

Model Collaboration Agreement

[Company Name] **[INSERT NAME]** a company limited by guarantee (Company Number: XXXX) whose registered office is [insert address] (“The Client”)

The Service Provider: **[INSERT NAME]** a NHS organisation whose principle address is at

This Agreement is made on the date when both parties have signed below, for the research and development services described in the Schedule, subject to the Client’s Terms and Conditions, which both the Service Provider and the Client undertake to observe in the performance of this Agreement.

Schedule

Research & Development Services:	<i>[description of the services you require]</i>
Deliverables	<i>[include here what you want to be delivered as the output of the Services]</i>
Completion Date (if applicable):	
Fees:	[]
Expenses (if applicable):	
Milestones (if applicable):	

Milestone Dates (if applicable):	
Materials to be supplied by the Client (if applicable)	

SIGNED by the parties or their duly authorised representatives on 20

Signed by the duly authorised representative of the Client

Name: Signature:

Position: Date:

Signed by the duly authorised representative of the Service Provider

Name: Signature:

Position: Date:

Terms and Conditions for the provision of services

These Terms and Conditions apply to the provision to the Client by the Service Provider of the research and development services as detailed in the Schedule.

1 Interpretation

1.1 In this Agreement (except where the context otherwise requires):

“Agreement” means these Standard Terms and Conditions together with the Schedule;

“Background Intellectual Property” means any Know-how and Intellectual Property, other than Foreground Intellectual Property, which is owned by, proprietary to or licensed to either party and which is used, sub-licensed or contributed by that party in the performance of or in connection with the performance of the Services;

“Completion Date” means the date specified in the Schedule[, *or if unspecified, at the end of a [reasonable time period][one month etc] from the date of this Agreement*];

“Confidential Information” shall mean all commercial, technical, financial and other information of whatever nature and in whatever form (whether written, oral, visual, recorded, graphical, electronic or otherwise) relating to the business, technology, products or other affairs of the Client, which has been, or may be, disclosed, supplied or made available to the Service Provider for the purpose of performing the Services (whether or not such information is designated in writing as “Confidential”, “Proprietary”), and the Foreground Intellectual Property, and the Client’s Background Intellectual Property.

“Deliverables” shall have the meaning included in the Schedule;

“Fees” means the fees payable by the Client to the Service Provider for the performance of the Services as specified in the Schedule;

“Foreground Intellectual Property” means any Intellectual Property and Know-how that results from or is generated or arises or is made, originated, developed or obtained by the Service Provider including but not limited to any Intellectual Property in the Deliverables in the course of the performance of or otherwise in relation to the performance of the Services;

“Intellectual Property” means any patents, registered trade marks and registered designs (including applications and the right to apply for any of them in any country in the world), any other rights in inventions, discoveries and improvements, unregistered trade marks (including any trade, brand or business names, devices, logos or get-up whether registrable or not), rights in domain names, copyright (including any copyright subsisting in any computer software) and typographical rights, design rights, database rights and any other industrial or intellectual property right subsisting in any country in the world;

“Know-how” means any industrial, commercial and technical records and information;

“Materials” means the materials supplied by the Client specified in the Schedule, if any;

“Milestone Dates” means the Milestone Dates specified in the Schedule if any;

“Milestones” means the Milestones specified in the Schedule if any;

“Services” means the Services set out in the Schedule; and

“Schedule” means the Schedule to this Agreement.

1.1 Any reference in this Agreement to a clause is to the relevant clause of these Standard Terms and Conditions.

1.2 The clause headings are included for convenience only and shall not affect the interpretation of this Agreement.

2 Duties

2.1 The Service Provider shall perform the Services and shall, at all times during the period of this Agreement, use all reasonable care and skill in connection with the performance of the Services and reach the standard of a skilled professional organisation experienced in the field in question.

2.2 The Service Provider shall be responsible for the provision of all materials required to carry out the Services, except to the extent specified otherwise in the Schedule.

2.3 The Service Provider shall:

2.3.1 complete the performance of the Services by the Completion Date;

2.3.2 where applicable, meet the Milestones by the Milestone Dates; and

2.3.3 on or before the Completion Date and/or completion of any relevant Milestone, provide the Client with the Deliverables.

3 Approval and Payment

3.1 At any time prior to the Completion Date and/or completion of any Milestone, the Client shall be entitled to inspect and test the work undertaken by the Service Provider including any Deliverables produced in order to satisfy itself that the Services are being performed in accordance with the requirements set out in the Schedule.

3.2 Upon completion of the Services (and each Milestone where applicable) the Client shall evaluate the Deliverables in accordance with the requirements of the Services set out in the Schedule and the Client shall notify the Service Provider within a reasonable time of receipt of the Deliverables of its acceptance or rejection of the Deliverables. If the Client rejects the Deliverables, it shall inform the Service Provider of the changes required to be made to the Deliverables and the Service Provider shall act promptly to implement the changes. If the Service Provider fails to correct the Deliverables within 15 days of notice of rejection, the Client may terminate this Agreement with no further obligation to the Service Provider.

3.3 the Client shall be under no obligation to make payment of any Fees (including any Fees linked to Milestones) until it has communicated its acceptance of the relevant Deliverables.

3.4 The Service Provider shall not send an invoice for the Services or in respect of any particular Milestone until it receives communication from the Client of the Client’s acceptance of the Deliverables in accordance with clause 3.2 above and the Client shall make payment within 30 days

of receipt of the invoice by cheque or by bank transfer to the account of the Service Provider at a bank to be nominated in writing by the Service Provider.

3.5 All fees specified are inclusive of VAT and the Client shall not be obliged to reimburse any Expenses or make any other payment in addition to the Fees unless specified in the Schedule or otherwise agreed by the Client.

3.6 Payment by the Client shall be without prejudice to any claims or rights which the Client may have against the Service Provider.

4 Intellectual property rights

4.1 All Foreground Intellectual Property shall be owned by the Client and the Service Provider hereby assigns by way of present, and future assignment to the Client all right, title and interest in and to the Foreground Intellectual Property.

4.2 the Client shall, in its sole discretion, be entitled to apply for patent and any other registrable intellectual property rights in respect of the Foreground Intellectual Property and shall be responsible for the maintenance and renewal of such rights.

4.3 Subject to clauses 4.4 and 4.9 all Background Intellectual Property will remain the property of the party that owns it or the licensor of that party as appropriate.

4.4 the Client hereby grants to the Service Provider, solely for the purpose of the performance of the Services, a world-wide, royalty-free, revocable, non-transferable, non-exclusive licence to use that part of the Client's Background Intellectual Property which is wholly and necessarily required for the said purpose, which licence may be terminated by the Client at any time on immediate notice.

4.5 Immediately following the making, origination or development of any Foreground Intellectual Property, the Service Provider shall disclose full details of it to the Client.

4.6 The Service Provider waives and undertakes to procure that any member of its personnel shall waive in favour of the Client all moral rights subsisting in respect of the Foreground Intellectual Property to which it or they may at any future time be entitled under the Copyright Designs and Patents Act 1988 or any other legislation from time to time in force.

4.7 The Service Provider will do nothing (whether by omission or commission) throughout the duration of this Agreement or at any time after its termination to affect or endanger the validity of any intellectual property rights obtained, applied for or to be applied for by the Commissioner. In particular without limitation the Service Provider shall not disclose the subject matter of any inventions, discoveries or improvements that may be patentable. The Service Provider agrees to assist the Client in connection with any application for patent and any other registrable intellectual property rights and to do all such acts and things as the Client's legal advisors may advise are necessary or desirable in connection with such assignment or application.

4.8 The Service Provider shall (notwithstanding the prior termination of this Agreement for any reason) do all such things and execute all such documents (or procure its personnel to do all such things and execute all such documents) as may be necessary or desirable to vest in the Client (or as the Client shall direct) the full legal title to such Foreground Intellectual Property and to enable the Client (or its nominee) to enjoy the full benefit of it.

4.9 The Service Provider hereby grants to the Client a world-wide, royalty-free, irrevocable, non-transferable, non-exclusive licence to use that part of the Service Provider's Background Intellectual Property required by the Client in order to make use of the Deliverables.

4.10 The Service Provider shall not use the name, any adaptation of the name, or any logo, trademark or other device of, the NHS or the Client without the prior written consent of the Client, except to the extent necessary for the performance of the Services as specified in the Schedule.

5 Warranties

5.1 The Service Provider warrants and represents that:

5.1.1 the Foreground Intellectual Property will not infringe any Intellectual Property or other rights of any third party and the Client and any other person to whom the Client assigns, licenses or sub-licenses its rights will be free to use the Deliverables without infringing the Intellectual Property or any other rights of any third party;

5.1.2 the Foreground Intellectual Property shall be free from any third party claims, liens, charges or encumbrances of any kind;

5.1.3 the Deliverables will meet the requirements of the Services set out in the Schedule and will be fit for their intended purpose; and

5.2 The Service Provider agrees to indemnify the Client against any and all liability, loss, damage, costs and expenses which the Client or any third party may incur or suffer

whether direct or consequential (including but without limitation any economic loss or other loss of profits, business or goodwill) as a result of a breach by the Service Provider of the warranties in clause 5.1 and as a result of any dispute or contractual, tortious or other claims or proceedings brought against the Client or a third party by another third party alleging infringement of its Intellectual Property or other rights by reason of the use or exploitation of the Deliverables.

6 Confidential Information

6.1 The Service Provider agrees to keep and to ensure that its personnel shall keep the Confidential Information secret and confidential and not without the prior written consent of the Client to disclose the Confidential Information or permit it to be disclosed to any third party or to make use of or permit it to be made use of except as permitted under this Agreement to enable the Service Provider to carry out its duties and obligations.

6.2 The Service Provider shall procure that all of its employees or other personnel having access to any of the Confidential Information shall be subject to the same obligations as the Service Provider and the Service Provider shall take all reasonable steps to ensure that its personnel and employees are made aware of and perform such obligations.

6.3 The obligations of confidence referred to in this clause 6 shall not apply to any Confidential Information which:

6.3.1 the Service Provider can show to the satisfaction of the Client by written records was already in its possession at the time of disclosure by the Client;

6.3.2 is received in good faith by the Service Provider from a third

party who, on reasonable enquiry by the Service Provider claims to have no obligations of confidence to the Client in respect of it and who imposes no obligations of confidence upon the Service Provider; or

6.3.3 is already published at the date of disclosure or becomes publicly available through no fault of the Service Provider.

7 Indemnity

7.1 The Service Provider agrees to indemnify and keep indemnified the Client from and against all costs, actions, claims, demands, liabilities, expenses, damages or losses (including without limitation direct or consequential losses and loss of profit and all interest, penalties and legal and other professional costs and expenses) arising out of or in connection with the Service Provider's negligence, default or breach of the terms of this Agreement.

8 Termination

8.1 This Agreement shall terminate automatically on the Completion Date, or on the date on which the Client communicates its acceptance of all of the Deliverables, whichever later, unless terminated earlier by the Client pursuant to clause 3.2.

8.2 the Client may give notice in writing to the Service Provider terminating this Agreement with immediate effect if the Service Provider commits a breach of this Agreement which, in the case of a breach capable of remedy, shall not have been remedied within 30 days of the receipt of a notice from the Client identifying the breach and requiring its remedy.

8.3 the Client may give notice in writing to the Service Provider terminating this

Agreement with immediate effect if an order is made or a resolution is passed for the winding-up of the Service Provider or an administrator is appointed by order of the court or by other means to manage the affairs, business and property of the Service Provider or a receiver and/or manager or administrative receiver is validly appointed in respect of all or any of the Service Provider's assets or undertaking or circumstances arise which entitle the Court or a creditor to appoint a receiver and/or manager or administrative receiver or which entitle the Court to make a winding-up or bankruptcy order or the Service Provider takes or suffers any similar or analogous action in consequence of debt.

9 Consequences of termination

9.1 Upon termination for whatever reason the Service Provider shall deliver up to the Client all Materials, documents or other materials containing Foreground Intellectual Property, the Client's Background Intellectual Property and any other Confidential Information and the Service Provider shall not thereafter utilise or exploit any of the aforesaid in any way whatsoever.

9.2 Termination of this Agreement for whatever reason shall not affect the accrued rights of the parties arising in any way out of this Agreement as at the date of termination and, in particular but without limitation, the right to recover damages against the other, and the provisions of clauses 5, 6 and 7 and 9 and 14.6 shall survive termination and remain in force and effect.

10 Assignment

10.1 the Client may assign, charge, transfer or otherwise deal in any or all of its rights and obligations under this Agreement and the

Service Provider consents to all such dealings.

- 10.2 The Service Provider shall not assign, transfer, sub-contract or in any other manner make over to any third party the benefit and/or burden of this Agreement, or purport to do any of the same, without the prior written consent of the Client.

11 Data Protection

- 11.1 With respect to the parties' rights and obligations under this Collaboration Agreement, the parties agree that the Client is the Data Controller.

- 11.2 The Client and the Service Provider shall comply at all times with the UK Data Protection Legislation and the General Data Protections Regulation (Regulation (EU) 2016.679) and any other directly applicable UK or European Union regulation relating to privacy as amended from time to time including the Data Protection Act 2018 or any successor legislation.

12 Publicity

- 12.1 Neither party shall make reference to this services provided under this Agreement without reference to the funding support provided by the European Regional Development Fund.

13 Notices

- 13.1 Any notice to be given under this Agreement shall be in writing and shall be delivered by hand or sent by first class inland post to the address of the other party set out in this Agreement or sent by fax (any such fax notice to be confirmed by letter sent by first class inland post or airmail within 12 hours) to the fax number of the other party or sent by e-mail to the email address of the other party (or such other address, fax number or email address as may have been notified). Any

such notice or other document shall be deemed to have been served: if delivered by hand - at the time of delivery; if sent by inland post - upon the expiration of 48 hours after posting; and if sent by fax or by e-mail - at 9.00am on the next business day after the fax or email was dispatched.

14 General

- 14.1 The failure or delay of a party to exercise or enforce any right under this Agreement shall not operate as a waiver of that right or preclude the exercise or enforcement of it at any time or times thereafter.

- 14.2 The Parties are independent contractors and nothing contained in this Agreement shall be construed to imply a partnership, employer and employee, or principal and agent relationship between the Client and the Service Provider, and the Service Provider shall not have any right, power or authority to create any obligations, express or implied on behalf of the Client either jointly or severally.

- 14.3 This Agreement constitutes the entire understanding between the parties with respect to the subject matter of this Agreement and supersedes and replaces all prior agreements, negotiations and discussions between the parties relating to it.

- 14.4 No variation of this Agreement shall be valid unless it is in writing and signed by or on behalf of each of the parties.

- 14.5 The Contracts (Rights of Third Parties) Act 1999 as amended and in force from time to time shall not apply to this Agreement and nothing in this Agreement shall confer or purport to confer on or operate to give any third party any benefit or any right to enforce any term of this Agreement except as expressly provided in this Agreement.

14.6 If any provision of this Agreement shall be held to be unlawful, invalid or unenforceable, in whole or in part, under any enactment or rule of law, such provision or part shall to that extent be severed from this Agreement and rendered ineffective as far as possible without modifying or affecting the legality, validity or enforceability of the remaining

provisions of this Agreement which will remain in full force and effect.

14.7 This Agreement shall be governed by and construed in accordance with English law and each party hereby irrevocably submits to the exclusive jurisdiction of the English Courts.