**Memorandum for Cooperation**

**PROPOSED COLLABORATION AGREEMENT FOR THE […] PROJECT**

**DATE:** 201[…]

This document sets out the principal terms and conditions on and subject to which the following parties (**the Parties**) are willing to enter into a Collaboration Agreement, provided the Parties agree and sign a detailed and legally binding Collaboration Agreement (**the Collaboration Agreement**).

**The contents of this document are not exhaustive and they are not, and are not intended to be, legally binding except where they are specifically stated below to be binding.**

1. **THE PARTIES**
2. **[INSERT NAME]**, whose administrative offices are at [insert address] (**the Institution**) and
3. **[INSERT NAME] [Type of Company]**, [a company registered in [Country] under number [insert number], whose registered office is at [address of registered office] (**the Collaborator**)
4. **THE PROJECT**
   1. The proposed start date of the Project is [insert date].
   2. The proposed end date of the Project is [insert date].
   3. If work starts before the Collaboration Agreement is signed by both of the Parties, the Collaboration Agreement [is]**OR**[is not] to have retrospective effect.
   4. The Institution will provide the following resources (human and other): [insert details of resources].

2.5 The Collaborator will provide the following resources (human and other): [insert details of resources].

* 1. If a Party is to provide any materials, the Parties will enter into a separate Materials Transfer Agreement in relation to those materials. The proposed terms of that Materials Transfer Agreement are attached to this Memorandum for Cooperation.
  2. The Project is expected to make use of the following third party resources:

[insert details of third party resources]. [if applicable]

* 1. The [Institution]**OR**[Collaborator] will be responsible for putting in place arrangements to allow those third-party resources to be used for the purposes of the Project. [if applicable]
  2. The Institution's contribution [is]**OR**[is not] to be limited to what the funding provided by the Collaborator and any third party funding allows it to do.

1. **FINANCIAL CONTRIBUTION [AND EXTERNAL FUNDING]**
   1. The Collaborator’s financial contribution will be: [insert details]. [if applicable]
   2. The Collaborator’s financial contribution will [be a fixed amount]OR[depend on the amount spent by Institution, staff costs etc.] [if applicable]
   3. The Collaborator will reimburse the following expenditure to the Institution: [insert details]. [if applicable]
   4. The Collaborator will pay the Institution [on a full economic costs basis]OR[on full economic costs plus profit element basis]. [if applicable]
   5. The Institution will render invoices to the Collaborator every [insert details].

[3.6 The Project is expected to be supported by the following external funding: [insert details].

[3.7 Both Parties] will comply with those conditions.]

1. **BACKGROUND**

4.1 The Institution will provide the following Background: [insert details].

* 1. The Collaborator will provide the following Background: [insert details].

4.3 Other companies in the Collaborator's group will need to use the Institution's Background for the purposes of the Project.

* 1. The following items of the Institution’s Background are confidential: [insert details].
  2. The following items of the Collaborator's Background are confidential: [insert details].

1. **THE RESULTS**

5.1 The [Institution]**OR**[Collaborator] will own the results of the Project (**the Results**).

**OR**

Ownership of the results of the Project (**the Results**) will be split between the Institution and the Collaborator as follows:

the Institution: [insert details]; and

the Collaborator: [insert details].

5.2 The Institution[[1]](#footnote-1) will:

5.2.1 allow the Collaborator and its group companies to use its Results on an [exclusive]**OR**[non-exclusive] basis:

* + 1. in the following field(s): [insert details];
    2. in the following territory(ies): [insert details];
    3. for research purposes[; and
    4. agree[[2]](#footnote-2) to negotiate with the Collaborator to [grant an exclusive licence of the following Results [insert details] to the Collaborator] **OR** [assign the following Results [insert details] to the Collaborator].

5.3 The patenting strategy including responsibility for the costs of patenting the Results are attached to these Heads of Terms.

5.4 The Institution[[3]](#footnote-3) will have the right to use the Results for academic and research purposes [including clinical patient care].

OR

The Institution may not use the Results for any purpose except the Project.[[4]](#footnote-4)

1. **CONFIDENTIALITY AND ACADEMIC PUBLICATION**

6.1 Each Party will keep the other Party’s confidential information confidential [indefinitely]**OR**[for [insert number] years after its receipt under the Collaborative Research Agreement].

6.2 Students and employees of the Institution will be able to publish the Results and the Collaborator’s Background in journals or electronic repositories or present them at a conference or seminar, subject to the safeguards to be set out in the Collaboration Agreement.

1. **LIABILITY**
   1. Each Party will warrant that any Intellectual Property Rights which it contributes to the Project or creates in the course of the Project will not infringe third party rights.

OR

Neither Party will give any warranty that any Intellectual Property Rights which it contributes to the Project or creates in the course of the Project will not infringe third party rights.

7.2 The Collaborator [will] **OR** [will not] indemnify the Institution against any third-party claims arising from the use of the Results or the Institution's Background. [The Collaborator’s liability under that indemnity will be capped at an aggregate of £[insert figure].]

7.3 Each Party will indemnify the other Party in respect of breaches of contract relating to bribery and corruption. [Each Party’s liability under that indemnity will be capped at an aggregate of [insert figure].]

7.4 Each Party will indemnify the other in respect of breaches of contract relating to data protection. [Each Party’s liability under that indemnity will be capped at an aggregate of [insert figure].]

7.5 [Each Party’s liability for any breach of the conditions of any external funding will be capped at an aggregate of [insert figure].]

7.6 [Each Party’s liability for knowingly infringing Intellectual Property or knowingly breaching any right of confidence will not be capped.]

7.7 [Each Party’s liability for any deliberate breach of the Collaboration Agreement will not be capped.]

7.8 Except as set out above, each Party’s liability will be capped at an aggregate of [insert details].

7.9 Each Party’s liability for loss of profits, business, contracts etc. [will] **OR** [will not] be excluded.

7.10 If the Institution assigns any Intellectual Property to the Collaborator, the Institution [will]**OR**[will not] give a warranty of full title guarantee.

1. **TERMINATION**

8.1 [In addition to the usual rights to terminate if the other Party is in breach of contract or insolvent, either Party may terminate the Collaboration Agreement if a member of the other Party's key personnel leaves or is unable to continue working on the Project and his or her replacement is not satisfactory.]

* 1. [If the [either Party] **OR** [the Collaborator] exercises its right to terminate under paragraph 8.1 above, the Collaborator will reimburse all costs and expenses which the Institution has incurred or agreed to incur and which the Institution is unable to cancel and will continue to pay reasonable employment costs].
  2. Provided the Collaborator pays the Institution for work done before termination and reimburses all costs and expenses which the Institution has incurred or agreed to incur and which the Institution is unable to cancel, the Collaborator may terminate the Research Collaboration Agreement at any time by giving not less than [3] months' notice.
  3. [Following termination, if the Financial Contribution is intended to cover the costs of employing any Institution staff involved in the Project, the Collaborator will continue to pay the direct employment costs of those staff who were appointed to work on the Project before the service of the notice.]

1. **CONFIDENTIALITY**

9.1 This section 9 is legally binding.

9.2 The contents of this document are confidential to both of the Parties.

9.3 Neither Party will [at any time] **OR** [for a period of [insert figure] years after the date of these Heads of Terms, disclose to any person any confidential information concerning the business, affairs, customers, clients, suppliers, research projects, products, services or Intellectual Property of the other Party or of any member of the group of companies to which the other Party belongs, except as permitted by paragraph 9.4 below.

9.4 Each Party may disclose the other Party’s confidential information:

9.4.1 as permitted by the proposed Collaboration Agreement, if the Parties enter into that agreement;

9.4.2 in confidence and only to the extent necessary to secure external funding, to any person providing or contemplating providing any funding for the Project;

9.4.3 to its employees, officers, representatives or advisers who need to know that information for the purposes of negotiating the proposed Collaboration Agreement and the terms of any external funding (**the Negotiations**); and

9.4.4 so far as may be necessary to comply with the law, the order of any court of competent jurisdiction or any governmental or regulatory authority.

9.5 Neither Party will use the other Party’s confidential information for any purpose except the Negotiations, except as permitted by the proposed Research Collaboration Agreement, if the Parties enter into that agreement.

1. **GENERAL**

10.1 This section 10 is legally binding.

10.2 Each Party will pay its own costs incurred in connection with the negotiation, preparation, and the execution of this Memorandum, the proposed Collaboration Agreement (whether or not it is entered into) and any documents referred to in either of those documents.

10.3 Either Party may, at any time before the Collaboration Agreement has been entered into, withdraw from the Negotiations without having to give any reason for doing so and without incurring any liability to the other Party.

**11.** **GOVERNING LAW AND THIRD PARTY RIGHTS**

11.1 This section 11 is legally binding.

11.2 These Heads of Terms and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with them or their subject matter or formation are governed by and are to be construed in accordance with [insert country] law. The [insert country] Courts will have exclusive jurisdiction to deal with any dispute (including non-contractual claims and disputes) which has arisen or may arise out of, or in connection with, this Memorandum, except that a Party may bring proceedings to protect its Intellectual Property or Confidential Information in any jurisdiction.

11.4 The Collaboration Agreement (if it is entered into) 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 will be governed by, and that agreement will be construed in accordance with, [insert country] law. The [insert country] Courts will have exclusive jurisdiction to deal with any dispute (including non-contractual claims and disputes) which arises or may arise out of, or in connection with, the Collaboration Agreement, except that a Party may bring proceedings to protect its Intellectual Property or Confidential Information in any jurisdiction.

11.5 No one except a Party, its successors and permitted assignees, will have any right to enforce any of the terms set out in this Memorandum.

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| **SIGNED** on behalf of the Institution:  Name: ………………………………………  Position: ………………………………………  Signature: ……………………………………… | **SIGNED** on behalf of the Collaborator:  Name: ………………………………………  Position: ………………………………………  Signature: ……………………………………… |

1. Use if the University is to own all of the or some of the Results. [↑](#footnote-ref-1)
2. Use if the University is granting the Collaborator non-exclusive rights in respect of the Results. [↑](#footnote-ref-2)
3. Use if the Collaborator is to own or have exclusive rights to any of the Results. [↑](#footnote-ref-3)
4. This alternative wording will be appropriate only if contract research is being carried out. [↑](#footnote-ref-4)