

**Massachusetts Life Sciences Center
General Terms and Conditions
and
Confidential Information Policy**

The following General Terms and Conditions are issued by the Massachusetts Life Sciences Center, a public instrumentality of the Commonwealth of Massachusetts, established pursuant to Massachusetts General Laws Chapter 23I, Section 3 (“MLSC,” as further defined in Section 1, below). Parties shall be bound by these General Terms and Conditions upon execution and submission of the Agreement (as defined herein) to MLSC. These General Terms and Conditions will be incorporated by reference into the Agreement for any financial assistance award executed by the Party and MLSC. **These General Terms may be updated without prior notice. It is the responsibility of Party (as defined herein) to check the MLSC website for any addenda or modifications to these General Terms and Conditions.**

1. Definitions

“Agreement” means the Grant Agreement entered into to which these General Terms and Conditions are attached and these General Terms and Conditions and all other referenced schedules and attachments thereto and hereto, as the same may be amended from time to time in accordance with the terms thereof and hereof.

“Commonwealth” means the Commonwealth of Massachusetts (and its political subdivisions or agents where the context so requires).

“Deliverable” means any tangible product to be delivered as an element of performance under an Agreement.

“General Counsel” means MLSC’s General Counsel, or, in the event that no Person holds such title at the time in question, such other legal counsel to MLSC as MLSC’s Executive Director or Board may designate.

“Governmental Authority” means any national or federal government, any state or other political subdivision thereof, and any other Person exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.

“Grant” means the funding awarded by MLSC’s Board of Directors as set forth in the applicable Agreement.

“Grant Agreement” means the documentation that sets forth the Grant awarded, the specifics of the Project for which the Grant was awarded and additional terms and conditions for the application and use of such Grant funds, including the Project Plan and Budget, and to which documentation these General Terms and Conditions are attached.

“MLSC” means the Massachusetts Life Sciences Center, and any of its subsidiaries, subdivisions or affiliates, and the successors or assigns thereof.

“Party” means any Person who has sought funding or other financial support from, or has submitted one or more proposals for Projects to, MLSC and has been awarded such financial support or funding or advisory or community service opportunity under any of MLSC’s programs or initiatives as in effect from time to time. Party may be referred to as “Party” in the Grant Agreement. For the purpose of clarity, Party obligations extend only to the extent materially applicable to the respective obligations of the individual party under the Grant Agreement, and the Parties may be specifically named hereafter to further distinguish such respective obligations.

“Person” means any individual, corporation, limited liability company, partnership or other legal entity with the power to undertake the duties hereunder.

"Project Budget" means the costs associated with the tasks set forth in the Project Plan which shall be reimbursed by MLSC pursuant to the terms and conditions of the applicable Agreement.

"Project Manager" means the individuals, set forth in the applicable Grant Agreement, employed or otherwise engaged by MLSC and by Party, respectively, who shall have primary responsibility for managing the Project on behalf of MLSC and the Party, respectively.

"Project Plan" means the set of tasks required to complete the Project as set forth in the applicable Grant Agreement.

"Public Records Law" means the Massachusetts Public Records Act, M.G.L. Chapter 66, and any successor thereto, as affected by Chapter 23I, Section 3(l).

2. Insurance

Specific requirements for insurance shall be set forth in the applicable Agreement. In the absence of any specific requirements for insurance, the Party shall maintain insurance and/or self-insurance that is prudent and adequate for the Project Plan and its obligations under the Agreement. Upon request, Party shall provide MLSC with reasonable evidence of applicable insurance or self-insurance.

3. Publicity

The parties shall collaborate on any press releases, events, signs and other publicity concerning the Project (collectively, "PR"). In any PR produced, neither party will represent that positions taken or advanced by it represent the opinion or position of the other. The parties may not issue, participate in, or contribute to any PR without the prior written consent of the other party. The foregoing notwithstanding, the Parties may make factual statements about the existence of this Grant Agreement without prior approval, including the amount of funding and the description of the Project, or as otherwise required by law, court order, regulation or for its own internal purposes. **Party understands that when applying for and subsequently receiving an award from a program administered by the MLSC, the names of awardees and the amount of each award will be disclosed to the public.**

4. Assignment and Subcontracting

- a) The Party shall not assign or in any way transfer any interest in the Grant or the Agreement including subcontracting any services without the prior written consent of MLSC, except as otherwise included in the Party's Project Plan and Project Budget.
- b) The Party will procure services from any subcontractors approved pursuant to Section 4(a) above, by using commercially responsible procurement mechanisms, and, where specifically required in the Grant Agreement, using competitive procurement procedures. Furthermore, the Party is required to notify MLSC in the event that it intends to or has entered into an agreement to use the Grant to pay for goods or services with a related party. For purposes of this agreement, a "related party" means any person or entity directly or indirectly Controlling, Controlled by or under Common Control with the Party. As used herein, "Control" (including the correlative meanings of the terms "Controlling", "Controlled by" and "under Common Control with"), as used with respect to any person or entity, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of such person or entity whether through ownership of voting securities, by contract or otherwise. To the extent such goods or services obtained from a related party are properly identified in the Project Budget, and the related party status is clearly disclosed and is not objected to by MLSC, Party may use the Grant to pay for such goods or services.
- c) The foregoing requirements are not intended to override conflicting procurement rules that are expressly required by law.

5. Non-Exclusion from Governmental Programs

The Party represents and warrants that it shall use its best efforts to ensure that the Party and, to the

extent applicable, any related party, and Persons that will work on any Project:

- a) are not and have not been debarred, suspended, declared ineligible, or excluded by any department or agency of the Commonwealth or of the United States;
- b) have not been convicted of fraud or another criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state or local) transaction or contract under a public transaction, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; and
- c) are not presently and have not been indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in Section 5(b) above.

6. Ethical Conduct Policy and Enforcement

The Party agrees that the Grant is subject to the Party having in place on or before the date that Party enters into a Grant Agreement with the MLSC appropriate policies and measures to ensure that the Party handles the Grant responsibly and ethically and that the opportunity for improper personal financial or other gain on part of the Party, its employees and consultants, and any other persons with whom they may collaborate regarding any Project is minimized, and that limit the potential for research results to be tainted by possible personal financial or other gain.

The Party hereby agrees that it has no intention of using the Grant towards its or any of its employees', collaborators' or affiliates' improper personal financial or other gain. The Party agrees to deliver a written copy of the aforementioned policies to MLSC and to enforce such policies diligently during the Term hereof upon request.

7. Safety

For the entire term hereof, the Party agrees to meet the requirements of all applicable Federal, State and local laws, regulations and ordinances regarding health and safety standards and for establishing and implementing necessary measures to minimize the risk of injury or illness to any and all Persons engaged in activities related to the Grant.

For the entire term hereof, the Party further agrees to comply with the provisions of all applicable Federal, State and local laws, regulations and ordinances regarding public safety, protection from and prevention of terrorism and crime, and protection of the environment.

8. Payment of Debt and Taxes

The Party represents that the Party, to the best of its knowledge and belief, is not delinquent in the payment of any debt or other obligation owed by the Party to the Commonwealth and covenants that the Party shall timely pay any debt or other obligation that the Party owes or may come to owe to the Commonwealth during the term hereof, except that Party, by virtue of being a state agency, does carry over debt in accordance with its customary accounting and fiscal policies and practices that are required by state law.

The Party represents, to the best of its knowledge and belief, that there are no taxes owed by the Party to the Commonwealth on the date hereof, other than such taxes as are being protested by the Party under and in accordance with applicable law, and Party covenants to pay in a timely fashion all taxes that become due from the Party to the Commonwealth during the term hereof and which are lawfully imposed by the Commonwealth on the Party.

9. Confidentiality and Privacy

Except as set forth in the MLSC Confidential Information Policy, the Party agrees to take all appropriate actions to protect the confidentiality of information about and the privacy of individuals participating in any Project and to comply with the provisions of all applicable Federal, State or local laws, regulations

and ordinances regarding confidentiality and privacy of such information.

10. Nondiscrimination

The Party agrees to comply with all applicable Federal and State laws, regulations and ordinances that prohibit unlawful discrimination based on race, color, age, gender, ethnicity, gender identity or expression, religion, creed, ancestry, national origin, disability, sex, sexual orientation, veteran's status or background or for exercising any rights afforded by law.

The Party also agrees to comply with all applicable Federal and State laws, regulations and ordinances promoting fair employment practices or prohibiting employment discrimination and unfair labor practices and shall not discriminate in the hiring of any applicant for employment nor shall any qualified employee be demoted, discharged or otherwise subject to discrimination in the tenure, position, promotional opportunities, wages, benefits or terms and conditions of their employment because of race, color, national origin, ancestry, age, sex, religion, disability, sexual orientation, or for exercising any rights afforded by law.

11. MLSC's Budgetary Constraints.

Party hereby acknowledges fully that MLSC is a public instrumentality of the Commonwealth of Massachusetts and depends on the Commonwealth of Massachusetts for funding the Grant. MLSC may be subject to budgetary cutbacks and other unforeseen financial constraints that may cause MLSC to terminate an Agreement and/or reduce the unpaid portion of the Grant, entirely or in part. Should such early termination or reduction in funding the Project occur, MLSC shall notify Party in a reasonably timely manner and MLSC and Party shall work together to modify the rights and obligations under the Agreement as appropriate and with the goal of preserving as much of the Project as reasonably practicable.

12. Public Records

As a public instrumentality, MLSC is subject to the Massachusetts Public Records Law (set forth at Massachusetts General Laws Chapter 66 and as limited by Chapter 23J) and thus documents and other materials made or received by MLSC and/or its employees may be subject to public disclosure. All information received by MLSC shall be deemed to be subject to public disclosure, except as otherwise provided in the procedures set forth in the MLSC Confidential Information Policy. By signing a Grant Agreement, Party acknowledges, understands and agrees that the procedures set forth in the MLSC Confidential Information Policy are applicable to any documents submitted by Party to MLSC, including but not limited to any acknowledgements set forth therein, and that Party shall be bound by these procedures.

13. Audit

Party shall maintain in a true and accurate manner and in accordance with generally accepted accounting principles, complete and accurate books and records as would normally be examined by an independent certified public accountant pursuant to generally accepted auditing standards in performing a separate audit or examination of Party's Grant receipts and Project Budget. Such books and records shall contain records of Party's pertinent activity under the Agreement in a form consistent with good accounting practice which may include, without limitation, electronic media compatible with computers available to the MLSC, computer generated hard copies or electronic copies. Such books and records shall be maintained in a form consistent with generally accepted accounting practices.

Upon seven (7) calendar days notice from MLSC, all such books and records shall be made available, as Party shall elect by written notice to MLSC given within such seven (7) calendar-day period, either at the Party's offices or at the offices of the MLSC, for inspection by MLSC or through its duly authorized representatives at any time for up to three (3) years after the termination or expiration of the Agreement; provided, however, that if prior to the expiration of such three (3) year period, any audit, review or investigation is commenced by the MLSC, or any claim is made or litigation is commenced relating to this Agreement by the MLSC, such books and records shall continue to be maintained by Party, and

MLSC shall continue to have the right to inspect such books and records in the manner stated above, until the audit, claim or litigation is finally resolved (including the determination of any and all appeals or the expiration of time for an appeal), whether or not the Grant Agreement has expired or been earlier terminated. The right to inspect shall include the right to photocopy said books, records and data as the MLSC determines in its discretion to be necessary or convenient in connection with its review or audit thereof. Any such inspection at the Party's offices will be conducted during reasonable business hours and in such a manner and at such time as to not unduly interfere with the conduct of Party's operations. Failure to provide the MLSC with the books, records and data as the MLSC determines in its reasonable discretion to be necessary or convenient in connection with its review or audit hereof will constitute a default of this Agreement. All costs, expenses and fees associated with such an audit shall be the sole responsibility and liability of MLSC.

If MLSC reasonably determines that any allocation of Grant funds to costs permitted to be funded by a Grant are not supported or substantiated by such books and records, Party shall reimburse MLSC for all such amounts, but only after the respective Project Managers consult in a good faith manner to resolve any allocation issue

MLSC shall further have the right, upon reasonable written notice to Party, to cause an audit to be made of the books and records of Party and its assignees and agents which relate to any Project to determine the correctness of the allocation of Grant funds to permissible costs by Party hereunder. If, as a result of such audit conducted within any of the time periods permitted by this section, whether or not this Agreement has expired or been earlier terminated, it is established that Grant funds have been applied impermissibly, Party shall forthwith, upon written demand from MLSC, repay to MLSC all amounts impermissibly applied, but only after the respective Project Managers consult in a good faith manner to resolve any allocation issue. The Party's obligations under this Section shall survive the expiration or earlier termination of this Agreement, to the extent provided herein.

14. Additional Covenants

Party hereby covenants to MLSC that it shall not enter into any agreements (including grant agreements), whether written or oral, nor take any other actions or make any omissions that may detrimentally impact MLSC's rights under this Agreement or impair, in any manner whatsoever, the Party's ability to fulfill its obligations under this Agreement.

Except as disclosed to MLSC, Party hereby covenants to MLSC that it shall maintain, in its own name and for its own benefit, good and proper title to and right in any and all (i) real or personal property acquired or leased in connection with the Project, (ii) Project inventions, but subject to the Party's Intellectual Property Policy and any contractual obligations, and (iii) work products, reports, databases, plans, specifications, analyses, and any other information and materials developed or produced in connection with the Project, but excluding published scholarly articles where the publisher becomes the copyright holder.

15. Conflict of Interest

Party acknowledges that all MLSC employees are subject to the Massachusetts Conflict of Interest statute, set forth at Massachusetts General Laws Chapter 268A.

16. Lobbying

No Grant funds may be used to pay for or otherwise support any activities intended to influence any matter pending before the Massachusetts General Court or for activities covered by the law and regulations governing "legislative agents" or "executive agents" set forth in the Massachusetts Lobbying Law, M.G.L. Ch. 3, §39.

17. Force Majeure

Neither party shall be liable to the other, or be deemed to be in breach of this Agreement for any failure or delay in rendering performance arising out of causes beyond its reasonable control and without its fault or negligence. Such causes may include, but are not limited to, acts of God or of a public enemy,

fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or unusually severe weather. Dates or times of performance including the Term of this Agreement may be extended to account for delays excused by this Section, provided that the party whose performance is affected notifies the other promptly of the existence and nature of such delay.

The Party shall notify MLSC orally within five (5) calendar days and in writing within ten (10) calendar days of the date on which the Party becomes aware, or should have reasonably become aware, that such cause would prevent or delay its performance. Such notification shall (i) describe fully such cause(s) and its effect on performance, (ii) state whether performance under the contract is prevented or delayed and (iii) if performance is delayed, state a reasonable estimate of the duration of the delay. The Party shall have the burden of proving that such cause(s) delayed or prevented its performance despite its diligent efforts to perform and shall produce such supporting documentation as MLSC may reasonably request. After receipt of such notification, MLSC may elect either to terminate the Agreement or to extend the time for performance as reasonably necessary to compensate for the Party's delay.

18. Waivers

Conditions, covenants, duties and obligations contained in the Agreement may be waived only by written agreement between the parties. Forbearance or indulgence in any form or manner by a party shall not be construed as a waiver, nor in any way limit the remedies available to that party.

19. Compliance with Laws

Party shall ensure that its contractors and subcontractors have obtained all necessary permits and licenses, if required, and fully complies with all applicable laws and regulations of the Commonwealth, Federal government and any applicable local authorities in conducting any business in any way associated with an Agreement.

20. Compliance with MLSC Agreements

Party shall ensure compliance with all MLSC agreements, including any and all reporting deliverables. MLSC may deem non-compliance as a material default or Change Event as applicable in accordance with the provisions of this Agreement. MLSC may withhold reimbursement or disbursement of funds if Party is not in compliance as set forth in this section.

21. Headings.

Headings used in this Agreement are for convenience only and shall not be used in the interpretation of the provisions of this Agreement.

22. Survival.

The covenants set forth in these General Terms and Conditions shall survive any termination or expiration of the Agreement, as applicable.

THE MASSACHUSETTS LIFE SCIENCES CENTER CONFIDENTIAL INFORMATION POLICY

Introduction

The MLSC is subject to the requirements concerning disclosure of public records under the Massachusetts Public Records Act, M.G.L. c. 66 (Public Records Act), which governs the retention, disposition and archiving of public records. For purposes of the Public Records Act, "public records" include all books, papers, maps, photographs, recorded tapes, financial statements, statistical tabulations, or other documentary materials or data, regardless of physical form or characteristics, made or received by MLSC. As a result, any information submitted to MLSC by a company is subject to public disclosure as set forth in the Public Records Act.

The foregoing notwithstanding, "public records" do not include certain materials or data which fall within a specifically enumerated exemption set forth in the MLSC's enabling act, M.G.L. Chapter 23I. Such exemption that may be applicable to documents submitted by a company is for any documentary materials or data made or received by MLSC that consists of trade secrets or commercial or financial information regarding the operation of any business conducted by the company, or regarding the competitive position of such company in a particular field of endeavor (Trade Secrets Exemption). In the event that a company wishes to submit certain documents to MLSC and believes such a document or documents may be proprietary in nature and may fall within the parameters of the Trade Secrets Exemption, the company should identify such materials in its application as Confidential.

Procedures for Handling Documents Identified as "Confidential Information"

In the event that Party submits documents to the Center that Party believes may be proprietary in nature and may fall within the parameters of the MLSC Trade Secrets Exemption and/or some other applicable exemption, the following procedures shall apply:

- A) At the time of Party's initial submission of documents to the Center, Party must clearly and unambiguously identify each and every such document that it contends is subject to an exemption from public disclosure as "Confidential Information." It is the Party's responsibility to ensure that all such documents are sufficiently identified as "Confidential Information," and Party's designation must be placed in a prominent location on the face of each and every document that it contends is exempt from disclosure under the Public Records Act.

Documents that are not properly identified by Party as "Confidential Information" at the time of their initial submission to the Center may be subject to disclosure under the Public Records Act, and the procedures for providing the Party with notice of any formal public records request for documents, as set forth below, shall be inapplicable.

- B) At the time the Center receives documents from Party, any such documents designated by Party as "Confidential Information" shall be stored in a secure filing area when not being utilized by appropriate Center staff for purposes of administering the Grant.
- C) In the event that the Center receives a formal, written public records request for documents submitted by Party in response to the solicitation, the Center shall notify the Party and may, but shall not be required to, provide Party an opportunity to present the MLSC with information and/or legal arguments concerning the applicability of the MLSC Trade Secrets Exemption or some other exemption to the subject documents. The Center shall then produce all non-confidential, responsive documents.

THE CENTER'S GENERAL COUNSEL IS THE SOLE AUTHORITY WITHIN MLSC FOR MAKING DETERMINATIONS ON THE APPLICABILITY AND/OR ASSERTION OF AN EXEMPTION TO THE PUBLIC RECORDS ACT. NO EMPLOYEE OF THE CENTER OTHER THAN THE GENERAL COUNSEL HAS ANY AUTHORITY TO

ADDRESS ISSUES CONCERNING THE STATUS OF "CONFIDENTIAL INFORMATION" OR TO BIND THE CENTER IN ANY MANNER CONCERNING THE CENTER'S TREATMENT AND DISCLOSURE OF SUCH DOCUMENTS.

- D) In the event that the Center determines that the subject documents are exempt from disclosure, the requesting party may seek review of the Center's determination before the Supervisor of Public Records, and the Center shall notify the Party in writing in the event that the requesting party pursues a review of the Center's determination.
- E) In the event the requesting party pursues a review of the Center's determination that the documents are exempt from disclosure and the Supervisor of Public Records concludes that the subject documents are not exempt from disclosure and orders the Center to disclose such documents to the requester, the Center shall notify the Party in writing prior to the disclosure of any such documents, and Applicant may pursue injunctive relief or any other course of action in its discretion.
- F) In the event the Center determines that the subject documents are not exempt from disclosure, or the General Counsel determines that, under the circumstances and in his/her discretion, the Center shall not assert an exemption, the Center shall notify Party in writing prior to the disclosure of such documents, and Party may pursue injunctive relief or any other course of action in its discretion.

All documents submitted by Party, whether designated as "Confidential Information" or not, are not returnable to Party.