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| **CONFIDENTIALITY AGREEMENT**  **(“AGREEMENT”)**  between   |  |  |  | | --- | --- | --- | | enter name of company  represented by  enter name of authorized representative,  enter address of company  – hereinafter referred to as “**COMPANY**” – | and | Eberhard Karls Universität Tübingen,  represented by  the Executive Vice-President,  Dr. Andreas Rothfuß,  Geschwister-Scholl-Platz,  72074 Tübingen, Germany,  – hereinafter referred to as “**EKUT**” – | |  |  | acting for its  enter name of institute |   COMPANY and EKUT are hereinafter individually referred to as a **"PARTY"**, together as **"PARTIES"**. |
| **1. Subject of the AGREEMENT**  The PARTIES intend to exchange certain confidential information for the purpose of defining a potential cooperation in the area of enter area (the **„PURPOSE“**).  For this reason the PARTIES agree upon the following: |
| **2. Confidential information**  INFORMATION shall mean any and all items of information and documents of a technical, scientific, financial, business, operational or other nature disclosed in any form in connection with the PURPOSE which the PARTIES hereto mutually disclose in writing, verbally, electronically or in the form of pictures, representations, data, designs or in any other manner and which   * if it is disclosed in tangible form prior to the time of its disclosure is conspicuously marked as “confidential” * or which, in case of information disclosed in oral or visual or other intangible form, is identified at the time of its disclosure by the disclosing PARTY (**"PROVIDER"**) as confidential, followed by a written confirmation delivered to the receiving PARTY (**"RECIPIENT"**) within fifteen (15) days after its original disclosure indicating the date of disclosure and summarizing the information disclosed.   INFORMATION shall include, in particular, data, drawings, drafts, outline drawings, plans, descriptions, specifications, measurement results, calculations, processes, empirical data, procedures, samples, equipment, prototypes, records, concepts, inventions and knowledge including secret expertise, as well as applications for industrial property rights as yet unpublished. |
| **3. Duty to observe secrecy**  The PARTIES will keep confidential and treat as confidential all INFORMATION received by the other PARTY pursuant to this AGREEMENT and will use it solely for the PURPOSE. The PARTIES agree not to disclose the INFORMATION directly or indirectly, orally or in written form or in any other way to third parties without the express written consent of the PROVIDER.  The RECIPIENT shall   * protect the INFORMATION from disclosure to third parties with at least the same degree of care (but not less than a reasonable degree of care) as it uses to protect its own confidential information of like kind from unauthorized use or disclosure; * reveal the INFORMATION only to persons who need to know and require the INFORMATION for the PURPOSE; * make sure that its employees and persons mentioned in Article 8 are committed similar in form and substance to this AGREEMENT; and * not remove any legend or other notices of ownership or confidentiality from any originals or copies of the INFORMATION. |
| **4. Exceptions to the duty to observe secrecy**  The RECIPIENT’s obligation to maintain the confidentiality of the INFORMATION shall not extend to information which the RECIPIENT can prove  a) was already known or publicly available to the RECIPIENT at the time of the disclosure;  b) becomes publicly available after the disclosure through no fault of the RECIPIENT;  c) was or is lawfully disclosed to the RECIPIENT by third parties without an obligation of confidentiality to the PROVIDER; or  d) was or is developed independently by the RECIPIENT without using the INFORMATION.  If the INFORMATION is required to be disclosed by applicable law or official order or order of a court of competent jurisdiction, the RECIPIENT required to make such disclosure shall immediately inform the PROVIDER of its obligation to make such disclosure. As far as possible and reasonable the notice shall be given before such a disclosure.  Further, the RECIPIENT shall provide reasonable cooperation and assistance to the PROVIDER in any relevant proceedings to protect its interest in its INFORMATION. |
| **5. Rights in INFORMATION, limitation of use, no acquisition of title, no further obligation of the PARTIES**  Any and all INFORMATION including letters, data media, materials and other documents relating thereto and entrusted to the RECIPIENT shall remain the property of the PROVIDER.  The PROVIDER reserves all rights concerning the INFORMATION (e.g. intellectual property rights, rights to apply for industrial property rights such as patents, utility patents, topographic property rights and the like).  This AGREEMENT does not establish any license rights or other rights of use by one PARTY hereto in the INFORMATION provided by the other PARTY. In particular, such INFORMATION received does not establish any right of prior use by the RECIPIENT under § 12 PatG (Patent Law) or similar foreign laws. The RECIPIENT undertakes not to use or publish the INFORMATION disclosed without the express consent of the PROVIDER given in writing and, in particular, not to apply for industrial property rights or other proprietary rights for said INFORMATION. The PROVIDER hereto reserves the right to register the disclosed INFORMATION or parts thereof as industrial property right or other proprietary right.  The grant of any licenses or rights to use or other proprietary rights for said INFORMATION has to be agreed upon by the PARTIES in a separate contract.  This AGREEMENT shall not create any obligation for either PARTY to disclose any further or special information or to make any further agreement or business arrangement, in particular for granting licenses of any kind or for any further cooperation, with the other PARTY. |
| **6. Return of INFORMATION**  The RECIPIENT will, upon written request of the PROVIDER, promptly return any and all printed or electronic documents or tangible materials containing or embodying the INFORMATION received from the PROVIDER, together with all copies or derivatives thereof, or certify in writing that all such INFORMATION has been destroyed. The RECIPIENT shall be entitled to retain a secure copy of the PROVIDER’s INFORMATION for archival purposes or for verification purposes in compliance with mandatory statutory provisions only. Such return can only be demanded within 3 months after termination of this AGREEMENT. |
| **7. No warranty, liability**  The PROVIDER shall endeavor to disclose to the RECIPIENT truthful information.  However, the PROVIDER does not make any representations or assume any warranty or guarantee of any kind, neither express nor implied, as to the sufficiency, accuracy, correctness, completeness, usability, integrity or fitness for any purpose of such INFORMATION or that such INFORMATION is free of third party rights. The PROVIDER is not responsible for any damages of the RECIPIENT or third parties caused by the disclosed INFORMATION, unless required by mandatory law. |
| **8. Affiliated companies, third parties**  Affiliated company shall mean any company which is directly or indirectly owned or controlled by one PARTY with an ownership of more than 50% of the nominal value or rights to vote. The company must not be in competition with the PROVIDER.  Affiliated companies are deemed not to be a third party for purposes of this AGREEMENT provided that the affiliated company is bound by substantially the same confidentiality obligations as the RECIPIENT.  Consultants, freelancers etc. are deemed not to be a third party for purposes of this AGREEMENT provided that they are bound by substantially the same confidentiality obligations as the RECIPIENT. |
| **9. Term of the AGREEMENT**  The term of this AGREEMENT shall commence after signing by the PARTIES retroactive to the beginning of the collaboration on 2014-01-31 and shall terminate on 2014-01-31.  The obligations set forth under this AGREEMENT shall be binding throughout the term of this AGREEMENT and remain – if not stated otherwise throughout this AGREEMENT – in force for a period of five (5) years from the date of its termination. |
| **10. Amendments**  Neither this AGREEMENT nor any term of it – including this provision – may be amended or waived except by a written agreement signed by both PARTIES. |
| **11. Miscellaneous**  This AGREEMENT contains the complete and exclusive agreement of the PARTIES with respect to the subject matter hereof and supersedes all prior agreements and understandings whether written or oral, express or implied. |
| **12. Governing law**  This AGREEMENT shall be subject to, and be construed in accordance with German law, without giving effect to its rules of conflict of laws. |
| **13. Jurisdiction**  Exclusive jurisdictional venue shall be at the German courts having jurisdiction for EKUT. |
| **14. Severability**  If any provision of this AGREEMENT is deemed to be, or becomes, invalid or ineffective, the remaining provisions will remain in full force and effect. The PARTIES undertake to replace such invalid or ineffective provision by a provision which is valid in law and which best reflects the intention of the PARTIES if they had been aware of the invalidity / ineffectiveness of the provision. The same shall apply to any omissions herein. |

**Signatures:**

**COMPANY:**

|  |  |  |
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| **Signature of authorized representative of COMPANY** |  |  |
| Date | enter name of authorized representative of RECIPIENT  enter title of authorized representative of RECIPIENT |

**EBERHARD KARLS UNIVERSITÄT TÜBINGEN (EKUT):**

|  |  |  |
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| **Signature of authorized representative of EKUT** |  |  |
| Date | Dr. Andreas Rothfuß,  Executive Vice-President |

**READ AND ACKNOWLEDGED:**

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| **Signature of responsible scientist of EKUT** |  |  |
| Date | enter name of responsible scientist |