**CONFIDENTIALITY DISCLOSURE AGREEMENT**

**Details of the Parties**

**FIRST PARTY:**

Address:

ABN:

Contact:

Email:

Phone Number:

**SECOND PARTY:** **(name of Health Service Provider), a body corporate established under section 32 of the Health Services Act 2016**

Address:

ABN:

Contact:

Email:

Phone Number:

**Study Name: [INSERT NAME OF PROPOSED STUDY]**

Date of Agreement: Date of last party to sign

**The Parties agree as follows:**

# **1. INTERPRETATION**

## In this Agreement:

**Agreement** means this Agreement.

**Confidential Information** means and includes: all unpatented inventions, ideas, know-how, concepts, trade secrets, processes, techniques, software, products, trials or product development plans, the Protocol and information relating to the Protocol and investigational product, all other unregistered or unpatented intellectual property, financial, business and research information and all other commercially valuable information of the Discloser and all copies, notes and records and all related information generated by the Recipient based on or arising out of any such disclosure.

Confidential Information excludes, or as the case requires, ceases to include information which:

### has been independently received from a third party who is free to disclose it; or

### is in or has entered the public domain other than as a result of a breach of this Agreement; or

### is already known by the Receiving Party, the prior knowledge of which it can document by prior written records; or

### the Receiving Party independently develops, discovers or arrives at without use, reference to, or reliance upon, the Disclosing Party’s Confidential Information; or

### is approved by the Disclosing Party, in writing, for release.

**Discloser** means the party disclosing Confidential Information under this Agreement.

**First Party** means the corporate entity so described on the first page of this Agreement.

**Personal Information** has the same meaning as in the *Privacy Act 1988* (Cth).

**Personnel** means officers, employees, permitted contractors, permitted agents and/or authorised representatives and includes in the case of the Second Party, the principal investigator and sub-investigator proposed for the Study, and in the case of the First party, its affiliates.

**Protocol** means the document describing the objective(s), design, methodology, statistical considerations and organisation of the Study.

**Recipient** means the party receiving Confidential Information under this Agreement.

**Relevant Privacy Laws** means the *Privacy Act 1988 (Cth)* or any other legislation, code or guideline which applies in the jurisdiction in which the party is located and which relates to the protection of Personal Information.

**Second Party** means the corporate entity so described on the first page of this Agreement.

**Study** means the investigation to be conducted in accordance with the Protocol.

## Except where the context otherwise requires:

### clause headings are for convenient reference only and are not intended to affect the interpretation of this Agreement;

### where any word or phrase has a defined meaning, any other form of that word or phrase has a corresponding meaning;

### a reference to a party includes that party’s executors, administrators, personal representatives, successors and assigns;

### words in the singular include the plural and vice versa;

## This Agreement may be executed in any number of counterparts. All of such counterparts taken together are deemed to constitute one and the same Agreement.

# **CONFIDENTIALITY**

## In consideration of the parties disclosing Confidential Information, the parties agree to abide by the terms of this Agreement.

## The Recipient must not disclose or use any Confidential Information of the Discloser other than where and only to the extent disclosure is strictly necessary for assessing the proposed participation in the Study (the “**Purpose**”);

## The Recipient may disclose the Confidential Information in the following circumstances:

### to its Personnel who have need to know for the Purpose and who are bound by comparable obligations of confidentiality and non-use with respect to such Confidential Information as those contained herein;

### for the purpose of obtaining legal and other professional advice where such advisors are bound by legal, professional or written obligations of confidentiality;

## Both parties may disclose Confidential Information of the other party to the extent required by applicable laws or regulations or as ordered by a court or other regulatory or government authority; provided however, that the Recipient shall:

### provide prior written notice to the Discloser, provided that it is lawful to do so;

### only disclose the minimum amount of Confidential Information required to be disclosed in order to comply; and

### use best endeavours to make any applicable claim of confidentiality in respect thereof to the extent commercially reasonable.

## The parties are responsible for ensuring that their Personnel are aware of the obligations in respect of this Agreement.

# **APPLICABLE LAW**

## This Agreement is governed by the laws for the time being in force of the State of Western Australia and the parties submit to the non-exclusive jurisdiction of the courts of Western Australia and courts entitled to hear appeals from those courts.

# **TERM**

## Effective Date. The Effective Date of this Agreement shall be the last date on which a party executes this Agreement.

## Expiration of Agreement. The ability to exchange Confidential Information under this Agreement shall terminate five (5) years after the Effective Date

## The parties agree that all obligations contained herein shall remain in effect, with respect to each item of Confidential Information for a period of ten (10) years following the Effective Date.

## **5. MISCELLANEOUS**

## Both parties agree that a breach of this Agreement may cause irreparable harm to the other party for which monetary damages would not adequately compensate and that, in addition to other remedies it may have available at law or equity, the Discloser shall be entitled to injunctive relief for such breach.

## Upon termination of this Agreement or at any other time as requested by Discloser in writing, the Recipient will, subject to compliance with any legal requirements, promptly return to the Discloser any written, printed or other tangible materials embodying the Confidential Information, including all copies, excerpts thereof, and samples given to the Recipient in connection with the Purpose.

## This Agreement may not be modified except by a written amendment signed by the Parties.

## The parties acknowledge that this Agreement does not transfer any interest in any intellectual property.

## Each party may communicate its execution of this Agreement by successfully transmitting an executed copy of this Agreement by email to the other party.

## Each party must ensure that any Personal Information arising from this Agreement is collected, stored, used and disclosed in accordance with the Relevant Privacy Laws

## Executed as an agreement:

Signed on behalf of the **First Party**

Signed: ………………………………….

Name: …………………………………..

Position: …………………………………

Date: ………………………………….

Signed on behalf of the **Second party**

by

Signed: ………………………………….

Name: …………………………………..

Position: …………………………………

Date: ………………………………….

for and on behalf of **(name of Health Service Provider)** in accordance with section 41 of the *Health Services Act* 2016