



YORKSHIRE & HUMBER
ACADEMIC HEALTH SCIENCE NETWORK

Proof of Concept Programme



Application Terms & Conditions



medipex[®]
healthcare innovation hub

Yorkshire and Humber Academic Health Science Network (YHAHSN)

Proof of Concept Programme 2015 – Application Terms and Conditions

All applications are treated in strict confidence. Information provided by a Company (as defined below) during the application process will not be shared outside of the YHAHSN and the assessment panel members save for with the Delivery Partners (as defined below).

A Company should not submit information as part of the application process that they are not prepared to be shared on this basis.

This Agreement sets out the terms and conditions on which the Programme shall operate. On submitting an application to YHAHSN you, the Company, if successful in your application agree to be bound by the terms and conditions set out herein from submission of your application until expiry of, or your earlier exit from, the Programme.

OPERATIVE PART

1. Definitions

In this Agreement the following terms shall have the following meanings:

“Agreed Purpose”	the purpose for which the Grant will be used details of which are set out in the Company’s application form and confirmed in the funding request form distributed to those successful in gaining a place on the programme
“Bribery Act”	the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation.
“Commencement Date”	the date of submission of the Company’s application to the Programme.
“Company”	the Company who has submitted an application, and has been selected, to participate in the Programme.
“Delivery Partners”	the organisations contracted by YHAHSN to provide expertise and delivery support as part of the Programme, namely: Medipex Limited, Devices for Dignity Limited and Medilink Yorkshire and Humber Limited.
“Governing Body”	the governing body of the Company including its directors.
“Grant”	the sum of up to five thousand pounds (£5,000.00) (as detailed in the letter of acceptance from YHAHSN to

	the Company) to be paid by YHAHSN in accordance with this Agreement.
“Intellectual Property Rights”	all patents, copyrights and design rights (whether registered or not) and all applications for any of the foregoing and all rights of confidence and Know-How however arising for their full term and any renewals and extensions.
“Know-How”	information, data, know-how or experience whether patentable or not and including but not limited to any technical and commercial information relating to research, design, development, manufacture, use or sale.
“Programme”	YHAHSN’s Proof of Concept Programme 2015 details of which are set out in Proof of Concept Application Guidance
“Prohibited Act”	<p>means:</p> <ul style="list-style-type: none"> (a) offering, giving or agreeing to give to any servant of the YHAHSN, the assessment panel members or the Delivery Partners any gift or consideration of any kind as an inducement or reward for: <ul style="list-style-type: none"> (a.i) doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this Agreement or any other contract with the said persons; or (a.ii) showing or not showing favour or disfavour to any person in relation to this Agreement or any other contract with the YHAHSN or the Delivery Partners; (b) entering into this Agreement or any other contract with the YHAHSN or the Delivery Partners where a commission has been paid or has been agreed to be paid by the Company or on its behalf, or to its knowledge, unless before the relevant contract is entered into particulars of any such commission and of the terms and conditions of any such contract for the payment thereof have been disclosed in writing to the YHAHSN; (c) committing any offence: <ul style="list-style-type: none"> (c.i) under the Bribery Act; (c.ii) under legislation creating offences in respect of fraudulent acts; or (c.iii) at common law in respect of fraudulent acts in relation to this Agreement or any other contract with the YHAHSN; or (d) defrauding or attempting to defraud or conspiring to defraud the YHAHSN or the Delivery Partners.
“Project Manager”	the individual who has been nominated to represent the Company for the purposes of this Agreement.

2. PROGRAMME TERM

This Agreement shall run from the Commencement Date until 31 March 2016 being the completion date of the Programme, unless terminated earlier in accordance with the terms and conditions set out herein (End Date).

3. Programme management

3.1 The Company shall designate the key personnel to work on the Programme including but not limited to a Project Manager.

3.2 The Project Manager will be the main point of contact for the YHAHSN and the Delivery Partners for the purposes of the Programme.

3.3 The Project Manager shall ensure that he (or an agreed substitute) shall where applicable be available to attend the key dates of the Programme and/or that the Company shall meet the key dates set out in Proof of Concept Application Guidance

4. Purpose of Grant

4.1 The Company shall use the Grant only for the Agreed Purpose and in accordance with the terms and conditions set out in this Agreement. The Grant shall not be used for any other purpose without the prior written agreement of the YHAHSN.

4.2 The Company shall not make any changes to the Programme, including but not limited to the Agreed Purpose and its business plan as set out in its application form without the YHAHSN's prior written agreement.

4.3 Where the Company intends to apply to a third party for other funding during the term of the Programme, it will notify the YHAHSN in advance of its intention to do so and, where such funding is obtained, it will provide the YHAHSN with details of the amount and purpose of that funding. The Company agrees and accepts that it shall not apply for duplicate funding in respect of any part of the Programme or any related administration costs that the YHAHSN is funding in full under this Agreement without the prior written consent of the YHAHSN.

5. Payment of Grant

5.1 Subject to clause 11, the YHAHSN shall pay the Grant to the third party provider whose details are set out in Proof of Concept Funding Request Form (provided to applicants successful in gaining a place on the programme) and in accordance with the payment terms set out therein.

5.2 No Grant shall be paid unless and until the YHAHSN is satisfied that such payment will be used for proper expenditure in the delivery of the Agreed Purpose.

5.3 The amount of the Grant shall not be increased in the event of any overspend by the relevant third party provider or the Company.

5.4 The Company shall promptly repay to the YHAHSN any money incorrectly paid to it either as a result of an administrative error or otherwise. This includes (without limitation) situations where either an incorrect sum of money has been paid or where Grant monies have been paid in error before all conditions attaching to the Grant have been complied with by the Company.

6. Use of Grant

6.1 The Grant shall be used by the Company in accordance with clause 2 of this Agreement.

6.2 For the avoidance of doubt, the Company shall not use the Grant to:

6.2.1 make any payment to members of its Governing Body;

6.2.2 purchase buildings or land; or

6.2.3 pay for any expenditure commitments of the Company save for the Agreed Purpose.

6.3 Where applicable, any Grant that remains unspent by the End Date shall be returned by the Company to the YHAHSN and shall not be spent by the Company including on the Agreed Purpose without the prior written consent of YHAHSN.

7. Monitoring and reporting

7.1 The Company shall permit any person authorised by the YHAHSN such reasonable access to its employees, agents, premises, facilities and records, for the purpose of discussing, monitoring and evaluating the Company's fulfilment of the conditions of this Agreement and the success of the Programme and shall, if so required, provide appropriate oral or written explanations from them.

7.2 The Company shall provide the YHAHSN with a final report on the End Date which shall confirm whether the Programme has been successful and properly completed.

8. Acknowledgment and publicity

8.1 The Company shall acknowledge the Grant and the Programme in its annual report and accounts, including an acknowledgement of the YHAHSN as the source of the Grant.

8.2 The Company shall not publish any material referring to the Programme or the YHAHSN without the prior written agreement of the YHAHSN. The Company shall acknowledge the support of the YHAHSN in any materials that refer to the Programme and in any written or spoken public presentations about the Programme. Such acknowledgements (where appropriate or as requested by the YHAHSN) shall include the YHAHSN's name and logo (or any future name or logo adopted by the YHAHSN) using the templates provided by the YHAHSN from time to time.

8.3 In using the YHAHSN's name and logo, the Company shall comply with all reasonable branding guidelines issued by the YHAHSN from time to time.

8.4 The Company agrees to participate in and co-operate with promotional activities relating to the Programme that may be instigated and/or organised by the YHAHSN.

8.5 The YHAHSN may acknowledge the Company's involvement in the Programme as appropriate without prior notice.

8.6 The Company shall comply with all reasonable requests from the YHAHSN to facilitate visits, provide reports, statistics, photographs and case studies that will assist the YHAHSN in its promotional and fundraising activities relating to the Programme.

9. Intellectual Property Rights

9.1 The YHAHSN and the Company agree that all rights, title and interest in or to any information, data, reports, documents, procedures, forecasts, technology, Know-How and any other Intellectual Property Rights whatsoever owned by either the YHAHSN, the Delivery Partners or the Company before the Commencement Date or developed by either party during the Programme, shall remain the property of that party.

9.2 Where the YHAHSN has provided the Company with any of its Intellectual Property Rights for use in connection with the Project (including without limitation its name and logo), the Company shall, on termination of this Agreement, cease to use such Intellectual Property Rights immediately and shall either return or destroy such Intellectual Property Rights as requested by the YHAHSN.

10. Confidentiality

10.1 Each party shall during the term of this Agreement and thereafter keep secret and confidential all Intellectual Property Rights or Know-How or other business, technical

or commercial information disclosed to it as a result of the Agreement and shall not disclose the same to any person save to the extent necessary to perform its obligations in accordance with the terms of this Agreement (including but not limited to the Delivery Partners) or save as expressly authorised in writing by the other party.

10.2 The obligation of confidentiality contained in this clause shall not apply or shall cease to apply to any Intellectual Property Rights, Know-How or other business, technical or commercial information which:

10.2.1 at the time of its disclosure by the disclosing party is already in the public domain or which subsequently enters the public domain other than by breach of the terms of this Agreement by the receiving party;

10.2.2 is already known to the receiving party as evidenced by written records at the time of its disclosure by the disclosing party and was not otherwise acquired by the receiving party from the disclosing party under any obligations of confidence; or

10.2.3 is at any time after the date of this Agreement acquired by the receiving party from a third party having the right to disclose the same to the receiving party without breach of the obligations owed by that party to the disclosing party.

11. Withholding, suspending and repayment of Grant

11.1 The YHAHSN's intention is that the Grant will be paid in full in accordance with the terms of this Agreement. However, without prejudice to the YHAHSN's other rights and remedies, the YHAHSN may at its discretion withhold or suspend payment of the Grant and/or require repayment of all or part of the Grant, or a sum equivalent to it, if:

11.1.1 the Company uses the Grant for purposes other than those for which they have been awarded;

11.1.2 the Company fails to participate in the Programme in accordance with this Agreement and any applicable key dates and the Company has failed to provide the YHAHSN with a reasonable explanation for the delay;

11.1.3 the YHAHSN considers that the Company has not made satisfactory progress with the Programme;

11.1.4 the Company is, in the reasonable opinion of the YHAHSN, performing its obligations under this Agreement in a negligent manner;

11.1.5 the Company obtains duplicate funding from a third party for the Agreed Purpose;

11.1.6 the Company obtains funding from a third party which, in the reasonable opinion of the YHAHSN, undertakes activities that are likely to bring the reputation of the Programme or the YHAHSN into disrepute;

11.1.7 the Company provides the YHAHSN with any materially misleading or inaccurate information;

11.1.8 the Company commits or committed a Prohibited Act;

11.1.9 any member of the governing body, employee or volunteer of the Company has (a) acted dishonestly or negligently at any time and directly or indirectly to the detriment of the Programme or (b) taken any actions which, in the reasonable opinion of the YHAHSN, bring or are likely to bring the YHAHSN's name or reputation into disrepute;

11.1.10 the Company ceases to operate for any reason, or it passes a resolution (or any court of competent jurisdiction makes an order) that it be wound up or dissolved (other than for the purpose of a bona fide and solvent reconstruction or amalgamation);

11.1.11 the Company becomes insolvent, or it is declared bankrupt, or it is placed into receivership, administration or liquidation, or a petition has been presented for its

winding up, or it enters into any arrangement or composition for the benefit of its creditors, or it is unable to pay its debts as they fall due; or

11.1.12 the Company fails to comply with any of the terms and conditions set out in this Agreement and fails to rectify any such failure within 30 days of receiving written notice detailing the failure.

11.2 The YHAHSN may retain or set off any sums owed to it by the Company which have fallen due and payable against any sums due to the Company under this Agreement or any other agreement pursuant to which the Company provides goods or services to the YHAHSN.

11.3 Should the Company be subject to financial or other difficulties which are capable of having a material impact on its effective delivery of the Programme or compliance with this Agreement it will notify the YHAHSN as soon as possible so that, if possible, and without creating any legal obligation, the YHAHSN will have an opportunity to provide assistance in resolving the problem or to take action to protect the YHAHSN and the Grant monies.

12. Anti-discrimination

12.1 The Company shall not unlawfully discriminate within the meaning and scope of any law, enactment, order, or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation, age or otherwise) in employment.

12.2 The Company shall take all reasonable steps to secure the observance of clause 12.1 by all servants, employees or agents of the Company and all suppliers and sub-contractors engaged on the Programme.

13. Limitation of liability

13.1 The YHAHSN accepts no liability for any consequences, whether direct or indirect, that may come about from the Company participating in the Programme or the use of the Grant. The Company shall indemnify and hold harmless the YHAHSN, its employees, agents, officers or sub-contractors (including but not limited to the Delivery Partners) with respect to all claims, demands, actions, costs, expenses, losses, damages and all other liabilities arising from or incurred by reason of the actions and/or omissions of the Company in relation to the Programme, the non-fulfilment of obligations of the Company under this Agreement or its obligations to third parties.

13.2 Subject to clause 13.1, the YHAHSN's liability under this Agreement is limited to the payment of the Grant.

14. Warranties

The Company warrants, undertakes and agrees that:

14.1.1 it is a private company registered in England and Wales with a registered office (being its principal place of business) in the Yorkshire and Humber region;

14.1.2 as at the Commencement Date, it has an annual turnover of less than five hundred thousand pounds (£2,000,000.00) and employs less than thirty (30) people;

14.1.3 it has not received financial support or funding from the YHAHSN on the past;

14.1.4 save for YHAHSN, it has not received funding from any other Academic Health Science Network;

14.1.5 it has all necessary resources to participate in the Programme;

14.1.6 it has not committed, nor shall it commit, any Prohibited Act;

14.1.7 it shall at all times comply with all relevant legislation and all applicable codes of practice and other similar codes or recommendations, and shall notify the

YHAHSN immediately of any significant departure from such legislation, codes or recommendations;

14.1.8 it shall comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to employees and other persons working on the Programme;

14.1.9 it has and shall keep in place adequate procedures for dealing with any conflicts of interest;

14.1.10 it has and shall keep in place systems to deal with the prevention of fraud and/or administrative malfunction;

14.1.11 all financial and other information concerning the Company which has been disclosed to the YHAHSN is to the best of its knowledge and belief, true and accurate and it permits YHAHSN to run reasonable financial checks against it as part of the application process and at appropriate intervals during the Programme at the discretion of YHAHSN;

14.1.12 it is not subject to any contractual or other restriction imposed by its own or any other organisation's rules or regulations or otherwise which may prevent or materially impede it from meeting its obligations in connection with the Programme;

14.1.13 it is not aware of anything in its own affairs, which it has not disclosed to the YHAHSN or any of the YHAHSN's advisers, which might reasonably have influenced the decision of the YHAHSN to accept its application for the Programme on the terms contained in this Agreement; and

14.1.14 since the date of its last accounts there has been no material change in its financial position or prospects.

15. Duration

Any obligations of the Company under this Agreement that remain unfulfilled following the End Date shall survive such expiry or termination and continue in full force and effect until they have been fulfilled.

16. Termination

The YHAHSN may terminate this Agreement and with it the Company's rights to participate in the Programme on written notice should it be required to do so by financial restraints or for any reason.

17. Assignment

The Company may not, without the prior written consent of the YHAHSN, assign, transfer, sub-contract, or in any other way make over to any third party the benefit and/or the burden of this Agreement or, except as contemplated as part of the Programme, transfer or pay to any other person any part of the Grant.

18. Waiver

No failure or delay by either party to exercise any right or remedy under this Agreement shall be construed as a waiver of any other right or remedy.

19. Notices

All notices and other communications in relation to this Agreement shall be in writing and shall be deemed to have been duly given if personally delivered, e-mailed, or mailed (first class postage prepaid) to the address of the relevant party, as referred to above or otherwise notified in writing. If personally delivered or if e-mailed all such communications shall be deemed to have been given when received (except that if received on a non-working day or after 5.00 pm on any working day they shall be

deemed received on the next working day) and if mailed all such communications shall be deemed to have been given and received on the second working day following such mailing.

20. Dispute resolution

20.1 In the event of any complaint or dispute (which does not relate to the YHAHSN's right to withhold funds or terminate) arising between the parties to this Agreement in relation to this Agreement the matter should first be referred for resolution to the Project Manager and such individual nominated by the YHAHSN from time to time.

20.2 Should the complaint or dispute remain unresolved within fourteen (14) days of the matter first being referred to the Project Manager and the nominated individual for YHAHSN, either party may refer the matter to the Chief Executive of the YHAHSN and the managing director of the Company with an instruction to attempt to resolve the dispute by agreement within twenty-eight (28) days, or such other period as may be mutually agreed by the YHAHSN and the Company.

20.3 In the absence of agreement under clause 20.2, the parties may seek to resolve the matter through mediation under the CEDR Model Mediation Procedure (or such other appropriate dispute resolution model as is agreed by both parties). Unless otherwise agreed, the parties shall bear the costs and expenses of the mediation equally.

21. No partnership or agency

This Agreement and the Programme shall not create any partnership or joint venture between the YHAHSN and the Company, nor any relationship of principal and agent, nor authorise any party to make or enter into any commitments for or on behalf of the other party.

22. Joint and several liability

Where the Company is not a company nor an incorporated entity with a distinct legal personality of its own, the individuals who enter into and sign this Agreement on behalf of the Company shall be jointly and severally liable for the Company's obligations and liabilities arising under this Agreement.

23. Contracts (Rights of Third Parties) Act 1999

This Agreement does not and is not intended to confer any contractual benefit on any person pursuant to the terms of the Contracts (Rights of Third Parties) Act 1999.

24. Governing law

This Agreement shall be governed by and construed in accordance with the law of England and the parties irrevocably submit to the exclusive jurisdiction of the English courts.



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