



PS10

Special Terms for
Research and Development
July 2013

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PS10 SPECIAL TERMS FOR RESEARCH AND DEVELOPMENT

These Special Terms are to be read in conjunction with the General Terms and the Service Order and govern the provision of research and development Services by the Contractor to the Authority.

1. DEFINITIONS

1.1 For the purposes of these Special terms, unless the context otherwise requires the following terms shall have the meanings given to them below:

"Biological Materials" any material (including, without limitation, plants, animals, microbes or viruses) of biological origin which contains genetic information capable of reproduction and/or material derived from the same that is collected or produced through the Contract;

"Conventions" any and all of: i) the Convention on Biological Diversity and the International Treaty on Plant Genetic Resources for Food and Agriculture, including any Protocols and other additions or amendments from time to time; ii) any guidelines adopted by the parties to the same (including, without limitation, the Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of the Benefits Arising out of their Utilization); and iii) any national legal or regulatory requirements made in pursuance of the provisions of the same in any territory;

"Income" any revenues received by the Contractor (including, without limitation, the sale or disposal of products or services, royalties, payments for licences or options and stage payments) irrespective of whether such payment is in money or other consideration, arising from the use or exploitation of the Results or any part of the Results;

"Key Biological Materials" biological Materials held by or on behalf of the Contractor that are agreed by the Contractor, the Authority and (if relevant) the appropriate independent scientific advisory body (in each case acting reasonably) to be of national or international importance;

"Project Year" each period of twelve (12) months during the Contract Period beginning with the Commencement Date; and

"Results" the Intellectual Property Rights in any guidance, specifications, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models, designs or other material which is:

- 1.1.1 prepared by or on behalf of the Contractor in relation to the performance of its obligations under the Contract; or
- 1.1.2 the result of any work done by the Contractor, the Staff or any Sub-Contractor;
- 1.1.3 and where there are no co-funders, references to the Co-funders shall have no meaning or effect.

2. **APPLICATION OF TERMS**

- 2.1 During the Contract Period the Contractor shall provide research and development services to the Authority.
- 2.2 In addition to the provisions of clause 38 (Monitoring of Contract Performance) of the General Terms and Conditions, the Contractor shall submit the reports required by this Schedule to the Authority.
- 2.3 Unless otherwise authorised in writing by the Authority, the Contractor shall submit an annual report for each Project Year to the Authority, as follows. The Contractor shall provide one copy on either computer readable disk or e-mail in the format specified by or agreed with the Authority, no later than four (4) weeks after the end of each Project Year, or, for work lasting one year or less, no later than four (4) weeks after completion of the Services. This report shall:
 - 2.3.1 list the scientific objectives as set out in the Specification, indicating where amendments have been agreed;
 - 2.3.2 indicate in non-scientific terms the scientific progress achieved since the commencement of the Services or since the last report; how this relates to the policy objectives as set out in the relevant current statement of policy rationale and programme objectives relating to research and development issued by the Authority in accordance with the Specification, plus any findings of particular interest;
 - 2.3.3 indicate whether the scientific objectives in the Specification are appropriate for the remainder of the Contract Period, giving reasons for any changes, together with financial, staff and time implications;
 - 2.3.4 list the milestones for the relevant Project Year as set out in the Specification, indicating which milestones have been met and whether the remaining milestones appear realistic (subject at all times to clause 39 (Remedies in the event of inadequate performance or failure to perform)) of the General Terms and Conditions;
 - 2.3.5 list any outputs, e.g. published papers or presentations and identify any opportunities for exploiting any Intellectual Property Rights or technology transfer arising out of the Services and any action taken to protect and exploit such Intellectual Property Rights;
 - 2.3.6 comment briefly on any new scientific opportunities which may arise from the Services.
- 2.4 Unless otherwise authorised in writing by the Authority, the Contractor shall submit by the completion date of the Services a final report consisting of, one electronic copy on either computer readable disk or by e-mail in a format specified by the Authority. The report shall include the following:

- 2.4.1 the Services' code and title as set out in the Specification; the name of the Contractor; the total costs; and the Commencement Date and date of completion of the Services;
 - 2.4.2 an executive summary of not more than two sides of A4 written in a style understandable to the intelligent non-scientist. This should include the main objectives of the Services; the methods and findings of the research; and any other significant events and options for new work; and
 - 2.4.3 a scientific report.
- 2.5 The scientific report referred to in paragraph:
- 2.5.1 the scientific objectives as set out in the Specification;
 - 2.5.2 (the extent to which the objectives set out in the Specification have been met;
 - 2.5.3 details of methods used and the Results obtained, including statistical analysis where appropriate;
 - 2.5.4 a discussion of the Results and their reliability;
 - 2.5.5 the main implications of the findings;
 - 2.5.6 possible future work; and
 - 2.5.7 any action resulting from the research (e.g. protection of Intellectual Property Rights, knowledge transfer).
- 2.6 Notwithstanding clause 33 (Publicity, Media and Official Enquiries) of the General Terms and Conditions, the Authority may publish final reports on a website (at the Authority's discretion). When submitting the final report to the Authority the Contractor shall indicate any information contained in the report which he considers to be commercially sensitive or which might otherwise merit non-publication and the Authority shall not disclose such information without first having consulted the Contractor (without prejudice to the Authority's discretion as to whether to publish following such consultation).
- 2.7 The Authority reserves the right to reject any annual or final report submitted by the Contractor which is not, in the reasonable opinion of the Authority, satisfactory, either in form or content, having regard to the provisions of this Schedule. In the event that such a report is rejected by the Authority, the Contractor shall remedy any deficiencies identified by the Authority and submit a revised report at no additional cost to the Authority or the Co-funders.
- 2.8 The Contractor shall supply any additional reports, including financial reports, in respect of the Services, at such time or times, and in such form, as the Authority may reasonably require. Without prejudice to the generality of the foregoing, the Contractor shall provide to the Authority such information as the Authority may reasonably require regarding commercial exploitation of the Results (subject to having obtained a licence pursuant to clause 4), including details of any licences granted to third parties in respect of any Intellectual Property Rights in the same. The Contractor shall further keep at its normal place of business detailed accurate and up to date records and accounts showing details of its commercial exploitation of the Results including the sale of products or services which incorporate the Results, Income received, allowable costs deducted and the amount of licensing

revenues received by it in respect of the Results in a format sufficient to ascertain that revenue sharing pursuant to the Contract has been properly accounted for and apportioned in accordance with the Contract.

- 2.9 The Contractor shall, subject to reasonable notice, attend all meetings specified in the Contract or otherwise arranged by the Authority for the purpose of discussion of the Services.

3. PUBLICATION AND DISCLOSURE

- 3.1 Notwithstanding clause 31.1 but subject to clause 31 (Confidential Information) of the General Terms and Conditions, the Contractor shall endeavour to make the Results generally available (including in scientific journals where reasonably appropriate) and shall acknowledge in any public statement the financial support of the Authority and the Co-funders. The Contractor shall send details of any proposed publication to the Authority at least two weeks prior to the proposed publication and shall notify the Authority immediately if approached by the media about the Services.

- 3.2 Subject to clause 31 (Confidential Information) of the General Terms and Conditions the Authority shall have the right to disclose, copy and otherwise distribute to the public or use in any way any information arising out of the Services or comprised in any work relating to the Services.

- 3.3 Nothing in this paragraph or elsewhere in the Contract shall permit or require the Contractor or the Co-funders to make any disclosure of information which would jeopardise any commercial exploitation of the Results.

4. FURTHER INTELLECTUAL PROPERTY PROVISIONS

- 4.1 In accordance with clause 35.1, the Contractor shall identify and inform the Authority of any Results which it considers suitable for commercial exploitation. Where the Contractor has identified an opportunity for the commercial exploitation of the Results then it may either apply to the Authority for such licence (with a right to sub-license as required) as may be necessary, or provide such assistance as is required by the Authority to facilitate a licence being granted by the Authority to a third party.

- 4.2 The Contractor shall identify and inform the Authority of any Results which may be suitable for registration as a patent, copyright, registered design, trade mark or other legal protection and shall use its reasonable endeavours to apply for such protection throughout or in any part of the world in the name of the Authority, and shall maintain such protection in such part of the world as he considers suitable at its own expense.

- 4.3 The Income from any commercial exploitation of the Results by the Contractor in accordance with a licence under clause 4.1, shall be apportioned in accordance with the agreed licence.

5. BIOLOGICAL MATERIALS

- 5.1 The Contractor shall ensure that any Biological Materials collected by or on behalf of the Contractor in the course of performance of the Services are:

- 5.1.1 collected and used in accordance with the Conventions, where relevant;
and

- 5.1.2 made available to the Authority (or such other person as the Authority may specify) whenever and wherever and in whatever format the Authority may reasonably require for any purpose (including, without limitation, handover on termination of the Services);
 - 5.1.3 stored for whatever period is reasonably required by the Authority (or, in the absence of any such requirement, an appropriate period in all the circumstances taking into account the nature of the relevant Biological Materials) following termination of the Contract.
- 5.2 The Contractor recognises and acknowledges that Key Biological Materials in its possession are likely to require long term maintenance and shall put in place appropriate procedures for ensuring that relevant samples are selected for this purpose where applicable.
 - 5.3 It shall be the sole responsibility of the Contractor to identify any requirements of the Conventions (including, without limitation, benefit-sharing requirements arising from use of Biological Materials) which may apply in connection with the Services. The Contractor shall comply with any such requirements and inform the Authority of the same.
 - 5.4 Failure to comply with any obligation in this paragraph shall amount to a material breach of the Contract for the purpose of clause 50 (Termination on Default) of the General Terms and Conditions. For the avoidance of doubt, where no Biological Materials are, or are to be, collected by or on behalf of the Contractor in the course of performance of the Contract all references to Biological Materials in this Schedule or elsewhere in the Contract shall have no meaning or effect.