

## Research Facilities Services Agreement - Terms & Conditions

These are Standard Terms and Conditions for the provision of services by the Research Facilities at the Children's Medical Research Institute (**CMRI**).

These Standard Terms and Conditions are to be read in conjunction with the Order and Facility Terms (provided as a Schedule), which together form the agreement between CMRI and the Customer.

By accepting and signing the Order, including but not limited to email confirmation or digital acceptance via an online platform such as DocuSign, the Customer agrees to the prices outlined in the Order and these Standard Terms and Conditions. Any variations to these Standard Terms and Conditions shall be outlined as Special Conditions in an Order.

### 1. DEFINITIONS

**Affiliate** means an entity that controls, or is controlled by or under common control with, a party at the relevant point in time. Control exists where an entity directly or indirectly owns more than 50% of the voting shares in the other entity, controls the composition of its board of directors or otherwise has the ability to control the other entity's affairs.

**Agreement** means the agreement between CMRI and Customer that comprises:

- (a) an Order; and
- (b) these Standard Terms and Conditions.

**CMRI Background IP** means Intellectual Property owned by CMRI, which CMRI is free to license and is necessary for Customer's use of the Deliverables in accordance with the Usage Rights.

**Commencement Date** means from the date these Terms and Conditions are agreed to by the parties.

**Completion Date** means the end date specified in the Order; or until the later of the completion of the Services by CMRI or the provision of Deliverables to the Customer.

**Confidential Information** means the terms of this agreement, the Customer Information and all know-how, technical and financial information, materials and any other commercially valuable or sensitive information in whatever form, including inventions (whether or not reduced to practice), trade secrets, formulae, graphs, drawings, samples, devices, models and any other materials or information of whatever description, which a party regards as confidential, proprietary or of a commercially sensitive nature. The following are exceptions to such information (and the party seeking to rely on the exception bears the burden of establishing the existence of such exceptions):

- (i) information which is lawfully in the public domain prior to its disclosure to the party;
- (ii) information which enters the public domain otherwise than as a result of an unauthorised disclosure;

- (iii) information which is or becomes lawfully available to the party from a third party who has the lawful power to disclose such information to the party on a non-confidential basis; and
- (iv) information which is rightfully known or independently developed by the party prior to the date of disclosure.

**Customer** means the person(s), company, incorporated association or firm to whom CMRI agrees to provide the Services described in an Order.

**Customer Information** has the meaning given in clause 3.2(a).

**Customer IP** has the meaning given in clause 6.1.

**Customer Material** includes, without limitation, any biological, chemical or other materials, data or information, or equipment supplied or required to be supplied (as the context requires) to CMRI or its Personnel by or on behalf of the Customer under clause 3.2.

**De-Identified Information** means clinicopathological patient information, being data which is re-identifiable by the Customer but which is provided to CMRI with all identifiers having been removed. Some examples include name, initial, date of birth, age, sex, medical history, pathology, treatments, and treatment outcomes.

**Deliverables** means the deliverables described in an Order (if any), which may include tangible products, reports, or results (technical information and/or data) to be supplied by CMRI to the Customer under this Agreement.

**Derivatives** mean substances which contain or incorporate any of the Customer Material or Deliverables (as the context requires), including substances which constitute an unmodified functional subunit or product expressed by Customer Material or a Deliverable.

**Fee** means the fees specified in the Order.

**Force Majeure Event** means an event outside the reasonable control of the affected party (except for a lack of funds) and that could not have been prevented by that party taking all reasonable steps, and includes without limitation natural disasters (i.e. floods, tornadoes, earthquakes, hurricanes), acts of people (i.e. acts of terrorism, riots, strikes, wars), epidemics, pandemics, quarantine and government action.

**Intellectual Property** means statutory and other proprietary rights in respect of copyright and neighbouring rights; all rights in relation to inventions, patents, know-how, plant varieties, registered and unregistered trademarks, registered and unregistered designs, circuit layouts and rights to maintain the confidentiality of information, but does not include moral rights that are not transferable.

**Liabilities** means any and all, losses, claims, damages, liabilities, obligations, penalties, judgments, awards, costs, expenses, and disbursements, including, the costs,

expenses and disbursements, as and when incurred, of investigating, preparing, or defending any action, suit, proceeding, or investigation asserted by a third party (including legal fees and expenses on a full indemnity basis), however arising (including under tort or negligence).

**Order** means:

- (a) any Project Request Form which is accepted and agreed to by CMRI; and/or
- (b) any Quotation, which is accepted and agreed to by that Customer.

**Personal Information** means personal information as defined in the *Privacy Act 1988* (Cth).

**Personnel** means a party's employees, officers, directors, advisers or other authorised representatives, and in the case of Customer includes the Customer Scientist.

**Privacy Laws** means the *Privacy and Personal Information Protection Act 1998* (NSW), the *Privacy Act 1988* (Cth) and laws, principles, codes and policies relating to the collection, use, disclosure, storage and access to Personal Information in the jurisdiction where a party is located.

**Project Request Form** means a form provided by CMRI which is completed by the Customer and includes the Customer's details, project brief and services requested.

**Quotation** means any quotation from CMRI to a Customer that outlines the Scope of Services and associated pricing, and which incorporates by reference these Standard Terms and Conditions.

**Services** means those research services to be provided by CMRI to the Customer as described in the Order.

**Services IP** means Intellectual Property that relates solely to the Customer Material or Derivatives of Customer Material which is created by CMRI in the course of supplying the Services. For the avoidance of doubt, Services IP does not include any improvements to CMRI's methods or know-how.

**Scope of Services** means any document/s which contain relevant Customer Information and which describe the Services and Deliverables which correspond to the Quotation. The Scope of Services may include a completed Project Request Form and any other documents that are accepted and agreed to in writing by CMRI and Customer with respect to the provision of Services.

**Usage Rights** means the use of Deliverables must only be for non-commercial research and teaching purposes by the Customer and its authorised Personnel. Unless otherwise agreed in an Order, Deliverables must not be:

- (a) used for *in vivo* testing in humans;
- (b) sold, transferred or otherwise provided to any third party other than for non-commercial research and teaching purposes; or
- (c) used for purposes that are contrary to law, infringe third parties' Intellectual Property or breach any

contractual or other legal obligation owed by Customer or an Affiliate to CMRI or a third party.

## 2. QUOTATION AND ORDERING

### 2.1 Ordering

- (a) Customer may request a Quotation(s) and/or submit a Project Request Form relating to the provision of Services by CMRI at any time. The submission of a Quotation request and/or an Order Form by Customer places no obligation on the Customer nor CMRI to execute an Agreement for the supply of Services.
- (b) CMRI may accept or reject any request for Quotation and/or any submitted Project Request Form at any time and is under no obligation to provide a Quotation.
- (c) CMRI may require the Customer to complete a Project Request Form and/or require a Scope of Services to be finalised prior to providing a Quotation.
- (d) Quotations remain valid for thirty (30) days from the quotation issue date, unless otherwise stated on the Quotation or otherwise agreed in writing by CMRI.
- (e) CMRI reserves the right to revise any Quotation before agreeing to provide Services. Revisions may occur under the following circumstances, including but not limited to:
  - (i) the Quotation is no longer valid under subclause 2.1(d);
  - (ii) the Customer Information supplied prior to Quotation was incomplete or has since changed affecting CMRI's considerations in preparing the Quotation;
  - (iii) the Scope of Services was not finalised at the time of Quotation, and subsequent information received by CMRI alters any aspect of the Services to be provided;
  - (iv) Customer Material received by CMRI does not meet the specifications required for the Services, as published on the CMRI Research Facilities website or otherwise communicated in writing to the Customer, resulting in additional work to be carried out by CMRI;
  - (v) Customer Material is damaged or adversely affected during transport prior to receipt by CMRI, resulting in additional work to be carried out by CMRI.
- (f) Customer may request changes to a Quotation at any time prior to the commencement of Services, or any part of the Services described within a Quotation. CMRI will make reasonable efforts to accommodate such requests. Any costs incurred by CMRI in relation to the provision of Services

prior to the change request will remain payable by the Customer.

### 3. SUPPLY OF SERVICES

#### 3.1 Ethics approvals

- (a) Customer must ensure all Customer Material was collected or will be collected in accordance with the standard patient informed consent procedures and animal ethics approvals, and Institutional Biosafety Committee (IBC) approvals, in effect at the time of collection and subject to approval or an exemption determination by the Customer's human and animal research ethics committee and IBC.
- (b) CMRI is not qualified to provide ethics clearance or any other relevant regulatory approvals. It is the sole responsibility of Customer to obtain all regulatory and privacy approvals, clearances and licences necessary for Customer's provision of the Customer Material and Customer Information, and for the use of Deliverables. Customer must ensure it has all relevant regulatory approvals prior to entering into this agreement.
- (c) Customer must supply copies of relevant ethics approvals and IBC approvals to CMRI on request.
- (d) Customer Materials received at CMRI from external collaborators, investigators, commercial or academic bodies or biobanks must be coded to protect the identity of the patient/donor. If identified data is received at CMRI, the CMRI Research Office requires that the identified elements are deleted, the mode of receipt (if digital or hard copy) is contained/deleted/shredded and the collaborator/sender/provider and appropriate principal investigators are notified. The CMRI Research Office and Privacy Officer must be notified, and it is likely that the approving HREC will also require notification. The data will not be used to provide Services before an evaluation/outcome has taken place.

#### 3.2 Supply of Customer Material

- (a) Customer must supply the Customer Material and De-Identified Information to CMRI as soon as practicable after the Commencement Date, together with all information known to Customer regarding the toxicity or other properties of, and the safe use and handling of, the Customer Material and such other information as CMRI reasonably requires in order to perform the Services (**Customer Information**).
- (b) Customer agrees that CMRI may revise a Quotation where the Customer Material and/or Customer Information required to provide the Services is not supplied to CMRI within twelve (12) months of Order placement, including but not limited to account for any inflation and/or changes in the cost of the provision of Services which have arisen since Order placement.

- (c) Customer must not knowingly supply Customer Material that is infectious, radioactive or otherwise hazardous unless Customer has first disclosed to CMRI the biohazards associated with the Customer Material. CMRI may refuse to perform the Services if it considers the Customer Material may pose a hazard to its Personnel.
- (d) Customer will be liable for payment of shipping, insurance and export and import costs for the delivery of Customer Material to CMRI's premises. If CMRI organises delivery on Customer's behalf, Customer must reimburse such costs within thirty (30) days of receipt of CMRI's invoice.
- (e) CMRI is under no obligation to perform the Services unless and until:
  - (i) Customer has ethics approvals in accordance with clause 3.1(a);
  - (ii) Customer has paid any Initiation Fee as defined in clause 4.1(a) and
  - (iii) Customer Material and Customer Information is received and is, in CMRI's opinion, in a suitable state for provision of the Services.
- (f) Risk and title in the Customer Material remains with the Customer at all times.
- (g) While CMRI will take reasonable care to prevent the loss, theft, contamination, degradation or destruction of Customer Material and Customer Information in its possession, CMRI accepts no responsibility in relation to the Customer Material or Customer Information.
- (h) The parties acknowledge that due to the nature of some of the Services all Customer Material may be entirely consumed. CMRI must be notified of high value or irreplaceable samples in advance of any work being performed.
- (i) Customer understands that the success of the Deliverables is directly attributable to the quality and quantity of the Customer Materials provided. CMRI will work to generate results guided by best practices in the field however CMRI cannot be responsible for undesired results due to the provision of Customer Materials that are not of a suitable quality or quantity. In this regard, CMRI reserves the right to reject Customer Materials which are likely to result in a high risk of failure due to its quality integrity.

#### 3.3 Supply of Services and Deliverables

- (a) Subject to clauses 3.1, 3.2 and 3.3(b), CMRI will supply the Services and use its reasonable endeavours to deliver the Deliverables to Customer as specified in the Order.
- (b) Customer acknowledges that due to the nature of some of the Services, CMRI cannot guarantee timely performance or that the Services will actually be successful. CMRI will notify and consult with Customer in the event of any delays or technical

difficulties in performing the Services. If the Services are initially unsuccessful for reasons that CMRI considers are not related to the Customer Material or Customer Information, CMRI may in its sole discretion attempt to re-perform the Services for no additional charge.

- (c) Customer acknowledges that CMRI may at its sole discretion determine the equipment, sub-contractor, supplier, supply chain and specifications for any raw materials, reagents, consumables, or any other resources to be used in the provision of Services.
- (d) CMRI may recommend a preferred supplier to perform certain aspects of the Services. Any such recommendation will be outlined in a Quotation and shall be subject to the Customer's agreement. Such recommendation shall not constitute a subcontracting arrangement, and CMRI shall not be deemed to have engaged the preferred supplier as its agent or subcontractor.
- (e) Delays beyond the control of CMRI (e.g., broken equipment, supply chain issues) will not be compensated. Delays in services will be communicated to the customer as soon as they arise.
- (f) CMRI will transfer or deliver the Deliverables to the Customer. Risk in the Deliverables passes on delivery. Title in the Deliverables passes to Customer on the acceptance of delivery or when all Fees have been paid in full.
- (g) Unless otherwise specified in the Order, Customer will be responsible for the cost of shipping the Deliverables to Customer, including complying with any applicable export and import requirements. If Customer has not made arrangements for shipping of the Deliverables within thirty (30) days of notice from CMRI, CMRI at its sole discretion may charge Customer storage fees and/or discard such Deliverables.
- (h) Unused Customer Materials will be held at CMRI for three (3) months without charge. Beyond this time samples storage and shipping rates will apply.

### 3.4 Use of Deliverables

- (a) Customer must use the Deliverables solely in accordance with the Usage Rights. Customer must not sell, transfer, disclose or otherwise provide access to the Deliverables to any third party other than for non-commercial research and teaching purposes, unless CMRI has given its express written consent beforehand or such use is expressly part of the Usage Rights. The Customer must ensure that any authorised sale, transfer, disclosure or access to the Deliverables to a third party are made on terms consistent with those contained in this Agreement, including but not limited to the Usage Rights and any other restrictions on the use of the Deliverables.

- (b) Customer understands Deliverables have not been approved for human use and agrees that the Deliverables and Derivatives of the Deliverables will not be administered to humans in any manner or form.
- (c) Use of the Deliverables and their Derivatives at Customer's own risk and Customer assumes all Liability for any loss or damage which may arise from its use, handling, storage, transport and disposition of the Deliverables and their Derivatives.
- (d) Customer acknowledges that CMRI shall not be responsible for the results arising from the use of the Deliverables if Customer fails to follow the recommendations provided by CMRI.

### 3.5 Customer's obligations

Customer must:

- (a) use, handle, store, transport and dispose of the Deliverables in compliance with all applicable ethics approvals, laws and regulations;
- (b) ensure its Personnel comply with all the obligations imposed on Customer under this agreement;
- (c) prepare, transport and deliver per the requirements communicated by CMRI; and
- (d) complete the Project Request Form at its earliest. A failure to submit the CMRI Research Facilities Project Request Form may result in a delay in the Services.

### 3.6 Technical failures

- (a) Customer acknowledges that the nature of some of the Services entails a risk of technical failure. Subject to paragraph (b), if a technical failure prevents completion of Services, Customer must pay CMRI all costs directly associated with the provision of the Services, unless otherwise agreed in writing.
- (b) CMRI is not responsible for the direct or indirect consequences of the use of any Customer Material or Customer Information provided by Customer or a third party for a Service (if applicable).
- (c) If the lack of functionality of Customer Material or Customer Information results in the inability of CMRI to provide the Services, CMRI may:
  - (i) recover from Customer all Fees and expenses incurred that are associated with the use of Customer Material and Customer Information up to the point of CMRI's termination of the relevant Services; and
  - (ii) offer its own components or services needed for completion of the Services at an additional fee, to be agreed by the parties in writing.
- (d) At no point will CMRI offer discounts or the like if Services have been performed.

### 3.7 Sub-contracting

- (a) CMRI may sub-contract all or part of the performance of the Services to third parties without notice to the Customer.
- (b) Despite clause 3.7(a), CMRI remains liable for the performance of all its obligations under this agreement.

### 3.8 Access

- (a) Granting of Customer access to CMRI Research Facilities from where Services are provided is at the sole discretion of CMRI. CMRI reserves the right to approve or refuse access to any persons.
- (b) Prior to granting access to CMRI Research Facilities, CMRI may require that the Customer:
  - (i) agree to a separate Visiting Scientist Agreement;
  - (ii) complete relevant training and inductions; and
  - (iii) comply with all applicable CMRI policies and procedures.

## 4. FEES AND PAYMENT

### 4.1 Payment terms

- (a) The Customer must pay CMRI the Fees in the manner specified in the Order.
- (b) Prior to commencing the Services, CMRI may issue an invoice for part payment of the Fees payable for the Services (**Initiation Fee**). The Initiation Fee is non-refundable.
- (c) CMRI will issue to Customer an invoice for the balance of the Fees when CMRI is satisfied that the Services are complete, or as otherwise specified in the Order.
- (d) Invoices may be issued on a monthly basis incorporating all Services provided to Customer during that month; however, CMRI may issue an invoice at any time following completion of the relevant Service.
- (e) CMRI reserves the right to offer terms of credit or require payment of the relevant Fee in full before commencing provision of the Services.
- (f) The Customer is solely responsible for any bank clearance charges incurred in connection with the payment of Fees under this agreement, and such charges shall not be deducted from the amounts payable to CMRI.

### 4.2 Overdue payments

If any payment is overdue, in addition to any other right it may have CMRI may suspend provision of the Services until payment is made and/or charge interest on any unpaid amount at the rate 5% above the Cash Rate Target of the Reserve Bank of Australia (calculated daily).

### 4.3 Goods and services tax

- (a) Unless expressly stated otherwise, all amounts stated to be payable in this agreement exclude GST.
- (b) If GST is imposed on any supply made under or in accordance with this agreement, the Customer of the taxable supply must pay an additional amount equal to the GST payable on or for the taxable supply. Payment of the additional amount will be made at the same time as payment for the taxable supply is required to be made in accordance with this agreement.
- (c) If this document requires a party to pay for, reimburse or contribute to any expense, loss, indemnity or outgoing (reimbursable expense) suffered or incurred by another party, the amount required to be paid, reimbursed or contributed by the first party will be the sum of:
  - (i) the amount of the reimbursable expense less the input tax credits (if any) to which the other party is entitled in respect of the reimbursable expense; and
  - (ii) if the other party's recovery from the first party is a taxable supply, any GST payable in respect of that supply.
- (d) In this clause 4.3, words defined in the *A New Tax System (Goods and Services) Act 1999* (Cth) or subordinate legislation have the meaning given in that legislation.
- (e) Where GST does not apply, the Fees and other amounts payable under this agreement exclude any applicable goods and services tax, value added tax, import or export charges or similar, which additional amounts must be paid by Customer.

## 5. CONFIDENTIAL INFORMATION, PUBLICATIONS AND PRIVACY

### 5.1 Acknowledgement

Each party acknowledges that:

- (a) the Confidential Information of the other party (disclosing party) is the sole and valuable property of the disclosing party; and
- (b) any unauthorised disclosure or use of the Confidential Information could give rise to considerable damage to the disclosing party, and that damages may be an inadequate remedy.

### 5.2 Non-use, non-disclosure obligation

- (a) Each party must keep the disclosing party's Confidential Information confidential, not disclose it to third parties without the disclosing party's consent and only use the Confidential Information for the purposes of this agreement.
- (b) Each party will immediately notify the other party on becoming aware of:

- (i) any unauthorised person coming into possession of any Confidential information;
- (ii) any unauthorised person doing anything in contravention of rights that attach to and arise from the Confidential Information; and
- (iii) report full particulars and provide all reasonable assistance and information that the other party may reasonably request with respect to that unauthorised act.

### 5.3 Disclosure to Personnel

Notwithstanding any other provision of this agreement, a party may disclose the Confidential Information to its Personnel who have a specific need to know the Confidential Information, provided that any such Personnel are subject to binding undertakings of confidence.

### 5.4 Compelled disclosure

If a party is, or may be, required by law or Court order to disclose any of the Confidential Information, it will not be a breach of its obligations under this agreement to do so provided that it notifies the disclosing party in writing of the requirement. The party must, as reasonably required by and at the expense of the disclosing party, assist or permit the disclosing party to oppose or restrict disclosure.

### 5.5 Publications by CMRI

Customer acknowledges and agrees that CMRI may disclose general methods and information created by it as a result of the Services in scientific publications. This does not include the right to disclose any identifiable patient information or Customer Confidential Information.

### 5.6 Publications by Customer

- (a) Where applicable, if Customer wishes to:
  - (i) publish or submit for publication any paper, journal article, oral presentation, poster presentation or other public disclosure; or
  - (ii) file any application with any government or regulatory body which in the ordinary course would expect to be published, referring to CMRI's provision of the Services or Deliverables,
 the Customer must:
  - (iii) refer to the input of the appropriate Research Facility at CMRI in the acknowledgements and/or methods section(s);
  - (iv) include CMRI Personnel as co-author(s), where such Personnel have made substantial intellectual and/or experimental contribution(s) and it is appropriate to do so; and
  - (v) supply a copy of the proposed publication to CMRI beforehand.

For the avoidance of doubt, Customer does not require CMRI approval to publish the publication unless it contains CMRI's Confidential Information or implies that CMRI endorses Customer's technology.

- (b) Customer agrees that if CMRI identifies any errors or false statements in published information which involved a Service provided by CMRI Research Facilities, CMRI reserves the right to require that the published information is corrected promptly at the Customer's sole expense.

### 5.7 Media releases and use of names

Neither party may issue a media release or use the name of the other party in any promotional materials regarding this agreement without prior written consent of the other, except as may be required by law.

### 5.8 Privacy

The parties agree to:

- (a) comply with the relevant Privacy Laws;
- (b) not do anything with any Personal Information it receives or holds that will cause another party to be in breach of any Privacy Laws; and
- (c) assist and co-operate with the parties in resolving any complaints made under any Privacy Laws.

## 6. INTELLECTUAL PROPERTY

### 6.1 Customer Background IP licence

Customer grants CMRI a non-exclusive, royalty-free licence of all Intellectual Property rights in the Customer Material and Customer's Confidential Information (**Customer IP**) during the Term to the extent necessary for the provision of the Services and performance of this agreement by CMRI.

### 6.2 Ownership of Services IP

On payment of all Fees in full, CMRI assigns and agrees to assign all Services IP to Customer. Customer owns the Services IP on and from the date of such assignment.

### 6.3 CMRI Background IP licence

CMRI grants Customer a non-exclusive, worldwide, royalty-free licence to use the CMRI Background IP to the extent necessary for Customer to be able to use the Deliverables in accordance with the Usage Rights, for the duration of the CMRI Background IP. Such licence may not be transferred or sublicensed by the Customer unless otherwise agreed with CMRI.

### 6.4 Third party infringement

- (a) Customer warrants that:
  - (i) it owns or is otherwise entitled to supply the Customer Material and Customer Information to CMRI for the purposes of this agreement and to grant the licence in clause 6.1; and
  - (ii) CMRI's use of the Customer IP will not infringe the Intellectual Property or other

rights of any third party. If Customer has reason to believe such warranty is untrue or a third party alleges that its rights have been infringed by the provision of the Services, Customer must immediately notify CMRI and provide such information in its possession as CMRI may reasonably require in respect of any such allegation.

- (b) If CMRI has reason to believe, or receives an allegation, that a third party's rights have been infringed by CMRI's use of the Customer Material or Customer Information, or the provision of the Services, CMRI may in its sole discretion (and with notice to Customer) suspend the provision of the Services while it investigates such claim or is satisfied that Customer has (at Customer's sole expense) obtained all necessary licences or consents to enable it to authorise provision of the Services. To the extent any such potential infringement specifically relates to the Customer Material or Customer Information, CMRI will promptly notify Customer and provide such information in its possession as Customer may reasonably require in respect of any such allegation.

## 6.5 No implied licence

No implied licences or other rights are provided by either party except as expressly set out in this agreement.

## 7. WARRANTIES AND LIABILITY

### 7.1 Mutual warranties

Each party warrants that it has obtained all necessary consents and approvals required for it to lawfully enter into this agreement.

### 7.2 Customer warranties

Customer warrants that:

- (a) Customer Information supplied by it is complete and accurate in all material respects; and
- (b) Customer Material supplied has been collected in accordance with relevant ethics approvals and is not known to contain hazards to human health. Where there are hazardous materials, Customer must notify CMRI.

### 7.3 Limitations on warranties

- (a) The parties recognise the Services are experimental in nature and the Deliverables are not intended for commercial use. Customer acknowledges that all timelines are good faith estimates. CMRI hereby disclaims any warranties that the Services will be successfully completed within the contemplated period, despite its reasonable efforts to do so.
- (b) Unless specified in an Order or the Facility Terms, CMRI makes no representation or warranty that any resulting product from the performance of the Services will conform to certain specifications.

- (c) Customer acknowledges and agrees that the Services and any Deliverables are supplied 'as is', without any representations, assurances, or warranties (express or implied), including without limitation any warranty as to quality, safety, merchantability, fitness for any purpose, or non-infringement of Intellectual Property and other rights of third parties.
- (d) Certain guarantees and rights may be conferred on Customer which cannot be excluded, restricted or modified. If so, then the parties agree that, to the maximum extent permitted by law, CMRI's liability under those guarantees and rights is limited to the re-supply of the relevant goods or services or the payment of the cost of re-supplying the relevant goods or services (at CMRI's option).

## 7.4 Liability

- (a) CMRI's total liability under or in connection with this agreement will in no circumstances exceed an amount equal to the Fees paid by Customer under this agreement. Customer acknowledges this limitation is reasonable in light of the Fees payable by it under this agreement.
- (b) CMRI is to have no liability to Customer in respect of special, indirect or consequential damages; damages for loss of profits, anticipated savings, commercial opportunity, production, data or third party contracts or similar economic losses; and damage to goodwill or reputation arising out of or in connection with this agreement or its subject matter, regardless of whether CMRI should have known of the possibility of such damages.
- (c) The Customer acknowledges that any engagement of a preferred supplier recommended by CMRI under clause 3.3(d) shall be at the Customer's sole discretion and risk. The Service Provider shall not be liable for any acts, omissions, performance, or non-performance of the preferred supplier, nor for any loss or damage arising from the preferred supplier's provision of the Services.

## 7.5 Insurance

CMRI will take out such insurance as it considers prudent in relation to its obligations under this agreement, including worker's compensation insurance required to be maintained by law.

## 7.6 Indemnity

Customer indemnifies and holds harmless CMRI, its Affiliates and their Personnel from and against all Liabilities relating to or arising from:

- (a) distribution of Deliverables or their Derivatives, or the use of Deliverables or their Derivatives outside the scope of the Usage Rights (including any third party who obtains the Deliverables or their Derivatives directly or indirectly from Customer);
- (b) personal injury to any CMRI Personnel directly or indirectly caused by the Deliverables;

- (c) any misrepresentation, negligence or wilful misconduct by Customer or any of its Affiliates and their respective directors, officers, employees and agents;
- (d) any breach by Customer of Customer's obligations or warranties under this agreement; or
- (e) any claim of infringement of any third party's Intellectual Property rights that is related to CMRI's use of Customer Material or Customer IP to perform the Services.

## 8. TERM AND TERMINATION

### 8.1 Termination

This agreement will expire on the Completion Date provided that:

- (a) either party may terminate this agreement sooner upon thirty (30) days' written notice to the other party; and
- (b) CMRI may terminate this agreement on seven (7) days' notice in the event:
  - (i) Customer ceases to have appropriate ethics approvals to enable the Services to be provided;
  - (ii) Customer becomes subject to bankruptcy or insolvency proceedings (subject to any law preventing termination in such circumstances);
  - (iii) CMRI has reason to believe any warranty made by Customer under this agreement is untrue; or
  - (iv) any payment of Fees is outstanding for more than sixty (60) days.

### 8.2 Consequences of termination

- (a) All Fees paid by the Customer remain the property of CMRI upon the expiry or termination of this agreement for any reason.
- (b) Within thirty (30) days of expiry or termination of this agreement, CMRI must return to Customer or safely destroy (at Customer's election and expense) all unused Customer Material, and each party must return or destroy the other party's Confidential Information (save that:
  - (i) a copy may be retained by that party's legal advisers for record-keeping purposes; and
  - (ii) back-up copies of Confidential Information automatically produced in the ordinary course of Recipient's information technology processes which are not readily accessible, subject to that information continuing to be maintained as confidential). Customer acknowledges that any refund of, or credit for, Fees paid in advance will be at CMRI's sole discretion.

- (c) Subject to any further agreement entered into regarding the Deliverables, CMRI may at its discretion maintain cryopreserved or live stocks of clonal cell lines forming part of the Deliverables until such time as Customer confirms it has received the Deliverables.
- (d) Expiry or termination of this agreement will not affect any right of the parties accrued prior to, or any obligation relating to, termination, nor any obligation under clauses 3.1(c), 3.2(f), 3.3(g), 3.4, 3.5, 3.6, 4, 5, 6 (other than 6.1), 7, 8.2, 9, 10, 11 and 12, which clauses will continue in full force and effect without limitation of time.

## 9. FORCE MAJEURE

### 9.1 Force Majeure Event

- (a) Delay in or failure of performance by a party (other than the payment of money) does not constitute a breach of the agreement by that party if and to the extent that the delay or failure is caused by a Force Majeure Event, provide the party claiming to be affected:
  - (i) gives notice to the other party within ten (10) days of the occurrence of the Force Majeure Event providing details of the Force Majeure Event and its anticipated likely duration and effect; and
  - (ii) uses its best endeavours to resume fulfilling its obligations and gives the other party written notice within five (5) days of the cessation of the Force Majeure Event,
- (b) If a delay caused by Force Majeure Event continues for more than sixty (60) days, either party may terminate this agreement by giving thirty (30) days' written notice to the other party.

## 10. DISPUTE RESOLUTION

### 10.1 Resolution of dispute

- (a) A party to this agreement claiming that a dispute or claim has arisen under or in relation to this agreement must give written notice to the other party specifying the nature of the dispute or claim.
- (b) On receipt of that notice by the other party the parties' representatives must endeavour in good faith to resolve the dispute or claim expeditiously using informal dispute resolution techniques such as mediation, expert evaluation or determination or similar techniques agreed by them.
- (c) This clause 10.1 does not prevent a party from seeking urgent interlocutory relief from a court of competent jurisdiction.

### 10.2 Governing law

This agreement is governed by the laws of New South Wales, Australia and the parties submit to the exclusive jurisdiction of the courts of that State.

## 11. GENERAL

### 11.1 Amendment

This agreement may only be amended by agreement of the parties in writing.

### 11.2 No assignment

Each party's rights and obligations under this agreement are personal and may not be assigned or novated without the other party's prior written consent, not to be unreasonably withheld.

### 11.3 Approvals

A party may, in its absolute discretion, give approval or consent conditionally, unconditionally or withhold it, unless this agreement expressly provides otherwise.

### 11.4 No partnership or agency

This agreement does not constitute either party the agent of the other or imply that the parties intend constituting a partnership, joint venture or other form of association in which any party may be liable for the acts or omissions of the other.

### 11.5 Notices

Any notice under this agreement may be served by hand delivery or by being forwarded by prepaid post to the address of the party in the Agreement Details or to such other address as may be notified in writing by the party from time to time and in the case of service by post is deemed to have been received four days after posting (10 days if sent to another country). Notices may also be served by e-mail and are valid on the earlier of acknowledgment of receipt by the recipient (including by way of a 'read receipt' acknowledgment) or 24 hours after sending provided the sender does not receive notification of delivery failure during that period.

### 11.6 Further assurances

Each party agrees, at its own expense, on the request of the other party, to do everything reasonably necessary to give effect to this agreement and the transactions contemplated by it, including the execution of documents by it and its Personnel.

### 11.7 Waiver

No delay or indulgence by a party in enforcing this agreement will prejudice or restrict the rights of that party, nor will a waiver of those rights operate as a waiver of a subsequent breach.

### 11.8 Entire agreement

- (a) This agreement contains the entire agreement of the parties with respect to its subject matter. It sets out the only conduct relied on by the parties and supersedes all earlier conduct by the parties with respect to its subject matter.
- (b) For the avoidance of doubt, this Agreement is not a contract for the supply of goods, and the terms of the United Nations Convention on Contracts for the International Sale of Goods (Vienna Convention)

will not apply to the supply of any goods under this agreement.

### 11.9 Counterparts

This agreement may be executed in any number of counterparts and all counterparts taken together will be taken to constitute one agreement. An executed counterpart may be delivered by electronic means.

## 12. INTERPRETATION

### 12.1 Inconsistencies

In the event of any inconsistency between the parts of this agreement, they shall be read in the following order of priority: (i) the Agreement Details; then (ii) these Terms and Conditions; then (iii) any annexures.

### 12.2 General rules

The following rules of interpretation apply unless the context requires otherwise.

- (a) Headings are for convenience only and do not affect interpretation.
- (b) The singular includes the plural and conversely, and a reference to "a thing" (including a right) includes a reference to a part of that thing.
- (c) A reference to a person includes incorporated and unincorporated bodies and other entities.
- (d) A reference to any party to this agreement or any other entity includes the party's or entity's successors and permitted assigns.
- (e) A reference to any document is to that document as amended, novated, supplemented or replaced from time to time, except to the extent prohibited by this agreement or that other document.
- (f) A reference to conduct includes any omission and any statement or undertaking, whether or not in writing.
- (g) Time will not be of the essence with respect to any estimated date for provision of the Services or otherwise.
- (h) Where examples of a thing or set of things are given by reference to the word "including", the meaning of references to the thing or set of things is not to be limited by reference to the examples.
- (i) This document or any part of it is not to be construed against a party because that party drafted or proposed it.

### 12.3 Severability

The provisions of this agreement are severable. If any provision in this agreement is found or held to be invalid or unenforceable or capable of termination by a party in any jurisdiction in which this agreement is performed, then the meaning of that provision will be construed, to the extent feasible, to render the provision enforceable.

## Research Facilities Services Agreement Schedule: Facility Terms

All services provided by the Research Facilities listed in this schedule will be in accordance with CMRI's Service Agreement - Standard Terms and Conditions. Some Research Facilities have additional terms and conditions, which are listed in this Schedule. These additional terms form part of the agreement between CMRI and the Customer upon the Customer's acceptance of the Order issued by CMRI. All capitalised terms have the meaning as set out in the Standard Terms and Conditions, unless otherwise defined in this schedule.

### Bioinformatics Facility

- a) CMRI will store Deliverables for three (3) months after the Completion Date, after which the Deliverables will be securely destroyed. CMRI shall not be liable for the retention or access to any Deliverables after this time.
- b) CMRI does not store or hold any Customer Material after the Completion Date.
- c) If Customer requests data recovery of any Deliverables, CMRI may, at its sole discretion, charge the Customer additional fees to repeat some or all of the Services.
- d) The Customer is solely responsible for ensuring any Customer Material provided to CMRI is not corrupt.
- e) CMRI will use file sharing locations in Australia (CloudStor or Oracle Cloud or OneDrive or similar), unless otherwise agreed by CMRI and the Customer.
- f) CMRI may provide services for uploading the data to publications as part of the Order agreed upon with the Customer. It is the responsibility of the corresponding authors of the manuscript to: (i) instruct and give CMRI permission to upload the data, and (ii) ensure all data is available, accurate and complete upon manuscript submission and publication. CMRI shall not be liable for any issues arising from the inaccuracy or incompleteness of the data provided by the corresponding authors.
- g) CMRI grants permission to access Customer Material and Deliverables based on instructions provided by the Customer. The Customer must provide clear and precise instructions regarding who is authorised to access the data and results. The Customer is responsible for: (i) instructing CMRI on who is authorised to access the data and results, (ii) revoking access to the data portal, cloud storage, or related services when necessary, and (iii) ensuring that individuals who no longer have permission to access the data and results permanently delete or destroy all copies of the data and results.
- h) Scripts, workflow, and related intellectual property developed by CMRI in performing the Services are and shall remain the exclusive property of CMRI. This includes, but is not limited to, any software code, algorithms, methodologies, and processes used in the creation and execution of the analyses. CMRI agrees to share with the Customer the necessary parameters and

information required to replicate the analyses. CMRI reserves the right to withhold the actual codes of the pipeline used in the analysis. The Customer agrees to treat all shared parameters and information as confidential. The Customer shall not disclose, use, or allow the use of this information for any purpose other than replicating the analyses, without the prior written consent of CMRI.

- i) The Customer acknowledges that the addition of new data or the removal of outliers may necessitate CMRI to perform a significant re-analysis of the data. CMRI reserves the right to treat this re-analysis as a new project that may lead to additional costs. These costs will be outlined in a new Order provided by CMRI and must be agreed upon by the Customer before the commencement of the re-analysis.
- j) The Customer acknowledges that the development of a new pipeline for addressing a new problem will require additional work and resources from CMRI. This development may involve significant effort, including but not limited to, the creation of new software, algorithms, and methodologies. The cost associated with the development of the new pipeline will be discussed and agreed upon with the Customer before commencement of any work. Any newly developed software, including scripts, workflows, and related intellectual property created by CMRI during the development of the new pipeline, shall remain the exclusive property of CMRI. If there is any intention to transfer or share the intellectual property rights of the newly developed software, such transfer or sharing must be explicitly discussed and agreed upon in writing by both CMRI and the Customer.
- k) CMRI may provide assistance to the Customer in the interpretation of the results obtained from the Services. The Customer acknowledges and agrees that they are solely responsible for the final interpretation of the results. This includes making any decisions or taking any actions based on the results provided by CMRI. CMRI shall not be liable for any decisions made or actions taken by the Customer based on the interpretation of the results.

# Core Facilities Services Agreement

## Schedule: Facility Terms

### Genome Engineering Facility

- a) Customer agrees that any induced pluripotent stem cells (iPSC) must be cultured in mTesR media prior to being provided to CMRI for editing.
- b) CMRI may charge the Customer additional charges for transitioning cells to mTesR media.
- c) CMRI will conduct mycoplasma testing on the edited cells both prior to the commencement of the editing cycle and at the end of the editing cycle. CMRI will refuse to work with cell lines that are found to be contaminated with mycoplasma, fungus, or bacteria.
- d) The Customer must ensure that edited cell lines are thawed in accordance with instructions provided by CMRI's Genome Engineering Facility. CMRI accepts no responsibility for the integrity or viability of the edited cell lines if they have not been propagated as per the Facility's directions.
- e) A partial invoice amounting to the cost of consumables will be issued to the Customer at the commencement of the Services. The Customer agrees to pay the invoice in accordance with the terms specified in the invoice.

### Single Cell Analytics Facility

- a) CMRI will issue Customer an invoice covering consumable costs within fourteen (14) days of the Order being accepted.