

(Re)Building a Kidney (RBK) Consortium

Confidentiality and Nondisclosure Policy

The (Re)Building a Kidney Consortium was established in _____ 2015 through funds from the National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK) of the National Institutes of Health (“NIH”). Funding from the NIH to individual Consortium Participants, as defined below, is pursuant to a separate, individual funding agreement. The goal of the consortium is to optimize approaches for the isolation, expansion, and differentiation of appropriate kidney cell types and their integration into complex structures that replicate human kidney function. In order to protect the Confidential Information of those institutions and individuals who accept the RPK Standards of Conduct (each a “Consortium Participant”) while encouraging the disclosure of information for the advancement of the Consortium, all Consortium Participants must agree to be bound by this Confidentiality and Nondisclosure Policy (the “Policy”).

Each Consortium Participant agrees with all other Consortium Participants as follows:

- 1. Definitions.** The capitalized terms used in this Policy will have the definitions set forth in Exhibit A attached hereto and incorporated in this Policy.
- 2. Access.** Each Consortium Participant (each, a “Disclosing Party”) may disclose to the other Consortium Participants (each, a “Receiving Party”) Confidential Information of the Disclosing Party. All Confidential Information disclosed by a Consortium Participant will be subject to the terms of this Policy.
- 3. Obligations.**
 - a. Nondisclosure.** Each Receiving Party agrees, for a period of five (5) years from the date of disclosure, to use reasonable efforts, but no less than the efforts used to protect its own confidential information, (1) to keep secret and maintain the Confidential Information as confidential other than the Receiving Party’s rights to share such Confidential Information with other Receiving Parties solely in furtherance of the Permitted Purpose or as otherwise permitted under this Section 3(a); and (2) to exercise all reasonable precautions to prevent unauthorized access to the Confidential Information received by the Receiving Party. Each Receiving Party agrees not to disclose the Confidential Information to any person or entity who is not a Consortium Participant except that the Receiving Party may disclose Confidential Information to its employees, agents, consultants, advisors, affiliated investigators, students, volunteers or other representatives, including, but not limited to, legal counsel and accountants, provided that such individuals (i) reasonably need to know the information for the advancement of the Permitted Purpose, and (ii) are advised of and are, by written agreement and/or by virtue of their employment status or affiliation with the Receiving Party under an obligation to maintain the non-disclosure and

use restrictions set forth in this Policy (each, a “Representative”). Each receiving Party shall be responsible for the compliance of their Representatives with the terms of this Policy and any breach thereof.

b. Use Restrictions. Each Receiving Party agrees to use or copy the Confidential Information it has received solely for the Permitted Purpose and not to use the Confidential Information for any other purpose. Any copies shall contain the original confidentiality markings or notices.

c. Required Disclosures. Each Receiving Party shall, to the extent reasonably practicable and legally permissible, (1) promptly notify the Disclosing Party upon learning about any court order or other legal requirement that purports to compel disclosure of any Confidential Information of the Disclosing Party and (2) reasonably cooperate with the Disclosing Party, at Disclosing Party’s request and expense, in the exercise of the Disclosing Party’s right to protect the confidentiality of the Confidential Information before any tribunal or governmental agency. The Receiving Party shall use reasonable efforts to furnish no more than the minimal portion legally required to be disclosed and disclosure under this provision shall not otherwise affect the confidential status of the Disclosing Party’s Information pursuant to this Policy.

4. No Warranties or Liability, Licenses or Limitations. All information provided by a Consortium Participant under this Policy is “AS IS.” No Consortium Participant makes any representation or warranty (express or implied) as to the accuracy or completeness of the information disclosed as part of the Consortium nor any warranty of any other kind, including any warranty as to merchantability, fitness of a particular purpose, accuracy, completeness or non-violation of intellectual property rights of any third party or any other Consortium Participant. The Confidential Information disclosed as part of the Consortium shall remain the exclusive property of the Disclosing Party and neither this Policy, nor any disclosure of Confidential Information as part of the Consortium, in any way: (i) grants to any other Consortium Participant any right or license under any copyright, patent, patent application, mask work, trade secret, invention or trademark now or hereafter owned or controlled by the Disclosing Party; (ii) obligates the Disclosing Party to disclose any information, perform any work, enter into any license, business engagement or other agreement; or (iii) limits the Disclosing Party from entering into any business relationship with any third party. Unless specifically provided otherwise in a separate agreement between a Disclosing Party and a Receiving Party, no Consortium Member, as the Disclosing Party, has any liability to any other Consortium Member, as a Receiving Party, for any activity of any Receiving Party, including testing, use or evaluation of a Disclosing Party’s Confidential Information under this Policy.

5. Export Control. The Parties acknowledge that Confidential Information may be subject to United States export control laws and regulations. Each Party agrees to comply with such laws and regulations, including the Export Administration Regulations (“EAR”) maintained by the U.S.

Department of Commerce; trade and economic sanctions maintained by the Treasury Department's Office of Foreign Assets Control; and the International Traffic in Arms Regulations ("ITAR") maintained by the Department of State. For clarity, each Party agrees that no information shall be, to the best of its knowledge, exported or re-exported except as specifically permitted under all applicable export laws and regulations.

6. Injunctive Relief. The Parties acknowledge that any breach or threatened breach of this Policy may result in irreparable damage to the Disclosing Party for which there may not be an adequate remedy at law. In the event of any breach of this Policy by the Receiving Party(ies), the Disclosing Party will be entitled to seek injunctive relief in addition to any other rights and remedies available to it, all of which are cumulative and additional to any other right or remedy under this Policy.

7. Withdrawal from Consortium. If a Consortium Participant withdraws from the Consortium, the withdrawing Consortium Participant will either, at the sole discretion and written direction of the Disclosing Party, (i) promptly return to any Disclosing Party all Confidential Information and copies thereof received from the Disclosing Party during the term of the Consortium, or (ii) destroy all Confidential Information and copies thereof received from the Disclosing Party during the term of the Consortium. The withdrawing Consortium Participant will provide each Disclosing Party with a Certification of Destruction in the form attached as Exhibit B. Upon notification in writing to the Disclosing Party, the Receiving Party may (a) retain the Confidential Information that is stored on its secure electronic and computer systems until such time as those systems are taken out of operation, and (b) retain one set of Confidential Information for archival purposes; provided that in both cases the terms of this Policy shall govern all such Confidential Information for so long as it is kept by the Receiving Party. Unless specifically provided otherwise in writing by the Disclosing Party, with respect to any Confidential Information disclosed by a withdrawing Consortium Participant, the remaining Consortium Participants may continue to use Confidential Information previously disclosed by the withdrawing Consortium Participant solely for the Permitted Purpose and according to the terms and conditions of this Policy.

8. Generally. This Policy (i) constitutes the entire agreement of the Consortium Participants with respect to Confidential Information provided by a Disclosing Party during the Consortium and supersedes all prior understandings and agreements, whether written or oral, as to such subject matter; (ii) may be amended or modified only by a writing executed by the RBK Consortium and a majority of all Consortium Participants; (iii) may not be assigned by any Consortium Participant without the written consent of the RBK Consortium; and (iv) shall be binding upon and shall inure to the benefit of the respective heirs, administrators, personal representatives, successors and permitted assigns of the Consortium Participants.

9. Background Intellectual Property. Consortium Participants shall disclose any conflicts of interest or, if it so chooses, any relevant pre-existing intellectual property by completing the form attached as Exhibit C promptly following execution of this Policy. **Exhibit C may be updated**

by from time to time if necessary. If a Consortium Participant has an institutional conflict of interest policy that complies with U. S. federal and NIH regulations, it may elect to certify this on Exhibit C as an alternative to filling out the exhibit.

10. Counterparts. This Policy may be executed in several counterparts, all of which taken together will constitute the same instrument. Any photocopied or electronically produced copy of this fully executed original Policy shall have the same legal force and effect as a copy of this Policy that has the original signatures.

11. Use of Name. No Consortium Participants shall use the name, trademark, service mark, logo or other identifying characteristic (“Name”) of any other Consortium Participant or any of its affiliates, or any of its or their respective directors, trustees, officers, appointees, employees, staff, representatives or agents, in any advertising, promotional or sales literature, publicity or in any document employed to obtain funds or financing without the prior written approval of the authorized representative of Consortium Participant whose Name is to be used.

AGREEMENT OF CONSORTIUM PARTICIPANT:

The undersigned, being a member of the (Re)Building a Kidney Consortium, hereby agrees to abide by, and be legally bound by, the terms of the RBK Consortium Confidentiality and Nondisclosure Policy. The individual signing below represents that he or she has the legal authority to sign this agreement on behalf of the undersigned Consortium Participant.

Name of Consortium Participant (Institution): _____

Signature: _____

Printed Name (Individual): _____

Title: _____

Date Signed: _____

Address for notices:

Email: _____

ACKNOWLEDGEMENT OF INVESTIGATOR:

The undersigned hereby acknowledges that he or she has read the RBK Consortium Confidentiality and Nondisclosure Policy and agrees to abide by the terms of the Policy.

Signature: _____

Printed Name: _____

Date Signed: _____

EXHIBIT A
DEFINITIONS

1. ***Affiliate*** of any Party means any person or entity that, directly or indirectly, controls, is controlled by, or is under common control with the Party. A person or entity shall be deemed to be “controlled by” another person or entity if such other person or entity possesses, directly or indirectly, power (i) to vote 50% or more (on a fully diluted basis) of the securities having ordinary voting power for the election of directors (or their equivalent), or (ii) to direct or cause the direction of the management and policies of such person or entity whether by contract or otherwise. A person or entity shall be considered an Affiliate only for so long as that person or entity meets the requirements of this definition.

2. ***Confidential Information*** means all (i) Information disclosed by the Disclosing Party to another Consortium Participant(s) orally, visually, in writing or by way of any other Media; and (ii) all Derivative Information derived from Information described in clause (i), except (in either case) any portion thereof that a Receiving Party can demonstrate by clear and convincing evidence:
 - a. was known to the Receiving Party or in its possession before receipt thereof from, or on behalf of, Disclosing Party or any Related Party of Disclosing Party;
 - b. is disclosed to the Receiving Party by a third person who has an apparent legal right to make such disclosure without any obligation of confidentiality to the Disclosing Party;
 - c. is or becomes generally known publically or otherwise in the trade without violation of this Policy by the Receiving Party; or
 - d. is independently developed by the Receiving Party without use of or reference to the Disclosing Party’s information

By default, all information provided within the context of the RBK consortium shall be assumed to be confidential unless explicitly stated otherwise. For the avoidance of doubt, all Confidential Information that is disclosed in writing should be marked with a legend indicating its confidential status. Furthermore, Confidential Information that is disclosed orally or visually should be identified as confidential at the time of first disclosure.

3. ***Derivative Information*** means, as to any Information, all copies, digests, and summaries of the Information. Derivative Information does not include those parts of any digest and summaries that do not include or reveal the Confidential Information as disclosed by the Disclosing Party.

4. ***Disclosing Party[ies]*** means, the Party disclosing Confidential Information.

5. **Information** means all forms and types of information related to the Permitted Purpose, whether tangible or intangible, owned, developed, or possessed by Disclosing Party or any Related Party, including without limitation, development plans, preclinical and clinical data, compilations, formulas, designs, methods, techniques, processes, procedures, programs, know-how, computer software, databases, product names or marks, marketing materials or programs, plans, specifications, manufacturing information, price lists, costing information, employee and consulting relationship information, accounting and financial data, profit margin, marketing and sales data, strategic plans, inventions, discoveries, ideas, and all other proprietary information (including all originals, copies, digests and summaries in any form). If the transfer of any material, model, exhibit or sample is desired or required, such transfer shall be made under the terms of a Material Transfer Agreement duly executed by the parties to this Policy.

6. **Medium (Media)** means any communications or storage medium, regardless of method of storage, compilation or memorialization, if any, including without limitation, physical storage or representation (but not including models and prototypes), electronic storage, graphical (including designs and drawings) or photographic representation, or writings.

7. **Permitted Purpose** means the conduct of the activities of the RBK Consortium.

8. **Receiving Party** means the Consortium Party receiving the Confidential Information.

9. **Related Party** means any Affiliate of Disclosing Party(ies).

EXHIBIT B

CERTIFICATION REGARDING DISPOSAL OF CONFIDENTIAL INFORMATION

The undersigned hereby certifies that it has returned and/or destroyed all Confidential Information (as defined in the RBK Confidentiality and Nondisclosure Policy) received during the undersigned's participation in the Consortium, including without limitation all information in paper or electronic form (including emails) with the following exceptions, retention of which has been agreed to by the Disclosing Party:

Description of Confidential Information	Purpose and Location for Retaining Copy
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Name of Consortium Participant (Institution): _____

Signature: _____

Printed Name (Individual): _____

Title: _____

Date: _____

EXHIBIT C

CONFLICT OF INTEREST AND INTELLECTUAL PROPERTY DISCLOSURE FORM

When submitted to the RBK Consortium Data Coordinating Center this form, including technical and personal information, is treated as confidential. It is made available only to RBK Consortium Participants.

Describe below any involvement that you, your spouse, or your dependent children have in research projects, companies, or other entities that have or might have interests in the RBK Consortium. Provide titles/names and estimated level of financial interest (financial interest may be indicated as “no interest”; \$10,000 or less or 5% equity or less; or more than \$10,000 or more than 5% equity). Please attach additional pages if you require more space.

Company: Employment, Personal Compensation, Stock or Equity Ownership, Consulting or Advisory Arrangements

Intellectual Property Rights (patents, royalties, licensing fees)

Research Projects (Funded or Unfunded)

Signature: _____

Printed Name (Investigator): _____

Date Signed: _____