

THREE-WAY CONFIDENTIALITY AGREEMENT

THIS AGREEMENT dated [insert date of last signature] is made by and between:

- (1) IMPERIAL COLLEGE HEALTHCARE NHS TRUST, whose administrative offices are at The Bays, St Mary's Hospital, South Wharf Road, London, W2 1NY ("ICHT"); and
- (2) [INSERT COMPANY NAME], incorporated in England and Wales [insert company number], and whose registered office is at [insert registered office address] ("Company")
- (3) IMPERIAL COLLEGE OF SCIENCE, TECHNOLOGY AND MEDICINE, incorporated by Royal Charter (England/Wales), whose address is Exhibition Road, London SW7 2AZ ("Imperial");

collectively referred to as the "**Parties**" and individually referred to as a "**Party**".

WHEREAS

The Parties are prepared to exchange confidential information relating to [] (the "**Field**"); and the Receiving Party may use the said Information for the sole consideration of a potential research and/or business collaboration with Imperial and/or ICHT (and purpose of developing a study proposal or grant application together) (the "**Permitted Purpose**"), subject to the following terms and conditions.

IT IS AGREED as follows:

1. Definitions

In this Agreement the following words shall have the following meanings:

"**Confidential Information**" shall mean:

- a. 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 or by necessary implication that it is imparted in confidence;
- b. in respect of Information that is imparted orally or visually, any Information that the Disclosing Party or its representatives informed the Receiving Party at the time of disclosure was imparted in confidence;

- c. in respect of Information imparted orally or visually, any note or record of the disclosure;
- d. any copy of any of the foregoing; and
- e. the fact that discussions are taking place between the Parties.

“**Disclosing Party**” shall mean the Party that discloses Information directly or indirectly to the Receiving Party under or in anticipation of this Agreement.

“**Information**” shall mean information in the Field provided directly or indirectly by the Disclosing Party to the Receiving Party in oral, visual or documentary form or by way of models, biological or chemical materials or in other tangible form or by demonstrations and whether before, on or after the date of this Agreement.

“**Receiving Party**” shall mean the Party that receives Information directly or indirectly from the Disclosing Party.

“**Representatives**” shall mean the professional advisers, consultants, officers, sub-contractors, directors, employees or students of a Party.

2. Obligations of confidentiality and non-use. The Receiving Party undertakes (a) to keep the Confidential Information secret at all times, (b) not to disclose it or allow it to be disclosed in whole or in part to any third party without the prior written consent of the Disclosing Party, and (c) not to use it in whole or in part for any purpose except for the Permitted Purpose. The Receiving Party undertakes to take proper and all reasonable measures to ensure the confidentiality of the Confidential Information.
3. Exceptions. The obligations of confidentiality set out in this Agreement shall not apply to any Information that the Receiving Party can show by written records:
 - a. was known to the Receiving Party before the Information was imparted by the Disclosing Party; or
 - b. is in or subsequently comes into the public domain (through no act, omission or fault on the part of the Receiving Party); or
 - c. is received by the Receiving Party from a third party in circumstances where the receiving Party has no reason to believe that there has been a breach of an obligation of confidentiality owed to the disclosing Party; or
 - d. is developed by the Receiving Party or Representatives of the Receiving Party who have not had any direct or indirect access to, or use or knowledge of, the Information imparted by the Disclosing Party; or
 - e. is required to be disclosed by the Receiving Party to comply with the applicable laws or governmental regulations, provided that the Receiving Party uses all reasonable efforts to provide prior written notice of such disclosure and takes

all reasonable and lawful actions to avoid and/or to minimise the extent of such disclosure; or

- f. is authorised in writing for release by the Disclosing Party prior to any such release.
4. Disclosure to employees. The Receiving Party undertakes to permit access to the Confidential Information only to those of its Representatives who reasonably need access to such Confidential Information for the Permitted Purpose, and on the conditions that such Representatives shall each have (a) been informed of the Disclosing Party's interest in the Confidential Information and the terms of this Agreement, and (b) been instructed to treat the Confidential Information as secret and confidential in accordance with the provisions of this Agreement. The Receiving Party shall be responsible for ensuring that each of its Representatives complies with the provisions of this Agreement.
5. Return of information and property. The Receiving Party acknowledges and agrees that the property and copyright in the Confidential Information, including any documents, files and other items containing any Confidential Information, belong to the Disclosing Party. At the written request of the Disclosing Party, the Receiving Party shall return immediately to the Disclosing Party all Confidential Information which the Receiving Party has received under this Agreement and which may still be in the Receiving Party's possession, including any copies made, and shall make no further use or disclosure of any of it. The Receiving Party, however, (i) may keep one copy of the Disclosing Party's Confidential Information in its legal adviser's files solely for the purpose of enabling it to comply with the provisions of this Agreement, and (ii) shall not be required to destroy any computer files (containing inter alia the Disclosing Party's Confidential Information) stored securely by the Receiving Party that are created during the automatic system back up. The obligations on the Receiving Party under this Agreement in respect of any item of Confidential Information shall continue in force for a period of five years from the date on which such Confidential Information was first disclosed to the Receiving Party.
6. No implied rights. This Agreement shall not be construed (a) to grant the Receiving Party any licence or rights other than as expressly set out herein in respect of the Confidential Information nor (b) to require the Disclosing Party to disclose any Confidential Information to the Receiving Party. No warranty or representation, express or implied, is given as to the accuracy, efficacy, completeness, capabilities or safety of any materials or information provided under this Agreement.
7. Duration. This Agreement will commence on the date of last signature of this Agreement and will continue in force for one year. Notwithstanding this Clause 7, any Party may terminate its involvement in this Agreement by giving thirty (30) days' notice to the other Parties.

8. Law and jurisdiction. This Agreement shall be governed by and construed in accordance with English law and shall be subject to the non-exclusive jurisdiction of the English courts.
9. Counterparts. This Agreement may be executed in any number of counterparts, each of which when executed (and delivered) will constitute an original of this Agreement, but all counterparts will together constitute the same agreement. No counterpart will be effective until each Party has executed at least one counterpart.
10. Amendment. This Agreement shall not be amended except in writing by duly authorised signatories of the parties hereto.
11. Successors and assigns. The Parties agree that this Agreement and any subsequent amendments to it shall be binding on their successors in title, and assigns, and undertake to take all necessary steps to ensure that they are so bound.
12. Third parties. This Agreement does not create any right enforceable by any person not a Party to it.
13. Liabilities. The liability of either Party for any breach of this Agreement, or arising in any other way out of the subject-matter of this Agreement, will not extend to any indirect or consequential damages or losses.

AGREED by the Parties through their authorised signatories:

**For and on behalf of
IMPERIAL COLLEGE
HEALTHCARE NHS
TRUST**

**For and on behalf of
[INSERT COMPANY
NAME]**

**For and on behalf of
IMPERIAL COLLEGE OF
SCIENCE, TECHNOLOGY
AND MEDICINE**

Signed

Signed

Signed

Name

Name

Name

Title

Title

Title

Date

Date

Date