

**DATA / MATERIAL TRANSFER AGREEMENT**

PLEASE READ THIS DATA / MATERIAL TRANSFER AGREEMENT (“DMTA”) CAREFULLY.

GS Application Ref:	
Name of Recipient Institution:	[insert institution name]
Address:	
Name of Principal Applicant:	
Term:	From the last date of signature of this DMTA for a period of twelve (12) months.
Charges	<p>In consideration of the provision of the Data / Materials, Recipient Institution hereby agrees to make the following payments to the University of Dundee on behalf of the Generation Scotland Collaboration Parties together with any VAT eligible in respect thereof.</p> <p>[insert details of payment]</p> <p>Such payments shall be due within thirty (30) days of the receipt of invoice(s) from the University of Dundee Finance Office.</p>

**BACKGROUND**

The University of Aberdeen, the University of Dundee, the University of Edinburgh, the University of Glasgow, Greater Glasgow Health Board, Grampian Health Board, Lothian Health Board, Tayside Health Board and the NHS National Services Scotland Information Services (collectively the “**Generation Scotland Collaboration Parties**” and individually a “**Generation Scotland Collaboration Party**”) through Generation Scotland have collected and are together custodians of certain data sets (“**Data**”) and biological research material and DNA (including derivatives of the same) (“**Materials**”). For the purposes of this DMTA, Materials shall include any extracts acquired in the course of the Research.

The Principal Applicant in terms of a proposal form submitted to the Generation Scotland Access Committee has requested the right to use certain of the Data / Materials to conduct research based on the Data / Materials (the “**Proposal Form**”).

The Access Committee has reviewed the Proposal Form and has agreed that the Recipient Institution may use the Data / Materials described in the Proposal Form as contained within Appendix B to conduct the research detailed in the Proposal Form (the “**Research**”).

The Generation Scotland Collaboration Parties are willing to supply the Recipient Institution with the Data / Materials for the purpose of conducting the Research for the Term on the terms and conditions set out in Appendix A.

BY PRINTING AND SIGNING THE RECIPIENT INSTITUTION ACKNOWLEDGES THAT IT HAS READ AND UNDERSTOOD THE TERMS OF THIS DMTA AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

In order to complete this process, you must provide us with certain personal information. The personal information that we collect will only be used by us for administration purposes. It will not be passed on to others without your consent.

This DMTA is made on signature of this DMTA by the Recipient Institution.

Signed by an authorised signatory for and on behalf of the **Recipient Institution**:

Print Name:	Signature:
Designation:	Date:
E-mail:	
Telephone:	
Fax:	

Acknowledged by the Principal Applicant

Signature:
Date:

## Appendix A

### Terms and Conditions

#### 1. GRANT AND SCOPE

- 1.1 Upon execution of this DMTA, Generation Scotland Collaborating Parties will supply the Data / Materials to Recipient Institution.
- 1.2 Data / Materials remain the property of some or all of the Generation Scotland Collaborating Parties. There is no transfer or licence or implied transfer or licence of rights in the Data / Materials from the respective Generation Scotland Collaboration Parties to Recipient Institution including (without limitation) any intellectual property rights. These Terms and Conditions do not restrict the rights of Generation Scotland Collaboration Parties to distribute the Data / Materials to other institutions or to publish any document relating to the Data / Materials.
- 1.3 Recipient Institution will use the Data / Materials in accordance with the principles of good laboratory practice and shall ensure compliance with all applicable laws, regulations and research governance pertaining to the Research.
- 1.4 Recipient Institution will retain the Data / Materials in a secure location on its premises and will not permit the Data / Materials or any part of it to come into the possession or control of any other organisation or any individual other than its employees who are involved in the Research under direct supervision of the Principal Applicant unless previously agreed in writing by the Access Committee. Recipient Institution will ensure that suitable systems are in place for the tracking of the Data / Materials while in its possession.

#### 2 RESTRICTIONS ON USE

- 2.1 Recipient Institution will use the Data / Materials to carry out the Research only, and only for Research that has appropriate approvals in place (including without limitation research and development management approval and ethical approvals). Should Principal Applicant wish to share the Data / Materials with a collaborator outwith the Recipient Institution, the third party must make a separate application for access to the Data / Materials.
- 2.2 The Recipient Institution will not use the Data / Materials or any parts thereof for any commercial purpose or any purpose that is subject to consulting or licensing obligations to third parties, without the explicit consent and written agreement of the Access Committee.
- 2.3 Recipient Institution will not use the Materials in any experiments involving humans and will not use the Materials in contact with any cells or other materials to be infused into humans. Materials will not be released for use in animal research.
- 2.4 Recipient Institution will make no attempt to link the Data to other datasets (Generation Scotland or otherwise) held by different recipients or by the same Recipient Institution for different projects, without specific approval and agreement from the Access Committee.

#### 3 RETURN OF DATA / MATERIALS

- 3.1 Data / Materials in the possession, or under the control, of Recipient Institution shall at Recipient Institution's expense be immediately returned to the relevant Generation Scotland Collaborating Party or destroyed (in each case as directed by the Access Committee) upon (i) the reasonable request of the Access Committee; (ii) notification by the Access Committee of the withdrawal of consent by individual cohort members for the continued use of their Materials (including any associated Data); (iii) termination of this DMTA, or (iv) breach of any of this DMTA by the Recipient Institution. If Recipient Institution is required to destroy the Data / Materials for any reason then it will ensure that this is done in compliance with all applicable laws, regulations, codes of practice and guidelines governing the use of the Data /

Materials and will confirm in writing to the Access Committee that the Data / Materials have been destroyed.

#### 4 INTELLECTUAL PROPERTY RIGHTS AND PUBLICATIONS

- 4.1 The Recipient Institution shall own any data, datasets, algorithms and/or derived variables used therein which may be derived from the use or analysis of the Data / Materials pursuant to the Research (“**Derived Data**”). The Recipient Institution hereby grants to each of the Generation Scotland Collaboration Parties a non-exclusive, royalty-free, perpetual, licence (with a right to sub-license) to Derived Data for the purposes of (without limitation) incorporation into the Generation Scotland database and/or research resource and its non-commercial research purposes.
- 4.2 Subject to Clause 4.3, the Recipient Institution shall be entitled to publish the Data / Materials and Derived Data subject to approval of the Access Committee as detailed in the Generation Scotland Management, Access and Publications Policy (a copy of which is available on the Generation Scotland website – [www.generationscotland.org](http://www.generationscotland.org)) as such policy may be updated and amended from time to time. Recipient Institution will where requested to do so by the Access Committee, provide Generation Scotland with a fully documented electronic copy of any Derived Data prior to publication in any form or within six (6) months of the completion of the Research, whichever is the sooner.
- 4.3 Recipient Institution will acknowledge Generation Scotland and include as authors members of Generation Scotland Collaboration Parties identified by the Access Committee to have played a key scientific role in the generation of the Data and the Materials in all publications relating to the Research.
- 4.4 In the event that Recipient Institution makes or observes any new discovery or improvement or invention relating to the Data / Materials or as a direct result of the Research (“**Invention**”) then the Recipient Institution will bring this to the attention of the Access Committee. Each of the Generation Scotland Collaboration Parties will, at all times, retain the right to use any Invention for its non-commercial research purposes.
- 4.5 If any commercial revenues result from Recipient Institution’s use of the Data / Materials, Derived Data and / or Inventions, the Generation Scotland Collaborating Parties shall be entitled to an equitable share of any such revenues that accrue to the Recipient Institution. The Recipient Institution must notify the Access Committee if such commercial revenues arise.

#### 5 CONFIDENTIALITY AND CONSIDERATION

- 5.1 Other than as permitted pursuant to Clause 4.2 Recipient Institution will keep the Data / Materials confidential and will make no attempt to identify study participants.
- 5.2 The Recipient Institution shall take all reasonably practical measures to secure the safety and confidentiality of the Data / Materials and for that purpose, but without limitation, shall ensure that its Principal Applicant and its employees working on the Research are similarly bound by appropriate undertakings. Information shall not be considered to be confidential if it is required to be disclosed by a court of competent jurisdiction, by regulatory body or otherwise by operation of law. In the event of such a requirement, the Recipient Institution shall provide the Access Committee with written notification of the requirement to disclose and shall only disclose that portion of the Data / Materials and associated confidential information which it is legally obligated to disclose.

## **6 LIABILITY AND INDEMNITY**

None of the Generation Scotland Collaboration Parties accepts any liability in connection with the Recipient Institution's use of the Data and/or Materials. None of the Generation Scotland Collaboration Parties represents that (i) the Data / Materials are of satisfactory quality or fit for any particular purpose; or (ii) use of the Data / Materials is free from infringement of third party rights, including intellectual property rights. To the extent permissible by law, the Recipient Institution will indemnify and keep indemnified on demand each of the Generation Scotland Collaboration Parties for any costs and/or damages whatsoever arising from Recipient Institution's use, handling and storage of the Data and/or Materials where such costs and/or damages arise as a result of the negligence or wilful misconduct of the Recipient Institution.

## **7 GENERAL**

- 7.1 The Recipient Institution will neither assign, transfer, nor part with any of its interests, rights, duties or obligations under this DMTA.
- 7.2 Any notice or communication required to be given under this DMTA shall be in writing and shall be sufficiently served if sent by recorded delivery post to the Access Committee (in the case of the Recipient Institution) and to the Recipient Institution (in the case of the Generation Scotland Collaborating Parties). The notice will be deemed to have been duly delivered if delivered by post, forty eight (48) hours after being posted.
- 7.3 This DMTA is not intended to create benefit, claim, or right of any kind whatsoever enforceable by any person who is not a party to this DMTA. It is acknowledged and agreed by the Recipient Institution that each of the Generation Scotland Collaborating Parties are parties to this DMTA on a several basis, and may enforce its rights hereunder either individually or collectively (with one or more of the Generation Scotland Collaborating Parties).
- 7.4 This DMTA shall continue for the Term unless terminated earlier by written notice served in accordance with paragraph 7.2. The Term may be extended with the written permission of the Access Committee, on behalf of the Generation Scotland Collaborating Parties. Permission to extend the Term must be sought by the Recipient Institution three (3) months before the expiry of the Term. All confidentiality and other obligations of a continuing nature contained herein shall remain in force and shall survive this DMTA notwithstanding its termination as aforesaid.
- 7.5 The parties shall use good faith efforts to resolve any dispute, claim or proceeding arising out of or relating to this DMTA. In the event that any disputes cannot be resolved at this level then the senior executives of the relevant parties who have authority to settle the same shall use good faith efforts to resolve the same. If the matter is not resolved under negotiation within sixty (60) days of being notified to the senior executives of the relevant parties, it shall be finally settled under the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one or more Arbiters appointed in accordance with said Rules.

## **8 GOVERNING LAW**

This DMTA will be governed by the laws of Scotland and shall be subject to the jurisdiction of the Scottish Courts. This clause shall not prevent a party from seeking interim relief in any court of competent jurisdiction.

**Collaboration Proposal Form / Research**