

GnuBIO, Inc

FCOI POLICY FOR PROMOTING OBJECTIVITY IN BIOMEDICAL RESEARCH

I. Introduction.

This policy of GnuBIO, Inc (the “Company”) applies to the conduct of research by the Company using funding received by the Company from The National Institutes of Health (“NIH”) or other Public Health Service (“PHS”) agencies pursuant to grants or cooperative agreements issued after August 23, 2012, including Phase II SBIR grants.¹ For purposes of this FCOI Policy, all references to “PHS” shall be a reference to the respective PHS funding agency. This policy shall be made available on the Company’s website.

The PHS financial conflict of interest regulations have unique financial conflict of interest reporting and conflict management requirements. Specifically, PHS awardee institutions, including business corporations or companies, must ensure objectivity in research through compliance with the regulations set forth at 42 C.F.R. Part 50, Subpart F, “Responsibility of Applicants for Promoting Objectivity in Research for which PHS Funding is Sought” (hereafter the “FCOI Regulations”).

The purpose of the FCOI Regulations is to promote objectivity in research by establishing standards that provide a reasonable expectation that the design, conduct, and reporting of research funded by the PHS under grants, cooperative agreements or contracts will be free from bias resulting from the financial conflicts of interest of an Investigator (as defined in Section II below). The NIH Office of Extramural Research Conflict of Interest website contains helpful information and resources about the FCOI Regulations.² The FCOI Regulations provide for a comprehensive level of disclosure, together with compulsory reporting to the applicable PHS agency. Disclosure to the Company is required of ALL “Significant Financial Interests” that reasonably appear related to the Investigator(s). As more precisely defined below, “Significant Financial Interests” include all travel reimbursements of any amount, any equity interest in a privately-held entity other than the Company and all other financial interests having a value in excess of \$5,000. Financial interests of a lesser amount do not require handling under this FCOI Policy.

This policy is for the purpose of ensuring compliance with these important regulations. All Investigators applying for funds from the NIH or other PHS agencies are required to comply with the requirements of this FCOI Policy. The Company shall designate an

¹ Funding under Phase I SBIR grants is not subject to this Policy.

² See <http://grants.nih.gov/grants/policy/coi/coifaqs.htm>.

individual to solicit and review the disclosures required under this policy (hereafter referred to as the “Designated Official” or “DO”).

II. Definitions

“Financial Conflict of Interest” or “FCOI” means a Significant Financial Interest that could directly and significantly affect the design, conduct, or reporting of PHS-funded research.

“Financial Interest” means anything of monetary value, whether or not the value is readily ascertainable.

“Investigator” means the principal investigator stated in the application and any other personnel who would be responsible for the design, conduct, or reporting of research funded by the PHS or proposed for such funding, which may include, for example, consultants and unpaid collaborators. The lead principal investigator on a proposed PHS application for funding is responsible for obtaining a PHS Disclosure Form from all participating Investigators.

“Investigator’s Company Responsibilities” means an Investigator's professional responsibilities on behalf of the Company, which may include for example: activities such as research, research consultation, teaching, professional practice, committee memberships, and service on panels such as Institutional Review Boards or Data and Safety Monitoring Boards.

“PD/PI” means a project director or principal Investigator of a PHS-funded research project; the PD/PI is included in the definitions of key personnel and Investigator under this part.

“Senior/Key Personnel” means Senior/key personnel means the PD/PI and any other person identified as senior/key personnel by the Company in the grant application, progress report, or any other report submitted to the PHS by the Company under the regulation.

“Significant Financial Interest” means (subject to the exclusions listed below) a Financial Interest consisting of one or more of the following interests of the Investigator (and those of the Investigator’s spouse and dependent children) that reasonably appears to be related to the Investigator’s Company Responsibilities:

- i. Publicly Traded-Entities - With regard to any publicly traded entity, a *significant financial interest* exists if the value of any remuneration received from the entity in the twelve months preceding the disclosure and the value of any equity interest in the entity as of the date of disclosure, when aggregated, exceeds \$5,000. For purposes of this definition, remuneration includes salary and any payment for services not otherwise identified as salary (*e.g.*, consulting fees, honoraria, paid authorship); equity interest includes any stock, stock option, or other ownership interest, as determined through reference to public prices or other reasonable measures of fair market value, except for ownership interests in the Company.

- ii. Privately Held Entities - With regard to any non-publicly traded entity, a *significant financial interest* exists if the value of any remuneration received from the entity in the twelve months preceding the disclosure, when aggregated, exceeds \$5,000, or when the Investigator (or the Investigator's spouse or domestic partner and dependent children) holds any equity interest (*e.g.*, stock, stock option, or other ownership interest) except for ownership interests in the Company.
- iii. Intellectual Property - Intellectual property rights and interests (*e.g.*, patents, copyrights), upon receipt of income related to such rights.
- iv. Travel Reimbursements - Investigators also must disclose the occurrence of any reimbursed or sponsored travel (*i.e.*, that which is paid on behalf of the Investigator and not reimbursed to the Investigator so that the exact monetary value may not be readily available), related to his or her Company Responsibilities in the twelve months preceding the disclosure; provided, however, that this disclosure requirement does not apply to travel that is reimbursed or sponsored by a Federal, state, or local government agency, an institution of higher education as defined at 20 U.S.C. § 1001(a), an academic teaching hospital, a medical center, or a research institute that is affiliated with an institution of higher education.

The term "Significant Financial Interest" does not include: salary, royalties, or other remuneration paid by the Company to the Investigator if the Investigator is currently employed or otherwise appointed by the Company, including intellectual property rights assigned to the Company and agreements to share in royalties related to such rights; income from investment vehicles, such as mutual funds and retirement accounts, as long as the Investigator does not directly control the investment decisions made in these vehicles; income from seminars, lectures, or teaching engagements sponsored by a Federal, state, or local government agency, an institution of higher education as defined at 20 U.S.C. 1001(a), an academic teaching hospital, a medical center, or a research institute that is affiliated with an institution of higher education; or income from service on advisory committees or review panels for a Federal, state, or local government agency, an institution of higher education as defined at 20 U.S.C. 1001(a), an academic teaching hospital, a medical center, or a research institute that is affiliated with an institution of higher education.

III. Mandatory Training

The DO shall be responsible for ensuring that each Investigator is informed about (i) this FCOI Policy; (ii) the Investigator's responsibilities regarding disclosure of Significant Financial Interests relating to the Investigator's Company Responsibilities; and (iii) the FCOI Regulations. The DO shall require each Investigator to complete training regarding items (i)–(iii) prior to engaging in research related to any PHS-funded grant, cooperative agreement or contract and at least every four (4) years thereafter, and immediately when any of the following applies: (1) this FCOI Policy or the PHS Disclosure Form are revised in any manner that affects the requirements of the

Investigators; (2) an Investigator is newly appointed at the Company; or (3) the Company finds that an Investigator is not in compliance with this FCOI Policy or management plan.

IV. Disclosure, Review and Monitoring

A. Disclosure of Significant Financial Interests.

- i. The DO shall develop and administer an efficient and effective method for soliciting and reviewing timely disclosures from Investigators (and those of the Investigator's spouse or domestic partner and dependent children) planning to participate in PHS-funded research, which will be through means of a written disclosure statement and/or electronic questionnaire ("PHS Disclosure Form").
- ii. Investigators must submit the PHS Disclosure Form (i) no later than at the time the respective application is submitted to the PHS; (ii) at least annually during the period of the award; and (iii) within thirty (30) days of discovering or acquiring a new Significant Financial Interest. One annual disclosure will suffice to cover all on-going PHS awards. All such internal disclosures shall be treated as confidential personnel information with all necessary precautions to protect any sensitive proprietary company or sponsor information.
- iii. Investigators shall disclose, at a minimum, the name of the entity, the nature of the financial interest (*e.g.*, equity, consulting fee), the monetary value of the financial interest or its approximate value if the interest is one whose value cannot readily be determined, and any supporting documentation determined by the DO needed to make a determination of whether a FCOI exists (such as a copy of the applicable consulting agreement or stock purchase agreement). For Travel Reimbursements, the disclosure must include, at a minimum, the purpose of the trip, the identity of the sponsor/organizer, the destination, the duration, and the approximate monetary value. In addition, the Investigator must cooperate with all requests from PHS for additional information as needed.

B. Review of Disclosures.

- i. The DO must review all PHS Disclosure Forms and determine whether an Investigator's Significant Financial Interest is related to PHS-funded research and, if so related, whether the Significant Financial Interest is an FCOI. An Investigator's Significant Financial Interest is related to PHS-funded research when the DO reasonably determines that the Significant Financial Interest: could be affected by the PHS-funded research; or is in an entity whose financial interest could be affected by the research. An FCOI exists when the DO reasonably determines that the Significant Financial Interest could directly and significantly affect the design, conduct, or reporting of the PHS-funded research. In making the determination, the DO can take into account

financial interests in that same entity related to PHS or other Federal funded research disclosed in an earlier disclosure by the Investigator.

- ii. The following are examples of when an Investigator would be deemed to have an FCOI: (i) if the Investigator (together with Investigator's spouse or domestic partner and dependent children) has a Significant Financial Interest in an entity that could be affected by the research results from a proposed PHS-funded contract based on an analysis of the scope and subject matter of the proposed project described in the application, or (ii) the Investigator (together with Investigator's spouse or domestic partner and dependent children) has a Significant Financial Interest in an entity that licenses technology from the Company which has resulted in license income and that technology is the subject of a proposed PHS-funded award. In making this determination, the DO may consult with all appropriate governmental officials.

C. Monitoring and Management of FCOIs.

- i. Following determination that the Significant Financial Interest is an FCOI, a management plan will be developed and implemented. The management plan shall be implemented by an oversight committee comprised of members appointed by the DO.
- ii. For all management plans, examples of conditions or restrictions that might be imposed to manage an FCOI include, but are not limited to: (1) public disclosure of significant financial interests; (2) appointment of independent monitor(s) capable of taking measures to protect the design, conduct, and reporting of the research against bias resulting from the FCOI; (3) modification of the research plan; (4) change of personnel or personnel responsibilities, or disqualification of personnel from participation in all or a portion of the research; (5) reduction or elimination of the financial interest (*e.g.*, sale of an equity interest); or (6) severance of relationships that create financial conflicts.
- iii. For all management plans, the Company is required to monitor Investigator compliance with the management plan on an on-going basis until the completion of the PHS-funded research project.

V. Reporting to PHS

The Investigator's timely cooperation with the efforts of the DO is needed to ensure timely reporting to PHS. The elements of such a report shall include, at least, the items enumerated under the FCOI Regulations. The FCOI Regulations provide that, to the extent permitted by law, the Government will maintain the confidentiality of all records of financial interests.

A. Timing of Reports.

- i. Prior to expending any funds under a PHS-funded grant, cooperative agreement or contract, the Company must report to PHS the existence of any FCOI and assure that the Company has implemented a management plan in accordance with the FCOI Regulations.
- ii. For any reported FCOI, the DO shall make an annual report that conforms to the requirements of the FCOI Regulations for the duration of the research project in the time and manner specified by PHS.
- iii. For any Significant Financial Interest that the Company identifies as being a FCOI subsequent to the Company's initial FCOI report under the award, the report will be made to PHS and a management plan shall be implemented, at least on an interim basis, within sixty (60) days of that identification. Such a disclosure could include a new Significant Financial Interest received by the Investigator during the on-going research project, or a Significant Financial Interest held by an Investigator who is new to the research project.

B. Retrospective Review

- i. In the event an FCOI is not timely made to PHS, for whatever reason, the Company must conduct a retrospective review of the Investigator's activities and the research project. Such review must be completed within one hundred twenty (120) days of the Company's determination of noncompliance or whenever an FCOI is not identified or managed in a timely manner.
- ii. Following a retrospective review, the Company shall update any previously submitted report, if appropriate. If bias is found during the course of this review, a mitigation report will also be required to be submitted.

VI. Enforcement and Remedies

If an Investigator fails to comply with this FCOI Policy or a management plan and the non-compliance appears to have biased the design, conduct or reporting of the PHS-funded research, the Company, as required under the FCOI Regulations, shall promptly notify the agency of the corrective action taken or to be taken. In every respect, the DO shall ensure compliance with the requirements for retrospective review and prepare a mitigation report, if needed, for submission to PHS as required under the FCOI Regulations. PHS may take its own action as it deems appropriate, which may include suspension of funding, or require the Company to take further action to maintain the objectivity of the research.

Investigators who are found to be noncompliant with this FCOI Policy may face employee sanctions or other administrative actions.

For clinical research projects supported by the PHS, if the U.S. Department of Health and Human Services determines that a PHS-funded project of clinical research, whose purpose is to evaluate the safety or effectiveness of a drug, medical device, or treatment, was designed, conducted, or reported by an Investigator with a FCOI that was not

properly disclosed or managed as required under the FCOI Regulations, the Company must require the Investigator(s) to disclose the FCOI in each public presentation (such as articles, manuscripts and oral presentations, including classroom materials) of the results of the research and to request an addendum to previously published presentations.

VII. Maintenance of Records

The Company is required pursuant to the FCOI Regulations to maintain all PHS Disclosure Forms and all related records of actions taken by the Company with respect to disclosures of financial interests for a period of three (3) years from the date of submission of the final expenditures report to the PHS or, where applicable, from other dates specified in 45 C.F.R. §§ 74.53(b) and 92.42(b) for different situations.

VIII. Subrecipient Requirements

All proposed subrecipients under PHS-funded research of the Company shall have a financial conflicts of interest policy that conforms to the requirements of the FCOI Regulations. With respect to these subgrantees, subcontractors, and collaborators, the Company must require these entities to enter into a written agreement and make a certification to the Company at the time of award that its financial conflicts of interest policy complies with the FCOI Regulations. The written agreement shall include all of the terms required under the FCOI Regulations.

The Company will report to PHS any FCOI which are identified by any subgrantee, subcontractor, or collaborator to the Company in the manner required under the FCOI Regulations, prior to the expenditure of funds and within sixty (60) days of any subsequently identified FCOI.

IX. Public Accessibility

Prior to expending any funds under a PHS-funded grant, cooperative agreement or contract, the Company shall ensure public accessibility of information about any FCOI that was disclosed and is still held by the Senior/Key Personnel on the project. Such information shall consist of the elements required to be provided under the FCOI Regulations, and shall be posted on the Company's website or made available within five (5) days of a written request. Any information posted on the Company's website shall be (1) updated at least annually; (2) updated within sixty (60) days of a newly identified FCOI; and (3) remain available for three (3) years from the date the information was most recently updated.