

COLLABORATION AGREEMENT

between

[insert name of Industrial Collaborator]

and

[insert names of Academic and other Industrial Collaborators]

[Notes:

1. This agreement has been drafted as a template and should be tailored for each specific Project.
 2. The terms of this template have been carefully considered from a state aid, procurement and VAT perspective, and to ensure compliance with the terms of the SFC funding. If possible, it should be entered into with minimal amendments. Any changes which may impact on the state aid, procurement or VAT position will need careful consideration, and to ensure they comply with the SFC terms.
 3. Where public sector grant funding is to be received by any of the Parties from funders other than SFC, the terms of this template will need to be reviewed against any relevant grant T&Cs.]
-

AGREEMENT

BETWEEN:

(1) [INSERT DETAILS OF INDUSTRIAL COLLABORATOR (1)]; and

(2) [INSERT DETAILS OF INDUSTRIAL COLLABORATOR (2)]; and

each an **Industrial Collaborator** and, collectively, the **Industrial Collaborators**,

and

(3) [INSERT DETAILS OF ACADEMIC COLLABORATOR (1)],

(4) [INSERT DETAILS OF ACADEMIC COLLABORATOR (2)],

each an **Academic Collaborator** and, collectively, the **Academic Collaborators**,

and

the Industrial Collaborators and the Academic Collaborators being collectively referred to as the **Parties**.

WHEREAS:

- A. Each of the Industrial Collaborators submitted a collaborative project proposal to The University of Strathclyde (in its capacity as the recipient and administrator of certain funding which has been made available by the Scottish Funding Council (**SFC**) for the Industrial Biotechnology Innovation Centre (the "Innovation Centre") ("**IBioIC**");
- B. On the basis of the project proposals, IBioIC has awarded funding to each of the Academic Collaborators to undertake the collaborative research project entitled [insert project name] (the **Project**);
- C. Each of the Parties has agreed to collaborate on the Project and to provide the financial and other in-kind contributions for the Project set out in the Project Documentation; and
- D. The Parties have agreed to enter into this Agreement to (i) govern their respective contributions and responsibilities in respect of the Project and (ii) set out their respective rights in relation to the results generated during the Project.

NOW IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement (including the Recitals), unless the context otherwise requires:

Agreement means this agreement together with the Schedule parts annexed hereto;

Background IP means, in respect of each Party, any Intellectual Property which at the Commencement Date is in, or during the Project (other than as a result of the Project) comes into, the ownership or control of that Party and which that Party (a) makes available for the purpose of conducting the Project; and (b) is free to use and licence in accordance with the provisions of this Agreement;

Commencement Date means the last date of signature of this Agreement;

Completion means the date the Project completes being [] months following the Project Start Date;

Confidential Information means in relation to each Party:

- a) Background IP and Project Results of any other Party that are disclosed to it in connection with the Project; and
- b) any information of a confidential or commercially sensitive nature relating to any other Party to this Agreement, including Intellectual Property disclosed to it by or on behalf of any other Party in connection with this Agreement, whether before or during the period of this Agreement, including any information relating to any other Party's business or scientific strategies, opportunities, finances or processes, or research or product development;

Contributions means the financial contributions and the in-kind contributions which the Parties have committed to the Project, as set out in sections [x] and [y] of the Project Documentation respectively;

IBioIC Governing Board means the governing board of the Innovation Centre, as established by IBioIC;

IBioIC Management Team means the management team of the Innovation Centre, as established by IBioIC;

IBioIC Partner has the meaning given to it in Clause 5.4;

IBioIC Project Engagement Manager means the individual nominated by the IBioIC Management Team;

Intellectual Property means:

- a) intellectual property of any description including but not limited to copyrights, rights in and to inventions (patentable and unpatentable), know-how, results and technical information, patents, database rights, trademarks and trade names, rights in goodwill and to sue for passing off, plant variety rights and plant breeding rights, designs and design rights (registered and unregistered), utility models, supplementary protection certificates and other extensions of patent term and all rights of a similar nature in any part of the world, and applications and the right to apply for registration of any intellectual property rights; and
- b) any written records documenting the items referred to in (a) above;

Lead Collaborator means [insert name of Party who is the leading Industrial Collaborator];

Milestones means the milestones for the Project set out in section [x] of the Project Documentation;

Offer Letter means the letter received by the Parties from IBiolC setting out the funding which the Academic Collaborator will receive from IBiolC in respect of the Project and all other conditions relating to the conduct of the Project;

Project Funding means the total funding allocated to the Academic Collaborators for conduct of the Project by IBiolC pursuant to the Offer Letters;

Project Results means all Intellectual Property generated in the course of or otherwise collected or collated, arising, identified or first reduced to practice in the course of the Project;

Project Documentation means the plan for the Project set out in the Schedule (as amended from time to time pursuant to Clause 3.5);

Project Start Date means the date the Project begins;

Responsibilities means, in respect of each Party, the duties and responsibilities assigned to it in the Project Documentation and such other duties and responsibilities relating to the Project as may be assigned to it by the agreement of each of the Parties, whether before or during the Project; and

SFC Grant means the grant of funding for the maintenance and operation of IBiolC, together with the corresponding terms and conditions, made by and between SFC and University of Strathclyde.

- 1.2 Words denoting the singular include the plural and vice versa, words denoting a gender include all genders, and words denoting persons include corporations, partnerships and all other legal entities.
- 1.3 Unless the context otherwise requires, references in this Agreement to any Clause will be deemed to be a reference to the relevant clause of this Agreement.
- 1.4 The headings are inserted for ease of reference only and shall not affect the interpretation or construction of this Agreement.
- 1.5 References in this Agreement to the words include or including are to be construed without limitation to the generality of the preceding words.
- 1.6 A reference to a particular law or statutory provision is a reference to it as it is in force for the time being taking account of any amendment, modification, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.7 Any reference to any Scottish term for any action, remedy, method or judicial proceeding, legal document, legal status, court, official or any legal concept or thing will in respect of any jurisdiction other than Scotland be deemed to include what most nearly approximates in that jurisdiction to the Scottish term.

2. COMMENCEMENT AND DURATION

2.1 This Agreement shall come into force as of the Commencement Date and shall thereafter continue until Completion of the Project or termination in accordance with Clause 9.

2.2 The Parties agree that the Agreement will be signed prior to the commencement of the Project and a copy of a fully executed Agreement will be provided by the Lead Collaborator to University of Strathclyde.

3. CONDUCT OF THE PROJECT

[Suggested **Negotiation parameter:**]

3.1 The Project shall be undertaken under the direction of the Lead Collaborator. If at any time during the period of this Agreement the Lead Collaborator is unable or unwilling to continue with the Project the other Parties and the IBioIC Project Engagement Manager shall endeavour to appoint a successor as soon as reasonably practicable thereafter. If the other Parties and the IBioIC Project Engagement Manager are either unable to agree or unable to appoint a suitably qualified successor within [three (3) – six (6)] months following the date on which the Lead Collaborator becomes unable or unwilling to continue with the Project, this Agreement may be terminated as provided in Clause 9.3.

3.2 Each Party will make available to each of the other Parties (as required) all necessary personnel, resources, facilities and equipment and Contributions required to properly conduct the Project in accordance with the Project Documentation.

3.3 Each Party will carry out its Responsibilities:

3.3.1 in a timely manner and in accordance with all relevant timescales set out in the Project Documentation;

3.3.2 in accordance with the terms of this Agreement;

3.3.3 in accordance with the terms of the Offer Letter and the terms of any other provider of public sector grant funding for the Project (to the extent that such terms apply to it);
and

3.3.4 diligently, with reasonable skill and care and in accordance with all relevant legislation, rules, regulations and codes of practice relating to conduct of the Project.

- 3.4 Each Party will promptly notify the other Parties of any delay or anticipated delay in its performance of the Project or its failure to meet any of the Milestones
- 3.5 The Parties will not amend or alter the Project Documentation without obtaining the prior written consent of each of the Parties and IBioIC.

4. REPORTING

- 4.1 Each Party will keep, and will ensure that each of its employees, students and permitted sub-contractors keeps, detailed written records and reports in respect of its progress with its Responsibilities and its generation of any Project Results, in accordance with good academic practice. Each Party will provide copies of such records and reports to the other Parties and IBioIC promptly on request.
- 4.2 Each Industrial Collaborator will, for the duration of this Agreement and for a period of six (6) years following the date of expiry or termination of this Agreement, provide reasonable assistance and information to the Academic Collaborators to assist them with the preparation of any reports which they are required to provide to IBioIC pursuant to the terms of the Offer Letters.
- 4.3 Each Academic Collaborator will provide to each of the other Parties, on request, copies of any reports which it has provided to the IBioIC Project Engagement Manager or IBioIC (as applicable) pursuant to the terms of its Offer Letter.

5. INTELLECTUAL PROPERTY RIGHTS

[Drafting note: the IP provisions below involve the granting of a number of different licences to the Parties' Background IP. On a case by case basis, it may need to be considered whether each Party is capable of and free to grant such licences. This may be an issue for Academic Collaborators where Background IP takes the form of results generated during another research project and may be an issue for Industrial Collaborators where Background IP is already subject to commercial restrictions.]

- 5.1 All Background IP shall remain the sole and exclusive property of the Party to whom it belonged prior to the commencement of the Project. No Party shall be deemed to have any right or licence to use or access any other Party's Background IP, except as expressly set out in this Agreement.
- 5.2 Each Party will own all Project Results generated by it. Any Project Results generated jointly by one or more of the Parties will be owned jointly by those Parties. Each Party will ensure that all rights of its employees, students and permitted sub-contractors in and to Project Results generated will be owned by it or have been validly assigned to it by the relevant employee,

student or sub-contractor, prior to that employee, student or sub-contractor commencing work on the Project.

- 5.3 Each Party hereby grants to each of the other Parties a non-exclusive royalty-free right and licence to use and access its Background IP and Project Results, including any Project Results which it jointly owns with one or more of the other Parties, for the sole purpose of conducting the Project.
- 5.4 The Industrial Collaborators acknowledge and agree that the Academic Collaborators are expected, pursuant to the terms of the Offer Letters, to provide access to and use of their Project Results to each of the higher education institutions which are (from time to time) parties to the collaboration agreement for IBioIC which has been put in place by IBioIC (each such higher education institution being referred to as a **IBioIC Partner**) for future internal and/ or collaborative non-commercially funded academic research. Accordingly, each Academic Collaborator agrees that it will, where requested by IBioIC following completion of the Project and where the terms of any licence entered into under the provisions of Clause 5.5 permit, grant to one or more of the IBioIC Partners (in each case, as directed by IBioIC):
- 5.4.1 an irrevocable, non-exclusive, royalty-free right and licence to access and use, and to facilitate and allow (via the granting of sub-licences to each of the other IBioIC Partners) access and use of, that Party's Project Results (including Project Results which that Party jointly owns with one or more of the other Parties (subject to consent of such joint owners)) for use in future internal and/ or collaborative non-commercially academic funded research and teaching; and
- 5.4.2 subject to any third party rights, an irrevocable, non-exclusive licence to access and use, and to facilitate and allow (via the granting of sub-licences to each of the other IBioIC Partners) access and use of such of that Party's Background IP as may be necessary to enable the use of that Party's Project Results (including Project Results which that Party jointly owns with one or more of the other Parties) for the purpose set out in Clause 5.4.1 (on fair and reasonable terms to be agreed between the relevant Party or Parties and the IBioIC Partner to which the licence is granted).
- 5.5 Since the Project is designed to address business-led challenges affecting the Industrial Collaborator(s), the Academic Collaborator(s) might expect the Industrial Collaborators will wish to exploit the Project Results and hereby provide the Industrial Collaborators with a first opportunity to acquire a commercial licence. Accordingly, where requested within [six (6)] months following completion of the Project, each Academic Collaborator shall be required to grant to each of the Industrial Collaborators (on reasonable terms to be agreed between the relevant Party and the relevant Industrial Collaborator and which may include provision for relevant revenue sharing of royalties arising from any commercialised Project Results and which licence may be limited by field of use and / or territory):

- 5.5.1 a right and licence to commercially exploit that Party's Project Results, including any Project Results which that Party jointly owns with one or more of the other Parties (subject to consent of such joint owners) (which licence shall, unless otherwise agreed, be co-exclusive with the rights held by any other Industrial Collaborator which also obtains such a licence pursuant to this Clause 5.5), subject in each case to the owning Party's rights under this Agreement to:- (i) publish the Project Results in academic publications; (ii) use such Project Results for future internal and/or collaborative non-commercially funded academic research; and (iii) sub-licence its rights in such Project Results under this Clause 7 and as otherwise envisaged under this Agreement..
- 5.5.2 a non-exclusive right and licence to use such of that Party's Background IP (subject to the rights of any third parties) as may be necessary to enable the commercial exploitation of that Party's Project Results (including any Project Results which that Party jointly owns with one or more other Parties) for the purpose of the right and licence set out in Clause 5.5.1.
- 5.6 The Industrial Collaborators acknowledge that the Academic Collaborators are, pursuant to the terms of the Offer Letters, obliged to use their reasonable efforts, where appropriate, to commercialise the Project Results. If, in respect of any Project Results, [six (6)] months have passed following completion of the Project and no licence to commercially exploit such Project Results has been granted, the Parties owning such Project Results will meet with IBioIC to discuss the future use and exploitation of such Project Results. The Parties acknowledge and agree that, in such cases, the most appropriate method of ensuring future use of such Project Results may be to make them available via "Easy Access licensing" or for non-exclusive commercial use at reasonable rates and each Party hereby undertakes to take reasonable account of all representations made by IBioIC in respect of the most appropriate method of ensuring future use of such Project Results so long as such representations are consistent with the then objectives of IBioIC.
- 5.7 The Party or Parties owning Project Results shall have discretion to determine whether such Project Results should be protected by patent or by any other form of intellectual property protection. The costs of obtaining and maintaining patent or other protection for the Project Results shall be paid by the Party or Parties owning such Project Results.
- 5.8 Where Project Results are jointly owned and one of the Parties jointly owning such Project Results does not wish to seek protection of such Project Results pursuant to Clause 5.7, the other Party or Parties wishing to seek protection may (at their option) elect to bear the full cost of obtaining such protection, and if they so elect, the Party which does not wish to seek protection in respect of such Project Results shall licence or assign its share in such Project

Results to the other Party or Parties wishing to seek protection on reasonable terms and conditions to be agreed between the relevant Parties.

- 5.9 No Party shall be entitled to commercially exploit any Project Results which it jointly owns with one or more other Parties unless and until that Party has obtained the written consent of each other Party who jointly owns the relevant Project Results.

6. PUBLICATIONS

[Suggested **Negotiation parameter: amend the timescales set out in this Clause within the limits noted below.**]

- 6.1 Each Industrial Collaborator acknowledges that the Academic Collaborators are required, under the terms of the Offer Letters and in accordance with standard academic practice, to use their reasonable efforts to publish and disseminate the Project Results.
- 6.2 Where a Party wishes to make a publication, it will:
- 6.2.1 provide a copy of the draft publication to each other Party [involved in the generation of Project Results] incorporated in that publication no less than [thirty (30) - sixty (60)] days prior to the intended date of submission of the publication;
- 6.2.2 take due account of all and any comments received from [the other Parties] in relation to the draft publication within the [thirty (30) - sixty (60)] day notice period; and
- 6.2.3 on request, either delete or remove any Confidential Information belonging to another Party from the draft publication or delay the intended publication for up to a period of [three (3) months – six (6) months] if necessary to enable one or more of the other Parties to prepare and file a patent application pursuant to Clause 5.7 for any patentable inventions comprised within the Project Results which would be prejudiced by the relevant publication.
- 6.3 Each Party acknowledges and agrees that no press release concerning the Project shall be made unless and until the relevant press release has been approved by each of the other Parties and the IBIoC Project Engagement Manager.
- 6.4 The Parties acknowledge and agree that any publications shall be in accordance with the provisions of the SFC Grant and such guidelines as may be specified by the IBIoC Management Team from time to time and shall be framed so as to exclude any Confidential Information.
- 6.5 All publicity materials in respect of the Project (including any publications published pursuant to Clause 6.2) shall acknowledge, where appropriate, the contributions made by each of the Parties and the support given to the Project by Innovation Centre and SFC in the form prescribed from time to time by the IBIoC Governing Board.

- 6.6 Each Party acknowledges and agrees to participate as far as reasonably possible in publicity and marketing activities driven by IbiolC and relating to the Project. This may include but is not limited to; press releases, poster presentations, speaking presentations, case study examples and non-confidential summaries of the Project.

7. **CONFIDENTIALITY**

- 7.1 Each Party will:

7.1.1 not during the period of this Agreement or at any time thereafter disclose to any third party or use any Confidential Information except as expressly permitted by the terms of this Agreement or as necessary to enable that Party to perform its responsibilities and exercise its rights under this Agreement (provided always that such use or disclosure is in accordance with the terms of this Agreement and subject (where appropriate) to putting in place an appropriate confidentiality agreement with any third party to whom the Confidential Information is to be disclosed) or, in relation to Confidential Information received by it from one of the other Parties, with that Party's prior written consent;

7.1.2 only disclose Confidential Information to those of its officers, employees and students who have a need to know to enable that Party to fulfil its responsibilities or as otherwise permitted by the terms of this Agreement;

7.1.3 ensure that each of its officers, employees and students to whom any Confidential Information is disclosed is made aware of the confidential nature thereof and complies at all times with the terms of this Clause 7; and

7.1.4 take, and will ensure that each of its officers, employees and students takes, all practicable steps whilst Confidential Information is in its or their possession or control to prevent access thereto by any person not so entitled under this Agreement.

- 7.2 The obligations contained in Clause 7.1 will not extend to any information which the Party under the relevant obligation is required to provide to IbiolC or which it can show by written evidence:

7.2.1 is or becomes generally available to the public otherwise than by reason of a breach by a Party or by any party for whom a Party is responsible of the obligations under Clause 7.1; or

7.2.2 is known to that Party or to any party for whom that Party is responsible and is at that Party's free disposal prior to its receipt under this Agreement; or

7.2.3 is subsequently disclosed to that Party or any party for whom it is responsible without obligation of confidentiality by a third party owing no obligation of confidentiality to the Party to whom the information pertains; or

- 7.2.4 requires to be disclosed by (i) law (including any information disclosed under the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004), (ii) any regulatory authority, (iii) IBiolC or SFC in connection with the Project Funding; or (iv) any court of competent jurisdiction; or
- 7.2.5 is approved for release by the owning Party; or
- 7.2.6 is independently developed, discovered or acquired by that Party without reference to any information covered by an obligation of confidentiality under this Agreement.

8. LIABILITY

[Suggested **Negotiation parameter: consider the limitation of liability in Clause 10.8.**]

- 8.1 Each Party (each an **Indemnifying Party**), shall and hereby agrees to indemnify each of the other Parties (each an **Indemnified Party**) in full in respect of any loss, liability or damage including liability for death or personal injury, damage to property and any third party claims incurred or suffered by or imposed upon an Indemnified Party directly or indirectly to the extent arising as a result of:
- 8.1.1 the Indemnifying Party's use or misuse of the Indemnified Party's Background IP and/or Project Results (including Project Results which it jointly owns); or
- 8.1.2 [in the case of the Indemnifying Party being an Industrial Collaborator,] the Indemnifying Party's negligence or wilful misconduct [or material breach of any term of this Agreement].
- 8.2 The indemnity given under Clause 8.1 shall not apply to any loss, liability or damage to the extent that such loss, liability or damage is attributable to the fault, negligence or wilful misconduct of the Indemnified Party or any of its officers, employees, students or agents.
- 8.3 Each Indemnified Party hereby agrees that if it is notified by any third party of any claim or potential claim under the indemnity contained in Clause 8.1 it shall:
- 8.3.1 forthwith inform the relevant Indemnifying Party or Parties of such claim or potential claim;
- 8.3.2 take all reasonable steps to prevent judgement by fault or by default being granted in favour of that third party;
- 8.3.3 take all reasonable steps to ensure that each of the Indemnifying Parties are given the right to conduct proper consultations with the third party in relation to the claim or potential claim; and

- 8.3.4 if appropriate, allow the Indemnifying Party or Parties to join in the defence (including settlement litigation or appeal) of any such claim.
- 8.4 It is acknowledged that the Project is experimental in nature and accordingly although each Party shall use its reasonable efforts to achieve the aims of the Project, none of the Parties gives any representation or warranty that any of its Background IP and/ or Project Results will be fit for any particular purpose and the Party using such Background IP and / or Project Results shall be liable for any losses or consequences arising therefrom. Subject to Clause 8.5 and the express terms of this Agreement, the Parties hereby exclude all implied terms, conditions, warranties and/or licences in relation to the Project and the Project Results.
- 8.5 No Party shall supply Background IP to another Party in the knowledge that the use such Background IP will infringe the proprietary rights of any third party. Without prejudice to the generality of the foregoing, no Party shall be obliged to carry out detailed searches in relation to third party owned Intellectual Property.
- 8.6 Subject to Clause 8.7, no Party shall, under any circumstances whatsoever, be liable to another Party, whether in contract, delict (including negligence), breach of statutory duty, or otherwise, for any:
- 8.6.1 loss of profits (direct or indirect);
 - 8.6.2 loss of sales or business;
 - 8.6.3 loss of anticipated savings or goodwill; or
 - 8.6.4 any indirect or consequential loss,
- in the case of Clauses 10.6.1 to 10.6.3 whether direct or indirect and each case even if such loss was reasonably foreseeable or within the contemplation of the relevant Party or had been brought to its attention.
- 8.7 Nothing in this Agreement shall limit or exclude any Party's liability for:
- 8.7.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
 - 8.7.2 fraud or fraudulent misrepresentation; or
 - 8.7.3 any other matter the exclusion or limitation of which is not permitted by law.
- 8.8 Each Party's aggregate liability under or in connection with this Agreement shall be limited to [the Project Funding] [twice the Project Funding] [sum of [insert sum in words and figures]].

9. TERMINATION

- 9.1 This Agreement shall commence as provided in Clause 2.1 and shall continue in full force and effect, subject to earlier termination pursuant to the following provisions of this Clause 9, until

completion of the Project. The Project will be deemed to have been completed when all Parties have completed their Responsibilities and all Contributions have been made save that default of a Party or Parties to pay sums due under this Collaboration Agreement shall not deem the Project to have been completed.

- 9.2 Each Party shall be entitled to terminate this Agreement if any other Party passes a resolution for its winding-up, or if a court of competent jurisdiction makes an order for any Party's winding-up or dissolution, or makes an administration order in relation to any Party, or if any Party appoints a receiver over, or a security holder takes possession of or sells an asset of, any Party, or any Party makes an arrangement or composition with its creditors generally, or makes an application to a court of competent jurisdiction for protection from its creditors generally.
- 9.3 If the Lead Collaborator is unable or unwilling to continue with the Project pursuant to Clause 3.1, the Parties shall be entitled, where mutually agreed by the Parties (other than the Lead Collaborator) and following consultation with IBioIC, to terminate this Agreement with immediate effect.
- 9.4 This Agreement shall terminate automatically thirty (30) days following written notice to any Academic Collaborator from IBioIC stating that IBioIC is withdrawing the Offer Letter, permanently suspending payment under the Offer Letter and/ or is reclaiming any of the Project Funding from that Academic Collaborator unless it is otherwise mutually agreed between the Parties (other than the Academic Collaborator causing the termination event pursuant to this Clause 9.4), with the approval of IBioIC, that the Agreement should continue.
- 9.5 Each Party shall be entitled to withdraw from this Agreement by serving written notice upon the other Parties if one or more of the other Parties commits any material breach of or default in any terms or conditions of this Agreement and the Party or Parties committing such material breach or default fails to remedy such default or breach within [thirty (30) – sixty (60)] days following receipt of written notice of such material breach or default from the Party seeking to withdraw from this Agreement, provided always that the IBioIC Project Engagement Manager has been provided with a copy of all notices served under this Clause 9.5 and has been consulted by the Party seeking to exercise its right to withdraw from this Agreement.
- 9.6 On termination or expiry of this Agreement, each Party shall, subject to a right of retention for the purposes of exercising any ongoing rights and/ or licences granted to it pursuant to Clause 5.3, 5.4 (in its capacity as a IBioIC Partner) and/ or 5.5, either return or destroy all manifestations of Background IP and Project Results belonging to other Parties, at all times in accordance with the instructions of the Party who is owner of such Background IP and/ or Project Results (as applicable) within its possession or control. For the avoidance of doubt no Party shall be in breach of its obligations hereunder for retaining copies of Background IP and and/ or Project Results (as applicable) which are retained as part of its routine IT backup processes.

- 9.7 In the case of termination of this Agreement pursuant to Clause 9.2 or 9.4 [or withdrawal by a Party pursuant to Clause 9.5] any rights and/ or licences granted pursuant to Clause 5.3, 5.4 and/ or 5.5 to a Party which has caused the termination event to arise [or which is exercising its right to withdraw (as applicable)] shall, immediately following termination of this Agreement [or withdrawal from this Agreement (as applicable)], terminate and that Party shall return or destroy all manifestations of Background IP and Project Results[(other than Project Results which are jointly owned and/or any copies which have been created by that Party as part of its routine IT back-up processes)] belonging to the other Parties, at all times in accordance with the instructions of the Party who is owner of such Background IP and/ or Project Results, within its possession or control.
- 9.8 Termination of this Agreement will not affect the rights of each Party against any other Party in respect of the period up to and including the date of termination.
- 9.9 The provisions of Clauses [1, 3.3.4, 4 to 8 (inclusive), 11, to 14 (inclusive) and this Clause 9] will survive termination or expiry of this Agreement.

10. **FORCE MAJEURE**

[Suggested **Negotiation parameter: consider amending the timescales set out in this Clause within the limits noted below.**]

- 10.1 Any delays in or failure of performance by a Party of its obligations under this Agreement shall not be considered a breach of this Agreement if and to the extent that such delay or failure is caused by occurrences beyond the reasonable control of that Party including acts of God; acts, regulations and laws of any government; strikes or other concerted acts of workers; fire; floods; explosions; riots; wars; rebellion; and sabotage; and any time for performance under this Agreement shall be extended by the actual time of delay caused by any such occurrence.
- 10.2 If such an occurrence causes a delay of [three (3) – six (6)] months or more to the Project, and if such delay may reasonably be anticipated to continue, the shall consult with IBIoC to discuss which steps should be taken in respect of such occurrence.

11. **NOTICES**

- 11.1 Any notice required to be given under the Agreement will be served personally or by first class post, or delivered by courier, to the relevant Party at the address specified in Clause 11.2 or such other address as may be provided by the relevant Party to the other Parties from time to time for that purpose. Any notice so given will be deemed to have been duly served if personally delivered or courier, on the day of delivery or, if sent by post, forty-eight (48) hours after posting, and in proving service it will be sufficient to produce a copy of the notice properly addressed or numbered, or courier's evidence of delivery, as the case may be.

11.2 Notices to [Academic Collaborator 1] will be sent for the attention of [insert contact name] at [insert address for Academic Collaborator 1 notice].

Notices to [Academic Collaborator 2] will be sent for the attention of [insert contact name] at [insert address for Academic Collaborator 2 notice].

Notices to [Industrial Collaborator 1] will be sent for the attention of [insert contact name] at [insert address for Industrial Collaborator 1 notice].

Notices to [Industrial Collaborator 2] will be sent for the attention of [insert contact name] at [insert address for Industrial Collaborator 2 notice].

12. GENERAL

12.1 Other than as expressly set out in this Agreement, no Party's rights or obligations under this Agreement may be assigned, transferred, or sub-contracted by the relevant Party without the prior written consent of all other Parties. Each Party shall be entitled to enter into sub-contracts under which it is supplied with services in relation to the Project on a fee for service basis without obtaining the prior written consent of all Parties provided that each such sub-contract is on terms which are consistent and which in no way conflict with the terms of this Agreement and that each such sub-contract have been approved by IBioIC.

12.2 The Parties acknowledge and agree that the provisions of [Clause 3.5, 5.4, 5.6, 6.3 and 10.2], create rights in favour of IBioIC which shall be enforceable by IBioIC as though it were a party to this Agreement in respect of such Clauses, and each Party consents to a copy of this Agreement being provided to IBioIC.

12.3 No failure or delay by any Party in exercising any right or remedy under this Agreement will operate as a waiver of such right or remedy nor will any single or partial exercise or waiver of any such right or remedy preclude its further exercise or the exercise of any other right or remedy.

12.4 This Agreement does not create any partnership or agency relationship between the Parties.

12.5 This Agreement constitutes the entire understanding between the Parties regarding the subject matter hereof and supersedes any prior arrangements, understandings, promises or agreements made or existing between the Parties in relation to the subject matter hereof. For the avoidance of doubt, nothing in this Agreement purports to exclude liability for fraudulent misrepresentation.

12.6 No addition, amendment, modification or waiver of any term of this Agreement will be effective unless it is in writing and signed by or on behalf of each of the Parties.

12.7 If any term of this Agreement is or becomes invalid, or is ruled illegal by any court of competent jurisdiction or is deemed unenforceable under then current applicable law from time to time in

effect during the period of this Agreement, it is the intention of the Parties that the remainder of this Agreement will not be affected thereby provided that the Parties' rights under this Agreement are not materially altered. It is further the Parties' intention that in lieu of each such invalid, illegal or unenforceable term, there will be substituted or added as part of this Agreement a valid, legal and enforceable term which in effect will be as similar as possible to the effect of the original invalid, illegal or unenforceable term.

- 12.8 Each Party shall at all times comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and corruption including the UK Bribery Act 2010 (as may be amended from time to time), shall ensure compliance with such requirements (which it shall enforce where appropriate) and shall immediately notify the other Parties of any demand for any undue financial or other advantage of any kind received by it in connection with the Project.

13. DISPUTE RESOLUTION

[Suggested **Negotiation parameter: consider amending the timescales set out in this Clause within the limits noted below.**]

- 13.1 Subject always to Clause 13.2, any dispute arising out of or in connection with this Agreement shall in the first instance be addressed for resolution to the nominated contact of the relevant Party set out in Clause 11 (or such equivalent person as may be notified by each Party to the other Parties from time to time) with a copy sent for information to the IBioIC Project Engagement Manager. The relevant Parties shall use all reasonable endeavours to resolve the dispute. If they are unable to resolve the dispute within [twenty (20) – sixty (60)] working days of one Party serving written notice on the other Party or Parties then either of the Parties involved in the dispute may raise proceedings in accordance with Clause 14.
- 13.2 Nothing in this clause shall affect any Party's right to raise proceedings for injunction, interdict or similar in respect of breach of the obligations of confidentiality, infringement of Intellectual Property or breach of the restrictions hereunder in any appropriate forum.

14. **GOVERNING LAW AND JURISDICTION**

14.1 This Agreement shall be governed by and construed in accordance with the laws of Scotland. The Parties agree that any dispute arising under this Agreement or in connection with it will be decided in the Scottish Courts which will have the exclusive jurisdiction in any such matter.

IN WITNESS WHEREOF this Agreement consisting of this and the preceding [18] pages, together with the Schedule annexed hereto, is executed as follows:

Subscribed for and on behalf of **[Industrial Collaborator (1)]** by its duly authorised signatory, at **[insert place]** on the **[insert date]** before the witness below:

Signature of the legal signatory
Full name in print:
Address

Signature of the Witness
Full name in print:
Address

Subscribed for and on behalf of **[Industrial Collaborator (2)]** by its duly authorised signatory, at **[insert place]** on the **[insert date]** before the witness below:

Signature of the legal signatory
Full name in print:
Address

Signature of the Witness
Full name in print:
Address

Subscribed for and on behalf of **[Academic Collaborator (1)]** by its duly authorised signatory, at **[insert place]** on the **[insert date]** before the witness below:

Signature of the legal signatory
Full name in print:
Address

Signature of the Witness
Full name in print:
Address

Subscribed for and on behalf of **[Academic Collaborator (2)]** by its duly authorised signatory, at **[insert place]** on the **[insert date]** before the witness below:

Signature of the legal signatory
Full name in print:
Address

Signature of the Witness
Full name in print:
Address

This is the Schedule referred to in the foregoing Collaboration Agreement between [] and [].

Project Documentation

As a minimum the Project Documentation should consist of the following elements:

1. Summary of the project, its objectives and a summary of its key deliverables
2. Detailed income and expenditure plan by month
3. Payment schedules of each of the funders
4. Key milestones to be achieved and by when
5. Management structure and governance
6. Success criteria for the project