

Terms and Conditions to accompany the Type 2 RRDN Funding Allocation Letter

1. Definitions and Interpretation

In these Terms and Conditions, the following terms shall have the following meanings:

“Agreement” means the agreement made between the Host Organisation and the Delivery Organisation comprising these Terms and Conditions and the Funding Allocation Letter;

“Agreement Term” means the duration of this Agreement;

“Confidential Information” means information of any form, however conveyed and irrespective of the media on which it is stored, that (i) confirmed to the Recipient as being confidential at the point of disclosure by the Disclosing Party or (ii) reasonably ought to be considered as confidential including information which relates to the business, affairs, properties, assets, trading practices, goods/services, developments, trade secrets, Intellectual Property Rights, personnel, customers and suppliers and commercial sensitive information of the Disclosing Party;

“Data Protection Legislation” means the UK GDPR and the Data Protection Act 2018;

“Deliverables” means the deliverables (as defined in the Funding Allocation Letter) against which performance of the Work Programme will be measured and/or, subject to the terms this Agreement, payment of the Funding may be conditional;

“Delivery Organisation” means the organisation identified as such in the Funding Allocation Letter;

“DHSC” means Secretary of State for Health and Social Care;

“Disclosing Party” as defined in Clause 9;

“End Date” means the date specified as such in the Funding Allocation Letter or agreed by the Parties pursuant to Clause 2.2;

“Financial Year” means a period of twelve calendar months commencing on 1 April;

“Force Majeure Event” means an event arising from matters outside of the reasonable control of the Party affected by the event including but not limited to riots, acts of war, destruction of essential equipment by fire, explosion, storm, flood, and delay caused by failure of power supplied;

“Funding” means the sums specified in the Funding Allocation Letter;

“Funding Allocation Letter” means Type 2 RRDN Delivery Organisation Funding Allocation Letter being the letter signed and issued by the RRDN and accepted and countersigned by the Delivery Organisation confirming details of the activities, procedures and/or deliverables that the Delivery Organisation has agreed to deliver

in consideration for the specified Funding. Reference to the Funding Allocation Letter includes any other letters relating to the Funding referred to in the Funding Allocation Letter;

“Host Organisation” means the organisation identified as such in the Funding Allocation Letter and being the host of the RRDN;

“Intellectual Property Rights” means patents, trademarks, service marks, copyrights, topography rights, design rights and database rights, (whether or not any of them are registered or capable of being registered and including applications for registration of any of them), trade secrets and rights of confidence, trade or business names and all rights or forms of protection of a similar nature which have an equivalent effect to any of them which may exist anywhere in the world;

“Key Representative” means, for each Party, the individual identified as such in the Funding Allocation Letter or such alternative person (with appropriate authority) as either Party may notify the other Party’s Key Representative in writing during the Agreement Term);

“Local Portfolio Management System” means the system used to manage local research delivery and associated systems;

“Parties” means the RRDN and the Delivery Organisation;

“Recipient” as defined in Clause 9;

“RRDN” means the organisation identified as such in the Funding Allocation Letter;

“Standards and Principles” means the standards and principles, where relevant and reasonable to do so, applied to delivery organisations and published by the NIHR Research Delivery Network from time to time;

“Start Date” means the date specified as such in the Funding Allocation Letter;

“Terms and Conditions” means these terms and conditions as amended or replaced from time to time by agreement between the Parties;

“UK GDPR” means the General Data Protection Regulation (Regulation (EU) 2016/679) as incorporated into UK legislation by way of the European Union (Withdrawal Agreement) Act 2020 and as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019;

“Work Programme” means the work programme agreed between the Parties in accordance with the Funding Allocation Letter.

2. Agreement Term

- 2.1 This Agreement shall commence on the Start Date and, subject to earlier termination or extension pursuant to its terms, shall continue until the End Date on which date it shall automatically expire.

- 2.2 Subject to compliance with Clause 5.3, this Agreement may be extended by agreement between the Parties in writing, signed by authorised signatories of each Party. If an extension is agreed, the End Date will be deemed to have been adjusted accordingly.

3. Delivery Organisation's Responsibilities

- 3.1 The Delivery Organisation shall:

3.1.1 deliver or, subject to Clause 17.2, procure the delivery of the Work Programme during the Agreement Term and in accordance with this Agreement, good industry practice and applicable law;

3.1.2 provide the RRDN with all information relating to the Work Programme and/or the Funding that is reasonably requested by the RRDN (including any information which the RRDN is required to share with the DHSC) whether such request is made during or within 7 years after expiry of the Agreement Term; and

3.1.3 otherwise comply with its obligations pursuant to this Agreement.

4. RRDN Responsibilities

- 4.1 Subject to Clause 5, in consideration for the satisfactory performance, by the Delivery Organisation, of its obligations under this Agreement, the RRDN shall pay the Funding to the Delivery Organisation in accordance with arrangements described in the Funding Allocation Letter.

- 4.2 Subject to Clause 4.3, the RRDN shall pay valid invoices issued by the Delivery Organisation in accordance with this Agreement within thirty (30) days of receipt.

- 4.3 If the RRDN disputes all or part of an invoice it shall notify the Delivery Organisation and payment of the invoice will be delayed pending resolution of that dispute. If, following resolution of a dispute, it is agreed or determined that sums are payable by the RRDN to the Delivery Organisation, the RRDN will make the payment within thirty (30) days of that agreement or resolution.

- 4.4 For the avoidance of doubt, any payments arising out of or in connection with the performance of this Agreement that are owed by the Delivery Organisation to a third party are the responsibility of the Delivery Organisation and not the RRDN. Such invoices must be paid by the Delivery Organisation promptly and, in any event, within thirty (30) days.

5. Payment

- 5.1 The Delivery Organisation is only entitled to Funding to cover all or part of the undisputed costs properly incurred by the Delivery Organisation in the performance of the Work Programme which, subject to Clause 5.3, shall be up to the value specified in the Funding Allocation Letter.

- 5.2 The expenditure against which the Funding may be claimed and applied by the Delivery Organisation pursuant to Clause 5.1 shall be as described in the Funding Allocation Letter and/or as subsequently agreed between the Parties Key Representatives and recorded in writing..
- 5.3 The aggregate sum payable to the Delivery Organisation by the RRDN shall in any Financial Year be less than fifty thousand pounds (£50,000.00). If the aggregate value is equal to or greater than fifty thousand pounds then an alternative form of agreement is required.

6. Performance Management and Reporting Requirements

- 6.1. Progress and performance by the Delivery Organisation against the Work Programme (including any mutually agreed activities / procedures) and the Deliverables will be reviewed by the RRDN throughout the Agreement Term and the Delivery Organisation will co-operate fully with any review, providing the RRDN with any reasonable assistance it may require.
- 6.2. In relation to individual studies, the Delivery Organisation shall, without prejudice to Clause 6.3, provide the RRDN with up to date and accurate participant recruitment data throughout the Agreement Term either directly via the Local Portfolio Management System or indirectly to RRDN staff.
- 6.3 The Delivery Organisation will also provide / share information with the RRDN via the NIHR Hub Google Platform.

7. Standards and Principles

- 7.1 The Delivery Organisation shall, where relevant, and where reasonable to do so, contribute to and/or adhere to the Standards and Principles which shall include, but not limited to, the following:
- 7.1.1 UK Clinical Research Delivery Key Performance Indicators (UKCRD KPIs);
 - 7.1.2 RDN Performance and Operating Framework;
 - 7.1.3 RDN Performance and Operating Framework Support Pages;
 - 7.1.4 RDN Contract Support Pages, Standard Operating Procedures, and similar detailed operational guidance;
 - 7.1.5 RDN Governance Framework;
 - 7.1.6 Terms and Conditions for NIHR Research Delivery Network Support;
 - 7.1.7 Eligibility Criteria for NIHR Research Delivery Network Support;

- 7.1.8 Attributing the costs of health and social care research and development (AcoRD);
- 7.1.9 NIHR branding guidance, including the RDN sub-brand guidance;
- 7.1.10 RDN nomenclature;
- 7.1.11 UK Policy Framework for Health and Social Care Research, with 'The Concordat to support Research Integrity';
- 7.1.12 Key Principles for sub-contracting at scale

As at the Start Date, links to the Standards and Principles are available here:

[RDN Delivery Organisation Standards and Principles - Google Docs](#)

8. Publication

- 8.1 Subject to Clause 8.2, the RRDN and the NIHR Research Delivery Network Coordinating Centre must be informed prior to any material publications by the Delivery Organisation in relation to the Work Programme.
- 8.2 Clause 8.1 does not apply to study specific publications.
- 8.3 Every publication resulting from work carried out by the Delivery Organisation and funded (in whole or in part) by the RRDN pursuant to this Agreement shall acknowledge the DHSC's financial support and state that the views and opinions expressed in that publication do not necessarily reflect those of the DHSC.

9. Confidentiality

- 9.1 Subject to Clause 9.4 and 9.5, neither Party ("**Recipient**") shall disclose to any third party any Confidential Information it may receive from the other Party ("**Disclosing Party**") without the Disclosing Party's prior written consent.
- 9.2 Subject to Clause 9.4 and 9.5, Recipients shall only use the Confidential Information of a Disclosing Party for and to the extent necessary for the performance of its obligations under this Agreement.
- 9.3 Recipients shall have satisfactory systems in place to ensure that unauthorised persons cannot access the Confidential Information of the Disclosing Party without appropriate authorisation pursuant to Clause 9.1 or 9.2.
- 9.4 Clauses 9.1 and 9.2 shall not apply to any Confidential Information received by one Party from the other:
 - 9.2.1 which is or becomes public knowledge (other than due to a breach of this Clause 9 by the Recipient);
 - 9.2.2 which was already in the possession of the Recipient, without restriction as to its disclosure, before receiving it from the Disclosing Party;

- 9.2.3 which is received by the Recipient from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;
 - 9.2.4 which was independently developed by the Recipient without access to the Confidential Information of the Disclosing Party; or
 - 9.2.5 which must be disclosed by the Recipient pursuant to a statutory, legal or parliamentary obligation including any requirements for disclosure under the Freedom of Information Act (FOIA 2000) or the Environmental Information Regulations 2004.
- 9.3 Nothing in Clause 9.1 shall prevent the RRDN disclosing the Confidential Information of the Delivery Organisation to the DHSC provided that the DHSC accepts such Confidential Information on terms equivalent to this Clause 9.
- 9.4 The obligations of the Recipients pursuant to this Clause 9 shall continue without limit in point of time.
- 9.5 In the event that a Recipient does not comply with its obligations pursuant to this Clause 9.1 to 9.4, the Disclosing Party shall have the right to terminate this Agreement by notice in writing with immediate effect.
- 9.6 Each Party will use all reasonable endeavours to assist the other Party to comply with the obligations (if any) imposed on it under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 including, where necessary, by providing reasonable assistance in complying with any request for information relating to this Agreement.

10. Data Protection

- 10.1 In this Clause, reference to Personal Data, Controller, Process, Processor are as defined in the Data Protection Legislation.
- 10.2 For the purposes of this Agreement it will be necessary for each Party to share Personal Data (name, job title, contact details) of individuals engaged in the performance of its obligations with the other Party.
- 10.3 In respect of the Personal Data referred to in Clause 10.2, the Parties agree:
- 10.3.1 that they are independent Controllers; and
 - 10.3.2 to Process that Personal Data in accordance with Data Protection Legislation.
- 10.4 The Parties will keep this Clause 10 under review throughout the Agreement Term and, if either Party is required to Process Personal Data in respect of which the other

Party is the Controller and Clause 10.3.1 does not apply, shall enter into a separate data processing agreement.

11. Liability

11.1 Neither Party excludes nor limits its liability for:

11.1.1 death or personal injury caused by its negligence or that of its employees, agents or sub-contractors;

11.1.2 bribery or fraud or fraudulent misrepresentation by it or its employees or agents or sub-contractors;

11.1.3 any other liability that cannot be excluded or limited by law.

11.2 Subject to Clause 11.1, neither Party shall be liable for any indirect or consequential loss including any indirect loss of use or loss of profits, business, contracts, revenues or anticipated savings, whether arising from tort (including, without limitation, negligence or breach of statutory duty), breach of contract or otherwise.

11.3 Subject to Clause 11.2 and 11.4, the Delivery Organisation will be liable to the DHSC and/or the RRDN (as applicable) for, and must indemnify and keep the DHSC and/or RRDN (as applicable) indemnified against any Losses incurred by the DHSC and/or RRDN (as applicable) which arise out of the Delivery Organisation's negligence or breach of contract in connection with the performance of this Agreement (including expenditure of the Funding and/or the delivery of the Work Programme and/or Deliverables) except to the extent such loss, damage or injury has been caused by any act or omission by or on the part of, or in accordance with the instructions of, the DHSC and/or RRDN (as applicable).

11.4 The maximum aggregate liability of one Party to the other (which, in the case of the Delivery Organisation, shall include its liability to the DHSC) pursuant to this Agreement shall not exceed the value of the Funding payable pursuant to this Agreement.

11.5 Each Party will at all times take all reasonable steps to minimise and mitigate any losses or other matters for which one party is entitled to be indemnified by or to bring a claim against the other under this Agreement.

11.6 The Delivery Organisation must put in place and maintain in force at its own cost insurance arrangements (with an insurer of good repute) that are sufficient to meet the requirements of law and the potential liabilities of the Delivery Organisation under or in connection with the performance of this Agreement.

11.7 Within five (5) working days following a written request from the RRDN, the Delivery Organisation must provide documentary evidence that the insurance required under Clause 11.6 is fully maintained and that any premiums on them and/or contributions in respect of them (if any) are fully paid.

12. Intellectual Property

- 12.1 For the avoidance of doubt, nothing in this Agreement shall affect Delivery Organisation's ownership of Intellectual Property Rights existing prior to the Start Date or generated other than through the performance of this Agreement and/or delivery of the Work Programme.
- 12.2 The RRDN and DHSC reserves the right to have access to and to use data compiled during the course of the Work Programme and, subject to any exceptions set out under Data Protection Legislation or in this Agreement, will respect existing guidance on confidentiality of any data which it obtains.
- 12.3 Subject to 12.2 and to the rights of any third parties, copyright and every other Intellectual Property Right in all reports, documents and other things produced or information obtained by the Delivery Organisation or which is prepared under this Agreement and in connection with Work Programme, with the exception of the outputs of commercial and non-commercial research studies shall be vested in DHSC.
- 12.4 The Delivery Organisation hereby assigns directly to DHSC all Intellectual Property Rights (IPR) owned by the Delivery Organisation in any material which is delivered to the RRDN in the performance of the Work Programme and shall waive all moral rights relating to such material. The DHSC grants the Delivery Organisation and the RRDN a non-exclusive, non-transferable, irrevocable, fully paid-up licence to use the IPR for their own non-commercial patient care and research purposes.

13. Termination

- 13.1 The RRDN may terminate this Agreement (and withdraw the Funding) immediately on written notice to the Delivery Organisation if the Delivery Organisation is unable or unwilling to perform its obligations under this Agreement (including delivery of the Work Programme).
- 13.2 The RRDN may terminate this Agreement (and withdraw the Funding) immediately on written notice (and without liability) to the Delivery Organisation if the Delivery Organisation is in breach of all or any part of this Agreement and either:
 - 13.2.1 the breach is capable of being remedied but the Delivery Organisation has failed to remedy it to the reasonable satisfaction of the RRDN within thirty (30) days of being notified (or otherwise becoming aware) of that breach or such alternative period as the RRDN may reasonable specify taking into account the nature of the breach; or
 - 13.2.2 the breach is not capable of being remedied.
- 13.4 The RRDN may immediately on written notice (and without liability) to the Delivery Organisation terminate this Agreement (and withdraw the Funding) if a Force Majeure Event affects its or the Delivery Organisation's ability to perform all or any part of its obligations under this Agreement for a period of six (6) months or more.

- 13.5 Termination of this Agreement, shall not affect any continuing rights, remedies or obligations of either Party under this Agreement including the right of the RRDN to reclaim any Funding which has been paid to the Delivery Organisation and which has not been applied in accordance with the terms of this Agreement.

14. Force Majeure

- 14.1 In the event that any Party is delayed in the performance of its obligations under this Agreement by a Force Majeure Event, the obligations of the Parties under this Agreement shall be suspended for the duration of the Force Majeure Event.
- 14.2 Any failure or delay by either Party in performing its obligations under this Agreement which results from a failure or delay by a sub-contractor or supplier shall be regarded as due to Force Majeure Event only if and to the extent that that subcontractor or supplier is itself impeded from complying with an obligation to that Party by a Force Majeure Event.

16. Notices

- 16.1 Any notice to be given under this Agreement shall be sent by electronic mail (email) to the Key Representative of the other Party. The address for service of each Party shall be the email address specified in the Funding Allocation Letter (or such other address as may be notified to the other Party from time to time in writing). A notice shall be deemed to have been served if sent by email, if sent within normal business hours when so sent or, if sent outside normal business hours, at the next start of normal business hours.
- 16.2 In proving such service, it shall be sufficient to prove that personal delivery was made, or that the email was correctly addressed and the sender either received an electronic confirmation of delivery or telephoned the recipient to inform the recipient that the email had been sent (as the case may be).

17. General

- 17.1 Nothing in this Agreement gives (or shall be deemed to give) the Delivery Organisation any authority to act on behalf of the DHSC or RRDN or bind the DHSC or RRDN to third parties in any way and the Delivery Organisation shall not hold itself out as having that authority.
- 17.2 This Agreement is personal to the Delivery Organisation and the Delivery Organisation may not assign, transfer or sub-contract any right or obligation in relation to this Agreement or the Work Programme unless specified in the Delivery Organisation's Funding application, the Funding Allocation Letter or otherwise approved by RRDN in writing.
- 17.3 This Agreement sets out the entire understanding between the Parties in relation to the Work Programme and Funding and shall supersede any previous agreements or arrangements (whether oral or written) between the Parties in respect of the same.

- 17.4 No failure or delay by either Party to exercise any right power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same or of some other right or remedy.
- 17.5 Without prejudice to the rights of the DHSC to amend these Terms and Conditions on notice to the Delivery Organisation and RRDN from time to time, any variation of this Agreement must be in writing signed by or on behalf of both the Parties.
- 17.6 This Agreement is not intended to confer any rights of enforcement on any third party and the Contracts (Rights of Third Parties) Act 1999 shall not apply to any part of this Agreement.
- 17.7 This Agreement is governed by English law and any disputes between the Parties will be subject to the exclusive jurisdiction of the English courts. If any dispute arises in connection with this Agreement, the Parties and, where appropriate, the DHSC will enter into discussions in good faith to settle it.
- 17.8 This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument when collated.