

# Grant Terms & Conditions



It is the responsibility of the Lead Applicant to make their Host Institution, collaborators, co-funders and any other relevant parties aware of these Terms and Conditions when applying for a Grant.

It is the responsibility of the Host Institution to ensure all relevant parties comply by these Terms and Conditions for the term of the Grant awarded.

Successful applicants will receive a Grant Award Letter, which, together with these Terms and Conditions, set out the rules and conditions of the Grant awarded by Against Breast Cancer to the Host Institution.

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## 1. Definitions and Interpretation

1.1 The following words and phrases, when used in these Terms and Conditions, shall have the meanings given to them in this Clause 1.1:

**“Against Breast Cancer” or “ABC”** means Against Breast Cancer Ltd, Registered in England number 6310215, Registered charity number 1121258 of Leathem House, 13 Napier Court, Barton Lane, Abingdon, OX14 3YT;

**“Agreement”** means these Grant Terms and Conditions, together with a Grant Award Letter

**“Foreground Intellectual Property”** means new Intellectual Property arising from the input of either party in the conduct of the Research Purpose following acceptance of the Grant;

**“Background Intellectual Property”** means Intellectual Property owned or controlled by a party at the effective date of the Grant, except any Foreground Intellectual Property, which is introduced into the Research Purpose;

**“Confidential Information”** means all and any specifications, drawings, circuit diagrams, tapes, discs, digital devices, mobile phones and other computer-readable media, documents, information, techniques and know-how which:

- a) are disclosed by one party to the other in connection with the Grant and marked or labelled “Proprietary”, “Confidential” or “Sensitive” by the disclosing party at the time of disclosure; or
- b) are written, prepared or generated in the course of, and as part of, the Research Purpose.

**“Fellowship Grant”** means a Grant of up to £20,000 per annum for a 3-year term for early-stage, non-tenured scientists to support their career development towards leading their own group as an independent researcher;

**“Final Grant Holder Report”** means a formal report containing details of research outcome and achievements, dissemination of results, good research practice declaration and explanation of expenditure that is completed by the Grant Holder and submitted to Against Breast Cancer following completion of the Grant Period or as otherwise required by Against Breast Cancer;

**“Funding Proposal”** means the application submitted to Against Breast Cancer which sets out the research plan and a detailed breakdown of costs of the work to be undertaken as part of the research;

**“Grant”** means the monies awarded to the Host Institution by Against Breast Cancer in order to carry out the Research Purpose;

**“Grant Award Letter”** means the letter from Against Breast Cancer to the Grant Holder specifying the amount and term of the Grant that has been awarded and any special conditions of award in addition to these Conditions;

**“Grant Holder”** means the named lead researcher as identified on the Grant Award Letter following a successful Funding Proposal application;

**“Grant Period”** means the term of the Grant as stipulated on the Grant Award Letter;

**“Host Institution”** means the university, institution or other body identified on the Grant Award Letter at which some or all of the research funded by the Grant will be carried out or which employs any Grant funded personnel;

**“Intellectual Property”** means all patents, patent applications, patent disclosures and inventions (whether patentable or not), (ii) trademarks, service marks, trade dress, trade names, logos, corporate names, Internet domain names, and registrations and applications for the registration thereof together with all of the goodwill associated therewith, (iii) copyrights and copyrightable works (including computer programs and mask works) and registrations and applications thereof, including, without limitation, rights in and to technical processes, systems, methods, software designs, algorithms, code, scripts, or other computer software (iv) trade secrets, know-how and other confidential information, (v) waivable or assignable rights of publicity, waivable or assignable moral rights and (vi) all other forms of intellectual property, such as rights in data and databases.; (vii) any discovery, invention, improvement, patent, design, process, information, copyright work (including, without limitation, rights in and to technical processes, systems, methods, software designs, algorithms, code, scripts, or other computer software), rights in databases, topography rights (whether capable of being patented or registered or not), or renewals or applications to register any such right and any other intellectual property right of any nature in any part of the world;

**“Lead Applicant”** means the named lead researcher identified on a Funding Proposal;

**“Project Grant”** means a Grant for greater than £50,000 per annum and for a term of between 1 and 4 years;

**“Research Purpose”** means the project of work specified in the Funding Proposal and Grant Award Letter and any modifications, deletions or expansions approved subsequently in writing by both parties;

**“Seed Grant”** means a Grant for up to £50,000 and for a term of less than 1 year.

## **2. Eligibility**

- 2.1. Researchers with a doctoral degree and based at Host Institutions in the United Kingdom (UK) are eligible to apply for a Grant.
- 2.2. For Fellowship Grants, the Lead Applicant should have completed their PhD/D.Phil viva within the 4 years previous to the Grant application deadline date. Those wishing to make a case for a career break should present the case for interruption periods, for example (but not limited to) for maternity leave, family commitments, illness, or other exceptional circumstances.
- 2.3. Applications that involve global collaborative partners are welcomed as long as the Lead Applicant is based at a Host Institution in the UK, and that the majority of work towards the Research Purpose takes place in the UK.

### **3. Grant Administration**

- 3.1. The Grant shall be officially accepted by the Grant Holder upon signature of the Grant Award Letter by the Grant Holder, the Head of Department and the Finance Office at the Host Institution.
- 3.2. The Grant Holder shall promptly notify Against Breast Cancer in writing if the appointment of staff cannot be made within 3 months of signing the Grant Award Letter. Against Breast Cancer reserves the right to review the Grant awarded in the event of such delays and make any changes, at its sole discretion, including but not limited to terminating the Grant.
- 3.3. Against Breast Cancer will counter-sign and provide the Grant Holder with a copy of the Grant Award Letter to activate the Grant. Work towards the Research Purpose should begin within three months of the date that the Grant is activated. Any extension of this period will require the prior consent of Against Breast Cancer in writing.
- 3.4. A Grant which is conditional on successful applications for funding from other sources shall not be activated until written confirmation has been received by Against Breast Cancer from the Grant Holder's Host Institution that the research activity is fully funded.
- 3.5. The Host Institution shall procure that the Grant is used for the Research Purpose for which it is awarded.
- 3.6. The Host Institution shall procure that adequate and appropriate resources are provided to support the activities described in the Grant.

### **4. Financial Matters**

- 4.1. Payment of the Grant shall be made to the Host Institution quarterly in arrears, unless otherwise specified in the Grant Award Letter or otherwise agreed subsequently by both parties.
- 4.2. Against Breast Cancer relies on public donation and philanthropy to fund breast cancer research and as such, Against Breast Cancer-funded grants are to be spent on the directly incurred costs of research, which includes salaries of staff directly involved in the research (except tenured staff), consumables, equipment specific to the needs of the project, travel and subsistence costs.
- 4.3. All directly allocated costs (including shared resources and estates costs) and indirect costs (including overheads and general maintenance) shall be borne by the Host Institution. Against Breast Cancer will consider funding directly allocated costs on receipt of a strong justification as part of the Funding Proposal that will be reviewed by the Scientific Advisory Board.
- 4.4. Seed Grant and Project Grant monies can be used to cover the cost of publication fees for projects wholly funded by the charity in line with our Open Access policy, and should be included in the breakdown of costs in a Funding Proposal (see Condition 9). Fellowship Grant recipients may apply to Against Breast Cancer for publication fees to be covered, which will be considered on a case by case basis.
- 4.5. Travel, accommodation and registration fees for conferences where work supported by a Seed Grant or Project Grant is to be presented (orally or as a poster) are covered up to maximums of £1000 for international and £300 for national conferences per annum.

- 4.6 Total amounts agreed in a Grant shall not be increased except under very exceptional circumstances at Against Breast Cancer's sole discretion. Where expenditure is itemised under budget headings, virement of monies may occur in response to the research needs of the project provided that the total Grant due from Against Breast Cancer does not increase and not without written consent from Against Breast Cancer.
- 4.7 Against Breast Cancer shall withhold 10% of the value of the Grant until delivery of the Final Grant Holder Report by the Grant Holder pursuant to Condition 8.3.
- 4.8 In the event that any overpayment has been made to the Host Institution or any amount of the Grant has been used not in accordance with the Terms and Conditions, the Host Institution shall repay such overpaid or inappropriately used amount promptly to Against Breast Cancer.
- 4.9 The Host Institution shall ensure that the control of expenditure to be funded under the Grant is governed by the normal standards and procedures of the Host Institution and is covered by any formal audit arrangements that exist in the Host Institution, in addition to those agreed herein.
- 4.10 Against Breast Cancer has the right to request from the Host Institution, at any time, any financial information in respect of the Grant or the activities it funds; and/or to ask for confirmation from the external auditors of the Host Institution (a) that the external auditors have signed their opinion on the annual accounts of the Host Institution without qualification, and (b) that the management letter from the auditors raises no matters that did or could significantly affect the administration of Grants awarded by Against Breast Cancer. If the auditors have raised any such matters in their management letter, Against Breast Cancer may require the Host Institution to provide it with relevant extracts from the management letter.
- 4.11 The Host Institution shall maintain a separate accounting cost code specific to the Grant, and all costs and income properly relating to the Grant should be accounted for through that cost code. The Host Institution shall ensure that appropriate records are kept to support the entries made on the cost code.
- 4.12 Against Breast Cancer has the right, at its discretion and expense (and directly or via third parties engaged by it) to audit the Grant, income and expenditure in relation to the activities funded by the Grant, and/or the systems used by the Host Institution to administer Against Breast Cancer grants at any time.
- 4.13 Site visits by Against Breast Cancer or its agents may be made at any time upon reasonable notice to the Host Institution.

## **5. Research Governance**

- 5.1 Against Breast Cancer requires the highest standards of integrity to be adhered to by the researchers whom it funds with its Grants and has a basic expectation that the Principles and Standards as published by the UK Research Integrity Office and laid out in the Code of Practice for Research and The Concordat to Support Research Integrity, are followed (<http://ukrio.org/wp-content/uploads/UKRIO-Code-of-Practice-for-Research.pdf> and <http://www.universitiesuk.ac.uk/policy-and-analysis/reports/Documents/2012/the-concordat-to-support-research-integrity.pdf>).

- 5.2 The Host Institution shall have in place its own published standards of good research practice and formal written procedures for the investigation of allegations of scientific misconduct.
- 5.3 The Host Institution shall procure that, before the research funded by the Grant commences and during the full Grant Period, all the necessary legal and regulatory requirements in order to conduct the research are met, and all the necessary licences and approvals have been obtained. Where any element of the research funded by the Grant is to be conducted outside the Host Institution's host country, such legal and regulatory requirements, and such licences and approvals shall include those applicable in the additional countries involved.
- 5.4 The Host Institution shall be responsible for managing and monitoring the conduct of medical and health research in a manner consistent with the UK Department of Health's Research Governance Framework for Health and Social Care (or its equivalent) as applies from time to time. There shall be effective and verifiable systems in place at the Host Institution for managing research quality, progress and safety and well-being of patients and other research participants. These systems shall promote and maintain the relevant codes of practice and all relevant statutory review, authorisation and reporting requirements.
- 5.5 The Host Institution shall be responsible for managing and monitoring statutory requirements for which it accepts responsibility, for example, in relation to legislation on clinical trials, use of human organs, tissues and data.
- 5.6 The Host Institution shall procure that it has in place formal written procedures for managing the process for obtaining any necessary or appropriate ethical approval for the research funded by the Grant, and shall accept full responsibility for procuring that any such ethical approval is in place at all relevant times during the term of the Grant Period.
- 5.7 If publications have been produced where academic fraud has been established, the Host Institution shall procure that appropriate errata and/or retractions are promptly published and that Against Breast Cancer is notified promptly in writing of all such corrective actions, pursuant to Condition 10.2.
- 5.8 All information that the Grant Holder, all collaborators, if any, and the Host Institution supply to Against Breast Cancer relating to any Funding Proposals or Grants awarded under the Grant conditions will be used for the purposes of processing the Funding Proposal and the Grant and for the purpose of audit and evaluation. All personal data will be processed by or on behalf of Against Breast Cancer or organisations connected with it in accordance with the Data Protection Act 1998.

## **6. Employment of Staff**

- 6.1 Against Breast Cancer does not act as an employer in relation to the issuing of Grants and the associated researchers and, therefore, in all cases where support is provided by the Grant for the employment of staff, the Host Institution, or its permitted sub-contractor(s), shall issue a contract of employment for such staff in accordance with the relevant laws and regulations and these conditions and agree to fully indemnify Against Breast Cancer for any TUPE related charges that become payable by ABC as the result of actions by the Host Institution.

- 6.2 The Host Institution shall recruit all employees funded by the Grant in compliance with its requirements and recommendations for good practice in recruitment.
- 6.3 The Host Institution shall be responsible for the management, monitoring and control of all the work funded by the Grant and all those persons (including but not limited to its employees, students and visiting fellows) employed or involved in any work funded by the Grant.
- 6.4 The Host Institution shall procure that all permanent and temporary staff and students employed or involved in work funded by the Grant receive training appropriate to their duties, in accordance with any applicable legal or regulatory requirements, including any training necessary to support the requirement for management, monitoring and control as described in Condition 5 and Condition 6.3.
- 6.5 Upon appointment of any employee funded by the Grant, the Host Institution shall inform and keep informed Against Breast Cancer of full details of their appointment date, salary level and contract length. No payment of the Grant for monies relating to the salary costs of such employee shall be made until this information is provided. The Host Institution shall also notify Against Breast Cancer immediately if:
  - 6.5.1 the applicant fails to take up the appointment; or
  - 6.5.2 an employee funded by the Grant leaves (the reason for leaving and termination date shall also be provided).
- 6.6 As the Host Institution is the employer, it is responsible to discharge all employer statutory and contractual payments for leave, including any entitlement to remuneration during leave for sickness or injury, and Against Breast Cancer shall not supplement the Grant for this or similar purposes.
- 6.7 In respect of any employee funded by the Grant, the Grant Holder shall promptly notify Against Breast Cancer in writing in advance of the dates of any planned maternity, paternity or adoption leave, or where leave for sickness or injury has lasted more than 15 consecutive working days. Payment of the Grant (to the extent it relates to the salary costs of, or the work undertaken by, the employee on leave) shall be suspended for the period of such maternity, paternity or adoption leave and may, at Against Breast Cancer's sole discretion, be suspended for the period of leave for sickness or injury lasting more than 10 consecutive working days. If the employee returns to work after the maternity, paternity or adoption leave on a lesser time commitment, Against Breast Cancer and the Host Institution acting in good faith shall determine whether the Grant Period should be extended to accommodate the new working basis.
- 6.8 Against Breast Cancer shall accept no responsibility for staff salaries including but not limited to:
  - 6.8.1 any period after the end of the Grant Period; or
  - 6.8.2 for periods prior to the renewal of a Grant or a new Grant commencing; or
  - 6.8.3 as a consequence of the application process.
- 6.9 Personnel whose salaries are wholly funded by Against Breast Cancer via the Grant shall devote the whole of their salaried time to the Grant funded activity. Personnel who are part funded by

Against Breast Cancer shall devote the corresponding proportion of their salaried time to the Research Purpose.

- 6.10 Co-applicant status shall not be given to any person whose salary is being sought to be funded by the Grant.
- 6.11 Neither Against Breast Cancer nor the Grant Holder may assign the project described in the Research Purpose or delegate its performance to any other person without the prior written permission of the other party, and such consent is not to be unreasonably delayed or refused.

## **7. Equipment**

- 7.1 In order to reduce the cost for Against Breast Cancer, the Grant Holder shall, as far as practicable, obtain maximum possible discounts prior to the purchase of any equipment.
- 7.2 Against Breast Cancer may wish to apply to a 3<sup>rd</sup> party for costs to cover the purchase of specific items as identified in the Funding Proposal, and the Grant Holder will assist Against Breast Cancer as required with these applications. The outcome of an application to a 3<sup>rd</sup> party will not impact the provision of the Grant awarded by Against Breast Cancer to the Host Institution unless otherwise stated. Please note that a Grant and equipment costs would not be withheld if application to a 3<sup>rd</sup> party is unsuccessful.
- 7.3 Equipment funded by the Grant is provided to the Grant Holder specifically for the Research Purpose only. Written permission from Against Breast Cancer must be obtained prior to the use of the equipment for any other purpose (including the transfer of the equipment to another institution, the grant of any mortgage or charge over the equipment, the hire, loan or disposal of the equipment).
- 7.4 Any single piece of equipment costing in excess of £10,000 and funded by the Grant is the property of Against Breast Cancer. Any proceeds arising from the use or disposal of the equipment shall be returned to Against Breast Cancer. Equipment owned by Against Breast Cancer should display a label or plaque indicating that it is funded and owned by Against Breast Cancer.
- 7.5 The Grant Holder must ensure that equipment purchased with the Grant is appropriately insured and maintained, at the Grant Holder's expense, throughout its useful life. Equipment funded by Against Breast Cancer should display a label or plaque indicating that it is funded by Against Breast Cancer.

## **8. Reporting and Review**

- 8.1 All Grant Holders will be requested to provide quarterly project updates to Against Breast Cancer on the progress of the research against the milestones and timelines set out in the Grant Award Letter. Grant Holders awarded 'Project Grants' will also be asked to present progress annually at a Scientific Advisory Board meeting or Trustee meetings.
- 8.2 Against Breast Cancer may, at its sole discretion, suspend further payments under the Grant if no satisfactory reasons can be provided for significant deviation from the project plan, milestones, and timelines.

- 8.3 All Grant Holders must provide a completed Final Grant Holder Report to Against Breast Cancer within 3 months of the end of the Grant Period.

## **9. Publications and Open Access Policy**

- 9.1 Against Breast Cancer grants are funded through public donations, and as such, Against Breast Cancer expects that findings from such research will be published in an appropriate form (usually as papers in peer-reviewed journals), and in a free, online, Open Access manner to maximise public benefit, subject to Condition 11.4.
- 9.2 All research papers that have been accepted for publication in a peer-reviewed journal, and are supported in whole or in part by the Grant, shall be made available from UK PubMed Central as soon as possible, and in any event within six months of their publication.
- 9.3 The Grant Holder shall inform Against Breast Cancer immediately when results arising from Against Breast Cancer funded activities are accepted for publication or presentation.
- 9.4 The Grant Holder shall procure that Against Breast Cancer's support is acknowledged in all publications, abstracts and presentations quoting "Against Breast Cancer, charity number 1121258". All authors listed in a research publication should provide the relevant Grant information to the corresponding author; and that it is the responsibility of the corresponding author to provide that information to the publisher in the format specified.
- 9.5 The Grant Holder shall provide Against Breast Cancer with a copy of any materials including but not limited to conference abstracts, posters and publications that acknowledge the support of Against Breast Cancer.

## **10. Publicity and Public Relations**

- 10.1 The Grant Holder, the Host Institution and their personnel involved in Against Breast Cancer funded activities shall be permitted to use Against Breast Cancer's logo (as provided upon activation of the Grant) without the prior written consent of Against Breast Cancer for internal and external presentations relevant to the Grant's research activities. Written consent from Against Breast Cancer is required for the use of Against Breast Cancer's logo for any other purposes.
- 10.2 The Grant Holder shall notify Against Breast Cancer at least five working days in advance of any publicity arising from Against Breast Cancer funded activities. Any press release or other material including reference to Against Breast Cancer funded results must be approved by Against Breast Cancer before it is released to the media. Compliance with this Condition will be reviewed and taken into account when determining future Grant applications from the Grant Holder and/or the Host Institution.
- 10.3 The Grant Holder will provide Against Breast Cancer with a biography and high resolution headshot photograph for use on their website and any related marketing/press release materials.
- 10.4 Upon Against Breast Cancer's request, the Grant Holder, the Host Institution and their personnel involved in Against Breast Cancer funded activities shall assist Against Breast Cancer in publicising the award of the Grant and subsequent results of each Grant.

- 10.5 The Grant Holder and his/her research team will assist with laboratory tours at the Host Institution for supporters, Trustees, funding committees and staff when reasonably requested by Against Breast Cancer, with a maximum of 3 tours per annum.
- 10.6 Against Breast Cancer reserves the right to use data or other material resulting from Against Breast Cancer funded activities as part of its fundraising or publicity activities and the Host Institution gives irrevocable consent for the use of such data. In recognition of the fact that the source of funding for the Grant is primarily from legacies and donations, the Grant Holder shall not unreasonably refuse a request from Against Breast Cancer to attend and/or speak at events or meetings from time to time to assist in the promotion of Against Breast Cancer and its charitable aims.

## **11. Intellectual Property Policy**

- 11.1 The ownership of any Background Intellectual Property will not be affected and will remain the property of the party that contributes them to the Research Purpose (or its licensors). No licence to use any Intellectual Property is granted or implied upon acceptance of a Grant except the rights expressly granted in the Grant Award Letter.
- 11.2 The Grant Holder, the Host Institution and Against Breast Cancer each grant the other a royalty-free, revocable, non-exclusive licence to use its Background Intellectual Property for the purpose of carrying out the Research Purpose, but for no other purpose.
- 11.3 Against Breast Cancer's aim is to exploit the outcome of research we have funded so that the results pertaining to the understanding, diagnosis and/or treatment of secondary breast cancer are maximised. The Host Institution, any collaborators on the Grant and Against Breast Cancer (or its agents) shall be under an obligation to protect intellectual property and/or materials where it is reasonably deemed the optimal method of achieving these aims.
- 11.4 It is the responsibility of the appropriate authority in the Host Institution and/or the Grant Holder to regularly review any results produced from or arising during the course of Against Breast Cancer funded research, and identify and without unnecessary delay, inform Against Breast Cancer (or its agent) of any rights in those results, including any patents, design rights, copyright and other industrial and intellectual property rights, whether register-able or not and all scientifically useful or commercially exploitable material, know-how and data relating to any invention arising from Against Breast Cancer funded research which might be suitable for commercial exploitation. Publication or any other form of public presentation of the results should not occur until after that review and all necessary steps to protect any Intellectual Property Rights have been taken.
- 11.5 All Foreground Intellectual Property shall be the joint property of the Host Institution and Against Breast Cancer. Notwithstanding anything else in these Conditions, the Host Institution and those who work on the Purpose shall have the irrevocable right in perpetuity to use the Foreground Intellectual Property for academic and research purposes.
- 11.6 The Host Institution shall use all reasonable endeavours to commercially exploit the Foreground Intellectual Property and shall take steps to identify and protect commercially valuable

Foreground Intellectual Property prior to publication of the results of the Research Purpose and in concert and with approval of Against Breast Cancer.

- 11.7 In the event that the Foreground Intellectual Property is commercially exploited the Host Institution, Against Breast Cancer, and named collaborators and/or co-funders if relevant, are to enter into negotiations to agree the fair and reasonable sharing of any revenue with the Host Institution as a result of such exploitation.
- 11.8 If the Host Institution determines to abandon the protection of any Foreground Intellectual Property, they shall first offer it to Against Breast Cancer who may take assignment of that Foreground Intellectual Property on terms to be agreed but including the payment of past patent and other protection costs made by the Host Institution in relation to that Foreground Intellectual Property.
- 11.9 The Host Institution may fulfil its obligations under clause 11 through an associated technology transfer company as named on the Funding Proposal, and may take such actions (including in respect of the Foreground Intellectual Property) as may be necessary or desirable for this purpose in agreement with Against Breast Cancer.

## **12. Data Sharing Policy**

- 12.1 Data generated using publicly-donated funds should be made available to the wider research community in order to maximise value to the public and expedite discovery to benefit patients. We encourage researchers seeking funding to consider data sharing and to detail plans in their funding application for review by ABC. The data sharing plan will be used for data gathering and monitoring purposes and will not be reviewed as part of the funding decision. Applicants who do not currently share their data will be encouraged to indicate what issues and barriers exist that hinder them from making their data available to the wider research community.

## **13. Use of Animals in Research**

- 13.1 Against Breast Cancer will accept funding applications for research that uses animals in the UK only if:
  - 13.1.1 it is fully compliant with current Home Office legislation
  - 13.1.2 it has been approved by a local ethics committee
  - 13.1.3 animal welfare is ensured
  - 13.1.4 due consideration has been given to the refinement, reduction or replacement of the animals in the experiment and no viable non-animal alternatives exist (see <http://www.nc3rs.org.uk>)

## **14. Limitations of Liability**

- 14.1 The Host Institution will make every effort to perform the work being funded with reasonable care and skill. The Host Institution agrees: (i) to indemnify and hold harmless ABC from and against, and you agree that ABC shall have no liability to you, your affiliates, owners, security holders or creditors for, any claims, losses, damages, liabilities relating to or arising out of the

Grant or ABC's engagement hereunder and (ii) to reimburse ABC for any legal and other expenses incurred by it in connection with any claim, action, proceeding, investigation or judgement which may be instituted, made, threatened or alleged relating to or arising out of the Grant or ABC's engagement hereunder; provided, however, that you will not be liable under the foregoing indemnity for any claim, loss, damage, charge or liability to the extent that a court of competent jurisdiction shall have rendered a final judgement that such claim, loss, damage, charge or liability resulted from the gross negligence or bad faith of ABC. If for any reason the foregoing indemnification is unavailable to ABC or is insufficient to hold it harmless, then the Host Institution shall contribute to the amount paid or payable to ABC as a result of such loss, claim, damage, charge or liability in such proportion as is appropriate to reflect not only the relative benefits received by the Host Institution on the one hand and ABC on the other hand, but also the relative fault of the Host Institution and ABC as well as any relevant equitable considerations.

- 14.2 Subject to Clause 14.4. in no event shall ABC be liable in contract, tort (including negligence), breach of statutory duty or otherwise howsoever for: (a) any loss of profit; (b) loss of business; (c) loss of goodwill; (d) loss of contracts; (e) loss of revenues or loss of anticipated savings; or (f) any increased costs or expenses; or (g) loss of, damage to or corruption of data; or (h) any special, indirect or consequential loss or damage of any nature whatsoever, whatever the cause thereof arising out of or in connection with the Agreement.
- 14.3 Subject to clause 14.1 and 14.4 and without prejudice to clauses 14.2 and 14.5 ABC's maximum liability under this Agreement is limited in respect of each event or series of connected events, as follows: (a) £1,000,000 in respect of direct physical damage to or loss of tangible property (b) £50,000 in respect of all other events.
- 14.4 Nothing in the Agreement excludes or limits the liability of either party for fraud, death or personal injury caused by its negligence to the extent that the same is prohibited by UK statute.
- 14.5 ABC's sole obligations and liabilities in respect of the provision of the Grant are as stated in these Conditions and all other representations (innocent or negligent), conditions, warranties and terms express or implied whether by statute, law or otherwise are hereby excluded to the fullest extent permitted by law
- 14.6 If any sub-clause of this clause 14 is held to be invalid or unenforceable under any applicable statute or rule of law then it shall be deemed to be omitted, and if as a result any party becomes liable for loss or damage which would otherwise have been excluded then such liability shall be subject to the remaining sub-clauses of this clause 14.

## **15. Other matters**

- 15.1 As all research funds have been sourced through fundraising, Against Breast Cancer may contact all Against Breast Cancer funded persons and/or institutions by post, telephone or e-mail from time to time about future fundraising and other activities and initiatives of Against Breast Cancer.
- 15.2 If the performance by either party of any of its obligations under these Conditions (other than an obligation to make payment) shall be prevented by circumstances beyond its reasonable control, then such party shall be excused from performance of that obligation for the duration of the relevant event.

15.3 Nothing in these Conditions shall create, imply or evidence any partnership or joint venture between the Host Institution and Against Breast Cancer or the relationship between them of principal and agent.

## **16. Confidentiality**

16.1 The parties acknowledge that in the performance of this Agreement each may have access to Confidential Information of the other.

16.2 Subject to the following sub-clauses of clause 16.3, each party will use all reasonable endeavours not to disclose to any third party any Confidential Information, and not to make to any third party any disclosure of Confidential Information which would prejudice the rights of the other party under this Agreement.

16.3 Neither party shall incur any obligation under clause 16.2 with respect to information which:

16.3.1 is known to the receiving party before its receipt, and not impressed already with any obligation of confidentiality to the disclosing party; or

16.3.2 is or becomes publicly known without any breach of this Agreement or of any other obligation to keep it confidential; or

16.3.3 is obtained by the receiving party from a third party in circumstances where the receiving party has no reason to believe after having undertaken due investigation that there has been a breach of an obligation of confidentiality owed to the disclosing party; or

16.3.4 is independently developed by the receiving party; or

16.3.5 is approved for release in writing by an authorised representative of the disclosing party; or

16.4 the receiving party is required to disclose by law or regulation (provided that, in the case of the Freedom of Information Act 2000 and the Environmental Information Regulations 2004, none of the exemptions in those Acts apply to the information disclosed) or by order of a competent authority (including any regulatory or governmental body or securities exchange); provided that, where practicable, the disclosing party is given reasonable advance notice of the intended disclosure and included in any negotiations in respect of any such release provided that the relaxation of the obligation of confidentiality shall only last for as long as necessary to comply with the relevant law, regulation or order and shall apply solely for the purposes of such compliance.

16.5 If the Host Institution receives a request under the Freedom of Information Act 2000 or Environmental Information Regulations 2004 to disclose any information which, under these Conditions, is Against Breast Cancer's Confidential Information, it will notify the Host Institution and will consult with Against Breast Cancer. Against Breast Cancer will respond to the Host Institution within fourteen (14) days after receiving the Host Institution's notice if that notice requests Against Breast Cancer to provide information to assist the Host Institution to determine whether or not an exemption in the Freedom of Information Act or the Environmental Information Regulations applies to the information requested under that Act.

- 16.6 Subject to clause 16.8 and subject to any new Foreground Intellectual Property review, nothing in these Conditions shall prevent or hinder any registered student of the Host Institution from submitting for a degree of the Host Institution a thesis based on the results obtained during the course of work undertaken as part of the Purpose, the examination of such a thesis by examiners appointed by the Host Institution, or the deposit of such a thesis in accordance with the relevant procedures of the Host Institution.
- 16.7 Subject to Clause 16.8, if the Host Institution is an academic institution, in accordance with normal academic practice, all employees, students, agents or appointees of the Host Institution (including those who work on the Project) shall be permitted:-
- 16.7.1 to publish results obtained during the course of work undertaken as part of the Purpose; and
- 16.7.2 in pursuance of the Host Institution's academic functions, to discuss work undertaken as part of the Project in internal seminars, and to give instruction within the University on questions related to such work.
- 16.8 Where the Host Institution wishes to submit for publication results of the Purpose in which Against Breast Cancer has an interest pursuant to this Agreement, the Host Institution will submit such results to Against Breast Cancer in writing not less than thirty (30) days in advance of the submission for publication. Against Breast Cancer may require the Host Institution to delay submission for publication if in Against Breast Cancer's opinion such delay is necessary in order to seek patent or similar protection for the results. A delay imposed on submission for publication as a result of a requirement made by Against Breast Cancer shall not last longer than is absolutely necessary to seek the required protection; and therefore shall not exceed three (3) months from the date of receipt of the results by Against Breast Cancer, although the Host Institution will not unreasonably refuse a request from Against Breast Cancer for additional delay in the event that intellectual property rights would otherwise be lost. Notification of the requirement for delay in submission for publication must be received by the Host Institution within thirty (30) days after the receipt of the results by Against Breast Cancer, failing which the Host Institution and the Grant Holder shall be free to assume that Against Breast Cancer has no objection to the proposed publication.
- 16.9 In the event that the results obtained as part of the Purpose result in any clinical development of any compounds or commercialisation of the Foreground Intellectual Property, the Host Institution shall provide Against Breast Cancer with annual updates on the progress of such development or commercialisation.

## **17. Assignment**

- 17.1 Except as expressly provided in these Conditions, neither party may assign this Grant, or delegate its performance, to any other person without the prior written consent of the other party, such consent not to be unreasonably delayed or refused.

## **18. Termination**

- 18.1 The Grant may be terminated by either party:

- 18.1.1 for any material or persistent breach of the obligations set out in these Conditions, by giving thirty (30) days' written notice to the other of its intention to terminate. The notice shall include a detailed statement describing the nature of the breach. If the breach is capable of being remedied and is remedied within the thirty-day notice period, then the termination shall not take effect. If the breach is of a nature such that it can be fully remedied but not within the thirty-day notice period, then termination shall also not be effective if the party involved begins to remedy the breach within that period, and then continues diligently to remedy the breach until it is remedied fully. If the breach is incapable of remedy, then the termination shall take effect at the end of the thirty-day notice period in any event;
- 18.1.2 with immediate effect by giving notice to the other party, if the other party becomes insolvent, or if an order is made or a resolution is passed for its winding up (except voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator, administrative receiver or receiver is appointed over the whole or any part of the other party's assets, or if the other party makes any arrangement with its creditors.
- 18.2 The Host Institution agrees to notify Against Breast Cancer promptly if at any time the Grant Holder is unable or unwilling to continue the direction and supervision of the Research Purpose. Within sixty (60) days after such incapacity or expression of unwillingness the Host Institution shall nominate a successor to be Grant Holder. Against Breast Cancer will not decline unreasonably to accept the nominated successor. However, if the successor is not acceptable to Against Breast Cancer at its sole discretion then Against Breast Cancer may terminate the Grant by giving sixty (60) days' written notice to the Host Institution. Nevertheless, Against Breast Cancer will continue to reimburse the cost to the Host Institution of any non-cancellable amounts committed by the Host Institution before receipt of Against Breast Cancer's notice of termination provided that details of such are received by ABC within 14 days of the notice. The Host Institution will exercise such rights of termination as may be available to the Host Institution in order to bring such contracts to an end as quickly as is lawfully possible.
- 18.3 The expiration of the Grant Period as specified in the Grant Award Letter, or the termination of the Grant under clause 16, 17 or clause 18, shall mean the termination with effect from the expiry date or (as the case may be) the effective date of termination of the obligations imposed on the parties detailed in any termination notice. All remaining clauses shall survive indefinitely after expiration or termination.