
LICENSE AGREEMENT

- (1) **Stichting Hartwig Medical Foundation**, a foundation in accordance with the laws of the Netherlands and having its registered office at Amsterdam, the Netherlands and its principal place of business at Sciencepark 408, (1098 XH) Amsterdam, registered with the trade register under number 63052725, (“**HMF**”); and

[● Below list requesting organisation that will be referred to as Licensee and in the event of a consortium, list all consortium parties that jointly will be referred to as Licensee]

- (2) [●], a public company incorporated and existing in accordance with the laws of the [● Netherlands] and having its principal place of business at [● address] registered with the trade register under number [● number] (“**Licensee**”).

HMF and Licensee are hereinafter collectively referred to as the “**Parties**” and individually as a “**Party**”.

WHEREAS:

- A. HMF is a foundation that is established to enable advances in cancer research. To this end, HMF collects genetic and clinical data from cancer patients in its Database and makes such data available for research purposes, all in view of improving the care of (future) cancer patients;
- B. Licensee is a research center that (inter alia) focuses on [● description center];
- C. [● name main Principal Investigator/Group Leader] (“**Researcher**”), on behalf of Licensee, has submitted a Data Access Request to HMF via the data request form as attached hereto as **Annex I** (the “**Data Request Form**”) in accordance with HMF’s Rules of Procedure Data Access Requests (the “**Rules**”) with a view to obtaining access to and to be allowed to use certain Foundation Data from HMF’s Database;
- D. Pursuant to the Data Access Request of Licensee, the Board of HMF has decided to grant Licensee access to the licensed data as further detailed under “the Requested Data” (*Verzochte Data*) in the Data Request Form (the “**Licensed Data**”), which access includes granting Licensee the right to use the Licensed Data for the project described in the Data Request Form (the “**Project**”), in the context of which Project Researcher is the main researcher;
- E. [●The Project is a multi-center study, in which (among others) [●name institutions] participate;]
- F. The Parties now wish to lay down the terms and conditions under which the Licensed Data are disclosed to Licensee in this license agreement (the “**Agreement**”).

HMF – DR [●]

IT IS AGREED as follows:

1 Definitions

- 1.1 In this Agreement, terms identifiable by the use of (an) (initial) capital letter(s) shall have the meaning given thereto in the Rules, as attached to this Agreement as **Annex II**.
- 1.2 In case of any differences and/or inconsistencies between this Agreement and the Rules, the terms and definitions (and meanings thereof) set out in this Agreement shall prevail.

2 Scope

- 2.1 HMF herewith grants to Licensee, and Licensee herewith accepts, a temporary, non-exclusive and non-transferable license to use the Licensed Data subject to the terms and conditions of this Agreement.
- 2.2 The license granted hereunder is limited to the use of the Licensed Data by Licensee for the purpose(s) set forth in the Data Request Form. Licensee explicitly agrees that it shall not use the Licensed Data for any other purpose.

3 Compliance

- 3.1 During the term of this Agreement, the Licensee shall comply with all requirements in the Rules, the Guiding Principles and the Board Decision. Any commitments made by the Licensee in the Data Request Form and the subsequent procedure that resulted in the Board Decision, will remain binding upon the Licensee towards HMF during the term of this Agreement.
- 3.2 The Licensee shall see to it that the Researcher, in [his/her] capacity of main researcher of the Project, [as well as other persons who and entities or institutions that participate in the Project], complies [comply] with the obligations under clause 3.1 of this Agreement and this Agreement.
- 3.3 In case the Researcher is replaced by another person for any reason whatsoever, the Licensee shall ensure that the person replacing the Researcher shall have the same level of experience, knowledge and expertise as the Researcher. The Licensee shall also ensure that the replacing person shall be bound by and shall abide to the obligations of the Researcher under this Agreement.

4 Delivery / transmission of the Licensed Data

- 4.1 HMF shall make the Licensed Data available to Licensee for a period of one (1) year as from the date on which this Agreement is signed by both Parties (the **Signing Date**).

- 4.2 After an initial period of six (6) months as from the Signing Date, Licensee is entitled to a one-time update of the Licensed Data. Upon request of the Licensee, HMF shall make available to Licensee updated information related to the Licensed Data that have been made available to Licensee, as well as additional Foundation Data that became available in the Database since the Data Access Request of Licensee and exactly match the Requested Data as set forth in the Data Request Form. As from this moment, the update of the Licensed Data made available by HMF to Licensee shall, in addition to the Licensed Data made available to the Licensee earlier, be regarded as Licensed Data under this Agreement. For the avoidance of doubt, this means that the Licensed Data including any updates thereto are made available to the Licensee for a (total) period of one (1) year as from the Signing Date.
- 4.3 HMF shall make the Licensed Data factually available to the Licensee by making the Licensed Data available to the Licensee in the HMF Data Portal, that is available through the following link: <https://portal.hartwigmedicalfoundation.nl>.
- 4.4 The Researcher shall have access to the HMF Data Portal to download the Licensed Data for further use of those Licensed Data by Licensee in accordance with this Agreement. In this respect, and to ensure that only authorized persons have access to (the Licensed Data in) the HMF Data Portal, HMF shall create an account for the Researcher through which the Researcher shall have access to the HMF Data Portal (the **Access Details**). HMF shall provide the Access Details to the Researcher by email.
- 4.5 The Licensee may request HMF to grant access to (the Licensed Data in) the HMF Data Portal to other persons [● within the organisation of the Licensee][● who participate in the Project], in addition to the Researcher. In the event HMF approves such request (which approval is at HMF's sole discretion, but shall not unreasonably be withheld), HMF shall for said persons create Access Details as provided for in article 4.4 of this Agreement. The Licensee ensures that the aforementioned persons are informed of and will abide by the provisions as set forth in this article 4 of this Agreement. The Licensee is fully responsible and liable for the access to and use of the HMF Data Portal, the Licensed Data and other data in the HMF Data Portal by said persons.
- 4.6 As soon as the Licensed Data have been made available by HMF in the HMF Data Portal, the Researcher will receive a notification by email. In the HMF Data Portal the Licensed Data may be accessed and downloaded by the Researcher by using a temporary (and secured) link (the **Link**). The Researcher may request HMF to provide such Link, which Link is only valid for a limited period of time (i.e. 24 hours) for security reasons. After expiry of this period, the Researcher may request HMF to provide a new Link.
- 4.7 To ensure that only authorized persons have access to (the Licensed Data in) the HMF Data Portal, HMF shall log (i) when and with what Access Details access to the HMF Data Portal is obtained; and (ii) which Licensed Data have been available for downloading by the Researcher. These logfiles shall be kept by HMF no longer than

necessary for the purposes for which the logfiles have been collected (and may, for example, be kept until identified irregularities have been fully investigated and dealt with).

- 4.8 In the unlikely event that the Researcher has accessed or downloaded other data than the Licensed Data, the Researcher shall promptly contact HMF and shall immediately destroy all (copies of) such data.
- 4.9 The Licensee acknowledges that downloading (a copy of) the Licensed Data may take some time, among others depending on the capacity and speed of the network used by the Researcher and the size of the Licensed Data. In addition, the Licensee acknowledges that the Licensed Data can only be downloaded successfully by the Researcher if and to the extent that sufficient storage space is available for saving the Licensed Data on the equipment on which the Researcher is downloading the Licensed Data.
- 4.10 As soon as the Researcher has (successfully) downloaded the Licensed Data, the Licensee is responsible for adequate saving, safeguarding and any further use of the Licensed Data in accordance with the provisions set out in this Agreement and applicable (data protection and privacy) laws and regulations.
- 4.11 The Access Details are strictly personal and confidential. The Licensee shall ensure that the Researcher shall in no event share the Access Details with third parties, including other persons within the organisation of the Licensee.

5 Data Protection

- 5.1 Licensee shall handle the Licensed Data in accordance with this Agreement and all applicable laws and regulations, including laws and regulations relating to data protection and privacy. The Licensee shall ensure that adequate technical and organisational measures have been taken and shall be maintained in accordance with applicable (data protection and privacy) laws, in order to protect the Licensed Data from (accidental) unauthorized access or disclosure, loss, alteration or destruction of the Licensed Data.
- 5.2 Parties agree that the Licensed Data shall be received by Licensee and subsequently held and kept by Licensee at [● place, the Netherlands] in the European Union. Licensee agrees that it shall not access the Licensed Data from, keep it in or transfer the Licensed Data to any other location without the prior written consent of HMF. In order to comply with the relevant Applicable Legislation, HMF shall not provide such consent for a location outside the European Union, unless Licensee (or any other relevant party) agrees to enter into the appropriate unmodified EU Model Clauses or such other arrangement that HMF deems appropriate in its sole discretion.
- 5.3 HMF undertakes to provide the Licensed Data in de-identified, coded form. Licensee shall not attempt to de-anonymize any Licensed Data or to identify the individuals to whom the Licensed Data relate. Should Licensee become aware of any identifiable personal data included in the Licensed Data, Licensee shall immediately inform HMF

and follow HMF's instructions to either delete or destroy such personal data or have those personal data deleted or destroyed by any party or person that has access to the personal data. This clause 5.3 shall not apply with respect to Licensed Data relating to Licensee's own patients as included in the Licensed Data, where applicable.

- 5.4 Licensee agrees and acknowledges that any person whose data have been included in the Licensed Data has the right to request for rectification or erasure of his/her personal data. Licensee shall ensure that the relevant personal data is rectified or erased immediately upon the first request of HMF.

6 Confidentiality

- 6.1 Licensee acknowledges and understands the sensitive nature of the Licensed Data and the absolute need to treat and keep the Licensed Data secured and confidential. Licensee shall maintain strict confidentiality with respect to the Licensed Data and shall:

- (a) ensure that the Licensed Data are only accessible to persons who require such access for the Project and shall not distribute, disclose or disseminate the Licensed Data to any other person(s);
- (b) keep all documents and materials which constitute or contain the Licensed Data in safe custody, meaning that Licensee shall undertake adequate technical and organisational (security) measures to prevent any unauthorized access to the Licensed Data. Licensee shall promptly provide HMF with written information on the safety measures applicable at any time upon the request of HMF and agrees to undertake further safety measures deemed necessary by HMF.

- 6.2 Licensee shall impose the confidentiality and data protection obligations included in this clause upon any person that is granted access to the Licensed Data by written agreement and shall see to it that persons shall at all times fully comply with such obligations. Licensee shall at all times remain fully responsible for any breach of these obligations by any person to whom the Licensee provided access to the Licensed Data.

- 6.3 The confidentiality obligations set forth in this Agreement shall not apply regarding information and/or data that:

- (a) is generally known or, without the Licensee's fault, becomes generally known, or
- (b) has been legitimately obtained by a third party, or
- (c) is already known to the Licensee or has been developed independently of the use of the Licensed Data, or
- (d) has to be disclosed as a result of a governmental or court order.

- 6.4 Expiration or termination of this Agreement for whatever reason shall not affect the Licensee's confidentiality obligations as set forth in this Agreement.

7 Intellectual property rights and know how

- 7.1 HMF is exclusively entitled to its Database and Licensee shall not have any rights on or in relation to this Database.
- 7.2 Each Party shall remain the owner of any intellectual property rights and/or any knowledge gained or developed by such Party prior to the conclusion of this Agreement or yet to be developed outside the scope of this Agreement.
- 7.3 Under no circumstance shall the Database and/or the Licensed Data (including any additions thereto and/or alterations or updates thereof) become the property of Licensee. Nothing in this Agreement shall construe the transfer of any rights, title or interest in any knowledge, intellectual property and/or data to Licensee.

8 Publications

- 8.1 Licensee may publish the results of the Project with respect to the Licensed Data, provided that such publication does not include any of the (original/raw) Licensed Data itself but only (research and/or statistical) data that were compiled by using the Licensed Data and which do not contain any personal data and/or personally identifiable information. Licensee is further explicitly prohibited from providing to any party or otherwise disclosing the Licensed Data in connection with a publication for purposes of verification of the Project or any other purpose and Licensee shall refer any party that wishes to receive access to Licensed Data for purposes of verifying the Project to HMF.
- 8.2 Licensee shall notify HMF of any contemplated publication containing and/or partially or entirely based on Licensed Data or containing any statements related to HMF's Database prior to publication.
- 8.3 Licensee acknowledges that the Licensed Data contain data obtained from third party medical institutions/centres and/or research performed by such third parties. Licensee agrees to acknowledge the contribution of these third parties in (contemplated) publications in accordance with (i) the at the time of publication prevailing Publication Policy of HMF, the current version of which is attached hereto as **Annex III** and (ii) commonly accepted international standards and practices.
- 8.4 In order to enable Licensee to comply with its obligations as set out in clause 8.3, HMF shall, when making available the Licensed Data to Licensee or shortly thereafter, inform the Licensee on the percentages of Licensed Data originating from third parties as provided for in paragraph 4 of the Publication Policy of HMF.
- 8.5 HMF is entitled to publish the following information regarding the Project on its website: name of requesting researcher on Data Request Form, center of requesting researcher, date of the Data Request Form, (general) title of the Project and brief summary of the Project as stated in the Data Request Form and any other information as explicitly agreed in writing between the Parties.

8.6 Licensee shall impose the (publication) obligations provided in this clause 8 by written agreement upon any person that is granted access to the Licensed Data and shall see to it that such persons shall at all times fully comply with these obligations. Licensee shall at all times remain fully responsible for any breach of these obligations by any of the persons to whom the Licensee provided access to the Licensed Data.

9 Limitation of liability

9.1 No warranty is given by HMF as to the accuracy or completeness of any Licensed Data.

9.2 Regardless of the basis of Licensee's claim (whether based on this Agreement, a relating agreement or tort), HMF's liability shall in any event never exceed the amount of any direct damages actually suffered by Licensee.

9.3 Under no circumstances HMF shall be liable towards Licensee for:

- (a) special, incidental, indirect, consequential or punitive damages;
- (a) lost profits, business, revenue, goodwill, or anticipated savings; and/or
- (b) any third party claim against Licensee.

9.4 Licensee agrees to defend, indemnify and hold HMF harmless against any liability, losses, damages or costs (including any legal costs) incurred or suffered by HMF as a result of any breach, negligent act or omission or wilful misconduct on the part of Licensee or its affiliates, employees, subcontractors and any (other) third parties (if any), arising either directly or indirectly from the performance (or non-performance) by Licensee of any of its obligations under this Agreement.

10 Compliance and audit

10.1 Both Parties covenant that all of their activities under and/or pursuant to this Agreement shall at all times comply with the Applicable Legislation.

10.2 At first request of HMF, Licensee shall provide information and documentation in order for HMF to be able to verify compliance by Licensee with this Agreement. Furthermore, at request of HMF, Licensee shall permit HMF, or its representatives, to have access to the Licensed Data and systems on which the Licensed Data are stored to inspect compliance by Licensee with this Agreement. Such inspection shall be conducted during normal business hours, on a date agreed upon by the Parties and in the presence of a representative of Licensee.

11 Term and termination

11.1 This Agreement shall commence as of the Signing Date and will continue until, whichever comes earlier, either completion of the Project (i.e. the first publication in relation to the Project), or expiration of the period of time as set forth in clause 4.1 of

this Agreement, after which this Agreement shall automatically terminate unless terminated earlier in accordance with this clause 11.

- 11.2 Either Party may terminate this Agreement at its own discretion by written notice to the other Party taking into account a notice period of at least one (1) month.
- 11.3 HMF may terminate this Agreement with immediate effect by written notice to the Licensee in case HMF in its sole discretion concludes that this Agreement or the execution thereof by HMF is contrary to the Applicable Legislation or (an) order(s) by a competent authority, court or tribunal.
- 11.4 Either Party may terminate this Agreement with immediate effect, by written notice to the other Party in the event that:
- (a) the other Party breaches a material obligation or fails to perform any of the material terms or conditions of this Agreement and/or any agreements resulting therefrom; and
 - (a) such breach or failure is not capable of remedy; or
 - (b) such breach or failure, if capable of remedy, is not remedied within thirty (30) days after written notice from the rescinding Party requiring such breach or failure to be remedied.
- 11.5 Either Party may terminate this Agreement with immediate effect, in whole or in part, by written notice to the other Party in the event that:
- (a) the other Party ceases to pay its debts, becomes insolvent or an order is made or a resolution is passed for the liquidation, administration, winding up or dissolution of the other Party (other than for the purposes of a solvent amalgamation or reconstruction) or an administrative or other receiver, manager, liquidator, administrator, trustee or similar officer is appointed to administer all or any substantial part of the assets of the other Party or the other Party requests for a moratorium, enters into or proposes any composition or arrangement with its creditors generally, or anything analogous to the foregoing arises in any applicable jurisdiction; or
 - (b) the other Party terminates its business.
- 11.6 HMF may terminate this Agreement with immediate effect in the event that (a) Licensee directly or indirectly comes under the control of a third party or enters into a legal merger with such third party and such acquisition of control or merger harms or may harm the interest of HMF to such extent that HMF cannot reasonably be expected to continue this Agreement, or (b) Licensee (knowingly or unknowingly) acts contrary to any restriction applicable to HMF with respect to the Licensed Data.

12 Consequences of termination

- 12.1 Upon termination of this Agreement, Licensee shall, promptly and without charge to HMF:
- (a) at HMF's option, either return to HMF or destroy, all carriers of the Licensed Data which it has obtained from HMF in connection with this Agreement, and also all copies thereof which are in its possession at that time;
 - (b) remove all Licensed Data that are at that time stored in its computer system, files, or both; and
 - (c) no longer use the Licensed Data in any manner whatsoever, with the understanding that the results of the Project (not being the original Licensed Data themselves) may continue to be used by Licensee for publication purposes in accordance with this Agreement.
- 12.2 Notwithstanding the provision in clause 12.1, the Licensee shall be entitled to keep one (1) copy of the Licensed Data, but only in order to comply with retention obligations pursuant to Applicable Legislation to which the Licensee is subject in order to verify and reproduce the Project as set forth in the Data Access Request Form. In the event that the (copy of) the Licensed Data is used by Licensee to verify or reproduce the Project as set forth in the Data Access Request, the Licensee shall inform HMF hereof in advance. The terms of this Agreement shall fully apply to the Licensee with respect to the use of the (copy of the) Licensed Data as provided for in this clause 12.2.
- 12.3 Expiration or termination of this Agreement for whatever reason shall not prejudice the provisions which by their nature must be deemed to survive termination, including but not limited to clause 6, 7, 8.3, 12.2 and 13.

13 Penalty

- 13.1 Upon any violation of clause 6 or clause 12.1 and/or 12.2 by Licensee, Licensee shall forfeit, without any notice to that effect being required, an immediately payable penalty which is not subject to set-off, in the amount of EUR 50,000 per event and EUR 10,000 for every day that such violation continues, without prejudice to HMF's right to: (a) claim full compensation of damages in addition to the penalty if such damages are higher, or (b) to claim compliance with the obligations under this Agreement simultaneously with claiming the penalty.

14 Assignment

- 14.1 Neither this Agreement nor any right or obligation hereunder can be transferred or assigned in whole or in part by any Party without the prior written consent of the other Party.

15 Notices

- 15.1 Any communication required or permitted to be given under this Agreement between Parties shall be in writing by letter or e-mail and shall be sent to the following addresses:

Stichting Hartwig Medical Foundation

Address Sciencepark 408, 1098 XH Amsterdam
Attn. the Board
Telephone +31 (0)20 235 2640
E-mail info@hartwigmedicalfoundation.nl

[● Licensee] [● in the event of a consortium, list all consortium parties]

Department [●]
Attn. [●]
Address [●]
Telephone [●]
E-mail [●]

16 Applicable law and jurisdiction

- 16.1 This Agreement and any agreements entered into pursuant to or in connection with this Agreement (including but not limited to claims based on tort) shall be governed by and construed in accordance with the laws of the Netherlands.
- 16.2 Any dispute arising out of or in connection with this Agreement (including but not limited to claims based on tort) or further agreements resulting here from will in first instance be submitted to the exclusive jurisdiction of the competent court in Amsterdam, the Netherlands.

17 Miscellaneous

- 17.1 Neither Party's failure to exercise any of its rights hereunder shall constitute a waiver of such rights or in any other way prejudice such rights.
- 17.2 If any provision of this Agreement is declared void or unenforceable by any court or tribunal of competent jurisdiction, the other provisions of this Agreement shall remain to be of effect. Parties shall endeavour to replace any void or unenforceable provision by a valid provision which reflects the parties' original intent to the greatest possible extent.
- 17.3 The applicability of any general terms and conditions of Licensee to this Agreement is herewith expressly excluded.

[signature page follows]

THIS AGREEMENT has been executed by HMF and Licensee in duplicate originals, by their respective and duly authorized officers on the day and year written.

[● In the event of a consortium, all consortium parties have to sign this license agreement as Licensee]

Stichting Hartwig Medical Foundation

[● Licensee]

HMF

LICENSEE

By: Hans van Snellenberg
Title: Directeur

By: [●]
Title: [●]
Date:

Date:

[● Licensee]

[● Licensee]

LICENSEE

LICENSEE

By: [●]
Title: [●]
Date:

By: [●]
Title: [●]
Date:

For acknowledgment of his obligation under clause 3.2 and 4 of this Agreement,

Researcher

[● [name researcher]

Title: [●]
Date:

Annexes
Annex I Data Request Form

Annex II HMF Rules of Procedure Data Access Requests
Annex III Publication Policy HMF

TEMPLATE