(1) 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

and

(2) [FULL LEGAL NAME OF COMPANY]

## TWO-WAY CONFIDENTIAL DISCLOSURE AGREEMENT

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**This Agreement** is between:

1. **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** (“**TRINITY**”), a body corporate, whose principal address is at College Green, Dublin 2 and
2. [*insert full legal name of Company*] (the “**COMPANY**”), a company incorporated in [●] under registration number [●], whose [principal place of business *or* registered office is at [•];

(indiviually a “**Party**” and collectively the “**Parties**”).

Background:

The Parties wish to hold discussions relating to the field of [●] (the “**Field**”). TRINITY is acting through [●] of the School of [●]. Each Party wishes to receive confidential information in the Field from the other Party for the purpose of [●] (the “**Permitted Purpose**”).

**The Parties agree as follows:**

1. **Definitions**
   1. In this Agreement, the following words shall have the following meanings:

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| Authorised Persons | shall have the meaning given in clause 3.1. |
| Confidential Information | shall mean:   1. in respect of Information provided in documentary form or by way of a model or in other tangible form, Information which at the time of provision is marked or otherwise designated to show expressly that it is imparted in confidence, or ought reasonably to be considered confidential given the nature of the information, or the circumstances of disclosure; and    * + 1. in respect of Information that is imparted orally, any information that the Disclosing Party or its representatives informed the Receiving Party at the time of disclosure was imparted in confidence; and        2. in respect of Information imparted orally, any note or record of the disclosure and any evaluation materials prepared by the Receiving Party that incorporate any Information; and        3. any copy of any of the foregoing. |
| Disclosing Party | shall mean the Party to this Agreement that discloses Information, directly or indirectly to the Receiving Party under or in anticipation of this Agreement. |
| Effective Date  FOIA | shall mean the date of signature of this Agreement by the last Party to sign.  shall mean the Freedom of Information Act 2014 and includes any subordinate legislation made under it and any provision amending, superseding or re-enacting it (whether with or without modification). |
| Information | shall mean information (whether of a technical, commercial or any other nature whatsoever) and including without limitation any intellectual property owned or used by Disclosing Party (including but not limited to: patents, know-how, copyright, discoveries, inventions, database rights, design rights, and all rights of a similar or corresponding nature) disclosed under this Agreement; provided directly or indirectly by the Disclosing Party to the Receiving Party in oral or documentary form or by way of models, biological or chemical materials or other tangible form or by demonstrations, on or after the date of this Agreement. |
| Receiving Party | shall mean the Party to this Agreement that receives Information, directly or indirectly from the Disclosing Party. |

1. **Confidentiality obligations**
   1. In consideration of the Disclosing Party providing Confidential Information, at its discretion, to the Receiving Party, the Receiving Party shall:
      1. keep the Confidential Information secret and confidential;
      2. neither disclose nor permit the disclosure of any Confidential Information to any person, except for disclosure to Authorised Persons in accordance with clause 3, or to a court or other public body in accordance with clause 4;
      3. not use the Confidential Information for any purpose, whether commercial or non-commercial, other than for the Permitted Purpose;
      4. not seek to obtain any protection of the intellectual property contained in the Confidential Information of the other Party;
      5. make only such limited number of copies of the Confidential Information as are required for the Permitted Purpose, and provide those copies only to Authorised Persons;
      6. give notice to the Disclosing Party of any unauthorised misuse, disclosure, theft or loss of the Confidential Information immediately upon becoming aware of the same.
2. **Disclosure to employees**
   1. The Receiving Party may disclose the Confidential Information to those of its officers, employees and professional advisers (together, “**Authorised Persons**”) who:
      1. reasonably need to receive the Confidential Information to enable the Receiving Party to achieve the Permitted Purpose;
      2. have been informed by the Receiving Party (a) of the confidential nature of the Confidential Information, and (b) that the Disclosing Party provided the Confidential Information to the Receiving Party subject to the provisions of a written confidentiality agreement;
      3. have written confidentiality obligations to the Receiving Party that (a) are no less onerous than the provisions of this Agreement, and (b) apply to the Confidential Information, and who have been instructed to treat the Confidential Information as confidential.
   2. The Receiving Party shall be responsible for taking reasonable action to ensure that its Authorised Persons comply with the Receiving Party’s obligations under this Agreement and shall be liable to the Disclosing Party for any breach of this Agreement by such Authorised Persons.
3. **Disclosure to court, etc.**
   1. To the extent that the Receiving Party is required to disclose Confidential Information by order of a court or other public body that has jurisdiction over the Receiving Party, it may do so. Before making such a disclosure the Receiving Party shall, if the circumstances permit:
      1. inform the Disclosing Party of the proposed disclosure as soon as possible (and if possible before the court or other public body orders the disclosure of the Confidential Information);
      2. ask the court or other public body to treat the Confidential Information as confidential; and
      3. permit the Disclosing Party to make representations to the court or other public body in respect of the disclosure and/or confidential treatment of the Confidential Information.
4. **Exceptions to confidentiality obligations**
   1. The Receiving Party’s obligations under clause 2 shall not apply to Confidential Information that:
      1. the Receiving Party possessed before the Disclosing Party disclosed it to the Receiving Party; or
      2. is or becomes publicly known, other than as a result of breach of the terms of this Agreement by the Receiving Party or by anyone to whom the Receiving Party disclosed it; or
      3. the Receiving Party obtains from a third-party, and the third-party was not under any obligation of confidentiality to the Disclosing Party with respect to the Confidential Information; or
      4. it can show (as demonstrated by its written records or other reasonable evidence) has been independently developed by any of the Receiving Party’s employees or Authorised Persons who have not had any direct or indirect access to, or use or knowledge of, the Confidential Information.
5. **Freedom of information**
   1. The COMPANY acknowledges and agrees that TRINITY is subject to the FOIA and the codes of practice issued under the FOIA as may be amended, updated or replaced from time to time.
   2. The COMPANY acknowledges and agrees that:
      1. subject to clauses 6.2.2 and 6.3, the decision on whether any exemption applies to a request for disclosure of recorded information under the FOIA is a decision solely for TRINITY; and
      2. if TRINITY is processing a request under the FOIA to disclose any Confidential Information then the COMPANY shall co-operate with TRINITY, at TRINITY’s reasonable cost and expense, and shall use reasonable efforts to respond within ten (10) working days of TRINITY’s request for assistance in determining whether an exemption to the FOIA applies.
   3. If TRINITY determines, in its sole discretion, that it will disclose any of the COMPANY’s Confidential Information, it shall use reasonable efforts to notify the COMPANY in writing prior to any such disclosure. In any event, TRINITY shall not disclose any Confidential Information which falls within any of the exemptions of the FOIA and will consult with COMPANY to decide how best to respond to any FOIA request before any response is made.
6. **Return of information and surviving obligations**
   1. Subject to clause 7.2, the Receiving Party shall (a) at the Disclosing Party’s request, and (b) upon any termination of this Agreement:
      1. either return to the Disclosing Party or destroy (at the Disclosing Party’s option) all documents and other materials that contain any of the Confidential Information, including all copies made by the Receiving Party representatives;
      2. permanently delete all electronic copies of Confidential Information from the Receiving Party’s computer systems; and
   2. As an exception to its obligations under clause 7.1, the Receiving Party may retain one copy of the Confidential Information, in paper form, in the Receiving Party’s legal files for the purpose of ensuring compliance with the Receiving Party’s obligations under this Agreement.

7.3 This Agreement will take effect as of the Effective Date and will remain in full force for a period of twelve (12) months from the Effective Date. Either Party may terminate this Agreement by giving thirty (30) days’ written notice to the other Party. The Receiving Party’s obligations under this Agreement shall otherwise continue in force, in respect of Confidential Information, for a period of [3] [5] [10] years from the Effective Date of this Agreement.

1. **General**
   1. The Receiving Party acknowledges and agrees that all property, including intellectual property, in Confidential Information disclosed to it by the Disclosing Party shall remain with and be vested in the Disclosing Party.
   2. This Agreement does not include, expressly or by implication, any representations, warranties or other obligations:
      1. to grant the Receiving Party any licence or rights other than as may be expressly stated in this Agreement;
      2. to require the Disclosing Party to disclose, continue disclosing or update any Confidential Information;
      3. to require the Disclosing Party to negotiate or continue negotiating with the Receiving Party with respect to any further agreement, and either party may withdraw from such negotiations at any time without liability; nor
      4. as to the accuracy, efficacy, completeness, capabilities, safety or any other qualities whatsoever of any information provided under this Agreement.

8.3 It is understood and agreed that notwithstanding any other provision of this Agreement, a breach by the Receiving Party of any of the provisions of this Agreement may cause the Disclosing Party irreparable damage for which recovery of money damages might be inadequate, and that the Disclosing Party will be entitled to seek an injunction to protect its rights under this Agreement in addition to any and all remedies available at law. Notwithstanding the foregoing, neither Party is liable for for any indirect loss or consequential loss whatsoever and howsoever caused, or for any direct or indirect loss of profit, loss of business, loss of goodwill, loss of savings, loss of anticipated savings (even if caused by its negligence and/or breach of this Agreement).

8.4 Notices under this Agreement must be in writing and may be delivered by hand, pre-paid registered post, or electronic mail to the address of the Parties set out hereunder (or to such other address as that Party may have notified to the other under the provisions of this clause). Notices delivered by hand shall be deemed delivered upon receipt, while notices delivered by post until and unless the contrary is proven, shall be deemed delivered 72 hours after posting, and notices delivered by email until and unless the contrary is proven, shall be deemed delivered 24 hours after transmission.

TRINITY Contact

Attn: [INSERT CASE MANAGER]

Technology Transfer Case Manager

Trinity Research & Innovation,

O’Reilly Institute, Trinity College Dublin,

Dublin 2, Ireland

@tcd.ie

COMPANY Contact:

Attn: [NAME AND ADDRESS]

8.5 No amendments, changes or modifications to this Agreement will be valid unless the same are in writing and signed by a duly authorized representative of each of the Parties.

8.6 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.

8.7 This Agreement represents the entire agreement of 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.

8.8 This Agreement shall be governed by and construed in accordance with laws of Ireland and each Party agrees to submit to the [non-]exclusive jurisdiction of the courts of the Ireland.

8.9 This Agreement may be executed in any number of counterparts, each of which will be considered an original, but all of which together will constitute the same instrument. This agreement may be executed by electronic signature, and delivery of an executed counterpart of a signature page to this Agreement by electronic transmission will be as effective as delivery of a manually executed and delivered counterpart of this Agreement. An electronic copy of this Agreement, executed by both Parties, will be as effective as an executed paper document.

Agreed by the Parties through their authorised signatories:

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| --- | --- |
| For and on behalf of **The Provost, Fellows,** | For and on behalf of |
| **Foundation Scholars, and the other members of Board, of the College of the Holy and Undivided Trinity of Queen Elizabeth near Dublin** | **[INSERT LEGAL NAME OF COMPANY]** |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Signed | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Signed |
| Name: Dr. Emily Vereker | Name: |
| Title: Senior Patents and Licensing Manager | Title: |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Date | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Date |