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CONFIDENTIALITY AND INTELLECTUAL PROPERTY UNDERTAKING

THIS AGREEMENT is made on 20....

BETWEEN

- (1) **[INSERT FULL NAME OF INDIVIDUAL]** of [*insert home address of Individual*] (the “**Individual**”); and
- (2) **[INSERT FULL LEGAL NAME OF THE COMPANY]** of [*insert address of the Company*] (the “**Company**”).

CONTEXT

- (A) The Individual is contracted by the Company under a contract for services.
- (B) It is agreed that all Intellectual Property arising in the course of the Individual’s employment or provision of services to the Company will be owned by the Company.
- (C) The Individual has also agreed to enter into certain undertakings regarding the confidentiality of the affairs of the Company, in particular in relation to Intellectual Property.
- (D) The Individual has entered into this Agreement for the benefit of the Company in order to give effect to the matters referred to in paragraphs (B) and (C) above.

NOW IT IS AGREED as follows by the Individual:

1. **INTERPRETATION**

1.1 **Defined terms:** In this Agreement and the background recitals above:

“**Confidential Information**” means any and all information of the Company or its affiliates or licensors which is disclosed to the Individual and/or to which the Individual has access, whether in oral, written or electronic form or by way of model or in tangible form and whether before, on or after the date of this Agreement and shall include (without limitation): (i) technical, commercial, scientific and other data, processes and information relating to, amongst other things, products or services developed or being developed by the Company or its affiliates and research and development proposals or projects of the Company and its affiliates; and (ii) information relating to the business affairs and activities of the Company or its affiliates;

“**Intellectual Property**” or “**IP**” includes any patent, trade or other mark, registered design, topography right, copyright, database right or any other right in the nature of any of the foregoing (or application, or right to apply for, any of the foregoing), and

any invention, discovery, improvement, design, technique, confidential process or information or know how, in each case subsisting anywhere in the world and whether registered, unregistered or unregistrable, and any licence or right of user of any of the foregoing, and the full right to all legal protection relating to the same;

“**Relevant IP**” means any IP which arises or is conceived, invented, produced, discovered or first reduced to practice or writing by the Individual (whether alone or with any other person or persons) in the course of his employment by the Company or in the course of the provision by him of services to the Company (and for these purposes, references to activities carried on or events occurring in the course of employment or in the course of the provision of services, shall include all activities and events related to or connected with the relevant employment or services, whenever and wherever carried on or occurring (and whether or not during working hours or at the place of work);

1.2 **Construction:** In this Agreement, unless the contrary intention is stated, a reference to:

- (a) the singular shall include the plural and vice versa;
- (b) either gender includes the other and the neuter, and vice versa;
- (c) a person shall be construed as a reference to any individual, firm or company, corporation, governmental entity or agency of a state or any association or partnership (whether or not having separate legal personality) or two or more of the foregoing; and
- (d) a person includes that person’s legal personal representatives, successors and permitted assigns.

2. **INTELLECTUAL PROPERTY**

2.1 **Ownership:** All Relevant IP shall, to the fullest extent permitted by law, belong to, vest in and be the absolute and sole property of, the Company.

2.2 **Individual’s Undertakings:** The Individual:

- (a) undertakes promptly to notify and disclose to the Company in writing full details of all Relevant IP forthwith upon the production, invention or discovery of the same, and otherwise promptly whenever requested to do so by the Company from time to time;
- (b) undertakes to hold on trust for the benefit of the Company all Relevant IP to the extent that the same may not be, and until the same is, vested absolutely in the Company;
- (c) by way of present assignment of future copyright, and as beneficial owner, **GRANTS AND ASSIGNS** to the Company all copyright (and all analogous

rights) throughout the world comprised in the Relevant IP for the full term of that copyright (or other like rights) and for all renewals, revivals and extensions of any such term **TO HOLD** the same unto the Company absolutely; and

- (d) irrevocably and unconditionally waives any rights, including all rights in the nature of moral rights, in respect of the Relevant IP, to which he is now or may in the future be entitled, to the extent he is legally able to do so.

2.3 **Further Assurance:** The Individual undertakes, at the expense of the Company, at any time in the future, to execute all such documents, give such assistance and do such acts and things as may in the opinion of the Company be necessary or desirable to give effect to this Clause 2.

2.4 **Power of Attorney:** As security for the performance by the Individual of his obligations under this Clause 2, the Individual irrevocably appoints the Company (and each person nominated by it in writing) as his attorney to sign such documents and instruments, and generally to do such acts and things, in each case as his act and deed and in his name and on his behalf, as may in the opinion of the Company be necessary or desirable to give effect to the terms of this Clause 2.

3. **CONFIDENTIALITY & PUBLICATIONS**

3.1 **Confidentiality:** The Individual agrees to keep all Confidential Information confidential and not, without the prior written consent of the Company, to use, disclose or copy any of the Confidential Information other than as necessary for the proper performance of the Individual's duties to the Company.

3.2 **Exclusions:** The obligation of confidentiality contained in Clause 3.1 does not apply to information which:

- (a) was, at the time of receipt by the Individual, in the public domain; or
- (b) has, after receipt by the Individual, entered the public domain, through no act or omission of the Individual.

3.3 **Return of records:** The Individual acknowledges that all writings and other records created by him (whether alone or with any other person or persons) comprising or constituting or relating to any Confidential Information belong to the Company, and the Company agrees to deliver up all such writings and other records to the Company promptly upon its request from time to time.

4. **GENERAL PROVISIONS**

4.1 **Survival of Obligations:** The provisions of Clauses 2 (*intellectual property*) and 3 (*confidentiality & publications*) shall survive the termination of this Agreement however it arises, and shall continue to bind the parties or the relevant party (as applicable) without limit in time.

- 4.2 **Governing Law:** This Agreement and any non-contractual obligations arising out of or in connection with this Agreement shall be governed by, and construed in accordance with, the laws of Ireland.
- 4.3 **Jurisdiction:** Each of the parties irrevocably agrees that the courts of Ireland shall have non-exclusive jurisdiction to hear and determine any suit, action or proceedings, and to settle any disputes, which may arise out of or in connection with this Agreement and, for such purposes, irrevocably submits to the jurisdiction of such courts.
- 4.4 **Waivers, rights, cumulative etc:** Each of the rights of the Company under this Agreement may be exercised as often as is necessary, is cumulative and not exclusive of any other rights which it may have under this Agreement, law or otherwise; and may be waived only in writing and specifically. Delay by the Company in exercising, or the non-exercise by it of, any such right will not constitute a waiver of that right.
- 4.5 **Conflicts:** In the event of a conflict between this Agreement and any other agreement or commitment between the Individual and the Company, this Agreement shall prevail. Any amendment to this Agreement must be in writing and duly signed for and on behalf of the Company and the Individual.
- 4.6 **Severability:** If a provision of this Agreement is or becomes illegal, invalid or unenforceable in any jurisdiction, that will not affect the legality, validity or enforceability in that jurisdiction of any other provision of this Agreement; or the legality, validity or enforceability in any other jurisdiction of that or any other provision of this Agreement.
- 4.7 **Execution:** This Agreement will take effect as a deed notwithstanding its execution under hand by the Company.

IN WITNESS OF WHICH, this Agreement has been duly executed and delivered as a deed by the Parties on the date first above written.

SIGNED AND DELIVERED AS A DEED by [INSERT FULL NAME OF INDIVIDUAL]

in the presence of:

.....
Signature

.....
Witness Signature

.....
Witness Name (print)

.....
Witness Address

SIGNED for and on behalf of **[INSERT FULL NAME OF THE COMPANY]**

by:

.....
Signature

.....
Name (print)

.....
Title