Dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_2024

(1) **THE UNIVERSITY OF MANCHESTER**

(2) [**INDUSTRY PARTNER]**

**THIS AGREEMENT** dated […………………………………………..] 2024 is made **BETWEEN:**

**(1)** **THE UNIVERSITY OF MANCHESTER**, whose administrative offices are at Oxford Road, Manchester, M13 9PL (**the Institution**); and

**(2)** [**INDUSTRY PARTNER],** a company registered in [England] under number [insert number], whose registered office is at [insert address of registered office] (**the Industry Partner**)

**BACKGROUND**

The parties submitted an application to the Industrial Biotechnology Innovation Cluster [Relationship Development Scheme/Proof of Concept Scheme/Secondment Scheme] for funding for the project entitled "INSERT PROJECT TITLE".

The Industrial Biotechnology Innovation Cluster [Relationship Development Scheme/Proof of Concept Scheme/Secondment Scheme] is funded from a grant provided by the Engineering and Physical Sciences Research Council (EP/Y024168/1).

The Industrial Biotechnology Innovation Cluster Grant Funding Panel based at The University of Manchester has confirmed that the project application was successful and funding is being made available subject to the funder terms and conditions 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.

**DEFINITIONS**

1.1In 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:** | non-commercial research and development activities, including, but not limited to, such activities carried out by the Institution in the performance of its primary activities or objects; |
| **this Agreement:** | this document, including its Schedules, as amended from time to time in accordance with clause 9.8; |
| **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; |
|  |  |
| **the Commencement Date:** | [INSERT START DATE]; |
|  |  |
| **Confidential Information:** | a Party’s confidential information is: any Background disclosed by that Party to the other Party for use in the Project; any of the Results in which that Party owns the Intellectual Property Rights ; and any other information disclosed by that Party to the other Party for use in the Project or under this Agreement; |
| **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 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 Funding Body:** | The Engineering and Physical Sciences Research Council; |
| **the Funding Conditions:** | the terms on which the Funding Body provides any External Funding, a copy of which is attached to this Agreement as Schedule 2; |
| **the Good Data Management****Practices:** | the practices and procedures set out in Schedule 3; |
|  |  |
| **a Group Company:****the Industry Partner’s Supervisor:** | any undertaking which for the time being Controls, or is Controlled by, the Industry Partner or which for the time being is Controlled by a third person which also Controls the Industry Partner;[INSERT NAME] or his or her successor appointed under clause 9.2;  |
| **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 Industry Partner’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 Industry Partner and any person who becomes a party to this Agreement pursuant to clause 2.15, and together they are **the Parties**; |
| **the Principal Investigator:** | [INSERT NAME] or his or her successor appointed under clause 8.2; |
| **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 1, as varied from time to time under the terms of this Agreement and under any Funding Conditions; |
| **the Results:****UK GDPR**  | 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; Regulation (EU) 2016/679 of the European Parliament and of the Council of 27th April 2016 on the protection of natural persons with regard to the processing of Personal Data and on the free movement of such data (General Data Protection Regulation) as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018 and as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019, as amended, superseded or replaced from time to time. |
| **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 Industry Partner’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 “[INSERT PROJECT TITLE]” will begin on the Commencement Date and will continue until the earlier of the withdrawal of the External Funding and the [INSERT END DATE] 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 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. The Project will be carried out at the Location.

2.3 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 Proposal 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 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 Industry Partner, 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 Each of the Parties will comply with the provisions in Schedule 6.

2.7 Although each of the Parties will use reasonable endeavours to carry out the Project in accordance with the Project Plan, neither Party undertakes that any research will lead to any particular result, nor does it guarantee a successful outcome to the Project.

2.8 Each of the Parties will provide the other Party with quarterly reports summarising the progress of the Project and a copy of all of the Results. Each party will provide IBIC with 6 monthly, end of project and follow on reports.

2.9 The Institution will notify the Industry Partner promptly after identifying any Result which the Institution believes is patentable, and will supply the Industry Partner with copies of that Result. The Institution will notify other Results to the Industry Partner 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 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 60 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.

* 1. No additional person may become a party to this Agreement without the written agreement of both the Industry Partner and the Institution and The Engineering and Physical Sciences Research Council and unless the additional person, the Industry Partner and the Institution execute a Variation Agreement.

3. **EXTERNAL FUNDING**

3.1 Each Party will keep complete and accurate accounts of its expenditure on the Project.

3.2 Except as set out in the Project Plan, each Party will own all equipment purchased or constructed by it, or for it, using the 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 that the Industry Partner may allow any Group Company and any person working for or on behalf of the Industry Partner or any Group Company, to use the Institution's Background for the purpose of carrying out the Project.

4.3 The Institution will own the Intellectual Property Rights in the Results, and 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 the Results, including filing and prosecuting patent applications for any of the Results and taking any action in respect of any alleged or actual infringement of any Intellectual Property Rights in the Results.

4.6 The Industry Partner will ensure that its employees and those of any Group Company involved in the creation of the Results give the Institution such assistance (except financial assistance) as the Institution may reasonably request in connection with the registration and protection of the Intellectual Property Rights in any of the Results, including filing and prosecuting patent applications for any of the Results, and taking any action in respect of any alleged or actual infringement of any Intellectual Property Rights in any of the Results.

4.7 Where any Result is created or generated by two or more Parties jointly and it is impossible to segregate each Party's intellectual contribution to the creation of the Intellectual Property Rights in that Result, the Intellectual Property Rights in that Result will be co-owned by those Parties as tenants in common in accordance with the inventive contributions of the Parties. The co-owners may take such steps as they may decide from time to time, at their joint and equal expense, to register and maintain any protection for those Intellectual Property Rights, including filing and prosecuting patent applications, and taking any action in respect of any alleged or actual infringement of those Intellectual Property Rights. If one or more of the co-owners does not wish to take any such step or action, the other co-owner(s) may do so at their expense, and the co-owner(s) not wishing to take such steps or action will provide, at the expense of the co-owner making the request, any assistance that is reasonably requested of it.

4.8 Any co-owner of any of the Intellectual Property Rights in any Result may use those Intellectual Property Rights as if it were the sole owner. In the event that a co-owner wishes to grant a licence to any such Intellectual Property Rights to a third party the co-owner (“Exploiting Party”) may do so subject to notifying the other co-owner(s) (“Non Exploiting Party(s)”) and obtaining their consent, such consent not to be unreasonably withheld, provided that no co-owner may grant any third party any rights which detract from any other co-owner’s right to deal with any co-owned Intellectual Property Rights as it sees fit.

4.9 The Non-Exploiting Party shall offer such assistance and execute such documents at the Exploiting Party’s expense, as may be necessary or desirable for such purposes. In such circumstances, the Exploiting Party shall pay the Non-Exploiting Party, a fair and reasonable royalty rate/revenue on the value of any products or processes commercially exploited by it which incorporate any co-owned Results, provided that no co-owner may grant any third party any rights which detract from any other co-owner’s right to deal with any co-owned Intellectual Property Rights as it sees fit.

4.10 Each Party grants each of the other Parties a royalty free, non-exclusive licence to use its Results for the purpose of carrying out the Project. None of the Parties may grant any sub-licence to use any other's Results except that any Commercial Party may allow any of its Group Companies and any person working for or on behalf of that Commercial Party or any of its Group Companies to use the Results for the purpose of carrying out the Project.

4.11 In addition to the rights granted in clause 4.10, each Party grants each of the other Parties a non-exclusive, indefinite, fully paid-up, royalty free licence (with the right to sub-license) to use the Intellectual Property Rights in any of the Results, solely for Academic and Research Purposes, in addition to carrying out the Project.

4.12.1 A Party (“the Potential Grantor”) will, if it receives from another Party (“the Requesting Party”) written notice (“an Option Notice”) at any time during the three (3) months immediately following the end of the Project (“the Option Period”), pursuant to clause 4.4, negotiate in good faith with the Requesting Party, for a period of up to 90 days (“the Negotiation Period”) after receipt of the Option Notice, the terms on which the Potential Grantor may grant the Requesting Party an exclusive licence (with the right to sub-license) to use the Intellectual Property Rights in certain of the Potential Grantor’s Results (“the Licence”) for commercial purposes.

4.12.2 If the Potential Grantor and the Requesting Party are unable to agree the terms of the Licence within the Negotiation Period, the Requesting Party’s rights under clauses 4.12.1, 4.12.3 and 4.12.4 will lapse.

4.12.3 The Potential Grantor in receipt of an Option Notice 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, other than as set out under Clause 4.12 above, to use its Results or assign the Intellectual Property Rights in the Potential Grantor’s Results to any third party.

4.12.4 Until the end of the Option Period and, if a Requesting Party gives the Option Notice, until the earlier of the end of the Negotiation Period and the grant of the Licence, the Potential Grantor will consult with the Requesting Party about making patent applications in respect of the Potential Grantor’s Results. If, before the end of that period, the Requesting Party wishes the Potential Grantor to apply for any patent in relation to any of the Potential Grantor’s Results, the Requesting Party will reimburse to the Potential Grantor the reasonable costs and expenses incurred by the Potential Grantor 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 Requesting Institution for the Potential Grantor to apply for, or to maintain, any patent. If the Potential Grantor later licenses or assigns to a third party any of the Potential Grantor’s Results for which the Requesting Party has paid any such costs and expenses, the Potential Grantor will reimburse those costs and expenses to the Requesting Party.

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 Industry Partner or any of the Results.

5.2 The Institution will submit to the Industry Partner, in writing, details of any of the Industry Partner’s Results and any of the Industry Partner's Background which any employee or student of the Institution intends to Publish, at least 30 days before the date of the proposed submission for Publication. The Industry Partner 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 3 month(s) after receipt of the Confidentiality Notice if, in the Industry Partner'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 Industry Partner’s Results or in any of the Industry Partner's Background which are to be Published; or

5.2.2 prevent the Publication of any of the Industry Partner’s Results or the Industry Partner'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 Industry Partner has chosen not to protect in that way.

The Industry Partner must give that Confidentiality Notice within 30 days after the Industry Partner 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 Industry Partner’s Background which is the Industry Partner’s Confidential Information and which may not be Published unless the Industry Partner has given its written consent to that Publication.

5.3 The Industry Partner 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 Industry Partner’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 5 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 other 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 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 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 Institution will not be in breach of any obligation to keep any of the Industry Partner’s Background or any Results or any other information, confidential or not to disclose it to any third party, by:

6.3.1 except in relation to the Industry Partner’s Background which is the Industry Partner’s Confidential Information, Publishing any of them 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 them 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.

* 1. The Industry Partner will not be in breach of any obligation to keep any of the Institution's Confidential Information confidential or not to disclose it to any third party, by making it available to any Group Company, or any person working for or on behalf of the Industry Partner or a Group Company, who needs to know the same in order to exercise the rights granted in this Agreement, provided it is not used except as expressly permitted by this Agreement and the Group Company, or any person working for or on behalf of the Industry Partner or the Group Company undertakes to keep that information 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 Industry Partner’s Confidential Information, it will notify the Industry Partner and will consult with the Industry Partner promptly and before making any disclosure under that Act or those Regulations, the Institution will, where appropriate, take legal advice regarding the availability and applicability of any exemptions and any other options available, and will notify the Industry Partner of the intended response to that request. The Industry Partner will respond to the Institution within 10 days after receiving the Institution’s notice if that notice requests the Industry Partner 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 Industry Partner may make representations in relation to that request and the proposed response and may request amendments to the proposed response.

6.7 Neither Party will use the other Party’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 Industry Partner in the Institution’s Annual Report and similar publications, and the Industry Partner 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 Neither of the Parties 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 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.

7.4 Subject to clauses 7.6, 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:

7.4.1 any indirect damages or losses; or

7.4.2 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.

7.5 Subject to clause 7.6, 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 portion of the External Funding allocated to that Party or £150,000 whichever is the smaller.

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

7.6.1 death or personal injury caused by negligence;

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

7.6.4 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. **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 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 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 4 or Schedule 6.

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 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 Clauses 1, 3, 4, 5, 6, 7, 8 and 10 will survive the completion of the Project Period 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.

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:** | **For the Industry Partner:** |
| Name: Director of Research and Business EngagementAddress: Directorate of Research and Business Engagement, 2nd Floor Christie Building, The University of Manchester, Oxford Road, Manchester, M13 9PL with a copy to: ContractsTeam@manchester.ac.uk  | 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. 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 Terms constitute 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 Director of Research and Business Engagement in the case of the Institution, and to [insert officer] in the case of the Industry Partner 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 4.

10.13 **Data Protection:** Each Party will comply with the provisions set out in Schedule 5.

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:Name: ………………………………………Position: ………………………………………Signature: …………………………………… | **SIGNED** on behalf of the Industry Partner:Name: ………………………………………Position: ……………………………………… Signature: ……………………………………… |

Read and understood by the Read and understood by the

**Principal Investigator** the **Industry Partner’s Supervisor**

…………………………………………………………….. ……………………………………………………………..

Signature Signature

…………………………………………………………….. ……………………………………………………………

Date Date

**SCHEDULE 1**

**SCHEDULE 1**

**The Project Plan**

**[INSERT APPLICATION]**

**SCHEDULE 2**

**The Funding Conditions**

**[PROJECT SPECIFIC AWARD LETTER]**



**SCHEDULE 3**

**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 4**

**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 6 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 5**

**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. Each Party shall comply with UK GDPR and the UK Data Protection Act 2018 (as applicable) ("the Data Protection Laws") In particular where a Party (“Processor”) is processing personal data on behalf of the other Party (“Controller”) it shall:
	1. process it only for the purposes of complying with its obligations under this Agreement, in accordance with the Controller’s documented instructions from time to time and good industry practice;
	2. ensure that appropriate technical and organisational measures shall be taken to ensure a level of security of Controller personal data appropriate to the risk (including measures taken against unauthorised or unlawful processing of Controller personal data and the accidental loss or destruction of, or damage to, such data) and promptly provide to the Controller details of those measures from time to time on receipt of Controller’s written notice;
	3. not transfer, or otherwise directly or indirectly disclose, any Controller personal data to a third party or to a country or territory outside the European Economic Area without the prior written consent of the Controller which may be refused or granted subject to such conditions as Controller deems necessary; and
	4. immediately and fully notify the Controller on receipt of any notices received by the Processor relating to the processing of Controller personal data including (but not limited to) data subject requests, complaints and/or correspondence or if any Controller personal data has been disclosed in breach of this clause or if it is lost, becomes corrupted, is damaged or is deleted in error and provide the Controller with such information and assistance as the Controller may require in relation to such notice or breach (at no cost to the Controller). The Processor shall provide and implement technical and organisational measures to help the Controller fulfil its obligations in relation to such notices from or on behalf of data subjects in connection with the rights conferred on them by Data Protection Law.  For the avoidance of doubt, in no event shall the Processor respond directly to any notice relating to any Controller personal data.
2. The Processor shall comply with the provisions set out in Article 28 of the UK GDPR (together with any provisions referenced therein) which shall have effect as obligations on the Processor as if set out in full in this clause and the expressions “controller” and “processor” used in those provisions and incorporated in this Agreement pursuant to this clause shall be deemed references to the Controller and the Processor respectively. References to “personal data”, “processing, “data subject” shall have the meanings set out in the applicable Data Protection Law.**SCHEDULE 6**

**Part 1 - Human Rights**

1. Unless otherwise required or prohibited by law, each Party will, in relation to the performance of this Agreement:

* 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;
	2. not use forced labour in any form (prison, indentured, bonded or otherwise);
	3. not require its employees to lodge papers or deposits on starting work;
	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;
	5. provide access to clean water, food, and emergency healthcare to its employees in the event of accidents or incidents in the workplace;
	6. not discriminate against any employee on any ground (including race, religion, disability or gender);
	7. not engage in or support the use of corporal punishment, mental, physical, sexual or verbal abuse;
	8. not use cruel or abusive disciplinary practices in the workplace;
	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;
	10. comply with the laws on working hours and employment rights in the countries in which it operates; and
	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.