

BIOSAMPLES & DATA TRANSFER AGREEMENT

THIS BIOSAMPLES TRANSFER AGREEMENT (“**Agreement**”) made by and between

The Provost, Fellows, Foundation Scholars, and the other members of Board, of the College of the Holy and Undivided Trinity of Queen Elizabeth near Dublin, with an address at College Green, Dublin 2, Ireland. (“**TRINITY**”);

AND

[INSERT RECIPIENT NAME] with an address at [INSERT RECIPIENT ADDRESS] (“**RECIPIENT**”);

individually referred to as a “**Party**” or collectively referred to as the “**Parties**”.

WHEREAS

- (A) TRINITY acting through Prof./Dr. [●] of the School of [●] (“**TRINITY Scientist**”), is the custodian of certain human tissues (the “**Material**”); and
- (B) The RECIPIENT acting through Prof./Dr. [●] or any personnel directly under his/her supervision (“**RECIPIENT Scientist**”) has approached TRINITY and has requested that the Material be transferred to the RECIPIENT for the advancement of biomedical research; and
- (C) TRINITY and RECIPIENT are amenable to such transfer on the terms and conditions set out in this Agreement.

The Parties agree as follows;

1. DEFINITIONS

1.1 “Confidential Information” means but is not limited to: Material and TRINITY Data but excludes any information that;

- 1.1.1 at the time of disclosure by TRINITY is, or thereafter becomes through no fault of the RECIPIENT, public knowledge;
- 1.1.2 after disclosure by TRINITY, is lawfully received by the RECIPIENT from a third party without obligations of confidentiality, who has the right to disclose such Confidential Information to the RECIPIENT;
- 1.1.3 is required to be disclosed by law or court order;
- 1.1.4 was obtained by the RECIPIENT as a result of wholly independent work which the RECIPIENT can prove by genuine documentary evidence is not based on or derived from the Confidential Information; or
- 1.1.5 can be shown by genuine documentary evidence, was at the time of disclosure by TRINITY, already in the lawful possession of the RECIPIENT.

1.2 “De-identified” means data or Material that does not contain information that identifies or could identify the donor or subject of the data or Material, in accordance with applicable laws and regulations related to the collection, retention, privacy, security or use of such data or Material.

1.3 “Material” means the De-identified human donor sample materials provided to the RECIPIENT as described in Appendix I of this Agreement and shall include TRINITY Data, and any and all documents and information that TRINITY may provide to the RECIPIENT under or in connection with this Agreement.

1.4 “Research Project” means the research described in Appendix I of this Agreement.

1.5 “Results” means all information, results, know-how, and data arising from the Research Project that is created or developed, as a result of the use of the Material.

1.6 “TRINITY Data” means De-identified human donor clinical information and any other information under the custodianship of TRINITY, as identified in Appendix I.

2. LICENSE OF MATERIAL

2.1 Subject to the terms and conditions of this Agreement, TRINITY hereby grants to the RECIPIENT a non-exclusive, revocable, non-transferable, fully paid up licence to use the Material solely for the purpose of conducting the Research Project and for no other purpose, for a period commencing on the last signature date of this Agreement (“**Effective Date**”), and ending [●] year thereafter (“**Term**”) unless terminated earlier in accordance with this Agreement. The Term may be extended as mutually agreed in writing by the Parties.

2.2 Following the Effective Date, TRINITY shall use reasonable efforts to provide RECIPIENT with sufficient amounts of Material, as available, for RECIPIENT to conduct the Research Project. The amount and sufficiency of Material provided cannot be guaranteed.

2.3 The RECIPIENT shall keep the Material in a secure place at RECIPIENT Scientist’s laboratory at all times and the RECIPIENT shall ensure that no-one other than the RECIPIENT Scientist and RECIPIENT authorised personnel have access to it.

2.4 RECIPIENT acknowledges that the Material being supplied may have unknown characteristics and may potentially contain viruses, latent viral genomes or other infectious agents. RECIPIENT warrants that it has the knowledge and ability to safely handle any Material supplied to it and agrees to use prudence and care in the use, handling, storage, transportation, containment, and disposal of the Material and all derivatives thereof. All costs and expenses associated with such protective measures shall be borne by RECIPIENT.

3. OBLIGATIONS OF RECIPIENT

3.1 The RECIPIENT shall;

- 3.1.1 not sell, transfer, supply, distribute or release any of the Material to any third party, without the prior written consent of TRINITY; and
- 3.1.2 not use the Material for any commercial purpose nor make any commercial or other gain from the Material nor seek to obtain any protection of the intellectual property contained in the Material; and
- 3.1.3 not use the Material for any other purpose other than that outlined in Appendix I; and
- 3.1.4 use appropriate safeguards to prevent use of the Material other than as provided for by this Agreement; and
- 3.1.5 use appropriate administrative, physical and technical safeguards to preserve the integrity and prevent any corruption or loss, damage or destruction of Material and to prevent any unauthorised use or disclosure of Trinity Data; and
- 3.1.6 not to seek to identify the information contained in the Material; and/
- 3.1.7 not to seek to identify the donors nor contact any such donors; and
- 3.1.8 ensure that any agent, including a subcontractor, to whom it provides the Material, agrees in writing to the same restrictions and conditions that apply throughout this Agreement.

3.2 In the event that RECIPIENT inadvertently identifies any donor, they will notify TRINITY immediately setting out (in reasonable detail) the circumstances by which this happened and not attempt in any way to contact any individual that maybe identified.

4. PUBLICATIONS & REPORTING

4.1 The RECIPIENT agrees to provide TRINITY with a copy of any manuscript prior to publication. TRINITY may request RECIPIENT delete any Confidential Information from the manuscript or hold publication of such manuscript up to ninety days (90) in order for TRINITY to obtain patent protection on such Confidential Information. In no event should any such publication disclose TRINITY Confidential Information without prior written approval from TRINITY. The RECIPIENT shall make the necessary acknowledgements regarding the source of the Material in any publication which mentions same. Authorship shall be accredited to the relevant Party where applicable, in accordance with the usual academic custom.

4.2 At the request of TRINITY, such request not to be unreasonably withheld, the RECIPIENT shall disclose to TRINITY all Results of the Research Project for the purpose of TRINITY gaining further knowledge and understanding of the Material, and shall make available to TRINITY any raw data for TRINITY's internal research purposes only. The Results of the Research Project shall be treated as confidential by TRINITY and the terms of Clause 6 hereunder shall apply to such Results.

5. OWNERSHIP

5.1 No rights of any nature in, to, or over any Material shall be deemed to be conferred on the RECIPIENT by this Agreement, other than as provided in this Agreement.

5.2 RECIPIENT shall grant TRINITY a non-exclusive, non-transferable, perpetual, royalty-free licence to use Results for non-commercial internal research purposes only.

6. CONFIDENTIALITY

6.1 During the Term of this Agreement and for a period of five (5) years after the termination of the Agreement, each Party shall keep the Confidential Information secret and in strict confidence and not at any time or for whatever reason disclose, use, reveal or cause any unauthorised disclosure of the Confidential Information whether through any failure to exercise all due care and diligence or otherwise to any third party for any purpose without the express prior written permission of the disclosing Party.

6.2 The confidentiality obligations of clause 6.1 above shall not apply to Confidential Information published by either Party in accordance with clause 4.1 of this Agreement.

7. RETURN OF MATERIAL

7.1 The Material (and any copies thereof made by or in possession of or under the control of the RECIPIENT) shall be and remain the property of TRINITY and shall be immediately returned (or if TRINITY so requires, destroyed) (i) on termination of this Agreement, (ii) if the RECIPIENT is in breach of any provision of this Agreement, and (iii) at any other time on request of TRINITY.

8. COST RECOVERY FEE

8.1 The RECIPIENT agrees that TRINITY will transfer the Materials to the RECIPIENT at RECIPIENT's cost, using the RECIPIENT's shipping account details as outlined in Appendix I. Where mutually agreed by the Parties, the RECIPIENT agrees to pay TRINITY, through the TRINITY Scientist, for the costs of preparation of the Materials, no later than thirty (30) days after the TRINITY Scientist has issued the RECIPIENT with an invoice for the agreed amount as outlined in Appendix I of this Agreement.

9. DISCLAIMER

9.1 The Material is provided by TRINITY on an "AS IS" basis and the Material is understood to be of an experimental nature. All Material is being provided WITHOUT WARRANTY OR REPRESENTATIONS (INCLUDING but not limited to: MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, EFFICACY, COMPLETENESS, CAPABILITIES OR SAFETY, OR ANY OTHER WARRANTIES OR REPRESENTATIONS WHETHER EXPRESS OR IMPLIED), AND ALL

WARRANTIES AND REPRESENTATIONS WITH RESPECT TO THE MATERIAL ARE HEREBY EXCLUDED TO THE GREATEST EXTENT PERMISSIBLE BY LAW (INCLUDING ANY WARRANTY THAT THE USE OF THE MATERIAL DOES NOT INFRINGE THE INTELLECTUAL PROPERTY OF ANY THIRD PARTY).

10. LIABILITY

10.1 The RECIPIENT agrees neither TRINITY nor its employees, servants or agents shall have any liability whether in contract, tort, statute or otherwise in connection with TRINITY's supply or RECIPIENT's use, disclosure, storage, handling and/or disposal of the Material. Moreover, RECIPIENT agrees to indemnify TRINITY against all Claims and Losses, suffered or incurred by the RECIPIENT in relation to the use, disclosure, storage, handling and/or disposal of the Material, by RECIPIENT and/or its employees, including Claims and Losses arising from (i) injury to the RECIPIENT's employees and third parties, (ii) infringement of third party intellectual property rights, (iii) use of the Materials within or outside the scope of this Agreement. For the purposes of this Agreement (i) "Claims" shall mean all demands, claims, proceedings, penalties, fines and liability (whether criminal or civil), in contract, tort, negligence or otherwise and (ii) "Losses" shall mean all losses, including without limitation financial losses, damages, legal costs and other expenses of any nature whatsoever.

11. REGULATION

11.1 The RECIPIENT shall use the Materials in accordance with good laboratory practice, and the highest standards of skill and care, and RECIPIENT shall comply with all applicable laws and regulations governing the transportation, keeping, use or disposal of the Materials.

12. ASSIGNMENT

12.1 The RECIPIENT shall not assign, sub-licence, delegate or otherwise transfer all or any of its rights or obligations under this Agreement, without the prior written consent of TRINITY.

13. GENERAL

13.1 Each of the provisions of this Agreement is separate and severable and enforceable accordingly. If at any time any of the provisions is held to be void or unenforceable, the validity or enforceability of the remaining provisions shall not be affected. If any provision is held to be void or unenforceable, the Parties agree to substitute any such provision with a valid enforceable provision which achieves to the greatest extent possible the economic, legal and commercial objectives of the invalid or unenforceable provision.

13.2 The provisions of Articles 4, 5, 6, 9, 10, and 13 shall continue in full force and effect after expiry or termination of this Agreement for whatever reason for their respective terms.

13.3 TRINITY may terminate this Agreement if it determines, at its sole discretion that the Recipient has breached any provision of this Agreement. TRINITY may exercise this right by providing the Recipient with written notice of termination outlining such breach and basis for termination. Any such termination will be effective immediately or at such date as specified in the notice of termination.

13.4 This Agreement represents the entire agreement between the Parties with respect to its subject matter and it supersedes all prior representations, agreements, arrangements and undertakings with respect thereto whether written or oral.

13.5 Neither this Agreement nor the provision of Material nor any subsequent discussions between the Parties shall create any obligations other than those expressly stated herein. Nothing in this Agreement shall oblige either of the Parties to enter into any further Agreement with the other in relation to the subject-matter of this Agreement.

Appendix I

Background:

TO BE COMPLETED

Materials:

TO BE COMPLETED

TRINITY Data:

TO BE COMPLETED

Research Project:

TO BE COMPLETED

RECIPIENTs Shipping Account Details:

TO BE COMPLETED

Cost recovery fee

TO BE COMPLETED

TEMPLATE