

MUTUAL NON-DISCLOSURE AGREEMENT

This Mutual Non-Disclosure Agreement (“**Agreement**”) is made effective as of xxth day of november 2020 (the “**Effective Date**”) by and between:

Bharat Biotech International Limited, a company incorporated under the Companies Act, 1956 of India, having its registered office at Genome Valley, Shameerpet, Hyderabad – 500 078, Telangana, India (hereinafter referred to as “**BBIL**”), which term shall include its successors, affiliates, subsidiaries and permitted assigns of the FIRST PART;

AND

Precisa Comercialização de Medicamentos Ltda a company registered office at Avenida Portugal 1.100 Itapevi, (hereinafter referred to as “**PRECISA**”), which term shall include its successors, affiliates, subsidiaries and permitted assigns of the SECOND PART.

AND

Ministério da Saúde do Brasil registered office at xxxxxxxx, (hereinafter referred to as “**MOH Brazil**”), which term shall include its successors, affiliates, subsidiaries and permitted assigns of the THIRD PART.

Both BBIL, Precisa and MOH Brazil hereinafter are also referred to, individually, as a “**Party**”, or, jointly, or cumulatively, as the “**Parties**”.

WHEREAS, BBIL is a leading Biotechnology company involved in the research & development, clinical trials and manufacturing of vaccines and bio-pharmaceuticals, and has considerable technology, trade secret, know-how and research experience in relation to the manufacturing and commercial production of vaccines and bio-therapeutics and has also established its marketing and distribution network for such product(s) in India as well as abroad.

AND WHEREAS, PRECISA is a company with more than 20 years of experience in the Brazilian health market, specializing in importing and distributing large volumes of health products as well as acting in an innovative way together with other major Brazilian and international companies.

AND WHEREAS, the Parties wish to assure the protection and preservation of certain confidential and/or proprietary information to be disclosed or made available by or on behalf of one party to the other party in the course of their discussions (including strategic, commercial, clinical or scientific), if any, or in discussions concerning an eventual collaboration (including, without limitation, technical, strategic, commercial, clinical or scientific) between them.

AND WHEREAS, the Parties wish to exchange information and discuss matters for the purposes of enabling the Parties to evaluate the feasibility and/or desirability of establishing mutual business relationship in general and for discussion regarding business and technical information including but not limited to BBILs COVID-19 vaccine candidates in specific.

AND WHEREAS, each Party acknowledges that it may be necessary to disclose its proprietary and confidential information to the other for the purposes of such discussion and each Party is willing to do so subject to the following terms and conditions to the extent necessary for the purpose and not being obliged to do so.

AND, NOW, THEREFORE, in view of the mutual premises and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, **AND INTENDING TO BE LEGALLY BOUND** the Parties agree as follows:

1. All information, whether in oral, written, graphic, electronic or other form (including copies thereof), including, but not limited to, information, data, trade secrets, formulas, processes, product ideas, know-how, a sample or model, that is disclosed by or on behalf of a Party (the “**Disclosing Party**”) to the other Party (the “**Receiving Party**”) under this Agreement, shall be deemed to be “**Confidential Information**”.
2. In particular, Confidential Information includes, without limitation, trade secrets, inventions or research and development information; information related to technology, technical information, know-how, engineering or other data, processes or techniques; identification or characterization of biological or other materials, results and/or design of experiments or preclinical or clinical testing, and other material, manufacturing, planning or marketing information, marketing plans, business plans, procedures or strategies or account statements, any financial, internal auditor’s reports or other business information of the Disclosing Party and/or any of its Affiliates, information which, if divulged to a Third Party, could have an adverse impact on the Disclosing Party and/or any of its Affiliates, or on any Third Party to which it or they owe a confidentiality obligation. Confidential Information to be treated as protected pursuant to this Agreement whether or not disclosed in writing or marked “Confidential” or “Proprietary.” Notwithstanding the foregoing, all Information shared but not marked as “Confidential” or similarly, shall still be deemed and treated confidential by the Receiving Party if to objective standards applicable in the relevant scientific field and considering the context of the disclosure or access such Information is to be considered confidential.

“**Affiliate**” shall mean any corporation or other business entity directly controlled by, controlling, or under common control with, the Party specified. “**Third Party**” shall mean any person or entity other than the Parties and their respective Affiliates.

3. During the Term, each Receiving Party shall use the Disclosing Party’s Confidential Information solely for the Purpose and during the Term and for a period of Five (05) years thereafter, and in the case of any trade secret, for as long as such Confidential Information remains as a trade secret, each Receiving Party shall exercise due care to prevent the unauthorized use or disclosure of the Disclosing Party’s Confidential Information, and shall not, without the Disclosing Party’s prior written consent, disclose or otherwise make available any item of the Disclosing Party’s Confidential Information to any person or entity other than those researchers, directors, officers, employees, agents or representatives of the Receiving Party and/or any of its Affiliates (collectively, “**Representatives**”), only to the extent such Representatives need to evaluate and ‘need to know’ such Confidential Information in order to participate in any business relationship between the Parties and/or their Affiliates or to make decisions or render advice in connection therewith. Each Receiving Party shall advise its Representatives of the confidential and proprietary nature of the Disclosing Party’s Confidential Information, and agrees that such Representatives shall be bound by terms of confidentiality and restrictions on use with respect thereto that are at least as restrictive as the terms of this Agreement. The Receiving Party shall not use Information received from or on behalf of the Disclosing Party to reverse engineer or design around the Disclosing Party’s proprietary projects and products;
4. The obligations of this Agreement shall not apply to:
 - a. information which is already in the public domain or comes into the public domain, through no fault of the Receiving Party as evidenced by tangible records;
 - b. information learned by the Receiving Party from a Third Party other than the Disclosing Party entitled to disclose such information not through a breach of any obligation of confidence;
 - c. information already known to the Receiving Party before receipt thereof from the Disclosing Party, as shown by prior tangible records;
 - d. information released with the written consent of the Disclosing Party pursuant to the conditions of such consent.
 - e. information that is independently developed by the Receiving Party without the use of or reference to the Disclosing Party’s Confidential Information, as evidenced by tangible records.

Notwithstanding any other provisions of this Agreement it shall not be a breach of this Agreement for any Party to disclose any Confidential Information pursuant to a court order or a binding request from a statutory or regulatory (or other analogous) authority with jurisdiction to require the disclosure of such Information, provided that the Receiving Party gives all reasonable notice(s) in writing in advance, of such disclosure to the other Party, provide reasonable opportunity to review the disclosure before it is made and to interpose its own objection to the disclosure and limits the disclosure to the extent necessary to comply with such request.

Disclosures made under this Agreement that are specific shall not be deemed to be within the foregoing exceptions of this clause merely because they are embraced by general disclosures in the public domain or in the prior possession of the Receiving Party. In addition, any combination of features shall not be deemed to be within the foregoing exceptions of this clause merely because individual features are in the public domain, or in the prior possession of Receiving Party.

5. The term (“**Term**”) of this Agreement shall be valid for a period of Five (05) year from the Effective Date unless earlier terminated in writing by the Parties in accordance with this Agreement. Any Party may terminate this Agreement upon advance written notice of Thirty (30) days to the other Party. The confidentiality obligations under this Agreement shall survive for Five (05) years after expiration or termination of this Agreement.
6. No Receiving Party shall make any non-permitted use of the Disclosing Party’s Confidential Information without the Disclosing Party’s specific prior written authorization. Furthermore, the Parties agree to keep confidential the terms of this Agreement and neither Party shall make any announcement in relation to or publicize its existence or its contents without the express prior written approval of the other Party.
7. If a Disclosing Party discloses proprietary information of a Third Party to the Receiving Party, the Disclosing Party must provide notice prior to its disclosure to the Receiving Party that such information is from a Third Party and that such information is to be maintained as Confidential Information according to terms not less strict than the terms agreed in this Agreement.
8. All copies, including but not limited to notes, and other written, printed or other tangible materials, whether documented or stored in written, graphic, electronic, magnetic or any other form, of Confidential Information shall be destroyed or returned to the Disclosing Party upon request or upon expiration or at early termination of this Agreement at any time, and in any event, no later than Thirty (30) days following any expiration or termination of this Agreement, except that the Receiving Party may retain one copy of the Confidential Information for legal archival purposes. All Confidential Information of a Disclosing Party (including all copies thereof) shall be and at all times remain the property of such Disclosing Party.
9. Confidential Information (including all copies thereof) disclosed by the Disclosing Party hereunder shall remain the property of such Disclosing Party. Nothing in this Agreement shall be construed, by implication or otherwise, as a grant, assignment, lease, mortgage of any right or license to trademarks, inventions, copyrights or patents, as a grant of a license to either Receiving Party to use any of the Disclosing Party’s Confidential Information except as expressly set forth herein, or as an obligation to enter into any further agreements relating to any Confidential Information or any possible business relationship.
10. This Agreement imposes no obligation on any Party to purchase, sell, license, transfer or otherwise dispose of any technology, services or products.

11. This Agreement does not create any agency or partnership relationship between the Parties. Each Party represents that it is acting as principal and not as agent in entering into this Agreement.
12. Any modification of this Agreement must be made in writing and signed by both the Parties.
13. Both the Parties acknowledge and expressly agree that any disclosure, in violation of this Agreement, of the Information by the Receiving Party thereof could be detrimental to the Disclosing Party's business and may cause it irreparable harm and damage. In accordance with applicable law and in addition to any other rights and remedies provided herein, such Disclosing Party shall be entitled to seek equitable relief by way of injunction or otherwise.
14. This Agreement supersedes all contemporaneous and prior understandings, discussions and writings with respect to the subject matter hereof and constitutes the final, entire Agreement between the Parties with respect to the subject matter hereof.
15. No waiver of any right hereunder will be binding on any of the Party unless made in a document signed by all the Parties. No delay or failure in enforcing any right will be deemed a waiver.
16. Each Party represents to the other Party that it has the full authority and right to enter into and perform under this Agreement without obtaining the consent of any third party. Each Party warrants that the persons signing this Agreement have the right to do so and that by doing so, they legally bind the respective Parties to the contents of this Agreement.
17. The Parties' rights and obligations under this Agreement will bind and inure to the benefit of their respective successors, heirs, executors, administrators, affiliates, subsidiaries and permitted assigns. Neither Party shall assign or delegate its obligations under this Agreement either in whole or in part without the prior written consent of the other Party; provided, however, that each Party may assign its rights and obligations hereunder, by written notice to the other Party, to an Affiliate or to a successor or transferee (whether by merger, consolidation, purchase or otherwise) of either all or substantially all of the assets of such assigning Party to which this Agreement pertains that shall bind such Affiliate or to successor or transferee with equal or more covenants of confidentiality as under this Agreement, as to be effectuated by such agreements for merger, consolidation, purchase or otherwise by the Party. Any purported assignment in violation of this Section 17 shall be void.
18. This Agreement (and any dispute, controversy, proceedings or claims of whatever nature arising out of or in any way relating to this Agreement or its formation) shall be governed by, construed, and enforced in accordance with the laws of India without regard to the conflicts of law principles thereof by the courts of competent jurisdiction at Hyderabad.

19. The Parties shall make every effort to resolve amicably by direct, informal negotiations any disagreement or dispute arising between them under or in connection with this Agreement. The Parties agree that any or all disputes arising out of this Agreement be referred to a sole arbitrator appointed by mutual consent and such arbitration shall be in accordance with provisions of the Arbitration and Conciliation Act, 1996, its amendments and enactments thereof. The language of arbitration shall be English and place of arbitration shall be Hyderabad.
20. Any notices given under this Agreement shall be in writing and shall be given by personal delivery, or sent by (a) facsimile transmission (with message confirmed during normal business hours); or (b) first class mail, postage prepaid; or (c) equivalent overnight delivery service, delivery charges prepaid. All notices shall be given to a party at its respective address set forth above, or at such other address as such Party may specify by notice in accordance with this Section 20. A notice shall be deemed given when actually received; provided that, if any facsimile notice is received after 5:00 P.M. local time at the place of receipt, it shall be deemed to have been given as of the next following business day.
21. Should one or more terms of the Agreement be or become illegal, invalid or unenforceable under the present or future laws such provision shall be struck from the Agreement, however this shall not affect the validity of the remaining provisions hereof. The Parties shall remain legally bound by the remaining terms of this Agreement and undertake to replace the invalid provision with a provision which most closely corresponds to the original intent of the Parties.
22. ALL CONFIDENTIAL INFORMATION IS PROVIDED “AS IS”. THE DISCLOSING PARTY MAKES NO WARRANTIES, EXPRESS, IMPLIED OR OTHERWISE, REGARDING THE ACCURACY, COMPLETENESS, FUNCTIONALITY, NONINFRINGEMENT, ITS FITNESS FOR A PARTICULAR PURPOSE OR ITS MERCHANTABILITY OF ITS CONFIDENTIAL INFORMATION.
23. Each Party hereby acknowledges and agrees that it shall not use the other Party’s name, logo or trademarks, or any derivation thereof, in any manner whatsoever, or disclose the existence of this Agreement or the status of any discussions or negotiations without the prior written consent of the other Party.
24. It is understood that no intellectual property rights or license is hereby granted to the Receiving Party by this Agreement and the disclosure of Confidential Information shall not result in any obligation to grant Receiving Party any rights in or to the subject matters of the Confidential Information.

25. If the performance of either Party is delayed or prevented at any time due to circumstances beyond that Party's control, including without limitation, those resulting from fire, floods, riots, civil disturbances, weather conditions, control exercised by a government entity, unavoidable casualties or Act of God, pandemics or a public enemy, then the performance will be excused until such condition no longer exists, except that this Section does not excuse either party from performing its obligations under Confidentiality and Non-disclosure of this Agreement.

26. This Agreement may be executed in two or more counterpart, each of equal value, which, when joined, shall together constitute one agreement. A signature of a Party transmitted on a scanned copy of this Agreement is deemed as an original signature. Any photocopy or electronic facsimile (including pdf format) of this Agreement, or of any counterpart, shall be deemed the equivalent to an original.

IN WITNESS WHEREOF, the Parties have signed this document on the date and at the place herein above mentioned.

Signed and delivered on behalf of: Bharat Biotech International Limited By: _____ Name: <u>Dr. V. Krishna Mohan</u> Title: <u>Whole-time Director</u> Date: _____ Witness (In the presence of) 1. (Company stamp)	Signed and delivered on behalf of: Precisa Medicamentos Limitada By: _____ Name: <u>Mr. Francisco Maximiano</u> Title: <u>President</u> Date: _____ Witness (In the presence of) 1. (Company stamp)	Signed and delivered on behalf of: Envixia Pharmaceuticals LLC By: _____ Name: <u>Mr. Anudesh Goyal</u> Title: <u>General Manager</u> Date: _____ Witness (In the presence of) 1. (Company stamp)
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