

University of Prince Edward Island
CONFIDENTIAL DISCLOSURE AGREEMENT

[to be used where both parties disclose confidential information]

THIS AGREEMENT made this day of, 20__.

BETWEEN

UNIVERSITY OF PRINCE EDWARD ISLAND, a non-profit organization organized under the laws of the Province of Prince Edward Island and having its head office at 550 University Avenue, Charlottetown, Prince Edward Island C1A 4P3, (hereinafter referred to as “UPEI”);

AND

..... *[Collaborator’s Name]*
with a principal place of business at

..... *[Location]*
(hereinafter referred to as the “Collaborator”).

1. **Background:** UPEI and the Collaborator (the “Parties”) intend to engage in discussions and negotiations concerning (the “Project”). In the course of such discussions and negotiations, it is anticipated that each of the UPEI and the Collaborator may disclose information it considers confidential to the other to facilitate the Project. UPEI and the Collaborator have entered into this Agreement in order to assure the confidentiality of such trade secrets and confidential or proprietary information in accordance with the terms of this Agreement.

2. **Confidential Information:**

2.1 As used in this Agreement, the term "Confidential Information" shall mean all research information, proprietary information, trade secrets or business information and includes, without limitation, databases, audiovisual and computer material, designated as such either orally or in writing by UPEI or the Collaborator. Orally disclosed Confidential Information shall be noted as such during conversations between UPEI and Collaborator and written Confidential Information shall be noted as such, whether by letter or by the use of an appropriate confidential or proprietary stamp or legend, prior to the time any such Confidential Information is disclosed by either party to each other.

2.2. The UPEI will use all reasonable efforts to treat and keep confidential, and cause its officers, employees, and its students, to treat and keep confidential, any such information received by it from the Collaborator marked “Confidential”. The Collaborator will use all reasonable efforts to treat and keep confidential, and cause its officers and employees to treat and keep confidential, any information communicated to it by the UPEI as “Confidential”. Such reasonable efforts will be no less than the efforts used by the receiving party to protect its own confidential information. Any such information will be disclosed within the receiving party on a “need to know” basis. UPEI and Collaborator shall hold in confidence, and shall not disclose to any person outside its organization, all

University of Prince Edward Island
CONFIDENTIAL DISCLOSURE AGREEMENT

[to be used where both parties disclose confidential information]

- Confidential Information, and shall use such Confidential Information only for the purpose for which it was disclosed.
- 2.3 This obligation of confidentiality shall continue for a period of five (5) years from the date of disclosure of the Confidential Information.
- 2.4 The obligation to keep confidential will however not apply to either Party to information which:
- (a) was in recipient's possession before receipt from discloser;
 - (b) is or becomes a matter of public knowledge through no fault of recipient;
 - (c) is rightfully received by recipient from a third party not under a similar undertaking of confidentiality;
 - (d) has been previously disclosed by the other Party to a third party without a duty of confidentiality on the third party;
 - (e) is made subject to an order by judicial or administrative process requiring recipient to disclose any or all of the information, provided the Party receiving such an order shall promptly notify the other Party allowing some reasonable time to oppose such process, before disclosure occurs; or
 - (f) is disclosed by recipient with discloser's prior written approval.

3. **Return of Documents**

The Collaborator and UPEI shall, upon request of either Party, return all drawings, documents and other tangible manifestations of Confidential Information received from the other Party pursuant to this Agreement (and all copies and reproductions thereof), except that each Party may retain one copy thereof solely for the purpose of determining the extent of its obligations hereunder.

4. **Specific Performance**

The Parties hereto consider the restrictions contained herein to be reasonable to protection of business, time and geographic area. If, however, such restrictions are found by any court having jurisdiction to be unreasonable because they are (or any one of them is, as the case may be) too broad, then such restrictions will nevertheless remain effective, but shall be considered amended as to protection of business, time or geographic area (or any one of them, as the case may be) in whatever manner is considered reasonable by that court, and as so amended shall be enforced. The Parties hereto agree that if there is a breach by the Collaborator or UPEI of any of the covenants contained herein, the damage will be substantial, although difficult to quantify, and money damages may not afford an adequate remedy. Therefore, if any such breach

University of Prince Edward Island
CONFIDENTIAL DISCLOSURE AGREEMENT

[to be used where both parties disclose confidential information]

occurs, in addition to any other remedies as may be provided by law, the Collaborator and UPEI shall have the right to specific performance of the covenants contained herein by way of temporary or permanent injunctive relief.

5. Miscellaneous:

- (a) This Agreement supersedes all prior agreements, written or oral, between UPEI and the Collaborator relating to the subject matter of this Agreement. This Agreement may not be modified, changed or discharged, in whole or in part, except by an agreement in writing signed by UPEI and the Collaborator.
- (b) Nothing in this agreement shall have the effect of granting or creating any right or license to use any of the Confidential Information except for the purpose of developing a Project to be conducted jointly under a separately negotiated agreement.
- (b) This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns.
- (c) This Agreement shall be construed and interpreted in accordance with the laws of Prince Edward Island.

EXECUTED as of the day and year first set forth above.

SIGNED

University of Prince Edward Island

Witness

Katherine Schultz, Ph.D.
Vice President, Research and Development

Collaborator

Witness

Name and title

University of Prince Edward Island
CONFIDENTIAL DISCLOSURE AGREEMENT

[to be used where both parties disclose confidential information]

SIGNED _____)
in the presence of: _____)
_____) Per:)
_____) *[Collaborator's Name]*
_____)