



QIB Extra Ltd
Quadram Institute
Norwich Research Park
Norwich
NR4 7UQ
UK

www.qibextra.co.uk

Contract Research Agreement

THIS AGREEMENT is made on the Effective Date

BETWEEN:

- (1) **DEPARTMENT OF HEALTH AND SOCIAL CARE** whose registered office is at 39 Victoria Street, London, SW1H 0EU ("**Company**"); and
- (2) **QIB EXTRA LIMITED**, a company registered in England and Wales with company number 6500711 and whose registered office is Quadram Institute, Norwich Research Park, Norwich, NR4 7UQ (the "**QIB Extra**");

each a "Party" and together the "Parties".

BACKGROUND:

- (A) Company requires certain contract research services (defined below as the "Contract Research"), to be carried out.
- (B) QIB Extra is the wholly owned trading subsidiary of the Quadram Institute Bioscience. QIB Extra is an expert provider of such research and testing services and has been selected by Company on the basis of its expertise to perform the Contract Research.
- (C) The Parties have agreed that QIB Extra will provide the Contract Research and that Company will pay QIB Extra for it in accordance with this Agreement. Provided that QIB Extra complies with its obligations regarding the Company Confidential Information, there is nothing in the Agreement to prevent QIB Extra from carrying out similar contract research services for a third party.

AGREED TERMS:

1. DEFINITIONS

- 1.1 In this Agreement the following terms shall have the corresponding meaning:

"**Agreement**" means this agreement and its schedules.



“Affiliate” means any business entity which directly or indirectly controls, is controlled by, or is under common control with the relevant Party to this Agreement. A business entity shall be deemed to “control” another business entity if it beneficially owns, directly or indirectly, more than 50% of the outstanding voting securities or capital stock or any other comparable equity or ownership interest;

“Authorised Sub-contractor” means those entities listed below:

None;

“Commencement Date” means 01st November 2021;

“Company Confidential Information” means all confidential information or data (whether oral, electronic or recorded in any other medium) of the Company which is disclosed to QIB Extra in the course of providing the Contract Research, which includes the Input Material and Related Information together with the Output Material;

“Company Contact” means [REDACTED]

“Contract Research” means the research and testing to be carried out by QIB Extra on the Input Material under this Agreement, as more particularly described in Schedule 1;

“Effective Date” means the date of execution of this Agreement (being the date of the later signature where the Parties sign the Agreement on different dates);

“Input Material” means the biological materials provided by Company for use in the performance of the Contract Research, further details of which are set out in Schedule 2.

“IP Rights” means patents, trademarks, trade names, domain names, design rights, copyright, rights in databases, Know-How and other intellectual property rights, in each case whether registered or unregistered and including applications for the grant of any such rights, and all rights having equivalent or similar effect anywhere in the world;

“QIB Extra Background” any information, techniques, Know-How, software and materials (regardless of the form or medium in which they are disclosed or stored) and the IP Rights contained in them, belonging to or under the control of QIB Extra that are employed in the performance of the Contract Research and which have been developed prior to the Commencement Date or that are independently developed by QIB Extra outside the Contract Research after the Commencement Date;

“Know-How” means inventions, discoveries, improvements, processes, formulae, techniques, specifications, technical information, data, know-how, methods, tests, reports, component lists, (whether written, unwritten or in any other form);

“Output Material” means the results of the Contract Research which includes the Report (but excluding any invention, discovery in relation to or improvement upon, the QIB Extra Background);



“Related Information” means any and all information to be provided by Company to QIB Extra under this Agreement in conjunction with the Input Material for the purpose of carrying out the Contract Research including any information set out in Schedule 2;

“Report” means the report describing the work carried out and the results generated which is provided in accordance with clause 5.1;

“Term” means six (6) months from the Commencement Date, unless extended by mutual consent, as provided for under clause 10.3.

- 1.2 Words denoting any gender shall include all genders. The singular shall include the plural (*and vice versa*).
- 1.3 Unless otherwise specified or the context otherwise requires, references in this Agreement to QIB Extra’s “personnel” (as the case may be) shall include its directors, employees and agents.
- 1.4 The words “includes” or “including” shall be construed without limitation to the generality of the preceding words.

2. **ENGAGEMENT**

- 2.1 Company hereby agrees to engage QIB Extra and QIB Extra hereby agrees to provide the Contract Research to Company in accordance with this Agreement.
- 2.2 Company is solely responsible for assessing whether the anticipated Output Material is already available in the public domain prior to performance of the Contract Research by QIB Extra.
- 2.3 Company acknowledges that QIB Extra may simultaneously perform services for third party(s) that may give rise to identical output material, and that as QIB Extra shall be under a duty of confidentiality to such Party(s), QIB Extra shall:
 - 2.3.1 be under no obligation to notify Company in such circumstances in advance or otherwise; and
 - 2.3.2 not be held liable to Company in the event that the anticipated Output Material is made available in the public domain during performance of the Contract Research as a result of such third-party services.
- 2.4 QIB Extra reserves the right to make any changes in the specification of the Contract Research where QIB Extra is required to do so in order to comply with any applicable statutory or other legal requirement.
- 2.5 QIB Extra shall not be entitled to provide the Contract Research using a sub-contractor without first obtaining Company’s written permission to a specific named legal entity proposed by QIB Extra. Company hereby gives its permission to the legal entity(s) identified and defined as the Authorised Sub-contractor(s) in clause 1.1 on condition that:
 - 2.5.1 the involvement of an Authorised Sub-contractor is only permitted to the extent needed to complete specified objectives as expressly set out in Schedule 1; and



- 2.5.2 QIB Extra agrees that any act or omission of an Authorised Sub-contractor shall for the purposes of this Agreement be deemed to be an act or omission of QIB Extra; and
- 2.5.3 QIB Extra shall be responsible to Company to procure compliance by an Authorised Sub-contractor with all of the terms and conditions of this Agreement; and
- 2.5.4 QIB Extra shall procure that an Authorised Sub-contractor shall have agreed in writing to comply with all obligations under this Agreement prior to being allowed to participate in the Contract Research; and
- 2.5.5 QIB Extra shall be entirely responsible for payment of an Authorised Sub-contractor's fees, costs and expenses in connection with the provision of its services to QIB Extra in provision of the Contract Research.
- 2.6 On commencement of this Agreement, Company shall at its own expense promptly send to QIB Extra the Input Material and the Related Information.
- 2.7 The QIB Extra contact in respect of the Contract Research shall be Dr Reg Wilson (or his replacement as notified to the Company). The Company representative shall be the person named in this Agreement as the Company Contact (or any replacement notified to QIB Extra).

3. USE OF THE INPUT MATERIAL AND RELATED MATERIAL BY QIB EXTRA

- 3.1 QIB Extra shall (and shall procure that an Authorised Sub-contractor shall):
- 3.1.1 keep confidential any Company Confidential Information;
- 3.1.2 use the Input Material and Related Information only for the purpose of the Contract Research and in particular will not make commercial use of the Input Material and the Related Material without entering into a prior written agreement with Company authorising this;
- 3.1.3 not copy or reproduce the Confidential Information except where this is reasonably necessary for the purpose of the Contract Research. The Parties agree that all copies or reproductions of the Confidential Information, in any form, shall be the property of Company;
- 3.1.4 only give the Input Material and disclose the Related Information to such of its personnel as necessary for the performance of the Contract Research and then only on the basis that QIB Extra ensures that each of those personnel are engaged on terms of confidentiality equivalent to those provided for in this Agreement;
- 3.1.5 not disclose Related Information nor make available the Input Material to any third party, save as to an Authorised Sub-contractor or Affiliate for the purposes of the Contract Research, without Company's prior written consent. QIB Extra may disclose the Related Information or make available the Input Material to its Affiliates and Authorised Sub-contractors where and to the extent that this is strictly necessary for the purposes of the Contract Research (and in the case of disclosure to an Authorised Sub-contractor QIB Extra shall only disclose that the Input Material has originated from



Company or that work is being required by Company) on the basis that each of those Affiliates and/or Authorised Sub-contractors agrees to be bound by terms equivalent to those provided for in this Agreement.

- 3.2 QIB Extra warrants that (i) it has all necessary rights to all third party technology that it shall use to perform the Contract Research and permissions to provide the Contract Research; and (ii) the Contract Research will be carried out in accordance with accepted scientific principles, and conform to the standard generally observed in the industry for similar services and will be provided with reasonable care and skill. However, QIB Extra makes no representation or warranty that any results of the Contract Research will be fit for any specific or general purpose of Company or its Affiliates, and accepts no responsibility for any use which may be made by Company, or its Affiliates, of any such Output Material, including any Report arising from the Contract Research or otherwise supplied to or to which Company gains access pursuant to this Agreement.

4. EXCEPTIONS

- 4.1 The confidentiality obligations in clause 3.1 will not apply to any information which:
- 4.1.1 QIB Extra can prove (with documentary evidence) was already known to it prior to disclosure, other than under an obligation of confidentiality;
 - 4.1.2 is or has been disclosed to QIB Extra by a third party which is legally entitled to make such disclosure;
 - 4.1.3 is in or comes into the public domain other than by breach of this Agreement or any other confidentiality agreement by QIB Extra;
 - 4.1.4 is required to be disclosed by law or by any competent judicial or regulatory authority or by any recognised investment exchange, provided that QIB Extra promptly notifies Company of such disclosure so that Company can advise the authorities of the confidential nature of the Confidential Information and take all necessary steps to protect it.
- 4.2 For the avoidance of doubt, QIB Extra may not disclose any Company Confidential Information which does not of itself fall within the exceptions referred to in clause 4.1 above even if it is mixed with Confidential Information which is so exempt.

5. RESULTS

- 5.1 QIB Extra shall provide Company with the Report of completion of the Contract Research. The Report shall be sent by email to the Company Contact. The Report will be deemed to be Company Confidential Information and treated as such by QIB Extra pursuant to clause 3.
- 5.2 Without prejudice to the generality of clause 3 QIB Extra will not, and will ensure that its personnel and/or its Authorised Sub-contractors and their personnel where appropriate, do not, make commercial use of, or otherwise publish or disclose to any third party the Report or any other Company Confidential Information without Company's prior written consent.



- 5.3 The company must not use QIB Extra or QIB's name in any form of public disclosure of the results of the work without prior written agreement from QIB Extra.

6. INTELLECTUAL PROPERTY RIGHTS

- 6.1 The Input Material and any IP Rights therein shall remain and/or be the property of Company. Company hereby grants QIB a licence to such IP Rights in the Input Material in order for QIB Extra to carry out the Contract Research.
- 6.2 All QIB Extra Background used in the provision of the Contract Research shall remain the sole and exclusive property of QIB Extra (or such third party from such QIB Extra Background has been derived) and Company and/or its Affiliates, shall make no claim whatsoever to such QIB Extra Background.
- 6.3 QIB Extra does not warrant that the Output Material will have any, or any particular, commercial value or will be capable of protection, registration, or otherwise, as an intellectual property right by Company
- 6.4 Subject to clauses 2.2, 2.3, 6.2 and 6.3 above, Company shall be entitled to all IP Rights in the Output Material and QIB Extra shall (and if applicable shall procure that its Authorised Sub-contractor(s) shall) assign such rights as they have in the Output Material to Company or its nominated Affiliate, subject to payment in full in accordance with clause 8.
- 6.5 At Company's request and expense, QIB Extra shall do and shall procure that its personnel, and/or its Authorised Sub-contractor(s) and their personnel where appropriate, shall do such reasonable things and sign all documents or instruments reasonably necessary to enable Company to obtain, defend and enforce its IP Rights in the Output Material.
- 6.6 Upon request by Company from time to time during the Term, and in any event upon the expiry or termination of this Agreement, QIB Extra shall at its expense promptly deliver to Company all copies of the Output Material and other Company Confidential Information together with any unused Input Material then in QIB Extra's custody, control or possession.

7. HEALTH AND SAFETY

QIB Extra confirms that proper procedures are in place and are observed concerning the handling and use of chemical samples and that the Input Material will be made available only to persons fully trained in such procedures.

8. PAYMENT

- 8.1 Company will pay QIB Extra for the work carried out under this Agreement at the rates and on the terms set out in Schedule 3 ("the Fee"). The Fee is exclusive of VAT and therefore, VAT will be charged at standard rate unless Company can provide QIB Extra with evidence that goods and services provided by QIB Extra are to be used in connection with an onward supply of exempt research as required by law.



- 8.2 Save as set out in clause 8.1, Company shall have no liability to pay any further fees, charges or costs to QIB Extra, or to reimburse any expenses incurred by QIB Extra or its personnel in connection with the Contract Research.
- 8.3 Any sum payable under this Agreement shall become due 30 days after the end of the month in which Company receives a valid VAT invoice from QIB Extra. If Company fails to make any payment due to QIB Extra under this Agreement by the due date for payment, then, without limiting QIB Extra's remedies under clause 10, QIB Extra shall be entitled to charge interest on the overdue amount at the rate of 3% per annum above HSBC Bank plc's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. Company shall pay the interest together with the overdue amount.
- 8.4 All sums payable under this Agreement will be paid without the deduction of bank charges, transfer fees, taxes or other similar charges.

9. **LIABILITY**

- 9.1 Company represents and warrants that they will not infringe any third party rights by providing the Related Information or Input Material to QIB Extra. Company does not warrant the accuracy or completeness of such Related Information or Input Material. However QIB Extra shall not be responsible for the quality of the Contract Research where Company has provided Input Material and Related Information that is materially inaccurate or incomplete.
- 9.2 Subject to clauses 9.3 and 9.4, each Party (the "indemnifying Party") agrees to indemnify and hold harmless the other Party (the "indemnified Party") against all liabilities, costs, expenses, damages and losses (excluding any loss of profit or loss of opportunity or for any indirect or consequential losses, together with all reasonable interest, penalties and legal and other professional costs and expenses) suffered or incurred by the indemnified Party that arise as a result of any material or information provided to the indemnified Party by the indemnifying Party. Nothing in this clause shall restrict or limit the indemnified Party's general obligation at law to mitigate a loss it may suffer or incur as a result of an event that may give rise to a claim under this indemnity.
- 9.3 Subject to clause 9.4 below, the total liability of each Party to the other Party for any breach or breaches of this Agreement, any negligence, or arising in any other way out of the subject matter of this Agreement and the results of the Contract Research will be limited to the total Fee paid in aggregate and will not extend to any indirect or consequential losses or damages, or any loss of profits, loss of revenue, loss of goodwill, loss of anticipated savings, loss of data, loss of contracts or opportunity, whether direct or indirect, even if the Party suffering the loss has advised the other Party of the possibility of those losses, or if they were within the other Party's contemplation.
- 9.4 Nothing in this Agreement limits or excludes either Party's liability for:
- 9.4.1 death or personal injury;
- 9.4.2 any fraud or fraudulent misrepresentation;
- 9.4.3 any other liability that, by law, cannot be limited or excluded.



10. TERM AND TERMINATION

- 10.1 This Agreement shall commence on the Commencement Date and shall continue until the expiry of the Term unless otherwise terminated or extended (as the case may be) in accordance with this clause 10, or unless extended by prior written agreement of the Parties.
- 10.2 Either Party may terminate this Agreement immediately on notice in writing to the other Party if the other Party:
- 10.2.1 commits any material or persistent breach of any of its obligations under this Agreement and (in the case of a breach capable of being remedied) fails to remedy the breach within 7 days after the receipt of a written request so to do;
 - 10.2.2 passes a resolution for winding up (otherwise than for the purpose of a bona fide scheme of solvent amalgamation or reconstruction) or a court of competent jurisdiction shall make an order to that effect;
 - 10.2.3 makes any voluntary arrangement with its creditors or becomes subject to an administration order;
 - 10.2.4 has a receiver or administrative receiver appointed over it or any part of its undertaking or assets;
 - 10.2.5 ceases or threatens to cease to carry on business; or
 - 10.2.6 undergoes a material change in its management, ownership or control.
- 10.3 This Agreement may be extended or amended with the written agreement of the Parties and signed by their authorised signatories.

11. EFFECT OF TERMINATION

- 11.1 The confidentiality obligations in clause 3.1 shall survive for a period of five (5) years after the expiry or termination of this Agreement, howsoever arising. The provisions of clauses 4, 5, 6, 8, 9, 11 and 13 shall also survive the expiry or termination of this Agreement, howsoever arising.
- 11.2 Save as provided in clause 11.1, on the expiry or termination of this Agreement all rights and obligations of the Parties under this Agreement shall automatically terminate, except for such rights of action as shall have accrued prior to the date of expiry or termination.

12. FORCE MAJEURE

- 12.1 Neither Party will be liable to the other Party for non-performance or delay in performance of any of its obligations under this Agreement due to causes reasonably beyond its control including without limitation fire, flood, strikes, government regulations, war (whether or not declared), terrorism, civil commotion and riots. Upon the occurrence of such force majeure event the affected Party will immediately notify the other Party with as much detail as possible and will promptly inform the other Party of any further developments. If such force majeure event continues for a period of 3 months or



more, the unaffected Party shall be entitled to terminate this Agreement immediately upon notice to the affected Party. In the event that the Agreement is not so terminated, immediately after the force majeure event is removed, the affected Party will proceed with the performance of such obligation with all due speed and shall, if so requested by the other Party, discuss in good faith the implementation of a revised schedule for the performance of such obligations.

13 GENERAL

- 13.1 This Agreement supersedes all other agreements and understandings, whether written or oral, between the Parties in relation to the Contract Research and represents the entire agreement between the Parties relating to the Contract Research, and neither Party has relied on any representation or statement which is not expressly included herein. All other terms, conditions, representations, warranties and statements whether implied by law or otherwise and which are not expressly included in this Agreement are hereby excluded.
- 13.2 This Agreement may only be amended in writing signed by both Parties save that the scope of the Contract Research may be amended by the mutual consent of both Parties by email (which, where practicable, should be confirmed in writing).
- 13.3 This Agreement is personal to the Parties. Except as explicitly provided in clause 2.5 in relation to Authorised Sub-contractor(s), this Agreement may not be assigned, sublicensed or subcontracted, transferred or charged by either Party without the prior written consent of the other Party (not to be unreasonably withheld or delayed).
- 13.4 Any notice required or authorised to be given by either Party under this Agreement to the other Party shall be sent by registered post or sent by email and confirmed by registered post to the other Party at the address set out above. For QIB Extra, any such notice should be addressed to [REDACTED]
- 13.5 Nothing in this Agreement shall create or be deemed to create a partnership or joint venture between Company and QIB Extra.
- 13.6 Other than as expressly set out above, no rights or obligations are implied by this Agreement, and no licence is granted or implied under any IP Rights. For the avoidance of doubt, this Agreement may only be relied upon by the Parties and shall not be directly or indirectly enforceable by any third party nor is it intended to benefit any third party.
- 13.7 If all or any part of any provision of this Agreement shall be held to be invalid or unenforceable the remainder (if any) of the provision and all other provisions shall remain valid and enforceable to the fullest extent permissible by law.
- 13.8 No delay or failure by a Party to exercise any right or remedy available to it under or in connection with this Agreement shall prevent the later exercise of any such right or remedy. Any remedy expressed to be available to either Party under this Agreement is without prejudice to any other remedies available to that Party under the law.



- 13.9 This Agreement may be executed as two or more counterparts and execution by each Party of any one of such counterparts will constitute execution of this Agreement. A signature transmitted electronically in a .pdf or .jpeg format shall be acceptable to bind that Party and shall not affect the validity of this Agreement in any way.

14. DISPUTE RESOLUTION

- 14.1 If any dispute arises out of this Agreement the Parties will first attempt to resolve the matter informally through designated senior representatives of each Party to the dispute who are not otherwise involved with the Contract Research. If the Parties are not able to resolve the dispute informally within a reasonable time not exceeding two (2) months from the date the informal process is requested by notice in writing, they will attempt to settle it by mediation in accordance with the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure.

15. GOVERNING LAW AND JURISDICTION

- 15.1 This Agreement will be governed by and construed in accordance with the laws of England and the Parties agree to submit to the exclusive jurisdiction of the English courts.

The Parties have shown their acceptance of the terms of this Agreement by executing it on the date(s) set out below.



SCHEDULE 1

Contract Research

Project Purpose

The NHS Weight Loss Plan app aims to keep track of users' eating habits, and develop a healthier, more active lifestyle with an easy to follow weight-loss plan. The app uses the daily diary to monitor what users are eating and keep to a recommended calorie target.

Food Databanks National Capability (FDNC) previously provided data to DHSC on calorie content of foods available in the app. To promote the usability of the app and the accuracy of the food data, FDNC will provide;

- Possible links to food synonyms/nicknames that are likely to be searched for by users.
- Supplement calorie information for missing foods.

In order to facilitate this work, DHSC will be providing FDNC with users' statistics showing what they search for so that work can be directed to what users of the app require.

New and improved datasets will be provided to DHSC during the course of the project.

Project Overview

The reason for users not finding the information they require happens for two main reasons:

1. The users search for a different term to what was used in the dataset.
2. The food they search for is not present in the database.

Using user search metrics provided by DHSC, FDNC will add calorie information to missing foods, giving priority to the most frequently searched foods.

For foods that are already present in the FDNC dataset under a different name, synonyms will be provided so that the search function on the app can still capture the relevant item. The synonym will be provided in a new column.

When a given food doesn't exist in the dataset provided to DHSC, we will include the food from the European food composition dataset present in FoodExplorer.

The calorie information from the back-of-pack nutrition label will be applied for branded foods. Generic foods will be searched primarily in UK databases, and EU countries from FoodExplore. For foods that have more options for a single search, e.g. almond milk; all available options will be provided, e.g. Alpro Almond Long Life Drink, Alpro Almond No Sugars Long Life Drink, etc.

An updated list of not-found foods should be provided by DHSC at the beginning of each month. The list will be supplemented with new synonyms and calorie information by FDNC and will be returned to DHSC in the middle of each month. The number of new records added each month will depend on their complexity.



The project will run for 6 months from a mutually agreed start date.

Reporting of findings

Monthly updates will be supplied by FDNC, including new data in Excel format for uploading into the backend of the app by DHSC.



SCHEDULE 2
INPUT MATERIAL AND RELATED INFORMATION

Input Material:

An updated list of not-found foods is to be provided by DHSC at the beginning of each month;

Related Information:

None;



SCHEDULE 3

PAYMENT TERMS

All such payments referred to below are exclusive of VAT and clause 8.1 shall apply in respect of payment of VAT by Company.

In consideration of QIB Extra carrying out the Work the Contractor shall pay QIB Extra the sum of **£13,440 + VAT** disbursed as follows:

£6,720 + VAT on signature of this contract

£6,720 + VAT on submission of final monthly update



SIGNED for and on behalf of
DEPARTMENT OF HEALTH AND SOCIAL CARE

[Redacted Signature]

Name: [Redacted]
Title: Head of Digital Products & Data
Authorised Signatory

Date: 28/10/21

[Redacted Signature]

Name: [Redacted]
Title: Procurement Manager

Date 16/11/2021

SIGNED for and on behalf of
QIB EXTRA LIMITED

[Redacted Signature]

Name: [Redacted]
Title: Head of Operations
Authorised Signatory

Date: 28/Oct/2021

