



The University for Sustainability

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TERMS AND CONDITIONS OF GRANTS

1. Definitions

Annual Report	Shall comprise the report submitted by the Research Organization to the University in accordance with Clause 5 below.
Application	Shall comprise the grant application form; all documents attached thereto (within the limits prescribed in any supporting notes and the General Terms and Conditions;) and all Budgets concerning the application between the Research Organization, the Principal Investigator and the University.
Budget	Shall be the Budget annexed or otherwise identified in the Offer Letter and any modification thereof agreed in writing by the University following annual review or otherwise.
Eligible Costs	Shall mean those costs outlined in Clause 2.
University	Shall mean The University for Sustainability a not-for-profit corporate established in New Mexico to accelerate a just and humanitarian transformation to global sustainable development with challenge-driven education, scientific research and innovation.
Grant Conditions	Shall mean collectively the Application, the Budget, the Offer Letter, the Intellectual Property Guidelines and General Terms and Conditions together with any binding Variation thereof.
General Overheads	Shall comprise the general facility made available by the Research Organization for use by the Research Program, including office and research space; utilities (i.e. electricity, heat, and water); technical and other support; and clerical and administrative staff.
General Terms and Conditions	Means the terms, conditions, warranties and covenants set out in this document together with any binding Variation thereof.
Good Standing	Means that a research organization within the University for Sustainability's network of members is regarded as having complied with all their explicit obligations, while not being subject to any form of sanction, suspension or disciplinary censure.
Intellectual Property	Means all intellectual property produced in connection with the Research Program including copyrights, patents, design rights, trade secrets, rights in confidential information, trade marks, trade names, domain names, service marks, utility models, moral rights, topography rights, rights in databases and know-how in all cases whether or not registered or registerable and including registrations and applications for registration of any of these rights to apply for the same, and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these anywhere in the world and the term "Intellectual Property Rights" shall be construed accordingly.

Intellectual Property Guidelines	The University's Requirements and Guidelines for Managing Research Generated Intellectual Property (2019) (a copy of which has been provided to the Research Organization and Principal Investigator and which is available on the University's website (http://wwwu4sustainability.org) as amended extended or replaced from time to time. The University requires that the Research Organization and Principal Investigator comply with the Intellectual Property Guidelines.
No-Cost Extension	Shall have the meaning set out in Clause 17
Offer Letter	The letter issued by the University awarding the Research Grant to the Research Organization and all documents ancillary thereto.
Overhead Investment Plan	Such details of the Research Organization's strategic plan for the overall development of research support services and infrastructure for the benefit of their researchers, requirements or other details relating to General Overheads as may be requested by the University in accordance with Clause 2.
Parties	The University, the Research Organization and/or the Principal Investigator.
Program Asset	Shall mean any asset including real estate or equipment, acquired, generated or established directly or indirectly with the benefit of the Research Grant.
Principal Investigator	The individual employed by the Research Organization nominated as such by the Research Organization in the Application and approved in writing by the University who will be responsible for the scientific and technical direction of the Research Program and the submission of reports.
Remuneration	Shall mean a contribution towards the salary of the Principal Investigator and members of the Research Team together with the Research Organization's contribution to their pension and PRSI costs, if applicable, at the rate indicated in the Budget or as otherwise expressly agreed in writing by the University.
Research Organization	Shall mean a member in good standing of the University for Sustainability network.
Research Grant	Shall mean the lesser of: <ul style="list-style-type: none"> (i) The specific eligible costs actually incurred by the Research Organization in the establishment, administration, and execution of the Research Program and all reasonably

necessary ancillary activities indicated in the Budget or otherwise agreed in writing between the Research Organization and the University, or

(ii) The maximum sum offered by the University to the Research Organization in the Offer Letter

Research Program	The work proposed in the Application and outlined therein and any modifications thereto agreed in writing by the University
Research Team	The Principal Investigator and the additional research staff, if, any, working on the Research Program and whose employment by the Research Organization is necessitated by the Research Program
Scientific Misconduct	Shall mean fabrication, or falsification of research or research results or plagiarism in proposing, performing, or reviewing research, or in reporting research results.
Subject Invention	Means any invention conceived or first actually reduced to practice in the performance of the Research Program
Subject Writing	Means any writing, sketch, diagram, calculation, record, or document of any kind conceived or produced in the course of the Research Program in which copyright may vest and includes such items as reports, books, journal articles, software, sound recordings, video tapes, and video discs.
Term	Shall have the meaning set out in Clause 18.
Variation	Any variation to the Grant Conditions in accordance with Clause 23.

2. Costs Eligible for Grant Support

- 2.1. Furthering its public purposes, an interest of the University is to utilize its resources to advance research funding in a manner consistent with the best practice in the world.
- 2.2. Costs eligible for support from the Research Grant shall be only those specified in the Budget, as agreed with the University, and shall comply with such guidance as may be issued from the University from time to time and the Grant Conditions set out here-under.
- 2.3. Costs eligible for grant support are those costs that can be uniquely and unambiguously identified with a particular Research Program. All eligible costs shall be:
 - a) reasonable and necessary;
 - b) incurred solely to advance the Research Program or, if any single item shall benefit both the Research Program and other work, then such costs shall be eligible only in proportion that

such costs bear to the proportionate benefit derived from them by the Research Program;

- c) not otherwise reasonably available and accessible;
- d) of the type normally charged as a direct cost to sponsored agreements; and
- e) incurred in accordance with the terms of the Grant Conditions.

2.4. Costs may include:

- a) The University's contribution to the Remuneration, pension and other benefits of the Principal Investigator and the members of the Research Team (in this Clause referred to as 'the Employee') at the rate indicated in the Budget or as otherwise agreed in writing by the University, in accordance with the practices of the Research Organization and provided that the terms of such employment shall enable the Research Organization to comply with the requirements of the General Terms and Conditions set out at Clause 4.1(e) (procuring compliance with Grant Conditions) and Clause 12 (Intellectual Property) below. Where the Employee is not employed full time upon the Research Program, Costs shall include only that portion of the contribution towards the Employee's Remuneration which shall produce an equitable distribution of charges for the Employee's activities in accordance with methods that shall clearly distinguish the Employee's activities on the Research Program from any other activity;
- b) The cost of all equipment acquired at the least cost and upon the most competitive terms having regard to the needs of the Research Program as to economy, time, and quality, and without any conflict of interest and upon a commercial basis with the supplier and always to the best advantage of the Research Program;
- c) Reasonable and vouched travel and other expenses directly related to scientific collaboration on the Research Program, or for the learning of special techniques in accordance with the established travel and subsistence policies of the Research Organization. In the case of working visits, the rates sought for subsistence and other allowances shall be payable up to the level allowed by the Research Organization to its permanent staff of equivalent grade or seniority unless otherwise expressly agreed in writing by the University;
- d) The actual costs of materials and consumables, including software licenses, and costs associated with access to and the use of equipment and services not available in the Research Organization that are specifically acquired for the Research Program and whose purpose so justifies; and
- e) Other approved costs associated with the Research Program as outlined in the Budget and agreed in writing by the University.
- f) Unless agreed otherwise by the University, Eligible Costs shall not include any item to the extent that it is sponsored or funded by other sources including, in particular, where such sponsorship or funding has not been disclosed in the Application.

3. Warranties

3.1. The Research Organization warrants that:

- a) it has full power and authority to execute and deliver the Grant Conditions and to comply with the provisions of, and perform all its obligations and exercise all of its rights under the Grant Conditions;
- b) the Grant Conditions are executed by its duly authorized representative with full power and authority to bind it;
- c) it has obtained all necessary consents, approvals, authorizations, licenses and permissions which are required to enable it to comply with its obligations under the Grant Conditions and will throughout the duration of the Grant Conditions maintain all such consents, approvals, authorizations, licenses and permissions and shall not commit any act or omission which might invalidate, breach or otherwise impair the effect of such consents, approvals, authorizations, licenses or permissions;
- d) every statement, representation or information provided in the Application, any documents furnished therewith, any Annual Report, or in response to request of the University is, to the best of the Research Organization's knowledge, true, complete and accurate;
- e) the Budget submitted or agreed with the University comprises only Eligible Costs above;
- f) there is no other information of which the Research Organization or its agents is aware that is relevant to the Application or the interests of the University concerning the Application or the Research Grant;
- g) the Research Program will be performed with due skill care and diligence and by appropriately qualified personnel;
- h) the Research Program shall be conducted in compliance with U.S. or other applicable laws; and
- i) the Research Program shall be conducted in accordance with such ethical guidelines as may be issued by the University, or any relevant industry or other regulatory body, from time to time, including (without limitation) guidelines relating to the conduct of trials, clinical or otherwise, which involve members of the public or samples taken from them.

4. Responsibilities of the Research Organization

4.1. The Research Organization shall have full responsibility for the Research Program, the Research Grant, and for the adherence by the Research Organization, the Principal Investigator and the Research Team to the Grant Conditions. Although the Research Organization is encouraged to seek the advice and the opinion of the University on special problems that may arise, such advice does not diminish the Research Organization's responsibility and shall not imply that the responsibility of the Research Organization has shifted to the University in any way. In

particular but without prejudice to the generality hereof the Research Organization shall:

- a) comply in every respect with the Grant Conditions and help ensure that all funds claimed and paid are allowable, necessary and reasonable for the conduct of the Research Program , and that any proposed action on the part of the Principal Investigator, the Research Team, or the Research Organization;
 - is consistent with the Grant Conditions;
 - is consistent with the policies of the University;
 - represents effective utilization of the resources of the University; and
 - does not constitute a significant program change, unless otherwise agreed in writing by the University;
- b) ensure that the Principal Investigator receives a copy of each part of the Grant Conditions, and any subsequent changes or binding Variations thereto;
- c) procure that the Principal Investigator and the Research Team shall fully discharge and comply with the obligations on their part to be performed in the Grant Conditions;
- d) employ the Principal Investigator and all members of the Research Team from resources allocated in respect of the cost of such employment in the Budget and upon such terms and conditions as may be agreed between the Research Organization, the University and the individual member of the Research Team in accordance with the practices of the Research Organization;
- e) secure through each of the employment agreements with the members of the Research Team the covenants and assignments which the Research Organization may require to comply with the requirements of the General Terms and Conditions set out at Clause 12 (Intellectual Property) below;
- f) use the entirety of the Research Grant monies received only in accordance with the Budget in furtherance of the Research Program and in accordance with the Grant Conditions.

5. Reports

Annual Report

- 5.1. The Research Organization shall deliver to the University not later than each anniversary of the commencement of the Research Program, an Annual Report on the progress of the Research Program which shall contain:
 - a) such information as may be reasonably required by the University and notified to the Research Organization and/or Principal Investigator from time to time;
 - b) a concise summary of the progress of the Research Program in accordance with such instructions as may be issued by the University in respect of such Annual Reports, and

having regard to the objectives set out in the Application and any subsequent Annual Reports; and

- c) a list of all outputs concerning the Research Program, whether provided by the Research Organization, the Research Team or any third party, including;
- details of all academic, industrial and other interactions;
 - a list of patents applied for, and patents awarded;
 - a list of all publications concerning the Research Program, whether published by the Research Organization, the Research Team or any third party;
 - a list of all Subject Inventions;
 - a list of all disclosures of Subject Inventions, together with full details thereof;
 - a summary of scientific prizes received;
 - a list of all presentations made at public or invited gatherings, conferences or other fora, concerning the Research Program; and
 - an expenditure report containing such data, and vouching documentation in accordance with such instructions as may be issued by the University in that respect, outlining the use made of the funding to date, and any additional sources of funding obtained by the Research Program since the commencement of the Research Program or which the Research Organization hopes to obtain in support of the Research Program

Final Report

5.2. The Research Organization shall deliver to the University not later than each anniversary of the commencement of the Research Program, an Annual Report on the progress of the Research Program which shall contain:

- a) details of all academic, industrial and other interactions;
- b) a concise summary of the research achievements relative to the original proposal;
- c) a list of all publications concerning the Research Program, whether published by the Research Organization, the Research Team or any third party;
- d) a list of all Subject Inventions;
- e) a list of all disclosures of Subject Inventions, together with full details thereof;
- f) a list of patents applied for, and patents awarded;

- g) a summary of scientific prizes received;
- h) a list of all presentations made at public or invited gatherings, conferences or other fora, concerning the Research Program;
- i) a reconciliation of the Budget with actual expenditure throughout the term of the Research Program;
- j) a list of students who have received advanced degrees along with thesis titles; and
- k) such other information as may be reasonably required by the University and notified to the Research Organization and/or Principal Investigator from time to time.

6. Program Assets

General

6.1. The Research Organization shall act with prudence and probity in the acquisition and care of all Program Assets and shall ensure that all expenditures shall be an Eligible Cost. In particular but without limitation to this Clause, the Research Organization shall:

- a) not pledge, charge or otherwise encumber any Program Asset without the written approval of the University;
- b) use the Program Assets on the Research Program for which they were acquired as long as they are needed, whether or not the Research Program continues to be supported by the Research Grant, and if, during the term of the Research Program or thereafter, an asset is not required for use by the Research Program, the Research Organization shall make it available for use in the following order of priority:
 - to any other Research Program within the Research Organization sponsored by the University for Sustainability;
 - to any other Research Program sponsored by the University;
 - to any other research within the University for Sustainability network in receipt of sponsorship or funding from the Research Organization;
 - to any other research within the Research Organization in good standing which is in receipt of sponsorship or funding from the University for Sustainability;
 - to any other research or use nominated or directed in writing by the University; or
 - as the Research Organization itself may reasonably desire in furtherance of its educational and research objectives.

PROVIDED that where such Program Asset is made available for other use, the Research Organization may require payment of a reasonable market fee in respect of such use which shall be treated as income of the Research Program.

Ownership

6.2. Subject to the terms of Clause 6.4 (sale or disposal of Program Assets) and unless specified otherwise by the University in the Offer Letter or elsewhere in the Grant Conditions, title to Program Assets purchased or generated with the Research Grant funds by the Research Organization will vest in the Research Organization subject always to the Grant Conditions, and in particular the provisions of Clause 6.1 of the General Terms and Conditions, in default of which the Research Organization shall be deemed to have forfeited title in favor of the University.

Property Management

6.3. The Research Organization shall ensure effective property management and maintenance standards and in particular shall maintain detailed and accurate records containing the following information:

- a) a description of the Program Asset;
- b) manufacturer's serial number and model number;
- c) source and/or supplier of the Program Asset;
- d) details regarding the funding by which each Program Asset was acquired;
- e) details regarding title to the asset;
- f) date of acquisition and cost;
- g) information from which one can calculate the percentage of the University's participation in the cost of the Program Asset;
- h) location and condition of the Program Asset and the date upon which that information was reported;
- i) unit acquisition cost; and
- j) ultimate disposition data, including date of disposal and sale price and the method used to determine current fair market value.

6.4. The Research Organization shall not sell or otherwise dispose of any Program Asset without first offering such asset for sale to other Research Bodies at a cost no greater than the lesser of:

- a) the written down value in the accounts of the Research Organization; or
- b) the current market value of that Program Asset.

6.5. The Research Organization shall suitably designate or label the Program Asset to acknowledge the support of the University.

Insurance

6.6. The Research Organization shall insure all Program Assets with an insurer of good repute against fire, loss, damage or theft and such other appropriate risks as may be advised, to the full replacement value thereof and unless otherwise agreed by the University in writing shall employ the proceeds of any claim made pursuant to that insurance upon the provision of a suitable

replacement of the Program Asset.

7. Prevention of Scientific Misconduct

7.1. The Research Organization shall have in place adequate systems for assuring the quality of research carried out by the Principal Investigator and the staff of the Research Organization so that Scientific Misconduct shall be prevented, and if not prevented, shall be detected and terminated forthwith. The Research Organization shall have effective mechanisms for identifying Scientific Misconduct and shall have clearly publicized and agreed procedures for investigating allegations made of such misconduct.

8. Limitation of Liability and Indemnity

8.1. The Research Organization shall be wholly responsible for the conduct of the Research Program, and the University shall have no obligation, responsibility, or any liability financial or otherwise of any kind to the Principal Investigator or the Research Organization or any member of the Research Team arising from the Grant Conditions, or any representation or other act or omission connected with these presents, save and except to pay the Research Grant in accordance with the Grant Conditions.

8.2. The Research Organization shall fully indemnify and hold the University, and its officers, members, servants or agents, harmless against all liabilities, loss, damages, costs (including legal and/or professional costs) and claims of any kind arising from any act or omission of the Research Organization, Principal Investigator or any member of the Research Team in connection with the Research Program or the use of the Research Grant or from the provision of any funds, advice, or assistance of any kind given by the University pursuant to the Grant Conditions.

9. Responsibilities of Principal Investigator

9.1. The Principal Investigator shall be responsible for the direction, management and pursuit by the Research Team of the Research Program in all of its objectives and the efficient, proper and appropriate conduct of that program from a financial, legal and ethical perspective. In particular the Principal Investigator shall do all acts, deeds and things necessary or desirable to facilitate and enable the Research Organization to comply with the Grant Conditions and its reporting obligations in particular.

10. Responsibilities of Research Organization and Principal Investigator

10.1. The Research Organization and the Principal Investigator shall do all acts, deeds and things reasonably required in order to give effect to the Grant Conditions and to further the objectives of the University, in particular in so far as the Grant Conditions provide for:

- a) the transfer, licensing or sharing of ownership, exploitation, commercialization and management of any Intellectual Property resulting from the Research Program; and
- b) the transfer, licensing or sharing of ownership, use, exploitation, commercialization and

management of all Program Assets, including Real Estate and equipment.

10.2. The Research Organization and Principal Investigator shall jointly and severally ensure that they, or one of them shall notify the University of the following matters:

- a) the achievement or occurrence of any milestone in the Research Program identified in the Application or any agreed modifications thereto;
- b) the conception or creation of any Subject Invention by any member of the Research Team in the course of their employment in the Research Program or deriving directly or indirectly from the use or access to the knowledge of the Research Program of which the Principal Investigator is or ought to have been aware;
- c) any proposed change in the phenomenon or phenomena under study or the objectives of the program stated in the Application or any agreed modification thereto;
- d) any significant problems relating to the administrative or financial aspects of the Research Program; or
- e) if the Principal Investigator or any other member of the Research Team intends:
 - to devote substantially less effort to the work anticipated in the Application;
 - to sever his or their connection with the Research Organization;
 - to be absent for a continuous period of three months or more; or
 - to otherwise relinquish active direction of the Research Program;
- f) the accrual of any income to the Research Program;
- g) any change in the auditors of the Research Organization and the names of any auditors appointed in their place;
- h) if there are reasonable grounds for believing there has been or shall be a breach of the Grant Conditions;
- i) if there are reasonable grounds for believing there has been or shall be an act of Scientific Misconduct;
- j) if there are reasonable grounds for the University to suspend, reduce, terminate or revoke the Research Grant;
- k) of the occurrence of any event which is or provides reasonable grounds for believing that any Intellectual Property Rights have been or are likely to be infringed; or of the occurrence of any event which has had or may have a material adverse effect on the Research Program

11. Publication

11.1. The Research Organization and the Principal Investigator shall disseminate, as widely as reasonably practicable and in accordance with the Intellectual Property Guidelines, the products and results of the Research Program in internationally peer-reviewed publications and the

scientific press, and where appropriate, among the general public, except where such dissemination could undermine the Intellectual Property or other rights and entitlements of the Research Organization or the Principal Investigator.

11.2. The Research Organization and the Principal Investigator shall promote the reputation and standing of the University in the conduct and administration of the Research Program. In particular the Research Organization shall ensure that:

- a) an acknowledgment of the University's support is made in any publication (including the World Wide Web pages) of any material based or developed under this Research Program, in the following terms: "This material is based upon works supported by the University for Sustainability under Grant No. [Grant No.]"
- b) the support of the University is acknowledged in all news media, interviews, including popular media, such as, radio, television and news magazines;
- c) every publication of material (including World Wide Web pages) based on or developed on the Research Grant, except scientific articles or papers appearing in scientific, technical or professional journals contains the following disclaimer: "The opinions, findings and conclusions or recommendations expressed in this material are those of the author(s) and do not necessarily reflect the views of the University for Sustainability."
- d) every publication of material based on or developed under the Research Grant is clearly labeled with the Research Grant number and that other appropriate identifying information is available to the authorized representative of the University on request and is listed on the web page of the Principal Investigator and/or the Research Organization; and
- e) in any communications, including media appearances and releases, as well as journals and conferences concerning the Research Program, acknowledgments shall mention the form of the University's support and shall publish the logo of the University in accordance with the University guidelines wherever journal or other media rules permit.

12. Intellectual Property

12.1. The University wishes to promote and encourage the development, use and commercialization of Intellectual Property for the benefit of the U.S. people. The University subscribes to the framework and process in the Intellectual Property Guidelines to ensure transparent and consistent procedures for managing Intellectual Property from publicly funded research.

12.2. Subject to Clause 22 (Conflicts), the Research Organization and the Principal Investigator shall ensure that the relevant provisions of the Intellectual Property Guidelines are complied with and in particular shall ensure that:

- a) Intellectual Property produced by a Research Program, where commercially appropriate, is exploited and commercialized;

- b) whenever possible, Intellectual Property shall be managed for the sustainable development in the University's constituent regions; and
- c) where an industrial partner is involved, the Research Organization and the industrial partner have entered into an Intellectual Property agreement which complies in all respects with the Grant Conditions.

12.3. The Research Organization shall ensure that as a result of commercialization, attractive incentives and financial returns are provided to the Principal Investigator and the Research Team.

Documents Required by the University Prior to Grant Agreement

12.4. Prior to entering into a grant agreement with the University, and as a pre-condition to the University being contractually bound here-under, the Principal Investigator and the Research Organization shall submit to the University such documents (in the form and/or with such content) as may be required under the Intellectual Property Guidelines.

Ownership of Intellectual Property

12.5. Ownership of Intellectual Property resulting from a Research Program shall be governed by the Intellectual Property Guidelines. Without prejudice to the terms of the Intellectual Property Guidelines, Intellectual Property may be solely owned by one party or jointly owned by two or more parties, depending on whether the Research Program is a sponsored or collaborative program. Other factors which may be relevant in determining Intellectual Property ownership include whether the Research Program is: (i) partly or fully funded by public sources only; (ii) jointly funded by public and private sources; or (iii) fully funded by private sources.

Royalties

12.6. Any royalties, equity participation or other returns arising as a result of the exploitation, commercialization and management of Intellectual Property produced under the Research Program shall be managed in accordance with the Intellectual Property Guidelines.

Copyright

12.7. Ownership of copyright in respect of all Subject Writings shall be governed by the Intellectual Property Guidelines.

13. Payment

13.1. The University shall pay the Research Grant in the sum indicated in the Offer Letter at the times and in the manner set out in the Offer Letter or in the Budget as agreed with the University subject to the observance and performance by the Research Organization and the Principal Investigator of the Grant Conditions.

13.2. Claims for the payment of Research Grant shall confirm cumulative actual expenditure since

the last payment of any installment of the Research Grant, together with the estimated expenditure for the payment in respect of which payment is sought.

13.3. If the costs incurred by the Research Organization in carrying out the Research Program amount to less than the maximum grant approved, the University shall be obliged to pay only such amount as may be necessary to discharge the actual costs, and if the costs incurred by the Research Organization exceed the amount of the maximum grant approved, such excess shall be borne by the Research Organization.

14. Audit/record retention

14.1. The Research Organization and the Principal Investigator shall retain all appropriate financial, statistical, administrative, scientific and all other relevant supporting papers, statistical records and other records in both hard and electronic form in relation to the Research Program, the Research Grant and the Intellectual Property, and shall make all such records and papers available to the University or its authorized representatives upon reasonable notice for the duration of the Research Program and for a period of seven (7) years following submission of the Final Scientific Report or for such longer period as the University may request.

14.2. The financial information referred to Clause 14.1 shall include, without limitation, such information, data, ledgers, bank statements, accounts, authorities, directions and instructions to its auditors, accountants, banks and other servants or agents, and any other papers which may be reasonably necessary to enable the University to exercise its rights of audit and to satisfy itself that the Research Organization has complied with the Grant Conditions.

15. Site Visits

15.1. The University, or any authorized representative which the University may in its absolute discretion think fit, has the right, at all reasonable times, to make site visits to review Research Program accomplishments and management control systems. If any site visit is made by the University on the premises of the Research Organization, or other premises where the Research Program may be conducted, the Research Organization shall provide and shall require its servants or agents to provide all reasonable assistance to the University and its authorized representatives in the performance of their duties.

16. Transfer of Research Grant

16.1. If a Principal Investigator takes up an appointment at another Research Organization, the Research Grant may be transferred provided:

- a) arrangements satisfactory to the University and the new Research Organization are put in place to continue the Research Program in the new Research Organization in a manner in which it was originally approved; and
- b) the transfer is approved, in writing, by the original Research Organization and the

University before any such transfer takes place.

17. No-cost extensions

- 17.1. The University may, on request by the Research Organization and the Principal Investigator in accordance with Clause 17.2 below, extend the Term of the Research Grant by up to 6 months if additional time is required to ensure adequate completion of the Research Program within the funds already made available (a “No-Cost Extension”).
- 17.2. Any request for a No-Cost Extension by the Research Organization and the Principal Investigator must be made in writing to the relevant program officer within the University at least 90 days prior to the expiration of the Term. The request must explain the need for the No-Cost Extension and include an estimate of the un-obligated funds remaining and a plan for their use. The fact that un-obligated funds may remain at the expiration of the Term is not, in itself, sufficient justification for a No-Cost Extension. The plan must adhere to the previously approved objectives of the Research Program
- 17.3. Any No-Cost Extension approved in writing by the University will specify a new expiration date. The Research Organization and/or the Principal Investigator shall not make new commitments or incur new expenditures after the original expiration date in anticipation of a No-Cost Extension.

18. Term and Termination

- 18.1. The Research Grant shall commence on the date specified in the Offer Letter and shall continue for the period specified in the Offer Letter (the “Term”).
- 18.2. The Research Grant may be, reduced, suspended, terminated or revoked by the University in whole or in part in any of the following circumstances:
- a) If, in the reasonable opinion of the University, progress is not deemed to be satisfactory;
 - b) when the Research Organization has materially failed to comply with the Grant Conditions;
 - c) when the Research Organization or the Principal Investigator commits an act of insolvency; or
 - d) when the Principal Investigator
 - is convicted of any criminal offense involving dishonesty;
 - severs his connection with the Research Organization;
 - in the reasonable opinion of the University, relinquishes active direction of the Research Program; or
 - does not initiate the Research Program actively within 60 days of the effective date

specified in the award letter; and

e) when the University has other reasonable cause.

18.3. the Research Grant, it may suspend or terminate the entire Research Grant); or revoked by the Research Organization in whole or in part in any of the following circumstances:

a) on giving 30 days' written notice to the University, setting forth the reasons for such action and, in the case of partial termination, the portion to be terminated or suspended (with the understanding that if the University determines that the un-terminated portion will not accomplish the purposes of the Research Grant, it may suspend or terminate the entire Research Grant); or

b) on 30 days' notice following receipt of the University's decision in respect of a Notice of Objection or Refusal or notification of rejection by the University of a Research Organization Variation Notice both as provided for in Clause 23 (Variation).

18.4. Normally, action by the University to reduce, suspend, terminate or revoke a Research Grant will be taken only after the Research Organization has been informed by the University of any deficiency on the part of the Research Organization or the Principal Investigator and given an opportunity to correct it; but the University may immediately suspend or terminate the Research Grant without notice when it reasonably believes that such action is required to protect the interest of the University, the Research Program or the Research Grant.

18.5. No costs incurred during the suspension period or after the effective date of the termination will be eligible except in circumstances where no fault attaches to the Research Organization and, in the opinion of the University, the Research Organization could not reasonably avoid or eliminate such costs, or which were otherwise authorized by the suspension or termination notice, provided such costs would otherwise be eligible under the Grant Conditions.

19. Effects of termination

19.1. Within 30 days of the termination date, the Research Organization shall furnish a report containing such information as would be contained in the Final Report (as detailed in Clause 5.2) together with an itemized accounting of costs incurred prior to the termination date. Final eligible costs under the termination settlement will be in accordance with the Grant Conditions, including this article, giving due consideration to the progress of the Research Program. In no event will the total of the Research Grant payment under a terminated award exceed the Research Grant amount.

19.2. Where the Research Grant is terminated or revoked by the University, the Research Organization shall repay to the University such sums as the University may demand in respect of the Research Grant (which sums shall include, without limitation, advance payments in respect of General Overheads but shall not exceed the total amount paid by the University to the Research Organization) and, if the Research Grant is reduced, the Research Organization shall repay to the

University the amount by which the Research Grant has been reduced. In either case, repayment shall be made within 60 days of the date of the notice of termination and in default of payment within 60 days such sums may be recoverable by the University from the Research Organization as a simple contract debt and shall carry interest at the rate of 10% per annum accruing from the date on which the relevant sums were originally paid by the University to the Research Organization.

19.3. The Research Organization shall repay to the University within 60 days any part of the Research Grant which remains unspent at the end of the Term.

20. Confidentiality

20.1. In this Clause 20 “Confidential Information” means all information disclosed (whether in writing, orally or by another means and whether directly or indirectly and whether specifically designated as ‘confidential’ or which ought reasonably be regarded as confidential) under or in connection with this Agreement by one party (the “Disclosing Party”) to the other party (the “Receiving Party”) whether before or after the date of this Agreement including, without limitation, information relating to the Disclosing Party's products, services, operations, processes, plans or intentions, product information, know-how, design rights, trade secrets, market opportunities and business affairs.

20.2. Subject to the terms of Clause 11 (Publication) and Clause 32 (Freedom of Information) during the term of this Agreement and after termination or expiration of this Agreement for any reason the Receiving Party:

- a) will not use Confidential Information for a purpose other than the performance of its obligations under this Agreement;
- b) will not disclose Confidential Information to a person except with the prior written consent of the Disclosing Party other than in accordance with Clauses 20.3 and 20.4; and
- c) shall make every effort to prevent the use or disclosure of Confidential Information;

20.3. During the term of this Agreement the Receiving Party may disclose Confidential Information to any of its directors, other officers and employees (a “Recipient”) to the extent that disclosure is reasonably necessary for the purposes of this Agreement.

20.4. Before disclosure to a Recipient, the Receiving Party shall ensure that a Recipient is made aware of and complies with the Receiving Party's obligations of confidentiality under this Agreement as if the Recipient was a party to this Agreement.

20.5. The Receiving Party may disclose Confidential Information of the Disclosing Party, whenever reasonably possible on obtaining the prior written consent of the Disclosing Party, if and to the extent that:

- a) this is required by the law of any relevant jurisdiction or pursuant to an order of a court of

competent jurisdiction;

- b) this is required by any securities exchange or regulatory or governmental body to which that party is subject to, wherever situated, whether or not the requirement for information has the force of law;
- c) the information is disclosed on a strictly confidential basis to the professional advisers, auditors and bankers of the Receiving Party;
- d) the information has come into the public domain through no fault of the Receiving Party;
- e) the information was in the possession of the Receiving Party before such disclosure by the Disclosing Party, as aforesaid;
- f) the information was obtained by the Receiving Party from a third party who was free to divulge the same;
- g) the Disclosing Party has given prior written approval to the Receiving Party in respect of the disclosure, such approval not to be unreasonably withheld or delayed;
- h) this is required to enable that party to enforce its rights or perform its obligations (including the publication obligations in Clause 11) under this Agreement; or
- i) it is disclosed to bona fide current and/or potential purchaser, investor and/or lender of the Receiving Party, and any legal and/or professional representatives thereof; provided that such potential purchaser, investor and/or lender shall be subject to a confidentiality agreement (on terms usual to such transactions) covering such Confidential Information.

20.6. The Parties acknowledge and agree that in the event of a default in the obligations set out in this Clause 20, damages may not be a sufficient remedy for the Disclosing Party. Accordingly, in addition to other remedies, such Disclosing Party will have the right to seek injunctive relief or specific performance of the other party's obligations. Any such remedy shall not be deemed to be exclusive and shall be in addition to any and all other remedies which may be available to the other party at law or in equity.

20.7. Upon termination or expiry of this Agreement the Receiving Party shall, at the option of the Disclosing Party, either destroy or return to the Disclosing Party all records, documentation or other information and all copies thereof which are held by the Disclosing Party.

20.8. The obligations of each of the Parties as to disclosure and confidentiality shall continue in force notwithstanding the termination of this Agreement.

21. Entire Agreement

21.1. Subject to Clause 23 (Variation), the Grant Conditions contain the entire of the terms and conditions applicable to the payment of the Research Grant and supersede and replace any prior

written or oral agreements, representations or understandings between the Parties.

22. Conflicts

22.1. In the event of a conflict or inconsistency between any provisions of the General Terms and Conditions, the Application, the Offer Letter and/or the Intellectual Property Guidelines, such conflict or inconsistency shall be resolved by giving the following precedence:

- a) Offer Letter;
- b) Budget;
- c) General Terms and Conditions;
- d) Intellectual Property Guidelines; and
- e) the Application.

23. Variation

23.1. The University shall be entitled at any time on written notice to the Research Organization (“Variation Notice”) to vary the terms of the Grant Conditions. Any Variation Notice shall provide full details of the variation including the date on which it becomes operative and the reasons for the change. Notwithstanding the remaining provisions of this Clause 23, a Variation Notice shall become effective on the operative date specified therein.

23.2. The Research Organization may within 30 days of receipt of a Variation Notice issue a Notice of Objection or Refusal to the University setting out the reasons for such objection or refusal and the direct consequences (including breach of any contract directly related to the Research Program between the Research Organization and a third party) that shall flow from the variation. The University shall give reasonable consideration to such Notice of Objection or Refusal and within a reasonable period following receipt of a Notice of Objection or Refusal, the University shall (subject to Clause 23.3) be entitled at its discretion to:

- a) withdraw the Variation Notice in which case the Grant Conditions shall continue in force unchanged;
- b) issue a revised Variation Notice having regard to the reasons given for any refusal or objection (in which event, the provisions of Clause 23.2 shall apply once again); or
- c) issue a notice of reduction, suspension, termination or revocation pursuant to Clause 18 (Term and Termination).

23.3. Where the Notice of Objection or Refusal states that the variation specified in the Notice of Variation would, if implemented, cause the Research Organization to be in material breach of a contract directly related to the Research Program then the University shall acting reasonably and in good faith further consult the Research Organization and shall give reasonable consideration to

the matters raised by the Research Organization.

23.4. The Research Organization shall be entitled to request a variation of the Grant Conditions at any time on written notice to the University containing full details of the proposed variation and reasons for the change (“Research Organization Variation Notice”). The University shall give reasonable consideration to the Research Organization Variation Notice and shall within not more than 30 days either:

- a) accept the proposed variation in which case the Grant Conditions shall be amended accordingly; or
- b) reject the proposed variation in which case the Grant Conditions shall continue in force unchanged.

23.5. No variation of the Grant Conditions shall give rise to any requirement for repayment by the Research Organization of the whole or any part of a Research Grant paid to it prior to the date of the Variation Notice.

24. Assignment

24.1. The Research Grant is made personally to the Research Organization and the Research Organization shall not, without the written agreement of the University, assign, transfer, subcontract or in any other manner make over to any third party the benefit and/or burden of the Research Grant.

25. Dispute Resolution

25.1. The Parties will use their best efforts to negotiate in good faith and settle any dispute that may arise out of or relate to the Research Grant, the Grant Conditions or any breach of them. If any such dispute cannot be settled amicably through ordinary negotiations by the authorized representative of the Parties, the dispute shall be referred to the Vice President/Dean of the Research Organization and the Chief Operations Officer of the University, who will meet in good faith to try and resolve the dispute. If the dispute or difference is not resolved as a result of such meeting, the following procedure shall apply before resorting to litigation:

- a) where the Parties agree that a matter is of a technical nature, it may be referred to a technical expert (the “Expert”) to be appointed by agreement between the parties. Such Expert shall act as an expert and not as an arbitrator; or
- b) where the dispute is of a non-technical nature or the Parties cannot agree as to whether or not the dispute is of a technical nature, or where the parties cannot agree on the appointment of the Expert, the matter may be referred to mediation. The mediator shall be appointed by agreement between the Parties or, in default of agreement, the matter shall be referred to the International Center for Dispute Resolution for appointment of a mediator. Each party shall bear its own costs in connection with the mediation and the costs of the

mediator shall be borne equally between the Parties.

25.2. Nothing contained in this Clause 25 shall restrict the Party's freedom to commence legal proceedings to preserve any legal right or remedy or protect any Intellectual Property Rights.

26. Force Majeure

No Party shall be in breach of this Agreement if there is any total or partial failure of performance by it of its duties and obligations under this Agreement occasioned by any act of God, fire, act of government or state, war, civil commotion, insurrection, embargo, prevention from or hindrance in obtaining any raw materials, energy or other supplies, labor disputes of whatever nature and any other reason, beyond the control of any other Party. If a Party is unable to perform its duties and obligations under the Grant Conditions as a direct result of the effect of one of those reasons that Party shall give written notice to the others of the inability, stating the reason in question. The operation of the Research Grant shall be suspended during the period (and only during the period) in which the reason continues. Forthwith, upon the reason ceasing to exist, the Party relying upon it shall give written advice to the others of this fact. If the reason continues for a period of more than 10 working days, the Party not claiming relief under this Clause 26 shall have the right to terminate the Grant Conditions forthwith upon giving written notice of such termination to the other Parties.

27. Severability

If any provision or term of the Grant Conditions or any part thereof shall become or be declared illegal invalid or unenforceable for any reason whatsoever, including but without limitation by reason of the provisions of any legislation or other provisions having the force of law, or by reason of any decision of any Court or other body or authority having jurisdiction over the Parties, including the EU Commission and the European Court of Justice, such terms or provisions shall be severable from the Grant Conditions and shall be deemed to be deleted therefrom, provided always that if any such deletion substantially affects or alters the basis of the Research Grant, the Parties shall negotiate in good faith to amend and modify the provisions and terms of the Research Grant as may be necessary or desirable in the circumstances.

28. Nature of Relationship

28.1. Nothing in the Grant Conditions shall constitute a partnership or joint venture or establish a relationship of agency between the Parties hereto, nor shall the Research Grant, or the operation thereof or the provision of any services by the University, the Principal Investigator, the Research Team or the Research Organization be construed as evidence of any contract of employment between the University and any member of the Research Team or any servant or agent of the Research Organization, which is expressly denied.

28.2. Neither the Principal Investigator nor any member of the Research Team, nor any servant or agent of the Research Organization shall be, nor in any way represent himself to be an agent of the University, and none of them shall have any authority to enter into any obligation on behalf of

the University or to bind the University in any way, which is expressly denied.

29. Waiver

No failure or delay on the part of any Party having an interest in the Research Grant to exercise any right or remedy under the Grant Conditions shall be construed or operated as a waiver thereof, nor shall any single or partial exercise of any right or remedy as the case may be. The rights and remedies provided in the Grant Conditions are cumulative and are not exclusive of any rights or remedies provided by law.

30. Notices

30.1. Any notice or other document to be given under the Grant Conditions shall be in writing and shall be deemed to have been duly given if delivered by hand or sent by:

- a) first-class post or express or air mail or other fast postal service;
- b) registered post; telex or facsimile; or
- c) e-mail

to the correct address, e-mail address, telex or facsimile number (as may be amended from time to time by notice in writing to the other party) of the party to whom it is being sent.

Any notice or other document shall be deemed to have been received by the addressee as follows:

Means of Dispatch	Deemed Received
Delivery by hand	the day of delivery;
Post	3 business days after posting
Telex/Facsimile	when the sender receives a completed transmission sheet or otherwise receives a mechanical confirmation of transmission;
E-mail	the date on which it is received by the intended recipient's email server.

Provided that if, in accordance with the above provisions, any such notice or other communication would otherwise be deemed to be given or made outside working hours (being 9 a.m. to 5 p.m. on a business day) such notice or other communication shall be deemed to be given or made at the start of working hours on the next business day. To prove the giving of a notice or other document, it shall be sufficient to show that it was dispatched.

31. Governing Law and Consent to Jurisdiction

Unless otherwise stipulated in Offer Letter or an addendum thereto, these terms and conditions shall be governed by and construed in accordance with the Laws of the United States of America and all Parties shall expressly and submit to the jurisdiction of the U.S. Courts.

32. Freedom of Information

32.1. The University may be legally required to disclose information provided to it in response to a request under Freedom of Information Acts in the following circumstances;

- a) When the University is made subject to Freedom of Information Acts and receives a direct request; or
- b) Where the University has provided information to a public body which is subject to the Acts and that public body receives a direct request and seeks the views of the University in connection with that request.

32.2. Should the Research Organization and/or the Principal Investigator consider that any information supplied to the University is confidential and/or commercially sensitive it shall, at the time of providing the information, identify such information and give reasons for its confidentiality and/or commercial sensitivity. The University may, if it considers it appropriate, consult with the Research Organization and/or the Principal Investigator prior to releasing or consenting to the release of such information in the circumstances mentioned in Clause 32.1.

33. Legal Proceedings

33.1. The Research Organization, the Principal Investigator and the Research Team shall agree to be available to participate in legal proceedings arising out of this Agreement to which the University is a party including, but not limited to, proceedings in connection with the ownership, exploitation, commercialization and/or management of any Intellectual Property Rights produced by a Research Program.