, model, design, invention, technology, trademark, service-marks, trade dress, copyright and related rights, database rights, design rights, know-how, trade secret, specification, formula, device, system, method, solution, process, document and any other information and data in any form (whether protectable by registration or otherwise), including rights to apply for and be granted applications for any of the above and any continuations, continuations-in-part, divisional applications, renewals or extensions of, and rights to claim priority from, those rights, and any similar right recognized in any jurisdiction, together with all rights of action in relation to the infringement of any of the above. Intellectual property includes rights relating to protection against unfair competition and all other rights arising from intellectual activities in the industrial, scientific, literary or artistic fields.
7. **Personal Data**: personal data as defined in the General Data Protection Regulation (EU) 2016/679 (“**GDPR**”).
8. **Purpose**: disclosure of Confidential Information by EPTRI to the Potential Provider for the purpose of investigating a possible collaboration between the Parties.
9. “**Representatives**”: employees, directors, contractors, sub-contractors, officers, collaborators, advisers, agents, consultants, experts, units, departments, laboratories and any legal person which is directly or indirectly in a position of control or in a position of to be controlled by EPTRI and/or other representatives.

**II.** **SUBJECT OF THE AGREEMENT AND OBLIGATIONS OF THE PARTIES**

2. Subject to the conditions stipulated below, the Potential User provides EPTRI with the Confidential Information.

EPTRI (including its Representatives) acknowledges and accepts that it has received, or will receive, from the Potential User written, electronic and/or oral disclosures of the Confidential Information in connection with the Service and solely in furtherance of the Purpose. Subject to the provisions below, all such disclosures shall be safeguarded by EPTRI and its Representatives in strict confidence as Confidential Information.

3.

* 1. EPTRI undertakes to hold in confidence all the Confidential Information disclosed by the Potential User, for a period of \_\_\_\_\_\_years from the Effective Date or from the date of disclosure of any Confidential Information, the later of the two; provided, however, that for Confidential Information that is designated by the Potential User as a “trade secret” under applicable law, such obligations shall survive until the Potential User’s written notification that such Confidential Information is no longer a trade secret (“**Confidentiality Term**”).

* 1. Information shall not be considered Confidential Information if EPTRI can provide evidence that such information:
		1. was within its possession prior to disclosure and was not acquired, or obtained directly or indirectly, from the Potential User;
		2. was generated independently and in good faith by any Representative of EPTRI who did not have access to the Confidential Information;
		3. was at the time of the disclosure by the Potential User in the public domain or entered the public domain after such disclosure, by publication or other documented means, through no act or fault of the Potential User or any of its Representatives;
		4. was received by EPTRI from a third party having legal right to transmit the same and is not the subject of any restriction on disclosure imposed by that third party upon EPTRI or to the best of its knowledge, imposed upon such third party, or
		5. was required by law to be disclosed to a governmental or regulatory authority, provided however that, if possible, EPTRI notifies the Potential User in writing of such, limits the disclosure to the extent permitted under law and exercises all reasonable efforts to obtain reliable assurance that confidential treatment shall be accorded to the disclosure.

Notwithstanding the above, information shall not be regarded as in the public domain or known to EPTRI if individual components of the information relating to the idea are in the public domain or known to EPTRI but the particular compilation of information is not public knowledge.

4.

1. EPTRI undertakes to carefully safeguard the Confidential Information in order to prevent any Improper Disclosure and loss in violation of this Agreement and undertakes to take all reasonable care necessary to keep all such information confidential in compliance with this Agreement and to ensure the proper and secure storage of the Confidential Information. In the event of any Improper Disclosure, EPTRI undertakes to give immediate written notice thereof to the Potential User.
2. EPTRI undertakes to limit access to the Confidential Information under its control solely to its Representatives whose access to the Confidential Information is necessary for the Purpose.
3. EPTRI undertakes that it shall be liable for its Representatives and shall ensure that all its Representatives comply with the same obligation of confidentiality and with the provisions of this Agreement.

5.

EPTRI undertakes that it will not derive directly from the possession or use of the Confidential Information, any right, title or interest therein, nor claim any legal right, either by means of patent applications or otherwise, regarding products, services, methods or processes derived or based upon the Confidential Information. EPTRI represents that the purpose of receiving any patent applications or other patent related information from the Potential User and/or its contractors and partner is not, and shall not be, to form a basis for filing patent applications or instituting any other proceeding in any patent office or court.

6.

Within 6 (six) weeks from the date of receipt of any Confidential Information, EPTRI shall evaluate such Confidential Information and shall advise the Potential User in writing of the results of the evaluation and whether it is interested in the collaboration. If it is decided not to enter into any collaboration, EPTRI undertakes to immediately return to the Potential User or destroy according to the Potential User request the entire Confidential Information and all the related documentation, including without limitation all materials incorporating or integrating any Confidential Information in whole or in part. EPTRI will confirm in writing the destruction and send the Potential User a certificate of destruction within 14 days of being required by the Potential User or of the decision not to undertake any collaboration, the earlier of the two.

7.

The Parties agree that in the event that Personal Data, even pseudonymised data, as defined in the EU Regulation 2016/679 (“GDPR”) must be shared and processed, they will comply with the applicable Data Protection law, including the General Data Protection Regulation (EU) 2016/679 (“GDPR”). The lawful basis for such processing is the legitimate interest of the Parties to sign and execute this Agreement.

Each Party will process Personal Data for the sole purpose of accounting and management of this Agreement and commits to not access, process, disclose or use in any other way the Personal Data for any other purpose. As per article 13 of the GDPR, each of the Parties is informed that the other Party will manage its Representatives identification and contact details, for the purpose of executing this Agreement. The identification and contact details will be shared on a need-to-know basis and solely be stored for the duration of the contractual relationship, plus any mandatory archival time as per applicable local laws.

Each Party undertakes to inform its own resources how their Personal Data are processed and to provide them with all information required by law, necessary to ensure fair and transparent processing, including the fact that they may lodge a complaint with a supervisory authority in their country of residence, place of work or where an incident took place.

8.

For the avoidance of any doubt, it is hereby clarified that this Agreement does not constitute a license to use the Confidential Information other than for evaluation to achieve the Purpose. All the Confidential Information is being provided “as is” by the Potential User, and the Potential User does not provide any warranties or representations, express or implied, as to the accuracy, completeness and/or usefulness of the Confidential Information or otherwise. This Agreement does not constitute any offer or commitment to start a collaboration. The Parties therefore acknowledge that no obligation exists to enter into an agreement and that the lack of interest in concluding such an agreement on either side cannot lead to compensation for damages.

9.

The provisions of this Agreement and everything concerning the relationship between the Parties in accordance with this Agreement shall be governed by Belgian law, and the Parties agree to submit any disputes arising out of this Agreement, including those concerning its validity, interpretation, execution and termination, to the exclusive jurisdiction of the Courts of Leuven, Belgium.

10.

Without prejudice to the maximum term of 6 weeks set forth in article 6, this Agreement shall be in force for the period necessary to EPTRI to evaluate the Confidential Information. Each Party may terminate the Agreement, by registered letter with acknowledgment of receipt, at any time and with no reason, with a fifteen (15) days’ written notice.

If after the evaluation of the Confidential Information by EPTRI the Parties decide to cooperate, the provisions of this Agreement will continue to apply, subject they are not discordant and/or incompatible with the provisions of the Service Agreement and/or any other agreement between the Parties.

11.

This Agreement shall be interpreted and executed in good faith, taking into account the common intention of the Parties and the purposes which the Parties reasonably wished to attempt by signing it. In the event that one or more provisions of this Agreement are invalid, unlawful or unenforceable or should be invalidate or declared void, unlawful or unenforceable, the validity and enforceability of the other provisions and of this Agreement shall not be affected thereby.

The Parties hereto shall replace any such invalid provision by another appropriate valid provision that comes as close possible to the original provision in meaning and effect.

No Party may assign this Agreement in whole or in part to a third party.

12.

Except as otherwise provided in this Agreement and its annexes, all notices between the Parties shall be given in writing and delivered personally or sent by registered mail, facsimile or e-mail. Any notice shall be effective upon receipt and shall be deemed to have been received *i)* at the time of delivery if delivered personally or by facsimile or e-mail provided that the receipt hereof is proven and *ii)* on the third business day following the date of posting if sent by registered mail.

13.

This Agreement may be executed in any number of counterparts (including counterparts transmitted by fax or by email), but shall not be effective until each Party has executed at least one counterpart. Each counterpart shall be deemed to be an original, but all of which taken together shall be deemed to constitute one and the same Agreement.

In witness hereof, the parties have attached their signatures:

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| **EPTRI IVZW**  |
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| Date (dd/mm/yyyy)Signature of [Name of the president] |
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|  |
|  |
| **[User’s name]** |
|  |
| Date (dd/mm/yyyy)Signature of [Name of the legal representative] |
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