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**PLEASE READ CAREFULLY BEFORE ACCESSING THE GPAS WEB PORTAL**

**THIS LICENCE AGREEMENT ("LICENCE") IS A LEGAL AGREEMENT BETWEEN YOU ("THE CUSTOMER" OR "YOU") AND ELLISON INSTITUTE OF TECHNOLOGY, OXFORD LIMITED of Winchester House, The Oxford Science Park, Heatley Road, Littlemore, Oxford OX4 4GE ("LICENSOR")**

**BACKGROUND:**

- LICENSOR provides a software-as-a-service (SaaS) online data processing platform which allows users to upload, analyse and quality control genome data through the GPAS Web Portal as defined below.
- The Customer desires to use the GPAS Web Portal to receive the Services as more particularly defined below for the purpose of Customer's own nonclinical research into, and analysis of, pathogen samples.
- LICENSOR is willing to licence the GPAS Web Portal and will provide the Services to the Customer on the following terms.

**IMPORTANT NOTICE. BY ACCESSING THIS SOFTWARE, YOU CONFIRM THAT YOU HAVE READ AND AGREE TO THE TERMS OF THIS LICENCE WHICH WILL BIND YOU FROM THE DATE YOU FIRST DO SO ("THE EFFECTIVE DATE"). THE TERMS OF THIS LICENCE INCLUDE, IN PARTICULAR, LIMITATIONS ON LIABILITY IN CLAUSE 13.**

**THIS LICENCE IS ONLY AVAILABLE TO INDIVIDUALS WHO ARE ACTING IN AN INDIVIDUAL CAPACITY AND WISH TO USE THE SERVICES AND THE DELIVERABLES FOR NON-CLINICAL, ACADEMIC AND RESEARCH PURPOSES ONLY. IF YOU WISH TO USE THE SERVICES OR THE DELIVERABLES FOR ANY OTHER PURPOSES OR IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF ANOTHER LEGAL ENTITY THEN YOU MUST NOT ACCEPT THIS AGREEMENT BUT PLEASE CONTACT US TO DISCUSS AN APPROPRIATE FORM OF LICENCE at [gpas.info@eit.org](mailto:gpas.info@eit.org).**

**IF YOU DO NOT AGREE TO THE TERMS OF THIS LICENCE, YOU MAY NOT ACCESS THE GPAS WEB PORTAL OR USE THE SERVICES**

## YOU SHOULD PRINT OUT A COPY OF THIS LICENCE FOR YOUR REFERENCE

### DEFINITIONS AND INTERPRETATION:

Copyright Notice	<p>Gnomonicus copyright © Oxford University Innovation Ltd 2024.</p> <p>Piezo copyright © Oxford University Innovation Ltd 2024.</p> <p>Gumpy copyright © Oxford University Innovation Ltd 2024.</p> <p>FindNeighbour5 copyright © Oxford University Innovation Ltd 2023.</p> <p>Mycobacterium Genomic Analysis Pipeline copyright © Oxford University Innovation Ltd 2024.</p> <p>Sundial copyright © Oxford University Innovation Ltd 2024.</p>
Customer Materials	<p>shall mean all documents, data, information, items and materials in any form, whether owned by the Customer or a third party, which are provided by the Customer to LICENSOR in connection with the Services;</p>
Data Protection Legislation	<p>all applicable data protection and privacy legislation in force from time to time in the UK including without limitation the retained law provisions within the General Data Protection Regulations known as "UK GDPR"; the Data Protection Act 2018 (and regulations made thereunder) (DPA 2018); and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended;</p>
Deliverables	<p>shall mean any output produced by the GPAS Web Portal or otherwise as part of the Services to be provided by LICENSOR to the Customer, including without limitation all reports, analysis, downloads, exports and other information which does not reference the Uploaded Data;</p>
Direct Upload	<p>the optional ability to upload batches of data directly to the GPAS Web Portal without the use of the Command Line Interface ("CLI") Personally Identifiable Information within the Upload Data is removed and discarded during cloud processing;</p>
Documentation	<p>the document entitled User Guide which sets out a description of the user instructions for the Services;</p>

GPAS Web Portal	the Global Pathogen Analysis Service web-based management platform for data analysis, which allows You to upload, analyse and quality control genome data to access the Services;
LICENSOR Background IPR	means the Intellectual Property Rights owned by LICENSOR or its licensors in all underlying algorithms, methods, calculations or report layouts used to deliver the Services;
Intellectual Property Rights	shall mean all intellectual property rights of any kind existing anywhere in the world whether or not registered and all applications, renewals and extensions of the same and whenever arising, registered or applied to be registered including, without limitation, copyright, moral rights, database rights, rights in computer software, design rights, patents, rights to inventions, trademarks, trade names and other rights in goodwill, business names and domain names, rights in know-how, trade secrets and other confidential information;
ISP	Internet Services Provider;
Results	any sequence data, outputs, reports and/or results produced by, and/or made available to the Customer via the Services, based on or relating to the Uploaded Data, including such data, output, reports and/or results held in the database, shown on-screen in the GPAS Web Portal, and downloaded excluding the Licensor Background IPR. Results are presented in a GUI with the ability to download specific Results data;
Services	the services of web-based dashboard reporting which depending on the sample data and analysis selected may include information on the following speciation, lineage prediction, sample relatedness and identification of genetic mutations associated with antimicrobial resistance;
Term	shall mean together the Initial Term and any Extended Term as defined in clause 5;
Upload Client	the software as a Command Line Interface (CLI) made available by LICENSOR for the Customer to prepare samples for upload to the GPAS Web Portal;
User	shall have the meaning set out in a Services Agreement entered into between the Licensor and a third party organisation for use of the GPAS Web Portal where the Customer is named in such agreement as a User;

User Login Details	Your username and password credentials which permit You to access the GPAS Web Portal and Services
Uploaded Data	all data, content and other material uploaded by or on behalf of the Customer to the GPAS Web Portal in relation to the Services, but excluding the User Login Details;

Unless the context otherwise requires, words in the singular shall include the plural and, in the plural, shall include the singular.

A reference to a statute or statutory provision is a reference to it as it is in force as at the date of this Agreement. A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of this Agreement under that statute or statutory provision.

A reference to writing or written includes email.

## **AGREED TERMS:**

### **1. The Services**

- 1.1 Subject always to the Customer's compliance with the Agreement, on and from the Effective Date for the Term, in consideration of the obligations set out in this Agreement LICENSOR grants the Customer a non-exclusive, non-transferable licence (without the right to grant sub licences) to use the GPAS Web Portal via the Upload Client and/or Direct Upload for the sole purpose of receiving the Services and obtaining access to the Deliverables through the use of assigned log ins from LICENSOR set out below for the sole purpose of non-clinical academic and research purposes in your personal capacity only. The Customer shall not access the GPAS Web Portal or use the Services outside the scope of this Agreement or in any manner not expressly authorised by this Agreement:
- a) Access to the GPAS Web Portal, giving the Customer on-line Internet access to the data analysis, any reporting, if applicable and data export/download options;
  - b) Results generated by accessing the GPAS Web Portal and receiving the Services are not presently certified as an in Vitro Diagnostic Medical device and therefore must not be used for clinical purposes
  - c) Hosting of the Customer's data on dedicated servers;
  - d) Errors and bug fixing at the sole discretion of LICENSOR, in which LICENSOR will endeavour to resolve errors or bugs that are identified in the GPAS Web Portal;
- 1.2 The Services are subject to:
- a) The exceptions in Clause 2; and
  - b) Variation in accordance with Clause 3.4b).

## 2. **Services Not Included**

- 2.1 The GPAS Web Portal requires that the Customer has access to an internet network, with a high-speed internet connection being recommended, for use of the GPAS Web Portal. This service is not included in LICENSOR's performance and will be supplied by an ISP or other telecommunications operator, as selected by the Customer and in accordance with the Customer's separate agreement with such ISP. LICENSOR is not responsible for the Customer's internet connection and any interruption thereof.
- 2.2 LICENSOR does not supply any kind of hardware or equipment to the Customer. LICENSOR does not supply and is not responsible for obtaining any or all compatible or related consumable(s), any instrumentation to be used in connection with the GPAS Web Portal, or any and all software required to access or complement the GPAS Web Portal or access the Services. If use of the GPAS Web Portal requires any hardware, software or other consumable from LICENSOR that LICENSOR is able to supply, the provision of such equipment is subject to extra fees and will be agreed to by the parties in a separate purchase order or such other document.
- 2.3 LICENSOR is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities including the internet, and the Customer acknowledges that the Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities and that LICENSOR does not warrant that the Customer's use of the Services will be uninterrupted or error free.

## 3. **Use of the GPAS Web Portal, Upload Client, Direct Upload & Services**

- 3.1 The Customer shall:
- a) co-operate with LICENSOR in all matters relating to the Services;
  - b) provide to LICENSOR in a timely manner all documents, information, items and materials in any form (whether owned by the Customer or third party) reasonably required by LICENSOR in connection with the Services and ensure that they are accurate and complete;
  - c) ensure that all equipment the Customer will use in relation to its use of the Services, including its IT systems, are in good working order, free from viruses or other problems and suitable for the purposes for which they are used in relation to the Services and conform to all relevant standards or requirements;
  - d) obtain and maintain all necessary licences and consents and comply with all relevant legislation as required to enable LICENSOR to provide the Services, including in relation to the installation of the Upload Client and the use of all the Customer's equipment and materials, in all cases before the Effective Date;

- e) access the GPAS Web Portal, Upload Client and/or Direct Upload and receive the Services only for the purposes of this Agreement and strictly for personal non-clinical academic and research use only and in accordance with any applicable law, regulation or generally accepted practices or guidelines in the relevant jurisdictions (including any laws regarding the export of data or software to and from the United Kingdom or other relevant countries);
- f) access the GPAS Web Portal, Upload Client and /or Direct Upload and use the Services in accordance with the Licensor's Fair Usage Policy which can be found at <https://www.gpas.global/fair-usage-policy> ;
- g) not access or attempt to access the GPAS Web Portal or Upload Client and/or Direct Upload by any means whatsoever other than through the GPAS Web Portal, Upload Client or Direct Upload; and
- h) not engage in any activity that interferes with or disrupts the GPAS Web Portal, Upload Client, Direct Upload or the servers and networks which are connected to the GPAS Web Portal.

### 3.2 The Customer acknowledges and agrees that:

- The GPAS Web Portal, Services, Deliverables and Results are provided 'as is'.
- the Services are in part based on open-source software and may not be free from viruses or anything or device which may prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network or adversely affect the user experience.
- the Services shall not be compatible with any other software or service or with any hardware or equipment except to the extent expressly referred to as compatible in the Documentation.
- It shall ensure that usage of the Services (including the number of samples uploaded) does not contravene the terms of the Licensor's Fair Usage policy The Customer shall permit LICENSOR or its authorised representatives with reasonable notice to audit the Customers' compliance with its obligations under this Agreement and shall cooperate in all respects with any audit and allow LICENSOR or its appointed representative access to all relevant documents, systems and other relevant information.

### 3.3 LICENSOR shall:

- a) use reasonable endeavours to supply the Services in accordance with this Agreement in all material respects with reasonable skill and care;
- b) use reasonable endeavours to meet any performance dates specified in this Agreement but any such dates shall be estimates only and time for performance by LICENSOR shall not be of the essence of this agreement; and

- c) obtain all necessary licences and consents and comply with all relevant legislation as required to enable LICENSOR to provide the Services.

3.4 LICENSOR reserves the right to:

- a) use the Customer's information to generate reports and analysis and has the right to back up the Customers' data. The Customer accepts that the performance and Results of the GPAS Web Portal are dependent upon the quality of the Customer's data and Uploaded Data and the way it is used by the Customer in uploading it to the GPAS Web Portal and receiving the Services; and
- b) upgrade, correct, modify and change the form of the Services and/or the GPAS Web Portal from time to time without prior notice to the Customer and the Customer agrees to accept such changes and permit LICENSOR to include such updates and modifications as part of its access to the GPAS Web Portal and Upload Client.

4. **Upload Client and Uploaded Data**

4.1 If the Customer chooses to use the GPAS Web Portal via the Upload Client, the Customer shall ensure that it:

- a) downloads the Upload Client subject to any applicable licence terms notified to it by LICENSOR from time to time; and
- b) promptly installs any updated version of the Upload Client made available to it from time to time and in any event before providing any further Uploaded Data.

4.2 The Customer hereby undertakes and certifies to LICENSOR that at all times during the Term:

- a) the Uploaded Data:
  - (i) will be obtained and processed in accordance with all applicable laws and ethical standards and can be lawfully shared via the Services;
  - (ii) will be appropriately and fully processed with the Upload Client or Direct Upload and will not contain any personal data or pseudonymised personal data (including in any metadata) unless required to provide the Deliverables and provided the Customer has fully complied with its obligations under clause 11;
  - (iii) will only be uploaded in the form and file type specified by LICENSOR from time to time;
  - (iv) will not infringe the rights (including Intellectual Property Rights) of any third party;
  - (v) will not contain any material which is unlawful or could otherwise damage the reputation of LICENSOR; and

- (vi) the Customer will obtain and maintain all rights, licences, permissions and consents required in accordance with all applicable laws in order to upload the Uploaded Data.

- 4.3 Except as otherwise expressly agreed in the Agreement, LICENSOR shall not be obliged to provide the Customer with any assistance extracting, transferring or recovering any data whether during or after the Term. The Customer acknowledges and agrees that it is responsible for maintaining safe backups and copies of any Uploaded Data and Results. The Customer shall, without limitation, ensure that it backs up (or procures the back up of) all Uploaded Data and Results regularly, and extracts it prior to the termination or expiry of the Agreement or the cessation or suspension of the Services.
- 4.4 LICENSOR shall follow its archiving procedures for the Results as set out in the Documentation. In the event of any loss or damage to the Results, the Customer's sole and exclusive remedy against LICENSOR shall be for LICENSOR to use reasonable commercial endeavours to restore the lost or damaged Results from the latest back-up of such Uploaded Data maintained by LICENSOR in accordance with the archiving procedure described in the Documentation.

## 5. **Term and Termination**

- 5.1 Subject to earlier termination in accordance with clauses 5.2 or 5.3, this Agreement shall commence on the Effective Date and remain in effect for a period of 6 months commencing on the Effective Date (**"the Initial Term"**). After the Initial Term, the Agreement shall continue on a rolling monthly basis (**the "Extended Term"**) unless terminated in accordance with this clause 5.
- 5.2 This Agreement may be terminated at any time on immediate written notice by LICENSOR if the Customer, in the sole opinion of the Licensor, breaches the terms of the Fair Usage Policy or identifies misconduct in the Customer's use of the GPAS Web Portal or if the Licensor's right to use the GPAS Web Portal or Licensor Background Intellectual Property ceases.
- This Agreement will automatically terminate if the Customer is named as a User in any Services Agreement entered into between the LICENSOR and a third party organisation.
- 5.3 After the Initial Term, LICENSOR may terminate this Agreement without cause by giving 5 days' prior written notice to the Customer, such notice to expire on or after the expiry of the Initial Term.
- 5.4 After the initial Term, The Customer may terminate this Agreement without cause by giving 30 days prior written notice to the Licensor, such notice to expire on or after the initial Term.

## 6. **Consequences of Termination**



- 6.1 Upon termination of this Agreement for any reason:
- a) the Services shall terminate automatically;
  - b) except where otherwise specified, all licences granted under this Agreement shall immediately terminate and the Customer shall immediately cease all use of the GPAS Web Portal, Services and/or the Documentation;
  - c) LICENSOR agrees to destroy all of the Customer's data in LICENSOR's possession within 30 business days after receiving the Customer's written request, except for such data as the parties may agree shall be transferred to the Customer at such additional cost as may be agreed at the time (and subject to payment of the agreed cost), and any data that LICENSOR is required to retain by law; and
- 6.2 Clauses 3.1g), 6, 10, 12.10, 13 and 17.8 of this Agreement shall survive the expiration or termination of this Agreement for any reason.
- 6.3 Termination or expiry of this Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of this Agreement which existed at or before the date of termination or expiry.

## **7. Warranties**

- 7.1 LICENSOR represents and warrants that it has full capacity and authority and all necessary consents to enter into and to perform this Agreement.
- 7.2 The Customer represents and warrants that:
- a) it has full capacity and authority and all necessary consents to enter into and perform this Agreement; and
  - b) it owns or has the rights to all information used by it in connection with the Services including without limitation the Customer Materials and Uploaded Data and that the receipt and use of the Customer Materials and Uploaded Data by the Licensor in the performance of this Agreement shall not infringe the Intellectual Property and other rights of any third party. Such information, and its accuracy and integrity, is the sole responsibility of the Customer.
- 7.3 LICENSOR does not warrant:
- a) that the GPAS Web Portal, Deliverables, Results, Upload Client or Direct Upload accessed as part of the Services will be error-free, that any errors will necessarily be corrected within any given time or that the GPAS Web Portal or Upload Client or Direct Upload will operate without interruption from time to time; or

- b) that the GPAS Web Portal, Upload Client or Direct Upload and Services, Deliverables and Results are fit for any particular purpose or that their functionality will meet the Customer's requirements.

7.4 No warranty, representation, or promise is made by LICENSOR with regard to the Uploaded Data.

7.5 Any other warranties, conditions and/or representations on the part of LICENSOR in respect of the GPAS Web Portal and/or Services, the Deliverables, the Documentation, the Results, the Upload Client or Direct Upload, including availability, function, (and/or performance thereof) or otherwise in connection with the Agreement, that are not expressly stated in this Agreement, including (but not limited to) implied by law or custom or statutory ones, or otherwise in connection with the Agreement are hereby excluded to the maximum extent permitted by law.

## 8. **Acknowledgement**

8.1 In the event that the Customer makes public any Results or any data obtained from the Results it shall include a statement identifying the use of the GPAS Web Portal in the development of such Results and will include the Copyright Notice.

## 9. **Indemnification**

9.1 a) LICENSOR shall have no liability to the Customer or any third party in relation to the Uploaded Data. The Customer indemnifies and agrees to hold LICENSOR harmless from:

- (i) any third-party claims or allegations which relate to the Uploaded Data or the Customer Materials; and
- (ii) all costs (including legal fees), expenses, damages, fines, liabilities and penalties incurred by LICENSOR as a result of or in connection with a breach by the Customer of the Agreement.
- (iii) in full against all costs, expenses, damages and losses, including any interest, fines, legal and other professional fees and expenses awarded against or incurred or paid by LICENSOR as a result of or in connection with any claim brought against LICENSOR or its officers, directors, employees, representatives and agents in relation to a breach of the warranty in clause 7.2b) or for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the receipt or use in the performance of this agreement of the Customer Materials or Uploaded Data or any use of the Services and the Results.

## **10. Confidentiality**

- 10.1 For purposes of this Agreement, "Confidential Information" shall mean any confidential or proprietary information provided by one party (the "disclosing party") to the other (the "receiving party"), whether orally or in writing and whether expressly designated as confidential or secret or not.
- 10.2 Each Party undertakes:
- a) to keep confidential all Confidential Information;
  - b) not without the other Party's written consent to disclose that Party's Confidential Information in whole or in part to any other person, save those of its employees, agents and sub-contractors involved in the provision or receipt of the Services to the extent that they need to know the same for the purposes of this Agreement;
  - c) to use the other Party's Confidential Information solely in connection with the provision or receipt of the Services and not for its own benefit or the benefit of any third Party;
  - d) not to make any use whatsoever at any time of such Confidential Information for purposes of improving the functionality of any other computer programmes, databases, algorithms, or other technology;
  - e) not to copy or reverse engineer, or attempt to derive the composition or underlying information, structure or ideas of any computer programmes forming part of such Confidential Information other than as allowed by applicable law. Any such copies, programmes and records shall be the property of the disclosing party; and
  - f) to establish and maintain adequate security measures (including any reasonable security measures proposed by the disclosing party from time to time) to safeguard the Confidential Information from unauthorised access or use.

- 10.3 The provisions of clause 10.2 shall not apply to any Confidential Information to the extent that it is:
- a) already in the other Party's possession without breach of any obligation of confidentiality;
  - b) in the public domain other than as a result of a breach of this clause; or
  - c) independently developed by the other Party without reference to or use of the Confidential Information.
- 10.4 Either Party may disclose the Confidential Information of the other Party to the extent that it is required to be disclosed pursuant to any Applicable Law.
- 10.5 Each Party undertakes to make all its relevant employees, agents and sub-contractors aware of the confidentiality of the Confidential Information and of this clause 10, and to take all such steps as shall be necessary to ensure compliance by its employees, agents and sub-contractors with this clause 10.
- 10.6 Subject always to the LICENSOR's rights under clause 12.10, immediately upon termination of this Agreement or a request by either party at any time, each party shall:
- a) destroy or return to the other party all documents and materials (and any copies) containing, reflecting, incorporating, or based on the other party's Confidential Information;
  - b) erase all of the other party's Confidential Information from its own computer systems or which is stored in electronic form (to the extent possible), and all Confidential Information stored on systems and data storage services provided by third parties; and
  - c) certify in writing to the other party that it has complied with the requirements of this clause.
- Nothing in this clause shall require either party to return or destroy any documents and materials containing or based on the other party's Confidential Information which that party is required to retain by applicable law, or to satisfy the requirements of a regulatory authority or body of competent jurisdiction.
- 10.7 The disclosing party reserves all rights in its Confidential Information and all Confidential Information which it provides to the receiving party shall remain the property of the disclosing party. Any and all developments by the Customer based in whole or part on the LICENSOR's Confidential Information shall be the sole property of LICENSOR.
- 10.8 Notwithstanding anything to the contrary in this Agreement, LICENSOR will be entitled to disclose the fact that it has performed the Services for the Customer and that the Customer used the GPAS Web Portal and Services, and may disclose the name/identity

and trademark of the Customer, as well as its satisfaction, for the sole purpose of completing LICENSOR's list of references and promotional reference documentation, including on LICENSOR's website and the Customer hereby grants LICENSOR a non-exclusive licence of its trademark as is necessary to enable LICENSOR to exercise its rights set out in this clause 10.8.

## **11. Data Protection**

- 11.1 In this Clause 11 "Personal Data", "Data Subject", "Process" and "Controller" have the meaning given in the Data Protection Legislation. Both parties shall comply with all applicable requirements of the Data Protection Legislation.
- 11.2 The parties acknowledge that:
- a) to the extent that any Personal Data contained within the Uploaded Data or Results is Processed in the provision of the Services, LICENSOR is a Processor on behalf of the Customer, who is the Controller;
  - b) LICENSOR is Controller of the User Login Details processed in accordance with the Privacy Notice which can be found here <https://www.gpas.global/privacy-notice-website>
  - c) to the extent that LICENSOR processes any Personal Data contained within the Uploaded Data and/or Results pursuant to clause 12.10, LICENSOR does so as Controller.
- 11.3 The scope, nature and purpose of Processing to be undertaken by LICENSOR in the provision of the Services together with, the duration of the Processing and types of Personal Data and categories of Data Subject is set out here <https://www.gpas.global/data-processing-agreement>
- 11.4 Without prejudice to the generality of the obligation in clause 11.2b) the Customer warrants that it has all necessary notices and has an identified lawful basis (including securing any appropriate consents) to enable the lawful processing by LICENSOR of Personal Data for the duration and purpose of this Agreement, and that the notices given to data subjects identify any processing undertaken by LICENSOR as controller pursuant to clause 12.10, including giving notice that on termination of this agreement personal data may be retained by LICENSOR. The Customer shall ensure that it supplies all Personal Data to LICENSOR in a secure manner via the Upload Client, or directly to the GPAS Web Portal in the format required and accordance with any instructions given by LICENSOR from time to time.
- 11.5 LICENSOR shall, to the extent it processes any Personal Data on behalf of the Customer:
- a) act only on instructions from the Customer or as otherwise contemplated by this Agreement; and

- b) ensure that it has in place appropriate technical and security measures to prevent unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting personal data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to personal data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
- c) ensure that it has trained its employees who handle Personal Data and in the care of handling and processing Personal Data and ensure that they are aware of the confidential nature of Personal Data;
- d) not transfer any Personal Data outside of the UK or the European Economic Area without the written consent of the Customer, and ensuring appropriate safeguards are in place in accordance with the Data Protection Legislation; and
- e) assist the Customer, at the Customer's sole expense, in responding to any request from a Data Subject and ensuring compliance with its obligations under the Act or the GDPR (as applicable) with respect of security, breach notification and consultation or engagement with supervisory authorities, and data protection impact assessments.
- f) LICENSOR shall promptly comply with any written requests from the Customer requiring LICENSOR to amend, transfer or delete the Personal Data of any individual data subject, or stop, mitigate or remedy any unauthorised processing.

11.6 If LICENSOR receives any complaint, notice or communication which relates directly or indirectly to the processing of the Personal Data, for which Customer is Controller, it shall promptly notify the Customer and it shall provide the Customer with all reasonable co-operation and assistance in relation to any such complaint, notice or communication.

11.7 To the extent that LICENSOR is processing Personal Data within any Uploaded Data or Results pursuant to clause 12.10, LICENSOR shall:

- a) only process the same for that purpose and shall not use the same for any other purposes;
- b) only disclose such Personal Data to the extent necessary for reasons of public interest in the area of public health as set out in the Data Protection Legislation and only where such disclosures are subject to a duty of confidentiality;
- c) ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to such Personal Data;

d) only transfer such Personal Data outside the UK in accordance with the provisions of the Data Protection Legislation.

- 11.8 If LICENSOR becomes aware of any loss of data or breach of the Data Protection Legislation affecting the Customer's Personal Data, it shall promptly and in any event within 48 hours of becoming aware notify the Customer and it shall provide the Customer with all reasonable co-operation and assistance in relation all actions required by the Customer to mitigate the impact of such data loss or breach.
- 11.9 At the Customer's request, LICENSOR shall provide to the Customer a copy of all Personal Data held by it.
- 11.10 Within 30 days of termination of this Agreement for any reason, LICENSOR shall at the Customer's cost and expense, return a copy of any Personal data to the Customer and permanently erase or destroy the Personal Data save to the extent that LICENSOR is controller of any Uploaded Data or Results processed in accordance with clause 12.10.
- 11.11 Subject to Clauses 7 and to the limit on liability set out in clause 13, LICENSOR shall indemnify and keep indemnified and defend at its own expense the Customer and its affiliates against all losses, costs, expenses, fines, damages and liabilities which the Customer may suffer as a result of LICENSOR breaching its obligations under this Clause 11.5.
- 11.12 The Customer hereby consents to LICENSOR appointing third party data processors who may have access to Personal Data in order to provide sub-contracted services to LICENSOR. LICENSOR shall ensure that appropriate data protection arrangements are incorporated into such third-party contract and ensure an adequate level of protection of any such Personal Data.
- 11.13 The Customer shall indemnify and keep indemnified and defend at its own expense LICENSOR and its affiliates against all losses, costs, expenses, fines, damages and liabilities which LICENSOR may suffer as a result of LICENSOR's reliance on any instruction given by the Customer and/or the Customer's failure to comply with its obligations under this Clause 11.
- 11.14 LICENSOR shall keep appropriate records regarding any processing of Personal Data.

## **12. Intellectual Property Rights**

- 12.1 The Customer acknowledges that LICENSOR and its licensors, as applicable, are and shall remain the sole owner/s of all Intellectual Property Rights in the GPAS Web Portal, the Upload Client, Direct Upload, Documentation, the LICENSOR Background IPR and the Deliverables, including any and all copies thereof regardless of the form or media, and any and all modifications thereto.
- 12.2 Any Intellectual Property Rights in Customer-specific data and content uploaded to, created, resulting from or generated by the GPAS Web Portal and the Services including

without limitation the Results, shall belong to the Customer. The Customer and its licensors shall retain ownership of all Intellectual Property Rights in the Customer Materials and the Uploaded Data.

- 12.3 LICENSOR grants the Customer a worldwide, non-exclusive, non-assignable or transferable royalty-free licence during the term of this Agreement to copy the Deliverables for the purpose of receiving and using the Services for personal non-clinical academic and research uses only. The Customer shall not sub-license, assign or otherwise transfer the rights granted in this Clause 12.3 to any third party.
- 12.4 The Customer has no right to use any of LICENSOR's trade names, logos, domain names and other distinctive brand features. The Customer shall not remove, obscure, or alter any proprietary rights notices (including copyright, descriptions and notices) which may be displayed upon or contained within the GPAS Web Portal or the content of the Services. The Customer shall not use any trademark, trade name, logo or any business name in a way that is likely or intended to cause confusion about the owner or authorised user of such marks, names, logos or copyright material.
- 12.5 The Customer shall not, and shall not attempt to:
- a) sell, resell, assign, license, transfer, lease, rent, encumber, time-share, trade or distribute any aspect of the GPAS Web Portal or the Services, including but not limited to the Deliverables, which are for the Customer's, nonclinical, academic and research use only;
  - b) make any use whatsoever at any time of LICENSOR's Confidential Information or Intellectual Property Rights for purposes of improving the functionality of any other computer programs, databases, algorithms, or other technology;
  - c) reproduce, duplicate, copy, manufacture, adopt, translate, localise, port or otherwise modify or create any derivative work from the Deliverables or any related documentation, or grant anyone the right to engage in the same or similar conduct; or
  - d) copy or reverse engineer, decompile, disassemble, reverse assemble or attempt to derive source code the composition or underlying information, structure, Customer or ideas of the software that is used in the GPAS Web Portal or the Services other than as may be allowed by applicable law.
- 12.6 By providing the Services, LICENSOR, in the development of a programme whose purpose is to solve a problem specific to the business of the Customer, may conceive, make, develop or reduce to practice modules, codes, tools, concepts, techniques, inventions, discoveries or improvements which do not contain anything specific to the Customer's business, business application, knowledge or expertise. Such general modules, codes, tools, concepts, techniques, inventions, discoveries or improvements can therefore be of use in other work developed for different purposes. These modules, codes, tools,



concepts, techniques, inventions, discoveries and improvements are called "Generic Technology".

- 12.7 LICENSOR reserves all rights, title and interest in and to any information created by LICENSOR that LICENSOR shall use in the course of work for the Customer which existed before the date on which LICENSOR started work for the Customer or which is Generic Technology as defined in Clause 12.6. Any such Generic Technology which was developed in the course of work for the Customer shall be included in the specific Services provided to the Customer.
- 12.8 At the request of LICENSOR, the Customer shall promptly do or procure to be done such further acts and things (including the execution of documents) as LICENSOR shall reasonably require in order to more effectively carry out the intent and purpose of this Agreement and/or to confirm LICENSOR's Intellectual Property Rights.
- 12.9 The Customer grants LICENSOR a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify the Customer Materials and Uploaded Data for the Term for the purpose of providing the Services to the Customer.
- 12.10 The Customer grants LICENSOR a fully paid-up, non-exclusive, royalty-free, worldwide, non-terminable licence in perpetuity to:
- a) use the Results for the purpose of carrying out general analytical analysis and to improve or enhance the application or functionality of the GPAS Web Portal; and
  - b) use and share with third parties, the Uploaded Data and the Results, where there may be significant public health or global health implications, subject to the Licensor's compliance with all applicable laws

### **13. Limitation of Liability**

- 13.1 The Customer shall not be entitled to rely on the Deliverables and Results, and the Customer assumes sole responsibility for the Results obtained from the use of the Services and the Documentation and for the conclusions drawn from such Results.
- 13.2 To the extent permitted by law and except as otherwise expressly provided in the Agreement, LICENSOR hereby excludes all liability in relation to use of or reliance on the Results whether by the Customer or any third party.
- 13.3 The following provisions set out the entire financial liability of LICENSOR (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:
- a) any breach of this Agreement howsoever arising; and

- b) any representation, misrepresentation (whether innocent or negligent) statement or tortious act or omission (including without limitation negligence) arising under or in connection with this Agreement.

13.4 Nothing in this Agreement excludes the liability of either Party for:

- a) death or personal injury caused by its negligence;
- b) fraud or fraudulent misrepresentation; or
- c) any other liability which cannot be limited or excluded by applicable law.

13.5 The Licensor shall not, in any circumstances, be liable whether in tort (including for negligence or breach of statutory duty howsoever arising), contract, misrepresentation (whether innocent or negligent) or otherwise for:

- a) loss of profits;
- b) loss of sales or business;
- c) loss of agreements or contracts;
- d) depletion of goodwill or similar losses;
- e) loss of anticipated savings;
- f) loss of goods;
- g) loss of use;
- h) loss or corruption of software, data or information; or
- i) any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.

13.6 Subject always to Clauses 13.4 and 13.5 LICENSOR 's total aggregate liability in contract, tort (including without limitation negligence or breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement shall in all circumstances be limited :

- a) In the event of a claim under the indemnity in clause 11.11 to £5000 per claim; and
- b) in the event of any other claim to £1000 in aggregate during the Term.

13.7 The terms implied by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from this agreement.

#### **14. Compliance with all applicable laws**

14.1 Each party shall

- a) comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010.
- b) comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force, including the Modern Slavery Act 2015.

**15. Assignment**

15.1 The Customer shall not, without the prior written consent of LICENSOR, assign, transfer, charge, sub-contract, declare a trust over or deal in any other manner with all or any of its rights or obligations under this Agreement.

15.2 LICENSOR may at any time assign, transfer, charge, sub-contract, declare a trust over or deal in any other manner with all or any of its rights or obligations under this Agreement.

**16. No Partnership or Agency**

16.1 Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, nor authorise any party to make or enter into any commitments for or on behalf of any other party.

16.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

**17. General**

17.1 This Agreement constitutes the entire agreement between the parties relating to its subject matter and supersedes any previous agreement between the parties relating to that matter.

17.2 Each party acknowledges that it has not entered into this Agreement on the basis of, and does not rely on, any representation, warranty or other provision that is not expressly included in this Agreement.,

17.3 If any provision of this Agreement, or its application thereof to any person or circumstance should, for any reason and to any extent, be invalid, illegal or unenforceable, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by law

17.4 Subject to Clause 15, this Agreement is binding upon and will continue in force for the benefit of the successors of the parties.

- 17.5 A person who is not a party to this Agreement may not enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999.
- 17.6 Any notice required to be given under this Agreement or communication in respect of this Agreement must be in writing, and must be served by sending it by pre-paid first class post (within the United Kingdom) or by delivering it by hand or email or by international courier service to its address as stated in this Agreement, or to such other address as it may from time to time notify for the purpose. If posted, the notice or communication will be deemed to have been served 48 hours after posting. If emailed it will be deemed to have been served upon transmission, unless transmitted after 17.00 hours, when it will be deemed to have been served on the next business day in the country of receipt. If delivered by hand or by international courier service it will be deemed to have been served upon delivery. To prove service by post it is sufficient to show that the envelope was properly stamped, addressed and placed in the post. To prove service by email it is sufficient to produce a copy of the email showing the addressee's current email number and indicating date sent with no bounce back notification. To prove service by hand or by international courier service it is sufficient to show personal delivery to the correct address.
- 17.7 No announcement of any kind may be made in respect of the subject matter of this Agreement unless specifically agreed by the parties both as to the timing and the contents of the announcement.
- 17.8 This Agreement is governed by and is to be construed in all respects in accordance with English Law.
- 17.9 In relation to any legal action or proceedings arising out of or in connection with this Agreement, each of the parties irrevocably submits to the exclusive jurisdiction of the English courts.