

CONFIDENTIAL DISCLOSURE AGREEMENT

This Agreement is made this 20th day of January, 2009 (the "Effective Date") by and between the National Cancer Institute, an agency of the United States Government, (hereinafter referred to as "NCI-Frederick"), and Whittemore Peterson Institute for Neuro-Immune Disease, an entity organized and existing under the laws of Nevada (hereinafter referred to as "WPI") and The Cleveland Clinic Foundation, an entity organized and existing under the laws of Ohio, doing business at 9500 Euclid Avenue, Cleveland, Ohio 44195 (hereinafter referred to as "CC"). Collectively or individually, the NCI, WPI and CC shall also be referred to as "Parties" or "Party."

WHEREAS, CC has certain confidential information relating to novel assays to detect Xenotropic murine leukemia virus-related virus (XMRV) infections in humans (hereinafter referred to as the "Confidential Information" belonging to CC); and

WHEREAS, the NCI has certain confidential information relating to detection of XMRV in patients with chronic fatigue syndrome (hereinafter referred to as the "Confidential Information" belonging to the NCI); and

WHEREAS, the WPI has certain confidential information relating to detection of XMRV in patients with chronic fatigue syndrome (hereinafter referred to as the "Confidential Information" belonging to the WPI); and

WHEREAS, each Party is interested in examining the Confidential Information of the other Parties in order to study the possible viral etiology of chronic fatigue syndrome leading to B cell lymphoma and explore the possibility of future formal collaborations (the "Project");

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, the Parties hereto agree as follows:

1. Each Party shall disclose and transmit Confidential Information to the other Parties in sufficient detail to enable such other Parties to make the determinations set forth above.
2. Each Party agrees to accept the Confidential Information and employ all reasonable efforts to maintain the Confidential Information of the other Parties secret and confidential, such efforts to be no less than the degree of care employed by each Party to preserve and safeguard its own confidential information. The Confidential Information of the disclosing Party shall not be disclosed, revealed, or given to anyone by the receiving Party, except employees, contractors and agents of the receiving Party who need to know such information for the purpose of assisting with the Project, and such employees, contractors and agents shall be advised by the receiving Party of the confidential nature of the Confidential Information and that the Confidential Information shall be treated accordingly.
3. Each Party hereby acknowledges that the other Parties shall not incur any liability merely

for examining and considering the Confidential Information; however, each Party agrees that it will use the Confidential Information of the other Parties only in connection with the Project.

4. The obligations of a Party under Paragraph 2 and 3 above shall not extend to any part of the Confidential Information of the other Parties:

- (a) that can be demonstrated to have been in the public domain or publicly known at the time of disclosure; or

- (b) that can be demonstrated to have been in the possession of or that can be demonstrated to have been readily available to the receiving Party from another source prior to the disclosure; or

- (c) that becomes part of the public domain or publicly known by publication or otherwise, not due to any unauthorized act by the receiving Party; or

- (d) that can be demonstrated as independently developed or acquired by the receiving Party without reference to or reliance upon such Confidential Information; or

- (e) that is required to be disclosed by law.

5. This Agreement will be effective as of the Effective Date and will expire three (3) years after the Effective Date, unless earlier terminated upon written notice by one party to the other. Each Party's obligations under Paragraphs 2 and 3 shall survive for a period of three (3) years from the expiration or termination of this Agreement.
6. All information to be deemed confidential under this Agreement shall be clearly marked "**CONFIDENTIAL**" by the disclosing Party. Any Confidential Information which is orally disclosed must be reduced to writing and marked "**CONFIDENTIAL**" by the disclosing Party and such notice must be provided to the other Parties within thirty (30) days of such disclosure.
7. It is understood that nothing herein shall be deemed to constitute, by implication or otherwise, the grant to any Party by the others of any license or other rights under any patent, patent application or other intellectual property right or interest. All Confidential Information, and all rights, title and interest thereto, shall remain the property of the disclosing Party, unless otherwise agreed to in writing by the parties.
8. It is understood and agreed by all Parties that each represents and warrants to the other Parties that each Official signing this Agreement has authority to do so.
9. The illegality or invalidity of any provision of this Agreement shall not impair, affect or invalidate the other provisions of this Agreement.

10. The Parties acknowledge that a violation of this Agreement may cause irreparable harm to the disclosing Party for which no adequate remedy at law exists and therefore agrees that, in addition to any other remedies available, the disclosing Party shall be entitled to seek injunctive relief to enforce the terms of this Agreement. Such remedy shall not be deemed to be the exclusive remedy for the receiving Party's breach of this Agreement, but shall be in addition to all other remedies available at law or equity to the disclosing Party.
11. It is understood and agreed that no failure or delay in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder.
12. The Parties acknowledge and agree that they shall not use each other's logo or trademarks, or any derivation thereof, in any manner whatsoever, or disclose the terms of this Agreement with the other party without the prior written consent of such party.
13. The parties acknowledge and agree that this Agreement will not be construed in any manner to be an obligation to enter into a contract or to result in any claim whatsoever by either party against the other party for reimbursement of cost for any effort expended.
14. For purposes of this Agreement the relationship of the parties will be that of independent contractors, and nothing contained herein will be deemed to create any relationship of agency, joint venture or partnership. Neither party hereto will have any power to commit, contract for or otherwise obligate the other to any third person.

SIGNATURES BEGIN ON THE FOLLOWING PAGE

ACCEPTED AND AGREED

The undersigned expressly certify or affirm that the contents of any statements made or reflected in this document are truthful and accurate. The undersigned further agree to examine and consider the subject matter of the Confidential Information on the foregoing basis.

FOR THE NATIONAL CANCER INSTITUTE

Kathleen Higinbotham
Kathleen Higinbotham, MS, MBA
Technology Transfer Specialist, TTC, NCI

Jan 22, 2009
Date

Technology Transfer Center
FVC-500
1003 W. 7th St, Frederick, MD 21701

FOR WHITTEMORE PETERSON INSTITUTE FOR NEURO-IMMUNE DISEASE

Cari W Kinne
(Authorized Signatory for WPI)

1/22/09
Date

Cari W Kinne
(Printed Name)

Legal Counsel
(Title of Signatory)

Whittemore Peterson Institute
6600 N. Wingfield Pkwy.
Sparks, NV 89436

FOR THE CLEVELAND CLINIC

Susan Bernat
Susan Bernat
Director, Operations and Finance, CC Innovations

1-21-09
Date

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