

MUTUAL NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT

This Mutual Non-Disclosure and Confidentiality Agreement (this “Agreement”) is made as of this ___day of _____201__ by and among Saint Luke’s Health System, Inc., a Kansas nonprofit corporation (“SLHS”) and ----- (“_____”).

The parties are considering entering into certain agreements and/or other transactions relating to _____ and/or are working with one another to better the interests of SLHS and its subsidiaries and affiliate (the “Business Purpose”). In the process of, and throughout the course of their discussions, assessment and negotiations of the Business Purpose, the Disclosing Party may disclose its Confidential Information to Receiving Party so that the Receiving Party may examine and evaluate such Confidential Information for the sole and limited purpose of assessing and making business decisions as to the Business Purpose. In consideration of the knowledge gained from a review of this Confidential Information and other consideration as described herein, each party is agreeing to maintain the confidentiality of and not use or disclose such Confidential Information other than as expressly permitted herein.

In order to protect Confidential Information which may be disclosed between the parties, and in consideration of the knowledge gained from a review of this Confidential Information and other consideration as described herein, the Receiving Party hereby agrees to maintain the confidentiality of and not use or disclose such Confidential Information other than as expressly permitted herein.

1. Definitions.

- a. For purposes of this Agreement, “Confidential Information” Confidential Information includes, without limitation, (i) all information disclosed by the Disclosing Party pursuant to this Agreement, whether in oral, written, graphic or electronic form, and all information accessed or observed by the Receiving Party relation to the Business Purpose and/or this Agreement, and (ii) all unpublished or nonpublic information, documents and materials, whether or not marked as confidential, regarding the Disclosing Party’s and each of its affiliates’ business affairs, services and operations, patents, proprietary information, copyrights, trademarks, trade secret information and other proprietary rights and other works of authorship, ideas, product and/or service demonstrations, experimental work, techniques, sketches, drawings, know-how, formulae, processes, apparatuses, equipment, hardware and software designs, architecture and schematics, workflow processes, project process development plans or methodologies, computer source code or object code, algorithms, database development work, hardware types and configurations, internal reports, patient lists, marketing plans, strategic plans, contractual relationships, customer lists, supplier lists, personnel information, marketing plans, financial projections, pricing information, business plans, business methods or other financial records of the Disclosing Party and/or its subsidiaries or affiliates:
 - i. marked or otherwise indicated as “Proprietary” or “Confidential;” or
 - ii. that could reasonably be construed by the Receiving Party as giving the Disclosing Party some competitive business advantage or the opportunity of obtaining that advantage, so that the disclosure thereof could be detrimental to the interests of the Disclosing Party; or
 - iii. designated as confidential or proprietary at the time of initial disclosure if oral or visual.

- b. For purposes of this Agreement, “Disclosing Party” means the party disclosing the Confidential Information.
 - c. For purposes of this Agreement, “Receiving Party” means the party receiving the Confidential Information.
2. Confidential Information will not include information that:
 - a. is now or thereafter becomes generally known or available to the public, through no act or omission on the part of the Receiving Party or its agents, employees, and representatives;
 - b. was known by the Receiving Party prior to receiving such information from the Disclosing Party and without restriction as to use or disclosure;
 - c. is rightfully received by the Receiving Party from a third party who has the right to disclose it and who provides it without restriction as to use or disclosure; or
 - d. is independently developed by the Receiving Party without breach of this Agreement.
3. Each party agrees: (i) to maintain the other party's Confidential Information in strict confidence; (ii) not to disclose such Confidential Information to any third parties; and (iii) not to use any such Confidential Information for any purpose, except for the Business Purpose. Each party may disclose the Confidential Information of the Disclosing Party to its employees and advisors who have a bona fide need to know such Confidential Information for the Business Purpose, but solely to the extent necessary to pursue the Business Purpose and for no other purpose; provided that (A) each employee is bound by confidentiality policies adopted by the Receiving Party that prohibit the use of Confidential Information in any manner inconsistent with this Agreement and (B) each non-employee advisor first executes a written agreement (or is otherwise already bound by a written agreement) that contains use and nondisclosure restrictions at least as protective of the other party's Confidential Information as those set forth in this Agreement. The provisions of this Section 3 will not restrict a party from disclosing the Disclosing Party's Confidential Information to the extent required by any law, rule, regulation, subpoena, court order or any other similar judicial or legal process or in connection with any legal proceedings or as otherwise requested by any governmental agency (a “Required Disclosure”). Provided however, that if a Receiving Party is requested to make a Required Disclosure the Receiving Party agrees to (i) promptly notify the Disclosing Party in writing of such request; (ii) refrain from responding to such request for the maximum possible period of time, in order to allow the Disclosing Party the opportunity to investigate, intervene and object to or resist the request; and (iii) cooperate fully with any efforts of the Disclosing Party in investigating, intervening and objecting or resisting the request.
 - 3.1 Without limiting the above, each party shall protect and safeguard the Confidential Information using the same degree of care, but no less than a reasonable degree of care, as the party uses to protect its own confidential information. In the event that the Receiving Party becomes aware of any use, loss or disclosure not consistent with the purpose of this Agreement, the Receiving Party shall immediately notify the Disclosing Party and use best efforts to establish safeguards to endeavor to prevent any further unauthorized loss, disclosure or use. The Disclosing Party may seek equitable and legal remedies as appropriate in the event of a threatened or actual disclosure or unauthorized use of its Confidential Information. The Disclosing Party shall further be entitled to seek injunctive relief in the event of a breach or threatened breach of this Agreement, as well as all other applicable remedies at law or in equity.
4. Upon termination of this Agreement and/or upon the Disclosing Party's request, to the extent feasible, the Receiving Party will promptly return to the Disclosing Party or destroy all tangible items and embodiments

containing or consisting of the Disclosing Party's Confidential Information and all copies thereof (including electronic copies). In the event return or destruction is not feasible, the Receiving Party will continue to safeguard the Confidential Information in accordance with the terms of this Agreement. The Receiving Party may retain one copy of the Disclosing Party's Confidential Information in its legal offices for archival purposes, provided the confidentiality obligations herein shall continue to apply to such Confidential Information.

5. All Confidential Information remains the sole and exclusive property of the Disclosing Party. Each party acknowledges and agrees that nothing in this Agreement shall be construed as granting any rights to the Receiving Party, by license or otherwise, in or to any Confidential Information of the Disclosing Party, or any patent, copyright, trade secret, or other intellectual property or proprietary rights of the Disclosing Party, except as specified in this Agreement. This Agreement does not confer any right to the Receiving Party.

6. Neither party makes any warranty under this Agreement. ALL CONFIDENTIAL INFORMATION IS PROVIDED BY THE DISCLOSING PARTY "AS IS", "AS AVAILABLE" and "WITH ALL FAULTS". The Receiving Party agrees that the Disclosing Party will not have any liability relating to the Confidential Information disclosed or for any errors therein or omissions therefrom. The Receiving Party further agrees that it is not entitled to rely on the accuracy or completeness of the Disclosing Party's Confidential Information disclosed and that the Receiving Party will only be entitled to rely on such representations and warranties as may be included in any later executed definitive agreement between the parties, subject to such limitations and restrictions as may be contained therein.

7. Each party acknowledges that the unauthorized use or disclosure of the Disclosing Party's Confidential Information may cause the Disclosing Party to incur irreparable harm and significant damages, the degree of which may be difficult to ascertain. Accordingly, each party agrees that the Disclosing Party shall have the right to seek immediate equitable relief to enjoin any unauthorized use or disclosure of its Confidential Information, in addition to any other rights and remedies that it may have at law or otherwise.

8. The parties mutually acknowledge and agree that this Agreement, and any disputes between the parties, shall be construed and enforced in accordance with the laws of the State of Missouri without regard to conflicts of law principles. The parties mutually acknowledge and agree that they shall not raise in connection therewith, and hereby waive, any defenses based upon venue, inconvenience of forum, or lack of personal jurisdiction in any action or suit brought in accordance with the foregoing.

9. For any suit, action, or legal proceeding arising from this Agreement and any dispute between the parties, the parties exclusively consent and submit to the jurisdiction and venue of the Sixteenth Circuit Court of Jackson County, Missouri or the United States District Court for the Western District of Missouri. The parties acknowledge that they have read and understand this clause and willingly agree to its terms.

10. This Agreement shall commence on the date first set forth above and will remain in effect for one (1) year unless terminated as set forth herein. This Agreement may be terminated (i) by mutual agreement of the parties, or (ii) by either party with ten (10) days' prior written notice to the other party.

11. Any notice required by this Agreement must be in writing and delivered either by hand; by commercial courier; or by placing notice in the U.S. mail, certified mail, return receipt requested, properly addressed and with sufficient postage.

- a. Notice is deemed received on:
 - i. Delivery if by hand;

- ii. One (1) business day (Monday through Friday) after deposit with the commercial courier, provided deposit is done timely so as to effect next business day delivery, if by commercial courier; or
 - iii. Three (3) business days after placing the notice in the U.S. mail, properly addressed and with sufficient postage for certified mail, return receipt requested.
- b. Notice intended for SLHS must be sent to:
- Saint Luke's Health System
901 E. 104th Street
Kansas City, Missouri 64131
Attn: Senior Vice President and General Counsel
- c. Notice intended for _____ must be sent to:

12. Receiving Party acknowledges that its obligation under this Agreement with regard to trade secrets of Disclosing Party remain in effect for as long as such information shall remain a trade secret under applicable law. The obligations and restrictions under this Agreement shall otherwise extend for three (3) years from the date of disclosure of the Confidential Information.

13. The parties acknowledge that each party is or may become engaged in various research and development or other efforts, one or more of which may involve subject matters that are similar to or the same as those covered in a party's Confidential Information, and agree that nothing in this Agreement shall, directly or indirectly, be construed to limit the right of each party to continue those efforts, provided that the party otherwise complies with its obligations under this Agreement.

14. Miscellaneous.

- a. Neither party has an obligation under this Agreement to purchase any service or item, conduct any business with the other, or enter into any agreement or arrangement (other than this Agreement) with the other. Nothing herein shall be construed as an obligation that the parties enter into any agreement or arrangement, related to the Business Purpose of otherwise.
- b. Any addition or change to this Agreement must be in writing, signed by both the Receiving Party and the Disclosing Party, and incorporated and attached to this Agreement.
- c. This Agreement does not create any agency or partnership relationship between the Receiving Party and the Disclosing Party.
- d. Neither party may transfer or assign this Agreement without the other party's prior, written consent.

- e. This document contains the entire agreement between the parties as to the Confidential Information and supersedes any oral or any written, previous or contemporaneous, understandings, commitments, or agreements as to the Confidential Information.
- f. All duties and obligations set forth in this Agreement apply equally to all officers, directors, employees, agents, and representatives of either party.
- g. This Agreement may be executed in a number of counterparts, and each counterpart signature, when taken with the other counterpart signatures, is treated as if executed upon one original of this Agreement. A facsimile signature of any party to this Agreement is binding upon that party as if it were an original.

Signatures continue on the follow page.



901 E. 104th St.
Kansas City, MO 64131
816-932-5100

IN WITNESS WHEREOF, the parties hereto have executed this Mutual Non-Disclosure and Confidentiality Agreement by their duly authorized officers or representatives.

SAINT LUKE'S HEALTH SYSTEM, INC.

_____.

By:

By:

Date: _____

Date: _____