

This Agreement is made between

- (1) Cactus Clinic, University of Teesside
- (2) Brain Bio Centre, Richmond, London
- (3)

In connection with the proposed discussions, it will be necessary for certain confidential information to be provided by Brain Bio Centre. Cactus Clinic and Brain Bio Centre agree that the following terms and conditions will apply when Brain Bio Centre disclose confidential information to F.I.T.Sales. The objective is to provide appropriate protection for the information whilst maintaining the parties' ability to conduct their respective businesses.

**1. Definitions**

In this Agreement "Confidential Information" means any information disclosed (whether in writing, orally or by any other means) by or on behalf of the Disclosing Party to the Receiving Party including, without limitation, any information relating to the Disclosing Party's products, inventions, operations, methodologies, systems, processes, plans or intentions, know-how, design rights, trade secrets, market opportunities, or business or financial affairs, and which if disclosed in documentary form is marked confidential or if disclosed orally, is confirmed in writing as being confidential within 7 days of its disclosure.

**2. Supply and use of Information**

- 2.1 In consideration of Brain Bio Centre supplying to Cactus Clinic such of its Confidential Information as Cactus Clinic reasonably requests for the purposes of the Engagement, Cactus Clinic agree to: (i) to keep Brain Bio Centre Confidential Information confidential; (ii) not to use Brain Bio Centre Confidential Information except for the purposes of the Engagement; and (iii) not to disclose Brain Bio Centre Confidential Information to any third party and to use reasonable efforts to prevent any such disclosure except as expressly permitted by this Agreement.
- 2.2 Cactus Clinic will each appoint a contact who will co-ordinate and control all disclosures. The initial contacts are:-

For Cactus Clinic: Dr David Woodhouse

For Brain Bio Centre: Mary-Ann Munford

### **3. Confidentiality**

- 3.1 Cactus Clinic shall protect the Confidential Information of Brain Bio Centre through the exercise of the precautions set out in this Agreement and no less protection and care than it customarily uses in preserving and safeguarding its own confidential information. Cactus Clinic will keep the Confidential Information in a secure environment, and not copy or use the Confidential Information except as is reasonably necessary in connection with the Engagement. Cactus Clinic agrees to advise Brain Bio Centre immediately if it is aware or suspects that the security of the Confidential Information has or may be compromised in any way.
- 3.2 This Agreement shall not apply to Confidential Information which: (i) is or becomes generally available to the public other than as a result of a breach of an obligation under this Agreement; or (ii) is acquired from a third party who owes no obligation of confidence in respect of the information; or (iii) is or has been independently developed by Cactus Clinic; or (iv) Cactus Clinic is required to disclose by law, by any court of competent jurisdiction or by a governmental or regulatory authority provided that Cactus Clinic gives not less than 2 business days' notice in writing to Brain Bio Centre of such disclosure. In any event any obligation of confidence will end after a period of 1 years after Cactus Clinic last had access to the Confidential Information.

### **4. Disclosure**

- 4.1 Cactus Clinic shall not reproduce, copy, disclose, disseminate and/or transfer to any third party in whole or in part any Confidential Information of Brain Bio Centre except in the following circumstances:
- 4.1.1 with the prior written consent of Brain Bio Centre; or
- 4.1.2 subject to 4.3 below, on a need-to-know basis to its employees, agents and sub-contractors, or the employees of any associated company or firm, or in relation to any claim or possible claim in connection with this Agreement, to its professional advisers, subject in each case to the provisions of 4.2 below.
- 4.2 Cactus Clinic will ensure that any person to which it discloses Confidential Information of Brain Bio Centre pursuant to 4.1.2 above, (i) is advised of the proprietary and confidential nature of the Confidential Information, together with the restrictions on duplication, use and disclosure; and (ii) is contractually bound by appropriate obligations of confidence, before access to such Confidential Information is granted.

- 4.3 Notwithstanding 4.1.2 above, Cactus Clinic shall not without the prior written consent of Brain Bio Centre permit any third party to have access to the Confidential Information where such third party is, or is employed by, a direct competitor of Brain Bio Centre.

**5. No licence**

No licence (express or implied, by estoppel or otherwise) under any trade secret right, trade mark, patent, copyright or other intellectual property right or any application for the same which is or may hereafter be owned by or licensed to Brain Bio Centre is granted to Cactus Clinic in relation to the Confidential Information except as expressly set out in this Agreement.

**6. Warranty and liability**

- 6.1 Brain Bio Centre warrant to Cactus Clinic that it has the right to disclose its Confidential Information to Cactus Clinic.
- 6.2 Subject to 6.1 above and to the extent permissible by law, Brain Bio Centre accept no responsibility for or make any representations or warranties (express or implied, statutory or otherwise) with respect to the accuracy or completeness of any of the Confidential Information and Brain Bio Centre shall not be liable to Cactus Clinic or any third party for any loss or damage resulting from use of the Confidential Information.

**7. Term and termination**

- 7.1 This Agreement shall come into effect on the date of signature by all parties of this Agreement and shall continue in full force and effect indefinitely.
- 7.2 Cactus Clinic undertakes within 7 days of receipt of a written request from the other parties to return to Brain Bio Centre all documents and other materials in its possession, custody or control (including all copies of the same) that bear or incorporate any part of Brain Bio Centre Confidential Information, provided that Cactus Clinic shall be entitled to retain one copy of such documents and other material to be used solely for proper professional purposes.

**8. General**

- 8.1 Neither party may assign its rights or obligations under this Agreement without the prior written consent of the other party.

8.2 No delay by either party in enforcing any of the terms or conditions of this Agreement will affect or restrict the other party's rights and powers arising under this Agreement. No waiver of any term or condition of this Agreement will be effective unless made in writing. Any amendments to this Agreement will not be effective unless agreed in writing and signed by both parties. The provisions of this Agreement which expressly or by implication are intended to survive its termination or expiry will survive and continue to bind both parties. This Agreement forms the entire agreement between the parties relating to the subject matter. It replaces and supersedes any previous proposals, correspondence, understandings or other communications whether written or oral. If any provision of this Agreement is determined to be invalid or unenforceable, in whole or in part, the remaining provisions will continue in full force and effect as if this Agreement had been executed without the invalid provision. Brain Bio Centre's obligations under this Agreement shall survive termination of any agreement or relationship between Brain Bio Centre and Cactus Clinic.

8.3 This Agreement is governed by and will be construed in accordance with the laws of England and in the event of dispute the parties will attempt to resolve the dispute in good faith by senior level negotiations. Where both parties agree that it may be beneficial the parties will seek to resolve the dispute through mediation using the services of the Centre for Dispute Resolution to facilitate the mediation process. If the dispute is not resolved through negotiation or mediation both parties agree that the English Courts will have exclusive jurisdiction in connection with the resolution of the dispute.

SIGNED for and on behalf of Cactus Clinic

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Signature

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Name

LIZ BARNES

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Date

15/11/06

SIGNED for and on behalf of Brain Bio Centre

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Signat

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Name

PATRICK HOLFORD

.....  
Date

14/11/06