

Terms and Conditions

2019

Asthma UK Career Development Awards



These terms and conditions set out the arrangements that apply to the award of a 2019 Career Development Awards by Asthma UK. They cover the arrangements between Asthma UK and the Host Institution at which the research is to be carried out and also the arrangements between Asthma UK and the Grantholder. These terms and conditions must be signed by way of acceptance by a duly authorised individual on behalf of the Host Institution and also by the Grantholder. Additional conditions, which may apply to specific awards, will be incorporated in the formal notification of award.

This contract is to cover the work outlined in the Career Development Awards application submitted to Asthma UK in March 2019, and the research should be conducted substantially according to the milestones indicated in that agreed research proposal.

Definitions and interpretation

As used in Asthma UK's Terms and Conditions the following terms and expressions shall have the meaning ascribed to them below:

Agreement	These Terms and Conditions of Grant and the Annexes in respect of the Award.
AMRC Guidelines	The guidance notes published by the Association of Medical Research Charities (AMRC) entitled 'Guidelines on Good Research Practice', 'Guide to Pricing Charitable Research in Universities' and 'AMRC Guidance on Revenue Sharing on Commercially Exploited Charity Funded Research'.
Arising Materials	shall mean the biological or biochemical matter generated in the course of the Research Project (whether living or not), for example (without limiting the foregoing), viruses, cell lines, plasmids, new varieties or genetically modified organisms, such as mice or bacteria.
Asthma UK	Asthma UK is a company limited by guarantee registered in England No. 2422401. Registered charity in England No. 802364 and in Scotland No. SC039322.
Background Intellectual Property	Any intellectual property that is: (a) generated or developed by the Host Institution or the Partner Institution or Partner(s) prior to the Effective Date and which is required for carrying out the Research Project; or (b) generated or developed outside the Research Project by the Host Institution or the Partner Institution or Partner(s) after the Effective

Grantholder	Date and which is required for carrying out the Research Project. The person to whom the grant is awarded and who is responsible for the overall running of the research project contained within the grant and the submission of annual and final reports.
Host Institution	The institution where the majority of the research is conducted and where the Grantholder is situated.
Intellectual Property and Revenue Sharing Policy	The policy detailed at Annex 1.
Partner	Any third party with whom the Host Institution performs the Research Project
Personal Data	Details such as name, institution, address, email, phone number, date of birth, gender, etc.
Research Project	The scope of the work as laid out in the grant application.
Research Governance Framework	The Research Governance Framework for Health and Social Care defines the broad principles of good research governance and is key to ensuring that health and social care research is conducted to high scientific and ethical standards (dh.gov.uk).
Research Sponsor	The organisation that takes the lead in confirming there are proper arrangements in place for the initiation and management of the research. The roles of the sponsor are in accordance with those laid out in the Research Governance Framework and EU clinical trial directive
Results	Data or information generated by the research

General conditions

1. For projects falling within the scope of the Research Governance Framework for Health and Social Care, Asthma UK is not the Research 'Sponsor'. The Institution in which the research takes place must either accept responsibility as the Research Sponsor or put in place arrangements with a third party such as a local NHS Trust to be the Research Sponsor.
2. For projects falling within the scope of the Research Governance Framework for Health and Social Care, the Grantholder must accept the responsibilities of Chief Investigator as set out under the Research Governance Framework (dh.gov.uk).
3. The Grantholder and any other lead investigators involved in clinical trials involving medicines must be authorised health professionals as defined in the Medicines for Human Use (Clinical Trials) Regulations 2003.
4. The Host Institution shall be responsible for maintaining appropriate policies of insurance covering personal indemnity, public liability and employer's liability insurance.
5. Before a grant may be activated, the Host Institution must accept and agree to abide by Asthma UK's Terms and Conditions. The Host Institution must obtain from all individuals subsequently funded by the grant the equivalent undertakings as required from the applicants when signing the application form.
6. Any significant deviations in research proposal from those stated in the grant application must be reported immediately to the Research Operations Manager for Asthma UK to determine whether the grant may continue.
7. If the Grantholder wishes to move to another institution within the UK, Asthma UK must be informed immediately. Normally this is acceptable as long as adequate facilities are available at the new centre and the move has the approval of the heads of departments and finance officers of the institutions concerned. Asthma UK will not pay any additional costs resulting from such a move.
8. The Host Institution in which the work is to be pursued must be within the UK.

Good scientific practice

Asthma UK expects the highest standards of integrity to be adhered to by the Grantholders whom it funds. The Host Institution must ensure that it has in place written procedures for good practice and for the investigation of allegations of scientific misconduct, that these written procedures can be made available to Asthma UK at any time, and that the Grantholders funded by Asthma UK are made fully aware of such guidelines.

Scientific integrity

1. In the rare event of scientific fraud occurring Asthma UK wishes to make it clear that it is the responsibility of the Host Institution to investigate such cases. It is a condition of Asthma UK funding that the Host Institution can produce evidence of procedure for dealing with scientific fraud. We expect this to contain the following elements: a guidance document or code of practice on standards of professional behaviour; provisions for induction and training of staff; monitoring; regulations and procedures for handling allegations; fair procedures and appropriate protection for both the accused and any 'whistleblower'. In signing these terms and conditions the Host Institution will be confirming that they have the appropriate mechanisms to deal with scientific fraud in place or are working towards having them in place.
2. If a case of scientific fraud is suspected in the course of research then Asthma UK should be notified and kept informed of further developments. At the initial stages of the enquiry Asthma UK would not normally suspend the research project. However, if steps acceptable to Asthma UK are not taken to proceed with the investigation, Asthma UK will suspend the project. If fraud is proven, Asthma UK will terminate the project immediately.

Employment of staff

1. Asthma UK does not act as employer and, therefore, in all cases where support is provided for the employment of staff, the Host Institution undertakes to issue a contract of employment in accordance with the provisions of the Employment Act 1996 and any other relevant act relating to the conditions of employment. Where staff are not employees of the Host Institution, the institution undertakes to engage them on the terms of an appropriate written contract.
2. Asthma UK will not be responsible for claims under any statute or at common law, nor will it indemnify the institution against any claim for compensation, or against other claims for which the Host Institution may be liable as an employer, or otherwise.
3. The institution must accept full responsibility for the management, monitoring and control of all the research work funded under this Asthma UK grant and for all those staff (permanent, temporary and students) employed in or involved in any research funded as a result of a grant. This includes the requirements set out in regulations set down under the Control of Substances and Hazardous to Health Regulations 1999 (COSHH), guidance from the Advisory Committee on Dangerous Pathogens (ACDP) and Advisory Committee on Genetic Modification (ACGM) guidelines (as updated), research on human subjects and embryos, the Health and Safety at Work Act and regulations, and any other regulatory requirements as may apply from time to time.
4. Asthma UK expects the Host Institution to meet the cost of any long-term leave, other than annual holiday. Such leave could include maternity leave, paternity leave or long-term sick leave. If an Asthma UK funded employee is due to take maternity leave, the Grantholder should inform the charity of the dates in advance so that the grant can be suspended for the period of maternity leave until full-time employment is resumed. As a charity, Asthma UK cannot cover the costs of the employed person's maternity leave but on a case-by-case basis, Asthma UK may consider covering the cost of another individual filling the position on a temporary basis if it encourages timely completion of the research, provided that the cost of doing so does not exceed the total amount of the salary component of the grant and no costs are claimed for the employee who is on maternity leave. If this is not possible the grant will be suspended until the employee returns from maternity leave.

Ethical considerations

Asthma UK expects that before work commences on the research, the Grantholder has ensured in collaboration with the Host Institution that all appropriate regulatory approvals are in place. These could include those relating to human participation, radiation, genetic manipulation, stem cells, animals, embryos, ethics, personal safety and health and safety.

Human participants

1. No project involving investigations in humans will be funded in the absence of relevant ethical clearance. A copy of this clearance, in writing, from the Host Institution's ethical committee must be enclosed with the application or if this is not possible at the time of application, it must be sent to Asthma UK as soon as it is obtained.
2. The voluntary informed consent of every volunteer must be obtained in writing.
3. Research involving individual patient data where the patient's consent will not be obtained is regulated by Section 60 of the Health and Social Care Act 2001 and requires additional procedures that must be adhered to.
4. Award holders and their Host Institutions have absolute responsibility for ensuring that investigations being undertaken at any site do not take place without the explicit approval of the appropriate authority in advance.
5. Any serious incident arising in the course of a research project must be immediately reported both to Asthma UK and appropriate ethics committees. The research must be suspended until the ethics committee has reached a conclusion as to whether this research may continue.

Research involving human tissue

1. The Grantholder should note that Asthma UK expects that any procedure undertaken during the course of their projects that involve the removal/collection, retention and disposal of human organs and tissue from live donors or at post-mortem covered by The Human Tissue Act 2004 for England, Wales and N. Ireland and The Human Tissue (Scotland) Act 2006 and any subsequent relevant Acts, will be carried out in accordance with the guidance issued by the Health Department/local Human Tissue Authority, Department of Health and local Health Authority.
2. It is the responsibility of the Grantholder to check whether ethical approval is required.

Research involving animals or animal tissue

1. The use of animals for research must fall within the regulations as laid down by law and all relevant authorities, and the Grantholder must hold the relevant licences. Copies of personal and project licences must be enclosed with the application.
2. Projects involving animals must include a statement indicating that no other approach is possible and the research project must ensure the species used are most appropriate.
3. The number of animals used should be the minimum required for statistical analysis.

4. The severity of the procedures should be kept to a minimum and if painful procedures are necessary, appropriate steps are taken to minimise pain and suffering.
5. Asthma UK supports the principles of the May 2015 NC3Rs guidelines 'Responsibility in the use of animals in biomedical research: expectations of the major research council and charitable funding bodies' (www.nc3rs.org.uk/responsibility-use-animals-bioscience-research) and encourages grantholders to consider them when undertaking their research.
6. Asthma UK has an animal statement on its website regarding the use of animals in research. It is obliged to provide information on its research to the public and it is committed to improving public communications on the use of animals in research.
7. Asthma UK recommends researchers to follow the ARRIVE (Animal Research: Reporting of In Vivo Experiments) guidelines which are intended to improve the reporting of research using animals, maximising information published and minimising unnecessary studies.

Research involving human and hybrid-human embryos

Asthma UK has an embryo statement on its website regarding the use of embryos in research. It is obliged to provide information on its research to the public and it is committed to improving public communications on the use of embryos in research. The Host Institution shall ensure that

- a. Asthma UK is promptly informed of any Research Projects involving human and hybrid-human embryos
- b. Any Research Projects involving human and hybrid-human embryos are conducted in accordance with Asthma UK's embryo statement.

Research involving stem cells

1. Asthma UK grantholders whose research involves the use of stem cells must adhere to the current Code of Practice as issued by the UK Stem Cell Bank for use of human stem cell lines.
2. A written statement of compliance from the Host Institution is required before funding will be released.

Finance

Uptake and duration

1. Asthma UK is reliant upon income from voluntary sources and funding will therefore be subject to the availability of the necessary funds.
2. Asthma UK must be notified if the start date differs from that specified in the grant application. If the grant is not activated within 12 months of offer, the funding will be retracted. For any grant, which has been activated and then lapsed for longer than 12 months, Asthma UK may require the research proposal to be re-submitted as a new application.
3. The project must terminate within the time period specified in the award letter. Requests for extensions are on a no-cost basis to Asthma UK and must be received in writing. Extensions may be granted for a maximum of 12 months, or 6 months in the case of one year projects. There may be some flexibility but this will be judged on a case-by-case basis by the Research Operations Manager for Asthma UK.

Salaries

1. Support requested for the Grantholder's salary and the salaries of other personnel to be employed on a grant must be shown in separate amounts payable for basic salary, national insurance and superannuation, London (or other major city) allowance (if applicable) and a provision to cover nationally agreed pay awards during the term of the grant in relation to the expected inflation rate. Basic salary must include estimated annual increments.
2. For an individual whose salary is claimed under the Award, an up to date CV must be provided to Asthma UK before payment of invoices relating to the individual's salary.
3. Asthma UK does not honour merit awards or discretionary points, excepting salary increases associated with the award of PhDs. Salaries should be calculated from the time of the proposed starting date of the grant. When requests are made for salaries for medically qualified personnel and senior scientific workers (at least three years post-doctoral), the individual should be named, once identified.

General expenses

Asthma UK does not pay for university or research institution or organisation overheads or general administration costs. These could include general travel, advertising for posts, financial services, staff facilities, staff development, public relations, publication costs, general institutional libraries, routine secretarial work, personnel services, stationery or contribution to general departmental overheads.

Consumables

Consumables relate to costs associated with materials such as chemicals, reagents, commercial kits, molecular biology items and disposable products used to conduct scientific research as outlined in the project proposal. Whilst this is not an exhaustive list, it does not include hardware and other scientific or non-scientific equipment.

Equipment

1. Equipment should be itemised in the grant application and is considered to be hardware costing in excess of £500. Smaller items should be included under consumables.
2. Monies for equipment are awarded on the understanding that only those items specified in the grant application may be purchased. Should any of these items be purchased using alternative sources of funding, it is not possible to allocate the monies for the specified item to another item of equipment without first obtaining permission in writing from Asthma UK.
3. Any equipment or apparatus purchased by the Host Institution or the Grantholder from the award will become the property of the Host Institution on the understanding that it will be used solely for the benefit of the Grantholder's research.
4. Responsibility for the insurance and maintenance of such equipment and apparatus shall remain with the Host Institution throughout its period of ownership. For the duration of the funded project, the researchers funded by Asthma UK should have priority use of the equipment.

5. Should the Grantholder move to another institution during the tenure of the award, Asthma UK reserves the right to require that the equipment be transferred with him/her after discussion with the institutions concerned. Once the research is completed Asthma UK hopes that the equipment will be used for further research relevant to Asthma UK's mission and this should be the main consideration when equipment is allocated for future use.
6. Any requests for computers and software must be fully justified in the original application and will be subject to peer review. As a general rule, Asthma UK expects the Host Institution to provide personal equipment necessary to facilitate the general running of the project and dissemination of research outcomes.

Travel

1. When travel is an integral part of the project supported by Asthma UK it should be included in the budget.
2. Travel specifically related to conducting research associated with the grant or visits to other research institutions relevant to collaborative working are acceptable but travel and costs associated with conference attendance is limited to one European or international conference for each year of funding.
3. Travel by the most economic means possible is encouraged; Asthma UK does not fund first class travel, except in exceptional cases.

Reimbursing research costs

1. Claims for reimbursement of salary and research costs should be submitted **quarterly in arrears** by the university or research institution Finance Officer, detailing the expenditure (named individual for salary claims), period covered and stating the name of the Grantholder and grant ID number. Invoices must be submitted with enough detail to verify the costs incurred against the grant made as detailed in the application. Copies of the supplier's invoice must accompany claims for equipment.
2. No claim will be reimbursed if it is submitted more than six months after the expense was incurred. This time may be increased at the discretion of Asthma UK Research Team in exceptional circumstances.
3. The final claim will only be accepted if it is submitted within six months of the end of the grant period and a final report has been received and accepted by Asthma UK.
4. The grant will be closed by Asthma UK six months after the end of the grant period.
5. Asthma UK reserves the right to request confirmation from the Host Institution, and/or the external auditors of the Host Institution, of amounts awarded and paid by Asthma UK in respect of this grant.
6. Virements between salaries, consumables, equipment and animal costs is generally not allowed but will be considered on a case-by-case basis. Permission in writing must be sought from the Research Operations Manager for Asthma UK.
7. If at completion, the project runs under-budget, any excess monies awarded shall belong to Asthma UK.

Auditing

1. Asthma UK reserves the right to audit the finance of a grant at any time and the Host Institution shall provide such reasonable assistance as Asthma UK may require for this to be effected, including providing access and copies of all information relevant to the Award and activities under it.

2. Grant recipients are required to have in place procedures that ensure that only valid grant expenditure is charged, copies of which shall be provided at Asthma UK's request. The grant may be cancelled if such procedures are found not to be in place.
3. Host Institution shall co-operate reasonably with any auditor (an accountant or similar professional) appointed by Asthma UK and shall promptly provide all information and assistance reasonably requested by the auditor. The auditor shall be required to keep confidential all information learnt during any such inspection, and to disclose to Asthma UK only such details as may be necessary to report on the accuracy of the Host Institution's statements or reports or invoices. Asthma UK shall be responsible for the accountant's charges unless the auditor certifies that there is an inaccuracy of more than 5% (five percent) in any invoice or royalty statement, or some other material inaccuracy, in which case the Host Institution shall pay his charges in respect of that inspection.

Research monitoring

1. It is a condition of award that Asthma UK receives an annual progress report (including lay summary). This will be reviewed and signed off by a member of Asthma UK's Research Review Panel. Subsequent funding will not be released until receipt and approval of this report.
2. Asthma UK reserves the right to request an informal six-monthly progress report against key objectives as specified in the research proposal.
3. Asthma UK reserves the right to use extracts from these reports in its publications. Researchers should clearly indicate sections that are to be treated as confidential (for example detailed results prior to peer-reviewed publications). Any sections in non-scientific language will always be considered appropriate for public knowledge. Reports should include lists of publications and planned publications based on the research.
4. Grantholders will be notified of the dates when reports are required and should note that failure to submit reports on time will jeopardise continuation of Asthma UK's support and may cause Asthma UK to refuse to consider further research applications.
5. Asthma UK reserves the right to withdraw the grant on consideration of these reports.
6. On completion/termination of the grant, a final report is required **within one month**. This will be reviewed and signed off by a member of Asthma UK's Research Review Panel. The final invoice will not be paid until this report has been received and deemed appropriate following this review.
7. Asthma UK acknowledges that at the time of the final report the findings may not have been published. Publication of research outcomes is extremely important to people with asthma and those that financially support Asthma UK's research portfolio. In light of this, Asthma UK will request, after completion of the grant, short annual updates of any publications, results or other impacts arising from research that were not available at completion.
8. The Grantholder is required to submit accurate information on an annual basis on the outputs from the project through the e-Val system, which is now accessed through the Researchfish website at www.researchfish.net.
9. It is a condition of award that grantholders make themselves available for occasional review meetings between the Grantholder and representatives of Asthma UK and the Host Institution. Where held, such meetings will focus, amongst other matters, on issues surrounding the progress and potential commercial exploitation of the research, particularly in order to feedback on progress to Asthma UK's funders, providing information on how funding has been used and to secure further funding in the future to support Asthma UK's research portfolio.

10. Where volunteers are involved in research, the Grantholder is required (within the bounds of relevant ethical frameworks) to provide feedback to their patients or their carers at appropriate intervals during their research.
11. Any clinical research trials funded by Asthma UK must be uniquely identified and registered in a publicly accessible and electronically searchable register. This is to ensure that all funded clinical trials meet the appropriate standards, and there is a commitment to conduct the trial and report the findings in accordance with basic ethical principles. This includes preserving the accuracy of the results and making both positive and negative results publicly available.

Publicity, publication and dissemination of results

1. **Asthma UK must be consulted in advance of any articles or presentations based on Asthma UK-funded research in time to allow consideration of the implications and wider publicity potential.** Grantholders must ensure that a copy of any proposed secondary articles (based wholly or partly on the research funded) is forwarded to the Asthma UK Research Team when the article is submitted for publication or presentation at meetings/conferences.
2. Grantholders must ensure that Asthma UK's contribution to funding (and where specified by Asthma UK, the names of individuals or institutions that have backed this contribution through voluntary donations to the charity) is suitably acknowledged in all presentations and publications (including Abstracts). **Publications must quote the Asthma UK award ID number.**
3. Asthma UK's logo shall be used on all materials used in the dissemination of the Project.
4. Grantholders must ensure that any press statements associated wholly or partly with the research funded are approved by the Asthma UK Press Office prior to release. Asthma UK is likely to wish to participate in any such releases.
5. It is a condition of this grant that the Grantholder and their Host Institution co-operate with Asthma UK on fundraising/publicity initiatives around the grant of an award and the research to be undertaken, always acknowledging the need for caution where wide publicity might confound the study (e.g. by affecting control groups). Wherever appropriate, grantholders will be expected to acknowledge and promote the work of Asthma UK (e.g. in scientific meetings, presentations to the media and other similar contexts).
6. All Asthma UK funded projects will have details of their funding placed in the public domain, including but not limited to Asthma UK's website (www.asthma.org.uk) (including the project title, name of the Grantholder, and details of the Host Institution, duration and value of support). The website project summaries and news articles will be updated by reference to the contents of annual reports and to the final report summary when the funding and research are complete. News articles based on publications arising from each project will also be added as they become available.
7. Asthma UK encourages the publication of articles arising from the research that it supports. However, Asthma UK expects Host Institutions to have internal procedures requiring all articles and presentations based on Asthma UK funded research to be submitted to research supervisors or the technology transfer/industrial liaison unit of the institution prior to being made public to ensure that any Intellectual Property (IP) is identified and protected. Publication or public presentation of research findings should be delayed where commercial exploitation is being considered. However, no unnecessary delay in publication should be allowed to occur.

Fundraising activities

1. Asthma UK recognises that the money to fund research would not be available was it not for the activities and goodwill of its donors and volunteers. In acknowledgement of this contribution, Asthma UK requires its grantholders to make every effort to attend and speak at key events nationally and regionally and to arrange laboratory visits and attend one-to-one meetings with specific Asthma UK donors etc., if requested. The charity will endeavour to ensure that all such requests are kept to a manageable level and will be carefully handled by the Research Operations Manager at Asthma UK.
2. Asthma UK reserves the right to undertake site visits, not normally more than one per year, to be made by individuals selected by Asthma UK. Asthma UK will give the Grantholder and Host Institution reasonable notice of such visits.
3. It is a condition of this grant that, if requested to do so, the Grantholder contribute at least one lay article to an Asthma UK publication and give at least one lay presentation on behalf of Asthma UK each year. Grantholders are reminded that the ability of Asthma UK to fund future research depends on the goodwill of current grantholders in co-operating with fundraising and publicity.

Intellectual property (IP)

1. Asthma UK is under an obligation to ensure that the results of research that it funds are applied for the public good. To meet these obligations the Charity requires the Host Institution to, if not already in place, develop and implement strategies and procedures for the proper and efficient identification, protection, management and exploitation of Arising Intellectual Property.
2. Arising Intellectual Property shall vest in and be owned by the Host Institution as applicable under Clause 4; and the Host Institution shall, ensure that all those employees, researchers, students, and Partners who work on any part of the Research Project agree in writing that any Arising Intellectual Property shall vest in, or be transferred to, the Host Institution in compliance with this agreement.
3. The Host Institution shall notify Asthma UK promptly on the creation of any Arising Intellectual Property. The Host Institution shall ensure that Asthma UK is provided with copies of any details of any registered Arising Intellectual Property.

4. Subject to third party rights, the Host Institution shall provide all Background Intellectual Property for the sole purpose of completing the Research Project.
5. The Host Institution hereby grants to Asthma UK a perpetual, irrevocable, world-wide, non-exclusive royalty-free license to the Arising Intellectual Property, solely for the purposes of academic/not-for-profit research (including in collaborations with other academic not-for-profit institutions funded by Asthma UK), teaching, and publicity. The licence granted herein shall include the right to grant a sub-licence to other academic or not-for-profit institutions funded by Asthma UK. Where Asthma UK provides such a sub-licence, it shall use reasonable endeavours to do so in writing and notify such third party of the Host Institution's interest in such Arising Intellectual Property as applicable and shall provide the Host Institution as applicable with a copy of such written agreement within 14 days of the date of execution.
6. Asthma UK wishes to ensure that the full commercial potential of any Arising Intellectual Property is realised for the benefit of Asthma UK and the Host Institution and therefore the Host Institution shall:
 - a. Inform Asthma UK of any commercial opportunities to develop and exploit the Arising Intellectual Property;
 - b. Take all reasonable steps to develop and exploit any Arising Intellectual Property subject to obtaining the prior written consent of Asthma UK, such consent not to be unreasonably withheld. For the avoidance of doubt, the Arising Intellectual Property may not be used for any commercial purpose without the prior written consent of Asthma UK. If Asthma UK is approached for consent at an early stage of negotiations over the proposed commercial purpose, Asthma UK may provide conditional consent and will not subsequently withdraw or refuse consent unless the conditions have not been fulfilled. Asthma UK will only impose conditions relating to the scope of the commercial purpose and in order to ensure that: (i) the Arising Intellectual Property remains available on a non-exclusive, cost-free basis for academic and research purposes; and, (ii) the proposed commercial purpose does not conflict with or impede the aims and policies of Asthma UK. In the event that Asthma UK does not provide a response to the Host Institution's request within thirty days of receipt of the request, the Host Institution will make contact with Asthma UK to request consent. If Asthma UK does not respond to this second request for consent within seven days, the Host Institution will have the right to proceed with such commercial exploitation;
 - c. Provide Asthma UK with a complete and executed copy of any commercial agreements entered into by or on behalf of the Host Institution in relation to or concerning the Arising Intellectual Property.
 - d. Comply with the provisions of the Asthma UK Intellectual Property & Revenue Sharing Policy (see **Annex 1**) and shall ensure that any Partner acknowledges and accepts the terms of the said policy. The attention of the Host Institution is particularly drawn to the requirement to share revenues received from the commercial exploitation of the Arising Intellectual Property.

If the Host Institution fails to exploit the Arising Intellectual Property, which Asthma UK reasonably considers should/can be exploited, then Asthma UK will have the right but not the duty to seek to exploit the Arising Intellectual Property. The Host Institution will provide all reasonable assistance requested by Asthma UK. Such assistance may include licensing, assigning or otherwise transferring all rights in the Arising Intellectual Property to Asthma UK.

For clarity, assignment of Arising Intellectual Property by the Host Institution to its technology transfer partner shall not require the prior written consent of Asthma UK.

7. In the event that materials (such as genetically modified organisms, plasmids, or cell lines) are generated using the Award, such materials must be made available to non-commercial third parties for academic or not-for-profit research. The Host Institution is encouraged to make use of public/not for profit repositories for the purposes of such dissemination, under an appropriate agreement with said repository. For clarity, the Host Institution is also encouraged to make such materials available to commercial third parties for appropriate licensing terms. For clarity, such consideration is also subject to the Asthma UK Intellectual Property Revenue Sharing Policy (See Annex 1).
Employees may be paid an additional bonus (e.g. rewards to inventors) under their employer's policies, in respect of the Arising Intellectual Property, however such sums shall come out of their employer's share of revenue.
8. The Host Institution shall use diligent endeavours to ensure that no publication or presentation compromises the Host Institution's ability to seek appropriate intellectual property protection of the Arising Intellectual Property. For the avoidance of doubt, any publication, presentation or other dissemination of the Arising Intellectual Property may be reasonably delayed but such delay 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 draft publication or presentation by the publishing Host Institution, although the proposed publisher will not unreasonably refuse a request for additional delay in the event that property rights would otherwise be lost.
9. Where the Research Project is part-funded by a third party, the Host Institution must inform Asthma UK promptly of the identity of such third parties and the nature of their contribution to determine appropriate revenue sharing terms.
10. It is agreed that Asthma UK and the Host Institution may make use of an intellectual property or technology transfer agent/ service provider, in the case of [Imperial] this will be [Imperial Innovations] and therefore required to co-operate with such agent as though it were the Host Institution or Asthma UK, where applicable itself. For the avoidance of doubt, any confidential information may only be provided to such agent on condition that it shall be treated by that agent as confidential information, as if it has been received by itself. Asthma UK and or aforementioned agent may visit the Host Institution at mutually agreeable reasonable times in order to speak with scientists or TTO staff in relation to intellectual property matters.

Arising Materials

The Host Institution and Grantholder should inform Asthma UK of any pre-existing arrangements of which they are aware, and which could lead to a breach of Asthma UK funded standard conditions. Host Institution shall use all reasonable endeavours to ensure that no consultancies, third party restrictions or arrangements which might impact on Asthma UK's grant are entered into in relation to any Asthma UK funded person or activity without prior agreement of Asthma UK. Asthma UK Funded Individuals or investigators involved in an Asthma UK funded project should not use materials or compounds (other than those obtained commercially) on terms which would place restrictions on the publication of results. Host Institution shall use all reasonable endeavours to ensure that "reach through rights" have not been granted on any Asthma UK funded IP in favour of commercial organisations providing materials or compounds to Asthma UK funded persons for research purposes. However, Asthma UK recognises that companies providing materials may often require exclusive rights to any intellectual property arising from the use of that material, and that this requirement is often non-negotiable. Where intellectual property arises from research linked indirectly

to the use of material provided under such agreement the provider should be offered a time-limited opportunity to take out a revenue sharing licence.

Reputation

The Host Institution must not do anything which brings, or is likely to bring, Asthma UK into disrepute.

Copyright

1. Occasionally it is necessary for Asthma UK to require that all copyright and rights of a similar nature (created as a result of works by individuals and groups of people financially supported by Asthma UK), capable of being conferred under the laws of the United Kingdom and other countries of the world, should be assigned to and vest absolutely in Asthma UK. At the request of Asthma UK the individuals involved must execute such deeds and documents and do such other acts and things as may be necessary to achieve the assignment and transfer. When this is the case, there will be a specific condition in the formal letter of award and if requested by Asthma UK the deeds and documents must be signed before the grant is released.

Limitation of liability

1. The Host Institution must accept full responsibility for the management, monitoring and control (including the requirements of all regulatory authorities) of all the research work funded under this award and all those staff employed or involved in any research funded under this award. This includes ensuring that all persons employed in or involved with the research receive training appropriate to their duties, in accordance with the regulations set down under the Health and Safety at Work Act and regulations and any other regulatory requirements as may apply from time to time.
2. Asthma UK accepts no responsibility, financially or otherwise, for the expenditure (or liabilities arising out of such expenditure) or liabilities arising out of work other than those specifically listed in the formal letter of award and these Terms and Conditions. The control of expenditure to be funded under this award must be governed by the normal standards and procedures of the Host Institution and must be covered by the formal audit arrangements that exist in the Host Institution.
3. Should Asthma UK terminate a grant in respect of unsatisfactory progress or other adverse reasons before expiration of the maximum duration agreed on award (and provided that the full amount of the grant has not been advanced at that time), it is Asthma UK's practice only to recompense any expenses incurred and outstanding costs to which the Host Institution has committed (provided reasonable efforts are made to mitigate these costs) prior to the point of termination which would not in any event exceed the amount of the grant remaining to be paid to the institution at the time of the termination of the grant.
4. Asthma UK is not responsible for any injury to or for the death of any person, or for any loss of or any damage to property of any kind, occasioned by or arising out of the Grantholder's own negligence or the negligence of any other person employed by the Host Institution. Asthma UK will not be responsible for claims under any statute or at common law, nor will it indemnify the Host Institution against any claim for compensation or against any other claims for which the Host Institution may be liable.

Data Protection

The Grantholder and the Host Institution undertake to abide at all times by the Data Protection Act 2018 and all other relevant legislation and regulations in relation to the undertaking of research funded under this award.

To the extent the Host Institution is a data controller of personal data for the purposes of the Act, it:

- a. warrants to Asthma UK that it has made all necessary registrations of its particulars where required, in accordance with the Act;
- b. shall indemnify and keep indemnified, Asthma UK against any and all loss or damage suffered or incurred by Asthma UK in connection with any breach by it or its employees, agents or subcontractors of the Act;

Where the Host Institution is a data processor for Asthma UK, in respect of all personal data it shall:

- a. process such personal data only in accordance with the instructions of Asthma UK; and
- b. ensure that appropriate technical, organisational and security measures are in place to ensure safekeeping against unauthorised or unlawful processing of the personal data and against accidental loss, or destruction of, or damage.
- c. only act on the written instructions of the controller;
- d. ensure that people processing the data are subject to a duty of confidence;
- e. take appropriate measures to ensure the security of processing;
- f. only engage sub-processors with the prior consent of the controller and under a written contract;
- g. assist the controller in providing subject access and allowing data subjects to exercise their rights under the Data Protection Act 2018/General Data Protection Regulation (GDPR);
- h. assist the controller in meeting its data protection obligations in relation to the security of processing, the notification of personal data breaches and data protection impact assessments;
- i. delete or return all personal data to the controller as requested at the end of the contract; and
- j. submit to all audits and inspections, provide the controller with whatever information is needed to ensure they are both meeting their Article 28 obligations, and tell the controller immediately if it is asked to do something infringing the GDPR/Data Protection Act 2018 or other data protection law of the EU or a member state.

Requests to referee future applications

If invited, grantholders are asked to respond positively and punctually to requests to referee future Asthma UK grant applications.

Future Terms and Conditions

Grants awarded by Asthma UK are subject to the Terms and Conditions in force at the time the grant is awarded. Asthma UK reserves the right to change the Terms and Conditions from time to time. If, for any reason, during the lifetime of a grant, an amendment is made to the award, Asthma UK reserves the right to apply its current conditions of grant in place of those that were applied at the time of the original award.

Termination

1. This Agreement shall last for the Term, unless terminated earlier in accordance with this section or as provided elsewhere.
2. Asthma UK shall be entitled to terminate this award forthwith if the Grantholder or the Host Institution breaches these Terms and Conditions or does anything which in the reasonable opinion of Asthma UK brings, or in its opinion is reasonably likely to bring, Asthma UK's name or reputation into disrepute, or does anything that is likely to damage the positive views of the supporters or funders of Asthma UK.
3. The attention of the Grantholder and the Host Institution is drawn to the following matter. It is Asthma UK's opinion that its name or reputation would be brought into disrepute should researchers supported by Asthma UK funds work in such proximity to others supported by tobacco industry funding that there is any possibility or likelihood that facilities, equipment or other resources would be shared. For these purposes tobacco industry funding includes funds from a company or group of companies engaged in the manufacture and/or marketing of tobacco or tobacco related products; funds in the name of a tobacco brand whether or not the brand name is used solely for tobacco products; and funds from a body set up by the tobacco industry or by one or more companies engaged in the manufacture and/or marketing of tobacco or tobacco related products.
4. Asthma UK also reserves to the right to terminate the grant, with three months' notice, should financial restraints require it to do so.

Repaying and recovering grant monies

1. Asthma UK shall have the right to recover the grant monies given to the Host Institution, in whole or in part, if the Host Institution does not comply in all material respects with these Terms and Conditions or the grant monies are not used for the purpose and activities they have been given.
2. The Host Institution must notify Asthma UK as soon as it becomes apparent that any part of the grant monies is to remain unspent or is no longer required. **Any portion of the grant advanced but not used for the agreed purpose by the end of the financial year for which it is given may not be retained without our permission, such permission not to be withheld unreasonably.**
3. If Asthma UK considers that there is a substantial variation between the reported actual income and expenditure and the amounts forecast in the original grant application, Asthma UK may vary, withhold or recover grant monies paid in such proportions as appear reasonable.
4. If the Host Institution is wound up or goes into liquidation (including being subject to an administration order) receivership, bankruptcy, enters into any compromise or other arrangement of its debts with its creditors, or is likely, in Asthma UK's view, to become unable to pay any of its debts then Asthma UK will be entitled to recover the grant monies paid and remaining unspent at that time.
5. The Host Institution undertakes to treat all amounts of grant received as "restricted funds" and to identify them as such in its books, records and accounts at all times.

Assignment

Neither party shall be entitled, without prior written consent of the other, to assign, transfer, sub-contract, or in any other way make over to any third party the benefit and/or the burden of this Agreement.

Waiver

No failure or delay by either party to exercise any right or remedy under this Agreement shall be construed as a waiver of any other right or remedy.

Notices

1. Any notice to be given under this Agreement shall be in writing and shall be sent to such address of the other party as is notified by that party from time to time, or (if different) its Registered Office.
2. All such notices shall be served either by post or by electronic mail. Any such notices sent by post shall be delivered by hand, or by first-class or recorded delivery post and shall be deemed received: on delivery by hand; and in the normal course of posting if sent by post. Similarly, any such notices served that are delivered electronically shall be deemed received once sent, allowing for any possible interruptions to delivery (e.g. spam filtering functions).

Entire agreement

1. This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements between them.
2. In the event of any conflict between the content of these Terms and Conditions and the content of Annex 1, the content of Annex 1 shall take precedence.

Contracts (Rights of Third Parties) Act 1999

This Agreement does not and is not intended to confer any benefit on any third party pursuant to the terms of the Contracts (Rights of Third Parties) Act 1999, with the following exceptions:

Any technology transfer service provider or agent of Asthma UK;

The Technology Transfer Office (TTO) of the Host Institution, if a separate legal entity to the Host Institution.

No Partnership nor Agency

This Agreement shall not create any partnership or joint venture between Asthma UK and the Host Institution, nor any relationship of principal and agent, nor authorise either party to make or enter into a commitment for or on behalf of the other party.

Applicable law

This Agreement shall be governed by and construed in accordance with the law of England and the parties shall submit to the exclusive jurisdiction of the English courts.

I/We accept Asthma UK's Terms and Conditions as detailed above.

Institution	
Grant ID number	
Grantholder	
Title of project	

Grantholder		
Grantholder's name	Signature	Date
Head of Department		
Head of Department's name	Signature	Date
Finance Official		
Finance Official's name	Signature	Date
for and on behalf of [] duly authorised		

Signed
By and on behalf of
Asthma UK

DRAFT

Annex 1 – Intellectual Property and Revenue Sharing Policy¹

1 Background

- 1.1 Asthma UK is under an obligation to ensure that the results of research that it funds are applied for the public good.
- 1.2 This IP Policy outlines the minimum standards that Asthma UK requires.

2 Definitions and Interpretation

- 2.1 In this IP Policy, any terms defined in the Agreement shall carry the same meaning.
- 2.2 In addition, the following words and phrases shall have the following meanings:

“Arising IP”	shall mean Arising Materials or other Intellectual Property generated under the Research Project.
“Arising Materials”	shall mean the biological or biochemical matter generated in the course of the Research Project (whether living or not), for example (without limiting the foregoing), viruses, cell lines, plasmids, new varieties or genetically modified organisms, such as mice or bacteria.
“Background IP”	Any Intellectual Property that is: <ul style="list-style-type: none"> a) generated or developed by the Host Institution or Partner(s) prior to the Effective Date and which is required for carrying out the Research Project; or b) generated or developed outside the Research Project by the Host Institution or Partner(s) after the Effective Date and which is required for carrying out the Research Project.
“Combination Package”	shall mean a product or service sold, marketed or made available by or on behalf of the Host Institution or any Partner containing either: <ul style="list-style-type: none"> a) Arising IP bundled together with any other intellectual property which the Host Institution or Partner owns or is the beneficial owner of or otherwise has access to; or b) Arising IP which includes an inventive contribution from individuals who are not in receipt of funding.
“Combination Package Gross Revenue”	shall mean all Gross Revenue received by Host Institution or any Partner from the commercial exploitation of Arising IP as a Combination Package.
“Combination Package Net Revenue”	shall mean Combination Package Gross Revenue multiplied by the WR, less Direct Costs and any taxes including, but not limited to, value added tax, sales, excise and withholding tax, imposed on Host Institution or Partner in connection with Gross Revenue which Host Institution or Partner is unable to offset or recover.
“Direct Costs”	shall mean all external expenses incurred and paid by the Host Institution, Partner or its TTO as applicable in connection with the filing, prosecution and maintenance of the Arising IP including, but not limited to, official filing fees, agent costs, and

	<p>reasonable legal and other advisory and consultancy fees.</p> <p>To avoid doubt, Direct Costs shall not include internal costs or overheads, salary or taxes relating to these activities and no deductions may be made for salary or taxes or for any amounts payable to the individual inventors or generators of the Arising IP.</p>
"Gross Revenue"	<p>shall mean all consideration received by the Host Institution from the commercial exploitation of the Arising IP pursuant to this Policy, including:</p> <ul style="list-style-type: none"> a) monetary consideration including but not limited to licence fees, option fees, up-front fees, royalties, minimum royalties or milestone payments, sub-licence initiation fees or any other fixed sum payments received by the Host Institution from the licensing or other disposition of the Arising IP in forms including but not limited to monies, shares or options; and b) non-monetary consideration including but not limited to preferential access to data or a licence to use other IP. Non-monetary consideration shall be deemed to have a value that is equivalent to its reasonable commercial value.
"Intellectual Property"	<p>shall mean Patent Rights, Know-How, trademarks, service marks, registered designs, copyrights including rights in software and algorithms, database rights, rights in data, design rights, confidential information, applications for registration of any of the above, and any similar right recognised from time to time in any jurisdiction, together with all rights of action in relation to the infringement of any of the above.</p>
"Know-How"	<p>shall mean unpatented technical information (including, without limitation, information relating to inventions, discoveries, concepts, methodologies, models, research, development and testing procedures, the results of experiments, tests and trials, manufacturing processes, techniques and specifications, quality control data, analyses, reports and submissions) that is not in the public domain.</p>
"Net Revenue"	<p>shall mean Gross Revenue less Direct Costs and any taxes including but not limited to value added tax, sales, excise and withholding tax, imposed on Host Institution in connection with Gross Revenue which Host Institution is unable to offset or recover.</p>
"Patent Rights"	<p>shall mean the patent applications and any and all patent application(s) and patents deriving or claiming priority from any thereof or otherwise relating to the aforementioned patent application including all divisionals, continuations, reissues, extensions, registrations and supplementary protection certificates in relation to any thereof.</p>

"IP Policy"	shall mean this IP and Revenue Sharing Policy as may be updated from time to time.
"TTO"	shall mean technology transfer office (or equivalent body).
"Weighting Ratio" or "WR"	shall mean the reasonable inventive relative weighting given by Host Institution in good faith to each technology/intellectual property included in the Combination Package as a contribution to the whole.

- 2.3 Any words in this IP Policy following the expression including, include or in particular, or any similar expression are to be construed as illustrative and do not limit the sense of the words preceding that expression.
- 2.4 References to the Host Institution in this IP Policy shall be read as referring to the relevant Partner(s).
- 2.5 In the event of a conflict between the terms of this IP Policy and the remainder of this Agreement, the terms of this IP Policy shall take precedence.

3 Obligations of Host Institution

- 3.1 The Host Institution shall:
 - 3.1.1 Comply with the terms of this IP Policy;
 - 3.1.2 Have in place, and shall ensure that any Partner has in place, appropriate strategies and procedures for the proper and efficient identification, protection, management and exploitation of Intellectual Property in accordance with this IP Policy.
- 3.2 The Host Institution shall ensure that before commencing work on any Research Project each Partner:
 - 3.2.1 Acknowledges and accepts the terms of this IP Policy;
 - 3.2.2 Acknowledges and accepts that the terms of this IP Policy apply to revenue received as a result of the exploitation of any Arising IP; and
 - 3.2.3 Agrees to comply with the terms of this IP Policy as if it were the Host Institution.
- 3.3 Asthma UK is a member of the AMRC. Unless agreed otherwise in advance and in writing, Asthma UK requires the Host Institution to adhere to the AMRC Guidelines.

4 Background IP

- 4.1 Nothing in this Agreement does or is intended to grant or transfer any right, title or interest in any Background IP except to the extent described in this Agreement.
- 4.2 The Host Institution hereby grants Asthma UK a non-exclusive, transferable, sub-licensable licence:
 - 4.2.1 To use all relevant Background IP on a royalty free basis licence to the extent necessary to perform the relevant Research Project;
 - 4.2.2 To the extent that it is legally able and subject to third party rights, to use all relevant Background IP to the extent necessary to enable the Arising IP to be used for a commercial purpose subject to the payment of a reasonable share of any net revenue received by Asthma UK that results directly from the use of the Arising IP.

5 Arising IP: ownership

- 5.1** Unless agreed otherwise in advance and in writing by Asthma UK:
- 5.1.1** Arising IP solely generated by the Host Institution shall be owned by the Host Institution;
 - 5.1.2** Arising IP solely generated by any Partner shall be owned by that Partner;
 - 5.1.3** Where the Host Institution and any Partner have each contributed to the creation or development of Arising IP, the relevant Arising IP will be owned by the Host Institution and the relevant Partner will promptly assign ownership of the Arising IP to the Host Institution in consideration of the Host Institution entering in to a reasonable revenue sharing agreement with the Partner.
 - 5.1.4** Asthma UK acknowledges that the Partner may be better placed to develop, disseminate or exploit the Arising IP and therefore that it may be more appropriate for the Arising IP to be owned by the Partner and for the Host Institution to assign ownership of Arising IP to Partner. d In such event Partner may at the request of Host Institution, serve notice of its intention to exploit the Arising IP on Asthma UK together with a suitable exploitation plan. Provided Asthma UK agree to such request Host Institution will promptly assign ownership to the Partner in consideration of an appropriate revenue sharing agreement.
- 5.2** The Host Institution shall ensure that all those individuals or other third parties who work on any part of the Research Project agree in writing:
- 5.2.1** That any Arising IP vests in, or shall be transferred to the Host Institution or Partner as appropriate; and
 - 5.2.2** To transfer all of their right title and interest in the relevant Arising IP to the Host Institution or Partner (as appropriate) at no charge.

6 Arising IP: use

- 6.1** The Host Institution hereby grants to Asthma UK and to each Partner that contributed to the Arising IP a perpetual, irrevocable, world-wide, non-exclusive royalty-free license to the Arising IP, solely for the purposes of academic/not-for-profit research (including in research collaborations with other academic not-for-profit institutions funded by Asthma UK or with commercially funded Partners or with commercial collaborators), teaching, and publicity.
- 6.2** The licence to use Arising IP granted to Asthma UK above shall include the right to grant a sub-licence to other academic or not-for-profit institutions funded by Asthma UK to use the Arising IP. Where Asthma UK grants such a sub-licence, it shall use reasonable endeavours to do so in writing and notify such third party of the Host Institution's interest in such Arising IP and shall provide the Host Institution with a copy of such written agreement within 14 days of the date of execution.
- 6.3** The Host Institution shall only use the Arising IP in a lawful manner according to applicable law and any associated guidelines and guidance.

7 Arising IP: administration and expenses

- 7.1** As owner of the Arising IP, the Host Institution has responsibility and authority to manage and execute the duties required for the filing, prosecution and maintenance of the Arising IP, including the Patent Rights. The Host Institution shall exercise this responsibility consistently with the terms of this IP Policy.
- 7.2** The Host Institution shall keep or shall procure that their agents keep all notices, applications and correspondence filed in connection with the Arising IP and shall provide copies of such documents to Asthma UK or their agent on request.

7.3 All costs and expenses incurred in respect of the registration and maintenance of the Arising IP shall be paid by the Host Institution in the first instance and may then be deducted as Direct Costs from Gross Revenue and/or Combination Package Gross Revenue.

7.4 Unless agreed otherwise by Asthma UK in writing and in advance, the Host Institution may deduct a technology transfer fee not exceeding [10]% of Net Revenue or Combination Package Net Revenue prior to any distribution of Net Revenue or Combination Package Net Revenue in line with the AMRC guidelines (as may be updated from time to time).

8 Arising IP: abandonment

8.1 If, at any time, the Host Institution decides to abandon any patent applications or patents included in the Patent Rights in all territories ("Patent Rights for Abandonment"), the Host Institution shall notify Asthma UK of its intention at least sixty (60) days prior to the date any Patent Office action concerning the Patent Rights for Abandonment is due and shall offer to assign the Patent Rights for Abandonment to Asthma UK at no charge. If Asthma UK wishes to receive assignment of the Patent Rights for Abandonment, Asthma UK will be responsible for all costs incurred in respect of the Patent Rights for Abandonment from the date of assignment to Asthma UK. The Host Institution may request that Asthma UK grants the Host Institution continuing rights to use the Patent Rights for Abandonment and any related data or information on reasonable terms.

9 Arising IP: infringement

9.1 Each Party will notify the other in writing of any actual or perceived misappropriation or infringement of the Arising IP of which the Party becomes aware.

9.2 The Host Institution has the first right (but is not obliged) to take legal action at its own cost to defend the Arising IP. The Host Institution must discuss any proposed legal action with Asthma UK and obtain Asthma UK's consent prior to the legal action being commenced. In particular, the Host Institution shall not issue a claim or threaten to issue a claim against a charitable or not-for-profit organisation without the express and prior written approval of Asthma UK.

9.3 If the Host Institution takes legal action under clause 9.2, the Host Institution will:

9.3.1 Indemnify Asthma UK against all costs (including lawyers' and patent agents' fees and expenses), claims, demands and liabilities arising out of or consequent upon such activities and will settle any invoice received from Asthma UK in respect of such costs, claims, demands and liabilities within 30 days of receipt; and

9.3.2 Treat any award of damages (including, without limitation, punitive damages) as forming part of Gross Revenue; and

9.3.3 Keep Asthma UK regularly informed of the progress of the legal action.

9.4 If the Host Institution takes legal action under clause 9.2, Asthma UK will:

9.4.1 Offer reasonable assistance to the Host Institution, including agreeing to be joined in any suit to enforce such rights subject to being indemnified and secured in a reasonable manner as to any costs, damages, expenses or other liability;

9.4.2 Have the right to be separately represented by its own counsel at its own expense.

9.5 If the Host Institution has notified Asthma UK in writing that it does not intend to take any action in relation to the misappropriation or infringement or the Host Institution has not taken any such action within 14 days of being notified of the misappropriation or infringement, Asthma UK may take legal action at its own cost. In such cases where Asthma UK chooses to take legal action in lieu of the Host Institution, Asthma UK shall:

- 9.5.1** Indemnify the Host Institution against all reasonable costs (including lawyers' and patent agents' fees and expenses), claims, demands and liabilities arising directly out of such activities up to a maximum equal to the Award; and
- 9.5.2** Be entitled to retain any award of damages (including, without limitation, punitive damages); and
- 9.5.3** Keep the Host Institution regularly informed of the progress of the legal action.

10 Arising IP: Exploitation – diligence

- 10.1** If the Host Institution fails to exploit or disseminate the Arising IP which Asthma UK reasonably considers should/can be exploited, then Asthma UK will have the right but not the duty to seek to exploit or disseminate the Arising IP as it sees fit. The Host Institution will provide all reasonable assistance requested by Asthma UK. Such assistance may include licensing, assigning or otherwise transferring all rights in the Arising IP to Asthma UK.
- 10.2** It is agreed that Asthma UK and the Host Institution may make use of a TTO or other third party in order to exploit or disseminate the Arising IP subject to the prior written consent of Asthma UK, such consent not to be unreasonably refused or delayed. Each party agrees to co-operate with such TTO or other third party including offering reasonable access to personnel and records. For the avoidance of doubt, any confidential information may only be provided to such TTO or other third party if a binding confidentiality agreement is in place.
- 10.3** If the Host Institution elects not to exploit the Arising IP commercially it will notify Asthma UK (within a reasonable period of time) and Asthma UK will inform the Host Institution whether Asthma UK or its nominee wishes to be granted the right to exploit the Arising IP. If so, the Host Institution will grant Asthma UK the appropriate rights on reasonable terms. The Host Institution shall procure that its employees, students and any third parties acting on its behalf carry out all acts reasonably required by Asthma UK to assist Asthma UK in such exploitation.

11 Arising IP: Exploitation – notification and consultation

- 11.1** Where the Research Project is part-funded by a third party, the Host Institution must inform Asthma UK promptly of the identity of such third parties and the nature of their contribution.
- 11.2** Prior to granting any commercial rights under the Arising IP to any third party, the Host Institution shall provide Asthma UK (or its nominee) on a confidential basis and in such reasonable detail as may be requested, the details of the proposals for the exploitation of the Arising IP including the identity of any proposed licensee or assignee of the Arising IP and the intended commercial terms.
- 11.3** The Host Institution shall take into account in its negotiations with any such third party any representations made by Asthma UK where Asthma UK considers that the proposed commercial exploitation of the Arising IP runs counter to its charitable objectives. For the avoidance of doubt, the Host Institution shall be free to negotiate the commercial terms at its sole discretion.
- 11.4** Unless agreed otherwise with Asthma UK, the Host Institution will lead the commercial exploitation of any Arising IP. If the Host Institution wishes to appoint any third party (including any Partner) to be responsible for the commercial exploitation of the Arising IP, the Host Institution must first obtain:
 - 11.4.1** A binding written commitment from the third party to adhere to the terms of this IP Policy; and
- 11.5** Asthma UK's prior written consent (such consent not to be unreasonably withheld or delayed).

- 11.6** The Host Institution shall provide Asthma UK or its nominee on a confidential basis with copies of all agreements related to the Arising IP. For clarity, and without limiting the foregoing, this shall include administration agreements, assignments, licenses, and sublicenses granted under the Arising IP.
- 12 Arising IP: Exploitation - consent**
- 12.1** Asthma UK wishes to ensure that the full commercial potential of any Arising IP is realised for the benefit of Asthma UK and the Host Institution and therefore the Host Institution shall:
- 12.1.1** Inform Asthma UK of realistic commercial opportunities to develop and exploit the Arising IP;
 - 12.1.2** Take all reasonable steps to develop and exploit any Arising IP subject to obtaining the prior written consent of Asthma UK, such consent not to be unreasonably withheld.
- 12.2** The Arising IP may not be used for any commercial purpose without the prior written consent of Asthma UK. For the purposes of this clause, a commercial purpose means any use that supports the generation of revenue including but not limited to:
- 12.2.1** any use in support of an application for regulatory approval for a product or service;
 - 12.2.2** any use in support of the development, promotion or use of a product or service that will be made available on a fee paying basis;
 - 12.2.3** any use in support of the development, promotion or provision of care direct to an individual on a fee paying basis;
 - 12.2.4** the provision of a product or a service to any [NHS Body] or to any patient under the care of an [NHS Body].
- 12.3** If Asthma UK is approached for consent at an early stage of negotiations over the proposed commercial purpose, Asthma UK may provide conditional consent and will not subsequently withdraw or refuse consent unless the conditions have not been fulfilled;
- 12.4** For clarity, assignment of Arising IP by the Host Institution to a TTO or other third party assisting the Host Institution with the exploitation of the Arising IP, shall not require the prior written consent of Asthma UK provided that:
- 12.4.1** Such assignment is subject to Asthma UK's rights recorded in this Agreement and the IP Policy; and
 - 12.4.2** The TTO or other third party assisting the Host Institution agrees to adhere to the terms of this IP Policy.
- 12.5** In the event that Asthma UK does not provide a response to the Host Institution's request for consent within thirty days of receipt of the request, the Host Institution will make contact with Asthma UK. If Asthma UK does not respond to this second request for consent within seven days, the Host Institution may proceed with the proposed commercial exploitation.
- 12.6** If Asthma UK agrees to grant consent, Asthma UK may impose such conditions as it deems reasonable in order to ensure that:
- 12.6.1** The Arising IP remains available on a non-exclusive, cost-free basis for academic and research purposes;
 - 12.6.2** The proposed commercial purpose does not conflict with or impede the aims and policies of Asthma UK.

13 Exploitation - Revenue sharing

13.1 The Host Institution shall share all Net Revenue received by the Host Institution from the exploitation of the Arising IP, in line with the AMRC guidelines as follows:

13.1.1 Before distributing Net Revenue, the Host Institution may deduct a technology transfer fee based on the cumulative Net Revenue as set out in the table below:

Net Revenue (cumulative)	Technology Transfer Fee
£0 - £100,000	10%
>£100,000	5%

13.1.2 Unless agreed otherwise, the remaining Net Revenue shall then be distributed between the Host Institution and Asthma UK on a 50%/50% basis in accordance with clause 15.3 below.

13.2 The Host Institution will be solely responsible for distributing its share of the Net Revenue or Combination Package Net Revenue to funded individuals who contributed to the Arising IP in accordance with any policy of the Host Institution, and to the Partner, subject to the terms of this IP Policy.

13.3 Where the Arising IP is to be exploited as part of a Combination Package:

13.3.1 The Host Institution shall determine an appropriate and reasonable WR, in accordance with the custom and practice of reasonable technology transfer offices. The Host Institution shall consult with Asthma UK or its agent in making a determination of an appropriate WR and shall take reasonable notice of comments received;

13.3.2 The Host Institution and Asthma UK agree to share all Combination Package Net Revenue as provided in Clause 13.1.

14 Arising Materials

14.1 In the event that Arising Materials are generated and subject to any third party rights in the Arising Materials:

14.1.1 The Arising Materials and associated Know-How must be made available on request by the Host Institution to non-commercial third parties on a non-exclusive, sub-licensable, free of charge basis for academic or not-for-profit research. The Host Institution is encouraged to make use of public/not for profit repositories for the purposes of such dissemination, under an appropriate agreement with said repository;

14.1.2 The Host Institution is also encouraged to make the Arising Materials and associated Know-How available to commercial third parties for appropriate licensing terms. For clarity, any revenue received from the [Commercial Use] of the Arising Materials will be treated as Gross Revenue.

14.2 In relation to Arising Materials, the Host Institution agrees to act (and shall require that any assignee or licensee acts) in accordance with all applicable legislation and with the utmost care in terms of human and animal health, wellbeing and ethics.

15 Records and reporting

15.1 The Host Institution shall keep complete and accurate accounts of all Direct Costs, deductions, Gross Revenue and/or Combination Package Gross Revenue.

- 15.2** The Host Institution shall make these accounts available to Asthma UK on reasonable notice for inspection and verification during business hours by an independent professionally qualified accountant nominated by Asthma UK and reasonably acceptable to Host Institution. Asthma UK shall be responsible for the accountant's charges unless the accountant finds an underpayment of at least five percent (5%) between sums due and sums paid to Asthma UK since the last most recent inspection.
- 15.3** The Host Institution, within thirty (30) days after 31 July each year, shall provide Asthma UK with a statement setting out Gross Revenue or Combination Package Gross Revenue received and Direct Costs incurred during the previous twelve (12) month period, together with the value of the Net Revenue or Combination Package Net Revenue arising therefrom. If no revenue is payable to Asthma UK, the Host Institution shall so report. On receipt of such statement from the Host Institution Asthma UK shall issue the Host Institution with an invoice for any payment due to Asthma UK, which will be paid by the Host Institution in accordance with the instructions set out in the Asthma UK invoice.
- 15.4** In the event that the Host Institution is obliged by law to deduct tax from any payment to Asthma UK under this IP Policy, it shall provide Asthma UK with documentary evidence of such deduction and shall assist Asthma UK to seek relief under a double taxation agreement or other applicable agreements.

¹ For clarity, the Intellectual Property and Revenue Sharing Agreement itself would only be executed where there is IP (Arising Intellectual Property) arising from a Research Project. In the event Host Institution generates Arising Intellectual Property, the Institution and the Charity shall execute a Revenue Sharing Agreement in line with the provisions of the Contract, and this Intellectual Property and Revenue Sharing Policy fully taking into account the proportionate contribution made to the Arising Intellectual Property by all the parties.