

EXAMPLE CONTRACT - THIS AGREEMENT is made the day of 2017

BETWEEN

- (1) **THE UNIVERSITY OF WARWICK** of Coventry, CV4 8UW (“the University”); and
- (2) [**INSERT NAME**] a company registered in England under company registration number <enter number> whose registered office is at <enter registered address> (“the Client”).

The Client wishes the University to undertake the Consultancy Services, and the University is willing to undertake the Consultancy Services upon the terms and conditions set out in Schedule 1, as amended by any Special Conditions agreed by both parties.

- Commencement Date:** <<>>
- Consultancy Period:** <<>>
- Description of Consultancy Services:** <<>>
- Consultant:** <<>>
- Fee:** <<>> excluding VAT
- Payment Schedule:** <<>>
- Payment Arrangements:** <All payment of Fees will be made by bank transfer to account number <insert number> in accordance with the Payment Schedule.>
- Premises:** <<>>
- Special Conditions:** <<>>

This Agreement together with its Schedule(s) constitutes the entire agreement between the Parties for the subject matter of this Agreement.

IN AGREEMENT of the above, each party has signed this Agreement on the date above.

SIGNED FOR AND ON BEHALF OF
The University of Warwick

SIGNED FOR AND ON BEHALF OF
[INSERT NAME]

SCHEDULE 1

1. Definitions

1.1 In this Agreement, the following expressions shall have the following meanings:

- “Background IPR” means all IPR owned by or created or developed by the University other than during the course of the Consultancy Services;
- “Confidential Information” means all information disclosed whether orally, in writing or by any other means, including without limitation obtained as a result of any demonstration or being allowed access to any premises where the disclosing party may carry on business) which has value by virtue of not being publicly or generally known;
- “Consultancy Results” means any results, materials, information or Foreground or Background IPR provided by the University as part of the deliverables under this Agreement
- “Foreground IPR” means all IPR created or developed by the University during the course of the Consultancy Services;
- “IPR” means patents, registered designs, trade marks and service marks (whether registered or not), domain names, copyright, design right, trade secrets, know how and all similar property rights in inventions, computer programs, designs, and Confidential Information and other intellectual property rights whatsoever and wherever subsisting;
- “Know-how” means unpatented technical information (including, without limitation, 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) that is not in the public domain;

2. **Consultancy scope and description**

2.1 The Consultancy Services shall commence on the Commencement Date and will continue until such time as the work comprised in the Consultancy Services is completed or until any later date agreed in writing between the Parties, or until this Agreement is terminated in accordance with clause 7. If this Agreement is dated and entered into after the Commencement Date, the Parties agree that the terms of this Agreement will apply retrospectively to all work carried out by the University pursuant to an instruction from the Client prior to the date hereof.

2.2 The work will be performed at the Premises unless otherwise specified and agreed in writing.

3. **Payment**

3.1 The Client will pay to the University the Fee in the amount and in accordance with the Payment Schedule without any set-off or deduction. All Fees or sums payable under this Agreement are exclusive of any applicable value added tax.

3.2 If any sum payable to the University by the Client is not paid within 14 days after the due date, then without prejudice to any other rights and remedies it may have, the University may suspend performance of its obligations under this Agreement and/or charge interest on a daily basis at the rate of four (4%) per cent above the Bank of England base rate on any sums remaining unpaid from the date that payment was due until the date that payment is made in full.

3.3 The Client shall reimburse the Consultant (on production of such evidence as it shall reasonably require) all expenses properly and reasonably incurred in the course of performing the Consultancy Services. Such expenses will be included in the invoices submitted to the Client by the University under clause 3.2, and reimbursement of the expenses will be passed to the Consultant via the University. All claims for reimbursement of individual items costing more than [£50] will be accompanied by copies of the relevant receipts.

4. **Intellectual Property**

- 4.1 Title to all Background IPR shall remain with the Party providing it.
- 4.2 Subject to payment in full of all sums due and owing, University will assign to the Client all Foreground IPR (other than Know How) together with all rights of action, remedies, powers and benefits relating to it including the right to sue for damages for infringement occurring before the date of the assignment.
- 4.3 Subject to payment in full of all sums due and owing, University will grant the Client a non exclusive licence to use such part of the Background IPR and Know How as is owned by University, which is freely licensable, is comprised in the Consultancy Results and is strictly necessary solely for the purpose of evaluating or assessing the Consultancy Results.
- 4.4 Without prejudice to clause 4.3, University may at the Client's request and at its sole option grant the Client a non exclusive licence to use the Background IPR and Know How owned by the University which is freely licensable and is comprised in the Consultancy Results for any other purpose other than that described in clause 4.3. Any licence granted under this clause 4.4 shall be on such fair and reasonable commercial terms as are agreed by the parties in good faith.
- 4.5 The Client hereby grants to the University a royalty-free, irrevocable, non-exclusive right and licence for the University to make use of Foreground IPR for academic teaching and research purposes.
- 4.6 Each party undertakes that, at the request and expense of the other, they will do all acts and things and execute all deeds and documents that may be reasonably necessary for evidencing the rights licensed or assigned above.

5. **Confidentiality**

- 5.1 Subject to clause 4, the Parties agree to treat any Confidential Information received from the other party or from a third party on behalf of the other party in confidence and to use it only for purposes of the Consultancy Services.
- 5.2 The above commitment of confidentiality shall not apply to any information which is already in or comes into the public domain otherwise than through the fault of the receiving party or has been independently developed by the receiving Party

- 5.3 If either party receives a request under the Freedom of Information Act 2000 to disclose any information that, under this Agreement, and such information is the others' Confidential Information, it will notify the other Party and will consult with the other Party. A Party so requested will respond to the other Party within ten (10) days after receiving the other Party's notice if that notice requests that Party to provide information to assist the other Party to determine whether or not an exemption to the Freedom of Information Act applies to the information requested under that Act.
- 5.4 Neither the University nor the Client will use the other's name or logo in any press release or product advertising, or for any other promotional purpose, without first obtaining the other's written consent; except that the University may identify the sums received from the Client in the University's Annual Report and similar publications including HESA reporting.
- 5.5 All employees, students, agents or appointees of the University (including those who work on the Consultancy Services) shall have freedom to publish in accordance with normal academic practice and freedom to discuss work undertaken as part of the Consultancy Services in seminars, and to give instruction on questions related to such work, in pursuance of the University's academic functions.
- 5.6 The University will use all reasonable endeavours to submit to the Client in writing any intended publication which contains Foreground IPR owned by the Client not less than 60 days in advance of the submission for publication and to take into consideration any comments made by the Client. The Client may require the University to delay submission for publication if such delay is necessary in order to seek patent or similar protection for the Foreground IPR. A delay imposed on submission for publication as a result of a requirement made by the Client shall not last longer than is absolutely necessary to seek the required protection and in any event shall not exceed 6 months from the date of notice of intended publication. Notification of the requirement for delay in submission for publication must be received by the University within 30 days from the date of notice of intended publication, failing which the University shall be free to assume that the Client has no objection to the proposed publication.

6. **Warranty and Liability**

- 6.1 Although the University will use its reasonable endeavours to procure that the Consultant performs the Consulting Services, the University does not undertake that work carried out under or pursuant to this Agreement will lead to any particular result, nor is the success of such work guaranteed, and the University will be under no liability in respect of such work.
- 6.2 The Client acknowledges that neither the Consultant nor the University accepts any responsibility for, nor shall the Consultant or the University be liable in respect of, any work done or advice or information given by the Consultant to the Client in respect of or in connection with the Consulting Services provided under this Agreement; and the Client undertakes to release the Consultant and the University from any liability howsoever arising for anything acts or omissions in respect of the work done under or in connection with this Agreement.
- 6.3 The liability of the University for any breach of this Agreement, or arising in any other way out of the Consultancy Services, will not extend to any incidental or consequential damages or losses including (without limitation) loss of profits. In any event, the Client accepts and agrees that the maximum liability of the University under or otherwise in connection with the Consultancy Services and this Agreement shall not exceed the return of the monies paid by the Client under this Agreement
- 6.4 Nothing in this Agreement is intended to restrict or in any way exclude liability for death or personal injury as a result of negligence or for fraudulent misrepresentation.
- 6.5 Except as expressly provided in this Agreement, any conditions, warranties, representations or other terms express or implied by statute or common law or otherwise are excluded to the fullest extent permitted by law.
- 6.6 The Client undertakes to make no claim against any employee, student, agent or appointee of the University in connection with this Agreement.

7. **Bribery Act 2010**

- 7.1 Both parties shall:
- 7.1.1 comply with all relevant requirements which shall mean all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 and any amendment thereto;

7.1.2 comply with and maintain in place throughout the term of this Agreement its own anti-bribery and anti-corruption policies as well as Adequate Procedures (as defined in S7(2) of the Bribery Act 2010 and the guidance provided under S9); and

7.1.3 not engage in any activity, practice or conduct which would constitute an offence under S1, 2 or 6 of the Bribery Act 2010.

8. **Termination**

8.1 Without prejudice to any other right or remedy, either Party may terminate this Agreement at any time by notice in writing to the other Party:

8.1.1 if the other Party is in material breach of this Agreement and the breach is not remedied within 30 days of the other Party receiving notice of it; or

8.1.2 if the other Party becomes insolvent, or takes or suffers any similar or analogous action in any other jurisdiction

8.2 Clauses **Error! Reference source not found.**, 4, and 6 shall survive termination or expiry of this Agreement but if termination is due to an un-remedied breach by the Client, then all licences granted by the University shall also terminate.

9. **General**

9.1 Neither Party shall act or describe itself as the agent, employee or partner of the other, nor shall it make any commitments on the other's behalf, and nothing in this Agreement is intended to create any agency, partnership or employment relationship.

9.2 Neither Party will be liable for any delay in performing its obligations under this Agreement if that delay is caused by circumstances beyond its reasonable control (including, without limitation, any delay caused by an act or omission or the other Party) and the Party affected will be entitled to a reasonable extension of time for the performance of its obligations.

9.3 Any notice given under this Agreement shall be deemed well served if it is sent by recorded delivery addressed to the address above. The day of service shall (unless the contrary is proved) be deemed to be two days after the date of posting.

9.4 No failure to enforce a right by either party shall constitute a waiver under this Agreement.

- 9.5 This Agreement constitutes the entire understanding between the Parties relating to the Consultancy Services and may only be amended in writing signed by duly authorised representatives of the Parties.
- 9.6 Notwithstanding that any provision of this Agreement may prove to be illegal or unenforceable, the remaining provisions of this Agreement shall continue in full force and effect.
- 9.7 Neither Party shall assign or transfer any of its rights or obligations under this Agreement without the prior written consent of the other Party.
- 9.8 Except as expressly set out in this agreement, nothing in this Agreement shall confer on any third party any benefit or the right to enforce any provision of this Agreement.
- 9.9 This Agreement shall be governed by English Law and the Parties hereby submit to the exclusive jurisdiction of the English courts.