



Empower Academia for Knowledge Transfer for Value Creation in the Atlantic Area

Nr. 7.1. Knowledge transfer and technology transfer agreements pack

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1. KNOWLEDGE TRANSFER (KT) AND TECHNOLOGY TRANSFER (TT) AGREEMENT PACK

This document aims to present and define some of the most used types of contractual mechanisms to transfer knowledge or technologies.

1.1. INTRODUCTION

Commercialization is the process of bringing to market intellectual property (IP) to the market to be exploited and create economic and social impact, usually involving a retribution to the institution.

At Academia, commercialization is usually known by knowledge transfer (KT) or technology transfer (TT) since Academia *per se* will not place a product in the market and commercialize it to make profit. Hence, Academia partners with Industry in order to use the knowledge created at Academia to apply in their own, or create new, products or services, or to develop from a given technology a product or service that fits the market and customers needs and is able to open new revenue streams to Industry.

Knowledge transfer (KT) and Technology Transfer (TT) are processes by which knowledge or a given technology or invention, commonly resulting from scientific research, is transferred from one party to another (IPR Helpdesk).

There are several forms of knowledge that can be transferred to the market:

- Documents and publications (e.g. books, scientific articles);
- Documents underlying intellectual property rights - IPR (e.g. patents, utility models, design rights);
- Objects (e.g. materials, machinery, art works);
- Know-how of the organisation's employees and collaborators, which they have acquired through training, study or experience;

These forms of knowledge - creations of the mind - are intellectual property that Academia is producing daily. Some of such creations of the mind may or may not be protected by Intellectual property rights (patents, copyrights, etc) but are nonetheless IP that was created by Academia and that can and should be transferred to market and society, leading to improved use of said knowledge and to innovation.

Increasingly, Academia and Industry are working together in order to increase the efficiency and effectiveness of their innovation processes, meaning the development of products or services that generate economic value, in a process called open innovation.

Open innovation processes generate an opportunity for Academia and Industry to work together and to bridge the gap of funding that exists for Academia at the later stages of applied research and product development and for Industry where the largest lump of funds are demanded for production and selling of the products. And it is precisely in this gap that knowledge transfer has its role.

Knowledge transfer at Academia encompasses a broad range of activities:

People: placement of students, researchers, collaborators in companies or in the public or voluntary sectors is a direct way of exchanging knowledge on a short-term.

Publication and events: knowledge is transferred through publication of research outputs, and through events and networking.

Collaborative research: development of new products and services in collaboration with other organisations (companies, R&D institutions).

Consultancy: provision of domain-specific expert advice and training to external clients by university staff.

Licencing: Grant the right to use specific research outputs

New businesses: Bringing research outputs to market through the formation of a new business

In practice, knowledge transfer or technology transfer is achieved through contracts. These technology transfer agreements are useful to manage and define the conditions to exchange and trades involving knowledge assets between two or more parties. Citing the European IPR Helpdesk, through these contracts “the parties agree on the terms governing a particular situation and commit themselves to perform or not to perform certain obligations”. A contract is only valid if signed by the legal representative appointed at your institution and is legally binding, meaning, the parties have a legal right to enforce it (demand that the obligations under the contract are fulfilled by the party concerned).

This document presents the most common types of technology transfer agreements, by describing the purpose of each type of agreement, the most common clausula's that are included and their meanings.

For more information about contractual mechanisms of knowledge transfer please consult the following links
<http://www.iprhelpdesk.eu/sites/default/files/newsdocuments/Fact-Sheet-Commercialising-IP-Knowledge-Transfer-Tools-EN.pdf>

<https://www.iprhelpdesk.eu/sites/default/files/2018-12/european-ipr-helpdesk-your-guide-to-ip-and-contracts.pdf>

1.2. IMPORTANT DISCLAIMERS

- All technology transfer agreements should be analysed and prepared according to the national industrial property and copyright codes, and also according to internal rules and policies of the organization where the knowledge is being produced; do not engage in negotiations without the support of the appropriate services of the organization where you develop your research;
- There is no one-size-fits-all strategy to prepare and negotiate knowledge and technology transfer. The agreement information can vary depending on the fields of the technology/ knowledge that constitutes the object of the agreement; the internal policies and strategy of the organization and goals of the researchers involved in the development; the goals and strategy of the other party involved in the agreement; the negotiation process among parties, etc;

- As a researcher you should contact the Technology Transfer Office or any other existing similar structure in your organization to ask for support and advice.
- The contracts to be binding should be signed by the legal representative of the organization where the knowledge is being created.

2. TT AGREEMENTS AND TECHNOLOGY/ KNOWLEDGE PHASE DEVELOPMENT

There are TT agreements more appropriate to specific phases of the technology/knowledge development and or the stages of the collaboration among parties.

Essentially, and more usually, in early stages of development it is common to use **Non-disclosure agreements** to share confidential information that can be analysed in order to decide whether to establish a collaboration for further development or even an acquisition of knowledge or IP assets; **Material Transfer Agreements**, to send and/or receive materials that can be analysed in order to progress with the collaboration. After this first phase, it is common to have **Collaborative research agreements**, in case the technology/knowledge needs further development for its application to a specific market or situation and there is creation of new IP, able to be protected by IPR or not; **Services agreements**, the technology is simply applied to obtain a result and there is no generation of novel IP that could be protected by IPR or trade secret; and in cases there is an Intellectual Property Right (IPR) or trade secret involved, it is also possible to use an **Assignment, Licensing or Spin-off Agreement**, which will transfer the knowledge/technology to be used for commercial purposes under different conditions, and depending from the strategy and intentions of the parties involved.

It is important to mention that, although this is the most common usage to each type of contractual mechanisms of knowledge transfer, they are not exclusive for previously mentioned stages of technology/knowledge development or collaboration stage, being also possible to use them in different stages of development or collaboration from those previously described.

More detailed information about each specific type of contractual mechanisms is described in the next chapter.

3. KT AND TT AGREEMENTS

Next sections will describe the purpose, main content and provide examples of KT contracts that can be **adapted** to be used by academic researchers in the trade of knowledge or technologies.

Your research institution's technology transfer office or similar offices can advise you on all aspects of a KT contract and assist you in the negotiations. These offices are authorized to approve any terms and conditions in line with institutional regulations and national IP and commercial laws.

In the European IP Helpdesk factsheet “Your guide to IP and Contracts” (<https://www.iprhelphdesk.eu/sites/default/files/2018-12/european-ipr-helpdesk-your-guide-to-ip-and-contracts.pdf>) you have access to a detailed explanation of the general contract clauses present in most KT contracts.

3.1. NON-DISCLOSURE AGREEMENT (NDA)

3.1.1.PURPOSE

When there is interest in knowing more about a technology or knowledge developed without putting information at risk and penalising those who invested in its development, it is common to use NDAs. These are commonly used when the knowledge/ technology is still not protected by Intellectual Property Rights (IPRs), this type of protection is not included in the strategy (such is the option for maintaining the knowledge or technology under a trade secret), or there is the need to provide more detailed information that is not included in the public IPRs documentation.

3.1.2.BRIEF DESCRIPTION AND MAIN CONTENT

NDAs are legal binding contracts under which conditions for information disclosure, including intellectual property, and penalties for undue disclosures are defined. These contracts can be in the form of one or two way, depending if just one intervenient/part is sharing information or both parties are exchanging confidential information, respectively. Multilateral NDAs involve several parties disclosing and receiving information, which is common to exist for example, when you are preparing a proposal for funding within a consortium. For the effectiveness of this type of contracts it is important to have the object – information that will be disclosed and that must be treated as confidential - very well defined, as well as the “permitted purpose” which defines the specific purposes under which information can be disclosed and to whom.

It is also important that these agreements list the information which is not covered by confidentiality obligations (such as information that is in the public domain at the time of the agreement); the limitation of disclosure, since a receiving party might need to share the information with other people (e.g. employees or professional advisors); the length of obligation, which defines the time during which parties are obliged to keep confidentiality under that information (often 3 or 5 years); what happens to the information after the end of the contract, i.e. if it should be returned to the provider or destroyed, and also the law and jurisdiction, which will be used to resolve possible conflicts.,

To protect confidential information it is not mandatory to enter into a stand-alone NDA. It is also possible to include a confidentiality clause in any other type of KT agreement.

More information about NDAs:

<http://www.iprhelphdesk.eu/sites/default/files/newsdocuments/Fact-Sheet-Non-Disclosure-Agreement-EN.pdf>

3.1.3.EXAMPLES

Please consult Appendix A

3.2. MATERIAL TRANSFER AGREEMENT (MTA)

3.2.1.PURPOSE

This type of agreements serves to regulate the conditions under which specific materials, such as tangible research property is transferred from the owner or authorized licensee to a recipient.

These transfers are mainly made for purposes of analysing the fit of a technology/knowledge to a specific application or the performance to specific conditions, and therefore to assess the commercial interest in establishing a collaboration with the knowledge/technology owner. MTAs can also be used during research collaborative agreements or other type of collaborations for research and development purposes.

3.2.2.BRIEF DESCRIPTION AND MAIN CONTENT

The word materials encompass several types of tangible property. Materials can be data, biological and chemical samples, prototypes, and software.

Considering the purpose of these agreements, they commonly include a research purpose only clause or prohibit recipient from using transferred materials for commercial purposes. This transfer of materials does not include transfer of ownership or intellectual property rights, so this is also commonly stated in this type of agreements. These agreements should not include payment for the material, other than reimbursement of transport costs.

Some MTAs define also the property of modifications to be made to the materials by the recipient (which commonly belong to the provider of the materials).

There are two types of MTA:

- a) MTA-out – regulates the transfer of materials owned by your R&D institution to another R&D institution or company for research purposes.
- b) MTA-in – regulates the transfer of materials to your R&D Institution from another R&D institution or company for research purposes.

Nonetheless, an MTA can also be bilateral when both Parties transfer tangible material between them.

3.2.3.EXAMPLES

Please consult Appendix B

3.3. COLLABORATIVE RESEARCH AGREEMENT

3.3.1. PURPOSE

The name of this type of agreement is very descriptive for its purpose. Collaborative research agreements are very much used to joint research and development activities that can involve different types of organizations, including academic or research organizations, private companies, start-ups, spin-offs and SMEs, NGOs, governmental entities, or others. These parties have specific knowledge, that combined, can allow the development of a specific knowledge, product or service or accelerate the process of achieving effective results. A research agreement always implies the generation of novel intellectual property, even if still at a very initial stage of development.

3.3.2. BRIEF DESCRIPTION AND MAIN CONTENT

This type of agreements define the responsibilities and tasks of both parties and also the rights of the parties regarding future results to be obtained by the collaborative activities.

These contracts should regulate and establish procedures to be complied by the parties related with:

- a) The object of the collaboration – it is very important to define the field of the research to be performed (in scientific terms, but also geographically) because this field definition will be key to define the ownership and access rights to IP;
- b) The research plan – description of the work plan that will be performed by each party, with the corresponding time-table, deliverables and milestones;
- c) The facilities and staff involved in the work
- d) The financial contributions/payment terms
- e) Confidentiality and Dissemination of the work
- f) The ownership of the knowledge, whether protected or not by IP Rights that each party contributes to the implementation of the workplan (usually defined as Background IP);
- g) The ownership of Results, whether they may be protected by intellectual Property Rights or not, that will be produced by the parties during the collaboration (Foreground IP);
- h) the access rights that the parties will have to Background IP and Foreground IP during the project and after the project, for research activities and/or commercial activities.

In case future results are foreseen to generate IP rights, the ownership percentages can also be defined *a priori*. However, best practices recommend that the percentage of ownership of IP, its management and exploitation are determined only when such IP exists, through a separate IP joint ownership agreement. Only when the result exists, will the parties be able to define its IP protection strategy and market value and regulate its management and exploitation accordingly..

Nonetheless, even in cases where a future agreement to define IP ownership is expected to be signed, the collaborative research agreement should regulate some main principles , such as if the IP will be jointly owned or owned solely by one of the parties, who will be the partner responsible for the commercialization or if the results will be transferred or licenced to other organization (internal or external to the collaboration) for commercialization purposes.

3.3.3.EXAMPLES

Please consult Appendix C

3.4. IP OWNERSHIP AND INVENTORS IP SHARE AGREEMENT

3.4.1.PURPOSE

IP ownership agreements are used to regulate the percentages of ownership of a specific IP Right, that can be shared among organizations or individuals. The definition of ownership is important to later determine the percentage of share of expenses with the protection and commercialization endeavours of the Results and, likewise, the percentage of distribution of revenues obtained from the commercial exploitation of the Results.

The percentage of ownership is usually determined taking into consideration:

- a) The provenience of the Background IP used to develop the Results;
- b) The intellectual contribution of each member of the staff – the inventors – without whom the technology would not exist;
- c) The funding contribution of each party for obtaining the Results, either financial contribution or in-kind contribution (infrastructure, consumables, etc);

Public Higher Education Institutions usually have their IP policy published as IP Regulations that determine the general rules and principles that such Institution follows. Most Universities are hence, the owners of the IP generated by their collaborators and/or that use significantly the infrastructure of the University. These regulations also define the percentage of share of revenues between the organization and the inventors.

Private institutions are not obliged to have their IP Policy public. Hence, it is strongly recommended that you inform yourself of such policy prior to engaging with external entities.

3.4.2.BRIEF DESCRIPTION AND MAIN CONTENT

In these agreements, the parties involved in the development of the IP and the Results or IP Right in question should be clearly identified. Percentages of ownership or inventorship are also clearly identified, together with other specificities related with the protection of the IP and its commercial exploitation and the conditions that apply under these circumstances, for example:

- a) which party will manage the IP Rights;
- b) which party is responsible for searching business partners;
- c) what happens if, during the term of an agreement, one party stops fulfilling its obligations;

3.4.3.EXAMPLES

Please consult Appendix D

3.5. SERVICES/CONSULTANCY AGREEMENT

3.5.1.PURPOSE

This type of agreement is used to regulate the provision of specific professional services to a third Party. No research or novel work is intended to be carried out under these agreements, rather just a standard analysis, processing, manufacture or provision of expertise. The Results of this work will be owned by the Party that pays for the service.

Academic Institutions, when appropriate, usually ask to retain the moral rights of copyright (under EU law) so that they can be included in the curriculum of the researchers and institutions.

3.5.2.BRIEF DESCRIPTION AND MAIN CONTENT

Services agreement define the parts involved, the type of service to be provided, the costs associated with the service, deadlines, payments schedule, among other relevant information

3.5.3.EXAMPLES

Please consult Appendix E

3.6. ASSIGNMENT AGREEMENT

3.6.1. PURPOSE

When there is any type of form of intellectual property rights, its owners can assign it to other entity or individual, which completely transfers the ownership of the right and all future duties and rights related with the IP. In other words, you sell the IP Right.

The option to decide upon an assignment agreement depends on the organisation's objectives, the type of intellectual property and other conditions, such as the economic resources at the disposal of the organisation.

3.6.2. BRIEF DESCRIPTION AND MAIN CONTENT

In an assignment agreement there is the assignor (the owner of the IP who wants to assign it to the other part) and the assignee (the part to whom the IPR ownership will be transferred). Both these parts are well identified in the agreement, as is the object that refers to the intellectual property right that is being transferred.

For the transaction, some conditions are defined, such as the lump sum involved in the transaction (most commonly), the payment schedule and in some cases the period of support that is given by the assignor to the assignee in the use or application of the knowledge/technology for commercial purposes. This support can exist in the form of a service provided by the assignee which is also paid accordingly.

More information here:

<http://www.iprhelpdesk.eu/sites/default/files/newsdocuments/Fact-Sheet-Commercialising-IP-Assignment-Agreements.pdf>

3.6.3. EXAMPLES

Please consult Appendix F

3.7. LICENCE AGREEMENT

3.7.1.PURPOSE

Contrarily to the assignment agreement, in a licence agreement the ownership of the intellectual property does not “change hands”; it means that the IP Right owner is “renting” the IP Right to a third Party under specific conditions. Therefore, this type of agreement is used when the intellectual property owner intends to keep the control of the right but assigning the commercial rights to a third party. This implies that the duties to maintain the IP will still belong to the owner, but the licensee will have to return a percentage of the commercial exploitation to the licensor.

3.7.2.BRIEF DESCRIPTION AND MAIN CONTENT

Licence agreements can be very different depending on the type of knowledge and right (if existent) that is being traded, which can include trade secret, a product, process, digital product or other (whether protected through IP rights or not).

Essentially, License agreements define clearly the Parties and the IP involved. After this, the agreement identifies the conditions of the license which can be specific to a type of application, a specific market of commercialization, among others. It is very important to define the field of use of the IP Right, since some technologies may be applied in different markets and applications and hence result in multiple non-exclusive licences.

This agreement defines the royalty which is the percentage of income generated in the commercialization of the knowledge/technology, that should be given by the licensee to the licensor as payment for the right of commercialization. This percentage varies according to many factors such as the market dimension, production costs, representativeness of the knowledge/technology in the final product or service to be commercial provided, field of knowledge, among others. It is also common to have a scale of different ranges of royalties depending on the income generated. Agreement on payment schedule and format are also defined.

These agreements can also define the commercial strategy to be used by the licensee and the support to be given by the licensor in terms of the technical knowledge about that intellectual property.

More information here:

<http://www.iprhelpdesk.eu/sites/default/files/newsdocuments/Fact-Sheet-Commercialising-IP-Licence-Agreements.pdf>

3.7.3.EXAMPLES

Please consult Appendix G

3.8. SPIN-OFF AGREEMENT

3.8.1.PURPOSE

In cases when, typically, the inventors but also other individuals aim to create a start-up to commercialize the knowledge/technology, a spin-off agreement is signed with the organization where the knowledge was developed.

3.8.2.BRIEF DESCRIPTION AND MAIN CONTENT

This agreement, besides identifying the parties and the knowledge or intellectual property involved, regulates the conditions under which the knowledge can be used by the spin-off (created or to be created) for commercialization purposes. This can include, for example, conditions similar to an IP license agreement, and assignment agreement or a blended format where the IP is first licensed and the Spin-off has also rights to acquire the IP in the future.

More information here:

<http://www.iprhelppdesk.eu/sites/default/files/newsdocuments/Fact-Sheet-Commercialising-IP-Spin-offs.pdf>

3.8.3.EXAMPLES

Please consult Appendix H

APPENDIX A - NDAs

MODEL OF SPECIFIC AGREEMENT OR PROJECT CONTRACT

THE FINANCING COMPANY MUST NOT SIGN THIS AGREEMENT WITHOUT THE PREVIOUS CHECKING BY ~~xxxx~~ OR BEFORE INFORMING ~~xxxx~~ THEREOF

In Seville, on ~~xxxx~~ ~~xxxx~~ ~~xxxx~~ 2.0

BETWEEN

The, registered office ~~xxxx~~ in Seville and on its behalf and representation ~~xxxx~~, Director-General of the said Foundation, according to the Powers granted before the Notary of ~~xxxx~~ on xxx, 2015 under number 1.285 of his file

And (choose one of the options)

The **Company** _____, with tax code _____ and registered office in _____ at _____ nº _____ Post Code _____, incorporated before the Notary of _____ and registered in the Register of Companies of _____ and on its behalf and representation Mr. _____, acting in his capacity as ¹ _____, with Identity Card number _____ according ² to the Powers granted before the Notary of _____ Mr/Mrs. _____ on _____ under number _____ of his file

A) **Institution/Public Entity** _____ and on its behalf and representation Mr. _____, acting in his capacity as _____, with Identity Card number _____.

Both parties, mutually acknowledging their capacity, sign this document and for that purpose

STATE

The ~~xxxx~~ is a Public Research Center multi sectorial and multidisciplinary nature, which carries out scientific and technological research and development. The University of Seville is entrusted with the responsibility for collaboration with public and private entities with a teaching and research staff of the University of Seville, the Research Foundation of the University of Seville, for which both institutions signed a framework convention and collaborative one specific date May 29, 2007 in order to attend ~~counseling~~ programs, technology support, staff training, and research projects, to achieve the objectives of both institutions.

¹ President / Director / manager / etc =

² Statutes, powers, Acta session (give or regulatory provision granting such powers).

That being the Company/Institution (choose one option), interested in cooperating with the Fundación de Investigación de la Universidad de Sevilla, it signs this agreement /contract (chose one option) according to the following

CLAUSES

FIRST: Object of the contract.

The object of this contract is the carrying out by xxx of an activity consisting of (describe the activity: for example, research project, consulting, report) _____ for the company/entity and at the request of the same.

SECOND: Participants in the object activity of the contract.

The activity object of this contract shall be carried out by a work team belonging to the University of Seville, coordinated by Mr/Mrs _____, in his/her capacity as Chief Researcher of the Project, professor of the College / Faculty of _____ and integrated by the following persons:

- _____
- _____
- _____
- _____

THIRD: Execution period

The execution period of this contract shall be _____ months from the execution date. This period may be modified by the parties in case the circumstances required such a modification.

FOURTH: Price

The remuneration for the carrying out of the project / activity shall be _____ euro plus the relevant VAT.

FIFTH: Method of Payment

The amount mentioned in the above Clause shall be paid by the Company / Entity / Individual to the current account No. ES86-0049-5854-3721-1608-5237 of the Banco de Santander in favour of "Fundación de Investigación de la Universidad de Sevilla", according to the following instalments:

___ % on the execution date of this contract.

___ % at the beginning of the second annuity.

___ % at the delivery of the final report.

(or other conditions)

The payment of the invoices shall be made after receiving from ~~xxxx~~ the invoice issued for that purpose, however, the payment will be made in the 30 following days after the billing date.

SIXTH: Confidentiality about the information received.

The data and reports resulting from this contract, as well as the final outcomes, shall be confidential, unless otherwise expressly agreed by the parties. If one of the parties wishes to spread the results, it shall have to look for the approval in written of the other party and at least one month in advance. If that period has finished and there is no opposite statement, the approval shall be deemed granted.

xxx is expressly entitled to give public information in the activities report about the execution of this contract including the name of the project.

SEVENTH: Termination of the contract.

This contract may be mutually terminated by the parties in case they deem the Works have finished before the date provided in the Third Clause or for any other reason.

EIGHTH: Ownership of the results **(EXCLUDE THIS CLAUSE IF IT WERE NOT NECESSARY)**

The results arising from the execution of this contract fully belong / belong on a equal basis (choose an option) to the University of Seville and Company / Entity.

In case the results may be patented, the relevant patents will be submitted, in the name of the University of Seville / both institutions (choose and option) to the Registries. The inventors registered shall be the researchers from the University and those from the company / entity that have developed the project, object of this contract.

The company/entity shall be entitled to make profit from the results, being the terms provided in a specific contract as well as the appropriate remunerations that should be satisfied in the way and under the terms provided for that purpose. The said specific contract shall be drawn up with the intervention of the Secretariat of Knowledge Transfer and Entrepreneurship of the University of Seville.

NINTH: Data Protection

In accordance with the current legislation on the protection of personal data, ~~xxxx~~ informs that your data will be processed in order to proceed with the execution of the aforementioned agreement and comply with the aspects arising from it, regarding the processing of personal information. In addition, that information will be stored during the time that the contractual relationship is maintained or during the years necessary to comply with the legal obligations stipulated. Likewise, you are informed that your personal data will not be transferred to third parties, unless it is provided in a legal obligation.

In any case, you can exercise at any time, your rights of access, rectification, deletion, limitation of treatment, portability and opposition, which may be exercised by contacting the following address: xxx and indicating in the subject: "Protection of Personal Data: exercise of rights ", or in writing, also presenting a photocopy of the DNI to the address: ~~xxxxxx~~

TENTH: ~~Jurisdiction.~~

The parties agree to submit the disputes that may arise from the execution and termination of this contract to the courts and tribunals of Seville.

After having read this contract and approved the contents thereof, the parties sign it in two copies only for one purpose in the place and on the date abovementioned.

BY university

BY THE COMPANY/ENTITY

Signed:

Signed

MUTUAL NON-DISCLOSURE AGREEMENT

THIS AGREEMENT [the Agreement] is entered into on this [insert number of day] day of [insert Month and Year] by and between:

1. [Insert official name of the potential partner or participant], having its registered office or based in [insert the Legal Address of the Entity] hereinafter referred to as [...] and
2. [Insert official name of the potential partner or participant], having its registered office or based in [insert the Legal Address of the Entity] hereinafter referred to as [....]

[Add the identification of all the potential partners and participants that will take part in this Agreement]

Individually referred to as a Party or collectively as the Parties.

WHEREAS:

The Parties hereto desire [to participate in early discussions regarding the entering into future collaboration as a European Funded Project in the field of (....)] or [to submit a proposal for a collaborative project in response to the call (identify the call) under (identify the EU-funded Programme)] or [to evaluate entering into partnership or business collaboration for the purpose of (identify the undertaking intended to perform)].

Throughout the aforementioned discussions, Parties may share between themselves proprietary information or Confidential Information under the terms and covenants set forth below.

THE PARTIES HERETO AGREE AS FOLLOWS:

1. Confidential Information

1.1 For the purposes of this Agreement, Confidential Information means any data or information that is proprietary to or possessed by a Party and not generally known to the public or that has not yet been revealed, whether in tangible or intangible form, when-ever and however disclosed, including, but not limited to:

(i) any scientific or technical information, invention, design, process, procedure, formula, improvement, technology or method;

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(ii) any concepts, samples, reports, data, know-how, works-in-progress, designs, drawings, photographs, development tools, specifications, software programs, source code, object code, flow charts, and databases;

(iii) any marketing strategies, plans, financial information, or projections, operations, sales estimates, business plans and performance results relating to the Party's past, present or future business activities, or those of its affiliates, subsidiaries and affiliated companies;

(iv) trade secrets; plans for products or services, and customer or supplier lists;

(v) any other information that should reasonably be recognised as Confidential Information by the Parties.

1.2 The Parties agree hereby that Confidential Information needs not to be novel, unique, patentable, copyrightable or constitutes a trade secret in order to be designated Confidential Information and therefore protected.

1.3 Confidential Information shall be identified either by marking it, in the case of written materials, or, in the case of information that is disclosed orally or written materials that are not marked, by notifying the other Party of the confidential nature of the information. Such notification shall be done orally, by e-mail or written correspondence, or via other appropriate means of communication.

1.4 The Parties hereby acknowledge that the Confidential Information proprietary to each Party has been developed and obtained through great efforts and shall be regarded and kept as Confidential Information.

1.5 For the purposes of this Agreement, the Party which discloses Confidential Information within the terms established hereunder to the other Party shall be regarded as the Disclosing Party. Likewise the Party which receives the disclosed Confidential Information shall be regarded as the Receiving Party.

1.6 Notwithstanding the aforementioned, Confidential Information shall exclude information that:

- (i) is already in the public domain at the time of disclosure by the Disclosing Party to the Receiving Party or thereafter enters the public domain without any breach of the terms of this Agreement;
- (ii) was already known by the Receiving Party before the moment of disclosure (under evidence of reasonable proof or written record of such disclosure);

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- (iii) is subsequently communicated to the Receiving Party without any obligation of confidence from a third party who is in lawful possession thereof and under no obligation of confidence to the Disclosing Party;
- (iv) becomes publicly available by other means than a breach of the confidentiality obligations by the Receiving Party (not through fault or failure to act by the Receiving Party);
- (v) is or has been developed independently by employees, consultants or agents of the Receiving Party (proved by reasonable means) without violation of the terms of this Agreement or reference or access to any Confidential Information pertaining to the Parties.

2. Purpose of the Disclosure of Confidential Information

The Parties will enter into discussions regarding future collaboration toward a European Funded Project in the field of [...] or [will submit a proposal for a collaborative project in response to the call (identify the call) under (identify the EU-funded Programme)] or [will enter into or evaluate alternatives for partnership or collaboration with [name of the other Party or Parties] for the purpose of [identify the undertaking intended to perform or achieve].

3. Undertakings of the Parties

3.1 In the context of discussions, preparations or negotiations, the Disclosing Party may disclose Confidential Information to the Receiving Party. The Receiving Party agrees to use the Confidential Information solely in connection with purposes contemplated between the Parties in this Agreement and not to use it for any other purpose or without the prior written consent of the Disclosing Party.

3.2 The Receiving Party will not disclose and will keep confidential the information received, except to its employees, representatives or agents who need to have access to the Confidential Information for the purpose of carrying out their duties in connection with the permitted purposes specified in clause 2. The Receiving Party will inform them about the confidential quality of the information provided and will ensure that their agreement is obtained to keep it confidential on the same terms as set forth in this Agreement. Hence the Receiving Party will be responsible for ensuring that the obligations of confidentiality and non-use contained herein will be strictly observed and will assume full liability for the acts or omissions made for its personnel representatives or agents.

3.3 The Receiving Party will use the Confidential Information exclusively for the permitted purpose stated in clause 2 and not use the information for its own purposes or benefit.

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3.4 The Receiving Party will not disclose any Confidential Information received to any third parties, except as otherwise provided for herein.

3.5 The Parties shall treat all Confidential Information with the same degree of care as it accords to its own Confidential Information.

3.6 All Confidential Information disclosed under this Agreement shall be and remain the property of the Disclosing Party and nothing contained in this Agreement shall be construed as granting or conferring any rights to such Confidential Information on the other Party. Principally, nothing in this Agreement shall be deemed to grant to the Receiving Party a licence expressly or by implication under any patent, copyright or other intellectual property right. The Receiving Party hereby acknowledges and confirms that all existing and future intellectual property rights related to the Confidential Information are exclusive titles of the Disclosing Party. For the sake of clarity based in reciprocity and good faith of the Parties, the Receiving Party will not apply for or obtain any intellectual property protection in respect of the Confidential Information received. Likewise any modifications and improvements thereof by the Receiving Party shall be the sole property of the Disclosing Party.

3.7 The Receiving Party shall promptly return or destroy all copies (in whatever form reproduced or stored), including all notes and derivatives of the Confidential Information disclosed under this Agreement, upon the

earlier of (i) the completion or termination of the dealings contemplated in this Agreement; (ii) or the termination of this Agreement; (iii) or at the time the Disclosing Party may request it to the Receiving Party.

3.8 Notwithstanding the foregoing, the Receiving Party may retain such of its documents as required to comply with mandatory law, provided that such Confidential Information or copies thereof shall be subject to an indefinite confidentiality obligation.

3.9 In the event that the Receiving Party is asked to communicate the Confidential Information to any judicial, administrative, regulatory authority or similar or obliged to reveal such information by mandatory law, it shall notify promptly the Disclosing Party of the terms of such disclosure and will collaborate to the extent practicable with the Disclosing Party in order to comply with the order and preserve the confidentiality of the Confidential Information.

3.10 The Parties agree that the Disclosing Party will suffer irreparable damage if its Confidential Information is made public, released to a third party, or otherwise disclosed in breach of this Agreement and that the Disclosing Party shall be entitled to obtain injunctive relief against a threatened breach or continuation of any such breach and, in the event of such a breach, an award of actual and exemplary damages from any court of competent jurisdiction.

3.11 The Receiving Party shall immediately notify the Disclosing Party upon becoming aware of any breach of confidence by anybody to whom it has disclosed the Confidential

Information and give all necessary assistance in connection with any steps which the Disclosing Party may wish to take prevent, stop or obtain compensation for such a breach or threatened breach.

3.12 The Confidential Information subject to this Agreement is made available "as such" and no warranties of any kind are granted or implied with respect to the quality of such information including, but not limited to, its applicability for any purpose, non-infringement of third party rights, accuracy, completeness or correctness.

3.13 Neither Party is under any obligation under this Agreement to disclose any Confidential Information it chooses not to disclose. Further, neither Party shall have any liability to the other Party resulting from any use of the Confidential Information except with respect to disclosure of such Confidential Information in violation of this Agreement.

3.14 Nothing in this Agreement shall be construed to constitute an agency, partnership, joint venture, or other similar relationship between the Parties.

4. Miscellaneous

4.1 Duration and Termination

4.1.1 This Agreement shall remain in effect for a term of [number of months or years]. Notwithstanding the foregoing, the Receiving Party's duty to hold in confidence Confidential Information that was disclosed during the term shall remain in effect indefinitely, save otherwise agreed.

4.1.2 If the Parties succeed in the call for proposal referred to in clause 2 and sign the corresponding Grant Agreement (GA) and Consortium Agreement (CA), or enter into partnership under any other kind of collaborative agreement (COA) or association agreement (AA), the non-disclosure provisions of the CA, COA and AA shall [be supplemented by or supplement or supersede] this Agreement. In the event that non-disclosure provisions are not provided for the said private agreements, this Agreement shall remain in force until the end of the collaboration undertaken or after [months or years] of its termination.

4.2 Applicable Law and Jurisdiction

This Agreement shall be construed and interpreted by the laws of [choose the applicable law]. The court of [choose the jurisdiction to settle disputes] shall have jurisdiction.

4.3 Validity

If any provisions of this Agreement are invalid or unenforceable, the validity of the remaining provisions shall not be affected. The Parties shall replace the invalid or unenforceable provision by a valid and enforceable provision that will meet the purpose of the invalid or unenforceable provision as closely as possible.

4.4 Subsequent Agreements

Ancillary agreements, amendments or additions hereto shall be made in writing.

4.5 Communications

Any notices or communications required between the Parties shall be delivered by hand, e-mail, or mailed by registered mail to the address of the other Party as indicated above. Any subsequent modification of a Party's address should be reasonably communicated in advance to the effect of this Agreement.

5. Competition

The receipt of Confidential Information pursuant to this Agreement will not prevent or in any way limit either Party from developing, making or marketing products or services that are or may be competitive with the products or services of the other; or providing products or services to others who compete with the other Party; as long as those results have not become from a breach of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Mutual Non-Disclosure Agreement to be executed as of the date stated above.

FOR [insert name of participant or potential or current partner]

[insert name of representative]

[insert title]

Done at [place] on [date]

APPENDIX B

MTA

LAMBERT SAMPLE AGREEMENTS

MATERIALS TRANSFER AGREEMENT (UNIVERSITY RECEIVES MATERIALS FROM THE SPONSOR – MTA-IN)

THIS AGREEMENT dated [.....] 200[5] is made **BETWEEN:**

- (1) [.....], whose administrative offices are at [.....] (the University);
- (2) [.....] [**LIMITED**], a company registered in [England] under number[.....], whose registered office is at [.....] (the Sponsor)

1. DEFINITIONS

In this Agreement the following expressions have the meaning set opposite:

Academic Publication:	the publication of an abstract, article or paper in a journal, or its presentation at a conference or seminar; and in clauses 5 and 6 "to Publish" and "Publication" are to be construed as references to Academic Publication;
this Agreement:	this document including its Schedule, as amended from time to time in accordance with clause 9.9;
a Business Day:	Monday to Friday (inclusive) except bank or public holidays in [England];
Confidential Information:	in the case of the Sponsor, the Materials and in the case of the University, the Results;
the Field:	[insert business area];
a Group Company:	any undertaking which is, on or after the date of this Agreement from time to time, a subsidiary undertaking of the Sponsor, a parent undertaking of the Sponsor or a subsidiary undertaking of a parent undertaking of the Sponsor, as those terms are defined in section 258 of the Companies Act 1985;
Intellectual Property:	patents, trade marks, service marks, registered designs, copyrights, database rights, design rights, confidential information, applications for any of the above, and any similar right recognised from time to time in any jurisdiction, together with all rights of action in relation to the infringement of any of the above;
Know-how:	unpatented technical information (including, without limitation information relating to inventions, discoveries,

concepts, methodologies, models, research, development and testing procedures, the results of experiments, tests and trials, manufacturing processes, techniques and specifications, quality control data, analyses, reports and submissions) that is not in the public domain;

the Materials:	the materials described in Part A of the Schedule, including any constructs, strains, replications, progeny, derivatives, portions or improvements obtained from, or as a result of, the use of the Materials by the University, and all Know-how relating to the Materials;
[the Price:	[£ <i>insert amount</i>] sterling;]
the Principal Investigator:	[<i>insert name</i>];
the Project:	the [academic] OR [non-clinical] research project(s) described in Part B of the Schedule;
the Results:	all information, Know-how, results, inventions, software and other Intellectual Property identified or first reduced to practice or writing as a result of using the Materials in the Project;
the Term:	[<i>insert figure</i>] [months][years] beginning on the date of this Agreement, or the end of the Project (whichever is earlier); and
the Territory:	[worldwide] OR [<i>insert geographical area</i>].

2. TERMS AND CONDITIONS FOR USE

- 2.1 THE SPONSOR WILL PROVIDE THE MATERIALS TO THE UNIVERSITY ON THE TERMS AND CONDITIONS OF THIS AGREEMENT.
- 2.2 The University will use the Materials only for the Project [and only as specified in the PI's request to the Sponsor for the Materials], and not for any commercial purpose or commercially-sponsored research (even if these activities are being pursued in the University's laboratory) without first obtaining the Sponsor's written consent.
- 2.3 The University will not supply the Materials to any person except the Principal Investigator or allow them to be removed from the University's premises unless it first obtains the Sponsor's written consent.
- 2.4 The University will use the Materials in accordance with all applicable laws, regulations, and governmental guidelines.
- 2.5 The University will provide the Sponsor with [monthly][annual][quarterly] reports summarising the progress of the Project and a copy of all of the Results.
- 2.6 The Term may be extended only by the written agreement of the Sponsor and the University.

3. PAYMENT

[The University will pay the Sponsor the Price in full on the date of this Agreement. All amounts payable to the Sponsor under this Agreement are exclusive of VAT (or any similar tax) which the University will pay at the rate from time to time prescribed by law.]

OR

[The Materials are provided to the University free of charge.]

4. USE AND EXPLOITATION OF INTELLECTUAL PROPERTY

- 4.1 No licence under any Intellectual Property owned or controlled by the Sponsor is granted or implied by this Agreement other than the right for the University to have possession of, and use, the Materials in accordance with the terms of this Agreement.
- 4.3 The University will own the Intellectual Property in the Results, and may take such steps as it may decide from time to time, and at its own expense, to register and maintain any protection for that Intellectual Property, including filing and prosecuting patent applications for any of the Results. Where any third party such as a student or contractor is involved in the Project, the University or the party engaging that contractor (as the case may be) will ensure that that student and that contractor assign any Intellectual Property they may have in the Results in order to be able to give effect to the provisions of this clause 4.
- 4.4 The University will notify the Sponsor promptly after identifying any Result that the University believes is patentable, and will supply the Sponsor with copies of that Result. The University will notify other Results to the Sponsor in the reports provided under clause 2.4.
- 4.5 The University grants to the Sponsor a non-exclusive, indefinite fully paid-up, royalty free licence (with the right to sub-license to any Group Company and to any person working for, or on behalf of, the Sponsor or any Group Company, but only for the purpose of carrying out that work, and otherwise without the right to sub-license) to use the Intellectual Property in any of the Results for any purpose within the Field in the Territory.

5. ACADEMIC PUBLICATION

- 5.1 The Project is undertaken in pursuance of a primary charitable purpose of the University; that is the advancement of education through teaching and research. Therefore, any employee or student of the University (whether or not involved in the Project) may, provided the University has not received a Confidentiality Notice under clause 5.2:
- 5.1.1 discuss work undertaken as part of the Project in University seminars, tutorials and lectures; and
- 5.1.2 Publish any of the Results.
- 5.2 The University will submit to the Sponsor, in writing, details of any Results that any employee or student of the University intends to Publish, at least [30][60] days before the date of the proposed Publication. The Sponsor may, by giving written notice to the University (a Confidentiality Notice) require the University to delay the proposed Publication for a maximum of [1][12] month(s) after receipt of the Confidentiality Notice if, in the Sponsor's reasonable opinion, that delay is necessary in order to seek patent or similar protection for any of the Results that are to be Published. The Sponsor must give that Confidentiality Notice within [15][30] days after the Sponsor receives details of the proposed Publication. If the University does not receive a Confidentiality Notice within that period, its employee or student may proceed with the proposed Publication.

6. CONFIDENTIALITY

- 6.1 Subject to clause 5, neither party will[, either during the Term or for [3][5][7][10] years after the end of the Term,] disclose to any third party, nor use for any purpose except as expressly permitted by this Agreement, any of the other party's Confidential Information.
- 6.2 Neither party will be in breach of any obligation to keep the Materials, the Results or other information confidential or not to disclose it to any other party to the extent that it:

- 6.2.1 is known to the party making the disclosure before its receipt from the other party, and not already subject to any obligation of confidentiality to the other party;
 - 6.2.2 is or becomes publicly known without any breach of this Agreement or any other undertaking to keep it confidential;
 - 6.2.3 has been obtained by the party making the disclosure from a third party in circumstances where the party making the disclosure has no reason to believe that there has been a breach of an obligation of confidentiality owed to the other party;
 - 6.2.4 has been independently developed by the party making the disclosure;
 - 6.2.5 is disclosed pursuant to the requirement of any law or regulation (provided, in the case of a disclosure under the Freedom of Information Act 2000, none of the exceptions to that Act applies to the information disclosed) or the order of any Court of competent jurisdiction, and the party required to make that disclosure has informed the other, within a reasonable time after being required to make the disclosure, of the requirement to disclose and the information required to be disclosed; or
 - 6.2.6 is approved for release in writing by an authorised representative of the other party.
- 6.3 The University will not be in breach of any obligation to keep any information confidential, or not to disclose it to any third party, by Publishing any of the same if the University has followed the procedure in clause 5.2 and has received no Confidentiality Notice within the period stated in that clause.
- 6.4 The Sponsor will not be in breach of any obligation to keep any of the Results or other information of the University, confidential or not to disclose them to any third party by making them available to any Group Company, or any person working for or on behalf of the Sponsor or a Group Company, who needs to know the same in order to exercise the rights granted in clause 4.5, provided they are not used except as expressly permitted by this Agreement and the recipient undertakes to keep those Results or that information confidential.
- 6.5 If the University receives a request under the Freedom of Information Act 2000 to disclose any information that, under this Agreement, is the Sponsor's Confidential Information, it will notify the Sponsor and will consult with the Sponsor. The Sponsor will respond to the University within 10 days after receiving the University's notice if that notice requests the Sponsor to provide information to assist the University to determine whether or not an exemption to the Freedom of Information Act applies to the information requested under that Act.
- 6.6 Neither the University nor the Sponsor will use the other's name or logo in any press release or product advertising, or for any other promotional purpose, without first obtaining the other's written consent[; except that the University may identify the sums received from the Sponsor in the University's Annual Report and similar publications].
- 7. LIMITATION OF LIABILITY**
- 7.1 The Materials are experimental in nature and the Sponsor makes no representation and gives no warranty, condition or undertaking in relation to them. Without limiting the foregoing, the Sponsor gives no warranty or condition that the Materials and their use will not infringe any third-party rights or that they have been tested for and are free from pathogens that they are viable, safe, or non-toxic.
- 7.2 The University accepts no responsibility for any use which may be made by the Sponsor of any Results, nor for any reliance which may be placed on any Results, nor for advice or information given in connection with any Results.

7.3 The Sponsor will indemnify the University, the Principal Investigator and every other employee and student of the University (the Indemnified Parties), and keep them fully and effectively indemnified, against each and every claim made against any of the Indemnified Parties as a result of the Sponsor's use of any of the Results, provided that the Indemnified Party in question must:

- 7.3.1 promptly notify the Sponsor of details of the claim;
- 7.3.2 not make any admission in relation to the claim;
- 7.3.3 allow the Sponsor to have the conduct of the defence or settlement of the claim; and
- 7.3.4 give the Sponsor all reasonable assistance (at the Sponsor's expense) in dealing with the claim.

The indemnity in this clause will not apply to the extent that the claim arises as a result of the Indemnified Party's negligence, or the breach of clause 6 or the deliberate breach of this Agreement.

7.4 Subject to clause 7.6, and except under the indemnity in clause 7.3, the liability of either party to the other for any breach of this Agreement, any negligence or arising in any other way out of the subject matter of this Agreement, the Project and the Results, will not extend to any indirect damages or losses, or any loss of profits, loss of revenue, loss of data, loss of contracts or opportunity, whether direct or indirect, even if even if the party bringing the claim has advised the other of the possibility of those losses or if they were within the other party's contemplation.

7.5 Subject to clause 7.6, and except under the indemnity in clause 7.3, the aggregate liability of each party to the other for all and any breaches of this Agreement, any negligence or arising in any other way out of the subject matter of this Agreement, the Project and the Results, will not exceed *[insert amount]*.

7.6 Nothing in this Agreement limits or excludes either party's liability for:

- 7.6.1 death or personal injury;
- 7.6.2 any fraud or for any sort of liability that, by law, cannot be limited or excluded; or
- 7.6.3 any loss or damage caused by a deliberate breach of this Agreement.

7.7 The express undertakings and warranties given by the parties in this Agreement are in lieu of all other warranties, conditions, terms, undertakings and obligations, whether express or implied by statute, common law, custom, trade usage, course of dealing or in any other way. All of these are excluded to the fullest extent permitted by law.

8. TERMINATION

8.1 Either party may terminate this Agreement with immediate effect by giving notice to the other party if:

- 8.1.1 the other party is in breach of any provision of this Agreement and (if it is capable of remedy) the breach has not been remedied within [30][60][90] days after receipt of written notice specifying the breach and requiring its remedy; or
- 8.1.2 the other party becomes insolvent, or if an order is made or a resolution is passed for its winding up (except voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator, administrative receiver or receiver is appointed over the whole or any part of the other party's assets, or if the other party makes any arrangement with its creditors.

8.2 Unless terminated under clause 8.1, this Agreement, and the University's right to use the Materials, will come to an end on the expiry of the Term.

8.3 On the termination or expiry of this Agreement the University will, at its expense, return the Materials to the Sponsor at such address as the Sponsor may notify to the University for that purpose.

8.4 Clauses 1, 4 (except clause 4.5 if the University terminates this Agreement under clause 8.1), 5, 6, 7, 8.3, 8.4 and 9 will survive the expiry of the Term or the termination of this Agreement for any reason and continue indefinitely.

9. GENERAL

9.1 **Notices:** Any notice to be given under this Agreement must be in writing, may be delivered to the other party by any of the methods set out in the left hand column below, and will be deemed to be received on the corresponding day set out in the right hand column:

Method of service	Deemed day of receipt
By hand or courier	the day of delivery
By pre-paid first class post	the second Business Day after posting
By recorded delivery post	the next Business Day after posting
By fax (provided the sender's fax machine confirms complete and error-free transmission of that notice to the correct fax number)	the next Business Day after sending or, if sent before 16.00 (sender's local time) on the Business Day it was sent

The parties' respective representatives for the receipt of notices are, until changed by notice given in accordance with this clause, as follows:

For the University:	For the Sponsor:
Name:	Name:
Address:	Address:
Fax number:	Fax number:

9.2 **Headings:** The headings in this Agreement are for ease of reference only; they do not affect its construction or interpretation.

9.3 **Assignment:** Neither party may assign or transfer this Agreement as a whole, or any of its rights or obligations under it, without first obtaining the written consent of the other party. That consent may not be unreasonably withheld or delayed.

9.4 **Illegal/unenforceable provisions:** If the whole or any part of any provision of this Agreement is void or unenforceable in any jurisdiction, the other provisions of this Agreement, and the rest of the void or unenforceable provision, will continue in force in that jurisdiction, and the validity and enforceability of that provision in any other jurisdiction will not be affected.

9.5 **Waiver of rights:** If a party fails to enforce, or delays in enforcing, an obligation of the other party, or fails to exercise, or delays in exercising, a right under this Agreement, that failure or delay will not affect its right to enforce that obligation or constitute a waiver of that right. Any waiver of any provision of this Agreement will not, unless expressly stated to the contrary, constitute a waiver of that provision on a future occasion.

9.6 **No agency:** Nothing in this Agreement creates, implies or evidences any partnership or joint venture between the parties, or the relationship between them of principal and agent. Neither

party has any authority to make any representation or commitment, or to incur any liability, on behalf of the other.

- 9.7 **Entire agreement:** This Agreement constitutes the entire agreement between the parties relating to its subject matter. Each party acknowledges that it has not entered into this Agreement on the basis of any warranty, representation, statement, agreement or undertaking except those expressly set out in this Agreement. Each party waives any claim for breach of this Agreement, or any right to rescind this Agreement in respect of any representation which is not an express provision of this Agreement. However, this clause does not exclude any liability which either party may have to the other (or any right which either party may have to rescind this Agreement) in respect of any fraudulent misrepresentation or fraudulent concealment prior to the execution of this Agreement.
- 9.8 **Formalities:** Each party will take any action and execute any document reasonably required by the other party to give effect to any of its rights under this Agreement, or to enable their registration in any relevant territory provided the requesting party pays the other party's reasonable expenses.
- 9.9 **Amendments:** No variation or amendment of this Agreement will be effective unless it is made in writing and signed by each party's representative.
- 9.10 **Third parties:** No one except a party to this Agreement has any right to prevent the amendment of this Agreement or its termination, and no one except a party to this Agreement may enforce any benefit conferred by this Agreement, unless this Agreement expressly provides otherwise.
- 9.11 **Governing law:** This Agreement is governed by, and is to be construed in accordance with, English law. The English Courts will have exclusive jurisdiction to deal with any dispute which has arisen or may arise out of, or in connection with, this Agreement, except that either party may bring proceedings for an injunction in any jurisdiction.
- 9.12 **Escalation:** If the parties are unable to reach agreement on any issue concerning this Agreement within 14 days after one party has notified the other of that issue, they will refer the matter to *[insert officer]* in the case of the University, and to *[insert officer]* in the case of the Sponsor in an attempt to resolve the issue within 14 days after the referral. Either party may bring proceedings in accordance with clause 9.11 if the matter has not been resolved within that 14 day period, and either party may apply to the court for an injunction whether or not any issue has been escalated under this clause.

SIGNED for and on behalf of the University:

SIGNED for and on behalf of the Sponsor:

Name

Name

Position

Position

Signature

Signature

[Read and understood by the Principal Investigator

.....

Signature

.....

Date]

THE SCHEDULE

Part A – The Materials

Part B – the Project

MATERIALS TRANSFER AGREEMENT
(UNIVERSITY SENDS MATERIALS– MTA-OUT)

MATERIALS TRANSFER AND CONFIDENTIALITY AGREEMENT

THIS AGREEMENT is made as of the last date set forth below by and between:

COMPANY, legal person _____, with its registered office at _____, represented herein by _____, in his capacity as _____, with powers of representation under the Law, hereinafter designated as **COMPANY**,

and

UNIVERSITY, legal person _____, with its registered office at _____, represented herein by _____, in his capacity as _____, with powers of representation under the Law, hereinafter designated as **UNIVERSITY**,

both parties being sometimes referred to herein individually as a "Party" to this Agreement and collectively as the "Parties" to this Agreement.

WHEREAS COMPANY, represented by _____, wishes to use "**UNIVERSITY** Materials" and "**UNIVERSITY** Confidential Information", listed or further defined in Appendix A, to perform the studies further defined in Appendix B,

WHEREAS UNIVERSITY, through _____ Group from the _____ Department, represented by Prof. _____, is in possession of certain quantities of _____ (referred to herein as the "**UNIVERSITY** Materials"), listed or further defined in Appendix A, and confidential information, know-how, and data pertaining to the discovery, development, manufacture and application of **UNIVERSITY** Materials for _____ Applications ("**UNIVERSITY** Confidential Information"),

WHEREAS UNIVERSITY desire to send one or more samples of their respective Materials and give certain of their respective Confidential Information for the purpose of conducting the studies set forth in *Appendix B* (attached) in order to evaluate the Materials for the respective business purposes of the Parties,

NOW, THEREFORE, the Parties hereby agree as follows:

1. **UNIVERSITY** shall supply **Company** with one or more samples of the **UNIVERSITY** Materials, and may disclose **UNIVERSITY** Confidential Information to **Company**, for **Company** solely to perform

the studies set forth in Appendix B and for purposes of evaluating the suitability of the Materials for use in its business;

2. **Company** hereby agree not to provide any of the Materials or Confidential Information received from **UNIVERSITY** to any third party or to use any of the Materials or Confidential Information for any purpose other than those specified in Appendix B, without the prior written permission of **UNIVERSITY**. Further, the **Company** agrees to keep all samples of Materials and any written copies of Confidential Information in a safe place and to prohibit access thereto by unauthorized third parties. **Company** shall only use the Materials for in vitro laboratory research and shall not use the Materials for any in vivo laboratory animal investigations, diagnostic or therapeutic purposes.
3. **Company** shall keep **UNIVERSITY** informed about the status of the studies performed with the disclosed Materials and shall promptly, upon completion or termination of the studies, provide to **UNIVERSITY** a written copy of all results of the studies, for the internal use of the **UNIVERSITY** only. **Company** will maintain as confidential any information received from **UNIVERSITY** under this paragraph and shall not disclose such information to third parties or publish any such information, without the prior written consent of **UNIVERSITY**.
4. **Company** agrees not to publish, in oral or written form, any results of the studies performed using the Materials or Confidential Information of **UNIVERSITY** without the prior written permission of **UNIVERSITY**, which will not be unreasonably withheld.
5. **Company** agrees to refrain from reproducing, modifying, or reverse engineering the Materials of **UNIVERSITY**. The Materials are provided solely for testing as described in Appendix B and may not be subjected to additional testing or analysis without the express written permission of **UNIVERSITY**. The Parties agree that no patent application describing or claiming any invention resulting from the **Company**'s use of the **UNIVERSITY**'s Materials and/or Confidential Information will be filed or caused to be filed by **Company**, without the written authorization of **UNIVERSITY**.
6. The **UNIVERSITY** Materials and **UNIVERSITY** Confidential Information shall remain the property of **UNIVERSITY** and, upon **UNIVERSITY**'s request, **Company** shall return all unconsumed Materials received and all written Confidential Information, and any copies thereof, to **UNIVERSITY**. Nothing contained in this Agreement shall be construed as a grant to **Company** of any ownership or license or other rights to any of the Materials or Confidential Information received pursuant to this Agreement or to any patents, trademarks, or other intellectual property rights of the disclosing Party.
7. ALL MATERIALS ARE PROVIDED WITHOUT ANY WARRANTY, EXPRESS OR IMPLIED, AND SPECIFICALLY WITHOUT WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NO REPRESENTATION OR WARRANTY IS MADE THAT USE OF THE MATERIALS WILL NOT INFRINGE ANY PATENT OR OTHER PROPRIETARY RIGHTS OF A THIRD PARTY.
8. **UNIVERSITY** and its employees and agents shall have no liability in connection with the **Company**'s use of the **UNIVERSITY** Materials. Each Party hereby waives all claims against the disclosing Party.

9. Either Party shall have the right to terminate this Agreement and the rights granted to the other Party herein at any time. The provisions of Paragraphs 2 5 and 6 will survive any termination, the obligations pursuant to Paragraph 4 shall remain valid for a period of five (5) years after the end of the contract only.
10. The operational execution of this agreement shall be conducted by _____, on behalf of **Company** behalf and Prof. _____, on behalf of **UNIVERSITY**.
11. This contract is subject to Portuguese Law. For settlement of any disputes arising from this contract, the District Court of Lisbon shall be the competent court.
12. This Agreement constitutes the entire understanding of the parties with respect to the subject matter hereof and may not be modified, supplemented or restricted except by an agreement in writing signed by the parties hereto. The Appendices A and B hereto may be supplemented in writing by the disclosing Party to include additional Materials or studies, to bring those Materials and associated Confidential Information of the disclosing Party under the terms and subject to the obligations of this Agreement.
13. This Agreement may not be assigned to a third party without the written consent of the Parties.

Made in duplicate at ... on ... (date) ... (month) 2013... , with each party keeping one original copy.

IN WITNESS WHEREOF

UNIVERSITY

by: _____

Name: legal representative name

Title: _____

Date: _____

Company or Institution

by: _____

Name:

Title: _____

Date: _____

attachments:

Appendix 1 – listing/definition of **UNIVERSITY** Materials provided hereunder

Appendix 2 – listing of studies to be performed with **UNIVERSITY** Materials by **Company**

APPENDIX C

COLLABORATIVE RESEARCH AGREEMENT

Example 1 - IP Best Practices HandBook Sample Agreements

CO-DEVELOPMENT AGREEMENT

(In circumstances where PSRC and a party, ABC, are agreeing to a research program primarily to be carried out in the laboratories of ABC)

1.0 Introduction

This Co-development Agreement (“Agreement”) between ABC Company (“ABC”) and the Public Sector Research Centre (“PSRC”) will be effective when signed by all Parties. The research and development activities which will be undertaken by each of the Parties in the course of this Agreement are detailed in the Research Plan (“RP”) which is attached as Appendix A. The funding and staffing commitments of the Parties are set forth in Appendix B. Any exceptions or changes to the Agreement are set forth in Appendix C.

2.0 Definitions

As used in this Agreement, the following terms shall have the indicated meanings

- 2.1 **“Invention”** means any invention or discovery which is or may be patentable
- 2.2 **“Principal Investigator(s)”** or **“PIs”** means the person(s) designated respectively by the Parties to this Agreement who will be responsible for the scientific and technical conduct of the RP.
- 2.3 **“Proprietary/Confidential Information”** means confidential scientific, business, or financial information provided that such information does not include:
 - 2.3.1 information that is publicly known or available from other sources who are not under a confidentiality obligation to the source of the information;
 - 2.3.2 information which has been made available by its owners to others without a confidentiality obligation;
 - 2.3.3 information which is already known by or available to the receiving Party without a confidentiality obligation; or
 - 2.3.4 information which relates to potential hazards or cautionary warnings associated with the production, handling or use of the subject matter of the Research Plan of this Agreement.
- 2.4 **“Research License”** shall mean a nontransferable, nonexclusive license under any Intellectual Property (IP) license to make and use a licensed invention for purposes of research and not for purposes of commercial manufacture or distribution or in lieu of purchase.
- 2.5 **“Research Materials”** means all tangible materials other than Subject Data first produced in the performance of this Agreement.
- 2.6 **“Research Plan”** or **“RP”** means the statement in Appendix A of the respective research and development commitments of the Parties to this Agreement.
- 2.7 **“Subject Invention”** means any Invention of the Parties, conceived or first actually reduced to practice in the performance of the Research Plan of this Agreement.

2.8 **“Subject Data”** means all recorded information first produced in the performance of this Agreement by the Parties.

3.0 Cooperative Research

3.1 **Principal Investigators.** ABC research work under this Agreement will be performed by the ABC laboratory identified in the RP, and the ABC PI designated in the RP will be responsible for the scientific and technical conduct of this project on behalf of ABC. Also designated in the RP is the PSRC PI who will be responsible for the scientific and technical conduct of this project on behalf of the PSRC.

3.2 **Research Plan Change.** The RP may be modified by mutual written consent of the Principal Investigators. Substantial changes in the scope of the RP will be treated as amendments under Article 13.5.

4.0 Reports

4.1 **Interim Reports.** The Parties shall exchange formal written interim progress reports on a schedule agreed to by the PIs, but at least within twelve (12) months after this Agreement becomes effective and at least within every twelve (12) months thereafter. Such reports shall set forth the technical progress made, identifying such problems as may have been encountered and establishing goals and objectives requiring further effort, any modifications to the Research Plan pursuant to Article 3.2, and all Agreement-related patent applications filed.

4.2 **Final Reports.** The Parties shall exchange final reports of their results within four (4) months after completing the projects described in the RP or after the expiration or termination of this Agreement.

5.0 Financial and Staffing Obligations

5.1 **ABC and PSRC Contributions.** The contributions of the Parties, including payment schedules, if applicable, are set forth in Appendix B. ABC shall not be obligated to perform any of the research specified herein or to take any other action required by this Agreement, if the funding is not provided as set forth in Appendix B. ABC shall return excess funds to PSRC when it sends its final fiscal report pursuant to Article 5.2, except for staffing support pursuant to Article 10.3.

5.2 **Accounting Records.** ABC shall maintain separate and distinct current accounts, records, and other evidence supporting all its obligations under this Agreement, and shall provide the PSRC a final fiscal report pursuant to Article 4.2.

5.3 **Capital Equipment.** Equipment purchased by ABC with funds provided by the PSRC shall be the property of ABC. All capital equipment provided under this Agreement by one party for the use of another Party remains the property of the providing Party unless other disposition is mutually agreed upon in writing by the Parties. If title to this equipment remains with the providing Party, that Party is responsible for maintenance of the equipment and the costs of its transportation to and from the site where it will be used.

6.0 Intellectual Property Rights and Patent Applications

6.1 **Reporting.** The Parties shall promptly report to each other in writing each Subject Invention resulting from the research conducted under this Agreement that is reported to them by their respective employees. Each Party shall report all Subject Inventions to the other Party in sufficient detail to determine inventorship. Such reports shall be treated as Proprietary/Confidential Information in accordance with Article 8.4.

6.2 **PSRC Employee Inventions.** If the PSRC does not elect to retain its IP rights, PSRC shall offer to assign these IP rights to the Subject Invention to ABC pursuant to Article 6.5. If ABC declines such assignment, the PSRC may release its IP rights as it may determine.

- 6.3 **ABC Employee Inventions.** ABC may elect to retain IP rights to each Subject Invention made solely by ABC employees. If ABC does not elect to retain IP rights, ABC shall offer to assign these IP rights to such Subject Invention to PSRC pursuant to Article 6.5.
- 6.4 **Joint Inventions.** Each Subject Invention made jointly by ABC and PSRC employees shall be jointly owned by ABC and PSRC. PSRC may elect to file the joint patent or other IP application(s) thereon and shall notify ABC promptly upon making this election. If PSRC decides to file such applications, it shall do so in a timely manner and at its own expense. If PSRC does not elect to file such application(s), ABC shall have the right to file the joint application(s) in a timely manner and at its own expense. If either Party decides not to retain its IP rights to a jointly owned Subject Invention, it shall offer to assign such rights to the other Party pursuant to Article 6.5. If the other Party declines such assignment, the offering Party may release its IP rights as provided in Articles 6.2, and 6.3.
- 6.5 **Filing of Patent Applications.** With respect to Subject Inventions made by PSRC as described in Article 6.2, or by ABC as described in Article 6.3, a Party exercising its right to elect to retain IP rights to a Subject Invention agrees to file patent or other IP applications in a timely manner and at its own expense and after consultation with the other Party. The Party may elect not to file a patent or other IP application thereon in any particular country or countries provided it so advises the other Party ninety (90) days prior to the expiration of any applicable filing deadline, priority period or statutory bar date, and hereby agrees to assign its IP right, title and interest in such country or countries to the Subject Invention to the other Party and to cooperate in the preparation and filing of a patent or other IP applications. In any countries in which title to patent or other IP rights is transferred to PSRC, PSRC agrees that ABC inventors will share in any royalty distribution that PSRC pays to its own inventors.
- 6.6 **Patent Expenses.** The expenses attendant to the filing of patent or other IP applications generally shall be paid by the Party filing such application. If an exclusive license to any Subject Invention is granted to PSRC, PSRC shall be responsible for all past and future out-of-pocket expenses in connection with the preparation, filing, prosecution and maintenance of any applications claiming such exclusively-licensed inventions and any patents or other IP grants that may issue on such applications. PSRC may waive its exclusive license rights on any application, patent or other IP grant at any time, and incur no subsequent compensation obligation for that application, patent or IP grant.
- 6.7 **Prosecution of Intellectual Property Applications.** Within one month of receipt or filing, each Party shall provide the other Party with copies of the applications and all documents received from or filed with the relevant patent or other IP office in connection with the prosecution of such applications. Each Party shall also provide the other Party with the power to inspect and make copies of all documents retained in the patent or other IP application files by the applicable patent or other IP office. Where licensing is contemplated by PSRC, the Parties agree to consult with each other with respect to the prosecution of applications for ABC Subject Inventions described in Article 6.3 and joint Subject Inventions described in Article 6.4. If PSRC elects to file and prosecute IP applications on joint Subject Inventions pursuant to Article 6.4, ABC will be granted an associate power of attorney (or its equivalent) on such IP applications.
- 7.0 **Licensing**
- 7.1 **Option for Commercialization License.** With respect to ABC's IP rights to any Subject Invention not made solely by the PSRC's employees for which a patent or other IP application is filed, ABC hereby grants to the PSRC an option to elect an exclusive or nonexclusive commercialization license. The terms of the license will fairly reflect the nature of the invention, the relative contributions of the Parties to the invention and the Agreement, the risks incurred by the PSRC and the costs of subsequent research and development needed to bring the invention to the marketplace.
- 7.2 **Exercise of License Option.** The option of Article 7.1 must be exercised by written notice mailed within three (3) months after PSRC receives written notice that the patent or other IP application is filed. Exercise of this option by the PSRC initiates a negotiation period that expires nine (9) months after the patent or other IP application filing date. If the last proposal by the PSRC has not been

responded to in writing by ABC within this nine (9) month period, the negotiation period shall be extended to expire one (1) month after ABC so responds, during which month the PSRC may accept in writing the final license proposal of ABC. In the absence of such acceptance, ABC will be free to license such IP rights to others. In the event that the PSRC elects the option for an exclusive license, but no such license is executed during the negotiation period, ABC agrees not to make an offer for an exclusive license on more favorable terms to a third party for a period of six (6) months without first offering PSRC those more favorable terms.

- 7.3 **Joint Inventions Not Exclusively Licensed.** In the event that the PSRC does not acquire an exclusive commercialization license to IP rights in all fields in joint Subject Inventions described in Article 6.4, then each Party shall have the right to use the joint Subject Invention and to license its use to others in all fields not exclusively licensed to PSRC. The Parties may agree to a joint licensing approach for such IP rights.

8.0 Proprietary Rights and Publication

- 8.1 **Right of Access.** ABC and PSRC agree to exchange all Subject Data produced in the course of research under this Agreement, whether developed solely by ABC or jointly with PSRC. Research Materials will be shared equally by the Parties to the Agreement unless other disposition is agreed to by the Parties. All Parties to this Agreement will be free to utilize Subject Data and Research Materials for their own purposes, consistent with their obligations under this Agreement.

- 8.2 **Ownership of Subject Data and Research Materials.** Subject to the sharing requirements of Paragraph 8.1 and the regulatory filing requirements of Paragraph 8.3, the producing Party will retain ownership of and title to all Subject Inventions, all Subject Data and all Research Materials produced solely by their investigators. Jointly developed Subject Inventions, Subject Data and Research Materials will be jointly owned.

- 8.3 **Dissemination of Subject Data and Research Materials.** To the extent allowed under law, PSRC and ABC agree to use reasonable efforts to keep Subject Data and Research Materials confidential until published or until corresponding patent applications are filed. Any information that would identify human subjects of research or patients will always be maintained confidentially. PSRC shall have the exclusive right to use any and all Agreement Subject Data in and for any regulatory filing by or on behalf of PSRC, except that ABC shall have the exclusive right to use Subject Data for that purpose, and authorize others to do so, if the Agreement is terminated or if PSRC abandons its commercialization efforts.

- 8.4 **Proprietary/Confidential Information.** Each Party agrees to limit its disclosure of Proprietary/Confidential Information to the amount necessary to carry out the Research Plan of this Agreement, and shall place a confidentiality notice on all such information. Confidential oral communications shall be reduced to writing within 30 days by the disclosing Party. Each Party receiving Proprietary/Confidential Information agrees that any information so designated shall be used by it only for the purposes described in the attached Research Plan. Any Party may object to the designation of information as Proprietary/Confidential Information by another Party and may decline to accept such information. Subject Data and Research Materials developed solely by PSRC may be designated as Proprietary/Confidential Information when they are wholly separable from the Subject Data and Research Materials developed jointly with ABC investigators, and advance designation of such data and material categories is set forth in the RP. The exchange of other confidential information, e.g., patient-identifying data, should be similarly limited and treated. Jointly developed Subject Data and Research Material derived from the Research Plan may be disclosed by PSRC to a third party under a confidentiality agreement for the purpose of possible sublicensing pursuant to the Licensing Agreement and subject to Article 8.7.

- 8.5 **Protection of Proprietary/Confidential Information.** Proprietary/Confidential Information shall not be disclosed, copied, reproduced or otherwise made available to any other person or entity without the consent of the owning Party. Each Party agrees to use its best efforts to maintain the confidentiality of Proprietary/Confidential Information.

- 8.6 **Duration of Confidentiality Obligation.** The obligation to maintain the confidentiality of

Proprietary/Confidential Information shall expire at the earlier of the date when the information is no longer Proprietary Information as defined in Article 2.3 or three (3) years after the expiration or termination date of this Agreement. PSRC may request an extension to this term when necessary to protect Proprietary/Confidential Information relating to products not yet commercialized.

- 8.7 **Publication.** The Parties are encouraged to make publicly available the results of their research. Before either Party submits a paper or abstract for publication or otherwise intends to publicly disclose information about a Subject Invention, Subject Data or Research Materials, the other Party shall be provided thirty (30) days to review the proposed publication or disclosure to assure that Proprietary/Confidential Information is protected. The publication or other disclosure shall be delayed for up to thirty (30) additional days upon written request by any Party as necessary to preserve patent or other IP rights.

9.0 Representations and Warranties

- 9.1 **Representations and Warranties of ABC.** ABC hereby represents and warrants to PSRC that the official signing this Agreement has authority to do so.

9.2 Representations and Warranties of PSRC.

(a) PSRC hereby represents and warrants to ABC that PSRC has the requisite power and authority to enter into this Agreement and to perform according to its terms, and that PSRC's official signing this Agreement has authority to do so. PSRC further represents that it is financially able to satisfy any funding commitments made in Appendix B.

(b) PSRC certifies that the statements herein are true, complete, and accurate to the best of its knowledge. PSRC is aware that any false, fictitious, or fraudulent statements or claims may subject it to criminal, civil, or administrative penalties.

10.0 Termination

- 10.1 **Termination By Mutual Consent.** ABC and PSRC may terminate this Agreement, or portions thereof, at any time by mutual written consent. In such event the Parties shall specify the disposition of all property, inventions, patent or other IP applications and other results of work accomplished or in progress, arising from or performed under this Agreement, all in accordance with the rights granted to the Parties under the terms of this Agreement.

- 10.2 **Unilateral Termination.** Either ABC or PSRC may unilaterally terminate this entire Agreement at any time by giving written notice at least thirty (30) days prior to the desired termination date, and any rights accrued in property, patents or other IP rights shall be disposed of as provided in paragraph 10.1.

- 10.3 **Staffing.** If this Agreement is mutually or unilaterally terminated prior to its expiration, funds will nevertheless remain available to ABC for continuing any staffing commitment made by PSRC pursuant to Article 5.1 above and Appendix B, if applicable, for a period of six (6) months after such termination. If there are insufficient funds to cover this expense, PSRC agrees to pay the difference.

- 10.4 **New Commitments.** No Party shall make new commitments related to this Agreement after a mutual termination or notice of a unilateral termination and shall, to the extent feasible, cancel all outstanding commitments and contracts by the termination date.

- 10.5 **Termination Costs.** Concurrently with the exchange of final reports pursuant to Articles 4.2 and 5.2, ABC shall submit to PSRC for payment a statement of all costs incurred prior to the date of termination and for all reasonable termination costs including the cost of returning PSRC property or removal of abandoned property, for which PSRC shall be responsible.

11.0 Disputes

- 11.1 **Governing law.** This Agreement shall be governed by the law of _____.

- 11.2 **Settlement.** Any dispute, controversy, or claim arising under, out of, or in connection with this agreement, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach, or termination, as well as non-contractual claims, which is not disposed of by agreement of the Principal Investigators, shall be submitted jointly to the signatories of this Agreement to reach an amicable settlement. If an amicable settlement cannot be reached within 30 days for any reason, the dispute shall be referred to and finally settled by arbitration in accordance with the UNCITRAL Arbitration Rules then obtaining. The appointing authority shall be the Secretary-General of the Permanent Court of Arbitration, the number of arbitrators shall be three, and the language to be used in the arbitral proceedings shall be English. The place of arbitration shall be determined by mutual agreement, but if agreement cannot be reached the proceedings shall take place in _____.

Either party to this agreement may request any judicial authority to order any interim measures of protection for the preservation of its rights and interests to the extent permitted by law, including, without limitation, injunctions and measures for the conservation of such property and information that form part of the subject matter in dispute. Such requests shall not be deemed incompatible with, or as a waiver of, this agreement to arbitrate. In respect of any requests for interim measures of protection, and without limitation to proceeding in any other forum, the parties hereby consent to the exercise of jurisdiction by the judicial authorities of _____.

In the event a party fails to proceed with arbitration, unsuccessfully challenges the arbitrator's award, fails to comply with the arbitrator's award, or fails to comply with any interim measure of protection issued by any competent authority, the other party shall be entitled to costs of suit, including reasonable attorney's fees, for having to compel arbitration or defend or enforce the award or interim measure.

- 11.3 **Continuation of Work.** Pending the resolution of any dispute or claim pursuant to this Article, the Parties agree that performance of all obligations shall be pursued diligently in accordance with the direction of the ABC signatory.

12.0 Liability

- 12.1 **NO WARRANTIES.** Except as specifically stated in article 9, the parties make no express or implied warranty as to any matter whatsoever, including the conditions of the research or any invention or product, whether tangible or intangible, made, or developed under this agreement, or the ownership, merchantability, or fitness for a particular purpose of the research or any invention or product.
- 12.2 **Indemnification.** PSRC agrees to hold the ABC harmless and to indemnify ABC for all liabilities, demands, damages, expenses and losses arising out of the use by PSRC for any purpose of the Subject Data, Research Materials and/or Subject Inventions produced in whole or part by ABC employees under this Agreement, unless due to the negligence or willful misconduct of ABC, its employees, or agents. PSRC shall be liable for any claims or damages it incurs in connection with this Agreement. ABC will hold PSRC harmless for liabilities, demands, damages, expenses and losses caused by the negligence or willful misconduct of ABC, its employees or agents.
- 12.3 **Force Majeure.** Neither Party shall be liable for any unforeseeable event beyond its reasonable control not caused by the fault or negligence of such Party, which causes such Party to be unable to perform its obligations under this Agreement, and which it has been unable to overcome by the exercise of due diligence. In the event of the occurrence of such a *force majeure* event, the Party unable to perform shall promptly notify the other Party. It shall further use its best efforts to resume performance as quickly as possible and shall suspend performance only for such period of time as is necessary as a result of the *force majeure* event.

13.0 Miscellaneous

- 13.1 **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties concerning the subject matter of this Agreement and supersedes any prior understanding or written

or oral agreement.

- 13.2 **Headings.** Titles and headings of the articles and subarticles of this Agreement are for convenient reference only, do not form a part of this Agreement, and shall in no way affect its interpretation.
- 13.3 **Waivers.** None of the provisions of this Agreement shall be considered waived by any Party unless such waiver is given in writing to the other Party. The failure of a Party to insist upon strict performance of any of the terms and conditions hereof, or failure or delay to exercise any rights provided herein or by law, shall not be deemed a waiver of any rights of any Party.
- 13.4 **Severability.** The illegality or invalidity of any provisions of this Agreement shall not impair, affect, or invalidate the other provisions of this Agreement.
- 13.5 **Amendments.** If either Party desires a modification to this Agreement, the Parties shall, upon reasonable notice of the proposed modification or extension by the Party desiring the change, confer in good faith to determine the desirability of such modification or extension. Such modification shall not be effective until a written amendment is signed by the signatories to this Agreement or by their representatives duly authorized to execute such amendment.
- 13.6 **Assignment.** Neither this Agreement nor any rights or obligations of any Party hereunder shall be assigned or otherwise transferred by either Party without the prior written consent of the other Party.
- 13.7 **Notices.** All notices pertaining to or required by this Agreement shall be in writing and shall be signed by an authorized representative and shall be delivered by hand or sent by certified mail, return receipt requested, with postage prepaid, to the addresses indicated on the signature page for each Party. Any Party may change such address by notice given to the other Party in the manner set forth above.
- 13.8 **Independent Contractors.** The relationship of the Parties to this Agreement is that of independent contractors and not as agents of each other or as joint venturers or partners. Each Party shall maintain sole and exclusive control over its personnel and operations. PSRC employees who will be working at ABC facilities may be asked to sign a Guest Researcher or Special Volunteer Agreement appropriately modified in view of the terms of this Agreement.
- 13.9 **Use of Name or Endorsements.** By entering into this Agreement, ABC does not directly or indirectly endorse any product or service provided, or to be provided, whether directly or indirectly related to either this Agreement or to any patent or other IP license or agreement which implements this Agreement by its successors, assignees, or licensees. PSRC shall not in any way state or imply that this Agreement is an endorsement of any such product or service by the ABC or any of its organizational units or employees. PSRC issued press releases that reference or rely upon the work of ABC under this Agreement shall be made available to ABC at least 7 days prior to publication for review and comment.
- 13.10 **Exceptions to this Agreement.** Any exceptions or modifications to this Agreement that are agreed to by the Parties prior to their execution of this Agreement are set forth in Appendix C.
- 13.11 **Reasonable Consent.** Whenever a Party's consent or permission is required under this Agreement, such consent or permission shall not be unreasonably withheld.
- 14.0 **Duration of Agreement**
- 14.1 **Duration.** It is mutually recognized that the duration of this project cannot be rigidly defined in advance, and that the contemplated time periods for various phases of the RP are only good faith guidelines subject to adjustment by mutual agreement to fit circumstances as the RP proceeds. In no case will the term of this Agreement extend beyond the term indicated in the RP unless it is revised in accordance with Article 13.5.
- 14.2 **Survivability.** The provisions of Articles 4.2, 5-8, 10.3-10.5, 11.1, 12.2-12.4, 13.1, 13.10 and 14.2

shall survive the termination of this Agreement.

Agreement SIGNATURE PAGE

FOR ABC:

Date

Mailing Address for Notices:

FOR PSRC:

Date

Mailing Address for Notices:

[Include additional signature and address blocks as necessary for all Parties to this Agreement.]

APPENDIX A RESEARCH PLAN

TITLE OF Agreement: _____

ABC PRINCIPAL INVESTIGATOR: _____

his/her Laboratory: _____

PSRC PRINCIPAL INVESTIGATOR: _____

TERM OF Agreement: _____ (____) years.

The Research Plan which follows this page should be concise but of sufficient detail to permit reviewers of this Agreement to evaluate the scientific merit of the proposed collaboration. The RP should explain the scientific importance of the collaboration and the research goals of ABC and PSRC. The respective contributions in terms of expertise and/or research materials of ABC and PSRC should be summarized. Initial and subsequent projects contemplated under the RP, and the time periods estimated for their completion, should be described and pertinent methodological considerations summarized. Pertinent literature references may be cited and additional relevant information included. Include additional pages to identify the Principal Investigators of all other Parties to this Agreement.

APPENDIX B

FINANCIAL AND STAFFING CONTRIBUTIONS OF THE PARTIES

APPENDIX C

EXCEPTIONS OR MODIFICATIONS TO THIS AGREEMENT

Example 2 - COLLABORATION AGREEMENT

Scenario - Each party has the right to exploit certain of the Results created in the course of the Project and takes an assignment of the Results which it has the right to exploit.

The Institution has the right to use the Results owned by the Collaborator for Academic and Research Purposes and the Collaborator has the right to use the Results owned by the Institution for Research Purposes.

THIS AGREEMENT dated [.....] 201[] is made **BETWEEN:**

- (1) **[INSERT NAME]**, whose administrative offices are at [insert address] (**the Institution**); and
- (2) **[INSERT NAME] [LIMITED] OR [PLC]**, [a company registered in [England] under number [insert number], whose registered office is at [insert address of registered office] **OR** [insert status of the Collaborator, e.g. NHS Trust] of [insert address of principal office] (**the Collaborator**)

BACKGROUND

The parties to this Agreement wish to collaborate on a research project entitled "[insert name of project]".

[The Technology Strategy Board has announced its intention to make a grant in respect of that project, subject to the terms of the offer letter referred to below, and subject to the parties entering into an agreement governing their collaboration.]

This Agreement governs the parties' collaboration in relation to that project.

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement the following expressions have the meaning set opposite:

Academic Publication:	the publication of an abstract, article or paper in a journal or an electronic repository, or its presentation at a conference or seminar; and in clauses 5 and 6 to Publish and Publication are to be construed as meaning such publication or presentation;
Academic and Research Purposes:	research [(except [insert any exceptions])], teaching[, and] education[and Clinical Patient Care];
this Agreement:	this document, including its Schedules, as amended from time to time in accordance with clause 10.8;
Background:	information, data, techniques, Know-how, inventions, discoveries, software and materials (regardless of the form or medium in which they are disclosed or stored) which are provided by one Party (whether belonging to that Party or to a third party) to the other Party for use in the Project, and whether before or after the date of this Agreement, except any Result;
a Business Day:	Monday to Friday (inclusive) except bank or public holidays in [England];
[Clinical Patient Care:	any of the following: diagnosing, treating and managing the health of a person under the care of a third party medical practitioner who has the right to use the Intellectual Property Rights in any of the Results;]

[the Collaborator's Materials:	the [materials], (whether pre-existing or under development) which the Collaborator contributes to the Project or which are the subject or one of the subjects of the Project;]
the Collaborator's Results:	[the Results to the extent that they are directly related to the composition, characteristics, manufacture, development, enhancement or use of the [Collaborator's Background] [the Collaborator's Materials] [or the Collaborator's Confidential Information] OR [insert a description of the specific kind of Result which the Collaborator is to own];
the Collaborator's Supervisor:	[insert name] or his or her successor appointed under clause 9.2];
the Commencement Date:	[insert the date on which the Project is to start/started];
Confidential Information:	a Party's confidential information is: any Background [or Materials] disclosed by that Party to the other Party for use in the Project [and identified as confidential before or at the time of disclosure]; any of the Results in which that Party owns the Intellectual Property Rights; any other information disclosed by that Party to the other Party for use in the Project or under this Agreement [and identified as confidential before or at the time of disclosure or which, by its nature or from the circumstances of its disclosure, should reasonably be presumed to be confidential];
Control:	the ability to direct the affairs of another person, whether by virtue of the ownership of shares, by contract, or in any other way;
the Data Protection Legislation:	for so long as the GDPR applies to the United Kingdom, the European General Data Protection Regulation 2016 ((EU) 2016/679) (the GDPR) and any national implementing laws, regulations and secondary legislation; once it becomes law, the UK Data Protection Bill 2017-2019 and any regulations made pursuant to it; any other laws and regulations relating to the processing of personal data and privacy which apply to a Party; and, if applicable, the guidance and codes of practice issued by any competent data protection supervisory authority;
the External Funding:	any funding or assistance provided for the Project, or to a Party for use in the Project by any third party, including any state or public body];
the Financial Contribution:	the financial contribution to be provided by the Collaborator set out in Schedule 1;
[the Funding Body:	[insert details of the body which is to provide the External Funding;]]

[the Funding Conditions:	the terms on which the Funding Body provides any External Funding], copies of which are attached to this Agreement as Schedule 3;]
the Good Data Management Practices:	the practices and procedures set out in Schedule 4;
a Group Company:	any undertaking which for the time being Controls, or is Controlled by, the Collaborator or which for the time being is Controlled by a third person which also Controls the Collaborator;
[the Institution's Materials:	the [materials], (whether pre-existing or under development) which the Institution contributes to the Project or which are the subject or one of the subjects of the Project;]
the Institution's Results:	[all the Results which are not the Collaborator's Results] OR [the Results to the extent that they are directly related to the composition, characteristics, manufacture, development, enhancement or use of the [Institution's Background] [the Institution's Materials] [or the Institution's Confidential Information] OR [insert a description of the specific kind of Result which the Institution is to own];
Intellectual Property Rights:	patents, rights to inventions, trade marks, service marks, registered designs, copyrights and related rights, database rights, design rights, rights to use and protect confidential information, in each case whether registered or unregistered, including rights to apply for and be granted and applications for any of the above and any continuations, continuations-in-part, divisional applications, renewals or extensions of, and rights to claim priority from, those rights, and any similar right recognised from time to time in any jurisdiction, together with all rights of action in relation to the infringement of any of the above;
the Key Personnel:	the Principal Investigator, the Collaborator's Supervisor and any other key personnel identified as such in the Project Plan;
Know-how:	unpatented technical information (including information relating to inventions, discoveries, concepts, methodologies, models, research, development and testing procedures, the results of experiments, tests and trials, manufacturing processes, techniques and specifications, quality control data, analyses, reports and submissions) which is not in the public domain;
the Location:	the location(s) at which the Project will be carried out as set out in the Project Plan;
a Party:	the Institution or the Collaborator and any person who becomes a party to this Agreement pursuant to clause 2.14, and together they are the Parties ;

the Principal Investigator:	[insert name] or his or her successor appointed under clause 9.2;
the Project:	the programme of work described in the Project Plan;
the Project Period:	the period described in clause 2.1;
the Project Plan:	the project plan annexed to this Agreement as Schedule 2, as varied from time to time under the terms of this Agreement[and any Funding Conditions];
Research Purposes:	[any purpose except commercialisation, i.e. licensing for value or sale for value] OR [acts done for experimental purposes[or to obtain regulatory approval for any generic or innovative medicinal product (including any clinical trial)];
the Results:	all information, data, techniques, Know-how, results, inventions, discoveries, software and materials (regardless of the form or medium in which they are disclosed or stored) identified or first reduced to practice or writing or developed in the course of the Project;
a Variation Agreement:	a written agreement signed by or on behalf of the Parties and any proposed new party to this Agreement; and
VAT:	value added tax chargeable under the Value Added Tax Act 1994, or any tax replacing that tax.

- 1.2 The headings in this Agreement are for ease of reference only; they do not affect its construction or interpretation.
- 1.3 References in this Agreement to **a person** include a natural person, corporate or unincorporated body (whether or not it has a separate legal personality).
- 1.4 A reference in this Agreement to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and includes all subordinate legislation made from time to time under that statute or statutory provision.
- 1.5 A reference in this Agreement to **writing** or **written** includes email.
- 1.6 A reference in this Agreement to any other agreement or document is a reference to that other agreement or document as varied or novated (in each case, unless in breach of this Agreement) from time to time.
- 1.7 References in this Agreement to clauses and Schedules are to the clauses and Schedules of this Agreement and references to paragraphs are to paragraphs of the relevant Schedule.
- 1.8 Any words in this Agreement following the expression **including**, **include** or **in particular**, or any similar expression, are to be construed as illustrative and do not limit the sense of the words preceding that expression.
- 1.9 The acts and omissions of its Group Companies are deemed to be within the Collaborator's control, the acts and omissions of students are deemed to be within the Institution's control and the acts and omissions of any contractor are deemed to be within the control of the Party engaging that contractor.
- 1.10 Words and phrases defined in the Funding Conditions and not defined in this Agreement have the meaning given to them in the Funding Conditions when used in this Agreement.
- 1.11 If there is any conflict between the terms of this Agreement and the Funding Conditions, this Agreement will prevail in relation to the arrangements as between the Parties, but it will not affect the Parties' respective obligations to the Funding Body under the Funding Conditions.]
2. **THE PROJECT**
- 2.1 The Project [will begin on] **OR** [began on] the Commencement Date and will continue until [the earlier of the withdrawal of the External Funding and] the completion of the Project or any later

- date agreed in writing between the Parties, or until this Agreement is terminated in accordance with clause 8 or 9. If this Agreement is entered into after the Commencement Date, it will apply retrospectively to work carried out in relation to the Project on or after the Commencement Date.
- 2.2 [The Institution] **OR** [Each of the Parties] will carry out the tasks allotted to it in the Project Plan, and will provide the human and other resources, Background, materials, facilities and equipment which are designated as its responsibility in the Project Plan. The Project will be carried out under the direction and supervision of [the Principal Investigator] **OR** [the Collaborator's Supervisor]. The Project will be carried out at the Location.
- 2.3 [The Institution] **OR** [Each of the Parties] will obtain and maintain all regulatory and ethical licences, consents and approvals necessary to allow it to carry out the tasks allotted to it in the Project Plan and will carry out the Project in accordance with all laws and regulations which apply to its activities under or pursuant to this Agreement.
- 2.4 Each of the Parties will ensure that its employees and students (if any) involved in the Project: observe the conditions attaching to any regulatory and ethical licences, consents and approvals; keep complete and accurate records of all research, development and other work carried out in connection with the Project and of all Results, signed by the people who obtained or made each Result, and countersigned by an employee of that Party who is not a member of the research team but who understands the work; and comply with the Good Data Management Practices.
- 2.5 Each of the Parties will ensure that its staff and students (if any) (including in the case of the Collaborator, any staff of any Group Company) involved in the Project, when working on or visiting the other Party's premises, comply with the other Party's health and safety and security policies and procedures and, when accessing or using the other Party's information systems, comply with the other Party's information security policies and procedures.
- 2.6 [[The Institution] **OR** [Each of the Parties] will comply with the provisions in Schedule 7. [At any time during the Project Period, the Collaborator may require changes to Part 3 of Schedule 7, where such changes are necessary to ensure that the Project is undertaken in compliance with the Collaborator's applicable policies and procedures.]]
- 2.7 Although [the Institution] **OR** [each of the Parties] will use reasonable endeavours to carry out the Project in accordance with the Project Plan, [the Institution does not undertake] **OR** [neither Party undertakes] that any research will lead to any particular result, nor does it guarantee a successful outcome to the Project.
- 2.8 [The Institution] **OR** [Each of the Parties] will provide the [Collaborator] **OR** [other Party] with [monthly][annual] **OR** [quarterly] reports summarising the progress of the Project and a copy of all of the Results.
- 2.9 [The Institution] **OR** [Each of the Parties] will notify the [Collaborator] **OR** [other] promptly after identifying any Result which [the Institution] **OR** [it] believes is patentable, and will supply the [Collaborator] **OR** [other] with copies of that Result. [The Institution] **OR** [Each of the Parties] will notify other Results to [the Collaborator] **OR** [other] in the reports provided under clause 2.8.
- 2.10 Each of the Parties warrants to the other that it has full power and authority under its constitution, and has taken all necessary actions and obtained all authorisations, licences, consents and approvals, to allow it to enter into and perform this Agreement [and it is not in breach of the Funding Conditions].
- 2.11 If a Party agrees to transfer any [biological or chemical] material to the other Party in connection with the Project, that transfer will be subject to the terms of a separate Materials Transfer Agreement entered into between the Parties in relation to that material.
- [2.12 If the Funding Conditions have not already been accepted by the Parties, this Agreement is conditional on each of the Parties accepting the Funding Conditions within [30] days after the date of the Funding Conditions or offer to provide External Funding.]
- [2.13 Each of the Parties will:
- 2.13.1 if it is a party to the Funding Conditions, comply with its obligations under the Funding Conditions;
- 2.13.2 carry out the Project in accordance with the Funding Conditions; and
- 2.13.3 notify the other Party in accordance with clause 10.1 immediately if it receives any notice or request from the Funding Body.]

- 2.14 No additional person may become a party to this Agreement without the written agreement of both the Collaborator and the Institution [and the Funding Body] and unless the additional person, the Collaborator and the Institution execute a Variation Agreement.
3. **FINANCIAL CONTRIBUTION [AND EXTERNAL FUNDING]**
- 3.1 [The allocation of the External Funding will be as set out in the Project Plan unless the Parties unanimously agree otherwise in writing.] [Each Party will keep complete and accurate accounts of its expenditure on the Project.] The Collaborator will pay the Financial Contribution to the Institution in accordance with Schedule 1 within [30][60] **OR** [90] days after receipt by the Collaborator of a [monthly] **OR** [quarterly] invoice for the same. Where the Financial Contribution is being claimed against costs and expenses incurred by the Institution, each invoice must be accompanied by a statement certified by an authorised officer of the Institution.
- 3.2 Unless any VAT exemption applies, all amounts payable to the Institution under this Agreement are exclusive of VAT which the Collaborator will pay at the rate from time to time prescribed by law.
- 3.3 If the Collaborator fails to make any payment due to the Institution under this Agreement, without prejudice to any other right or remedy available to the Institution, the Institution may charge interest (both before and after any judgement) on the amount outstanding, on a daily basis [at the rate of [four] per cent per annum above the London 3 month Interbank Offer Rate from time to time in force] **OR** [in accordance with the Late Payments of Commercial Debts (Interest) Act 1998 as amended by the Late Payment of Commercial Debts Regulations 2013]. That interest will be calculated from the date or last date for payment to the actual date of payment, both dates inclusive, and will be compounded quarterly. The Collaborator will pay that interest to the Institution on demand.
- 3.4 [Except as set out in the Project Plan,] each Party will own all equipment purchased or constructed by it, or for it, using the Financial Contribution[or any External Funding].
4. **USE AND EXPLOITATION OF INTELLECTUAL PROPERTY RIGHTS**
- 4.1 This Agreement does not affect the ownership of any Intellectual Property Rights in any Background or in any other technology, design, work, invention, software, data, technique, Know-how, or materials which are not Results. The Intellectual Property Rights in them will remain the property of the Party which contributed them to the Project (or its licensors). No licence to use any Intellectual Property Rights is granted or implied by this Agreement except the rights expressly set out in this Agreement.
- 4.2 Each Party grants the other a royalty-free, fully paid-up, non-exclusive licence to use its Background for the purpose of carrying out the Project. Neither Party may grant any sub-licence to use the other's Background except:
- 4.2.1 that the Collaborator may allow any Group Company and any person working for or on behalf of the Collaborator or any Group Company to use the Institution's Background for the purpose of carrying out the Project; and
- 4.2.2 as permitted under any further licence granted pursuant to clause 4.11.
- 4.3.1 The Institution will own the Intellectual Property Rights in the Institution's Results, and the Collaborator will own the Intellectual Property Rights in the Collaborator's Results; and, subject to the Institution's obligations in clause 4.11.4, each [will take such steps as may be necessary] **OR** [may take such steps as it may decide] from time to time, at its expense, to register and maintain any protection for the Intellectual Property Rights in its Results, including filing and prosecuting patent applications for, in the case of the Institution, the Institution's Results and, in the case of the Collaborator, the Collaborator's Results, and taking any action in respect of any alleged or actual infringement of any Intellectual Property Rights in its Results.
- [4.3.2 Without prejudice to its obligations under clause 4.3.1, if one of the Parties does not think it necessary to register or maintain any protection for any of the Intellectual Property Rights in its Results or to take any action against any infringer of any Intellectual Property Rights in its Results, it will notify the other Party accordingly and in good time before abandoning any application or before failing to meet any deadline and, without prejudice to any other right that a Party may have against the other, the Party which created those Intellectual Property Rights may take such steps as it sees fit to register and maintain any protection for those Intellectual Property Rights, including filing and prosecuting patent applications for any Result, and taking any action in respect of any alleged or actual infringement of those Intellectual Property Rights.]
- 4.4 Each Party will ensure that its employees and students (if any) (and the Collaborator will ensure that the employees of any Group Company) involved in the creation of the Results of the other Party gives the other Party such assistance (except financial assistance) as the other Party may

reasonably request in connection with the registration and protection of the Intellectual Property Rights in any of the other Party's Results, including filing and prosecuting patent applications for any of the other Party's Results, and taking any action in respect of any alleged or actual infringement of any Intellectual Property Rights in any of the other Party's Results.

- 4.5 Where any third party such as a student or contractor is or has been involved in the Project, the Party engaging that third party will ensure that that third party has assigned to it (including making a prospective assignment where appropriate) all rights which that third party may have in the Results in order to be able to give effect to the provisions of this clause 4.
- 4.6 To the extent that any Intellectual Property Rights in the Institution's Results are capable of prospective assignment, the Collaborator now assigns those Intellectual Property Rights in the Institution's Results which the Collaborator owns to the Institution; and to the extent that any Intellectual Property Rights in the Institution's Results cannot be assigned prospectively, the Collaborator will assign the Intellectual Property Rights in the Institution's Results which the Collaborator owns to the Institution as and when those Intellectual Property Rights are created, at the request of the Institution. To the extent that any Intellectual Property Rights in the Collaborator's Results are capable of prospective assignment, the Institution now assigns those Intellectual Property Rights in the Collaborator's Results which the Institution owns to the Collaborator; and to the extent any Intellectual Property Rights in the Collaborator's Results cannot be assigned prospectively, the Institution will assign those Intellectual Property Rights in the Collaborator's Results which the Institution owns to the Collaborator as and when those Intellectual Property Rights are created, at the request of the Collaborator.
- 4.7 [The Collaborator will provide the Institution with such information as the Institution may reasonably request from time to time to demonstrate that the Collaborator is exploiting or is taking reasonable steps towards exploiting the Collaborator's Results. If the Collaborator does not demonstrate that it is exploiting any of the Collaborator's Results or is taking reasonable steps towards exploiting them, the Collaborator will, if requested to do so by the Institution, reassign the Intellectual Property Rights in those Results to the Institution. The Collaborator will notify the Institution if the Collaborator decides not to proceed with the exploitation of any of the Collaborator's Results and will, if requested to do so by the Institution, reassign the Intellectual Property Rights in those Results to the Institution.]
- 4.8 The Institution and the Collaborator each grants the other a royalty free, non-exclusive licence to use, respectively, the Institution's Results and the Collaborator's Results for the purpose of carrying out the Project [and for Clinical Patient Care]. Neither Party may grant any sub-licence to use the other's Results except that the Collaborator may allow any Group Company and any person working for or on behalf of the Collaborator or any Group Company to use the Institution's Results for the purpose of carrying out the Project.
- 4.9 Despite the provisions of clause 4.6, the Institution and each employee and student of the Institution will have the irrevocable, royalty-free right to use any of the Collaborator's Results [(except the following types of Result: [insert details]) for Academic and Research Purposes [including] **OR** [excluding] research projects which are carried out by the Institution with any third party [in the commercial sector] [and Clinical Patient Care].
- 4.10 The Institution grants the Collaborator a royalty-free, non-exclusive, worldwide, indefinite licence to use the Institution's Results for Research Purposes (with the right to sub-licence to any Group Company and to any person working for, or on behalf of, the Collaborator or any Group Company, but only for the purpose of carrying out that work for Research Purposes, and otherwise without the right to sub-licence).
- 4.11.1 [The Institution and the Collaborator will, if the Collaborator gives the Institution written notice (**an Option Notice**) at any time during the Project Period plus a further [6] **OR** [12] months (together called **the Option Period**), negotiate the terms on which the Institution will grant the Collaborator [an exclusive] **OR** [a non-exclusive] licence (with the right to sub-licence) to use the Intellectual Property Rights in certain of the Institution's Results (**the Licence**).[The Licence may be granted by the Institution's subsidiary company, [XYZ] Limited.]
- 4.11.2 Following the Institution's receipt of an Option Notice, the Parties will negotiate in good faith, for a period of up to [90 days] **OR** [6 months] after the date of receipt of the Option Notice (**the Negotiation Period**) an agreement for the grant of the Licence. [The Licence will include terms based on the provisions of Schedule 8.] If the Parties are unable to agree the terms of the Licence within the Negotiation Period, the Collaborator's rights under clauses 4.11.1, 4.11.3 and 4.11.4 will lapse.

- 4.11.3 The Institution will not, during the Option Period or the Negotiation Period, negotiate with any other person with a view to granting a licence to use its Results or assigning the Intellectual Property Rights in its Results nor grant a licence to use the Institution's Results or assign the Intellectual Property Rights in the Institution's Results to any third party. During the [3][6] **OR** [12] months following the end of the Negotiation Period, the Institution will not grant a licence of any of the Institution's Results to any third party on any terms more favourable than those offered to the Collaborator pursuant to this clause 4.11.
- 4.11.4 Until the end of the Option Period and, if the Collaborator gives the Option Notice, until the earlier of the end of the Negotiation Period and the grant of the Licence, the Institution will consult with the Collaborator about making patent applications in respect of the Institution's Results. If, before the end of that period, the Collaborator wishes the Institution to apply for any patent in relation to any of the Institution's Results, the Collaborator will reimburse to the Institution the reasonable costs and expenses incurred by the Institution since the date of this Agreement in relation to the filing and prosecution of that patent application, including patent agents' fees, as a result of any request by the Collaborator for the Institution to apply for, or to maintain, any patent. If the Institution later licenses or assigns to a third party any of the Institution's Results for which the Collaborator has paid any such costs and expenses, the Institution will re-imburse those costs and expenses to the Collaborator.
- 4.12 [If the Collaborator becomes insolvent; or if an order is made or a resolution is passed for its winding up (except voluntarily for the purpose of solvent amalgamation or reconstruction); or if an administrator, administrative receiver or receiver is appointed over the whole or any part of its assets; or if it makes any arrangement with its creditors, it will reassign to the Institution the Intellectual Property Rights assigned to the Collaborator under this Agreement.] **OR** [The assignment to the Collaborator in this Agreement will be limited in duration until the day before the earliest of the following occurs: the Collaborator becoming insolvent; an order being made or a resolution being passed for its winding up (except voluntarily for the purpose of solvent amalgamation or reconstruction); an administrator, administrative receiver or receiver being appointed over the whole or any part of its assets; or it making any arrangement with its creditors.]
5. **ACADEMIC PUBLICATION AND IMPACT**
- 5.1 The Project is undertaken by the Institution in pursuance of a primary charitable purpose of the Institution; that is the advancement of education through teaching and research. Therefore, any employee or student of the Institution (in each case whether or not involved in the Project) may, provided the Institution has not received a Confidentiality Notice under clause 5.2:
- 5.1.1 discuss work undertaken as part of the Project in Institution seminars, tutorials and lectures; and
- 5.1.2 Publish any Background of the Collaborator or any of the Results.
- 5.2 The Institution will submit to the Collaborator, in writing, details of any of the Collaborator's Results and any of the Collaborator's Background which any employee or student of the Institution intends to Publish, at least [30][60] **OR** [90] days before the date of the proposed submission for Publication. The Collaborator may, by giving written notice to the Institution (**a Confidentiality Notice**):
- 5.2.1 require the Institution to delay the proposed Publication for a maximum of [insert period] month(s) after receipt of the Confidentiality Notice if, in the Collaborator's reasonable opinion, that delay is necessary in order to seek patent or other protection for any of the Intellectual Property Rights in any of the Collaborator's Results or in any of the Collaborator's Background which are to be Published; or
- 5.2.2 prevent the Publication of any of the Collaborator's Results or the Collaborator's Background which is Confidential Information and which, in each case, cannot be protected by patent or other Intellectual Property Right registration or which can be protected in that way but which the Collaborator has chosen not to protect in that way.
- The Collaborator must give that Confidentiality Notice within [15] **OR** [30] days after the Collaborator receives details of the proposed Publication. If the Institution does not receive a Confidentiality Notice within that period, the proposed Publication may proceed, [except in relation to the Collaborator's Background which is the Collaborator's Confidential Information and which may not be Published unless the Collaborator has given its written consent to that Publication].
- 5.3 The Collaborator acknowledges that the Institution is required by its funders to demonstrate the Institution's impact on society and agrees to provide to the Institution any information which the Institution reasonably requests in order to allow it to demonstrate that impact provided that, under or pursuant to this clause: the Institution will not be entitled to receive or disclose any of the

Collaborator's Confidential Information or any information which identifies or allows any living individual to be identified and the information requested and disclosed under or pursuant to this clause will be general in nature.

6. CONFIDENTIALITY

- 6.1 [Without prejudice to any obligations of confidentiality in the Funding Conditions,] subject to clause 5, neither Party will [, either during the Project Period or for [3][5][7] **OR** [10] years after the end of the Project Period,] disclose to any third party, nor use for any purpose except as expressly permitted by this Agreement, any of the other Party's Confidential Information.
- 6.2 Neither Party (**the Recipient**) will be in breach of any obligation to keep any of the other Party's Confidential Information confidential or not to disclose it to any third party to the extent that:
 - 6.2.1 if it is received from the other Party, it is known to the Recipient or any Group Company (demonstrable by written records) before its receipt from the other Party, and it is not already subject to any obligation of confidentiality to the other Party;
 - 6.2.2 it is or becomes publicly known without any breach of this Agreement or any other undertaking to keep it confidential;
 - 6.2.3 it has been obtained by the Recipient or any Group Company from a third party in circumstances where the Recipient has no reason to believe that there has been a breach of an obligation of confidentiality owed to the other Party;
 - 6.2.4 it has been independently developed by the Recipient or any Group Company without reference to the other Party's Confidential Information;
 - 6.2.5 it is disclosed pursuant to the requirement of any law or regulation (provided, in the case of a disclosure under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004, none of the exceptions to that Act or those Regulations (as the case may be) applies to the information disclosed) or pursuant to the order of any Court of competent jurisdiction or the requirement of any competent regulatory authority, and that, in each case where the law permits, the Party required to make that disclosure has informed the other Party, within a reasonable time after being required to make the disclosure, of the requirement and the information required to be disclosed; or
 - 6.2.6 it is approved for release in writing by an authorised representative of the other Party.
- 6.3 The Institution will not be in breach of any obligation to keep any of the Collaborator's Background, Results or other information, confidential or not to disclose it to any third party, by:
 - 6.3.1 [except in relation to the Collaborator's Background which is the Collaborator's Confidential Information,] Publishing it if the Institution has followed the procedure in clause 5.2 and has received no Confidentiality Notice within the period stated in that clause; or
 - 6.3.2 making them available to any student of the Institution who needs to know the same in order to exercise the rights granted in this Agreement, provided they are not used except as expressly permitted by this Agreement and the student undertakes to keep that Background, those Results and that information confidential.
- 6.4 The Collaborator will not be in breach of any obligation to keep any of the Institution's Background, Results or other information, confidential or not to disclose them to any third party, by making them available to any Group Company, or any person working for or on behalf of the Collaborator or any Group Company, who needs to know the same in order to exercise the rights granted in this Agreement, provided they are not used except as expressly permitted by this Agreement and recipient undertakes to keep them confidential.
- 6.5 [Neither Party will be in breach of any obligation to keep any of the other Party's Confidential Information, confidential or not to disclose it to any third party by disclosing it to the Funding Body in accordance with the Funding Conditions.]
- 6.6 If the Institution receives a request under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004 to disclose any information which, under this Agreement, is the Collaborator's Confidential Information, it will notify the Collaborator and will consult with the Collaborator promptly and, before making any disclosure under that Act or those Regulations, the Institution, where appropriate, will take legal advice regarding the availability and applicability of any exemptions and any other options available, and will notify the Collaborator of the intended response to that request. The Collaborator will respond to the Institution within 10 days after receiving the Institution's notice if that notice requests the Collaborator to provide information to assist the

Institution to determine whether or not an exemption to the Freedom of Information Act 2000 or the Environmental Information Regulations 2004 applies to the information requested under that Act or those Regulations. The Collaborator may make representations in relation to that request and the proposed response and may request amendments to the proposed response. [At the Collaborator's request, except in order to comply with any court order or any decision of the Information Commissioner or the Information Tribunal, the Institution will not disclose any information which, under this Agreement, is the Collaborator's Confidential Information in response to a request under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004 provided that:

- 6.6.1 the Collaborator makes that request in writing within 10 days after receiving the Institution's notice given under this clause 6.6; and
- 6.6.2 the Collaborator indemnifies the Institution and its employees and students (**the Indemnified Parties**), and keeps them fully and effectively indemnified, against each and every claim made against any of the Indemnified Parties as a result of the Institution not making any disclosure of the Collaborator's Confidential information in response to a request under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.]

- 6.7 Neither Party will use the other's name or the name of any of the Key Personnel provided by the other Party or the other Party's logo in any press release or product advertising, or for any other promotional purpose, without first obtaining the other Party's written consent.
- 6.8 [Notwithstanding any other provision of this Agreement, the Institution may identify the sums received from the Collaborator in the Institution's Annual Report and similar publications][, and the Collaborator may, in order to comply with any transparency reporting obligations to which it is subject, publish details of any transfers of value].]

7. LIMITATION OF LIABILITY

- 7.1 Each of the Parties warrants to the other that, to the best of its knowledge and belief (having made reasonable enquiry of those of its employees involved in the Project or likely to have relevant knowledge[, and in the case of the Institution any student involved in the Project], but not having made any search of any public register) any advice or information given by it or any of its employees or students who work on the Project, or the content or use of any Results, Background or materials, works or information provided in connection with the Project, will not constitute or result in any infringement of third party rights.

OR

- 7.1 Neither of the Parties [except under clause 7.10] makes any representation or gives any warranty to the other that any advice or information given by it or any of its employees or students who work or have worked on the Project, or the content or use of any Results, Background or materials, works or information provided in connection with the Project, will not constitute or result in any infringement of third party rights.
- 7.2 Except under the warrant[y][ies] in clause[s] [7.1 and] 7.10 and the indemnities in clauses [6.6,]7.3 and 7.4, and subject to clause 7.8, neither Party accepts any liability or responsibility for any use which may be made by the other Party of any of the Results, nor for any reliance which may be placed by that other Party on any of the Results, nor for advice or information given in connection with any of the Results.
- 7.3 Subject to clause 7.7.1, the Collaborator [and the Institution] (**the Indemnifying Party**) will indemnify the other Party, and its employees and students (together **the Indemnified Parties**), and keep them fully and effectively indemnified, against each and every claim made against any of the Indemnified Parties as a result of the Indemnifying Party's use of any of the following: the Results, and any materials, works or information received from the Indemnified Parties pursuant to this Agreement, provided that the Indemnified Party must:
 - 7.3.1 promptly notify the Indemnifying Party of details of the claim;
 - 7.3.2 not make any admission in relation to the claim;
 - 7.3.3 take reasonable steps to mitigate its losses and expenses arising from the claim;
 - 7.3.4 allow the Indemnifying Party to have the conduct of the defence and settlement of the claim; and

7.3.5 give the Indemnifying Party all reasonable assistance (at the Indemnifying Party's expense) in dealing with the claim.

The indemnity in this clause 7.3 will not apply to the extent that the claim arises as a result of the Indemnified Party's negligence, its breach of clause 6, the deliberate breach of this Agreement or its knowing infringement of any third party's Intellectual Property Rights or its knowing breach of any third party's rights of confidence.

7.4 Subject to clause 7.7.3, each Party will indemnify the other and keep it fully and effectively indemnified on demand against all costs, claims, demands, expenses and liabilities of any nature arising out of or in connection with any breach by it of Schedule 6.

7.5 Subject to clauses 7.7 and 7.8, and except under the indemnities in clauses [6.6,]7.3 and 7.4, the liability of either Party to the other for any breach of this Agreement, any negligence or arising in any other way out of the subject matter of this Agreement, the Project and the Results, will not extend to:

7.5.1 any indirect damages or losses;

7.5.2 any loss of profits, loss of revenue, loss of data, loss of contracts or opportunity, whether direct or indirect,

even, in each case, if the Party bringing the claim has advised the other of the possibility of those losses, or if they were within the other Party's contemplation.

7.6 Subject to clauses 7.7 and 7.8, the aggregate liability of each Party to the other for all and any breaches of this Agreement, any negligence or arising in any other way out of the subject matter of this Agreement, the Project and the Results, will not exceed in total [the Financial Contribution][the portion of the External Funding allocated to that Party] **OR** [£insert figure].

7.7 Subject in each case to clause 7.8, the aggregate liability of each Party to the other:

7.7.1 under the indemnity in clause 7.3 will not exceed in total £[insert figure];

7.7.2 under the indemnity in clause 7.4 will not exceed in total £[insert figure]; and

[7.7.3 for all and any breaches of the Funding Conditions will not exceed in total [the amount of the External Funding]].

7.8 Nothing in this Agreement limits or excludes either Party's liability for:

7.8.1 death or personal injury caused by negligence;

7.8.2 any fraud or for any sort of liability which, by law, cannot be limited or excluded; or

7.8.3 any loss or damage caused by a deliberate breach of this Agreement.

7.9 The express undertakings and warranties given by the Parties in this Agreement are in lieu of all other warranties, conditions, terms, undertakings and obligations, whether express or implied by statute, common law, custom, trade usage, course of dealing or in any other way. All of these are excluded to the fullest extent permitted by law.

7.10 [Any assignment of Intellectual Property Rights made under or pursuant to this Agreement is made or will be made with full title guarantee.] **OR** [Each of the Parties warrants to each the other Party that, in relation to any assignment of Intellectual Property Rights made by it under or pursuant to this Agreement:

7.10.1 the Party making that assignment has the right to dispose of those Intellectual Property Rights and that it will, at its own cost, do all that it reasonably can to give the title which it purports to give; and

7.10.1 that the Intellectual Property Rights assigned are free from all charges and encumbrances and rights of any third party (except those of which the Party making that assignment is unaware or of which it could not reasonably be aware).]

8. **FORCE MAJEURE**

If the performance by a Party of any of its obligations under this Agreement (except a payment obligation) is delayed or prevented by circumstances beyond its reasonable control, that Party will not be in breach of this Agreement because of that delay in performance. However, if the delay in performance lasts for more than [3] **OR** [6] months, the other Party may terminate this Agreement with immediate effect by giving written notice to the Party whose performance is delayed or prevented.

9. **TERMINATION**

9.1 Either Party may terminate this Agreement with immediate effect by giving notice to the other Party if the other Party:

9.1.1 is in breach of any provision of this Agreement and (if it is capable of remedy) the breach has not been remedied within [30][60] **OR** [90] days after receipt of written notice specifying the breach and requiring its remedy;

- 9.1.2 becomes insolvent, or if an order is made or a resolution is passed for its winding up (except voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator, administrative receiver or receiver is appointed over the whole or any part of the other Party's assets, or if the other Party makes any arrangement with its creditors; or
- 9.1.3 commits any breach of Schedule 5 [or Schedule 7].
- 9.2 Each of the Parties will notify the other promptly if at any time any of the Key Personnel appointed by that Party is unable or unwilling to continue to be involved in the Project. Within [3] **OR** [6] months after the date of that notice, the Party who originally appointed that member of the Key Personnel will nominate a successor. The other Party will not unreasonably refuse to accept the nominated successor, but if the successor is not acceptable to the other Party on reasonable grounds, or if the appointor cannot find a successor, either Party may terminate this Agreement by giving the other not less than [3] months' notice.
- 9.3 [The Collaborator may terminate this Agreement at any time, provided the Collaborator complies with clauses 9.6 and 9.7, by giving not less than [3] months' notice to the Institution.]
- 9.4 Clauses 1, 3, 4 (subject to clause 9.5), 5, 6, 7, 8, 9.4, 9.5, 9.6, 9.7, 9.8 and 10 will survive the completion of the Project or the termination of this Agreement for any reason and will continue in full force and effect indefinitely or, in the case of clause 6, in accordance with clause 6.1.
- 9.5 On the termination of this Agreement under clause 8, 9.1, 9.2 or 9.3 all rights and licences granted by one Party to the other Party under or pursuant to this Agreement will automatically terminate, except:
- 9.5.1 any rights to use any Results or Background for Academic and Research Purposes;
- 9.5.2 any right to Publish in accordance with clause 5; and
- 9.5.3 any rights to use any Results or Background for Research Purposes.
- 9.6 On the termination of this Agreement, the Collaborator will pay the Institution for all work done before termination [and not covered by the External Funding]. If termination occurs pursuant to clause 9.2 [or 9.3], the Collaborator will re-imburse the Institution for all costs and expenses which the Institution has incurred or agreed to incur and which the Institution is unable to cancel.
- 9.7 Following the termination of this Agreement [by the Institution] under clause 9.1 or 9.2 [or by the Collaborator under clause 9.3], if the Financial Contribution is intended to cover the costs of employing any Institution staff involved in the Project, the Collaborator will continue to reimburse, in accordance with clause 3, the actual direct employment costs of staff who were appointed by the Institution to work on the Project before the service of the notice, provided that the Institution takes all reasonable steps to minimise those costs. Reimbursement will continue until the effective date of termination of each staff contract or the date on which the Project was to have ended (whichever is the earlier). Those direct employment costs will include a proportion of any redundancy costs which have been incurred by the Institution as a direct result of the termination of this Agreement, that proportion to be calculated by dividing the individual's involvement in the Project by the duration of his period of employment by the Institution.
- 9.8 If the Collaborator has paid any of the Financial Contribution in advance and the whole of that contribution has not, by the end of the Project Period or the termination of this Agreement, been used by the Institution for the purposes for which that Financial Contribution was provided, the Institution will return to the Collaborator the unused portion of that contribution.
10. **GENERAL**
- 10.1 **Notices:** Any notice to be given under this Agreement must be in writing, must be delivered to the other Party by any of the methods set out in the left hand column below, and will be deemed to be received on the corresponding day set out in the right hand column:
- | Method of service | Deemed day of receipt |
|------------------------------|---------------------------------------|
| By hand or courier | the day of delivery |
| By pre-paid first class post | the second Business Day after posting |
| By recorded delivery post | the next Business Day after posting |

The Parties' respective representatives for the receipt of notices are, until changed by notice given in accordance with this clause, as follows:

For the Institution:

Name:
Address:

For the Collaborator:

Name:
Address:

- 10.2 **Assignment:** Neither Party may assign or transfer this Agreement as a whole, or any of its rights or obligations under it, without first obtaining the written consent of the other Party[, except that the Collaborator may assign this Agreement as a whole to a Group Company without the consent of the Institution]. Neither Party will unreasonably withhold or delay its consent.
- 10.3 **Illegal/unenforceable provisions:** If the whole or any part of any provision of this Agreement is void or unenforceable in any jurisdiction, the other provisions of this Agreement, and the rest of the void or unenforceable provision, will continue in force in that jurisdiction, and the validity and enforceability of that provision in any other jurisdiction will not be affected.
- 10.4 **Waiver of rights:** If a Party fails to enforce, or delays in enforcing, an obligation of the other Party, or fails to exercise, or delays in exercising, a right under this Agreement, that failure or delay will not affect its right to enforce that obligation or constitute a waiver of that right. Any waiver of any provision of this Agreement will not, unless expressly stated to the contrary, constitute a waiver of that provision on a future occasion.
- 10.5 **No agency:** Nothing in this Agreement creates, implies or evidences any partnership or joint venture between the Parties, or the relationship between them of principal and agent. Neither Party has any authority to make any representation or commitment, or to incur any liability, on behalf of the other.
- 10.6 **Entire agreement:** This Agreement [and the Funding Conditions] constitute[s] the entire agreement between the Parties relating to its subject matter. Each Party acknowledges that it has not entered into this Agreement on the basis of any warranty, representation, statement, agreement or undertaking except those expressly set out in this Agreement. Each Party waives any claim for breach of this Agreement, or any right to rescind this Agreement in respect of, any representation which is not an express provision of this Agreement. However, this clause does not exclude any liability which a Party may have to the other (or any right which a Party may have to rescind this Agreement) in respect of any fraudulent misrepresentation or fraudulent concealment before the signing of this Agreement.
- 10.7 **Formalities:** Each Party will take any action and execute any document reasonably required by the other Party to give effect to any of its rights under this Agreement, or to enable their registration in any relevant territory provided the Party making the request pays the other Party's reasonable expenses.
- 10.8 **Amendments:** No variation or amendment of this Agreement will be effective unless it is made in writing and signed by each Party's representative.
- 10.9 **Third parties:** No one except a Party has any right to prevent the amendment of this Agreement or its termination, and no one except a Party may enforce any benefit conferred by this Agreement, unless this Agreement expressly provides otherwise, except that each Indemnified Party will have the benefit of the relevant indemnity and Key Personnel will have the benefit of clause 6.7, in each case under the Contracts (Rights of Third Parties) Act 1999.
- 10.10 **Governing law:** This Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation are governed by, and this Agreement is to be construed in accordance with, English law. The English Courts will have exclusive jurisdiction to deal with any dispute (including any non-contractual claim or dispute) which has arisen or may arise out of or in connection with this Agreement, except that a Party may bring proceedings to protect its Intellectual Property Rights or Confidential Information in any jurisdiction.
- 10.11 **Escalation:** If the Parties are unable to reach agreement on any issue concerning this Agreement or the Project within 14 days after one Party has notified the other of that issue, they will refer the matter to [insert officer] in the case of the Institution, and to [insert officer] in the case of the Collaborator in an attempt to resolve the issue within [14] days after the referral. Either Party may bring proceedings in accordance with clause 10.10 if the matter has not been resolved within that [14] day period, and a Party may bring proceedings to protect its Intellectual Property Rights or

Confidential Information in any jurisdiction, whether or not any issue has been escalated under this clause.

- 10.12 **Anti-Bribery:** Each Party will comply with the provisions set out in Schedule 5.
- 10.13 **Data Protection:** Each Party will comply with the provisions set out in Schedule 6.
- 10.14 **Counterparts:** This Agreement may be executed in any number of counterparts. Once it has been executed and each Party has executed at least one counterpart, each counterpart will constitute a duplicate original copy of this Agreement. All the counterparts together will constitute a single agreement. The transmission of an executed counterpart of this Agreement (but not just a signature page) by e-mail (such as in PDF or JPEG) will take effect as the delivery of an executed original counterpart of this Agreement. [If that method of delivery is used, each Party will provide the other Party with the original of the executed counterpart as soon as possible.]
- [10.15 **Export Control:** each Party will comply with applicable UK export control legislation and regulations. Each Party will comply with the specific conditions of any US export control legislation of which the other Party has informed it in writing and which are applicable to it.]

SIGNED on behalf of the Institution:

SIGNED on behalf of the Collaborator:

Name:

Name:

Position:
.....

Position:

Signature:
.....

Signature:

[Read and understood by the Principal
Investigator

Read and understood by the
Collaborator's Supervisor

.....
Signature

.....
Signature

.....
Date

.....
Date]

SCHEDULE 1

The Financial Contribution

SCHEDULE 2

The Project Plan

Project Title

Project Objectives

Location

Background/Materials to be contributed by each Party

Tasks to be carried out by each Party

Timetable

Human resources, facilities and equipment each Party is to provide

Results Anticipated

Key Personnel of each Party

Allocation of External Funding

[Equipment ownership]

Other Terms

[SCHEDULE 3

The Funding Conditions]

SCHEDULE 4

Good Data Management Practices

1. Research data must be generated using sound scientific techniques and processes;
2. Research data must be accurately recorded in accordance with good scientific practices by the people conducting the research;
3. Research data must be analysed appropriately, without bias and in accordance with good scientific practices;
4. Research data and the Results must be stored securely and be easily retrievable;
5. Data trails must be kept to allow people to demonstrate easily and to reconstruct key decisions made during the conduct of the research, presentations made about the research and conclusions reached in respect of the research; and
6. Each Party must have the right, on not less than [30] days' written notice, to visit the other Party to verify that the other Party is complying with the above practices and procedures.

SCHEDULE 5

Anti-Bribery

1. Each Party will, in connection with the Project:
 - 1.1 comply with all laws, statutes and regulations which apply to it or its activities and which relate to anti-bribery or anti-corruption (or both), including the Bribery Act 2010;
 - 1.2 not do anything which would constitute an offence under section 1, 2 or 6 of the Bribery Act 2010 if it had been carried out in the United Kingdom;
 - 1.3 have policies and procedures (including adequate procedures as determined in accordance with section 7(2) of the Bribery Act 2010 and any guidance issued under section 9 of that Act) to ensure compliance with paragraphs 1.1 and 1.2 above;
 - 1.4 follow and enforce the policies and procedures referred to in paragraph 1.3 above;
 - 1.5 promptly report to the other Party any request or demand for any undue financial or other advantage of any kind received by it;
 - 1.6 provide such evidence of compliance with this Schedule as the other Party may reasonably request from time to time;

- 1.7 keep accurate and up to date records and books of account showing all payments made by it in connection with this Agreement and the Project and the steps taken by it to comply with this Schedule. (Those records and books of account must be sufficient to allow the other Party to verify compliance with this Schedule.); and
- 1.8 on request during normal working hours, allow the other Party access to and to copy those records and accounts and to meet with its personnel to verify compliance with this Schedule.
2. Each Party will ensure that any person associated with it (as determined in accordance with section 8 of the Bribery Act 2010 and paragraph 4 below) who is involved in the Project, is involved in the Project only on the basis of a written contract which imposes on that person terms equivalent to those imposed on that Party in this Schedule.
3. Each Party will ensure that each person referred to in paragraph 2 above complies with terms equivalent to the terms imposed by this Schedule, and will be liable to the other Party for any breach by that person of any of those terms.
4. A person associated with a Party includes its employees, its students, its group companies and subcontractors and their respective employees.

SCHEDULE 6

Data Protection

Where a Party Processes any Personal Data for the purpose of the Project on behalf of the other Party, the provisions of this Schedule will apply to them.

1. The [Collaborator]OR[Institution] will determine the purpose(s) of the Processing of the Personal Data Processed for the purposes of the Project (the Project Personal Data) and will be **the Controller** and the [Collaborator]OR[Institution] will be **the Processor**.
2. The Appendix to this Schedule lists the subject matter of the Processing, the duration of the Processing, the nature and purpose of the Processing, the types of Personal Data Processed and the categories of Data Subjects to whom the Project Personal Data relate.
3. Each Party's obligations under this Schedule are in addition to, and do not relieve, remove or replace, its obligations under the Data Protection Legislation.
4. Each Party will, where required by the Data Protection Legislation, appoint a Data Protection Officer, provide details of that person to the other Party and notify the other Party as soon as reasonably possible of any changes in that person or his or her details.
5. The Processor will:
 - 5.1 *PROCESS THE PROJECT PERSONAL DATA ONLY IN ACCORDANCE WITH THE CONTROLLER'S WRITTEN INSTRUCTIONS FROM TIME TO TIME, INCLUDING WITH REGARD TO TRANSFERS OF THE PROJECT PERSONAL DATA TO A COUNTRY OUTSIDE THE EUROPEAN UNION (WHICH, FOR THESE PURPOSES, INCLUDES THE UNITED KINGDOM, EVEN IF IT IS NO LONGER A MEMBER OF THE EUROPEAN UNION) OR TO AN INTERNATIONAL ORGANISATION, UNLESS REQUIRED TO DO SO BY ANY LAW TO WHICH THE PROCESSOR IS SUBJECT; IN SUCH A CASE, THE PROCESSOR WILL INFORM THE CONTROLLER OF THAT LEGAL REQUIREMENT BEFORE PROCESSING THE RELEVANT PROJECT PERSONAL DATA, UNLESS THAT LAW PROHIBITS SUCH INFORMATION ON IMPORTANT GROUNDS OF PUBLIC INTEREST;*
 - 5.2 *AS SOON AS REASONABLY POSSIBLE INFORM THE CONTROLLER IF THE PROCESSOR THINKS THAT ANY INSTRUCTION TO HAND INFORMATION TO THE CONTROLLER IS IN BREACH OF THE DATA PROTECTION LEGISLATION;*
 - 5.3 *PROCESS THE PROJECT PERSONAL DATA ONLY FOR THE PURPOSE OF CARRYING OUT THE PROJECT;*
 - 5.4 *ENSURE THAT ALL PERSONS AUTHORISED BY IT TO PROCESS THE PROJECT PERSONAL DATA, BEFORE THEY HAVE ACCESS TO THE PROJECT PERSONAL DATA, HAVE RECEIVED APPROPRIATE TRAINING IN RELATION TO DATA PROTECTION AND THE PROTECTION AND USE OF PERSONAL DATA AND HAVE COMMITTED THEMSELVES TO KEEP THE PROJECT PERSONAL DATA CONFIDENTIAL (AT LEAST TO THE SAME STANDARD OF CONFIDENTIALITY AS IS REQUIRED BY THIS AGREEMENT) OR ARE UNDER AN APPROPRIATE STATUTORY OBLIGATION OF CONFIDENTIALITY;*
 - 5.5 *MAINTAIN A WRITTEN RECORD OF ALL CATEGORIES OF PROCESSING ACTIVITIES CARRIED OUT ON BEHALF OF THE CONTROLLER, CONTAINING:*

- 5.5.1 the name and contact details of the Processor and its Subprocessors and of the Controller, and, where applicable, of the Processor's and its Subprocessors' Data Protection Officers and any Representative;
 - 5.5.2 the categories of Processing of Personal Data carried out on behalf of the Controller;
 - 5.5.3 where applicable, transfers of any of the Project Personal Data outside the European Union (which, for these purposes, includes the United Kingdom, even if it is no longer a member of the European Union) or to an International Organisation, including the identification of that country or International Organisation and documentation of suitable safeguards adopted in connection with that transfer; and
 - 5.5.4 a general description of the technical and organisational security measures taken in respect of the Project Personal Data.
 - 5.6 provide the Controller, on request, with a copy of the records referred to in paragraph 5.5;
 - 5.7 make the records referred to in paragraph 5.5 available to any competent Supervisory Authority on request and will, as soon as reasonably possible, notify the Controller that it has done so; and
 - 5.8 all other respects, comply with all the duties and obligations imposed from time to time on Processors by the Data Protection Legislation.
6. WITHOUT PREJUDICE TO PARAGRAPH 5, THE PROCESSOR WILL TAKE APPROPRIATE TECHNICAL AND ORGANISATIONAL MEASURES:
- 6.1 IN SUCH A WAY THAT THE PROCESSING OF THE PROJECT PERSONAL DATA WILL MEET THE REQUIREMENTS OF THE DATA PROTECTION LEGISLATION AND WILL ENSURE THE PROTECTION OF THE RIGHTS OF DATA SUBJECTS AND ALLOW THE CONTROLLER TO FULFIL ITS OBLIGATIONS TO DATA SUBJECTS, INCLUDING THE CONTROLLER'S OBLIGATIONS TO RESPOND TO REQUESTS BY DATA SUBJECTS TO EXERCISE THEIR RIGHTS OF ACCESS, RECTIFICATION OR ERASURE, TO RESTRICT OR OBJECT TO THE PROCESSING OF THEIR PERSONAL DATA, OR TO DATA PORTABILITY;
 - 6.2 TO ENSURE A LEVEL OF SECURITY APPROPRIATE TO THE RISK, INCLUDING AMONGST OTHER THINGS, AS APPROPRIATE:
 - 6.2.1 the encryption of the Project Personal Data;
 - 6.2.2 the ability to ensure the on-going confidentiality, integrity, availability and resilience of systems and services Processing the Project Personal Data;
 - 6.2.3 the ability to restore the availability and access to the Project Personal Data in a timely manner in the event of a physical or technical incident;
 - 6.2.4 having and implementing a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the Processing of the Project Personal Data; and
 - 6.3 TO ENSURE THE SECURITY OF THE PROJECT PERSONAL DATA AND THE RELIABILITY OF THE PROCESSOR'S PERSONNEL WHO MAY HAVE ACCESS TO, OR BE INVOLVED IN, THE PROCESSING OF THE PROJECT PERSONAL DATA, INCLUDING BY CARRYING OUT APPROPRIATE VERIFICATION CHECKS.
7. WITHOUT PREJUDICE TO THE PROVISIONS OF PARAGRAPH 6, THE PROCESSOR WILL KEEP ALL OF THE PROJECT PERSONAL DATA SECURE FROM ANY UNAUTHORISED OR ACCIDENTAL USE, ACCESS, DISCLOSURE, DAMAGE, LOSS OR DESTRUCTION.
8. THE PROCESSOR WILL TAKE STEPS TO ENSURE THAT ANY NATURAL PERSON ACTING UNDER ITS AUTHORITY WHO HAS ACCESS TO ANY OF THE PROJECT PERSONAL DATA DOES NOT PROCESS THEM EXCEPT ON INSTRUCTIONS FROM THE CONTROLLER, UNLESS HE OR SHE IS REQUIRED TO DO SO BY APPLICABLE LAW.
9. The Processor will not transfer any of the Project Personal Data outside the European Union (which, for these purposes, includes the United Kingdom, even if it is no longer a member of the European Union) or to an International Organisation, even if in response to a legal requirement outside Europe without first obtaining the written consent of the Controller and, notwithstanding the Controller giving any such consent, the Processor will not make any such transfer except in accordance with the Data Protection Legislation.
10. Without prejudice to paragraph 9:
- 10.1 if the Processor Processes any of the Project Personal Data in, or transfers any of it to, a country or territory outside the European Union (which, for these purposes, includes the United Kingdom, even if it is no longer a member of the European Union) which does not

- ensure an adequate level of protection for the rights and freedoms of Data Subjects in relation to the Processing of Personal Data, the Processor will first enter into the standard contractual clauses for the transfer of personal data from the EU to third countries (controller-to-processor transfers) contained in the Annex to the Commission Decision of 5 February 2010 (Decision 2010/87/EU) amending Decision 2002/16/EC (or any standard or model clauses or agreement replacing the same) **(the Standard Contractual Clauses)** with the Controller; and
- 10.2 without prejudice to paragraph 10.1, if the Processor is in the European Union (which, for these purposes, includes the United Kingdom, even if it is no longer a member of the European Union) but will use a Subprocessor in, or will transfer any of the Project Personal Data to a Subprocessor in, a country or territory outside the European Union (which, for these purposes, includes the United Kingdom, even if it is no longer a member of the European Union) which does not ensure an adequate level of protection for the rights and freedoms of Data Subjects in relation to the Processing of Personal Data, the Processor will first enter into the Standard Contractual Clauses with that Subprocessor on behalf of, and in the name of, the Controller.
11. THE PROCESSOR WILL, ON THE CONTROLLER'S REQUEST:
- 11.1 comply with any request from the Controller to amend, rectify, transfer, block or destroy any of the Project Personal Data;
- 11.2 [securely destroy and permanently delete from the Processor's and its Subprocessors' systems (including back-up and archive systems)]**OR** [deliver to the Controller in [XXX] format] all copies of any of the Project Personal Data held by the Processor or any of its Subprocessors and in any case on the termination or expiry of this Agreement (except any of the Project Personal Data which any law to which the Processor is subject requires the Processor to continue to store that Personal Data);
- 11.3 PROVIDE THE CONTROLLER WITH SUCH INFORMATION ABOUT THE PROCESSOR'S AND ITS SUBPROCESSORS' PROCESSING OF THE PROJECT PERSONAL DATA AND SUCH ASSISTANCE AS THE CONTROLLER MAY REQUEST FROM TIME TO TIME TO ALLOW THE CONTROLLER TO MEET ITS OBLIGATIONS UNDER THE DATA PROTECTION LEGISLATION, INCLUDING THE CONTROLLER'S OBLIGATIONS TO DATA SUBJECTS AND IN RELATION TO DATA SECURITY AND DATA PROTECTION IMPACT ASSESSMENTS, AND TO ALLOW THE CONTROLLER TO BE ABLE TO DEMONSTRATE COMPLIANCE WITH THE DATA PROTECTION LEGISLATION;
- 11.4 TAKE SUCH OTHER ACTION OR REFRAIN FROM TAKING ANY ACTION NECESSARY TO COMPLY WITH, OR TO ALLOW THE CONTROLLER TO COMPLY WITH, THE DATA PROTECTION LEGISLATION OR THE ORDER OF ANY COMPETENT SUPERVISORY AUTHORITY OR COURT OF COMPETENT JURISDICTION; AND
- 11.5 CO-OPERATE WITH ANY COMPETENT SUPERVISORY AUTHORITY.
12. The Processor will notify the Controller as soon as reasonably possible if the Processor becomes aware of any of the following: any breach of this Schedule, any breach of any of the Data Protection Legislation, and any Personal Data Breach. That notice must (at least):
- 12.1 describe the nature and facts of the breach including, where possible, the categories and approximate number of Data Subjects (if any) concerned and the categories and approximate number of data records concerned;
- 12.2 communicate the name and contact details of the Data Protection Officer or other contact point where more information can be obtained;
- 12.3 describe the likely consequences of the breach; and
- 12.4 describe the measures taken or proposed to be taken by the Processor to address and remedy the breach, including, where appropriate, to mitigate its possible adverse effects.
13. The Processor will give written notice to the Controller, as soon as reasonably possible, should the Processor or any Subprocessor receive any request, complaint, notice, order or communication which relates directly or indirectly to the Processing of the Project Personal Data or to compliance with the Data Protection Legislation and, at the same time, will forward that request, complaint, notice, order or communication to the Controller. The Processor will co-operate with the Controller and give it such information and assistance as the Controller may reasonably require in relation to that request, complaint, notice or communication to enable the Controller to respond to the same in accordance with any deadline and any requirement to provide information. The Processor will not act on any such request, complaint, notice, order or communication without first obtaining the Controller's written consent.

14. The Processor will allow the Controller (or its representatives) at reasonable times and from time to time, to inspect and review the Processor's and its Subprocessors compliance with this Schedule and the Data Protection Legislation and the Processor will give the Controller any assistance which the Controller may reasonably require in connection with that inspection and review. The Processor will ensure that its Subprocessors will give the Controller any assistance the Controller reasonably requires to carry out that inspection and review.
15. The Processor will, as quickly as possible, rectify any and all security weaknesses and vulnerabilities reported to it by the Controller and will confirm to the Controller in writing when this has been done.
16. In the event of an unexpected even which affects the Processor's ability to process the Project Personal Data in accordance with this Schedule, including any storm, fire, flood, telecommunications failures, IT systems failures and breaches of security, the Processor will invoke and implement a recovery plan so that the Processor is still able to provide and does Process the Project Data in accordance with this Schedule.
17. THE PROCESSOR WILL COMPLY WITH [BS ISO/IEC 27001:2013, THE INFORMATION SECURITY MANAGEMENT SYSTEM STANDARD PUBLISHED BY THE INTERNATIONAL ORGANIZATION FOR STANDARDIZATION AND 27002:2014, THE CODE OF PRACTICE FOR INFORMATION SECURITY CONTROLS, EACH AS AMENDED FROM TIME TO TIME OR, IN EACH CASE, ANY HIGHER STANDARD PUBLISHED FROM TIME TO TIME BY THE RELEVANT AUTHORITY (ISO 27001)] AND WILL PROVIDE TO THE CONTROLLER, AT LEAST ONCE EVERY 12 MONTHS, A REPORT OR CERTIFICATE BY AN INDEPENDENT THIRD PARTY QUALIFIED TO GIVE THAT REPORT OR CERTIFICATE OF THE PROCESSOR'S AND ITS SUBPROCESSORS' COMPLIANCE WITH THIS SCHEDULE AND [ISO 27001]. [THE PROCESSOR WILL NEITHER DO, NOR OMIT TO DO, ANYTHING WHICH PLACES THE CONTROLLER IN BREACH OF ISO 27001. THE PROCESSOR WILL PROMPTLY SUPPLY ANY AND ALL INFORMATION AND WILL COMPLETE ANY AND ALL QUESTIONNAIRES WHICH THE CONTROLLER REASONABLY REQUESTS TO ALLOW THE CONTROLLER TO OBTAIN OR MAINTAIN CERTIFICATION UNDER ISO 27001 AND TO ALLOW THE CONTROLLER TO COMPLY WITH ISO 27001.]
18. The Processor will not appoint any Subprocessor without first obtaining the Controller's written consent. Notwithstanding the Controller giving any consent to the Processor appointing any Subprocessor, Processor will:
 - 18.1 impose on each Subprocessor obligations equivalent to or at least as onerous as those imposed on the Processor in this Schedule;
 - 18.2 monitor each Subprocessor's compliance with those obligations and ensure that each Subprocessor complies with those obligations; and
 - 18.3 be liable to the Controller for the acts and omissions of the Processor's Subprocessors as though they were the Processor's own acts and omissions.
19. This Schedule will, at the request of either Party, be amended from time to time insofar as is necessary or desirable to achieve any or all of the following:
 - 19.1 to bring this Schedule or either Party's or both Parties' obligations in respect of the Project Personal Data into line with the Data Protection Legislation; or
 - 19.2 to allow either Party or both Parties to comply with the Data Protection Legislation and the requirements and recommendations of any competent Supervisory Authority.
20. The Controller will comply with all the duties and obligations imposed from time to time on Controllers by the Data Protection Legislation and, without prejudice to the foregoing, the Controller will:
 - 20.1 establish and document the legal basis or bases on which the Controller Processes any and all of the Project Personal Data;
 - 20.2 where any Special Category Personal Data is Processed, establish and document the condition which justifies the Processing of that Special Category Personal Data for the Project;
 - 20.3 provide Data Subjects with all information necessary to, and obtain any and all Consents from Data Subjects necessary to, allow the Controller to: Process their Personal Data in accordance with this Schedule; transfer their Personal Data to the Processor; and have the Processor Process their Personal Data in accordance with this Schedule, including (without limitation) any automated decision making or profiling carried out by the Processor on the Controller's instructions or at the Controller's request;
 - 20.4 at the Processor's request, provide the Processor with details of the legal basis on which any the Project Personal Data are Processed and the condition which justifies the

- Processing of any Special Category Personal Data, and with copies of any Consent obtained from any Data Subject;
- 20.5 if the legal basis for Processing any of the Project Personal Data or the condition to be met to justify the Processing of any Special Category Personal Data for the purposes of the Project is the Data Subject's Consent, and that Consent is withdrawn, or if any Data Subject objects to any Processing of his or her Personal Data carried out by the Processor for the Controller or exercises his or her right to erasure or restriction or any other right under the Data Protection Legislation, as soon as possible, give notice of that withdrawal, objection or the exercise of that right and of the Project Personal Data affected to the Processor. (The Processor may stop Processing that Project Personal Data and delete it from its systems unless, the Controller demonstrates that the Controller has another legal basis for processing that Project Personal Data or that the Processing meets any other condition which justifies the Processing of Special Category Personal Data for the purposes of the Project, or that there are compelling legitimate grounds for the Processing which override the interests, rights and freedoms of the Data Subject, or that the Processing is necessary for the establishment, exercise or defence of legal claims.);
- 20.6 provide the Processor with such instructions regarding the Processing of the Project Personal Data as may be necessary to allow the processor to Process the Project Personal Data for the purposes of the Project and not give the Processor any unlawful instruction;
- 20.7 not instruct the Data Processor to transfer any of the Project Personal Data outside the European Union (including for these purposes the UK, even though the UK may have ceased to be a member state of the European Union) or to an International Organisation unless: i) the European Commission has made a Decision of Adequacy; or ii) the Controller has provided appropriate safeguards and has provided the Processor with details of any safeguards which the Controller has implemented to ensure that the transfer is not in breach of the Data Protection Legislation;
- 20.8 carry out any Data Protection Impact Assessments in respect of the Processing of the Project Personal Data necessary to comply with the Data Protection Legislation.
21. ALL EXPRESSIONS USED IN THIS SCHEDULE BEGINNING WITH A CAPITAL LETTER (AND NOT DEFINED IN THIS SCHEDULE OR ELSEWHERE IN THIS AGREEMENT) HAVE THE MEANING GIVEN TO THEM IN THE DATA PROTECTION LEGISLATION.
22. THE PROVISIONS OF THIS SCHEDULE WILL CONTINUE IN FULL FORCE AND EFFECT FOR SO LONG AS THE PROCESSOR PROCESSES ANY PERSONAL DATA ON BEHALF OF THE CONTROLLER, NOTWITHSTANDING THE TERMINATION OF THIS AGREEMENT OR THE COMPLETION OF THE PROJECT.
23. The Processor will indemnify the Controller and keep the Controller fully and effectively indemnified on demand against any and all costs, claims, demands, damages, expenses and liabilities of any nature and against any and all fines and penalties arising out of or in connection with any breach by the Processor or any of its Subprocessors of this Schedule. This paragraph will survive the termination of this Agreement, the completion of all Processing of the Project Personal Data by the Processor and its Subprocessors and the completion of the Project, and will continue in force without limit in time.

The Appendix

The Subject Matter of the Processing
[insert details]

The Duration of the Processing
[insert details]

The Nature and Purpose of the Processing
[insert details]

The Types of Personal Data Processed
[insert details]

The Categories of Data Subjects to whom the Project Personal Data relate
[insert details]

OR

SCHEDULE 6

Data Protection

Where both Parties determine the purpose of the Processing in respect of any Personal Data which is Processed for the purpose of the Project, the provisions of this Schedule will apply to them.

1. Each of the Parties (**the Controller**) will be a Controller in relation to the Personal Data which is Processed for the purposes of the Project (**the Project Personal Data**).
2. The Appendix to this Schedule lists the subject matter of the Processing, the duration of the Processing, the nature and purpose of the Processing, the types of Personal Data Processed, the categories of Data Subjects to whom the Project Personal Data relate, and the retention periods for the Project Personal Data.
3. Each Controller's obligations under this Schedule are in addition to, and do not relieve, remove or replace, its obligations under the Data Protection Legislation.
4. Each Controller will, where required by the Data Protection Legislation, appoint a Data Protection Officer, provide details of that person to the other Party and notify the other Party, as soon as reasonably possible, of any changes in that person or his or her details.
5. Each Controller will:
 - 5.1 *PROCESS THE PROJECT PERSONAL DATA ONLY FOR THE PURPOSE OF CARRYING OUT THE PROJECT;*
 - 5.2 *ENSURE THAT ALL PERSONS AUTHORISED BY IT TO PROCESS THE PROJECT PERSONAL DATA, BEFORE THEY HAVE ACCESS TO THE PROJECT PERSONAL DATA, HAVE RECEIVED APPROPRIATE TRAINING IN RELATION TO DATA PROTECTION AND THE PROTECTION AND USE OF PERSONAL DATA AND HAVE COMMITTED THEMSELVES TO KEEP THE PROJECT PERSONAL DATA CONFIDENTIAL (AT LEAST TO THE SAME STANDARD OF CONFIDENTIALITY AS IS REQUIRED BY THIS AGREEMENT) OR ARE UNDER AN APPROPRIATE STATUTORY OBLIGATION OF CONFIDENTIALITY;*
 - 5.3 *MAINTAIN A WRITTEN RECORD OF ALL CATEGORIES OF PROCESSING ACTIVITIES CARRIED OUT BY IT, CONTAINING:*
 - 5.3.1 the name and contact details of any Processor (which for the purposes of this Schedule includes, where the context permits, any Subprocessor) used by it to Process any of the Project Personal Data and, where applicable, of the any Processors' Data Protection Officers and any Representative;
 - 5.3.2 the categories of Processing of Personal Data carried out by it or any Processor used by it to Process any of the Project Personal Data;
 - 5.3.3 where applicable, transfers of the Project Personal Data outside the European Union (which, for these purposes, includes the United Kingdom, even if it is no longer a member of the European Union) or to an International Organisation, including the identification of that country or International Organisation and documentation of suitable safeguards adopted in connection with that transfer; and
 - 5.3.4 a general description of the technical and organisational security measures taken in respect of any of the Project Personal Data.
 - 5.4 provide the other Controller, on request, with a copy of the records referred to in paragraph 5.3; and
 - 5.5 make the records referred to in paragraph 5.3 available to any competent Supervisory Authority on request and will, as soon as reasonably possible, notify the other Controller that it has done so.

6. WITHOUT PREJUDICE TO PARAGRAPH 5, EACH CONTROLLER WILL TAKE APPROPRIATE TECHNICAL AND ORGANISATIONAL MEASURES:
 - 6.1 IN SUCH A WAY THAT ITS PROCESSING OF THE PROJECT PERSONAL DATA WILL MEET THE REQUIREMENTS OF THE DATA PROTECTION LEGISLATION AND WILL ENSURE THE PROTECTION OF THE RIGHTS OF DATA SUBJECTS AND ALLOW IT AND THE OTHER CONTROLLER TO FULFIL ITS OBLIGATIONS TO DATA SUBJECTS, INCLUDING THE OTHER CONTROLLER'S OBLIGATIONS TO RESPOND TO REQUESTS BY DATA SUBJECTS TO EXERCISE THEIR RIGHTS OF ACCESS, RECTIFICATION OR ERASURE, TO RESTRICT OR OBJECT TO THE PROCESSING OF THEIR PERSONAL DATA, OR TO DATA PORTABILITY;
 - 6.2 TO ENSURE A LEVEL OF SECURITY APPROPRIATE TO THE RISK, INCLUDING AMONGST OTHER THINGS, AS APPROPRIATE:
 - 6.2.1 the encryption of the Project Personal Data;
 - 6.2.2 the ability to ensure the on-going confidentiality, integrity, availability and resilience of systems and services Processing the Project Personal Data;
 - 6.2.3 the ability to restore the availability and access to the Project Personal Data in a timely manner in the event of a physical or technical incident;
 - 6.2.4 having and implementing a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the Processing of the Project Personal Data; and
 - 6.3 TO ENSURE THE SECURITY OF THE PROJECT PERSONAL DATA AND THE RELIABILITY OF ITS PERSONNEL WHO MAY HAVE ACCESS TO, OR BE INVOLVED IN, THE PROCESSING OF THE PROJECT PERSONAL DATA, INCLUDING BY CARRYING OUT APPROPRIATE VERIFICATION CHECKS.
7. WITHOUT PREJUDICE TO THE PROVISIONS OF PARAGRAPH 6, EACH CONTROLLER WILL KEEP ALL OF THE PROJECT PERSONAL DATA SECURE FROM ANY UNAUTHORISED OR ACCIDENTAL USE, ACCESS, DISCLOSURE, DAMAGE, LOSS OR DESTRUCTION.
8. EACH CONTROLLER WILL TAKE STEPS TO ENSURE THAT ANY NATURAL PERSON ACTING UNDER ITS AUTHORITY WHO HAS ACCESS TO ANY OF THE PROJECT PERSONAL DATA DOES NOT PROCESS THEM EXCEPT ON ITS INSTRUCTIONS, UNLESS HE OR SHE IS REQUIRED TO DO SO BY APPLICABLE LAW.
9. Neither Controller will transfer any of the Project Personal Data outside the European Union (which, for these purposes, includes the United Kingdom, even if it is no longer a member of the European Union) or to an International Organisation, even if in response to a legal requirement outside Europe without first obtaining the written consent of the other Controller and, notwithstanding the other Controller giving any such consent, neither Controller will make any such transfer except in accordance with the Data Protection Legislation.
10. Without prejudice to paragraph 9:
 - 10.1 if either Controller Processes any of the Project Personal Data in, or transfers any of it to, a country or territory outside the European Union (which, for these purposes, includes the United Kingdom, even if it is no longer a member of the European Union) which does not ensure an adequate level of protection for the rights and freedoms of Data Subjects in relation to the Processing of Personal Data, it will first enter into the standard contractual clauses for the transfer of personal data from the EU to third countries (controller-to-controller transfers) contained in the Annex to the Commission Decision of 27 December 2004 (Decision 2004/915/EU) amending Decision 2001/497/EC (or any standard or model clauses or agreement replacing the same) with the other Controller; and
 - 10.2 without prejudice to paragraph 10.1, if either Controller is in the European Union (which, for these purposes, includes the United Kingdom, even if it is no longer a member of the European Union) but will use a Processor in, or will transfer any of the Project Personal Data to a Processor in, a country or territory outside the European Union (which, for these purposes, includes the United Kingdom, even if it is no longer a member of the European Union) which does not ensure an adequate level of protection for the rights and freedoms of Data Subjects in relation to the Processing of Personal Data, it will first enter into the standard contractual clauses for the transfer of personal data from the EU to third countries (controller-to-processor transfers) contained in the Annex to the Commission Decision of 5 February 2010 (Decision 2010/87/EU) amending Decision 2002/16/EC (or any standard or model clauses or agreement replacing the same) with that Processor on its own behalf and on behalf of, and in the name of, the other Controller.
11. EACH CONTROLLER WILL, ON THE OTHER CONTROLLER'S REQUEST:

- 11.1 comply with any request from the other Controller to amend, rectify, transfer, block or destroy any of the Project Personal Data;
- 11.2 PROVIDE THE OTHER CONTROLLER WITH SUCH INFORMATION ABOUT ITS AND ITS PROCESSORS' PROCESSING OF THE PROJECT PERSONAL DATA AND SUCH ASSISTANCE AS THE OTHER CONTROLLER MAY REQUEST FROM TIME TO TIME TO ALLOW THE OTHER CONTROLLER TO MEET ITS OBLIGATIONS UNDER THE DATA PROTECTION LEGISLATION, INCLUDING THE OTHER CONTROLLER'S OBLIGATIONS TO DATA SUBJECTS AND IN RELATION TO DATA SECURITY AND DATA PROTECTION IMPACT ASSESSMENTS, AND TO ALLOW THE OTHER CONTROLLER TO BE ABLE TO DEMONSTRATE COMPLIANCE WITH THE DATA PROTECTION LEGISLATION;
- 11.3 TAKE SUCH OTHER ACTION OR REFRAIN FROM TAKING ANY ACTION NECESSARY TO COMPLY WITH, OR TO ALLOW THE OTHER CONTROLLER TO COMPLY WITH, THE DATA PROTECTION LEGISLATION OR THE ORDER OF ANY COMPETENT SUPERVISORY AUTHORITY OR COURT OF COMPETENT JURISDICTION; AND
- 11.4 CO-OPERATE WITH ANY COMPETENT SUPERVISORY AUTHORITY.
12. Each Controller will notify the other Controller soon as reasonably possible if it becomes aware of any of the following: any breach of this Schedule, any breach of any of the Data Protection Legislation, and any Personal Data Breach. That notice must (at least):
 - 12.1 describe the nature and facts of the breach including, where possible, the categories and approximate number of Data Subjects (if any) concerned and the categories and approximate number of data records concerned;
 - 12.2 communicate the name and contact details of the Data Protection Officer or other contact point where more information can be obtained;
 - 12.3 describe the likely consequences of the breach; and
 - 12.4 describe the measures taken or proposed to be taken by the Controller(s) to address and remedy the breach, including, where appropriate, to mitigate its possible adverse effects.
13. Each Controller will give written notice to the other Controller, as soon as reasonably possible, should it or any of its Processors receive any request, complaint, notice, order or communication which relates directly or indirectly to the Processing of the Project Personal Data or to compliance with the Data Protection Legislation and, at the same time, will forward a copy of that request, complaint, notice, order or communication to the other Controller. Each Controller will co-operate with the other Controller and give it such information and assistance as the other Controller may reasonably require in relation to that request, complaint, notice or communication to enable the other Controller to respond to the same in accordance with any deadline and any requirement to provide information. Neither Controller will act on any such request, complaint, notice, order or communication without first consulting the other Controller.
14. Each Controller will allow the other Party (or its representatives) at reasonable times and from time to time, to inspect and review its and its Processors' compliance with this Schedule and the Data Protection Legislation and will give the other Party any assistance which it may reasonably require in connection with that inspection and review. Each Controller will ensure that its Processors will, give the other Controller any assistance the other Controller reasonably requires to carry out that inspection and review.
15. Each Controller will, as quickly as possible, rectify any and all security weaknesses and vulnerabilities reported to it by the other Controller and will confirm to the other Controller in writing when this has been done.
16. In the event of an unexpected even which affects either Controller's ability to process the Project Personal Data in accordance with this Schedule, including any storm, fire, flood, telecommunications failures, IT systems failures and breaches of security, that Controller will invoke and implement a recovery plan so that the it is still able to provide and does Process the Project Data in accordance with this Schedule.
17. EACH CONTROLLER WILL COMPLY WITH [BS ISO/IEC 27001:2013, THE INFORMATION SECURITY MANAGEMENT SYSTEM STANDARD PUBLISHED BY THE INTERNATIONAL ORGANIZATION FOR STANDARDIZATION AND 27002:2014, THE CODE OF PRACTICE FOR INFORMATION SECURITY CONTROLS, EACH AS AMENDED FROM TIME TO TIME OR, IN EACH CASE, ANY HIGHER STANDARD PUBLISHED FROM TIME TO TIME BY THE RELEVANT AUTHORITY (ISO 27001)] AND WILL PROVIDE TO THE OTHER CONTROLLER, AT LEAST ONCE EVERY 12 MONTHS, A REPORT OR CERTIFICATE OF ITS AND ITS PROCESSORS' COMPLIANCE WITH THIS SCHEDULE AND [ISO 27001]. [NEITHER CONTROLLER WILL DO, NOR OMIT TO DO, ANYTHING WHICH PLACES THE OTHER

CONTROLLER IN BREACH OF ISO 27001. EACH CONTROLLER WILL PROMPTLY SUPPLY ANY AND ALL INFORMATION AND WILL COMPLETE ANY AND ALL QUESTIONNAIRES WHICH THE OTHER CONTROLLER REASONABLY REQUESTS TO ALLOW THE OTHER CONTROLLER TO OBTAIN OR MAINTAIN CERTIFICATION UNDER ISO 27001 AND TO ALLOW THE OTHER CONTROLLER TO COMPLY WITH ISO 27001.]

18. Neither Controller will appoint any Processor without first obtaining the other Controller's written consent. Notwithstanding the other Controller giving any consent to the appointment of any Processor, each Controller will (as a minimum):
 - 18.1 impose on each Processor those obligations which Controllers are obliged to impose on Processors under the Data Protection Legislation;
 - 18.2 monitor each Processor's compliance with those obligations and ensure that each Processor complies with those obligations; and
 - 18.3 be liable to the other Controller for the acts and omissions of its Processors as though they were its own acts and omissions.
19. This Schedule will, at the request of either Controller, be amended from time to time insofar as is necessary or desirable to achieve any or all of the following:
 - 19.1 to bring this Schedule or either Controller's or both Controllers' obligations in respect of the Project Personal Data into line with the Data Protection Legislation; or
 - 19.2 to allow either Controller or both Controllers to comply with the Data Protection Legislation and the requirements and recommendations of any competent Supervisory Authority.
20. Each Controller will comply with all the duties and obligations imposed from time to time on Controllers by the Data Protection Legislation and, without prejudice to the foregoing, each Controller will:
 - 20.1 establish and document the legal basis or bases on which it Processes the Project Personal Data;
 - 20.2 where any Special Category Personal Data is Processed, establish and document the condition which justifies the Processing of that Special Category Personal Data for the purposes of the Project;
 - 20.3 provide Data Subjects with all information necessary to, and obtain any and all Consents from Data Subjects necessary to, allow it: to Process their Personal Data in accordance with this Schedule; transfer their Personal Data to the other Controller; and allow the other Controller to Process their Personal Data in accordance with this Schedule, including (without limitation) any automated decision making or profiling;
 - 23.4 at the other Controller's request, provide the other Controller with details of the legal basis on which any the Project Personal Data are Processed and the condition which justifies the Processing of any Special Category Personal Data, and with copies of any Consent obtained from any Data Subject;
 - 20.5 if the legal basis for Processing any of the Project Personal Data or the condition to be met to justify the Processing of any Special Category Personal Data for the purposes of the Project is the Data Subject's Consent, and that Consent is withdrawn, or if any Data Subject objects to any Processing of his or her Personal Data carried out for the purposes of the Project or exercises his or her right to erasure or restriction or any other right under the Data Protection Legislation, as soon as possible, give notice of that withdrawal, objection or the exercise of that right and of the Project Personal Data affected to the other Controller. (The other Controller may stop Processing that Project Personal Data and delete it from its systems unless there is another legal basis for Processing that Project Personal Data, or the Processing meets any other condition which justifies the Processing of Special Category Personal Data for the purposes of the Project, or there are compelling legitimate grounds for the Processing which override the interests, rights and freedoms of the Data Subject, or the Processing is necessary for the establishment, exercise or defence of legal claims.);
 - 20.6 carry out any Data Protection Impact Assessments in respect of the Processing of the Project Personal Data necessary to comply with the Data Protection Legislation.
21. ALL EXPRESSIONS USED IN THIS SCHEDULE BEGINNING WITH A CAPITAL LETTER (AND NOT DEFINED IN THIS SCHEDULE OR ELSEWHERE IN THIS AGREEMENT) HAVE THE MEANING GIVEN TO THEM IN THE DATA PROTECTION LEGISLATION.

22. THE PROVISIONS OF THIS SCHEDULE WILL CONTINUE IN FULL FORCE AND EFFECT FOR SO LONG AS ANY OF THE PROJECT PERSONAL DATA IS PROCESSED, NOTWITHSTANDING THE TERMINATION OF THIS AGREEMENT OR THE COMPLETION OF THE PROJECT.
23. Each Party will indemnify the other Party and keep the other Party fully and effectively indemnified on demand against any and all costs, claims, demands, damages, expenses and liabilities of any nature and against any and all fines and penalties arising out of or in connection with any breach by the it or any of its Processors of this Schedule. This paragraph will survive the termination of this Agreement, the completion of all Processing of the Project Personal Data and the completion of the Project, and will continue in force without limit in time.
24. [THE INSTITUTE]OR[THE COLLABORATOR] WILL [SECURELY DESTROY AND PERMANENTLY DELETE FROM ITS AND ITS PROCESSORS' SYSTEMS (INCLUDING BACK-UP AND ARCHIVE SYSTEMS)]OR[DELIVER TO THE OTHER PARTY IN [XXX] FORMAT] ALL COPIES OF ANY OF THE PROJECT PERSONAL DATA HELD BY IT OR ANY OF ITS PROCESSORS AT THE END OF THE RELEVANT RETENTION PERIOD IN THE ANNEX TO THIS SCHEDULE AND IN ANY CASE ON THE TERMINATION OR EXPIRY OF THIS AGREEMENT (EXCEPT ANY OF THE PROJECT PERSONAL DATA WHICH ANY LAW TO WHICH [THE INSTITUTE]OR[THE COLLABORATOR] IS SUBJECT REQUIRES IT TO CONTINUE TO STORE THE PROJECT PERSONAL DATA).

The Appendix

The Subject Matter of the Processing
[insert details]

The Duration of the Processing
[insert details]

The Nature and Purpose of the Processing
[insert details]

The Types of Personal Data Processed
[insert details]

The Categories of Data Subjects to whom the Project Personal Data relate
[insert details]

The Retention Periods
[insert details]

[SCHEDULE 7]

Part 1 - Human Rights

1. Unless otherwise required or prohibited by law, each Party will, in relation to the performance of this Agreement:
- 1.1 not employ, engage or use any child labour in circumstances such that the tasks performed by any child could reasonably be foreseen to cause either physical or emotional impairment to the development of the child;
 - 1.2 not use forced labour in any form (prison, indentured, bonded or otherwise);
 - 1.3 not require its employees to lodge papers or deposits on starting work;
 - 1.4 provide a safe and healthy workplace, presenting no immediate hazards to its employees, and if any accommodation is provided by that Party to its employees, that accommodation will be safe for habitation;
 - 1.5 provide access to clean water, food, and emergency healthcare to its employees in the event of accidents or incidents in the workplace;
 - 1.6 not discriminate against any employee on any ground (including race, religion, disability or gender);
 - 1.7 not engage in or support the use of corporal punishment, mental, physical, sexual or verbal abuse;

- 1.8 not use cruel or abusive disciplinary practices in the workplace;
 - 1.9 pay each employee at least the minimum wage, or a fair representation of the prevailing industry wage, (whichever is the higher) and provide each employee with all legally mandated benefits;
 - 1.10 comply with the laws on working hours and employment rights in the countries in which it operates; and
 - 1.11 respect its employees' right to join and form independent trade unions and freedom of association.
2. Each Party agrees that it is responsible for controlling its own supply chain and that it will encourage compliance with ethical standards and human rights by any subsequent supplier of goods and services that are used by it when performing its obligations under this Agreement.
 3. Each Party will ensure that it has, and will comply with, ethical and human rights policies and an appropriate complaints procedure to deal with any breaches of those policies.

Part 2 – Anti-Slavery

Each Party will, in connection with the Project:

1. comply with all laws, statutes and regulations which apply to it or its activities and which relate to anti-slavery and human trafficking, including the Modern Slavery Act 2015;
2. not do anything which would constitute an offence under section 1, 2 or 4 Modern Slavery Act 2015 if it had been carried out in the United Kingdom;
3. have and maintain its own policies and procedures to ensure compliance with paragraphs 1 and 2 above;
4. follow and enforce the policies and procedures referred to in paragraph 3 above;
5. include in its contracts with its subcontractors and suppliers anti-slavery and human trafficking provisions which are at least as onerous as those set out in this section of this Schedule;
6. promptly report to the other Party any breach of this section of this Schedule of which it becomes aware;
7. provide such evidence of compliance with this section of this Schedule as the other Party may reasonably request from time to time;
8. keep accurate and up to date records to trace the supply chain of all goods and materials supplied by it in connection with this Agreement and the Project and the steps taken by it to comply with this section of this Schedule. (Those records must be sufficient to allow the other Party to verify compliance with this section of this Schedule.); and
9. on request during normal working hours, allow the other Party access to and to copy the records referred to in paragraph 8 above and to meet with its personnel to verify compliance with this section of this Schedule.

[Part 3 – the Collaborator's Policies and Procedures]

Each Party will comply with the following:

[Insert details]]

[SCHEDULE 8

Agreed Licence Terms

The Licensed Results:

[Exclusive] **OR** [Non-Exclusive] Rights:

Territory:

Field:

Duration:

Payment Terms:

Targets:

Reversion of Rights:]

APPENDIX D

IP OWNERSHIP AGREEMENT

INTELLECTUAL PROPERTY OWNERSHIP AGREEMENT

BETWEEN

UNIVERSITY, legal person _____, with registered office at _____, represented herein by _____, in his capacity as _____, with powers of representation under the Law, hereinafter referred to as “University”,

AND

Insert name (“Acronym”), located at [insert address], identified as Legal person [insert VAT number], represented herein by [legal representative name], in his capacity as [position], with powers of representation under the Law, hereinafter referred to as “Acronym”

Hereinafter designated by Party or Parties

Whereas:

- a) As a result of collaborative research activities, the Parties have jointly developed the invention [“insert name of the invention as communicated”], as described in Annex 1 to which the following researchers have contributed (hereinafter referred to as “Inventors”): [insert inventors name, followed by its affiliation], according with the intellectual contribution described in the aforementioned Annex 1.
- b) As the invention [“insert name of the invention as communicated”] met the legal and technical requirements for patent protection under industrial property law, the Parties have submitted a Patent Application [registry number] entitled [“insert title of patent request”], at the National Patent Office in [priority date] (Annex 2 – Patent deposit).
- c) Since the Invention has been carried out by inventors of the Parties, the legal protection of the Invention should be carried out on behalf of all Parties;
- d) the Parties mutually represent and acknowledge to be the exclusive right-holders of the intellectual property rights in the Invention, according to the respective shares of co-ownership;
- e) The Parties agree that it is necessary to establish the ownership of the intellectual property rights incident on the Invention and the Portuguese Patent Request [insert registry number], the rights and obligations between the Parties, as well as the exploitation mechanisms.

The Parties as hereinbefore defined agree and stipulate as follows:

Article 1

Definitions

“Business Day” in Portugal shall mean the days when Banks are opened and operating in Portugal, from Monday to Friday excluding National Holidays.

“Business hours” shall mean means the hours from 09:00 am to 5:00 pm of a Business Day in Portugal.

“Calendar year” a period of 12 months.

“Confidential information” shall mean all information disclosed or made available, classified as Confidential in writing, unless specifically identified as public, irrespective of the support used and comprising without limitation: unpublished works of any nature, such as graphic, written or sound; unpublished compilations or selections of information; financial documents; know-how, technological data, methods, formulas, demonstrations, samples or studies; computer programs, software or software programming blocks in the form of source code or object code; commercial documents, such as customer lists; reports, drafts and memoranda; any intellectual assets, as a set of any and all research results, whether or not they are protected by any Intellectual Property Right; any other information disclosed by the Disclosing Party to the Recipient in said context, caveat with everything that is public (except through breach of confidentiality).

“Expenses” shall mean the expenses inherent to the legal protection process of the Invention including all official fees, honorarium, responses to the application authorities, disputes and other reasonable expenses incurred in the preparation, submission, defense and enforcement and maintenance of the Invention related Intellectual Property Rights, Patent and future territorial extensions, and any other acts necessary for the proper management of the Intellectual Property Rights.

“Intellectual Property Rights” or “IPR” shall mean all the legal rights granted with the aim to protect the creations of the intellect, including the Industrial Property Rights (including but not limited to patents, patent applications, trademarks and other statutory rights in inventions) and Copyright (including without limitation copyrights in Software); rights for databases, registered design rights, applications for registered design rights, unregistered design rights and other statutory rights in designs; and other similar or equivalent forms of statutory protection originating from the Invention. .

“Invention” shall mean the invention entitled “Nucleic acids encoding antibodies to tumor antigens”, as described in Annex 1 (Technology Disclosure Form) and related know-how i.e technical information including without limitation information relating to inventions, discoveries, concepts, methodologies, models, research, development and testing procedures, the results of experiments, test and trials, manufacturing processes, techniques and specifications, quality control data, analyses, reports and submissions.

“Inventors” shall mean natural persons that have actively contributed to the creation of the Invention, in the sense that without their personal involvement the Invention would not have been devised.

“Patent” shall mean the Patent Application _____ entitled “_____”, at the National Patent Office on _____ and any patent, continuation, continuation-in-part, divisional, or reissue

in country or in any other country and is based on intellectual property in existence at the date of the signing of this Agreement.

“Revenue” shall mean all revenue received by University from the exploitation of the Invention related Intellectual Property Rights, including but not limited to the Patent and future territorial extensions, including licence fees, option fees, up-front fees, minimum royalties or milestone payments, equity, sublicense initiation fees or any other fixed sum payments received from the licensing of the Invention related Intellectual Property Rights.

“Non-Commercial Research Activities” shall mean use of the Invention and the Related Intellectual Property Rights for academic/teaching/scientific purposes, or mere internal use, and

- i) Excludes use of the Invention for royalty bearing activities (such as licensing) or other activities leading to monetary benefits (e.g. use in commissioned research, and use in developing, creating or marketing a product or process or creating and providing a service or use in standardization activities);
- ii) Includes use in further (funded or unfunded) cooperative research projects. However where such use leads to royalty-bearing or other activities leading to monetary benefits, such further user rights shall not be included in the category of non-commercial research activities.

Article 2

Object

By this Agreement, the Parties accept to:

1. Determine the ownership of the Patent;
2. To establish the formal legitimacy regarding the protection of the Patent;
3. Establish how rights and obligations related to the Patent protection and exploitation are distributed;
4. Ensure the management of the constituted Patent right and future applications for territorial extensions.

Article 3

Ownership of Intellectual Property Rights

1. The Parties agree that the ownership of all Intellectual Property Rights relating to the Invention [“insert name of the invention as communicated”] and the Portuguese Patent Application [insert registry number], entitled [“insert title of patent application”], presented to the National Institute of Industrial Property on [insert priority date], and future patent applications for territorial extensions in foreign states and related rights, belongs to all the Parties, under a joint ownership system according with the following percentages:
 - a) Party 1: xx%,
 - b) Party 2: xx%

2. The Parties expressly recognize that the formula for the effective sharing of the Invention set in the previous number corresponds to the fair remuneration of their research activities.

3. Each Party represents and warrants that it owns the rights in the Invention, including the related know-how and information, under applicable law. In case of assignment by the respective Inventors, such Party will use diligent efforts to cause its Inventors to sign any additional paper as may be necessary to evidence such assignment.

3. The Parties agree that the Patent can be internationalized and its legal protection extended to other countries.

4. For any relevant purpose, the Parties hereby acknowledge that the Invention was achieved jointly by the following Inventors, according with the following proportion (see Annex I):

Inventors	Affiliation	Inventive Contribution
		xx%
		xx %
		xx %
		Xx %
		x %

5. The Inventors retain the moral right of inventorship on the Invention and related IPR as provided for by applicable intellectual property law. The Inventors do not maintain any economic right in the Invention, except from the ones mandatorily imposed by applicable law or contractually provided for by the respective Party.

Article 4

Management of Intellectual Property Rights

1. The Parties agree that [Manager of DPI] shall have sole responsibility and authority to manage and execute the duties required for the filing, prosecution and maintenance of the Invention related IPR, including but not limited to the Patent and future territorial extensions. [MANAGER of DPI] shall forward copies of all notices, applications and related correspondence in connection with the legal protection of the Invention to the other Parties. Prosecution and/or maintenance of Patent and future territorial extensions shall not be abandoned by [MANAGER OF DPI] without prior discussion with the other Parties.
2. Without prejudice to the provisions of previous number, [MANAGER of DPI] shall inform the other Parties of all the acts in writing and before you practice and/or decide them, more specifically, about future of patent and future territorial extensions.
3. The Parties agree to share the responsibility of the Expenses incurred during the term of this Agreement, according with their respective share of co-ownership, as set forth in point 1 of Article 2.

4. The patent attorney selected to represent the co-owners at the national, European and international offices of Industrial Property will send itemized invoices to the Parties regarding all payments necessary to cover the Expenses inherent to the legal protection process on the Invention, after communication with [MANAGER of DPI].
5. In the event that a Party does not pay its respective quota of Expenses to the patent attorney, and in the absence of a formal notification to the other Parties justifying the delay, within 14 (fourteen) days from receiving the notification of payment, such Party (Defaulting Party) shall renounce its share of ownership of the Invention for any or all the countries or territories concerned.
6. The renounce above in number 5 does not automatically operate. The Defaulting Party shall always have an opportunity for giving to the other Party, a written reasoned decision, within the period set forth in the number above.
7. If one of the Parties does not intend to pay its respective quota of Expenses inherent to the legal protection of the Invention, in a particular or all country or territory, such Party (Renouncing Party) shall renounce its share of ownership of the Invention for any or all the countries or territories concerned, and shall formally notify its intention previously in writing to the other Parties, according with Article 11 (Notices and Communication).
8. According with numbers 5 and 7, in case of lack of payment or renunciation, the other Parties can proceed autonomously with the legal protection of the Invention in the concerned countries or territories, and the ownership quota, and corresponding future share of costs and benefits of the defaulting or Renouncing Party, shall be distributed among the other Parties pro-rata.
9. With this Agreement, the Renouncing Party undertakes to sign the documents necessary for the renounced extensions of the Patent in the interest of the other Parties.
10. With this Agreement, the Renunciation Party agrees to lose the right to participate in any Revenue derived from the commercial exploitation of the Invention in the renounced countries or territories.

Article 5

Exploitation

1. The Parties agree that [MANAGER of DPI] will be the responsible Party for the commercial exploitation of the Invention, by conducting business partners' search and licensing processes of the Invention, including the related know-how and information, Patent, future territorial extensions and other related IPR, with the power to sign contracts, in accordance with good commercial practice, consulting with the other Parties prior to the celebration of any licensing or assignment agreement.
2. If [MANAGER of DPI] decides not to exploit the Invention, including the related know-how and information, it will notify the other Parties, and the Parties will meet to consult and agree upon the future commercialisation of the Invention.

3. Any Revenue resulting from the contracts mentioned in point 1 of the present Article shall be distributed among the Parties, according with the respective co-ownership shares, as set forth in point 1 of Article 3.
4. [MANAGER of DPI] shall keep complete and accurate accounts of all Revenue. [MANAGER of DPI] shall make these accounts available on reasonable notice for inspection and verification during business hours by an independent professionally qualified accountant nominated by any of the Parties and reasonably acceptable to [MANAGER of DPI]. [MANAGER of DPI] shall not be responsible for the accountant's charges. If the inspection shows, that Revenue distributed among the Parties by [MANAGER of DPI] before notice of inspection differ to the questioning Party's disadvantage by more than 3% from the Revenue that were actually due, and it is proven that the mismatch is due to [MANAGER of DPI], [MANAGER of DPI] shall bear the costs of the inspection.
5. [MANAGER of DPI], within ninety (90) business days after December 31 of every calendar year, shall distribute to the Parties their proportion of Revenue together with a statement setting out Revenue received within that year.
6. The Parties agree that the distribution of the Revenue by [MANAGER of DPI] can only be made after receiving an invoice of the other Parties in the amount of Revenue due as reported by [MANAGER of DPI].
7. Each Party will be solely responsible for distributing its share of Revenue within its institution and inventors.
8. Each of the Parties shall have an irrevocable, royalty-free, perpetual, worldwide licence to use the Invention and related know-how and information for non-commercial research and teaching purposes.

Article 6

Duty of Collaboration, Confidentiality and Publication

1. The Parties agree to collaborate and provide all information necessary for the effective and full compliance of this Agreement.
2. The Parties shall be bound by the duty of confidentiality as to the existence and content of the Invention, as long as such existence and content are not disclosed within the scope of the patent registers, as well as any steps leading to its exploitation.
3. Each Party agrees, also on behalf of their employees and collaborators, to treat as strictly confidential the Confidential Information belonging to the other Parties and:
 - 3.1. to use the same only for the purposes of this Agreement;
 - 3.2. not to disclose the same to any person other than as permitted pursuant to the terms of this Agreement.
4. The provisions of this Article 6 shall not apply to any Confidential Information, except it became public due to breach:

- 4.1. which at the time of receipt by a Party is in the public domain; or
 - 4.2. is published or generally available to the public through no fault of the receiving Party, its employees or consultants; or
 - 4.3. is in the possession of the receiving Party prior to the date of this Agreement and which is not subject to a duty of confidentiality; or
 - 4.4. is independently developed by the receiving Party; or
 - 4.5. which after its receipt by a Party is made public by a third party acting without impropriety in so doing.
5. The obligations of confidentiality set forth herein shall not apply to any Confidential Information to the extent the same:
- 5.1. is required to be disclosed by applicable law, an order of a court of law or by a supervisory or regulatory body to whose rules the receiving Party is subject or with whose rules it is necessary for the receiving Party to comply provided that the receiving Party shall inform the disclosing Party as soon as possible and the disclosing Party be given the opportunity, if time permits, to make appropriate representations or take such action as it feels necessary, at its cost, to attempt to prevent or limit the disclosure of such Confidential Information; or
 - 5.2. has been approved for publication by the Party to whom it belongs.
6. The obligations of confidentiality will exist while this Agreement is in force and for a period of 3 years thereafter.
7. The Parties recognize that they have a responsibility to ensure that results of scientific interest related with the Invention are appropriately published and disseminated. The Party wishing to disclose the results related with the Invention, namely to make publications, such as articles or participation in conferences, and provided that such disclosure should occur prior to the publication of the Patent application, shall inform the other Parties for the purpose of verifying if such publication may obstruct the legal protection of the Invention or its exploitation efforts, which will have a period of thirty (30) business days to respond. Absence of response or lack of reasoning to prevent publication will be considered as tacit authorization. The Party wishing to publish shall ensure that all publications appropriately acknowledge the contribution of the other Parties.

Article 7

Improvements and Collaboration

1. Discussion of a problem during collaboration between the Parties to this Agreement will not create any rights to ownership of patents, copyrights, trade secrets or other intellectual property rights in solutions to the problem developed solely by employees or agents of the other party hereto.
2. Each Party will own all of the right, title and interest (including patents, copyrights, trade secrets and any other intellectual property rights, but excluding Invention and related know how and information) in

and to the results of the collaboration between the Parties that are developed solely by such Party employees or agents.

3. All intellectual property which result from the Invention developed jointly by employees or agents of one or more Parties (hereinafter Improvements) shall be jointly owned by the Parties that have jointly contributed for the Improvements.
4. If any other property rights are developed jointly by employees or agents of the Parties (hereinafter New Results), which do not originate from the Invention, the Parties agree that such intellectual property rights will be jointly owned and that will engage in good faith efforts to mutually agree, in a separate written agreement, on whether and how to pursue protection of the invention in Portugal and elsewhere.
5. Except as provided in this Article 7, nothing herein shall be deemed to grant any license or rights in any other technology in addition to the Invention.

Article 8

Use of Names and Trademarks

Nothing in this Agreement shall be construed as giving the right to a Party to use the name of the other Party, nor its trademark and distinctive signs, for advertising or any other form of communication, save the express written consent of the latter.

Article 9

Duration and termination

1. This Agreement shall be in full force from 25 January 2018 and shall remain in effect for the life of the last issued Patent or Intellectual Property Right related with the Invention, or until expiration or termination of any commercial license taken under the Invention, whichever is later, unless otherwise terminated by operation of law or by acts of the Parties in accordance with the terms of this Agreement.
2. Provided that a licence of the Invention with a third party is not in effect, any Party may terminate this Agreement for any reason upon at least sixty (60) days written notice to the other Parties, but in any event not less than sixty (60) days prior to the date on which any pending Patent Office actions need to be taken to preserve patent rights for the benefit of the Parties hereto.
3. Provided that a licence of the Invention with a third party is not in effect, any Party ("the Initiating Party") may terminate this Agreement with immediate effect by notice in writing to another party ("the Breaching Party") on the occurrence of any of the following events in relation to the Breaching Party:
 - 3.1. a material breach by the Breaching Party of any of its obligations under this Agreement which (if the breach is capable of remedy) the Breaching Party has failed to remedy within thirty (30) days after receipt of notice in writing from the Initiating Party identifying the breach and requiring it to be remedied;

- 3.2. the passing by the Breaching Party of a resolution for its winding-up or the making by a court of competent jurisdiction of an order for the winding-up or the dissolution of the Breaching Party.
- 3.3. Expiry or termination of this Agreement by either Party for any reason shall not affect the rights and obligations of the Parties accrued prior to expiry or termination and shall not affect rights or obligations, which expressly or by implication are intended to continue or come into force on or after such expiry or termination.

Article 10

Language and Governing Law and Dispute Resolution

1. This Agreement has been executed by the Parties in English.
2. This Agreement shall be governed by and construed in accordance with _____ law.
3. If any dispute arises in connection with this Agreement, a representative of each Party will, within 14 days of a written request from one Party to the others, meet in a good faith effort to resolve the dispute.
4. If the representative of the Parties are unable to reach agreement on any issue concerning this Agreement within 14 days after one Party has notified the other of that issue, the matter in dispute will be referred to the legal representatives of the Parties in an attempt to resolve the issue within a further 14 days after the referral.
5. If the dispute is not wholly resolved pursuant to point 4 of the present article, the Parties submit all their disputes arising out of or in connection with this Agreement, including but not limited to any dispute in relation to the existence, validity, effectiveness, enforcement and interpretation of this Agreement, to the exclusive jurisdiction of the Court of _____.

Article 11

Notices and Other Communications

1. Any formal notice under this Agreement shall be sufficiently given if sent in writing by first class, certified or registered mail, return receipt requested, addressed as follows:

 If a notice or other information is given to Party 1:

 Insert address

 If a notice or other information is given to Party 2:

 Insert address
2. Any such formal notice or any document shall be deemed to be received by the address eight (8) business days following the date of despatch of the notice or other document by post. To prove the giving of a notice or other document it shall be sufficient to show that it was despatched.
3. For other communication, electronic e-mail shall be sufficient.

Article 12

Final dispositions

1. This Agreement embodies the entire understanding between the Parties relating to the subject matter hereof and supersedes all prior understandings and agreements, whether written or oral. This Agreement may not be varied except by a written document signed by duly authorized representatives of each Party.
2. The Parties agree not to assign or transfer any interest in this Agreement, nor assign any claims for money due or to become due during this Agreement, without prior written approval of the other Parties.

Attachments:

Annex I –Disclosure Form

Annex II – Provisional Patent Application Receipt

IN WITNESS WHEREOF, the duly authorized representatives of the Parties hereby execute this Agreement as of the 25 January 2018.

Made in four (4) copies, each Party with one copy.

Signatures

APPENDIX E

SERVICES AGREEMENT

Services Agreement

Between:

UNIVERSITY, legal person _____, with registered office at _____, represented herein by _____, in his capacity as _____, with powers of representation under the Law, hereinafter referred to as “University”,

AND

Insert name (“Acronym”), located at [insert address], identified as Legal person [insert VAT number], represented herein by [legal representative name], in his capacity as [position], with powers of representation under the Law, hereinafter referred to as “Acronym”

Whereas:

- a) The research and development (R&D) activities carried out by [groups name], led by [name of Professor], [position] at the [name of department] focus on the domain [please specify the R& D activities] are of potential interest for ACRONYM's activity;
- b) ACRONYM intends to sponsor the undertaking of UNIVERSITY R&D activities identified as “title of the Services”, hereinafter referred to as “Services”, as described in Appendix 1, according with determined time-frame and budget;
- c) UNIVERSITY and ACRONYM recognize that both Parties provide background intellectual property necessary for the implementation of the Services and that new functionalities, technologies and products may arise from the Services activities carried out under this Agreement, and hence, it is necessary to regulate issues related to ownership, confidentiality and rights of exploitation;

The above-identified parties enter into this **Services Agreement** (“Agreement”), which is governed by the following Articles:

Article 1.

(Definitions)

1. “Services” shall mean the work funded under this Agreement as described in Appendix 1 hereof.
2. “Background” means any data, know-how or information — whatever its form or nature (tangible or intangible), including any rights such as intellectual property rights — that:
 - a) is held by the Parties before they acceded to the Agreement, and
 - b) is needed to implement the action or exploit the results.

3. “Know how” means technical information including without limitation information relating to inventions, discoveries, concepts, methodologies, models, research, development and testing procedures, the results of experiments, test and trials, manufacturing processes, techniques and specifications, quality control data, analyses, reports and submissions.
4. “Results” means the tangible and intangible results which are generated under the Services, including pieces of information, materials and knowledge and whether or not they can be protected by Intellectual Property Rights.
5. “Intellectual property Rights (IPR)” means all intellectual property rights including but not limited to patents, patent applications, trademarks and other statutory rights in inventions; copyrights (including without limitation copyrights in Software); rights for databases, registered design rights, applications for registered design rights, unregistered design rights and other statutory rights in designs; and other similar or equivalent forms of statutory protection and undisclosed or confidential information, trade secrets and know how.
6. “Needed” means, for the implementation of the Services - Background is Needed if, without the disclosure of such Background, carrying out the tasks assigned to the recipient Party would be impossible, significantly delayed, or require significant additional financial or human resources. For exploitation of own Results - Access Rights are Needed if, without the grant of such Access Rights, the Exploitation of own Results would be technically or legally impossible.
7. “Confidential Information” means all information disclosed or made available, classified as Confidential, unless specifically identified as public, irrespective of the support used and comprising without limitation: unpublished works of any nature, such as graphic, written or sound; unpublished compilations or selections of information; financial documents; know-how, technological data, methods, formulas, demonstrations, samples or studies; computer programs, software or software programming blocks in the form of source code or object code; commercial documents, such as customer lists; reports, drafts and memoranda; any intellectual assets, as a set of any and all research results, whether or not they are protected by any Intellectual Property Right; any other information disclosed by the Disclosing Party to the Recipient in said context, caveat with everything that is public (except through breach of confidentiality)

Article 2.

(Object)

1. The purpose of this Agreement is to:
 - a) Identify the obligations of each Party for the development of the Services entitled “Title of the Services”, as described in Appendix I;
 - b) Establish the rules of confidentiality and publications related with the Results of the Services.

- c) Establish the rules of ownership and commercialization of Background Intellectual Property and Results;

Article 3.

(Management and Monitoring)

1. For the purpose of monitoring and management of this Agreement, the Parties designate the following representatives:

ACRONYM:

UNIVERSITY:

Article 4.

(Services Characterization)

1. Under this Agreement, the Parties undertake to cooperate in the development of the Services as outlined in Appendix 1.
2. Appendix I is an integral part of this Agreement and may be updated at any time during the period of validity of this Agreement, for which purpose an additional term to this Agreement, shall be elaborated, duly signed by the Parties.
3. Without prejudice to other obligations under this Agreement, ACRONYM is obliged to:
 - a) Disclose all the Background Needed for the implementation of the Services;
 - b) Provide all the samples of ACRONYM necessary for fulfilling the outlined tasks;
 - c) Perform the payments to UNIVERSITY according with the budget outlined in Appendix 1 and payment schedule established in Article 5 (Budget and Payments);
4. Without prejudice to other obligations under this Agreement, UNIVERSITY is obliged to:
 - a) To perform the tasks of the Services, as outlined in Appendix 1, according with the approved budget and time-line;
 - b) Use the materials provided by ACRONYM solely for the purpose described in Appendix I;
 - c) Provide all Background Needed for the implementation of the Services;
 - d) Provide the final report with the results at the end of the Services execution.

Article 5.

(Budget and Payments)

1. The Parties agree that the necessary budget to complete the scientific tasks, under the responsibility of UNIVERSITY, sums up to a total of € (euros), that ACRONYM will pay to UNIVERSITY according

with the following:

- a) A first installment of € (euros) at the Effective Date of this Agreement;
 - b) A second and last installment of € (euros) upon receipt of the Services's Final Report.
2. VAT should be added to the values present, at the legal rate in force.
 3. The payment should be performed by ACRONYM to UNIVERSITY at the defined periods, as set out in point one of the preset Article, no longer than 30 (thirty) days after the reception of invoice from UNIVERSITY.
 4. The invoice will be issued by:

Article 6.

(Confidentiality)

1. Without prejudice to the following article, the Parties undertake specifically to treat and maintain absolutely confidential, within legal limits, all information concerning this Agreement, that becomes aware of or under the preliminary negotiations leading to its signing, abstaining also from any use of the Confidential Information outside the scope of it and regardless of the purpose, whether for themselves or a third party.
2. Each Party is obliged also to address in the above mentioned manner all Confidential Information concerning the affairs and / or trade or business of the counterparty, to which it has access by any means.
3. Exceptions are solely for the Confidential Information provided:
 - a) to the respective boards, consultants and other elements of the research teams, if directly involved with the Agreement and the pursuit of activities regulated by it. Each Party is obliged to ensure the commitments of confidentiality to all their staff that should be involved with this Agreement;
 - b) in connection to the respective governing bodies for the purposes of compliance with mandatory legal and statutory obligations, or obtaining the necessary permits for the full compliance with this Agreement;
 - c) all information that is of public domain or in relation to which the party issuing it has expressly waived the obligation herein provided.
4. The obligation under this clause binds the Parties for a period of three (3) years from the Effective date of this Agreement, regardless of the termination, for whatever reason, of the present Agreement.
5. The burden of proof to the exceptions set out in paragraph 3 to the confidentiality requirement lies on the Receiving Party.

Article 7.

(Information and Existing Technology)

1. All Background made available for the execution of the Services remains the property of the Party holding it prior to the beginning of the Services.

Article 8.

(Intellectual Property Rights)

1. ACRONYM will have the IPR of any data, materials, information and/or research results resulting directly and exclusively from the activities developed under the Services, unless otherwise stipulated with the agreement of both Parties.
2. In accordance with the preceding paragraph, ACRONYM is the sole and exclusive holder of the right to request the protection of Results by means of a patent or utility model, and is responsible for defining the extent of protection and for all expenses with research, preparation and submission of patent applications and their subsequent maintenance, ie the payment of fees, annuities and all expenses to bear for the protection and protection of IPR.
3. UNIVERSITY's staff should be mentioned as inventors or authors in any IPR application related with the Services Results where they have actively participated and that without their contribution the aforementioned IPR would not exist.
4. UNIVERSITY reserves the right to carry out education and research and development (R&D) activities based on the Services Results.
5. If ACRONYM does not have interest in requesting legal protection of the Results of the Services, it will transmit the rights to such Results to UNIVERSITY free of charge, under the latter's obligation to assume the future costs of its protection and maintenance.

Article 9.

(Publications and Academic and Scientific Disclosures)

1. The Parties and / or holders of copyright on the Results achieved in the Services shall retain the right to make disclosures of scientific and academic nature, whatever it may be established relating to ownership and exploitation of Intellectual Property Rights, by the terms and conditions provided in the following paragraphs.
2. The Services results to disclose and concrete form of disclosure should not put into question the strategy of protection and exploitation of the Services results, particularly by patent rights.
3. For the purposes of the preceding paragraph, the disclosures of scientific-academic nature are conditional upon prior authorization of the opposite party or both Parties when the copyright does not belong to them. For the avoidance of doubt, it shall be understood that ACRONYM's authorization shall

always be obtained before any disclosure of the results generated in the Services.

4. The Services Results to disclose and actual form of disclosure must first be brought to notice of the Party(ies) by the interested Party, and this (these) has (have) to respond within 30 (thirty) days from its perception of the content and form of disclosure required. If no response is timely given, the disclosure is authorized, and the silent Party expressly recognizes that it cannot blame, for any reason, the providing Party for any damages resulting from that disclosure, i.e. in respect of protection for intellectual property rights. If a Party objects to the disclosure within the 30 days period then the disclosure shall be postponed until proper protection of the IPR have been obtained, however no longer than 6 (six) months after receipt of the notice about a Party's intended disclosure of Results.
5. Neither Party shall make use of this Agreement, or use the name of the other party, nor that of any member of the other's staff, in any publicity, advertising, or news release without the prior written approval of the other party. This shall not include internal documents available to the public that identify the existence of this Agreement.

Article 10.

(Entry into force, duration and validity)

1. This Agreement shall enter into force in **xx** (the Effective Date), with a duration of **() months**, expected to terminate in **XX**.
2. The activities and Services that are ongoing, as well as the rights and obligations which arise or may arise of them, shall remain in force. Its validity, performance and efficiency may not be affected by the denunciation of this Protocol.
3. This Agreement may be revoked or modified at any time by the unanimous will of the Parties. However, such changes have to be put in writing, which will be associated with this contract.
4. Neither Party may assign or transfer all or part of their contractual third parties, either directly or indirectly through acquisition, merger or otherwise, without the prior written consent of the other party.
5. The duration of this Agreement shall not affect the validity of the provisions set out in Articles 6, 7 and 8.

Article 11.

(Liability)

1. The failure by a Party of its obligations under this Agreement provides, in accordance with general law, the other Party the right to terminate this Agreement without prejudice to the corresponding legal claims.
2. For the purposes of the preceding paragraph, it is considered definitive breach when there is delay in compliance with the obligations for a period exceeding 30 (thirty) days.

3. No Party shall be responsible to any other Party for any indirect or consequential loss or similar damage such as, but not limited to, loss of profit, loss of revenue or loss of contracts, provided such damage was not caused by a wilful act or by a breach of confidentiality.

Article 12.

(Amendments to the Agreement)

1. All amendments to this Protocol and any amendment which the Parties intend to accomplish should be made in writing, signed by both Parties.

Article 13.

(Law and Dispute Resolution)

1. This Agreement shall be governed by the _____ law.
2. In the event of a dispute or litigation between the Parties concerning the interpretation, validity or application of this Agreement, that they are unable to resolve amicably, either party may submit it to an arbitral tribunal, with express waiver of any other court.
3. The arbitral tribunal shall be constituted and operate in accordance with standards set by WIPO Arbitration Rules and will consist of three arbitrators, one appointed by each party.
4. The arbitration process will run in Lisbon, in English, unless otherwise agreed by the parties to the arbitration proceedings.
5. Where it is concerned a dispute or litigation relating to matters of industrial property, arising from this Protocol, the competence to address such conflicts will be up to an Arbitral Tribunal shall operate in accordance with the WIPO Expedited Arbitration Rules, with express waiver of any another, in this case by applying the rules of the Law of the Country where the Competent Court is based.
6. The arbitral tribunal and / or arbitration center will appreciate the facts and judge according to the Law of the Country where the Competent Court is based, and the decisions made by them cannot be appealed.
7. The above provisions shall not prevent a party from seeking preliminary injunction in any competent court until a final determination of the merits has been made.

Article 14.

(Notices and Communications)

1. Any notices to effect under this Agreement shall be sent by registered letter with acknowledgment of reception to the address of each of the Parties, indicated in the following paragraph.
2. Any other communications or documents to be delivered under this Agreement shall be delivered by hand or sent by fax, e-mail or registered mail with acknowledgment of reception to the representatives

of the Parties and to the addresses indicated below or for yet another address that a party has notified the other, for the purposes of this clause:

ACRONYM

Contact Person:

Address:

E-mail:

Phone:

UNIVERSITY

Contact Person:

Address:

E-mail:

Phone:

Any change to the representatives of the Parties, addresses and numbers listed in this Article shall be notified to the other party with acknowledgment of reception, at least 15 (fifteen) days, beginning on the date of effect of the change communicated.

The Parties declare to know and fully accept the terms of this Agreement.

This Agreement will be signed by the Parties respective legal representatives, having each Party a copy duly initialled and signed.

Signatures

APPENDIX 1

Title of the Services

- 1. Project description**
- 2. Materials to be provided by ACRONYM**
- 3. Tasks to be performed by UNIVERSITY**
(task description, time, deliverables, milestones)
- 4. Calendar**
- 5. Global Budget**

Category	Total
Human Resources (full employed)	€
Human Resources (post grad student)	
Consumables ((e.g. chemical reagents, telephone, fax, mail, copying, software and licences)	€
Equipment (including PCs/laptops)	€
Travel/accomodation	
Conferences and meetings	
Indirect costs	€
Total (€)	€

- Explain budget

APPENDIX F

ASSIGNMENT AGREEMENT

Intellectual Property Assignment Agreement

This Intellectual Property Assignment Agreement (“Agreement”) is being made between _____ (“Employee”) located at _____ and _____ (“Employer”) located at _____ on _____. _____ (Employee) and _____ (Employer) may also be referred to as “Party” or together as the “Parties”. This Agreement will become effective on _____ (“Effective Date”).

The Parties agree to the following:

1. Intellectual Property

The Employee agrees to assign to the Employer all present and future right, title, and interest to all intellectual property (“Intellectual Property”) created or discovered during the course of their employment. Intellectual Property includes, but is not limited to, algorithms, code, concepts, developments, designs, discoveries, ideas, formulas, improvements, inventions, processes, software, trademarks, and trade secrets. Intellectual Property also includes the tangible embodiments (e.g. – drawings, notes) of any intangible items.

2. Prior Inventions

Intellectual Property that existed prior to the Employee’s employment, for which the Employee has a right, title, or interest (collectively the “Prior Inventions”) will remain the exclusive property of the Employee. The Employee agrees that all Prior Inventions are included in this Section 2. If no Prior Inventions are listed in this Section 2, the Employee represents that no Prior Inventions exist.

a. Prior Inventions

- i. _____
- ii. _____
- iii. _____

3. Patent and Copyright Registrations

The Employee agrees to cooperate with the Employer to do whatever is reasonably necessary to obtain the patents and copyrights required to secure the Employer’s ownership rights in the Intellectual Property. The Employee will cooperate with the Employer during the course of their employment as well as after termination of this Agreement.

4. Term

This Agreement will become effective on the Effective Date and will remain in effect until the Employee is no longer employed by the Employer.

Following termination of this Agreement, the Employer will have exclusive ownership rights to all of Employee's post-employment Intellectual Property that arises from or directly relates to their work for the Employer.

5. Return of Data and Documents

Upon termination of this Agreement, the Employee agrees to immediately return all tangible embodiments of the Intellectual Property, including but not limited to data, drawings, documents, and notes developed during the course of their employment. The Employee will not make copies or attempt to recreate the tangible embodiments.

6. General

- a. **Assignment.** The Parties may not assign the responsibilities they have under this Agreement to anyone else.
- b. **Choice of Law.** This Agreement will be interpreted based on the laws of the State of _____, regardless of any conflict of law issues that may arise. The Parties agree that any dispute arising from this Agreement will be resolved at a court of competent jurisdiction located in the State of _____.
- c. **Complete Contract.** This Agreement constitutes the Parties entire understanding of their rights and obligations. This Agreement supersedes any other written or verbal communications between the Parties.
- d. **Severability.** If any section of this Agreement is found to be invalid, illegal, or unenforceable, the rest of this Agreement will still be enforceable.
- e. **Successors and Assigns.** This Agreement will be binding upon the Employee's successors, heirs, and assigns for the benefit of the Employer and the Employer's successors, heirs, and assigns.
- f. **Waiver.** Neither Party can waive any provision of this Agreement, or any rights or obligations under this Agreement, unless agreed to in writing. If any provision, right, or obligation is waived, it's only waived to the extent agreed to in writing.

7. Notices

All notices pursuant to this Agreement must be sent by email with return confirmation of receipt, or certified or registered mail with return receipt requested.

Notices should be sent to:

_____ **Employee**

_____ **Employer**

By signing below, the Employee acknowledges and agrees to the terms of this Agreement.

_____ **Employee**

Signed: _____

Name: _____

Title: _____

Date: _____

APPENDIX G

LICENSE AGREEMENT

EXCLUSIVE LICENSE AGREEMENT

This Agreement (hereinafter "this Agreement") entered into as of this <DATE> ("Effective Date") by and between:

UNIVERSITY, with registered number xxxxxx, having a principal place of business at xxxxxx, represented by xxxxx, in his capacity as xxxxx, hereinafter referred to as "Licensor"

and

COMPANY, with registered number xxxxxx, having a principal place of business at xxxxxx, represented by xxxxx, in his capacity as xxxxx, hereinafter referred to as "Licensee"

WHEREAS

Whereas, UNIVERSITY owns certain rights in certain technology relating to _____ and is interested in licensing same;

Whereas, Licensee desires to acquire rights in and to the technology upon the terms and conditions herein set forth;

Now Therefore, in consideration of the mutual covenants contained herein and intending to be legally bound hereby, the parties agree as follows:

1. Certain Definitions ("Defined Terms")

1.1. **"Patent(s)"** shall mean any patent, continuation, continuation-in-part, divisional, or reissue in Portugal or in any other country, which issues to UNIVERSITY and is based on intellectual property in existence at the date of the signing of this Agreement.

1.2. **"Licensed Technology"** or **"Technology"** shall mean (i) the technology described in Attachment A on "as is" basis on the Effective Date, (ii) any claims issuing on Portuguese Patent Application Number 103990 and any modifications, divisionals, extensions, continuations, continuations-in-part or amendments thereto.

1.3. **"Licensed Product"** or **"Product"** shall mean any product and/or service which constitutes, is based on, incorporates or utilizes, wholly or in part, Licensed Technology.

1.4. **"Year"** refers to contract years of the License Agreement, i.e. a 12 month period starting with the date (or anniversary) of the Effective Date of the License Agreement.

1.5. **"Fiscal Quarter"** or **"Quarter"** shall refer to the normal quarterly accounting periods of Licensee; if Licensee does not have normal quarterly accounting periods, then "Fiscal Quarters" shall mean the calendar three months periods commencing with January of each year.

1.6. **"Dispose"** or **"Disposition"** shall mean the sale, lease or other transfer.

1.7. **"Revenue"** shall mean the Euro value of all consideration realized by Licensee for the Disposition of Licensed Product(s).

1.8. **"Net Sales"** shall mean the total Revenues received by Licensee from the manufacture, use or Disposition of Licensed Products, less the total of all:

- a. discounts allowed in amounts customary in the trade;
- b. sales tariffs, duties and/or taxes imposed on the Licensed Products;
- c. outbound transportation prepaid or allowed; and
- d. amounts allowed or credited on returns.

No deduction shall be made for commissions paid to individuals whether they be independent sales agents or persons regularly employed by Licensee.

1.9. **"Royalties"** shall mean Disposition royalties which are calculated as a percentage of Net Sales and will be payable by Licensee to UNIVERSITY under the provisions of this Agreement.

1.10. **"Euro", "Euros" and "€"** shall mean lawful money of the European Union.

2. License Grant

2.1. UNIVERSITY hereby grants to Licensee, and Licensee hereby accepts, an exclusive, **Territory** right to use the Licensed Technology to make, have made, use and Dispose of Licensed Products.

2.2. No right to sublicense the Technology is hereby granted to Licensee except (1) that Licensee may sublicense to its customers Licensed Technology to the extent necessary for use and practice of the Licensed Product sold by Licensee to said customers or (2) with the specific agreement by UNIVERSITY. Licensee understands that any sublicenses granted by Licensee to entities other than customers, (even though the specific agreement by UNIVERSITY to such a sublicense has been obtained) must provide that the obligations to UNIVERSITY under this Agreement, including but not limited to, Indemnification, Insurance, and procedures for Dispute Resolution, shall be binding upon such sublicensee as if it were a party to this Agreement.

2.3. UNIVERSITY shall have the right to use, free of charge, any product or process, developed by Licensee which contains or is based on any of Licensed Technology and/or Derivatives, for UNIVERSITY research, educational, academic, or administrative purposes.

2.4. No provision of this Agreement shall restrict UNIVERSITY's ability to conduct further research and development in the area of Licensed Technology or other areas.

2.5. All Licensed Products shall be manufactured, sold and performed by Licensee in compliance with all applicable governmental laws, rules and regulations. Licensee shall keep UNIVERSITY fully informed of, and shall move expeditiously to resolve, any complaint by a governmental body relevant to the products or the services, except for complaints subject to Section 22 (Infringement) of this Agreement.

2.6. UNIVERSITY retains the right, exercisable in the sole discretion of UNIVERSITY and upon advance notice to Licensee, to grant nonexclusive licenses under the Licensed Technology to third parties as a means to resolve disputes or settle claims, suits or proceedings arising out of allegations of infringement of the intellectual property rights of the third party. Each party shall promptly notify the other parties hereto of its receipt of any such allegations. Nothing in this Section 2.6 shall be construed as obligating UNIVERSITY to resolve any dispute or to settle or defend any claim, suit or proceeding arising out of Licensee's manufacture, use or sale of Licensed Products. If UNIVERSITY grants such non-exclusive license, the economic terms of this License Agreement will be adjusted.

3. Term of this Agreement

The term of this Agreement shall conclude at the end of twenty (20) years from the Effective Date of this Agreement, or on the expiration date of the last-to-expire Patent, whichever comes later, unless otherwise terminated pursuant to another provision of this Agreement.

4. Due Diligence

4.1. Licensee shall use its best efforts to effect introduction of Licensed Technology into the commercial market as soon as possible; thereafter, until the termination of this Agreement, Licensee shall keep Licensed Technology reasonably available to the public.

4.2. Licensee must achieve the following milestones:

[Specific milestones to be defined for exclusive licenses]

4.3. Licensee's failure to perform in accordance with Sections 4.1 or 4.2 herein shall be grounds for UNIVERSITY to terminate this Agreement pursuant to Section 11.2 herein.

5. Royalties

5.1. Royalties payable by Licensee to UNIVERSITY shall be $< > \%$ of Net Sales of Licensed Products by Licensee

5.2. Licensee shall pay UNIVERSITY a non-refundable up-front fee of € $< >$, due and payable thirty (30) days after the Effective Date of this Agreement. This up-front fee will not be credited against any other amounts due under this Agreement.

5.3. Licensee shall pay UNIVERSITY a minimum royalty of €_____ (_____ EUROS) per year ("**Annual Minimum Royalty**"), payable on April 30th of each year. The Annual Minimum Royalty shall be credited against the Royalties payable in a Year. Licensee shall pay UNIVERSITY Annual Minimum Royalties according to the following schedule:

<insert schedule>

5.4. Annual Minimum Royalty payments are to be adjusted every year on the basis of the Portuguese Inflation Rate.

6. General Payment Terms

6.1. Royalties shall be paid by Licensee to UNIVERSITY, as defined in Sections 5 and 6 herein, for each Fiscal Quarter within sixty (60) days of the end of such Fiscal Quarter, until this Agreement expires or is terminated in accordance with this Agreement. If this Agreement terminates before the end of a Fiscal Quarter, the payment for that terminal fractional portion of a Fiscal Quarter shall be made within ninety (90) days of the date of termination of this Agreement.

6.2. All Royalties hereunder shall be paid in EUROS and shall be made by wire transfer to UNIVERSITY's account No. *xxxxxxxxxx*, or by Licensee's check sent in accordance with Section 23 (Notices).

6.3. All Royalties payable hereunder which are overdue shall bear interest until paid at a rate equal to the Prime Rate in effect at the date such Royalties were due plus 4% (four percent) per annum, but in no event to exceed the maximum rate of interest permitted by applicable law. This provision for interest shall not be construed as a waiver of any rights UNIVERSITY has as a result of Licensee's failure to make timely payment of any amounts.

7. Reports and Audits

7.1. Licensee shall report Quarterly to UNIVERSITY its Net Sales and Revenues, which are subject to Royalty payments.

7.2. Licensee shall maintain accurate books and records such that the Royalties due and payable hereunder can be easily ascertained. Such books and records shall be maintained at Licensee's principal place of business and shall be available for inspection by UNIVERSITY or its representatives during the normal business day upon not less than ten (10) days prior written notice, provided that UNIVERSITY or its representatives agree to protect the confidentiality of the information as to the customers of Licensee.

7.3. Licensee shall make available Licensee's books and records for audit by an accounting firm or representative of UNIVERSITY's selection, and Licensee agrees to cooperate fully in any such audit, provided that the auditors agree to protect the confidentiality of the information as to the customers of Licensee. Any such audit shall not be more frequent than annually. In the event that such audit determines that the amount of Royalties paid to UNIVERSITY was in error by more than five (5) percent, Licensee shall pay the costs of the audit, in addition to promptly making payments to eliminate the deficiency.

8. Improvements and Collaborations

8.1. Discussion of a problem during collaboration between the parties to this License Agreement will not create any rights to ownership of patents, copyrights, trade secrets or other intellectual property rights in solutions to the problem developed solely by employees or agents of the other party hereto.

8.2. Licensee will own all of the right, title and interest (including patents, copyrights, trade secrets and any other intellectual property rights, but excluding Patents) in and to the results of the collaboration between the parties that are developed solely by Licensee employees or agents.

8.3. UNIVERSITY will own all of the right, title and interest (including patents, Patents, copyrights, trade secrets and any other intellectual property rights) in and to the results of the collaboration between the parties that are developed solely by UNIVERSITY employees or agents.

8.4. All intellectual property which result in Patents or Licensed Technology developed jointly by employees or agents of UNIVERSITY and Licensee shall be owned by UNIVERSITY. Licensee may utilize such jointly developed property pursuant to the terms of this License Agreement. UNIVERSITY may issue licenses to others regarding such jointly developed property which result in Patents or Licensed Technology, as long as such licenses do not violate any exclusive license to Licensee then existing under Section 2. (License Grant). If any other property rights are developed jointly by employees or agents of UNIVERSITY and Licensee which would not constitute a Patent or Licensed Technology and which are not subject to another agreement between UNIVERSITY and Licensee, UNIVERSITY and Licensee shall jointly own (without any duty to account to the other for profits) all right, title and interest (including patents, copyrights, trade secrets, and other intellectual property rights) in and to the results of such joint development. If any patentable invention which would not constitute a Patent or Licensed Technology arises out of such joint development by employees or agents of UNIVERSITY and Licensee, UNIVERSITY and Licensee will engage in good faith efforts to mutually agree on whether and how to pursue patent, copyright or mask work protection of the invention Portugal and elsewhere.

8.5. Except as provided in this Section 8, nothing herein shall be deemed to grant any license or rights in any other technology in addition to the Licensed Technology.

9. Patents and Other Intellectual Property

9.1. UNIVERSITY Property. Intellectual property rights to Licensed Technology such as Patent(s) and Copyrights which may be obtainable will remain the property of UNIVERSITY. Trademarks existing on the Effective Date of this License Agreement belong to UNIVERSITY.

9.2. Licensee shall bear all patenting and other intellectual property protection costs. Licensee will reimburse UNIVERSITY for all fees and expenses related to such patenting, within thirty (30) days of the receipt of each Notification or bill.

9.3. UNIVERSITY has applied for, and/or will apply for and prosecute Patent coverage in any country if so requested by Licensee, at Licensee's sole expense, for any and all Patents listed in Attachment A, to the extent that such protection is reasonably obtainable.

9.4. UNIVERSITY may, at its option and sole discretion and at its own expense pursue patent, copyright and/or trademark rights for Licensed Technology in any country for which coverage has not been requested by Licensee in accordance with Subsection 9.3 above. If Licensee does not reimburse UNIVERSITY for such fees within thirty (30) days of the receipt of each Notification, then Licensee shall have no rights under any Patent in that country.

10. Markings, Trademarks and Trade Names

10.1. Licensee shall have included in all sales, marketing literature and invoices relating to Licensed Product, a statement to the effect that "this product or portions thereof is manufactured under license from UNIVERSITY " and, if applicable, either "Patent Pending" or, if applicable, "PCT [X,XXX,XXX]."

10.2. Licensee shall have marked the appropriate portions of all Licensed Product with any applicable Patent numbers in accordance with the applicable laws of the countries in which the materials are intended to be used. Licensee shall neither register nor use any UNIVERSITY trademarks or trade names.

10.3. Licensee acknowledges that it does not have any rights or any title whatsoever in or to UNIVERSITY 's technology, trade name or in or to any of UNIVERSITY 's trademarks, except as provided under this Agreement. Any reference by Licensee to UNIVERSITY beyond the above may only be done with express written permission of UNIVERSITY 's Director.

11. Termination

11.1. In the event that Licensee defaults in the payment in full of any amount required to be paid under this Agreement on the date such payment is due, in addition to utilizing any other legal and/or equitable remedies, UNIVERSITY shall have the right by written notice to Licensee within ninety (90) days after such default either (i) to terminate the exclusivity, if any, of the license hereunder in (by amending the word "exclusive" in the License Grant to read "non-exclusive") without any reduction in any of the payments due from Licensee or (ii) to terminate this Agreement. If UNIVERSITY terminates this Agreement pursuant to this Section, Licensee shall still pay UNIVERSITY any Annual Minimum Royalties due for the next Year thereafter, notwithstanding termination of Licensee's rights hereunder.

11.2. In the event that either party to this Agreement defaults in the performance of any of its obligations hereunder (other than the default referred to in Section 11.1. (Termination), hereof) and fails to cure such default within thirty (30) days after written notice of such default from such other party, the other party shall have the right by written notice to the defaulting party within sixty (60) days after the expiration of such thirty (30) day period to terminate this Agreement.

11.3. The termination of this Agreement pursuant to this Section 11 (or pursuant to Section 3. (Term) hereof) shall not terminate (i) the obligation of Licensee to pay any amounts, which have accrued or which are otherwise to be paid by Licensee under the terms of this Agreement, or (ii) the obligations of Licensee under Sections 7. (Reports and Audits), 9. (Patents and Other Intellectual Property), 11. (Termination), 14. (Confidentiality and Trade Secrets), 15. (Indemnification), 19. (Dispute Resolution), and 20. (Infringement) hereunder.

12. No Warranty

ANY INFORMATION, MATERIALS, SERVICES, INTELLECTUAL PROPERTY OR OTHER PROPERTY OR RIGHTS, GRANTED OR PROVIDED BY UNIVERSITY PURSUANT TO THIS AGREEMENT ARE ON AN "AS IS" BASIS. UNIVERSITY MAKES NO WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED, AS TO ANY MATTER INCLUDING, BUT NOT LIMITED TO, WARRANTY OF FITNESS FOR PARTICULAR PURPOSE, OR MERCHANTABILITY, EXCLUSIVITY OR RESULTS OBTAINED FROM USE. NOR SHALL EITHER PARTY HERETO BE LIABLE TO THE OTHER FOR INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES SUCH AS LOSS OF PROFITS OR INABILITY TO USE SAID INTELLECTUAL PROPERTY OR ANY APPLICATIONS AND DERIVATIONS THEREOF. UNIVERSITY DOES NOT MAKE ANY WARRANTY OF ANY KIND WITH RESPECT TO FREEDOM FROM PATENT, TRADEMARK, OR COPYRIGHT INFRINGEMENT, OR THEFT OF TRADE SECRETS AND DOES NOT ASSUME ANY LIABILITY HEREUNDER FOR ANY INFRINGEMENT OF ANY PATENT, TRADEMARK, OR COPYRIGHT ARISING FROM THE USE OF THE LICENSED TECHNOLOGY, INFORMATION, MATERIALS, SERVICES, INTELLECTUAL PROPERTY, OR OTHER PROPERTY OR RIGHTS GRANTED OR PROVIDED BY IT HEREUNDER. LICENSEE AGREES THAT IT WILL NOT MAKE ANY WARRANTY ON BEHALF OF UNIVERSITY, EXPRESSED OR IMPLIED, TO ANY ENTITY CONCERNING THE APPLICATION OF OR THE RESULTS TO BE OBTAINED WITH THE LICENSED TECHNOLOGY,

INFORMATION, MATERIALS, SERVICES, INTELLECTUAL PROPERTY OR OTHER PROPERTY OR RIGHTS, GRANTED OR PROVIDED BY UNIVERSITY PURSUANT TO THIS AGREEMENT.

13. Costs

All costs and expenses incurred by Licensee in carrying out Licensee's obligations under this Agreement shall be paid by Licensee, and Licensee shall not be entitled to reimbursement from Royalties hereunder or otherwise therefor from UNIVERSITY. Licensee shall possess or obtain at its own expense all necessary licenses and permits and shall comply with all laws, ordinances, rules or regulations affecting the exportation, use, and/or sale or transfer of the Licensed Product, Licensed Technology and/or Derivatives.

14. Confidentiality and Trade Secrets

14.1. "Confidential Information" shall mean any information relating to the Licensed Technology, the terms of this Agreement (as from time to time amended), Patents, copyrights, algorithms, and software covered by this Agreement or information disclosed to Licensee in the manner set forth hereinafter. All such information shall be Confidential Information, including information disclosed to Licensee prior to the date of this Agreement, unless such information (i) was already in Licensee's possession prior to the disclosure thereof by UNIVERSITY as provided in subsection (a) hereof, (ii) has been published or is published hereafter, unless such publication is a breach of this Agreement, (iii) is received by Licensee from a third party not under an obligation of confidentiality with respect thereto, or (iv) is independently developed by Licensee.

(a) In the event that such information shall be established to have been known to Licensee prior to the disclosure thereof by UNIVERSITY by reference to any publication thereof by Licensee or by reference to any internal writing or other business record maintained by Licensee in the ordinary course of business, such information shall not be deemed to be Confidential Information for purposes of this Agreement following notification to UNIVERSITY of such fact.

(b) With respect to any information not related to the Licensed Technology which is sought by UNIVERSITY to be Confidential Information subject to this Agreement, UNIVERSITY shall mark such information as "Confidential" prior to disclosing it to Licensee.

(c) With respect to any oral communication not related to the Licensed Technology which is deemed by UNIVERSITY to be Confidential Information subject to this Agreement, UNIVERSITY shall notify Licensee of such fact and within thirty (30) days thereafter UNIVERSITY shall send a memorandum to Licensee outlining the information deemed to be Confidential Information.

14.2. Licensee shall maintain in confidence and shall not disclose to any person not a party hereto, nor shall Licensee use or exploit in any way without UNIVERSITY's written agreement, any Confidential Information until three (3) years after the later of the date of the termination of this Agreement or the end of the term of the last to expire Patent, unless such information ceases to be Confidential Information prior to the end of such period through no fault of Licensee or Licensee and UNIVERSITY enter into an agreement authorizing same.

14.3. Licensee shall exercise all reasonable precautions to prevent the disclosure of Confidential Information by its employees or representatives, and in any event shall maintain with respect to such Confidential Information a standard of care which is no less than that standard which Licensee maintains to prevent the disclosure of its own confidential information.

14.4. Upon termination of this Agreement, Licensee agrees to return at once to UNIVERSITY, without copying, all originals and copies of all materials (other than this Agreement) containing any Confidential Information.

14.5. For purposes of this Section the term " UNIVERSITY " shall include inventors of the Licensed Technology and those working with or under them.

15. Indemnification

Licensee hereby agrees to defend, indemnify and hold harmless University, its trustees, officers, employees, attorneys and agents from all claims or demands made against them (and any related losses, expenses or attorneys' fees) arising out of or relating to Licensee's and/or its sublicensee's negligent use or willful misuse of or negligent conduct or willful misconduct regarding Licensed Products, Licensed Technology or Derivatives, including but not limited to, any claims of product liability, personal injury, death, damage to property or violation of any laws or regulations.

17. Breach

No acquiescence in any breach of this Agreement by either party shall operate to excuse any subsequent or prior breach.

18. Prior Agreement

Except for any confidential disclosure agreement executed by the parties, this Agreement supersedes all previous agreements relating to the subject matter hereof, whether oral or in a writing, and constitutes the entire agreement of the parties hereto and shall not be amended or altered in any respect except in a writing executed by the parties.

19. Interpretation

This Agreement shall be governed by, and construed and enforced in accordance with, the laws of Portugal, without regard to conflict of law principles.

20. Dispute Resolution

20.1. Subject to Subsection 20.2, any controversy or dispute arising under this Agreement shall be referred to and finally settled by the Courts of Lisbon (Portugal)

20.2. Either party may seek injunctive relief for: (a) violation by the other party of Sections 7. (Reports and Audits), 10. (Markings, Trademarks and Trade Names), 14. (Confidentiality and Trade Secrets), and 20. (Dispute Resolution). The prevailing party shall be entitled to recover from the other all costs, including attorneys' fees, related to the action for injunctive relief.

21. Infringement

21.1. Licensee shall have the right during the term of this Agreement to commence an action for infringement of the Patents against any third party for any infringement, provided that Licensee shall provide UNIVERSITY thirty (30) days' prior written notice of such infringement and of Licensee's intent to file such action. UNIVERSITY shall have the right at its own expense to appear in such action by counsel of its own selection. If required by the jurisdictional laws of the forum that any such action be prosecuted in the name of the owner of the Patent, UNIVERSITY shall voluntarily appear at Licensee's expense; provided that if such appearance subjects UNIVERSITY to any unrelated action or claim of a third party or Licensee in such jurisdiction, then UNIVERSITY shall have the right to decline such appearance. Settlement of any action brought by Licensee shall require the consent of UNIVERSITY and Licensee, which neither shall unreasonably withhold from the other, and any settlement amount or recovery for damages shall be applied as follows: (i) first, to reimburse the parties for their expenses in connection with the litigation; and (ii) second, UNIVERSITY shall receive compensation for the time of any UNIVERSITY personnel involved in the action and (iii) third, UNIVERSITY shall receive ____ percent (___%) of any monies remaining.

21.2. UNIVERSITY shall have the right in its absolute discretion during the term of this Agreement to commence an action for infringement of the Patents against any third party for any infringement occurring anywhere in the world, provided that, before commencing any such action, UNIVERSITY shall provide Licensee not less than thirty (30) days' prior written notice of such infringement and of UNIVERSITY's intent to file such action. Licensee shall have the right at its own expense to appear in such action by counsel of its own selection. If UNIVERSITY provides Licensee with such notice before instituting an action and Licensee fails to initiate an action against such third party prior to the commencement of an action by

UNIVERSITY, then any settlement amount or recovery for damages shall belong entirely to UNIVERSITY and UNIVERSITY may settle said action without the consent of Licensee.

22. Notices

Any notice under any of the provisions of this Agreement shall be deemed given when deposited in the mail, postage prepaid, registered or certified first class mail and addressed to the applicable party at the address stated on the signature page hereof, or such other address as such party shall specify for itself by like notice to other party. Each party shall transmit to the other a facsimile copy of each such notice promptly after such deposit in the mail.

23. Assignment

Licensee shall neither assign nor transfer this Agreement or any interest herein without the prior written consent of UNIVERSITY.

24. Headings

The section headings contained in this Agreement are set forth for the convenience of the parties only, do not form a part of this Agreement and are not to be considered a part hereof for the purpose of construction or interpretation hereof, or otherwise.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed in duplicate counterparts, each of which shall be deemed to constitute an original, effective as of the date first above written.

UNIVERSITY

By: _____
Professor
Rector

DATE: _____

<COMPANY>

By _____

Title: _____

DATE: _____

Address for Notices:

<ADDRESS>

ATTACHMENT A

DESCRIPTION OF LICENSED TECHNOLOGY

APPENDIX H

SPIN-OFF AGREEMENT