



CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

This Confidential and Non-Disclosure Agreement (“**Agreement**”) is effective as of the date of its full execution (“**Effective Date**”), by and between the Choroideremia Research Foundation, a **New York non-stock corporation**, representing the International Choroideremia Research Network (ICRN), located at 23 E. Brundreth St., Springfield, MA 01109 (“**CRF**”), and [Enter name and/or Institution], _____ (“**Institution**”).

CRF and Institution may each hereinafter be referred to individually as a “Party” and collectively as the “Parties.” As used herein, a Party disclosing Information (as defined below) shall be defined as the (“**Disclosing Party**”), and the Party to whom the Disclosing Party discloses such information shall be defined as the (“**Recipient**.”) In order to protect certain confidential information which may be disclosed between CRF and Institution in connection with any collaborative efforts or discussions as part of the ICRN, the Parties agree as follows:

A. Definition. Confidential information (“Information”) shall consist of all unpublished or nonpublic information, including but not limited to written, oral or virtually presented information, including which is observed by a Party during site visits, and such items as any scientific data, electronic media products, financial information, equipment, data, studies, analyses, protocols and the like provided by one party to the other in the course of their communications and discussions related to the participation by the Parties in the ICRN (the “Purpose”).

B. Non-Disclosure and Non-Use. Information shall not:

- (1) be used by recipient for any purpose other than the Purpose; or
- (2) be disclosed by recipient in any manner to any third party, without the prior written consent of the Disclosing Party; provided that Recipient may disclose Information to its employees and those of its members, affiliates, attorneys, advisors, and accountants and scientific review boards (collectively "Representatives") who have a need to know exclusively for the Purpose, provided that Representatives are subject to obligations of confidentiality and non-use at least as strict as the Receiving Party’s obligations under this Agreement. The Receiving Party shall ensure that its Representatives comply with the non-use and confidentiality obligations and restrictions set forth in this Agreement, and the Receiving Party shall be fully liable for any breach of such obligations and restrictions by its Representatives. For clarity, disclosure by or on behalf of one Party directly to a Representative of the other Party shall be deemed to have been made directly by the Disclosing Party to the other Party for purposes of this Agreement, and the application of the definitions, obligations, and restrictions set forth herein. .

C. Exceptions. This Agreement imposes no obligation upon Recipient with respect to Information that Recipient can establish:

- (1) was at the time of receipt, publicly available;
- (2) after its receipt, becomes available to the public through no fault of the Recipient or its Representatives;

- (3) was in the possession of the Recipient before its receipt from the Disclosing Party or its Representatives as established by its written records;
- (4) is received in good faith by Recipient from a third party and is not subject to an obligation of confidentiality owed to the third party; or
- (5) is independently developed by Recipient without use of Disclosing Party’ so Information received hereunder, as established by Recipient’s written records.

D. Disclosures Required by Law. In the event that Recipient or its Representatives are required or requested by applicable law, regulation or legal or judicial process of competent jurisdiction (including, without limitation, by deposition, interrogatory, request for documents, subpoena, civil investigative demand or similar process) to disclose any Information, Recipient will, to the extent legally permissible, provide the Disclosing Party with prompt prior written notice of such requirement or request in order to enable the Disclosing Party to seek an appropriate protective order or other remedy, and will reasonably consult and cooperate with the Disclosing Party to the extent permitted by law with respect to taking steps to resist or narrow the scope of such requirement or request or legal process. If a protective order or other remedy is not obtained, the terms of this Agreement are not waived by the Disclosing Party and to the extent disclosure of Information is legally required, the Recipient will (a) disclose such Information only to the extent required by law, and (b) to the extent practicable, give advance notice to Disclosing Party of the Information to be disclosed as far in advance as is reasonably practicable and to the extent permitted by law.

E. Standard of Care. The Recipient shall protect the Information of the Disclosing Party using the same degree of care, but no less than a reasonable degree of care, as the Recipient uses to protect its own confidential information of a similar nature. In the event that the Recipient becomes aware of any use or disclosure not consistent with the purpose of this Agreement, the Recipient shall promptly notify the Disclosing Party and use best efforts to prevent any further unauthorized disclosure or use.

F. Term. This Agreement controls only Information which is disclosed to Recipient during the period on or after the Effective Date and three (3) years thereafter. The obligations of the Recipient under this Agreement shall survive and continue for five (5) years after the expiration or termination of this Agreement.

G. Termination. Upon the termination or expiration of this Agreement (whichever occurs earlier), all documents in the possession of Recipient or its Representatives which constitutes the Disclosing Party's Information shall be returned or destroyed at the reasonable expense of the Disclosing Party. If requested by the Disclosing Party, the Recipient will provide the Disclosing Party a written confirmation, signed by an officer or other authorized representative of the Recipient, that all such materials have been destroyed or deleted, as provided in this Agreement. Notwithstanding the foregoing, the Recipient is not required to destroy any computer files containing the Disclosing Party's Confidential Information that are created during automatic computer system backup, provided that such files are stored securely by the Recipient. Each Party may retain one archived copy of the Information for purposes of compliance with this Agreement. With respect to such retained archival copy, the non-use and confidentiality obligations set forth in this Agreement shall apply in accordance with Section F of this Agreement including the five (5) years survival period.

H. No License. The Disclosing Party's Confidential Information shall remain the property of the Disclosing Party and nothing under this Agreement grants the Recipient the right to (a) acquire any license under intellectual property rights of the other party; or (b) has an obligation to purchase from or sell to the other party any service or item.

I. Amendment. This Agreement may not be amended or modified except by a writing signed by both Parties and identified as an amendment to this Agreement.

J. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Parties, their heirs, affiliates, employees, officers, directors, subsidiaries, legal representatives, successors and permitted assigns.

K. Complete Agreement. This Agreement constitutes the final, complete and exclusive agreement between the Parties with respect to its subject matter hereof and supersedes all past and contemporaneous agreements, promises, and understandings, whether oral or written, between the parties regarding the confidentiality and non-disclosure obligations.

L. Relationship. It is mutually understood and agreed that by entering into this Agreement, the nature of the relationship between the Parties does not change nor create any duty, other than as expressly set forth herein. Neither Party is the agent, employee, or servant of the other. Except as specifically set forth herein, neither Party shall have nor exercise any control or

direction over the methods by which the other party complies with the obligations under this Agreement. Further, nothing in this Agreement is intended to create any partnership, joint venture, lease or equity relationship, expressly or by implication, between the Parties. In the event a clinical trial or research relationship goes forward in furtherance of the Purpose, the terms and conditions of such relationship shall be set forth in a separate written agreement, mutually agreed to by the Parties.

M. Severability. In the event any provision of this Agreement is held to be invalid or unenforceable, the remainder of this Agreement shall remain in full force and effect as if the invalid or unenforceable provision had never been a part of the Agreement.

N. Waiver. The failure of either Party to complain of any default by the other party or to enforce any of such Party's rights, no matter how long such failure may continue, will not constitute a waiver of the Party's rights under this Agreement. The waiver by either Party of any breach of any provision of this Agreement shall not be construed as a waiver of any subsequent breach of the same or any other provision. No part of this Agreement may be waived except by the further written agreement of the Parties.

O. Use of Name. Unless otherwise agreed upon by the Parties it is expressly permissible to make any public or private comment, statement or communication with respect to, or otherwise disclose or permit the disclosure of the terms or status of this Agreement and the existence of the ICRN and its participants. Neither Party, however, will use the trademarks of the other Party in any news release, publicity, advertising, endorsement, or commercial communication without the prior written approval of the other Party.

P. Counterparts. This Agreement may be executed in any number of counterparts which, when taken together, will constitute one original, and photocopy, facsimile, electronic or other copies shall have the same effect for all purposes as an ink-signed original. Each Party hereto consents to be bound by photocopy or facsimile signatures of such party's representative hereto.

Q. Remedies. Each Party acknowledges and agrees that a Disclosing Party may be irreparably injured by a breach of this agreement by the Recipient or its Representatives and that monetary remedies may be inadequate to protect the Disclosing Party against any actual or threatened breach of this agreement by the Recipient or its Representatives. Accordingly, Disclosing Party shall be entitled to seek an injunction or injunctions (without the proof of actual damages) to prevent breaches or threatened breaches of this agreement and to compel specific performance of this Agreement. Each Party also agrees that Recipient and its Representatives shall waive any requirement for the security or posting of any bond in connection with any such remedy. Such remedies shall not be deemed to be the exclusive remedy for actual or threatened



breaches of this agreement but shall be in addition to all other remedies available at law or in equity to the Disclosing Party. Each Party further agrees that Recipient and its Representatives will reasonably cooperate with the Disclosing Party in obtaining any remedy or relief, at law or in equity, for actual or threatened breaches of this agreement. Each Party further acknowledges and agrees that no failure or delay by the other party 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.

R. Governing Law; Mandatory Jurisdiction. The Parties agree that the laws of the state of Delaware shall govern this Agreement in all respects disregarding the conflicts of laws principles.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate by proper person there unto duly authorized.

Choroideremia Research Foundation

[Insert Name and/or Institution]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____