

General Terms and Conditions Research Collaborations UvA

1. Definitions:

The following capitalised terms used in these General Terms and Conditions have the meaning as defined below:

General Terms and Conditions	The present General Terms and Conditions.
Offer	The offer submitted by the UvA to conduct the Research described in the Research Plan for a specific fee.
Research	The research that will be conducted in accordance with the Research Plan.
Research Plan	A research plan that sets out the nature and scope of the Research, the approach to the Research as well as the intended Results.
Agreement	The agreement in which the UvA and the Collaborative Partner bind themselves towards each other to conduct the Research set out in the Research Plan in accordance with the conditions stated in the Offer.
Parties	The parties that have signed the Agreement, to which these General Terms and Conditions are declared applicable.
Project	The Research conducted by the Parties.
Results	All results arising from the Project, including know-how and all intellectual property rights relating to such results, which fall within the scope of the objective of the Project as set out in the Research Plan.
Collaborative Partner:	The party that conducts the Research in collaboration with the UvA.
UvA:	The University of Amsterdam, having its registered office at Spui 21, 1018 WX Amsterdam, the Netherlands, that conducts academic, scrupulous, reliable, verifiable, impartial and independent research.
Confidential Information:	The Research Plan and all other information provided by one Party to the other Party for the purpose of conducting the project and which is deemed confidential. Information that falls outside the scope of Confidential Information is information that: (a) was

already known to the receiving Party, (b) was in the receiving Party's possession without originating from a third party who was not authorised to disclose it, or (c) has otherwise come to the receiving Party's knowledge during or before the provision of the information, without the receiving Party committing an unlawful act to that end, or (d) has come into the receiving Party's possession in a lawful manner during or before the provision of the information.

Activities

The activities that will be performed by or on behalf of the UvA and/or the creation of work of a tangible nature, based on a Research Plan agreed between the Collaborative Partner and the UvA.

2. Independence and research integrity

- 2.1 UvA, as a research institution, conducts academic, scrupulous, reliable, verifiable, impartial and independent scientific research and aims to publish the Results.
- 2.2 The Research will be conducted in accordance with the principles of good scientific research, as set out in the latest versions of the guidelines on scientific practice issued by the Association of Universities in the Netherlands (VSNU) (the Netherlands Code of Conduct for Research Integrity) and the European Code of Conduct for Research Integrity.¹ This implies, among other things, that the Results and conclusions may not be influenced by the interests and wishes of collaborative partners, and that the UvA will adhere to the legal and university standards applicable to the authorship of scientific and academic publications.²
- 2.3 No use will be made of the option, stipulated in Standard 12b of Article 3.2 of the Netherlands Code of Conduct for Research Integrity, to withhold parts of the scientific research, including the research data, for a potential investigation into an alleged violation of research integrity.

3. Applicability

- 3.1 These General Terms and Conditions apply to all Offers submitted by - and all requests to - the UvA to conduct Research in collaboration with another party. The UvA hereby explicitly rejects the applicability of the General Terms and Conditions of the Collaborative Partner.

4. Formation of the Agreement

- 4.1 The Agreement is formed as a result of the Collaborative Partner's written confirmation of an Offer submitted by the UvA, or as a result of the UvA commencing the activities described in the Offer with the agreement of the Collaborative Partner.

¹ See also: <http://www.uva.nl/onderzoek/onderzoek-aan-de-uva/wetenschappelijke-integriteit/wetenschappelijke-integriteit-uva.html>.

² See also: <https://www.uva.nl/onderzoek/onderzoek-aan-de-uva/wetenschappelijke-integriteit/faq/faq.html>

- 4.2 If an Agreement is formed in accordance with Article 4.1 of these General Terms and Conditions, the conditions stated in the Offer and these General Terms and Conditions apply to that Agreement. If the Parties wish to alter this provision, they must agree on this in writing in the Agreement.
- 4.3 Any amendments, supplements or additions only become binding after they have been agreed by the Parties in writing.
- 4.4 Unless stated otherwise, the UvA's Offer is without obligation and may always be revoked by the UvA. If not stated otherwise, the Offer is valid for thirty (30) days, calculated from the date of the Offer.
- 4.5 The Collaborative Partner may not use or allow other parties to use the knowledge, ideas, data or information contained in the Offer for any purposes other than to assess the Offer.
- 4.6 In the event of any discrepancies between the various documents, the following order of priority applies: the Agreement, these General Terms and Conditions and the Research Plan. The document stated first takes precedence over the document stated last.

5. Conducting the Research and research integrity

- 5.1 In performing the Agreement, the UvA endeavours to deliver a Result that is useful to the Collaborative Partner (best-efforts obligation), but UvA does not give any warranties regarding the results to be obtained, neither does it have any obligation to deliver certain results.
- 5.2 In the event that data are exchanged between the Collaborative Partner and the UvA, the Collaborative Partner and the UvA will comply with the statutory provisions and the latest internal regulations on the exchange of data.³
- 5.3 In the event personal data are being used in the Research, the Collaborative Partner and the UvA will comply with the latest version of the VSNU guidelines (the Code of Conduct for the Use of Personal Data in Scientific Research) and the latest internal regulations on the use of personal data. In accordance with the General Data Protection Regulation (GDPR), the collaborative partner and the UvA will establish their respective GDPR compliance obligations before commencing the Research and, if necessary, will enter into a separate agreement, in which they will set out their mutual obligations regarding personal data in accordance with the GDPR.
- 5.4 The Collaborative Partner and the UvA will jointly ascertain whether dual use', misuse and/or a conflict of interests potentially exists regarding the Research or the Research Results, within the meaning of the current regulations and the literature in this area.⁴

³ Such as: - the Research Data Management Guidelines of 15 December 2014 of the University of Amsterdam and the Amsterdam University of Applied Sciences <http://rdm.uva.nl/programma/rdm-beleid>.

⁴ Such as: - COUNCIL REGULATION (EC) No 428/2009 of 5 May 2009 on setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items; -

To the extent that any of the above issues exist, the Collaborative Partner and the UvA will comply with the latest version of the VSNU guidelines as well as the UvA's internal rules (relating, for example, to permission from an ethics committee). In the absence of VSNU guidelines, by analogy the Collaborative Partner and the UvA will comply with the principles of the latest version of the guidelines of the Flemish Universities.⁵

- 5.5 The nature, scope, time schedule and approach to the Research are determined by the Research Plan included in the Offer. While the UvA will endeavour to conduct the Research in accordance with the Research Plan, it cannot provide any guarantee whatsoever that the intended Result will be achieved. The UvA accepts no responsibility for any causes that delay or limit the implementation of the Research and are not attributable to the influence of the UvA.
- 5.6 The Collaborative Partner is obliged to provide the necessary data, information, materials, equipment or other goods in the agreed form, numbers and quality to the UvA and to render every assistance, to the extent necessary in order to conduct the Research in the proper manner. The UvA is entitled to suspend the Research conducted until the Collaborative Partner complies with this obligation.
- 5.7 The UvA supplies goods on the basis of the Incoterms Ex Works conditions drawn up by the International Chamber of Commerce. These conditions apply from the UvA's applicable place of business.
- 5.8 All the terms stated in the Offer and Research Plan are estimates. The UvA is not in default by the mere expiry of the term. If the UvA foresees that a term is likely to be exceeded substantially, the UvA will notify and discuss this with the Collaborative Partner.
- 5.9 The UvA is entitled to replace employees who perform Activities with other employees. The UvA is entitled to have the Agreement performed under its responsibility either in full or in part by third parties.
- 5.10 The Collaborative Partner and the UvA will keep each other informed of any particular matters that may arise in the course of performing the Agreement, which can reasonably be expected to be important to the other Party.
- 5.11 If the Activities relate to materials made available by the Collaborative Partner, the latter bears responsibility for the selection, representativeness, descriptions of codes and brand or product names, identification, date of sampling and other relevant information relating to the materials that will be examined.
- 5.12 The UvA will retain the materials that have been made available to the UvA in connection with performance of the Agreement or the remnants thereof, if reasonably possible, for a period of two weeks after the date on which the Results of these

The Dual Use Regulation – Specific Concerns from the Academic Sector, *LERU* July 2018 <https://www.leru.org/publications/the-dual-use-regulation-specific-concerns-from-the-academic-sector>; - Improving biosecurity. Assessment of dual-use research, *Royal Netherlands Academy of Arts and Sciences (KNAW)* November 2013,

<https://www.knaw.nl/shared/resources/actueel/publicaties/pdf/bouwen-aan-biosecurity-beoordelen-van-dual-use-onderzoek/view>; - Horizon 2020 Programme Guidance - How to complete your ethics self-assessment, http://ec.europa.eu/research/participants/data/ref/h2020/grants_manual/hi/ethics/h2020_hi_ethics-self-assess_en.pdf; -

⁵ <http://www.vlir.be/richtlijnen-voor-onderzoekers-over-dual-use-en--misuse-van-onderzoek>.

materials were reported or delivered to the Collaborative Partner. If the Collaborative Partner has failed to arrange for the collection or return of the materials referred to within this period, the UvA is free to take appropriate measures for the account of the Collaborative partner.

6. Reporting

- 6.1 The UvA will provide the Collaborative Partner with progress reports on the Activities in accordance with the Offer or the Research Plan. Unless agreed otherwise, Reports will be made in writing or electronically, at the UvA's discretion.
- 6.2 The Collaborative Partner is deemed to have accepted the Results and Reports, if the UvA has not received a written objection within four (4) weeks after they have been sent.

7. Costs and payment

- 7.1 If a 'target price' rather than a fixed price is stated in the Offer for the Research, the amount stated indicates no more than a no-obligation cost estimate and the amount to be paid will be determined by means of subsequent costing based on the rates applicable at the UvA. The UvA is entitled to adjust the applicable prices if the period between the date of the Offer and the End Date amounts to one year or longer, in which wages and/or prices have been adjusted.
- 7.2 The costs incurred by the UvA (out-of-pocket expenses) will be charged in full to the Collaborative Partner. These costs may comprise the costs of materials to be processed, rental costs and the costs of any third parties engaged.
- 7.3 All prices exclude VAT and other government-imposed levies unless explicitly stated otherwise. The UvA is entitled to pass on any adjustment of the VAT rate to the Collaborative Partner.
- 7.4 The UvA reserves the right to send interim invoices if this has been agreed between the Parties. The UvA can require advance payment if the Collaborative Partner's financial position gives reason to do so or if this has been agreed between the Parties. If the advance payment is not made, the UvA is entitled to suspend the fulfilment of its obligations.
- 7.5 Payments must be made within thirty (30) days after the invoice date. Any reliance on setoff by the Collaborative Partner is excluded. If the Collaborative Partner fails to pay the amount owed within this term, it is in default without any notice of default being required. The UvA is entitled to charge statutory interest from the due date until the date on which the principal sum is paid in full, without prejudice to the further rights of the UvA. If the invoice amount is not paid or not paid in full, all the judicial and extrajudicial collection costs will be borne by the Collaborative Partner.

8. Confidentiality

- 8.1 The receiving Party will treat the Confidential Information from the disclosing Party as confidential and will not disclose it without the prior written permission of the disclosing Party, nor communicate it to third parties - who are not involved in the Project - nor use it for purposes other than the purpose for which it was received, unless disclosure is required by or pursuant to the law.
- 8.2 The Collaborative Partner and the UvA must ensure that their employees, advisers and other persons involved in the Project strictly observe the duty of confidentiality referred to in this article.

9. Intellectual property and publication

- 9.1 The UvA owns Results, unless this is explicitly agreed otherwise with the Collaborative Partner.
- 9.2 The UvA will make the Results available to the Collaborative Partner, who is entitled to make multiple copies of, to distribute and to use the Results within its own organisation for evaluation and non-commercial research purposes. Commercial use of the Results, including internal use leading to commercial gain, is permitted after additional agreements have been made with the UvA thereon.
- 9.3 As the provider of the Results, the UvA is entitled to publish or otherwise disclose the Results.
- 9.4 If the UvA intends to proceed to publish or disclose Project Results, the UvA will submit the intended publication no later than forty-five (45) days before the intended publication date to the Collaborative Partner (an 'Intended Publication'). The Collaborative Partner may lodge a written objection against publication within a period not exceeding thirty (30) days after the date of receipt of the Intended Publication in view of (1) safeguarding Intellectual Property Rights and (2) protecting Confidential Information. The possibility of lodging a notice of objection will be used in a reasonable manner. If the Collaborative Partner fails to respond within a period of thirty (30) days after receipt of the Intended Publication, permission is deemed to have been granted.
- 9.5 In the event that the Collaborative Partner lodges an objection because it believes that the Intellectual Property Rights to the Project Results included in the Intended Publication must be protected, the UvA will postpone publication by no more than 180 days from the date of receipt of the Intended Publication, to safeguard protection by, for example, applying for a patent.
In the event that the Collaborative Partner lodges an objection because it believes that the Intended Publication contains Confidential Information, the Parties will seek a solution within a reasonable period (a maximum of sixty (60) days after receipt of the Intended Publication), in which the Confidential Information will be removed and the scientific quality of the publication remains guaranteed.
The Intended Publication may be published after the expiry of the above period(s). The Parties will work together to facilitate the timely submission, publication and defence of a thesis/final paper or doctoral thesis.

- 9.6 The UvA reserves the right to use the knowledge acquired from performing the activities for other purposes, to the extent that no Confidential Information is brought to the knowledge of third parties.
- 9.7 All material created by the UvA, such as questionnaires, reports and research reports are and remain the intellectual property of UvA. The material made available by the Collaborative Partner to the UvA is and remains the property of the Collaborative Partner.
- 9.8 The UvA is not obliged to investigate third-party intellectual property rights. Nor is the UvA obliged to investigate the possibility of applying for intellectual property rights. If conducting investigations into intellectual property rights is explicitly agreed in the Agreement, the UvA accepts no responsibility whatsoever for their content and results.
- 9.9 Only the UvA is entitled to apply for intellectual property rights in its name and for its own account, including patents, plant breeders' rights, trademark rights and design rights.
- 9.10 The Collaborative Partner may only submit an application, in derogation from and as referred to in Article 9.9, after obtaining the prior written permission of the UvA, with due observance of the conditions to be agreed upon in writing. In that case, the Collaborative Partner will grant the UvA a licence, for no consideration, to use the Results.
- 9.11 The UvA and the Collaborative Partner will inform each other as soon as possible of the Results, which in their opinion warrant the submission of an application for intellectual property rights.
- 9.12 The UvA and the Collaborative Partner will render each other all the required assistance in submitting patent or other applications in accordance with the provisions in this article.

10. Liability

- 10.1 Neither the UvA nor the persons engaged in conducting the Research are liable for any damage arising from use or application of the Results by the Collaborative Partner.
- 10.2 The UvA is not liable for any damage suffered by the Collaborative Partner as a result of use of the Results by the Collaborative Partner, nor as a result of negative publicity, nor for lost sales, lost profit, reputational damage or loss of data and materials.
- 10.3 Any claims against employees and persons engaged by the UvA are excluded. Employees and persons engaged by the UvA may at any time invoke a third-party clause stipulated by them.
- 10.4 The UvA is only liable for damage arising directly from a failure attributable to the UvA to perform the obligations arising from this Project and is not liable for any consequential damage.

- 10.5 The UvA accepts no liability for damage arising from defects in goods supplied to the UvA, including software that the UvA has forwarded to the Collaborative Partner, unless and to the extent that the UvA can recover that damage from its supplier.
- 10.6 The UvA is not liable for any damage arising whatsoever because the UvA has proceeded on the basis of incorrect or incomplete data provided by the Collaborative Partner, unless it should have known that the data were incorrect or incomplete.
- 10.7 If the UvA is held liable by the Collaborative Partner, the UvA is only liable for no more than the maximum amounts paid by the Collaborative Partner (= financial interest) for the Research. If the duration of the Research conducted comprises multiple years, the financial interest calculated over the last full calendar year is taken as a basis. The ultimate liability will in any event never exceed the maximum amount of UvA's liability insurance. The above limitations do not apply in the event of wilful act or gross negligence on the part of the UvA.
- 10.8 The Collaborative Partner indemnifies the UvA and all persons engaged by the UvA (including students) to conduct the Research against all claims from third-parties (arising from damage or losses suffered by such third parties), who are in any way connected to the activities performed by the UvA for the Collaborative Partner or arising from the use or the application of the Results.
- 10.9 The Collaborative Partner indemnifies the UvA against third-party claims arising from the use of goods or data the Collaborative Partner has made available to the UvA for the performance of the Agreement.
- 10.10 All claims of the Collaborative Partner for compensation lapse twelve (12) months after the activities to which these claims relate have been performed, unless the Collaborative Partner has instituted legal proceedings against the UvA.
- 10.11 The foregoing limitations of liability do not apply to the extent that the liability is the result of wilful act or gross negligence on the part of the UvA.

11. Transferability of rights and obligations

- 11.1 The Collaborative Partner will not transfer the rights and obligations relating to the Project to a third party without the prior written permission of the UvA.

12. Termination and notice

- 12.1 If a Party fails to perform an obligation arising from the Agreement and performance has not become permanently impossible, the other Party will offer the defaulting Party a reasonable cure period by means of a written notice to the defaulting Party. If the defaulting Party is in default, the other Party is entitled to terminate the Agreement with immediate effect - without prejudice to the right to compensation - by means of a registered letter, unless the shortcoming, in view of its special nature or minor importance, does not justify termination and the resulting consequences. If the

Agreement is validly terminated, all the amounts owed by the defaulting Party to the terminating Party will become due and payable immediately.

12.2 If and as soon as:

- (a) the Collaborative Partner is declared bankrupt, or is granted a suspension of payments, or a petition for such measures is filed with the court, or is placed under administration, management or curatorship; or
- b) the Collaborative Partner's company is wound up or ceases to operate;

the Collaborative Partner is deemed to be in default by operation of law. In that case, the UvA is entitled to suspend the performance of the Agreement with immediate effect or to terminate the Agreement in full or in part, without any notice of default or judicial intervention being required, at the UvA's discretion, without the UvA being obliged to pay any compensation, but without prejudice to its right to compensation for the damage resulting from the suspension or termination. In these cases, all amounts owed by the Collaborative Partner to the UvA become due and payable immediately.

12.3 In the event that force majeure, as described in Article 13, prevents the UvA from fulfilling its obligations and lasts for more than 90 days, both Parties have the right to terminate the Agreement without being liable to pay any compensation in such cases.

13. Force majeure

13.1 Force majeure on the part of the UvA is understood to mean: circumstances that prevent the performance of the Agreement and are not attributable to the UvA, irrespective of whether those circumstances were foreseen at the time at which the Agreement was concluded. The UvA's obligations will be suspended during force majeure.

13.2 The circumstances stated in Article 13.1 include: war circumstances, fire and other forms of destruction, business interruptions, strikes, government measures, a general lack of the goods and services necessary to fulfil the agreed obligation and unforeseeable stagnation at third parties, as well as the absence of UvA employees or persons engaged by the UvA due to illness and the withdrawal of persons, animals and plants used during the performance of the Agreement, on whom/which the UvA depends for the performance of the Agreement.

13.3 The UvA is also entitled to invoke force majeure if the circumstance preventing fulfilment or further fulfilment occurs after the UvA should have performed the obligations incumbent on the UvA.

13.4 If the UvA has already partially fulfilled its obligations, or can only partially fulfil its obligations when the force majeure situation arises, it is entitled to send a separate invoice for the part already performed or the part that can be performed. The Collaborative Partner is obliged to pay this invoice as a separate project. However, this does not apply if the part already performed or the part that can be performed has no independent value.

14. Continuing provisions after termination

14.1 Provisions, which by their nature and/or purport are intended to endure beyond the end date of the Research, continue to retain their effect thereafter. These provisions

include the articles covering confidentiality, intellectual property and publication, liability, dispute resolution and applicable law.

15. Applicable law and disputes

15.1 This Agreement is governed by the laws of the Netherlands.

15.2 Any disputes arising from this Agreement that cannot be resolved amicably, will be submitted to the competent court in Amsterdam.

16. Final provisions

16.1 If one or more of articles of these General Terms and Conditions are declared invalid by a court decision, the other provisions of these General Terms and Conditions will remain in full force and the UvA and the Collaborative Partner will enter into consultations in order to agree upon new provisions to replace the void or voided provisions, which new provisions will approach as closely as possible the purpose and purport of the void or voided provisions.

16.2 These General Terms and Conditions have been adopted by the UvA Executive Board and come into effect on October 15, 2019. They were filed [with the Registry of the Court of Amsterdam and] with the Chamber of Commerce in Amsterdam on [insert date]. These General Terms and Conditions are also published on the UvA's website.

16.3 These General Terms and Conditions have been translated into English. In the event of any discrepancies between the original Dutch text and the English translation, the Dutch text will prevail.