***Vorbemerkung:*** *Dieses englischsprachige Muster einer Geheimhaltungsvereinbarung regelt den Fall, dass vertrauliche Informationen von der Universität an den Vertragspartner weitergegeben werden. Soll das Muster für den Fall verwendet werden, dass die Universität vertrauliche Informationen vom Vertragspartner erhält, ist neben der Änderung der Bezeichnung der Parteien (die Universität ist dann “the Receiving Party”) im gesamten Vertragstext auch die Vertragsstrafenregelung in Ziff. 4 d) (S. 3) zu streichen.*

**NON-DISCLOSURE AGREEMENT**

This Non-Disclosure Agreement is entered into on………. by and between,

**the CARL VON OSSIETZKY UNIVERSITÄT OLDENBURG**, represented by its president, having its registered address at Ammerländer Heerstr. 114-118, D-26129 Germany

(hereinafter referred to as “University”),

and

**…………….**, a limited liability company incorporated under the laws of the ……………….with its registered office at …………….

(hereinafter referred to as “the Receiving Party”)

the University and the Receiving Party may hereinafter be referred to as "Party", or collectively as "Parties".

Whereas, the “Institute for …………..” (hereinafter “Institute”) at the University has knowledge and experience in the area of …………. and is owner of secret Know-How for and documents on ……..;

Whereas, the Receiving Party is a ………….. and wishes the University to make available to the Receiving Party information, including secret Know-How, for evaluation of the further relationship of the Parties in the area of …………… (hereinafter the “Purpose”);

Whereas, the Parties have agreed that before such secret Know-How is made available, a non-disclosure agreement has to be entered into,

Now, therefore, the Parties agree as follows, whereby the University exercises its rights and obligations under this Non-Disclosure Agreement by the Institute, represented by its director, represented by Prof. Dr. ……;

**NOW THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:**

1. Definitions

 “Affiliated Companies” means companies as defined in Section 15 et subseq. Of the German Code on Share Companies (Aktiengesetz), which are in existence as affiliated companies at the time of entering into this Agreement.

 "Confidential Information" shall mean all information, Know-How, documents, drawings, data and the like, technical or non-technical, disclosed by the University to the Receiving Party in whatsoever form (including, but not limited to, by written, oral or electronic means), unless it is clearly designated as "Non-Confidential" in writing by the University, as well as any material provided by the University to the Receiving Party for the Purpose.

2. Access to Information

 Upon execution of this Agreement, the University will make available such Confidential Information as it considers useful for the Purpose. The Receiving Party, upon request, shall confirm to the University in writing the receipt of such Party's Confidential Information.

3. No further Rights

 Nothing in this Agreement shall or may be construed as granting the Receiving Party any right or license to the University’s Confidential Information. At the University’s request, the Receiving Party shall immediately return all Confidential information and destroy all copies thereof.

4. Secrecy Obligation

1. The Receiving Party agrees that it shall not use any part of the Confidential Information supplied by the University for its own or third parties’ purposes, but only for the Purpose, and that it shall not file for any intellectual right protection for the Confidential Information received by the University.

b) The Receiving Party shall keep said Confidential Information secret and confidential, and shall not disclose the Confidential Information to any third party including affiliated companies. The Receiving Party shall also provide the necessary means to prevent unauthorized disclosure of the Confidential Information and shall furthermore only give access to the Confidential Information to such employees as are required to have access to for meeting the Purpose and have signed the same secrecy obligation as imposed upon the Receiving by this Agreement.

c) The provisions of this paragraph shall, however, not apply to any part of such Confidential Information which

- is at present publicly known or hereafter becomes publicly known through no fault of the Receiving Party or its employees; or

- was already known to the Receiving Party on the date of disclosure by the disclosing Party provided that such prior knowledge can be adequately substantiated by documentation; or

- properly and lawfully becomes available to the Receiving Party from other sources; or

- is independently developed by the Receiving Party or its affiliates without the benefit of any disclosure by the University; or

- as confirmed by a legal opinion specifically issued for this purpose, will have to be disclosed by court order.

 The Receiving Party has the burden of proof that any of such exceptions apply.

*d) For each single case of violation of the aforementioned secrecy obligation the Receiving Party shall pay a penalty of € …………. which shall not be accounted to any damages suffered by the University as a result of such violation.*

e) In the event of compulsory disclosure by court order or in the event of a binding request from a regulatory authority with jurisdiction or any other authority with statutory powers to demand disclosure, the Receiving Party will give the University sufficient notice in order for the University to be able to take measures to prevent disclosure.

5. Unless either party is required to disclose their negotiations or business relationship by law or the Parties agree to disclose the same, the Parties will keep confidential the existence and subject matter of the negotiations and business relationship contemplated by this Agreement.

6. Reimbursement

 The Receiving Party shall hold the University harmless from any damages, costs or expenses incurred (including court costs and attorney’s fees) in case of a violation of the secrecy obligation. This obligation is also applicable to any breach of the secrecy obligation by any of the Receiving Parties’ employees.

7. Binding Effect

This Agreement shall bind and benefit the Parties and their respective successors and assigns.

8. Term of this Agreement, Consequences

1. This Agreement shall remain in effect for a period of six (6) months from its effective date*.* After the expiration of this term this Agreement shall be extended for an additional six (6) months if not terminated by one of the Parties with a one (1) month notice prior to the end of the term.
2. This Agreement automatically ends at the time the Parties enter into a cooperation agreement on the subject of the Purpose containing a corresponding secrecy obligation as this Agreement.
3. In case of a termination of this Agreement other than by way of the aforementioned provision lit. b), the Receiving Party shall immediately return all Confidential Information received by the other Party and destroy all copies thereof.
	1. Survival

The secrecy obligation imposed on the Receiving Party under Art. 4 as well as the provisions under Art. 5, 6, 7 and 12 shall survive the expiration or termination of this Agreement and shall remain binding as long as the Confidential Information has not become part of the public domain, for which the Receiving Party has the burden of proof.

10. Severability

If one or more provisions of this Agreement should be or become void or unenforceable, the remaining provisions of the Agreement shall stay in full force and effect. Any invalid or unenforceable provision shall be replaced by a provision which best meets the purpose of the replaced provision; the same applies in case of an omission.

11. Amendments

This Agreement cannot be amended or modified except by mutual written agreement of the parties hereto. This also applies to an amendment of this form requirement.

12. Governing Law, Jurisdiction

The validity, construction and performance of this Agreement shall be governed by and construed in accordance with the laws of Germany. Any disputes arising out of or in connection with this Agreement shall come under the exclusive international and local jurisdiction of the courts at Oldenburg, Germany.

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed by their duly authorized representatives to be effective as of the day and year first written above.

## For and on behalf of: For and on behalf of:

# The University the Receiving Party

Oldenburg, ……………… (Date) ………………, ……….. (City, Date)

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By: President By: …………………….

 Title: ……………………..

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By: Prof. Dr. ……………..

Title: Institute …………..