1. **Definitions of Terms**
   1. In these conditions:

|  |  |
| --- | --- |
| Application | means the completed application form for a NHS Assure grant by the Awardee in respect of the Project, a copy of which is annexed hereto; |
| Award | means the grant offered to the Awardee by the Funder as specified in the Offer Letter, as varied from time to time in accordance with the provisions of these conditions; |
| Award Period | means the period of the Award, as set out in the Offer Letter; |
| Awardee | means the institution to which the Award will be payable and at which the Chief Investigator is based; |
| Chief Investigator | means the person who takes overall responsibility for the design, conduct and reporting of the Project if it is at one site; or if the Project involves researchers at more than one site, the person who takes primary responsibility for the design, conduct and reporting of the Project whether or not that person is an investigator at any particular site. |
| Conditions | means these standard conditions of award, being the basis upon which the Funder offers to support the Project; |
| Funder | means The Court of Edinburgh Napier University, constituted by The Napier College of Commerce and Technology (No. 2) Regulations 1985 and the Napier University Order of Council 1993, of 219 Colinton Road Edinburgh EH14 1DJ, a registered Scottish Charity No. SC018373 as Research Management Agent on behalf of NHS Scotland Assure; |
| Insolvency Event | means any one or more of the following:   1. the Awardee ceases or threatens to cease to carry on business; 2. a notice shall have been issued to convene a meeting for the purpose of passing a resolution to wind up the Awardee or such a resolution shall have been passed other than a resolution for the solvent reconstruction or reorganisation of the Awardee or for the purpose of inclusion of any part of the share capital of the Awardee in the Official List of the London Stock Exchange or other recognised stock exchange or an application by the Awardee for registration as a public company in accordance with the requirements of the Companies Act 2006; or 3. a resolution shall have been passed by the Awardee’s directors to seek a winding up or administration order or a petition for a winding up or administration order shall have been presented against the Awardee or such an order shall have been made; or 4. a receiver, administrative receiver, receiver and manager, interim receiver, custodian, sequestrator or similar officer is appointed in respect of the Awardee or over a substantial part of its assets or any third party takes steps to appoint such an officer in respect of the Awardee; or 5. a proposal for a voluntary arrangement shall have been made in relation to the Awardee under Part I of the Insolvency Act 1986; or 6. a step or event shall have been taken or arisen outside the United Kingdom which is similar or analogous to any of the steps or events listed at (a) to (e) above; or 7. where the Awardee is resident in the United Kingdom it is deemed to be unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986; |
| NHS NSS | means The Common Services Agency (more commonly known as NHS National Services Scotland), a statutory body constituted pursuant to the National Health Service (Scotland) Act 1978 as amended, having its headquarters at Gyle Square, 1 South Gyle Crescent, Edinburgh, EH12 9EB (and its statutory successors); |
| NHS Scotland | means the National Health Service in Scotland; |
| NHS Scotland Assure | means NHS Scotland Assurewithin Procurement, Commissioning & Facilities (PCF) a Strategic Business Unit (SBU) of NHS NSS set up to manage risk within the healthcare built environment across Scotland, encompassing services from Health Facilities Scotland (HFS) and Antimicrobial Resistance and Healthcare Associated Infection (ARHAI) Scotland and, to avoid doubt, rights of and obligations on NHS Scotland Assure are rights of and obligations on NHS NSS; |
| Offer Letter | means the letter from the Funder awarding the Award to the Awardee, setting out the objectives of the Project, and to which these conditions are annexed; |
| Project | means the research project to be undertaken by the Awardee and other applicant(s) (if any) identified in the Application, the objectives of which are set out in the Specification, in accordance with these conditions; |
| Specification | means the summary of the details of the Award issued with the Offer Letter. This includes: reference number, title, aims, Awardee, Chief Investigator, and financial details; |

1. **General**
   1. Research Governance
      1. The research supported by the Award must be conducted in accordance with the Scottish Government’s guidance “Research Governance Framework for Health and Community Care in Scotland” and if relevant, in accordance with the Government’s guidance “Governance Arrangements for NHS Research Ethics Committees in Scotland” or such guidelines as may be issued from time to time by the Government.
   2. Sponsorship
      1. Neither the Funder not NHS Scotland Assure assumes sponsorship responsibility for any research funded through its research grant scheme, including the Project. The Applicant must be satisfied before the Project begins that arrangements are in place for the research team to access resources and support to deliver the Project as proposed and that arrangements are in place allocating responsibilities for the management, monitoring and reporting of the Project.
   3. Responsibilities of the Awardee
      1. The Project shall be carried out by, or under, the general direction of the organisation named in the Specification as the Awardee who will be responsible for operating the management and monitoring systems for the Project and for ensuring that these terms and conditions are complied with.
      2. The Awardee must provide the basic facilities required to support the work of the Project.
      3. The Awardee must ensure that the research supported by the Award complies with all relevant legal requirements whether in force at the date of this award, or which subsequently come into force. This requirement includes approval or licence from any regulatory body that may be required before the Project can commence.

* + 1. The Awardee must ensure that the Chief Investigator, any co-investigators and other staff understand and discharge their responsibilities and observe the terms and conditions of the Award.
    2. It is the responsibility of the Awardee to ensure that the Project has documented NHS organisation approval before any work that involves the NHS commences. The NHS organisation(s) from which such approval is required are specified in the Offer Letter.
    3. The Awardee must notify the Funder of the start and completion dates of the Project and of any events occurring during the Project which could prejudice the completion date. No change in the Project may be made without prior agreement in writing of the Funder.
    4. The Awardee is responsible for ensuring that the Project is completed within the time allocated and within the financial limits of the Award and must advise the Funder immediately in writing of any occurrences which may prejudice the completion of the Project within these limits. Failure to do so may result in termination of the Project and the demand for partial or full repayment of funds.
    5. If the Project fails to progress, the Awardee and the Funder will work together and with the Chief Investigator and any co-investigators to develop a solution. The Funder will not accept financial responsibility for delays in the Project due to staff changes or failure by the Awardee to put in place appropriate management and monitoring arrangements.
    6. It is suggested that a Project management committee is established to oversee the Project. The composition of the committee will be a matter for the Chief Investigator to decide, but the issues for consideration will include research conduct and governance, Project and financial management and dissemination (including where appropriate archiving of data).
  1. Prohibited Entities
     1. The Awardee shall ensure that no person, organisation or entity involved in any field (including alcohol, arms or tobacco) which the Funder considers is contrary to the objectives of NHS Scotland entities receives any part of the Award, nor participates in or supports the Project in any way, nor receives any transfer or licence of any intellectual property developed under or in connection with the Project:

1. **Staff**
   1. It is the responsibility of the Awardee to enter into contracts of employment with all persons whose salaries are reimbursed from the Award. Such contracts should provide for the rate of pay and conditions of service normally applicable to the appropriate grades of the persons employed by that institution. The Awardee shall be responsible for meeting the costs of sickness and maternity absence.
   2. The Awardee is responsible for ensuring that all clinicians working on the Project are aware that they are individually responsible for obtaining appropriate cover from a professional defence organisation for any activities not covered by NHS indemnity arrangements or by any additional provision made by the Awardee. The Funder will not meet the needs of such cover.
   3. The Awardee is responsible for ensuring that any honorary contracts required by clinical or other staff working on the Project have been obtained prior to the start of the Project.
   4. The Chief Investigator must be a permanent salaried member of staff of the Awardee or have a contract with the Awardee which extends not less than 24 months beyond the end of the Award Period.
2. **Equipment**
   1. Any equipment paid for by the Funder, however acquired, shall be, and remain, the property of the Funder and be in the care of and maintained in good condition by the Awardee. This will include appropriate insurance or maintenance by the Awardee. At the end of the Award Period such equipment must be returned to the Funder, unless the Funder advises otherwise.
   2. During the period when such equipment is in the care of the Awardee, none of the Funder, NHS Scotland Assure, NHS NSS, NHS Scotland entities or the Scottish Ministers, nor their respective agents, shall be liable for any claims arising out of the presence or use of such equipment. In the event that equipment is lost, damaged or stolen, it is the responsibility of the Awardee to notify the Funder and provide a replacement or reimbursement. Equipment must not be lent, re-allocated or disposed of without the Funder’s approval.
   3. If such equipment is transferred (with the Funder’s permission) to an institution other than the Awardee named in the Specification, the Awardee shall continue to be responsible for the care and maintenance of such equipment, and none of the Funder, NHS Scotland Assure, NHS NSS, NHS Scotland entities and the Scottish Ministers and their agents shall be liable for any claims arising from the removal, installation and use of such equipment.

* 1. At the conclusion of the Project, or following withdrawal of financial support, the Funder may:
* withdraw any such equipment from the Awardee; or
* on being satisfied in writing by the Awardee that such equipment shall continue to be used for the benefit of health research in Scotland, agree that it shall be retained in the care of, and maintained by the Awardee; or offer such equipment for sale to the Awardee at an agreed current valuation; or dispose of such equipment in ways that are acceptable to the Funder.

1. **Finance**

The Awardee shall exercise financial control of the Award according to the conditions set out in Appendix A which are incorporated herein brevitatis causa.

1. **Limitation of Liability**

The Funder accepts no responsibility, financial or otherwise, for expenditure (or liabilities arising out of such expenditure) or liabilities arising out of the work funded by the Award. The Funder will not indemnify the Awardee, the Chief Investigator, co-investigators or any other person working on the Project (including employees, students, visiting fellows and subcontractors) against any claims for compensation or against any other claims (whether under statute or regulation or at common law) for which the Awardee may be liable as an employer or otherwise or for which any such person may be liable.

1. **Data Protection**

It is the responsibility of the Awardee to ensure that the requirements of the UK General Data Protection Regulation and other legal provisions and guidance on handling information are fully observed. In particular, the Chief Investigator and any co-investigators shall ensure at all times that any personal data collected in the course of the Project shall be securely held and handled and that the anonymity of persons to whom the data refers shall be preserved including in any report or publication.

1. **Use of Animals**
   1. Wherever possible, investigators must adopt procedures and techniques which avoid the use of animals. Where this is not possible, the research must be designed to meet full compliance with all Home Office Regulations and any legal requirements regarding the use of animals including:

* ensuring that the least sentient species with the appropriate physiology is used;
* ensuring that the number of animals used is the minimum sufficient to provide the statistical power to answer the question posed;
* ensuring that the severity of procedures performed on animals is kept to a minimum.

Experiments should be kept as short as possible. Appropriate anaesthesia, analgesia and humane end points should be used to avoid any pain and suffering.

* 1. The Awardee is responsible for ensuring that the provisions of the Animals (Scientific Procedures) Act 1986 and any amendments are observed and that all necessary licences have been received before any work requiring approval takes place.

1. **Ethics**
   1. The Awardee is responsible for ensuring that ethical issues relating to the Project are identified and brought to the attention of the applicable approval or regulatory body.
   2. Ethical approval to undertake the research must be granted before any work requiring approval begins. Confirmation of ethical approval must be submitted to the Funder before any part of the Award is paid.
2. **Health and Safety**

The Awardee is responsible for ensuring that a safe working environment is provided for all individuals associated with the Project. Its approach and policy on health and safety matters must meet all regulatory and legislative requirements and be consistent with best practice recommended by the Health and Safety Executive. Appropriate care must be taken where researchers are working off-site. The Awardee must satisfy itself that all reasonable health and safety factors are addressed and to monitor and audit the actual arrangements made.

1. **Research and Financial Misconduct**
   1. The Awardee must have in place adequate systems for ensuring the quality and financial management of research that is carried out by its staff so that scientific misconduct (e.g. plagiarism, falsification of data, improper selection of data) or financial misconduct can be prevented. The Awardee should have effective mechanisms in place for identifying scientific and financial misconduct and clearly publicised and agreed procedures for investigating allegations of such misconduct.
   2. It is the responsibility of the Chief Investigator and the Awardee to notify the Funder immediately if there is any indication that research or financial misconduct has occurred. Failure to do so may lead to the Project’s suspension or termination. Reimbursement of inappropriate claims for grant funding will be sought.

1. **Monitoring and Evaluation**
   1. An officer of the Funder, or a group appointed on its behalf by the Chief Scientist, must, when reasonable notice has been given, have access to the Project to discuss its progress with the Chief Investigator, any co-investigators and the staff involved, and to inspect equipment or other materials provided from the Award.
   2. The Chief Investigator is responsible for providing such progress reports as may be required by the Funder. Such reports must conform to guidelines which are issued from time to time by the Funder. Any change of objective must be agreed with the Funder. The timing and frequency of such reports, which shall depend on the nature and duration of the Project, shall be as set out in the Offer Letter, or otherwise as notified to the Chief Investigator by the Funder. If, after due assessment, the research is not considered to be making satisfactory progress, the Funder reserves the right to discontinue the provision of financial support under the terms of the Award.
   3. The Chief Investigator is required to submit accurate and updated information on the outputs from the Project to the Funder. Reports shall be in the form set out at the following web link: [INSERT LINK], or as the Funder may otherwise notify the Awardee from time to time.
   4. The Chief Investigator is responsible for ensuring that a final Project report and other information and actions as required by the Funder as part of the Project completion will be available and completed to the satisfaction of the Funder by the end of the Award Period. This should conform to the guidelines as provided by the Funder.
   5. Funding of further Award applications from the Chief Investigator will not be considered until the actions detailed in Conditions 12.1, 12.2, 12.3, 12.4 and 12.5 have been completed to the satisfaction of the Funder.
   6. Copies of all publications originating from research sponsored by the Funder, published either before or after the final report, must be provided to the Funder.
2. **Publication and Acknowledgement of Support** 
   1. The Funder attaches great importance to the publication and dissemination of the results of research undertaken with its Award support. Awardees must acknowledge the Funder’s support in publications and communications (including media appearances and releases, as well as journals and conferences). The Funder’s financial support should always be acknowledged even when the contribution to individual papers may be small.
   2. The Awardee is responsible for ensuring that articles, programmes or papers give an accurate account of the research undertaken as part of the Project.
   3. The Funder reserves the right to publish details of financial support given for the Project and of the scientific objectives of the Project and periodically to submit publishable details to partner organisations as appropriate.
   4. The Awardee and/or Chief Investigator must inform the Funder of any intended publication or significant public presentation of any work containing results, information or technical knowledge connected with the Project. The Awardee and/or Chief Investigator shall forward a copy of the work to the Funder at least 30 days prior to submission for publication, so that, prior to submission for publication, the Funder may comment on any matters of policy raised in the work. In particular, any results that might be considered “sensitive” and exploitable by the media must be indicated to the Funder in good time and any press releases should be sent to the Funder at least 30 days in advance of intended date of release.
   5. Where new or previously unreported results are to be made public at any meeting where representatives of the specialist or general news media may be present, the data and any text to be used should be sent to the Funder at least 10 working days in advance of the presentation, together with full information about the meeting.
   6. Where publication of the research results is to be made by poster display or oral presentation to a medical or scientific meeting, abstracts should be sent to the Funder not less than 30 days in advance of submission to the organisers of the meeting, and additional results and any text used should be submitted as soon as possible, prior to the meeting. When publication is to be achieved by presentation in written text, and delay will occur before the research becomes public, the text should be sent to the Funder not less than 30 days before submission to the journal, naming the journal. In each case, The Funder may at its discretion, for the purposes of NHS Scotland entities (or any part thereof) or other NHS organisations elsewhere in the United Kingdom and for the purposes of social work activities in Scotland or elsewhere in the United Kingdom, inform, as appropriate, any Minister of the Crown, any Health Board or similar statutory body, and any Local Authority in the UK, of any results of the Project.
   7. A copy of the final, peer-reviewed version of all papers arising from the funded research and accepted for publication must be deposited in a publicly accessible repository and be made freely available within 6 months of the date of publication. All papers derived from the Project must acknowledge the Funder.
3. **Intellectual Property and Commercial Exploitation**

* 1. Unless alternative provisions are set out in the Offer Letter (in which case, for the avoidance of doubt, the terms of the Offer Letter will prevail), and subject to the conditions set out below, the ownership of intellectual property arising out of the Project, and responsibility for its exploitation, rests with the Awardee. The Funder may, at its discretion, retain ownership of such intellectual property. This right, if exercised, will be set out in the Offer Letter.
  2. The Awardee is responsible for ensuring that the Funder is informed in writing of any discovery, development, application or technical knowledge (“Innovation”) arising in the course of the Project which could have commercial value.
  3. The Awardee is responsible for ensuring that the Funder is notified of any proposed discussion or negotiation with any person, company or firm with a view to commercial use or exploitation of such results.
  4. It is the responsibility of the Awardee and all engaged in the Project, to make every effort to ensure that any potential Innovation generated or created in the course of the Project is appropriately exploited. If at the end of a period of 5 years from the final payment of the Award the Funder takes the view that the Awardee has not taken adequate steps to exploit the intellectual property in relation to that potential Innovation, and the Funder takes the view that the potential Innovation has such potential for exploitation, ownership of all intellectual property generated through the Award shall revert to the Funder immediately. In arriving at such a view the Funder will first consult the Awardee and shall subsequently notify the Awardee of any such view in writing.
  5. Subject to any provision to the contrary in the Offer Letter (in which case the terms of the Offer Letter shall prevail) and notwithstanding Condition 14.4 above, the Awardee shall grant to NHS NSS, with a right to further sub-licence the same to:
     1. any other department, body or other organisation being, forming part of or under the control of any NHS Scotland entity; and/or
     2. to any other NHS organisation in the United Kingdom, at the sole discretion of NHS Scotland Assure;

a royalty-free, non-exclusive, perpetual licence to utilise the intellectual property for clinical use, non-commercial research and teaching and education purposes

* 1. The Awardee must ensure that all those associated with the research are aware of, and accept, the arrangements and conditions for exploitation.
  2. In the event that the Awardee is collaborating with any other party or parties on the Project (any such collaboration to be detailed in the Application or otherwise approved by the Funder in writing), the collaborative arrangements between the Awardee and such other party or parties are expected to be put on a formal basis through an agreement covering the contributions and rights of the organisations and individuals concerning exploitation.
  3. Such agreements must be in place before the Project begins. The terms of collaboration agreements must not conflict with these Conditions.

1. **Termination**

* 1. The Funder reserves the right to terminate the Award at any time, subject to giving reasonable notice in writing of not less than 30 days. Should the Funder exercise the foregoing right under this Condition 15.1, it shall make such payment to the Awardee that it (acting reasonably) agrees may be necessary to cover outstanding and unavoidable commitments.

* 1. The Funder may at any time by notice in writing terminate the Award without liability for any damage, loss or expenses arising as a result of or in connection with such termination if:
     1. the Awardee is subject to an Insolvency Event; or
     2. the Awardee is in material breach of any of these terms and conditions, and either:
        1. in the case of a breach capable of remedy, it fails to remedy that breach within thirty (30) days of the service of a written notice by the Funder specifying the breach and requiring its remedy; or
        2. the breach is not capable of remedy.
  2. Termination or expiry of this Agreement shall not affect the rights of either the Funder or the Awardee against the other in respect of the period up to and including the date of termination or expiry.

1. **Preserving and Sharing Research Data** 
   1. The Funder encourages the sharing of data from research it supports. Where the data may be of interest to researchers other than the original investigators, consent from research participants should be worded in terms that enable the data to be used for secondary analysis, and datasets should be preserved in a way that encourages other analysts to use them.
   2. The Funder recognises that the original investigator has a right to a limited period of exclusive use of the data, that secondary analyses may be most fruitfully conducted in collaboration with the original investigator, and that publications making secondary use of the data should acknowledge the intellectual property of the original investigator.
   3. Whether or not the data is likely to be used for secondary analysis, the Chief Investigator must ensure that the raw data or results are stored for a minimum period of 5 years after completion of the Project. At any time during this period the data or results may be requested by the Funder. If a longer period of storage is required, this will be indicated in the notice of funding.
2. **Continuing Subsistence of Conditions**

The conditions described above shall subsist notwithstanding the termination of the Project or the Award Period, unless otherwise agreed.

1. **Variation of Conditions or Specification**

No alteration, deletion or addition may be made to any of these conditions, or any part of the Specification without the prior agreement in writing of the Funder. In particular:

* Any change of substance in the objectives of the Project;
* Any change of Chief Investigator/co-investigators;
* Any change of the maximum expenditure figure for each element of the Award given in the Specification;
* Any change in the duration of the Award;

must be so agreed. If the Funder does not agree a change proposed by the Awardee, the Funder may, after consultation with the Awardee, cancel or renegotiate the arrangements for support of the Project or seek recompense.

1. **General**

* 1. The Awardee will not assign and/or sub-contract its rights and/or obligations under the Award without the prior written consent of the Funder.
  2. Any failure by the Funder to seek redress for any breach of, or to insist on performance in respect of, any provision of these Conditions, or any failure by the Funder to exercise any right or remedy to which it is entitled under these Conditions, will not constitute a waiver of any of the Funder’s rights under these Conditions.
  3. Nothing in this Agreement and no action taken by the Funder or the Awardee contemplated pursuant to the Award and/or these Conditions shall constitute or be deemed to constitute a partnership between the Funder and the Awardee or shall constitute either the Funder or the Awardee as an agent, employee or representative of the other.
  4. These Conditions will be governed by and construed in accordance with the laws of Scotland. The Funder and the Awardee agree that any dispute arising under or in connection with these Conditions will be decided in the Scottish Courts which will have the exclusive jurisdiction in respect of any such matter.

Appendix A

FINANCE

1. General

1.1 The Offer Letter from the Funder must be signed by the Awardee and returned to the Funder. Projects are expected to start (unless there are exceptional circumstances) within 6 months of the date of the Offer Letter.

1.2 When the Project commences, this should be notified to the Funder, together with the expected end date of the Project. These start and finish dates must always be the first and last days of a month respectively. A finance contact for the Award must be identified. No money will be paid for the Project until such notification and, where appropriate, ethics approval is received from the Awardee. No transfer of funds between awarded categories of expenditure may take place without the prior agreement of the Funder.

Full Research Grants

1.3 These are normally 80% of full economic costs. Payments are made in accordance with the payment schedule set out in the Offer Letter, and subject to completion of milestones and/or any additional conditions set out in the Offer Letter. All payments made by the Funder may be recovered and/or future payments withheld if (i) expenditure by the Awardee is not in accordance with that agreed by the Funder; and/or (ii) the Awardee fails to make sufficient progress with the Project and/or fails to complete any milestones and/or any additional conditions set out in the Offer Letter; and/or (iii) the Awardee fails to submit the reports detailed at Conditions 12.2 and 12.3 timeously.

2. Statements and Audit

Annual Statements

2.1 The Funder will issue an annual statement which the Awardee will be required to return confirming expenditure to date for each Project administered. The Awardee must certify by completing the statement and signing the enclosed certificate “that expenditure has been incurred in accordance with the Award conditions”. The Awardee will also be certifying that it agrees with the details on the statement. No further payments will be made to the Awardee for any of its held Projects until this statement is returned. When a Chief Investigator requires to submit a progress report, no further payments will be made on the Project when the report is overdue. All payments made by the Funder may be recovered and/or future payments withheld if expenditure by the Awardee is not in accordance with that agreed by the Funder.

Expenditure Statements

2.2 The final payment due on any Project will be withheld until a final statement of expenditure is received by the Funder. Where final expenditure on the Project is less than the Award paid, the Funder will recover the excess amount of Award paid. In cases where the final expenditure is more than the Award, the Funder may approve at its discretion, an increase in the final payment to cover the additional costs.

2.3 The final statement of expenditure should be completed by the finance office of the Awardee and sent to the Funder within 4 weeks of the end of the Award Period.

2.4 All payments made by the Funder may be recovered if:

 the final statement of expenditure is not received within 6 months of the end of the Award Period;

 expenditure by the Awardee is not in accordance with that agreed by the Funder.

Audit of Expenditure

2.5 The Funder is required to undertake an annual audit of expenditure on project grants, randomly selected for this purpose. The Funder may contact the Awardee for the selected Project grant(s) who, if contacted, will be required to provide documentation confirming the directly incurred expenditure to date on the Project including salaries, consumables, travel and subsistence, equipment and other expenditure. For salaries, this may be a signed statement of staff costs from the Awardee’s finance office or details of total payments made from payroll clearly laid out in summarised format. Dated invoices will be required for all consumables, travel and subsistence and equipment costs along with any invoices detailing other costs incurred on the Project. All payments made by the Funder may be recovered and/or future payments withheld if expenditure by the Awardee is not in accordance with that agreed by the Funder.