Mutual Confidentiality Agreement

This mutual confidentiality agreement (the **“Agreement”**) is made effective < insert date > (the **“Effective Date”**) and is made between

**THE GOVERNING COUNCIL OF THE UNIVERSITY OF TORONTO**, a corporation vested with the government, management and control of the University of Toronto by the *University of Toronto Act, 1971* and having offices at Banting Institute, 100 College Street, Suite 413, Toronto, Ontario M5G 1L5, Canada

- and –

< Insert full legal name of individual or corporation > an individual/ corporation (select one) resident (in case of individual)/ having its place of business (in case of corporation) at < insert address > in the Province of Ontario (or equivalent).

and sets out the terms under which the parties will mutually disclose Confidential Information related to an invention entitled, (remove “an invention entitled” if not applicable) “< insert details >” for the purpose of < insert details > (the **“Program/ Project”** (select one)).

Intending to be legally bound, the parties agree to exchange certain propriety information as follows:

1. In this Agreement, confidential information (hereinafter “**Confidential Information**”) means any information, which is non-public, confidential or proprietary in nature, including, without limitation, business information, trade secrets, know-how, and any information related to the Program which is conveyed by one party to the other, whether written, oral or in electronic form, provided that tangible materials are marked as confidential, and provided that information given orally is identified as confidential at the time of disclosure, and confirmed in writing within fifteen (15) days, but shall not include information that:
	1. is or becomes generally available to the public through no fault of the receiving party or any affiliate to which such Confidential Information was disclosed;
	2. is rightfully received from a third party without similar restriction or without breach of this Agreement;
	3. the receiving party is able to demonstrate, in writing, was known to it on a non-confidential basis before such information was disclosed; or
	4. was independently developed by the receiving party without the use of any of the Confidential Information of the disclosing party.
2. If either party learns that it is already in possession of all or any part of the Confidential Information disclosed concerning the Program, that party will arrange for evidence of this and its source to be given to the other party within fifteen (15) days to avoid any subsequent risk of dispute unless and to the extent that either party is prevented from doing so by any condition subject to which they received such information.
3. In consideration of the disclosure of Confidential Information by the disclosing party:
	1. For a period of five (5) years from the date of disclosure, each party in its capacity as the “receiving party” agrees to maintain in confidence all Confidential Information disclosed by the disclosing party with the same degree of care as it normally takes to preserve its own confidential information of similar grade, but in any event, no less than a reasonable degree of care;
	2. The receiving party will only use the Confidential Information for the purpose of the Program; and
	3. The receiving party may only disclose Confidential Information to persons with a “need to know” who shall be made aware of, and be required to observe and comply with the covenants and obligations contained herein.
4. The receiving party may disclose Confidential Information pursuant to the requirements of a governmental agency or pursuant to a court order, provided that prior to such disclosure the receiving party agrees to give the disclosing party prompt notice of the request for disclosure to allow the disclosing party sufficient time to make a reasonable effort to obtain a protective order or other appropriate remedy to prevent such disclosure.
5. Nothing contained in this Agreement shall be construed as granting or conferring any rights, either express or implied, under any intellectual property rights, or any rights to use any Confidential Information made available hereunder other than for the limited purposes specified.
6. Nothing contained in this Agreement shall obligate the parties either to negotiate or enter into any future business arrangement. If, as a result of the discussions contemplated under this Agreement, the parties decide to enter into a business arrangement, then such arrangement will be the subject of a separate negotiation between the parties.
7. In providing Confidential Information, the disclosing party makes no representation or warranty, express or implied, as to its adequacy, sufficiency, fitness for any purpose or freedom from defect of any kind, including, without limitation, freedom from patent infringement that may result from use of the Confidential Information.
8. This Agreement is effective from the Effective Date and shall remain in full force and effect until the earlier of: i) < insert number > years/ months the Effective Date; or ii) termination in writing by either party by giving 30 days written notice to the other party.
9. Upon termination of this Agreement, the recipient will promptly return to disclosing party or destroy the Confidential Information and all copies thereof. However, the recipient may retain one (1) copy for the sole purpose of documenting compliance with this Agreement. Any oral or visual Confidential Information incapable of return or destruction to receiving party will continue to be subject to the terms of this Agreement.
10. Termination or expiry of this Agreement shall not affect the rights and obligations arising under this Agreement with respect to Confidential Information disclosed prior to termination or expiry, including without limitation the five (5) year confidentiality period set forth in Section 3(a).
11. This Agreement shall be interpreted and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

**IN WITNESS WHEREOF** by signature of their respective authorized officers, the parties agree to be bound by the terms of this Agreement.

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| **THE GOVERNING COUNCIL OF****THE UNIVERSITY OF TORONTO** |  | < Insert full legal name of individual or company >  |
|  |  |  |
| Name: | < Insert > |  | Name: | < Insert > |
| Title: | < Insert > |  | Title: | < Insert > |
| Date: | < Insert > |  | Date: | < Insert > |

**Acknowledgement:**

Having read this Agreement, I hereby agree to act in accordance with all the terms and conditions herein and applicable University of Toronto policies, and, if applicable, further agree to inform all participants of their obligations under such terms and conditions.

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| --- | --- |
| Name: | < Insert > |
| Date: | < Insert > |