



**Richard Doll Centenary Archive**

**Data Transfer Agreement**

[date]

Dear [name]

**Application for access to data held in [identify the relevant collection]**

**Our reference:** [●]

I am pleased to inform you that your application for access to data held in the Richard Doll Centenary Archive (the “**Archive**”) has been approved by the Archive’s Data Access Oversight Committee. We are, therefore, prepared to make certain data available to you upon your acceptance of the terms and conditions set out in this letter.

The terms and conditions (the “**Agreement**”) on which you will be provided with access to the data are contained in the following documents:

1. this cover letter;
2. the Term Sheet set out at Schedule 1; and
3. the Conditions of Access set out at Schedule 2.

Please would you confirm your acceptance of these terms and conditions for and on behalf of the organisation hosting your research as well as yourself by signing and returning the enclosed copy of this letter.

Yours sincerely

[name]

[job title]

Acknowledged and agreed by [name of applicant] and for and on behalf of [name of organisation]

|  |
| --- |
| Signature: …………………………………………............................. |
| Print name: …………………………………………………………….. |
| Position: ………………………………………………………………... |
| Date: ……………………………………………………………………. |

Note that in some cases you might be told that the PI cannot sign on behalf of his or her organisation (as is the case in Oxford). If that is the case, you need two of these signature blocks at the bottom of the page. One for the applicant and one for the organisation. You could ask in the application form whether they can bind the organisation hosting the research so that we can prepare the letter accordingly.

**Schedule 1: Term Sheet**

|  |  |  |
| --- | --- | --- |
| **Recipient**  (This expression includes both the Investigator and the Organisation.) | **Investigator** |  |
| **Organisation** |  |
| **Address** |  |
| **Telephone** |  |
| **Email** |  |
| **Data** | [brief description of data] extracted from the [name of collection] in the University’s Sir Richard Doll Archive, which the University provides to you under this Agreement. The Data will comprise [number] of records concerning the following categories: [list of categories of data]. The Data will be selected by the University having regard to the Purpose. | |
| **Data Contributor** | [Principal investigator(s) on study, or studies, which resulted in the collection of the Data. Only identify people who must be acknowledged as an author on any Publication.] | |
| **Format** |  | |
| **Transfer Method** |  | |
| **Purpose** | The use of the Data by the Investigator for the purpose of conducting the research project entitled “[title]” at the Organisation, as more particularly described in your application. | |
| **Fee** | £[●] (excluding VAT) | |
| **Collaborators** | [None.] | |
| **Subcontractors** | [None.] | |
| **Special Conditions** | [None.] | |
| **Special Permissions** | [None.] | |
| **Reporting Date** | [day] [month] | |

**Schedule 2: Conditions of Access**

# Definitions

For the purpose of these Conditions of Access (the “*Conditions*”):

### expressions defined in the cover letter and Term Sheet provided with these Conditions shall have the same meaning when used in these Conditions;

### “*Co-workers*” means employees and students of the Organisation under the direct and immediate supervision of the Investigator and who have contractual obligations to the Organisation to comply with the obligations under the Agreement;

### “*Data Subject*” means an individual who is the subject of the Data;

### “*Publication*” means any report, article, presentation or other publication that relates to the use of the Data for the Purpose;

### “*University*” means The Chancellor Masters and Scholars of the University of Oxford;

# Supply of the Data

## The University shall make the Data available to the Recipient in the Format only after it has received payment of the Fee in cleared funds. The Delivery of the Data to the Recipient by the Transfer Method shall be at the Recipient’s risk.

## The Recipient shall provide the University with written confirmation of safe receipt of the Data promptly after delivery of the Data.

## The Recipient shall be solely responsible and primarily liable for all use of the Data provided to the Recipient.

## The Recipient represents and warrants that, at the time of entering into the Agreement, it has no reason to believe in the existence of any laws in the country or territory in which it is established that would have a substantial adverse effect on the Recipient’s compliance with the Agreement, and it shall inform the University promptly if it becomes aware of any such laws.

# Care of the Data

## The Recipient shall:

### keep the Data clearly labelled at all times as the property of the University;

### not remove the Data from the Investigator’s laboratory or office located at the Organisation, unless expressly permitted by the Special Permissions stated in the Term Sheet;

### have in place appropriate technical and organisational measures to protect the Data against unauthorised or unlawful processing of the Data and against the accidental loss or destruction of, or damage to, the Data, having regard to the state of technological development, the nature of the Data, and the harm that might result from such events; and

### restrict access to the Data to the Investigator and the Co-workers;

### not disclose or make the Data available to any other person, except to a Collaborator or Subcontractor identified in the Term Sheet who has contractual obligations to the Organisation to comply with the obligations under the Agreement. The Organisation shall at all times be responsible for the compliance of those Collaborators and Subcontractors with the obligations set out in the Agreement.

# Use of the Data

## The Recipient shall:

### process and use the Data only to the extent and in such manner as is necessary for the Purpose and for no other purpose;

### not merge or incorporate the Data with any other data set or information, nor change the format of the Data, unless expressly permitted by the Special Permissions stated in the Term Sheet;

### use the Data in accordance with all applicable laws, regulations and ethical approvals, and ensure that it has all necessary ethical and legal permissions in place to use the Data for the Purpose prior to commencing any activity requiring such permission; and

### comply with any Special Conditions stated in the Term Sheet.

# Publications

## The Recipient shall acknowledge the University and the Archive in any Publication as the source of the Data, and any other contribution that the University has made, in accordance with usual academic custom. In addition, the Recipient shall acknowledge the Data Contributor as an author of any Publication.

## The Recipient shall ensure that no Data is incorporated into a Publication and that no Publication is made available in a form that identifies a Data Subject.

## The Recipient shall promptly provide to the University a copy of any Publication, which the University shall be entitled to use for its internal, non-commercial, educational and research purposes.

# Reports, Notices and Audits

## The Recipient shall submit a report to the University annually on the Reporting Date of each year during the term of the Agreement, and on the completion of the Purpose, to evidence the work undertaken by the Recipient in connection with the Data and the Purpose.

## The Recipient shall notify the University:

### promptly of any inaccuracies, errors or malfunctions in the Data which come (or should reasonably come) to its attention;

### of any breach of the Agreement which comes (or should reasonably come) to its attention within 24 hours; and

### if the Recipient receives notice of a complaint, dispute or claim relating directly or indirectly to the use of the Data within 24 hours, and the Recipient shall cooperate with the University to resolve any such complaint, dispute or claim amicably and in a timely manner.

## The Recipient shall allow the University during the term of the Agreement and for a period of 12 months after, on reasonable notice and during regular business hours, to inspect, or appoint representatives to inspect, all facilities, equipment, documents and electronic data relating to the use of the Data by the Recipient to ascertain compliance with the Agreement.

# Return of the Data

## The Data and any copies of the Data made by or in the possession of or under the control of the Recipient shall be immediately returned or, if the University elects, permanently destroyed at the Recipient's expense:

### on termination of this Agreement;

### in the event that the Recipient is in breach of any term of this Agreement; or

### at any other time on the request of the University.

## If the Data are deleted or destroyed, whether pursuant to condition 7.1or otherwise, the Recipient shall provide the University with prompt written confirmation of the same.

## To the extent that the Recipient is prevented by law from complying with condition 7.1 in relation to some or all of the Data, those Data will be kept confidential in accordance with the provisions of this Agreement and will not be processed for any purpose.

# Personal Data and Data Subjects

## The provisions of this condition 8 apply if the Data comprises any information relating to a living individual who can be identified from that information, or from that information and any other information.

## To the extent that the Data does not directly identify the Data Subject, the Recipient shall not identify, nor seek to identify, a Data Subject.

## The University is entering into the Agreement for the benefit of itself and for the Data Subjects, each of which shall be entitled to enforce the Agreement against the Recipient.

## If there is a dispute between a Data Subject and the Recipient in connection with the processing of the Data which is not amicably resolved and the Data Subject exercises its right to enforce the provisions of the Agreement under condition 8.1, the Recipient shall accept the decision of the Data Subject to refer the dispute to the United Kingdom Information Commissioner or the courts of England and Wales. This condition is without prejudice to a Data Subject’s right to seek remedies in accordance with applicable national or international law.

## The Recipient shall be liable to the Data Subjects for any damage it causes to them by any breach of the Agreement, and the Recipient shall indemnify the University against any costs, claims, expenses (including reasonable legal fees), damages, liabilities, actions or proceedings brought against the University by any third party arising out of a breach of the Agreement by the Recipient (or any Co-worker, Collaborator or Subcontractor).

# Reservations

## The Data and any copies of the Data made by or in the possession of or under the control of the Recipient shall at all times remain the property of the University or its licensors.

## No rights, including to intellectual property rights, in respect of the Data are granted to the Recipient other than those expressly stated in the Agreement.

# Liability

## The Data is provided “AS IS”. In particular, the University makes no representation or warranty of any kind with respect to the accuracy of the Data, its suitability for the Purpose, or that the use of the Data will not constitute or result in infringement of third party rights.

## The University accepts no responsibility for any use which may be made of the Data, nor for any reliance which may be placed on the Data.

## The Recipient undertakes to make no claim in connection with the Agreement or its subject matter against the any employee, student, agent or appointee of the University (apart from claims based on fraud or deliberate default). This undertaking is intended to give protection to individuals: it does not prejudice any right which the Recipient might have to claim against the University. The benefit conferred by this condition is intended to be enforceable by the persons referred to in it.

## The liability of either party to the other for any breach of the Agreement, for any negligence, or arising in any other way out of the subject matter of the Agreement will not extend to: (a) any indirect damages or losses; or (b) to any loss of profits, loss of bargain, loss of revenue, loss of business, loss of contracts or opportunity, whether direct or indirect; even if, in any such case, the party bringing the claim has advised the other of the possibility of those losses or if they were within the other party’s contemplation.

## The maximum liability of the University to the Recipient under or otherwise in connection with the Agreement or its subject matter shall not exceed the greater of the return of the Fee or £1,000.

## Nothing in the Agreement limits or excludes either party's liability for: (a) death or personal injury resulting from its negligence; (b) any fraud; or (c) any other liability which, by law, cannot be limited or excluded.

# Expiry and Termination

## The Agreement shall automatically expire on the completion of the Purpose.

## The University may terminate the Agreement immediately upon giving written notice to the Recipient:

### if the Recipient fails to pay the Fee within 30 days of the date of the cover letter approving the Recipient’s use of the Data for the Purpose;

### if the Recipient fails to submit a progress report in accordance with condition 6.1;

### if the University no longer retains the right to make the Data available to the Recipient for the Purpose;

### if, in the University’s sole discretion, there is at least a reasonable change that the use of the Data by the Recipient for the Purpose would amount to the infringement of third party rights or any other unlawful act;

### if, in the University’s sole discretion, the Recipient’s use of the Data for the Purpose might adversely affect the image, reputation, goodwill, distinctiveness or prestige of the University, the Archive or the Data;

### if the Recipient commits any material or persistent breach of any term of the Agreement; or

### if the Recipient becomes insolvent, or if an order is made or a resolution is passed for its winding up (except voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator, administrative receiver or receiver is appointed over the whole or any part of the Recipient’s assets, or if the Recipient makes any arrangement with its creditors.

## The University may terminate the Agreement without cause or liability to the Recipient by giving to the Recipient 1 month’s notice in writing.

## On the expiry or termination of the Agreement, all rights and permissions granted to the Recipient by the University shall cease and terminate.

## Any condition of the Agreement which either expressly or by implication is intended to come into, or continue in, effect on or after the expiry or termination of the Agreement shall continue in effect.

## The expiry or termination of this Agreement, for any reason, shall not affect the accrued rights, obligations, liabilities and remedies of the parties existing at the date of expiry or termination.

# General

## The Recipient shall not use the name, nor any trade mark or logo, of the University in any press release or product advertising, nor for any other commercial purpose without the prior written approval of the University.

## The Agreement constitutes the entire agreement between the parties in relation to the processing of the Data and supersedes all prior agreements, discussions, negotiations, arrangements and understandings of the parties in relation to such processing. The Recipient agrees that in entering into the Agreement it does not rely on any statement, representation or understanding other than those expressly set out in the Agreement.

## No variation of the Agreement shall be effective unless it is in writing in the English language and signed by duly authorised representatives of the parties.

## Delay in exercising, or failure to exercise, any right or remedy in connection with the Agreement will not operate as a waiver of that right or remedy.

## Nothing in the Agreement shall create, evidence or imply any agency, partnership or joint venture between the parties. The Recipient shall not act or describe itself as the agent of the University nor shall it represent that has any authority to make commitments on behalf of the University.

## No one except a party to the Agreement has any right to prevent the amendment of the Agreement or its termination, and no one except a party to the Agreement may enforce any benefit conferred by the Agreement, unless the Agreement expressly provides otherwise.

## The Agreement is personal to the Recipient and the Recipient shall not assign or otherwise transfer any of its rights and obligations under the Agreement.

## The Agreement and any dispute or claim arising out of or in connection with the Agreement shall be governed by and construed in accordance with the law of England and Wales. Each party irrevocable agrees, subject to condition 8.4 that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Agreement or its subject matter.

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