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| **CONFIDENTIALITY AGREEMENT** |
| (hereinafter referred to as the “**Agreement**”)concluded on …….2023 by and between: |
| **JJP Biologics spółka z ograniczoną odpowiedzialnością** with its registered office in Warsaw (postal code: 00-728), at 6 Bobrowiecka Street, entered into the Register of Entrepreneurs kept by the District Court for the capital city of Warsaw in Warsaw, 13th Commercial Division of the National Court Register under number KRS 0000608696, having Tax Identification Number (NIP) 5252652578, Statistical Number (REGON) 364024910, initial capital amounting up to: PLN 2.879.000,00, represented by: Paweł Szczepański – President of the Management Board acting as a Proxy; |
| hereinafter: the “**Company**” |
| And |
| **………………………………………** |
| hereinafter referred to as the “**Counterparty**”. |
| The Company and the Counterparty shall be hereinafter individually referred to as the “**Party**” or jointly as the “**Parties**”. |
| **Whereas:** |
| 1. The Company and its Affiliates conduct business activity in the field of research and development and manufacturing of new pharmaceutical products and the provision of related services;
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| 1. The Counterparty provides ………. as part of the Counterparty’s business.
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| 1. The Parties intend to establish a permanent cooperation in the scope of ……………… (hereinafter referred to as the “**Cooperation**”), whereby the Parties shall share with each other confidential information concerning the operational activities of the Parties and the entities belonging to their Affiliates (as defined below), including information constituting a business secret.
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| The Parties hereby agree as follows: |
| 1. **Definitions**
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| * 1. “**Affiliates**” with respect to Counterparty means any corporation, firm, limited liability company, partnership, or other entity that directly or indirectly controls or is controlled by or is under common control with a Counterparty. As used in this Section, control means ownership, directly or through one or more Affiliates, of fifty percent (50%) or more of the shares of stock entitled to vote for the election of directors, in the case of a corporation, or fifty percent (50%) or more of the equity interests in the case of any other type of legal entity, or status as a general partner in any partnership, or any other arrangement whereby a Counterparty controls or has the right to control the Board of Directors or equivalent governing body of a corporation or other entity. With the respect of the Company term Affiliates applies to: (i) JJP Ventures Sp. z o.o. with its registered seat in Warsaw and (ii) Profin Management Sp. z o.o. with its registered seat in Warsaw.
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| * 1. “**Confidential** **Information**” includes without limitation: any information or data provided or made available by the Company or its’ Affiliates or by Counterparty or its’ Affiliates in any form, and any information or data to which the Party shall obtain access in connection with the Cooperation, concerning the enterprise or activities of the Company and the Counterparty and their Affiliates, as well as their counterparties, of the economic, financial, commercial, marketing, scientific, technical, administrative, know-how, personnel (including contact details: e-mail addresses, telephone numbers, etc.), planning or strategic nature, and including data or information in the form of analyses, reports, summaries, studies, presentations, etc.
 |
| * 1. **Discloser**” means the party disclosing Confidential Information to the other party
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| * 1. “**Recipient**” means the party receiving Confidential Information from the other party.
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| * 1. “**Representatives**” means: (i) the Recipient’s and its Affiliates’ directors, officers, agents and employees; and (ii) the Recipient’s and its Affiliates’ consultants, financial and legal advisers and bankers.
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| * 1. “**Third** **Party**” means any natural person, legal person and unincorporated organizational unit, except for employees or collaborators or counterparties of the Parties and their Affiliates directly involved in the Cooperation
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| 1. **Undertakings of the Recipient**
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| * 1. Recipient undertakes, in respect to Confidential Information received from the Discloser
 |
| * + 1. to hold in strict confidence all Confidential Information that it may acquire and not to disclose it to any Third Party (other than to its Representatives in accordance with the terms hereof),
 |
| * + 1. not to use the Confidential Information for any purposes other than those directly related to the Cooperation, in particular not to use the obtained Confidential Information for its own benefit or for the benefit of Third Parties,
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| * + 1. not to publish, disclose or make available Confidential Information, unless the Discloser has given its prior written consent thereto,
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| * + 1. not to reproduce Confidential Information (or materials constituting carriers of Confidential Information) in any form, unless the Discloser gives its prior written consent thereto,
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| * + 1. to immediately cease to use the Confidential Information and return or destroy the Confidential Information (or materials constituting carriers of the Confidential Information) obtained from the Discloser, as well as permanently remove the Confidential Information from any IT systems of the Receiver in the event that the Parties decide to withdraw from the Cooperation, provided, however, that Receiver may retain one (1) copy of the foregoing materials in a secure location for record-keeping purposes,
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| * + 1. to make public information about the negotiations held, as well as about the fact and scope of Cooperation only in the content, form, manner, place and date of making it public, previously agreed with the other Party.
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| 1. **Exceptions**
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| * 1. The foregoing undertakings of the Recipient shall not apply to any Confidential Information which the Recipient can prove that:
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| * + 1. was already in its possession and at its free disposal before disclosure by the Discloser or any of its Representatives, provided that such information is not subject to an obligation (direct or indirect, implied or otherwise) of confidentiality to the Discloser or any of its Representatives;
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| * + 1. it has become publicly available after the conclusion of this Agreement or was publicly available before the date of its conclusion as a result of circumstances or actions for which the Party is not liable;
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| * + 1. is or has become generally available to the public in printed publications in general circulation through no act or breach of this Agreement on the part of the Recipient or any of its Representatives;
 |
| * + 1. they must be disclosed at the legitimate request of the authority conducting judicial or administrative proceedings or during the implementation of a court or administrative decision. In such circumstances, the Receiving Party shall immediately notify the Discloser in writing of the necessity to disclose Confidential Information and shall make reasonable efforts to minimize the damage which the Discloser may incur as a result of such disclosure;
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| * + 1. has been or is subsequently independently developed by the Recipient without reliance on the Discloser's Confidential Information.
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| * 1. The Parties shall not be liable to each other for the damage resulting from publication, disclosure or making available of Confidential Information in the situations referred to in point 3.1. above.
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| 1. **Disclosure of Confidential Information by a Party**
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| * 1. The Parties declare that access to Confidential Information shall be granted only to the Party's Representatives directly involved in the Cooperation, on a need to know basis for the proper execution of the Cooperation, and who have been obligated in writing to comply with no less restrictive confidentiality rules and restrictions than those contained in this Agreement.
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| * 1. The Parties shall be liable for the acts or omissions of its Affiliates and Representatives who shall gain access to Confidential Information as for their own acts or omissions.
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| * 1. The provisions of points 4.1. and 4.2. above shall apply accordingly to the Third Party to whom the Receiving Party has disclosed Confidential Information with the prior consent of the Discloser.
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| 1. **Exclusive Rights to Confidential Information**
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| * 1. The Recipient expressly acknowledges that the Discloser has sole legal and beneficial title to the Confidential Information and that Recipient shall not acquire any right, title or license in respect of the Confidential Information it receives or obtains from the Discloser or any of its Representatives.
 |
| * 1. All Confidential Information, as well as materials which are carriers of Confidential Information, shall be owned by the Discloser and shall be returned to the Discloser upon its written request upon termination of the Cooperation.
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| 1. **Term**
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| * 1. This Agreement shall enter into force on the day of its last signature of the Parties and shall remain in force for 5 years (“Disclosure Period”).
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| * 1. Terms of confidentiality and non-use shall survive for a period of two (2) years from the expiry of Disclosure Period.
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| 1. **Personal data**
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| * 1. The Parties represent that they meet the requirements imposed by the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (hereinafter referred to as the “GDPR”) as well as the Personal Data Protection Act of 10 May 2018 (Journal of Laws of 2019, item 1781) (hereinafter referred to as the “Act”). The Counterparty undertakes to ensure that its subcontractors and employees also undertake to comply with the provisions of the GDPR and of the Act.
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| * 1. The Parties confirm that this Agreement does not imply the processing of personal data, except for personal data of the signatories and employees. In the event that further processing of personal data is required during the performance hereof, the Parties shall sign a data processing agreement.
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| * 1. Notwithstanding the foregoing, in compliance with the GDPR, the Parties shall inform each other of the processing of the personal data of the signatories hereof as well as any employee who may be involved in the performance of this Agreement, for the purpose of carrying out the obligations contained herein. Both Parties shall inform their signatories and employees about the processing of their personal data by the other Party for the said purpose, so that each Party complies with information requirements under the applicable data protection laws towards such signatories and employees.
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| * 1. Each Party is the controller of personal data of the other Party provided in connection with the performance of the Agreement on the basis of legitimate interests pursued by each Party (GDPR Article 6(1)(f)). Moreover, the processing of data may be necessary for the performance of the Agreement (GDPR Article 6(1)(b)) and for the compliance with legal obligations of the personal to which the controller is subject (GDPR Article 6(1)(c)).
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| * 1. Personal data may be transferred to entities with the assistance of which the Party pursues its objectives, including to the entities maintaining the IT infrastructure, entities providing advisory and legal services. The provision of these data is voluntary and constitutes a requirement for the conclusion and execution of the Agreement. Personal data may be made available to entities and authorities which are authorized to process the data under applicable laws.
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| * 1. It is possible to object to the processing of data, to request access to data, their rectification, erasure, restriction of processing and transfer. Data shall be stored for the duration of this Agreement and, after its termination, for the period arising from the provisions on archiving and limitation of claims.
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| * 1. The personal data subject shall be entitled to lodge a complaint to the President of the Personal Data Protection Office.
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| * 1. In case of doubts regarding the processing of personal data by the Company, please contact the Data Protection Officer at: rodo@jjpbiologics.com. In case of doubts regarding the processing of personal data by the Counterparty, please contact the following address: …………….
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| 1. **Injunctive Relief**
	1. The Disclosing Party shall have the right to seek monetary damages to remedy damages caused by the Recipient's breach of its obligations under the Contract. The indemnity will also include reimbursement of legal costs incurred including attorneys' fees.
	2. The Parties acknowledge and agree that monetary damages may not be adequate or sufficient to remedy the Recipient's breach of its obligations under this Agreement. Accordingly, the Parties expressly acknowledge and agree that the Disclosing Party will be entitled to seek recovery of lost profits as well as the right to seek injunctive relief in court to ensure the Recipient's compliance with its obligations under this Agreement and to prevent the unauthorised use or dissemination of its Confidential Information. Such injunctive relief shall be in addition to any other remedies available to the Parties under this Agreement and/or applicable law.
2. **Final provisions**
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| * 1. Counterparty may not assign, transfer, charge or otherwise deal with any of its rights under this Agreement without the prior written consent of the Company. Company may assign or transfer this Agreement upon prior notice to Counterparty
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| * 1. The Agreement shall be governed by the laws of Poland. Any and all disputes arising hereunder will be subject to the jurisdiction of the competent courts in Warsaw, Poland.
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| * 1. This Agreement shall not be construed as establishing any other legal relationship or conferring any other powers or imposing any other obligations than those provided for in this Agreement.
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| * 1. Any amendment to this Agreement shall be made at least in the form of electronic document (pdf) signed with simple electronic signature, otherwise being null and void.
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| * 1. Electronic Signature Each Party consents to execution of this Agreement using Electronic Signature and agrees that Electronic Signature shall have the same force, effect and evidentiary value of the Parties’ intent to be contractually bound by the provisions of the Agreement as wet ink signature. “Electronic Signature” means any electronic writing that is created by a Party using an electronic signature creation process and is attached to or logically associated with an agreement.
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| * 1. If any provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be modified to the minimum extent necessary to make it valid, legal and enforceable, and the validity and enforceability of the rest of this Agreement shall otherwise remain unaffected.
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| * 1. This Agreement has been made in Polish and in English. In case of any discrepancies between these versions, the English version shall prevail.
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| For and on behalf of the **Company** |
| *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**Paweł Szczepański**(proxy)*  |
| For and on behalf of the **Counterparty**, |
| *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**Name,* *(function held)* |