

## Terms and Conditions for the Provision of Services by Rothamsted Research Limited

These terms and conditions govern the provision of services, including the access to equipment, by Rothamsted Research Limited (“Rothamsted”) to any third parties, as more specifically detailed in an order form issued by the Client and accepted by Rothamsted (the “Order Form”). These terms and conditions constitute Schedule 1 to each Order Form and form an integral part of the Contract entered into between Rothamsted and the Client to the exclusion of all terms and conditions which the Client might seek to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

### 1. Definitions and Interpretation

The following definitions and rules of interpretation apply in these Conditions.

#### 1.1 Definitions:

“**Affected Party**” has the meaning given in clause 14.1;

“**Applicable Laws**” means all laws, rules, regulations, codes of practice, research governance or ethical guidelines or other requirements of regulatory authorities as amended from time to time;

“**Arising Intellectual Property**” means all Intellectual Property Rights that arise or are obtained or developed by either Party, or by a contractor on behalf of either Party, after the Order Form Effective Date (as set out in the relevant Order Form) solely in the course of or in connection with the RRES Services;

“**Background Intellectual Property**” means all Intellectual Property Rights and Know-how owned by or licensed to the a Party as at the Order Form Effective Date (as set out in the relevant Order Form) (including for the avoidance of doubt any of the Client’s Intellectual Property Rights existing in the Client Materials) and such other Intellectual Property Rights arising after the Order Form Effective Date (as set out in the relevant Order Form) but not created in the course of or in connection with an Order Form and excluding in each case any Arising Intellectual Property and the Improvements;

“**Business Day**” means a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business;

“**Charges**” means the fees, process or charges to be paid by the Client to Rothamsted in consideration for the RRES Services and RRES Equipment as agreed between the Parties from time to time;

“**Client**” means the person entering into this Contract with Rothamsted as identified in an Order Form;

“**Client Materials**” means the materials (including but not limited to any biological materials or any constructs, strains, derivatives, portions or progeny of the same) that the Client may provide to Rothamsted under or in connection with an Order Form as set out in the relevant Order Form;

“**Client Staff**” means any Representatives of the Client listed on the Order Form or otherwise approved by Rothamsted in writing for the purposes of clause 5.1;

“**Confidential Information**” means all confidential information (however recorded or preserved) disclosed by a Party or its representative to the other Party, including but not limited to:

- (a) the existence and terms of this framework Agreement and any Order Form entered into under it;
- (b) any information that would be regarded as confidential by a reasonable business person relating to:
  - (i) the business, finances, affairs, customers, clients, suppliers, plans, intentions or market opportunities of the Disclosing Party or any member of the group of companies to which the Disclosing Party belongs;
  - (ii) the operations, processes, product information, know-how, designs, trade secrets or software of the Disclosing Party (or of any member of the group of companies to which the Disclosing Party belongs); and
  - (iii) any information developed by the Parties in the course of carrying out this framework Agreement;

“**Contract**” means the contract between Rothamsted and the Client for the provision of RRES Services and access to RRES Equipment by Rothamsted to the Client in accordance with these Conditions;

“**Control**” means has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression **Change of Control** shall be construed accordingly;

“**Controller**” has the meaning given in the Data Protection Legislation;

“**Controlled Drugs**” shall have the meaning given by Section 2 of the Misuse of Drugs Act 1971;



**“Containment Work”** means any work with biological agents in Hazard Groups 2 – 4 indicated on the most recent edition of the Approved List of Biological Agents as specified and prepared by the Advisory Committee on Dangerous Pathogens (ACDP) or any Genetically Modified Organism risk assessed as requiring containment two to four as described in the Scientific Advisory Committee on Genetic Modification (SACGM) compendium of guidance;

**“Data Protection Legislation”** means any data protection legislation from time to time in force in the UK including the Data Protection Act 2018 or any successor legislation and (for so long as and to the extent that the law of the European Union has legal effect in the UK) the General Data Protection Regulation ((EU) 2016/679) and any other directly applicable European Union regulation relating to privacy;

**“Deliverables”** means all documents, products, materials, results, data or information developed by Rothamsted or its agents, contractors and employees as part of or in relation to the RRES Services in any form or media, including drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts);

**“Disclosing Party”** has the meaning given in clause 12.2;

**“Drug Precursors”** means schedules substances and non-schedules substances as defined by Regulation (EC) No 273/2004 of the European Parliament and of the Council of 11 February 2004 on drug precursors;

**“Force Majeure Event”** means any circumstance not within a Party’s reasonable control including, without limitation acts of God, flood, drought, earthquake or other natural disaster, epidemic or pandemic, terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations, nuclear, chemical or biological contamination, any law or any action taken by a government or public authority (including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent), any labour or trade dispute, strikes, industrial action or lockouts (other than in each case by the Party seeking to rely on this clause, or companies in the same group as that Party) and non-performance by suppliers or subcontractors (other than by companies in the same group as the Party seeking to rely on this clause);

**“Human Tissue Samples”** means relevant material as defined by section 53 of the Human Tissue Act 2004;

**“Improvements”** means any improvements or modifications to a Party’s Background Intellectual Property made, invented, developed, created, conceived or reduced to practice by Rothamsted in the course of providing the RRES Services to the Client;

**“Intellectual Property Rights”** means all patents and patent applications, right to inventions, copyright and related rights, trade marks, trade names and domain names, rights in get up, rights in goodwill or to sue for passing off, rights in designs, rights in computer software, database rights, rights in confidential information (including Know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which may now or in the future subsist in any part of the world;

**“Know-how”** means any unpatented technical and other information which is not in the public domain including any:

- (a) trade secrets, information comprising or relating to concepts, data, discoveries, formulae, ideas, Inventions, research models or specifications;
- (b) methods, research plans, procedures for experiments and tests and results of experimentation and testing and other technology; and
- (c) information about biological or chemical structure or functions of materials.

**“Order Form”** means a draft order form issued by the Client and counter-signed by Rothamsted for acceptance in accordance with the provisions of clause 2.2 and which shall comprise (i) the order form itself together with (ii) these Conditions and any other schedules and appendices to the exclusion of all terms and conditions for the purchase of goods and/or services which the Client might normally seek to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing;

**“Poisons”** means the poisons listed in Schedule 1 of The Poisons Rules 1982;

**“Radioactive Material”** means radioactive material as defined in the Radioactive Substances Act 1993;

**“Personal Data”** has the meaning given in the Data Protection Legislation;

**“process”** and **“processing”** has the meaning given in the Data Protection Legislation;

**“Receiving Party”** has the meaning given in clause 12.2;



“**REL**” means Rothamsted Enterprises Limited incorporated and registered in England and Wales with company number 03726930 whose registered office is at Rothamsted Research, West Common, Harpenden, Hertfordshire, AL5 2JQ, United Kingdom;

“**REL Tenancy Agreement**” means the tenancy agreement in place from time to time between REL and the Client;

“**Representative**” means employees, officers, consultants, agents, visiting agents and other representatives of the relevant Parties;

“**RRES Equipment**” means the equipment listed in the Order Form any and all equipment, including apparatus, physical resources and assets, provided, maintained, purchased or otherwise obtained by Rothamsted or on behalf of Rothamsted at its own cost, including consumables whether based at the property occupied by Rothamsted, REL or elsewhere which Rothamsted may make available to the Client pursuant to an Order Form in accordance with the terms of this Contract from time to time;

“**RRES Services**” means the services listed in the Order Form and any other services which Rothamsted has agreed to provide to the Client in accordance with the terms of this Contract from time to time;

“**Schedule 5 Pathogens and Toxins**” means the pathogens and toxins listed in Schedule 5 of the Anti-terrorism, Crime and Security Act 2001;

“**Specific Substances**” means Controlled Drugs, Drug Precursors, Pathogens, and Toxins and Poisons;

“**Substance Hazardous To Health**” means Substance Hazardous to Health as defined in the Control of Substances Hazardous to Health Regulations 2002 and shall include any substances considered hazardous to human health;

“**Tax**” means value added tax (VAT) in the UK or any equivalent tax chargeable whether in the UK or elsewhere.

1.2 In this Contract:

- (a) any headings in this Contract shall not affect the interpretation of this Contract;
- (b) unless the context otherwise requires reference to the singular includes the plural and vice versa, any reference to a person includes a body corporate and words importing one gender include both genders;

- (c) a reference to a statute or statutory provision is (unless otherwise stated) a reference to the applicable UK or other country’s statute as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it, and reference to a policy, procedure or protocol of Rothamsted is a reference to the version of the policy, procedure or protocol from time to time in force and duly communicated to the Supplier;
- (d) where the words “**include(s)**” or “**including**” are used in this Contract, they are deemed to have the words “without limitation” following them, and are illustrative and shall not limit the sense of the words preceding them;
- (e) references to Schedules, clauses or Annexes are references to Schedules, clauses and Annexes of this Contract;
- (f) a reference to a clause shall be deemed to be a reference in a clause in the same Schedule unless otherwise stated;
- (g) in the event of any conflict between the terms set out in the Order Form and the various schedules or annexes making up this Contract, the terms shall prevail in the order in which they appear in the Contract unless otherwise agreed by the Parties in writing.
- (h) a reference to **writing** or **written** includes email.

**2. Basis of contract**

2.1 The Order Form constitutes a request by the Client to purchase RRES Services from Rothamsted and/or gain access to/use of RRES Equipment in accordance with these Conditions.

2.2 The Order Form shall be deemed to be accepted and the Contract shall be entered into upon:

- (a) the Client signing the Order Form; and
- (b) an authorised signatory counter-signing the Order Form for acceptance on behalf of Rothamsted

at which point and on which date the Contract shall come into existence (“**Commencement Date**”).



2.3 All of these Conditions shall apply to the provision of RRES Services and access to/use of RRES Equipment by Rothamsted to the Client except where the application to one or the other is specified.

### 3. Provision of RRES Services

3.1 In supplying the RRES Services, Rothamsted shall:

- (a) subject to clauses 3.4 to 3.7, provide the RRES Services with all due care and skill;
- (b) subject to clauses 3.4 to 3.7, use reasonable endeavours to perform the RRES Services in accordance with any specifications set out in on Order Form or otherwise agreed in writing by the Parties;
- (c) comply with all Applicable Laws, statutes, regulations and codes from time to time in force, provided that Rothamsted shall not be liable under this Contract or any Order Form if, as a result of such compliance, it is in breach of any of its obligations under this Contract;
- (d) observe all reasonable health and safety rules and regulations and security requirements that apply at any of the Client's premises (including those occupied pursuant to the REL Tenancy Agreement) and have been communicated to Rothamsted, provided that Rothamsted shall not be liable under this Contract or any Order Form if, as a result of such observation, it is in breach of any of its obligations under this Contract; and
- (e) take reasonable care of all the Client Materials in its possession and make them available for collection by the Client on reasonable notice and request, always provided that Rothamsted may destroy the Client Materials if the Client fails to collect the Client Materials within a reasonable period after termination of this Agreement.

3.2 The Client shall:

- (a) co-operate with Rothamsted in all matters relating to the RRES Services;
- (b) provide, for Rothamsted and its Representatives, in a timely manner and at no charge, access to the Client's premises, laboratories, office accommodation, data and other facilities as reasonably required by Rothamsted; and
- (c) provide, in a timely manner, such information, documents or data as Rothamsted may require to provide the RRES Services (including any Client

Materials), and ensure that it is accurate and complete in all material respects.

3.3 If Rothamsted's performance of its obligations under this Agreement is prevented or delayed by any act or omission of the Client, Rothamsted shall:

- (a) not be liable for any costs, charges or losses sustained or incurred by the Client that arise directly or indirectly from such prevention or delay;
- (b) be entitled to payment of the Charges despite any such prevention or delay; and
- (c) be entitled to recover any additional costs, charges or losses Rothamsted sustains or incurs that arise directly or indirectly from such prevention or delay.

3.4 **Specialist staff and RRES Equipment.**

- (a) The Client acknowledges that Rothamsted's full and timely performance of its obligations under this Agreement may depend on the availability of specialist staff and specialist RRES Equipment.
- (b) While Rothamsted will use its reasonable endeavours to ensure that specialist staff and RRES Equipment are available, replaced or substituted (as far as RRES Equipment is concerned, in accordance with clause 5.8), Rothamsted shall not incur any liability towards the Client whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for being delayed or prevented in performing its obligations under this Agreement due to (i) specialist staff becoming unavailable for any reason (including due to sickness, self-isolation, quarantine, termination of contract) or (ii) specialist RRES Equipment becoming unavailable for any reason (including due to maintenance or repair works being delayed due to the actions of third parties, replacement parts becoming unavailable, relevant parts of the REL or Rothamsted premises being locked down during a pandemic) whether or not such reasons would qualify as Force Majeure Events.
- (c) The Client shall not be under any obligation to pay Rothamsted for any RRES Services or access to RRES Equipment which Rothamsted has been prevented from providing pursuant to this clause.



- (d) Where Rothamsted remains unable to provide the RRES Services/access to RRES Equipment pursuant to this clause for a period of three (3) months, the Client may terminate the Contract with immediate effect.

3.5 **Scientific restrictions.**

- (a) Rothamsted will have used its reasonable endeavours to assist the Client in agreeing the scope of the RRES Services prior to accepting the Order Form pursuant to clause 2.2(b).
- (b) The Parties acknowledge that scientific assays, analysis, experiments, measurements and RRES Services are inherently unpredictable and that Rothamsted is not giving any warranties pursuant to clause 3.6.
- (c) If Rothamsted determines, after it has started providing some of the RRES Services or started assembling some of the Deliverables, that it is unlikely that it will be able to provide the RRES Services or Deliverables in their entirety in accordance with the provisions of the Order Form (for example because Client Materials do not meet expected standards, samples are of insufficient quality, the envisaged experiments are technically not feasible), Rothamsted will inform the Client of these preliminary conclusions as soon as possible. Where the Parties mutually agree to change the scope of the RRES Services, the Order Form shall be amended in writing. The Client will remain liable for all charges, costs and expenses incurred by Rothamsted in accordance with the original Order Form unless otherwise agreed by the Parties.

3.6 **No warranties.** Rothamsted does not make any representations or extend any warranties of any kind, either express or implied, including warranties of commercial utility, merchantability, fitness for any particular purpose, the absence of latent or other defects, whether or not discoverable or that manufacture, use, importation or sale of any Deliverable will not infringe or misappropriate any patent, copyright, trademark or other rights of any third party.

3.7 **Regulatory Licences.** Where Rothamsted does not hold all necessary regulatory or statutory licences required in order to provide all RRES Services, Rothamsted will apply to obtain such licences (and the Client will fully cooperate with Rothamsted pursuant to clause 3.2) prior to providing the RRES Services. The Client acknowledges that any time estimates set out in the Order Form to that effect remain purely indicative in nature and outside of Rothamsted's control, so that Rothamsted shall not incur any liability towards the Client whether in contract, tort (including

negligence), breach of statutory duty, or otherwise, for being delayed or prevented in performing its obligations under this Agreement due to any required licence(s) not being granted by the relevant authority in a timely manner.

4. **Client Materials**

4.1 Any Client Materials provided by the Client to Rothamsted during the term of this Agreement shall be supplied by the Client strictly for use in connection with a Project or Order Form at the premises of REL or Rothamsted (unless otherwise agreed in writing by the Parties) and in accordance with all Applicable Laws. When transferring Client Materials, the terms set out in this clause **Error! Reference source not found.** shall apply.

4.2 Rothamsted acknowledges that the Client Materials may be experimental in nature and will be provided by the Client without warranties of any kind expressed or implied.

4.3 Save as set out in clause **Error! Reference source not found.**, the Client and its Representatives and associated undertakings accept no liability for damages which might arise in connection with their use, storage or disposal by Rothamsted.

4.4 Rothamsted shall:

- (a) keep accurate records as to the use of the Client Materials;
- (b) in relation to any biological Materials and save as provided for in this Agreement, not use, or cause or permit the use of the Client Materials, directly or indirectly:
  - (i) in any manner that confers on any third party any Intellectual Property Rights in or to the Client Materials; or
  - (ii) for any commercial purposes, including the incorporation of the Client Materials into products intended for commercial sale;
- (c) not transfer or distribute any Client Materials to any third party without the prior written consent of the Client. Rothamsted shall refer third party requests for the Client Materials to the Client; and
- (d) not analyse, attempt to modify, reverse-engineer or otherwise seek to determine the structure or sequence of any Client Materials without the Client's prior written consent save as expressly provided for in this Agreement or in accordance with the requirements of the Project or an Order Form.





4.5 All experimental work and any destruction of Client Materials pursuant to clause 11.1 will be carried out in accordance with all applicable local, national and international legislation and any instructions from the Client relating to the safe handling, use and disposal of potentially hazardous materials.

4.6 For the avoidance of doubt, the Parties acknowledge and agree that the Client shall retain all right, title and interest in and to the Materials and to any Intellectual Property Rights that exist in the same.

## 5. Access to and use of RRES Equipment

5.1 The Client shall have the right to access and use RRES Equipment on the terms of this Agreement during normal business hours of 09:00 to 17:00.

5.2 The RRES Equipment shall at all times remain the property of Rothamsted, and the Client shall not acquire nor have any right, title or interest in or to the RRES Equipment (save the right to access and use the RRES Equipment subject to the terms and conditions of this Agreement).

5.3 The Client agrees and shall procure that only Client Staff approved by Rothamsted in the Order Form or otherwise in writing will handle or access the RRES Equipment.

5.4 The Client shall:

- (a) liaise with relevant Rothamsted staff prior to Client Staff accessing or using the RRES Equipment;
- (b) at all times, and in all respects, comply with all applicable policies, procedures, rules, codes of practise and standard operating procedures, including all relevant health and safety policies, of Rothamsted as updated from time to time, and with any manufacturer's guidelines regarding access to, and use of the RRES Equipment and any other legal requirements relevant to the safe and effective access to or use of premises hosting the RRES Equipment from time to time;
- (c) ensure that only suitably qualified and trained Client Staff use the RRES Equipment;
- (d) perform project risk assessments to be provided to the Facility Head prior to any use of the RRES Equipment;
- (e) take such steps (including compliance with all safety and usage instructions provided by Rothamsted) as may be necessary to ensure, so far as is reasonably practicable, that the RRES Equipment is at all times safe and

without risk to health when it is being set, used, cleaned or maintained by a person at work;

- (f) make no alteration to the RRES Equipment and shall not remove any existing component (or components) from the RRES Equipment unless the component (or components) is (or are) replaced immediately by the same component or by one of a similar make and model or an improved or advanced version of it. Title and property in all substitutions, replacements, renewals made in or to the RRES Equipment shall vest in Rothamsted immediately on installation;
- (g) keep Rothamsted fully informed of all material matters relating to the RRES Equipment;
- (h) keep the RRES Equipment at all times in the same location and shall not move or attempt to move any part of the RRES Equipment to any other location without RRES's prior written consent;
- (i) permit Rothamsted or its duly authorised representative to inspect the RRES Equipment at all reasonable times and for such purpose to enter the premises at which the RRES Equipment may be located, and shall grant reasonable access and facilities for such inspection;
- (j) not attach the RRES Equipment to any land or building so as to cause the RRES Equipment to become a permanent or immovable fixture on such land or building;
- (k) not do or permit to be done any act or thing which will or may jeopardise the right, title or interest of Rothamsted in the RRES Equipment;
- (l) not suffer or permit the RRES Equipment to be confiscated, seized or taken out of its possession or control under any distress, execution or other legal process, but if the RRES Equipment is so confiscated, seized or taken, the Client shall notify Rothamsted use its best endeavours, at its sole expense, to procure an immediate release of the RRES Equipment and shall indemnify Rothamsted on demand against all losses, costs, charges, damages and expenses incurred as a result of such confiscation;
- (m) not use the RRES Equipment for any unlawful purpose;
- (n) ensure that at all times the RRES Equipment remains identifiable as being RRES's property and wherever possible shall ensure that a visible sign to that effect is attached to the RRES Equipment.



5.5 Rothamsted may at any time impose restrictions on or deny access to certain Rothamsted facilities or premises and/or deny or restrict the use of the RRES Equipment if in Rothamsted's reasonable opinion such access or use:

- (a) would not comply with relevant Rothamsted policies and procedures and/or applicable laws and regulations; or
- (b) would delay, destroy or otherwise adversely impact the research carried out by Rothamsted.

5.6 Rothamsted makes available to the Client the use of the RRES Equipment with no warranty, express or implied, including without limitation warranties to title, availability, non-infringement, exclusivity, fitness for a particular purpose, conformity to any specifications, freedom from defects, condition, quality or performance.

5.7 The Client represents that it holds and will continue to hold and maintain throughout the term of this Agreement, and at its own expense, a policy of public liability insurance at levels sufficient to support the indemnification and contractual obligations set forth in this Agreement. Proof of such insurance must be provided to Rothamsted within five (5) days of being requested.

5.8 Subject to clauses 5.6 and 3.4, Rothamsted shall use its reasonable endeavours to:

- (a) maintain at its own expense the RRES Equipment in good and substantial repair in order to keep it in good operating condition including replacement of worn, damaged and lost parts;
- (b) inform the Client if RRES Equipment cannot be used for a certain period of time (e.g. due to scheduled maintenance or repairs).

## 6. Use of Materials

6.1 The Client shall ensure that Client Staff shall not:

- (a) use any GMO, Specific Substances or Human Tissue without having without having first submitted a risk assessment to the Facility Head for review and if necessary comment before any research activities are carried out within Rothamsted's facilities; and
- (b) use any Specific Substances without approval of the relevant regulatory authorities;
- (c) conduct any Containment Work; or

(d) use any Radioactive Material within Rothamsted's facilities at any time.

6.2 In accordance with Management of Health and Safety at Work Regulations 1999, the Client shall ensure that all Client Staff use Rothamsted's facilities and all Materials with due care and skill, in accordance with all relevant Rothamsted policies and procedures, and in accordance with all applicable laws and regulations including Human Tissue Act, Human Tissue (Quality and Safety for Human Application) Regulations 2007, UK Environmental Protection Act 1990, Misuse of Drugs Act 1971, Regulation (EC) No 273/2004 of the European Parliament and of the Council of 11 February 2004 on drug precursors, Anti-terrorism, Crime and Security Act 2001, Poisons Act 1972 and The Poisons Rules 1982.

6.3 The Client shall ensure that Client Staff use all Materials in compliance with all applicable licences and permits held by Rothamsted.

6.4 Any transfer of Materials between the Parties is subject to a separate material transfer agreement.

## 7. Invoicing and Charges

7.1 In consideration for Rothamsted providing the RRES Services and/or access to RRES Equipment, the Client shall pay the Charges.

7.2 Unless otherwise agreed in an Order Form, RRES will invoice the Client monthly in arrears. Payment shall become due and be made within thirty (30) days of the invoice date.

7.3 **VAT, other taxes or duties.** All amounts payable by the Client under the Contract are exclusive of VAT applicable to the RRES Services or RRES Equipment and any applicable sales tax, export or import duty or any other taxes, currency exchange expenses or banking charges under any Applicable Laws ("**Applicable Tax Amount**") and the Client shall be liable to pay such Applicable Tax Amount in addition to the Charges, unless otherwise expressly otherwise stated in the Order Form.

7.4 Amounts payable hereunder are expressed net of Tax. Any Tax due will be paid at the rate from time to time prescribed by law.

7.5 Without prejudice to any other right or remedy that it may have, if the Client fails to pay Rothamsted on a due date, Rothamsted may:

- (a) charge interest on such sum from the due date for payment at the annual rate of 4% above the base lending rate from time to time of Barclays Bank PLC,



accruing on a daily basis and being compounded quarterly until payment is made;

- (b) suspend all RRES Services and all access to the Client and Client Staff to RRES Equipment until payment has been made in full.

## 8. Intellectual Property

### Background Intellectual Property

- 8.1 Rothamsted's Background Intellectual Property is and shall remain the exclusive property of Rothamsted and the Client's Background Intellectual Property is and shall remain the exclusive property of Client.
- 8.2 Neither Party shall use the names, logos or trademarks of the other in any publication disclosure, advertising, promotion, commercially-related purposes or presentation without the named Party's prior express written consent.
- 8.3 Any Improvements to a Party's Background Intellectual Property arising in the course of the provision of the RRES Services will vest in the Party who owns or controls the relevant Background Intellectual Property and each Party shall execute all such documents and take all such action as may be necessary to give effect to this clause 8.3. For the avoidance of doubt, any Improvements to Rothamsted's Background Intellectual Property made by Rothamsted during the course of or as a result of providing the RRES Services or Deliverables (excluding the Deliverables themselves) shall be wholly owned by and vest in Rothamsted.
- 8.4 The Client grants to Rothamsted a fully paid-up, worldwide, non-exclusive, royalty-free perpetual and irrevocable licence to use, copy and modify the Client's Materials and the Client's Background Intellectual Property for the purpose only of providing the RRES Services.
- 8.5 The Client warrants that the receipt and use of the Client's Materials and the Client's Background Intellectual Property in the performance of this Agreement by Rothamsted or its Representatives shall not infringe the rights, including any Intellectual Property Rights, of any third party and shall not breach any Applicable Laws.
- 8.6 The Client shall indemnify Rothamsted in full against all costs, expenses, damages and losses, including any interest, fines, legal and other professional fees and expenses awarded against or incurred or paid by Rothamsted as a result of or in connection with any claim brought against Rothamsted or its Representatives for actual or alleged infringement of a third party's Intellectual Property Rights arising

out of, or in connection with, the receipt, use, copying or modification in the performance of this Agreement of the Client's Materials and/or the Client's Background Intellectual Property.

### Arising Intellectual Property

- 8.7 Subject to the Client paying all Charges in full, the Arising Intellectual Property shall belong to and vest in the Client. Rothamsted hereby assigns to the Client ownership of all Arising Intellectual Property. To the extent the Arising Intellectual Property does not vest automatically by operation of law or under this Contract, Rothamsted shall execute all such documents and do all things necessary to vest the title and interest in the Arising Intellectual Property in the Client and otherwise shall hold legal title in the Arising Intellectual Property on trust for the Client.
- 8.8 Nothing in this clause shall prevent Rothamsted from using any ideas, concepts, processes, parts of the Deliverables which are of generic application, Know-how gained or arising from the performance of the RRES Services for any purpose, or from independently developing for itself, or for others, anything, whether in tangible or non-tangible form, which is competitive with, or similar to, the Deliverables, subject to the obligations of confidentiality set out in this Agreement.
- 8.9 In the event that the Client decides, by written notice, to file or prosecute any patent application relating to the Arising Intellectual Property the Client shall ensure that Rothamsted is named as an inventor on any such application.
- 8.10 The Client grants to Rothamsted a non-exclusive, royalty-free, perpetual and irrevocable, worldwide, research licence with full right to sub-license in respect of the Client's Background Intellectual Property and the Arising Intellectual Property as necessary to allow Rothamsted to use such Arising Intellectual Property Rights for the purposes of any future academic or scientific research for internal non-commercial purposes and for non-commercially sponsored research or for teaching.

## 9. Limitation of liability

- 9.1 Nothing in this Contract shall limit or exclude Client's or Rothamsted's liability for:
  - (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
  - (b) fraud or fraudulent misrepresentation; or





- (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by Applicable Law.
- 9.2 Subject to clauses 9.1 and 3.4, 3.6 and **Error! Reference source not found.:**
- (a) neither Party to this Contract shall have any liability to the other Party, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any indirect or consequential loss arising under or in connection with this Contract or any Order Form;
- (b) each Party's total liability to the other Party, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under this Contract and any particular Order Form shall be limited to three times the Charges payable by the Client to Rothamsted pursuant to the Order Form under which such liability has arisen.
- 9.3 To the fullest extent permitted by law, any warranties, representations, conditions and other terms implied by statute or common law are excluded from the Contract and each Order Form.
- 9.4 Without limiting the effect of clause 9.3, in respect of the Order Forms, Rothamsted disclaims any express or implied warranties of merchantability or fitness for a particular purpose.
- 9.5 The provisions of this clause 9, shall not apply to any Material Transfer Agreements and the limits of liability in respect of a Material Transfer Agreement shall be as set out in each such agreement.
- 10. Termination**
- 10.1 Without affecting any other right or remedy available to it, either Party may terminate this Contract or any particular Order Form(s) with immediate effect by giving written notice to the other Party if:
- (a) the other Party commits a material breach of any term of this Contract or a relevant Order Form which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 20 Business Days after being notified in writing to do so;
- (b) the other Party repeatedly breaches any of the terms of this Contract or a relevant Order Form in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Contract or a relevant Order Form;
- (c) the other Party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the Insolvency Act 1986;
- (d) the other Party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of that other Party with one or more other companies or the solvent reconstruction of that other Party;
- (e) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other Party (being a company, limited liability partnership or partnership) other than for the sole purpose of a scheme for a solvent amalgamation of that other Party with one or more other companies or the solvent reconstruction of that other Party;
- (f) an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or an administrator is appointed, over the other Party (being a company);
- (g) the holder of a qualifying floating charge over the assets of that other Party (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (h) a person becomes entitled to appoint a receiver over the assets of the other Party or a receiver is appointed over the assets of the other Party;
- (i) a creditor or encumbrancer of the other Party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other Party's assets and such attachment or process is not discharged within 10 Business Days;
- (j) any event occurs, or proceeding is taken, with respect to the other Party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 10.1(c) to clause 10.1(i) (inclusive);



- (k) the other Party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
  - (l) there is a Change of Control of the other Party.
- 10.2 Without affecting any other right or remedy available to it, either Party may terminate this Contract or an Order Form for any reason on giving not less than 3 (three) months' written notice to the other Party.
- 10.3 The Client may terminate this Contract or an Order Form pursuant to clause 3.4.
- 11. Consequences of Termination**
- 11.1 On termination (or expiry) of this Contract, howsoever arising, each Order Form then in force at the date of such termination shall continue in full force and effect for the remainder of the term of such Order Form, unless terminated earlier in accordance with the terms of this Contract.
- 11.2 The termination of any Order Form shall not affect any other Order Forms or this Contract.
- 11.3 On termination of this Contract:
- (a) each of the Parties shall within twenty (20) Business Days, return to the other Party, or if the other Party so requests by notice in writing, destroy, all of the other Party's property, including all Confidential Information and in the case of Rothamsted, the Client Materials and copies thereof in their custody or control at the date of termination or expiry and shall certify that it has done so, and shall make no further use of such property, Confidential Information and in the case of Rothamsted, the Client Materials and copies thereof; and
  - (b) the following clauses shall continue in force: clause 1 (Interpretation), clause 9 (Limitation of liability), clause 11 (Consequences of Termination), clause 12 (Confidentiality), clause 18 (General) as shall any clauses which expressly or by their implication are intended to remain in force on or after termination.
- 11.4 Termination of this Contract shall not affect any rights, remedies, obligations or liabilities of the Parties that have accrued up to the date of termination, including the right to claim damages in respect of any breaches of this Contract which existed at or before the date of termination.
- 11.5 For the avoidance of doubt additional consequences of termination in respect of an Order Form may be set out in each Order Form.

**12. Confidentiality**

- 12.1 Each Party undertakes that it shall not use or disclose to any person any Confidential Information other than as necessary to exercise its rights or perform its obligations under and in accordance with this Contract and except as permitted by clause 12.2.
- 12.2 A Party ("**Disclosing Party**") may disclose or make available Confidential Information to the other Party ("**Receiving Party**"). The Receiving Party may disclose the Disclosing Party's Confidential Information:
- (a) to its representatives who need to know such information for the purposes of exercising the Party's rights or carrying out its obligations under or in connection with this Contract. Each Party shall procure that its representatives to whom it discloses the other Party's Confidential Information:
    - (i) have been informed of the confidential nature of the Confidential Information and comply with the Receiving Party's obligations under this clause 12.2; and
    - (ii) safeguard the Confidential Information from unauthorised use, access, or disclosure using at least the degree of care the relevant Party uses to protect its similarly sensitive information and in no event less than a reasonable degree of care;
  - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority, and in these circumstances the Receiving Party shall:
    - (i) promptly, and before such disclosure (where reasonably practicable to do so and otherwise immediately afterwards), notify the Disclosing Party in writing of such requirement so that the Disclosing Party can seek a protective order or other remedy; and
    - (ii) disclose only that portion of the Confidential Information that the Receiving Party is legally required to disclose.
- 12.3 The prohibition in clause 12.1 shall cease to apply to information which:
- (a) is or becomes generally available to the public (other than as a result of its disclosure by the Receiving Party or its representatives in breach of this Contract);



- (b) was available to the Receiving Party on a non-confidential basis before disclosure by the Disclosing Party;
- (c) was, is or becomes available to the Receiving Party on a non-confidential basis from a person who, to the Receiving Party's knowledge, is not bound by a confidentiality obligation with the Disclosing Party or otherwise prohibited from disclosing the information to the Receiving Party;
- (d) the Parties agree in writing is not confidential or may be disclosed; or
- (e) is developed by or for the Receiving Party independently of the information disclosed by the Disclosing Party.
- 12.4 Save as permitted by this Contract, no Party shall use any other Party's Confidential Information for any purpose other than to exercise its rights and perform its obligations under or in connection with this Contract.
- 13. Data protection**
- 13.1 Both Parties will comply with all applicable requirements of the Data Protection Legislation. This clause 13 is in addition to, and does not relieve, remove or replace, a Party's obligations or rights under the Data Protection Legislation.
- 13.2 To the extent that a Party processes any Personal Data of the other Party in connection with this Contract, each Party shall be acting as a Controller and shall comply with its obligations under all applicable Data Protection Legislation.
- 13.3 Rothamsted will process any Personal Data in accordance with its privacy policy and cookies policy which can be found at <https://www.rothamsted.ac.uk/privacy-and-cookies>.
- 13.4 Either Party may, at any time on not less than 30 days' notice, revise this clause 13 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to the Contract).
- 14. Force Majeure**
- 14.1 Provided it has complied with the remaining provisions of this clause 14, if a Party is prevented, hindered or delayed in or from performing any of its obligations under this Contract by a Force Majeure Event ("**Affected Party**"), the Affected Party shall not be in breach of this Contract or otherwise liable for any such failure or delay in the performance of such obligations.
- 14.2 The corresponding obligations of the other Party will be suspended to the same extent as those of the Affected Party.
- 14.3 The Affected Party shall:
- (a) as soon as reasonably practicable after the start of the Force Majeure Event but not later than thirty (30) Business Days from its start, notify the other Party in writing of the Force Majeure Event, the date on which it started, its likely potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the Contract. The Parties agree that this clause 14.3(a) shall not apply where both Parties are affected by the same Force Majeure Event; and
- (b) use all reasonable endeavours to mitigate the effect of the Force Majeure Event.
- 14.4 An Affected Party cannot claim relief if the Force Majeure Event is attributable to the Affected Party's wilful act, neglect or failure to take reasonable precautions against the relevant Force Majeure Event. The Supplier cannot claim relief if the Force Majeure Event is one which the Supplier should have foreseen.
- 14.5 The Affected Party shall notify the other Party in writing as soon as practicable after the Force Majeure Event ceases or no longer causes the Affected Party to be unable to comply with its obligations under this Contract. Following such notification, this Contract shall continue to be performed on the terms existing immediately before the occurrence of the Force Majeure Event unless agreed otherwise by the Parties.
- 14.6 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than three (3) months, the Party not affected by the Force Majeure Event may terminate this Contract by giving four (4) weeks' notice to the Affected Party.
- 15. Equality, Non-Discrimination and Human Rights**
- 15.1 Each Party shall not, and shall use reasonable endeavours to ensure that its employees, contractors and agents shall not, discriminate directly or indirectly against any person on the basis of age, disability, gender reassignment, marital or civil partner status, pregnancy or maternity, race, colour, nationality, ethnic or national origin, religion or belief (or lack of religion/belief), sex or sexual orientation.
- 15.2 Each Party shall, and shall use reasonable endeavours to ensure that its employees, contractors and agents shall, at all times comply with and act in a way which is compatible with the EA and the equality duty imposed by that Act.



15.3 Each Party shall, and shall use reasonable endeavours to ensure that its employees, contractors and agents shall, at all times comply with and act in a way which is compatible with the HRA.

## 16. Anti-slavery and human trafficking

16.1 Each Party shall:

- (a) ensure that Slavery and Human Trafficking is not taking place in any part of its business or in any part of its supply chain;
- (b) implement appropriate due diligence procedures for its own suppliers, subcontractors and other participants in its supply chains, to ensure that there is no slavery or human trafficking in its supply chains.

## 17. Anti-Bribery & Corruption

17.1 Each Party shall:

- (a) comply with all Applicable Laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010;
- (b) not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
- (c) promptly report to the representatives of the other Parties any request or demand for any undue financial or other advantage of any kind received by it in connection with the performance of this Contract;

17.2 Each Party shall ensure that any person associated with it who is performing services in connection with this Contract does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Parties in this clause 17.

## 18. General

### 18.1 Assignment and other dealings.

- (a) Rothamsted may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights and obligations under the Contract.

- (b) The Client shall not assign, transfer, mortgage, charge, delegate, declare a trust over, sub-contract or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of Rothamsted.

### 18.2 Notices.

- (a) For the purposes of this clause, but subject to clause 18.2(i), notice includes any other communication.
- (b) A notice given to a Party under or in connection with this Contract:
  - (i) shall be in writing and in English;
  - (ii) shall be signed by or on behalf of the Party giving it;
  - (iii) shall be sent to the party for the attention of the contact and at the address, email address listed in clause 18.2(c), or such other address, email address as that Party may notify in accordance with clause 18.2(f);
  - (iv) shall be sent by a method listed in clause 18.2(g); and
  - (v) unless proved otherwise is deemed received as set out in clause 18.2(g) if prepared and sent in accordance with this clause.
- (c) The addresses and email addresses for service of notices are:
- (d) Rothamsted
  - (i) Address: Rothamsted Research Limited, West Common, Harpenden, Hertfordshire, AL5 2JQ, United Kingdom
  - (ii) For the attention of: the Company Secretary and the Head of Legal
  - (iii) e-mail to [companysecretary@rothamsted.ac.uk](mailto:companysecretary@rothamsted.ac.uk) and [rres.legal@rothamsted.ac.uk](mailto:rres.legal@rothamsted.ac.uk)
- (e) Client
  - (i) Address: as set out in the Order Form
  - (ii) For the attention of: as set out in the Order Form
  - (iii) Email address(es): as set out in the Order Form



- (f) A party may change its details given in the table in clause 18.2(c) by giving notice, the change taking effect for the party notified of the change at 9.00 am on the later of:
- (i) the date, if any, specified in the notice as the effective date for the change; or
  - (ii) the date five Business Days after deemed receipt of the notice.
- (g) This clause 18.2(g) sets out the delivery methods for sending a notice to a Party under this Contract and, for each delivery method, the date and time when the notice is deemed to have been received:
- (i) if delivered by hand, at the time the notice is left at the address;
  - (ii) if sent by pre-paid first class post or other next working day delivery service providing proof of postage, at 9.00am on the second Business Day after posting;
  - (iii) if sent by pre-paid airmail providing proof of postage at 9.00am on the fifth Business Day after posting; or
  - (iv) if sent by email, at the time of transmission, provided that no 'failed delivery' message has been issued by the recipient or received by the sender.
- (h) If deemed receipt under clause 18.2(g) would occur outside business hours in the place of receipt, it shall be deferred until business hours resume. In this clause 18.2(h), business hours means 9.00am to 5.00pm on a Business Day in the place of receipt.
- (i) This clause 18.2 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
- 18.3 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Contract. If any provision of the Contract is deemed deleted under this clause 18.3 the Parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 18.4 **Waiver.** A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a Party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 18.5 **No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the Parties, constitute either Party the agent of the other, or authorise either Party to make or enter into any commitments for or on behalf of the other Party. Each Party confirms it is acting on its own behalf and not for the benefit of any other person.
- 18.6 **Entire agreement.** The Contract constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 18.7 **Rights of Third Parties.** A person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Contract.
- 18.8 **Variation.** No variation of this Contract shall be effective unless it is in writing and signed by the Parties (or their authorised representatives).
- 18.9 **Rights and remedies.** Except as expressly provided in this Contract, the rights and remedies provided under this Contract are in addition to, and not exclusive of, any rights or remedies provided by law.
- 18.10 **Counterparts & Electronic Signature.** This Contract may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement. Transmission of an executed counterpart of this Contract (but for the avoidance of doubt not just a signature page) by email (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this Contract. If this method of delivery is adopted, without prejudice to the validity of the Contract thus made, each Party shall provide the others with the original of such counterpart as soon as reasonably possible thereafter. No counterpart shall be effective until each Party has executed and delivered at least one counterpart.
- 18.11 The Parties agree that this Contract may be executed by electronic signature (whatever form the electronic signature takes) and that such method of signature is



conclusive evidence of the each Party's intention to be bound by this Contract as if signed by each Party's manuscript signature

18.12 **Governing law.** The Contract, 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 shall be governed by and construed in accordance with the law of England and Wales without giving effect to any choice of law or conflict of law provisions or rules that would cause the application of the laws of any other jurisdiction.

18.13 **Dispute resolution procedure**

- (a) **Escalation process.** Any question, difference or dispute which may arise concerning the construction, meaning or effect of this Contract, or concerning the rights or liabilities of the Parties hereunder, or any other matter arising out of or in connection with this Contract shall first be submitted to the Chief Executive Officer of Rothamsted and to the Chief Executive Officer of the other Party (the "**Senior Officers**") for resolution (each of whom may call on others to advise them as they see fit). The Senior Officers shall discuss the matter arising in good faith and in a timely manner and endeavour to reach a mutually agreeable solution
- (b) **Jurisdiction.** If the Parties are unable to resolve such dispute through such negotiations within twenty (20) days of such dispute being escalated to the Senior Officers, then in respect of any dispute, controversy or claim the Parties irrevocably submit to the jurisdiction of the courts of England and Wales.