

# PhD Standard Conditions Applying to the Award of Medical Research Scotland Research Funding *[from July 2017]*



This document sets out the Conditions on which Medical Research Scotland may offer to support a four-year PhD Studentship.

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## 1. Definitions & Interpretation

1.1 In this document entitled "PhD Standard Conditions Applying to the Award of Medical Research Scotland Research Funding" ("PhD Standard Conditions"), the words and expressions listed below shall, unless otherwise specified or the context otherwise requires, have the following meanings:

### **Administering Institution**

means the Administering Institution referred to in the relevant application form submitted to Medical Research Scotland for a Studentship;

### **Background Intellectual Property**

Means intellectual property which is currently owned by either party and will be required during the Studentship;

### **the Company**

means the Company referred to in the relevant application form submitted to Medical Research Scotland for a Studentship;

### **Confidential Information**

means any and all information which the disclosing Party may from time to time disclose to the receiving Party which is identified by the disclosing Party as secret and confidential or which, by reason of its character or the circumstances or manner of its disclosure, is evidently confidential, including but not limited to such Intellectual Property as is not in the public domain at the date of this Agreement, research and development projects, product or services development, formulae, specifications, chemical compounds, derivatives, biological or other materials, inventions, ideas, concepts, data, procedures and designs of experiments, tests and the results of experimentation and testing, the research results until such time as publication is agreed to be made pursuant to Conditions 14.1 and 14.2 and the research data as set out in Condition 19 or any other know how or information relating to the disclosing Party's technical and proprietary information, business secrets or business affairs or finances or any other information designated as confidential by the disclosing Party whether belonging to the disclosing Party or a third party and whether disclosed orally, in writing, in digital form, in machine readable code or embodied in hardware or any other physical medium;

### **Foreground Intellectual Property**

means new intellectual property created as a result of the Studentship;

### **Good Industry Practice**

means the exercise of that standard of skill, diligence, prudence and foresight which could reasonably and ordinarily be expected from a skilled and experienced operator engaged in the same type of undertaking under the same or similar circumstances;

### **Intellectual Property**

means all intellectual property rights of whatever nature (including without prejudice to the foregoing generality the patent rights, registered designs and trade marks, copyrights, plant variety rights, database rights, design rights, topography rights, internet rights, goodwill, domain names, utility model rights, semi-conductor topography rights, rights in confidential or proprietary information, rights in inventions and discoveries, know how, trade secrets, confidential information and other industrial or intellectual property rights of a similar nature which exist or arise anywhere in the world), in and to the research arising out of the Studentship and any divisions, renewals, continuations, substitutions, registrations, confirmations, additions, extensions or re-issues thereof or applications therefor and any similar or analogous rights to any of the foregoing whether arising or granted under the law of Scotland or any other jurisdiction and any rights to apply for any of the foregoing;

### **Lead Party**

shall have the meaning ascribed to it in Condition 15.1;

### **Medical Research Scotland**

means Medical Research Scotland (the operational name of the Scottish Hospital Endowments Research Trust), of Princes Exchange, 1 Earl Grey Street, Edinburgh EH3 9EE, with Scottish Charity Number SC014959 and references to it imply and include SHERT;

### **Parties**

means the parties to which these PhD Standard Conditions shall apply to (including Medical Research Scotland, the Administering Institution and where applicable the Company) and the term Party shall be construed accordingly;

### **PhD Student**

means the PhD student recruited for the Studentship;

**Principal Supervisor** means the first supervisor from the Administering Institution as named on the application form;

### **SHERT**

means Scottish Hospital Endowments Research Trust, of Princes Exchange, 1 Earl Grey Street, Edinburgh EH3 9EE, with Scottish Charity Number SC014959 and operating under the name of Medical Research Scotland;

### **Studentship**

means the four year PhD Studentship awarded by Medical Research Scotland in accordance with these PhD Standard Conditions.

- 1.2 Words importing the singular shall also include the plural and vice versa.
- 1.3 References to a "person" include any natural person, any legal person, body or organisation incorporated or unincorporated or any other person, body or organisation whatsoever, as the context may require.
- 1.4 References to any statute, or to any statutory provision, including any regulation, statutory instrument, or other subordinate legislation derived from such statutory sources, shall include references to any statute or other statutory provision which amends, extends, consolidates or replaces the original statutory reference or which subsequently affects any such revised statutory reference.
- 1.5 References to any paragraph or Condition are references to such terms and other sub-divisions contained in these PhD Standard Conditions, unless otherwise specified.
- 1.6 The index and headings in these PhD Standard Conditions are for convenience only and shall not affect the construction of these PhD Standard Conditions.
- 1.7 Any reference to "including" shall be interpreted as meaning "including, without limitation".
- 1.8 Reference to any Scottish legal term for any action, judicial procedure, court, concept or principle shall, where appropriate, include any equivalent or the closest approximation to such term in any other relevant jurisdiction.

## **2. Governing Law & Jurisdiction**

- 2.1 These PhD Standard Conditions shall be governed by and construed in accordance with Scottish law. The Parties irrevocably agree that the courts of Scotland are to have exclusive jurisdiction to settle any questions or disputes which may arise out of or in connection with these PhD Standard Conditions.

## **3. Abbreviations**

ARRIVE Animal Research Reporting of In Vivo Experiments

ESRC Economic and Social Research Council

IP Intellectual Property

NC3Rs National Centre for the Replacement, Refinement & Reduction of Animals in Research

REC Research & Ethics Committee

SHERT Scottish Hospitals Endowment Research Trust

#### 4. General

- 4.1 The Studentship shall be carried out by or under the general direction of the University/Research Institution (“Administering Institution”) named in the Studentship award which shall be responsible for the conduct of the project.
- 4.2 If an application for funding for the Studentship research project is made simultaneously to both Medical Research Scotland and another funding body, and both applications are successful, only one award may be accepted by the authorised parties from both the Administering Institution and the Company: not more than one funding award can be held for the same research project.
- 4.3 The Administering Institution shall notify Medical Research Scotland of the start and completion dates of the project **and of any events occurring during the Studentship which could prejudice the completion date**. The start date is expected to be in September of the academic year following the offer of a Studentship Award. Any alternative start date should be no more than 4 months later than the expected September start date. Awards starting more than 4 months after the expected September start date may be forfeited.

Medical Research Scotland should be informed as soon as practically possible, and within one calendar month of the first date of student absence at the latest, if there is a period of PhD Student absence through sickness or injury lasting more than 10 consecutive working days. Payment of the Studentship may, at the discretion of Medical Research Scotland, be suspended for periods of absence for sickness or injury that are expected to last longer than this. The Principal Supervisor must inform Medical Research Scotland in advance of the dates of any maternity, paternity or adoption leave to be taken by a PhD student funded by a Medical Research Scotland Studentship. Payment of the Studentship will be suspended for the period of maternity, paternity or adoption leave. If the PhD Student returns to their PhD research studies after the maternity, paternity, adoption leave, sickness or injury on a lesser time commitment, Medical Research Scotland and the Administering Institution acting in good faith shall determine whether the period of the Studentship should be extended to accommodate the new research study basis.

- 4.4 **No change in the research protocol may be made without prior written agreement of Medical Research Scotland. Further, no change in the supervisors, Company and company supervisors as disclosed on the application form may be made without prior written agreement of Medical Research Scotland.**

Medical Research Scotland must be informed if such a change is required as soon as the Administering Institution is aware that a change is needed, and within 30 days at the latest. Failure to adhere to these conditions may result in termination of the Studentship and the demand for partial or full repayment of funds with the exception of such funds which have been properly and legitimately spent on project work.

The Dean or equivalent and the Research Administrator of the Administering Institution will be informed by Medical Research Scotland of any such circumstances and, where appropriate, the Research Ethics Committee (REC) of the Administering Institution.

- 4.5 The Administering Institution shall be responsible for the provision of the basic facilities required to support the work of the Studentship and will ensure that additional resources are made available by the Company to ensure the Studentship progresses efficiently and effectively.
- 4.6 The Administering Institution shall be responsible for ensuring that all the necessary legal and regulatory requirements in order to conduct the research are met, and all the necessary licences and approvals have been obtained, before research funded by the Studentship commences and for the duration of the Studentship. Where any research funded by the Studentship is to be conducted outside the United Kingdom, such legal and regulatory requirements, and such licences and approvals, should

include those applicable in the relevant jurisdiction outside the United Kingdom and, as a minimum standard, meet those of the United Kingdom.

4.7 All the Studentship Conditions contained in this document will subsist, notwithstanding the termination of the Studentship or the Studentship period, unless otherwise agreed.

4.8 The Administering Institution shall be responsible for ensuring compliance with all conditions contained herein and the Research Governance Framework for Health and Community Care.

## **5. Personnel**

5.1 The recruitment of the PhD student will be dealt with by the Administering Institution in conjunction with the Company following guidelines provided by Medical Research Scotland. A representative of Medical Research Scotland (as nominated at the sole discretion of Medical Research Scotland) can also be involved in the student recruitment process if requested by the Administering Institution, the Company or by Medical Research Scotland. Medical Research Scotland will have an ultimate power of veto in the recruitment process.

5.2 It is the responsibility of the Administering Institution to enter into any contractual arrangements with the PhD student whose stipend is reimbursed from the Studentship.

5.3 The Administering Institution must ensure that personnel working on the Studentship must devote to it the appropriate amount of time in relation to the amount of financial support received from Medical Research Scotland.

## **6. Consumables**

6.1 The element of the Studentship award attributable to consumables shall be used exclusively in connection with the Studentship and the Administering Institution shall, on request by Medical Research Scotland, produce such receipts and vouchers to evidence the consumables spend on this basis.

6.2 Consumables include the cost of laboratory reagents and other reasonable expenses required to complete the proposed research, including animal housing expenses, if applicable. Computers, IT equipment and software expenses are not covered, except in the case of specialist equipment and software fundamental to successful completion of the project. In which case, clear justification for the IT equipment must be included with invoices submitted for payment.

## **7. Finance**

7.1 The Administering Institution shall exercise financial control of the Studentship. Each year, subject to satisfying all relevant conditions, an annual allocation of the Studentship shall be made by Medical Research Scotland to cover the agreed costs for the incoming year (the Annual Payment).

7.2 Medical Research Scotland will **not** make any payments to the Administering Institution for any increase in the stipend which is above that agreed by Medical Research Scotland as set out in the Studentship.

7.3 Medical Research Scotland shall not be bound to reimburse claims for expenditure in any category in excess of the maximum stated in the Studentship or in excess of any amended maximum which has been agreed in accordance with Condition 18.1 and 18.2.

7.4 Medical Research Scotland shall pay claims only in respect of expenditure properly incurred during the currency of the Studentship (as stated in the Studentship), or as has been agreed in accordance with Condition 18.1. The Administering Institution shall be bound to supply such additional financial information as may reasonably be required by Medical Research Scotland.

## **8. Privacy**

- 8.1 **It is the responsibility of the Administering Institution to ensure that the requirements of the Data Protection Act 1998 are fully observed.** In particular, the Administering Institution shall ensure at all times that any personal data collected in the course of the Studentship shall be securely held and handled and that the anonymity of persons to whom the data refer shall be preserved in any report or publication.

## **9. Use of Animals**

- 9.1 Medical Research Scotland will fund projects involving the appropriate use of animal models if justified. However, wherever possible, procedures should be used which do not involve live animals. When it is essential to do experiments involving animals, the requirements of the Animals (Scientific Procedures) Act 1986, must be scrupulously observed.
- 9.2 The Administering Institution shall be responsible for ensuring that research involving the use of animals complies at all times with the relevant laws and regulations of the host country. Any element of research funded by the Studentship that is conducted outside the United Kingdom must, as a minimum standard, be conducted in accordance with the rules set out in UK legislation (Animals (Scientific Procedures) Act 1986) and in accordance with UK animal welfare standards.
- 9.3 Home Office licences or amendments to existing licences, or equivalents in other jurisdictions in the case that research funded by the Studentship involving animals is conducted outside the United Kingdom, do not have to be obtained before an application for a Studentship is submitted, but if a Studentship is awarded then the necessary licences, or equivalents, must be obtained before any research involving animals is conducted.
- 9.4 All individuals involved in a PhD Studentship using animals must implement the principles in the cross-funder guidance 'Responsibility in the Use of Animals in Bioscience Research'. All individuals involved in a PhD Studentship using non-human primates must comply with the NC3Rs guidelines 'Primate Accommodation, Care and Use'. The 'ARRIVE guidelines' should be used when designing experiments and reporting animal-based studies, taking into account the specific editorial policies of the journal concerned.
- 9.5 Medical Research Scotland may require the Administering Institution to demonstrate promptly, on request, that the regulations and guidelines concerning the use of animals in research have been adhered to (as specified in Condition 9).
- 9.6 Applications involving the use of animals may be referred by Medical Research Scotland to the NC3Rs for review.

## **10. Ethics**

- 10.1 The Administering Institution shall be responsible for ensuring that it has in place formal written procedures for managing the process for obtaining any necessary or appropriate ethical and regulatory approval for the research funded by the Studentship, and must ensure that any such ethical approval is in place at all relevant times during the Studentship.
- 10.2 Ethical and regulatory approval does not have to be obtained before an application for a Studentship is submitted, but if a Studentship is awarded then the necessary approval must be obtained before any research requiring that approval is conducted. Medical Research Scotland reserves the right to decline an application on ethical grounds, even when ethical approval has been given by the appropriate Research Ethics Committee (REC).
- 10.3 The Administering Institution must inform Medical Research Scotland immediately if there is a delay or failure of ethical approval being granted. An explanation of the steps that are being taken to mitigate against prolonged delay or complete failure to gain approval must be included.

- 10.4 The Administering Institution must inform Medical Research Scotland immediately in the event of any adverse incident being reported to the approving ethical committee.
- 10.5 In all studies where human material (irrespective of origin) is used, the 'Codes of Practice' issued by the Human Tissue Authority must be followed.
- 10.6 Medical Research Scotland may require the Administering Institution to demonstrate promptly, on request, that any required ethical and regulatory approvals are in place, or were in place when research requiring approval took place and have been adhered to.

## 11. Safety

- 11.1 All research procedures and protocols should adhere to current legislation, standards and institutional policies. If the research proposed involves the use of genetically-manipulated organisms, the Administering Institution must ensure that both the procedures for such modifications and the recombinant organisms themselves have been approved by the Health & Safety Executive, for both laboratory use and, if appropriate, clinical use, or, in the case where research funded by the Studentship is conducted outside the United Kingdom, the relevant jurisdiction's regulations and conditions for modification and use are complied with and, as a minimum standard, meet those of the United Kingdom.
- 11.2 Where the research involves equipment or procedures which may be hazardous (such as the use of radioisotopes, potential carcinogens or lasers) the Administering Institution must ensure that the requirements of the local safety committee, or, in the case where research funded by the Studentship is conducted outside the United Kingdom, the relevant jurisdiction's equivalent, have been satisfied and that all appropriate safety procedures and regulations have been complied with and, as a minimum standard, those of the United Kingdom have been met. Liability for failures in this regard shall be the responsibility of the Administering Institution and Medical Research Scotland shall take no liability.

## 12. Reviews & Reporting Procedures

- 12.1 A Scientific Adviser or any authorised officer of Medical Research Scotland or a group appointed on its behalf by Medical Research Scotland must be able, reasonable notice having been given, to discuss progress of the Studentship with the supervisors and the PhD student involved.
- 12.2 The Administering Institution must provide a **Set-Up Report** to Medical Research Scotland 3 months after the start of the Studentship to confirm that the Studentship is in progress in full accordance with the terms of the application including the identity of the Company and all named personnel, except as otherwise previously agreed in writing with Medical Research Scotland.
- 12.3 The Administering Institution will **provide progress reports to Medical Research Scotland in such form as Medical Research Scotland may require, incorporating reports from the PhD Student and/or Company as specified.**
- 12.3.1 **Annual Reports** must be submitted by the Principal Supervisor and are required during the term of the Studentship to confirm that the Studentship is still in progress, that the PhD student supported by the award is still in post, all supervisors as named remain involved as does the Company, and that the money paid has been applied for the purposes of the Studentship, in accordance with its terms. The Annual Payment will not be made until such time as a satisfactory report is received. Any change of objective must be agreed with Medical Research Scotland in accordance with Condition 18.1. Medical Research Scotland must be provided with an Annual Report confirming whether or not any or all identifiable Intellectual Property arising from Medical Research Scotland-funded research is being considered for commercial exploitation of any type (see Condition 15.9).

- 12.3.2 A **Final Report** must be submitted by the Principal Supervisor at the end of the funding period and it should be lodged with Medical Research Scotland **within 3 months of the end of the Studentship**. This will include *inter alia*, a report on the student's progress towards examination, their likely next destination, and the outcomes of the project.
- 12.3.3 A **Post-Completion Report must be submitted by the Principal Supervisor within one year of the end of the Studentship**. This Report will review the progress of the work funded and any commercial, industrial and intellectual property rights arising from it, as well as an updated list (and copies) of publications.
- 12.3.4 Further reports may be required at any time by Medical Research Scotland.
- 12.4 An **electronic copy of the PhD thesis** must be submitted to Medical Research Scotland by the Principal Supervisor by the end of the funding period, unless otherwise agreed in writing. The Administering Institution must provide a copy of the PhD thesis to the Company, if requested.
- 12.5 If, in the view of Medical Research Scotland, any Report is deemed to have been unsatisfactory, funding will be suspended until such time as concerns have been addressed.
- 12.6 Should any of the above reports not be submitted timeously then the Dean or equivalent at the Administering Institution will be notified.
- 12.7 Copies of all final form publications originating from research funded by Medical Research Scotland, published either before or after the Final Report, must be provided to Medical Research Scotland. **All publications, including the thesis, arising from research funded by Medical Research Scotland must acknowledge the contribution provided by Medical Research Scotland.** Failure to comply with these Conditions will result in a formal letter being sent to the Dean or equivalent at the Administering Institution.
- 12.8 The PhD student will normally be required to present their work in person to Medical Research Scotland at some point throughout the tenure of their funding and the Administering Institution will require the students to comply with this condition. The Administering Institution will also require the PhD student to take part in annual residential training events organised by Medical Research Scotland throughout the period of the Studentship.
- 12.9 Failure to adhere to these conditions may result in termination of the Studentship and the demand for partial or full repayment of funds. The Dean or equivalent and the Research Administrator of the Administering Institution will be informed of the circumstances.
- 13. Publicity about Financial Support and Objectives**
- 13.1 The Administering Institution will ensure that details of the financial support given by Medical Research Scotland for the Studentship and the scientific objectives of the research are publicised. Medical Research Scotland is required to publish such information itself.
- 14. Publication or Disclosure of Results**
- 14.1 If the outcome of a Studentship supported by Medical Research Scotland is potentially suitable for commercial exploitation, whether patentable or not, then the Administering Institution must draw this to the attention of Medical Research Scotland specifically and in good time *before* submission for publication. The Administering Institution is referred to the publication procedures set out in Condition 14.2 and is reminded that any form of prior disclosure whatsoever (including review by a publication committee) may prejudice subsequent filing of a patent application. The Administering Institution undertakes to bring these matters to the attention of all supervisors and students.



- 14.2 Medical Research Scotland acknowledges that the scientific outcomes of the Studentship will be presented at seminars, symposia, international, national or regional professional meetings; and that data and reviews will be published in journals (as well as theses or dissertations that normally would be made publicly available through the Administering Institution's libraries). Medical Research Scotland expects that, other than when commercial interests dictate, publications should be in an open access format (including both open access journals and availability of manuscripts through institutional repositories). (Open access should be interpreted in line with the Budapest Open Access Initiative "*Ten years on from the Budapest Open Access Initiative: setting the default to open*", September 11, 2012 archived at <http://www.webcitation.org/6AdLcI1TC>, i.e "free availability on the public internet, permitting any users to read, download, copy, distribute, print, search, or link to the full texts of these articles, crawl them for indexing, pass them as data to software, or use them for any other lawful purpose, without financial, legal, or technical barriers other than those inseparable from gaining access to the internet itself. The only constraint on reproduction and distribution, and the only role for copyright in this domain, should be to give authors control over the integrity of their work and the right to be properly acknowledged and cited".) Medical Research Scotland expects Administering Institutions and Principal Supervisors to take due cognizance of the need to protect patentable or commercially sensitive subjects, including for example, placing embargo on theses lodged with Universities.
- 14.3 **Acknowledgement of funding from Medical Research Scotland must be made in all publications, whether in printed or electronic journals, poster displays or oral presentations.** After formal acceptance of an award has been received, the Principal Supervisor in the Administering Institution will be sent an electronic copy of the Medical Research Scotland logo, for appropriate use in poster displays, presentations and suitable publications.
- 15. Commercial, Industrial and Intellectual Property**
- 15.1 Medical Research Scotland is committed to advancing healthcare through its support for biomedical research. As a charity, Medical Research Scotland is under an obligation to ensure that the useful results of research that it funds are applied for the public good. To meet these objectives, Medical Research Scotland wishes to encourage everyone involved in Medical Research Scotland-funded research to play an active role in ensuring the protection and exploitation of the Intellectual Property arising out of the research that Medical Research Scotland funds. It is expected that the Company will be the Party leading the protection and commercialisation of any Intellectual Property arising from the Studentship ("Lead Party") and that the Administering Institution will be the Lead Party only in exceptional circumstances.
- 15.2 Specifically, Medical Research Scotland requires the Administering Institution and the Company to agree to the following formula ("the Plan"):
- 15.2.1 **where only the Company owns the background Intellectual Property for the Studentship**, all foreground Intellectual Property arising from the Studentship will be owned by the Company. The Company will grant the Administering Institution a perpetual, irrevocable, worldwide non-exclusive royalty free licence to use the foreground Intellectual Property for the purposes of academic research, teaching and collaboration, including any collaboration with third parties, provided that such third parties are not granted any rights to exploit the foreground Intellectual Property;
- 15.2.2 **where both the Company and the Administering Institution own the background Intellectual Property for the Studentship**, all foreground Intellectual Property arising from the Studentship will be owned by the Company. The Company will grant the Administering Institution a perpetual, irrevocable, worldwide non-exclusive royalty free licence to use the foreground Intellectual Property for the purposes of academic research,

- teaching and collaboration, including any collaboration with third parties, provided that such third parties are not granted any rights to exploit the foreground Intellectual Property;
- 15.2.3 **where only the Administering Institution owns the background Intellectual Property**, all foreground Intellectual Property arising from the Studentship will be owned by the Administering Institution. The Administering Institution will grant to the Company a perpetual, irrevocable, worldwide non-exclusive royalty-free licence to use and exploit the foreground Intellectual Property for its own purposes, commercial or otherwise.
- 15.3 Medical Research Scotland requires the Administering Institution and the Company to agree to:
- 15.3.1 make available on a free of charge basis any background Intellectual Property required for the purposes of carrying out the Studentship;
- 15.3.2 notify Medical Research Scotland promptly in writing (and without exception) when IP that may be of medical or commercial value is created, and ensure that such IP is protected and not published or otherwise publicly disclosed prior to protection (while at the same time ensuring that potential delays in publication are minimised);
- 15.3.3 permit Medical Research Scotland to have reasonable access to personnel, facilities and information utilised in, or created or acquired pursuant to, a PhD Studentship or the exploitation envisaged.
- 15.4 **No Intellectual Property created or acquired in connection with Medical Research Scotland-funded activity may be commercially exploited in any way other than in accordance with the Plan without Medical Research Scotland's prior written consent**, such consent not to be unreasonably withheld. In this context commercial exploitation includes use for any commercial purpose or any licence, sale, assignation, materials transfer or other transfer of rights. As a condition of granting such consent, Medical Research Scotland shall require the Administering Institution and the Company to agree to terms of commercial exploitation including the sharing of the benefits (such as revenues and equity) arising from the exploitation as between the Administering Institution and the Company and Medical Research Scotland.
- 15.5 Subject to Conditions 15.7 and 15.8, if neither the Administering Institution nor the Company protects or exploits the Intellectual Property to Medical Research Scotland's reasonable satisfaction whether in accordance with the Plan or otherwise and pursuant to these PhD Standard Conditions, Medical Research Scotland shall have the right, but not a duty, to protect and exploit such Intellectual Property either by itself or by a third party on behalf of Medical Research Scotland. The Administering Institution and the Company agree to do, and will ensure that their employees, other personnel, subcontractors and students do, all acts required to assist Medical Research Scotland in such protection and exploitation (including to execute and deliver such further documents as may be required by law or otherwise necessary or reasonably desirable to implement and/or perfect these PhD Standard Conditions.
- 15.6 Subject to Conditions 15.7 and 15.8, in order to support Medical Research Scotland's obligation to ensure that the useful results of research that it funds are applied for the public good, in the event that the Administering Institution or the Company does not protect or exploit the Intellectual Property to Medical Research Scotland's reasonable satisfaction pursuant to Condition 15.5 above, the Administering Institution and the Company shall, if requested by Medical Research Scotland in writing, grant to Medical Research Scotland appropriate rights (being licence(s) (including the right to sub-licence) and/or assignation(s) of the Intellectual Property in whole or in part, all as Medical Research Scotland shall reasonably determine at its sole discretion) to exploit the Intellectual Property (and if required procure the same of any other third party associated with the project).

Medical Research Scotland shall inform the Administering Institution and the Company in the event that it is not satisfied with any aspect of either the protection or the exploitation of the Intellectual Property by the Administering Institution and the Company. Medical Research Scotland shall give the Administering Institution and the Company a period of 3 months to remedy any points with which it is not satisfied prior to issuing a written request for such grant of rights.

- 15.7 Medical Research Scotland accepts that Intellectual Property created or acquired in connection with Medical Research Scotland-funded activity may be the result of a wider research programme involving other students and personnel with funders other than Medical Research Scotland. The Administering Institution agrees to advise Medical Research Scotland if there will be any third party funding applied to the Studentship apart from the contribution to be made by the Company (at the time of application to Medical Research Scotland for the funding of the Studentship). If Medical Research Scotland has been notified in writing of such additional funding source(s) pursuant to Condition 17.2, then Medical Research Scotland shall also send a copy of Condition 15.6 to such additional funding source(s).
- 15.8 Medical Research Scotland shall consider any timeous approach made by such additional funding source(s) with regard to taking the protection and/or exploitation of the Intellectual Property forward in the event that the Administering Institution or the Company does not remedy the points of concern with the 3 month notice period and a grant of rights requires to be made.
- 15.9 The Lead Party shall ensure that Medical Research Scotland is provided with an Annual Report confirming whether or not any or all identifiable Intellectual Property arising from Medical Research Scotland-funded research is being considered for commercial exploitation of any type.

This annual report should include an indication of whether any Intellectual Property has been identified arising from the research of the Medical Research Scotland-funded Studentship and provide updates on progress towards the targets for the protection and commercialisation of any such Intellectual Property, as specified in the Plan. If no Intellectual Property has been identified, or if no progress has been made towards the protection and or commercialisation of any identified Intellectual Property, an explanation should be provided. Further, where Intellectual Property has been identified, but no steps have been taken towards its protection or commercialisation, the Lead Party should indicate what plans it and the other party (whether the Company or the Administering Institution) have for rectifying the situation timeously.

- 15.10 It is accepted that commercial exploitation of Intellectual Property may take time to develop and may result from collaborative work, involving more than one funding source, over several years. Notwithstanding this, Medical Research Scotland requires that the Intellectual Property Manager monitors Medical Research Scotland-funded research after completion of the funding award on a regular basis and ensures that Medical Research Scotland is advised of progress of the exploitation of the Medical Research Scotland-funded Studentship. In the event that a funded research Studentship cannot be commercialised (either alone or in collaboration with other funded research), the Lead Party shall advise Medical Research Scotland of the reasons for this in writing following such a decision being made to assist in future funding round decisions.
- 15.11 The Administering Institution and the Company acknowledge and agree that all provisions in this Condition 15 (whether imposed on them as the Administering Institution or the Company or as the Lead Party) will apply to them on a several basis.

## **16. Consequences of Breach of Conditions**

- 16.1 Should Medical Research Scotland find that any of the PhD Standard Conditions have been breached to a material extent by the Administering Institution and/or

the Company and/or that the Medical Research Scotland-funded research has been exploited without consulting and accrediting Medical Research Scotland in accordance with these PhD Standard Conditions then Medical Research Scotland shall serve the Administering Institution and/or the Company (as appropriate) with a notification of default letter and if the default is not rectified by the Administering Institution and/or the Company (as appropriate) within 30 days of notice then:

- 16.1.1 Medical Research Scotland reserves the right to award no further grants to applicants applying from the Administering Institution or involving the Company;
- 16.1.2 In the case of a Studentship in progress, Medical Research Scotland shall be entitled to withhold payment of any or all of the funding due until matters are resolved to the reasonable satisfaction of Medical Research Scotland;
- 16.1.3 The Administering Institution shall without prejudice to any other rights which Medical Research Scotland has or may have, on demand, pay to Medical Research Scotland such sums that are equivalent to the grant awarded by Medical Research Scotland pursuant to the relevant Studentship;
- 16.1.4 The Administering Institution and/or the Company (whichever is in breach of these PhD Standard Conditions) shall without prejudice to any other rights which Medical Research Scotland has or may have, on demand, pay to Medical Research Scotland all costs and expenses (including legal costs and disbursements) incurred by Medical Research Scotland as a result of its breach of these PhD Standard Conditions.

## **17. Commercial Exploitation of Results**

- 17.1 Medical Research Scotland, save as otherwise provided for in these Conditions, will not stipulate any method of commercial exploitation, this will be left to the Administering Institution and the Company to determine. The Administering Institution and the Company shall notwithstanding the foregoing be responsible for dealing with the commercial exploitation of the Intellectual Property pursuant to these PhD Standard Conditions in accordance with Good Industry Practice.
- 17.2 The Studentship is awarded on the basis that Medical Research Scotland is the sole funder of the project. The Administering Institution and the Company hereby undertake to keep Medical Research Scotland fully informed of all circumstances regarding compliance with these PhD Standard Conditions and, in particular, shall inform Medical Research Scotland of any third parties who propose to provide funding with regard to the project as provided in Condition 15.7 above.
- 17.3 Where any Intellectual Property arising from the Studentship is to be commercialised other than by way of licensing or the setting up of a Commercialisation Vehicle as specified below (condition 17.4), the Lead Party shall be responsible for informing Medical Research Scotland that this will be the case prior to any commercialisation of any Intellectual Property arising from the Studentship.
- 17.4 Where work funded by Medical Research Scotland is to give rise to the creation of a separate company or other legal entity (the "Commercialisation Vehicle"), the Administering Institution and the Company shall notify Medical Research Scotland forthwith in writing.
- 17.5 The Administering Institution and the Company acknowledge and agree that all provisions in this Condition 17 will apply to them on a several basis.

## **18. Variation of Conditions or Specifications**

- 18.1 No alteration, deletion or addition may be made to any of these PhD Standard Conditions, or any part of the Studentship without the **prior agreement in writing** of Medical Research Scotland. In particular:

- any change of substance in the objectives of the project;
- any change of supervisors or students;
- any potential move of any of the supervisors or PhD student from the Administering Institution or the Company to another;
- any change of the maximum expenditure figure for each element of the grant given in the Studentship;
- any change in the duration of the Studentship;

must be so approved.

Medical Research Scotland must also be notified as soon as practicable of any substantial change of control or transfer of assets or business away from the Company, or on the passing of a resolution for the liquidation of the Company other than for the purpose of a bona fide scheme of solvent amalgamation or reconstruction, the presentation at court by any competent person of a petition for the winding up of the Company, the issue at court by any competent person of a notice of intention to appoint an administrator to the Company, a notice of appointment of an administrator to the Company or an application for an administration order in respect of the Company, any step being taken by any person to appoint a receiver, administrative receiver or manager in respect of the whole or a substantial part of the assets or undertakings of the Company, the Company being unable to pay its debts as they fall due for the purpose of Section 123 of the Insolvency Act 1986, the Company entering into composition arrangement with its creditors, if a process has been instituted that could lead to the Company being dissolved and its assets being distributed among the Company's creditors, shareholders or other contributors, or any equivalent action in respect of it taken in any jurisdiction.

- 18.2 If Medical Research Scotland does not approve a change proposed by the Administering Institution or any change to the circumstances of the Company as provided for in Condition 18.1, Medical Research Scotland may, after consultation with the Administering Institution (but at its sole discretion), cancel or renegotiate the arrangements for support of the Studentship.
- 18.3 If Medical Research Scotland does not receive reports as required by Condition 12 above, Medical Research Scotland will cancel the arrangements for support of the Studentship.

## 19. Archiving of Research Data

- 19.1 The Administering Institution will ensure that the raw data/results are stored for a minimum period of 10 years after completion of the Studentship. At any time during this period the data/results may be requested by Medical Research Scotland. In the case of long term/longitudinal studies/population surveys, it may be necessary for a longer period of storage both in the interest of the Administering Institution and Medical Research Scotland. The Administering Institution, where appropriate, are encouraged to consider depositing data with the ESRC (Economic and Social Research Council) Data Archive.

## 20. Research and Financial Misconduct

- 20.1 It is the responsibility of the Administering Institution to **notify Medical Research Scotland immediately** if there is **any** indication that **research or financial misconduct has occurred** or may occur. Failure to do so may lead to the PhD Studentship's suspension or termination. Reimbursement of inappropriate claims will be sought. The Administering Institution will take reasonable steps to ensure the avoidance of misconduct on any aspect of research funded by Medical Research Scotland.

## 21. Confidentiality

- 21.1 Each of the Parties undertakes: (i) to keep the Confidential Information confidential by taking commercially reasonable precautions, and at least those precautions which it uses to protect its own confidential information; (ii) only to use such Confidential Information for the purposes for which it was so disclosed or came into

its possession under the relevant project or pursuant to these PhD Standard Conditions; (iii) not to disclose any Confidential Information to any third party (other than as specifically stated within these PhD Standard Conditions) without the prior written consent of the disclosing Party.

- 21.2 Each of the Parties undertakes to disclose Confidential Information of the other Party only to those of its officers, employees, agents and contractors, engaged by the disclosing Party who need to know such Confidential Information in connection with the relevant Studentship or pursuant to these PhD Standard Conditions and only to the extent to which such disclosure is necessary for the purposes contemplated.
- 21.3 The obligations contained in this Condition 21 shall survive the expiry or termination of the relevant Studentship for any reason but shall not apply to any Confidential Information which:
- 21.3.1 is publicly known at the time of disclosure to the receiving Party;
  - 21.3.2 after disclosure becomes publicly known otherwise than through a breach of these PhD Standard Conditions by the receiving Party, its officers, employees, agents or contractors;
  - 21.3.3 can be proved by the receiving Party to have reached its hands otherwise than by being communicated by the other Party including being known to it prior to disclosure, or having been developed by or for it wholly independently of the other Party or having been obtained from a third party without any restriction on disclosure on such third party of which the recipient is aware, having made due enquiry;
  - 21.3.4 is required by law, regulation or order of a competent authority (including any regulatory or governmental body or securities exchange) to be disclosed by the receiving Party, provided that, (i) where practicable, the disclosing Party is given reasonable advance notice of the intended disclosure and (ii) such disclosure shall only be made to the extent properly required.
- 21.4 Each Party shall promptly notify the disclosing Party (and Medical Research Scotland if different) if it becomes aware of any breach of confidentiality by any person to whom it divulges all or any part of the Confidential Information and shall give the other Party all reasonable assistance in connection with any proceedings which the other Party may institute against such person for breach of confidentiality.

## **22. Dispute Resolution**

- 22.1 In the event of a dispute arising pursuant to a Studentship and/or these PhD Standard Conditions the Parties agree that they shall each in good faith attempt to resolve the dispute.
- 22.2 Work and activity to be carried out under the Studentship shall not cease or be delayed by this dispute resolution procedure unless Medical Research Scotland notifies the Parties to the contrary.
- 22.3 The Parties acknowledge however that, notwithstanding the provisions of this Condition 22, nothing herein shall prevent any Party from bringing proceedings in any court of competent jurisdiction to protect the Intellectual Property or rights of confidentiality of that Party, or if a Party is clearly acting in bad faith in the conduct of the dispute resolution procedure or has committed a material breach of these PhD Standard Conditions or if the dispute has not been resolved within 21 days after this dispute resolution procedure has been invoked.

## **23. No Waiver**

- 23.1 No modification, alteration or waiver of the provisions of this Agreement by Medical Research Scotland shall be effective unless it is in writing and executed by or on behalf of Medical Research Scotland. No delay, omission or failure by Medical Research Scotland to exercise any right or remedy shall operate as a waiver by

Medical Research Scotland. Any partial exercise of a right or remedy by Medical Research Scotland shall not preclude any other or further exercise of any such right of action by Medical Research Scotland.

#### **24. Severability**

- 24.1 If any of the paragraphs or Conditions or other provisions of these PhD Standard Conditions are found by an arbiter, court or other competent authority to be void or unenforceable, such provision shall be deemed to be deleted from these PhD Standard Conditions but the remaining provisions of these PhD Standard Conditions shall continue in full force and effect insofar as they are not affected by any such deletion. In the event of any such deletion, the Parties shall attempt to negotiate in good faith with a view to replacing the provisions so deleted with legal and enforceable provisions that have similar economic and commercial effect to the provisions so deleted.

(revised July 2017)