

**TERMS & CONDITIONS GOVERNING THE SUPPLY OF SERVICES BY
UNIVERSITY OF DUNDEE SCHOOL OF LIFE SCIENCES**

The University of Dundee, established by Royal Charter dated 20 July 1967 and a registered Scottish charity (charity number SC015096) and having its principal office at 149 Nethergate, Dundee DD1 4HN ("the University"), has expertise, which a person, firm or company named in a Purchase Order wishes to engage (the "Customer") for the supply of Services.

The supply of the Services shall be subject to the terms and conditions ("Terms") set out in this document together with any applicable Purchase Order which shall constitute the entire agreement between the parties for such supply of Services. The Customer expressly agrees that the Terms shall supersede all prior proposals, representations or agreements including but not limited to any conflicting terms of any Purchase Orders. No amendment or variation to these Terms shall take effect unless it is in writing, signed by authorised representatives of each of the Parties.

The Customer acknowledges that it has read and understood the Terms and shall have no remedy in respect of any statement, warranty, understanding or representation (whether negligently or innocently made) which are not expressly set forth in the Terms.

1. Definitions

In these Terms, the undernoted terms shall have the following meanings allocated to them below:

"Contract Price" means the price of the Services as agreed in writing between the parties and as may be specified in the Purchase Orders;

Data Protection Laws: any European Union legislation, all data protection legislation such as the GDPR, the national data protection legislation to which the parties are subject, and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications).

"Intellectual Property Rights" means confidential information, patents, utility models, registered or unregistered design rights, and/or copyright together with applications for any of the foregoing;

"Material" means any material and any information related thereto supplied by a Party ("Supplying Party") to the other Party (the "Receiving Party")

"Purchase Orders" means any purchase order or set of purchase orders supplied by the Customer detailing the specifics of the Services and the Contract Price as agreed between the parties. The Terms are hereby incorporated into any such Purchase Order;

"Samples" means clinical samples obtained from patients and/or volunteers to be transferred by the Customers to the University to provide the Services;

"Services" means the work to be carried out by the Supervisor as agreed in writing between the parties and as may be more fully detailed in the relevant Purchase Orders;

"Supervisor" means the member of University staff responsible for overseeing the Services.

The singular shall, where the context so permits it, include the plural and vice versa.

2. Services

2.1 The University shall use all reasonable endeavours to supply the Services, beyond that, the University makes no representation or warranty that advice given by its employees, servants or agents is accurate, conform to contract or free from defects, latent or patent; nor does it warrant that the use of any information provided in connection with the Services will provide the desired objective or not result in infringement of third party rights and the University does not accept any responsibility whatsoever for infringement of such rights.

2.2 The Services shall be directed by the Supervisor or such other suitably qualified person as appointed by the University.

3. Payment

3.1 In consideration of the provision of the Services, the Customer hereby agrees to pay the Contract Price as agreed between the parties together with any present and future rates of VAT exigible in respect thereof. The University shall issue invoice(s) to the Customer upon the completion of the Services or as otherwise agreed in the Purchase Order. Payment shall be due within 30 days of receipt of invoice(s) from the University.

3.2 In the event of the Customer failing to make timeous payment of the Contract Price, the University may either cease to provide the Services forthwith until payment is made in full or, at its option, treat these Terms as terminated under clause 11.

3.3 Notwithstanding the terms of Clause 3.2, the University may impose a late payment charge on such Contract Price from the due date until the actual date of payment at the rate of four per centum per annum over the Base Lending Rate of The Royal Bank of Scotland plc from time to time.

4. Confidentiality

4.1 Subject to Clause 4.3 below, both parties shall be obliged to keep strictly confidential and not to make use of howsoever or to disclose to any third party any information relating to the affairs of the other or the existence or content of these terms or otherwise arising out of the provision of the Services which may reasonably be regarded as or which it ought to regard as confidential without the prior written consent of the other.

4.2 Information shall not be considered to be confidential if: (a) it is and can be shown to be already known to the Customer and/or the University; (b) it subsequently becomes lawfully available to the Customer and/or the University; (c) it is published in a patent specification or is otherwise in the public domain other than through default of the receiving party; or, (d) it is required to be disclosed by a court of competent jurisdiction or otherwise by operation of law.

4.3 The University shall be free to use information arising from provision of the Services for academic purposes, including publication, subject to safeguarding the commercial interests of the Customer which shall receive a copy of proposed publications for comment within a thirty day period prior to submission for publication. The Customer will have the right to veto the use of information arising from the provision of the Services and such right shall not be exercised unreasonably and if no veto is received by the University after 30 days the University will be entitled to use the information from the provision of the Services.

5. Intellectual Property

5.1 For the avoidance of doubt, it is provided that all background information and Intellectual Property Rights existing before the commencement of the Services shall

remain the property of the party introducing such background information and Intellectual Property Rights.

All Intellectual Property Rights relating to any deliverables due as part of the Services supplied to the Customer shall become and be viewed as the sole property of the Customer. Notwithstanding the foregoing, the Customer agrees that the University's background intellectual property shall remain the sole property of the University, and that any and all improvements to University's core technologies, whether or not conceived within the performance of Services in connection with these Terms, shall be the sole property of University. For the purpose of these Terms "University's background intellectual property" means all models, programs, methodologies, know-how and general knowledge possessed by the University, including without limitation, all generally accepted accounting and actuarial principles and all interpretations thereof.

6. Assignment

The rights and obligations contained in these Terms may not be assigned by either party without the prior written consent of the other.

7. Liability

7.1 To the extent permitted by law, the maximum limit of the University's liability under these Terms, whether in contract, tort, negligence, breach of statutory duty or otherwise shall be limited to the Contract Price paid by the Customer to the University for the Services under clause 3. Notwithstanding any other provision of these Terms, neither party shall be liable to the other party in contract, tort, negligence, breach of statutory duty or otherwise for any loss, damage, costs or expenses of any nature whatsoever incurred or suffered by that other party or its Affiliates of an indirect or consequential nature including without limitation any economic loss or other loss of turnover, profits, business or goodwill.

7.2 The Customer shall indemnify and keep indemnified the University, its employees, servants or agents against all claims, actions, losses, damages, costs and expenses which may be brought against or incurred or suffered by the University, its employees, servants or agents in connection with the Services which arise as a result of or are due to (i) the use of any deliverables due as part of the Services by the Customer or others for whom it is responsible or (ii) the negligence of the Customer, or which arise directly from materials and/or data and/or samples supplied by the Customer its servants or agents or others for whom it is responsible.

8. No Agency or Partnership

These Terms and any Purchase Order shall not be taken as creating or evidencing any agency or partnership between the University, on the one hand, and the Customer on the other. Neither party shall be entitled to use the name or logo of the other party in any publicity, advertising or news release without the prior written approval of such other party.

9. Notices

Any notice, request or consent under these Terms shall be in writing and shall be sufficiently served if sent by Recorded Delivery Post to the registered office of either party. For the University this means all correspondence should be sent to its Research and Innovation Services Office and for the Customer all correspondence should be sent to its Head Office.

10. Disputes

10.1. The parties agree to consult and negotiate in good faith to try to resolve any dispute, controversy or claim that

arises out of or relates to these Terms. The parties agree that any and all disputes and controversies arising from, connected with, or relating to these Terms and/or and Purchase Order or any breach thereof (collectively "Disputes") will be resolved in accordance with the terms of this clause 10 as follows:

10.1.1 The University and the Customer, through appropriate senior persons, shall first meet and attempt to resolve the Dispute in face-to-face or telephonic negotiations. The meeting shall occur within thirty (30) days of the time that one party notifies the other in writing of the existence of the Dispute.

10.1.2. Should the Dispute not be resolved within thirty (30) days of the meeting referred to in Clause 10.1.1, the parties will be at liberty to resolve the Dispute through the courts in accordance with Clause 15.

11. Termination

11.1. These Terms may be terminated:-

11.1.1. forthwith by written notice by either party in the event of (a) a material breach by the other party of any of its obligations in these Terms which, if the breach can be remedied, remains unremedied on the expiry of thirty (30) days after receipt by the party in breach of written notice from the other specifying the breach and the action required to remedy same; or (b) subject to Clause 14, any delay invoked exceeding six (6) months; or (c) in the event of (i) insolvency, bankruptcy, administration, receivership, liquidation or other similar solvency events; or (ii) the other party's ceasing or threatening to cease trading; or (iii) the sale of the whole or any substantial part of the other party's business or assets; and

11.1.2. forthwith by written notice by the University (a) in the event of any sum due by the Customer remaining unpaid after fourteen (14) days from the due date; or (b) if, during the Period, the University becomes unable to provide the Services for any reason outwith the reasonable control of the University;

11.2. upon expiry of the period of the Services or earlier termination in accordance with this Clause 11.2 :- (i) the University shall within sixty (60) days of the date of termination invoice the Customer in respect of all payments due by the Customer to the University under these Terms and any non-cancellable costs and commitments relating to the Services which the University has incurred or entered into as at the date of termination of these Terms. The Customer shall pay any such invoice within thirty (30) days of receipt; (ii) return, or shall procure the return by the University, to the Customer any Information supplied by the Customer for use in the provision of the Services;

11.2. Termination or expiry of the Services shall not affect the rights or either party against the other party in respect of the period up to and including the date of termination or expiry;

11.3. Clauses 2,3,4,5,7,10 and this Clause 11 and clauses 12, 13 and 15 shall survive expiry of the Services or earlier termination of the Services.

12. General

12.1. Each party shall:

12.1.1. comply with all applicable laws, statutes, and regulations relating to anti-bribery and anti-corruption in each country where a party has its principal place of business and where such party conducts activities under these Terms in respect of (including but not

limited to the UK Bribery Act 2010) ("Anti-Bribery Laws");

- 12.1.2. have and shall maintain in place throughout the term of the Services its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with Anti-Bribery Laws and will enforce them where appropriate;
 - 12.1.3. comply with all applicable laws, statutes, regulations and codes relating to anti-slavery and human trafficking from time to time in force including but not limited to the Modern Slavery Act 2015 and the APUC Supply Chain Code of Conduct.
- 12.2. During the provision of the Services, it is acknowledged that each party may disclose to the other Personal Data (including Personal Data relating to that party's staff) ("Disclosed Data") for the purposes of the management and administration of the Services (including the performance of its obligations and the exercise of its rights) (the "Purpose"). The Parties agree that (i) each party is an independent Controller; and (ii) the disclosure of Disclosed Data shall be on a Controller to Controller basis.
- 12.3. Each party warrants and undertakes that (i) where it discloses Disclosed Data to the other party, such disclosure is fair and lawful and does not contravene any Data Protection Laws; and (ii) it shall use Disclosed Data received from the other party only for the Purpose; and (iii) it shall otherwise comply with its obligations under the Data Protection Laws. Each party will promptly inform the other upon becoming aware of any Personal Data breach relating to any Disclosed Data received by it from the other party.
- 12.4. Breach of this Clause 12 shall be deemed a material breach of these Terms.

13. Material Transfers and Sample Transfers

- 13.1 In the event the Services necessitates the transfer of Materials by the Supplying Party to the Receiving Party, the Receiving Party acknowledges that the Material is for non-clinical research purposes only and is provided without warranty as to its properties, merchantable quality or fitness for any particular purpose and without any other warranty whatsoever, express or implied and shall be used solely and exclusively for the purposes of the Services. Without prejudice to the foregoing generality, the Supplying Party gives no warranty that the use of the Material shall not infringe the rights of any third party.
- 13.2 The Receiving Party hereby indemnifies and holds harmless the Supplying Party from any and all claims, suits and liabilities arising from any transfer and use by the Customer of the Material. In the event the Services necessitates the transfer of Materials by the Customer to the University, the Customer is responsible for ensuring that any Material sent is correctly packaged and couriered and has been obtained in accordance with all relevant laws and regulations and all required consents.

- 13.3 If the provision of the Services is conditional on the Customer supplying Samples to the University, the Customer undertakes to make all arrangements necessary to supply the Samples to the University.
- 13.4 The Customer warrants that it holds or shall obtain a favourable opinion from an NHS (or other appropriate regulatory body) research ethics committee to supply the Samples to the University.
- 13.5 The Customer warrants that it holds or shall obtain the prior written consent of the original donor with regard to supply of each of the Samples to the University. No Samples shall be supplied by the Customer without having obtained such prior written consent of the original donor as may be appropriate in relation to the donation and subsequent use of the Samples by the University in providing the Services.
- 13.6 No Samples shall be supplied by the Customer without them being fully anonymised and no information will be provided to the University by the Customer which could result in the University being deemed to be holding and processing personal data under the General Data Protection Regulation or Data Protection Act 2018.
- 13.7 The Customer warrants that in obtaining the Samples the Customer complied with and shall comply with all applicable laws, regulations and codes of practice. In particular, the Customer warrants that where applicable it complied with and shall comply with the following: -
- 13.7.1 The World Medical Association Declaration of Helsinki, titled "Ethical Principles for Medical Research Involving Human Subjects";
 - 13.7.2 The UK Policy Framework for Health and Social Care Research version 3.3 of 7th November 2017, or the latest version of the Framework should it be revised and reissued;
 - 13.7.3 The Medicines for Human Use (Clinical Trials) Regulations 2004;
 - 13.7.4 The terms and conditions of the favourable opinion given by the relevant NHS Research Ethics Committee;
 - 13.7.5 The permission given by or on behalf of the Site R&D management (NHS permission).

14. Force Majeure

If the Services cannot be performed or its obligations fulfilled for any reason beyond either party's reasonable control for a continuous period of three (3) months then either party may, at its discretion, terminate the Services by notice in writing at the end of this period; provided always that lack of funds shall not be interpreted as a cause beyond the reasonable control of that party.

15. Governing Law

These Terms shall be interpreted and applied in accordance with the Law of Scotland and the parties hereby submit to the exclusive jurisdiction of the Scottish Courts.