

Terms and Conditions for Service Agreements of CTU Bern

Version: 02 / 29.04.2019

These general Terms and Conditions for Service Agreements of CTU (hereinafter "TCs") govern together with the corresponding confirmation (hereinafter "Confirmation") the contractual relations between a partner and University of Berne, CTU Bern; Mittelstrasse 43, 3012 Bern (hereinafter "CTU") for the support of partner by CTU in the performance of a project (hereinafter "Project"). By signing the Confirmation, the partner accepts the acknowledgement and inclusion of the TCs. The agreement (hereinafter "Agreement") is concluded with the signature of the Confirmation by CTU which has to be the last signature

1. General

1.1 The Agreement consists of the Confirmation and the TCs and constitute the entire and only contractual relations between the parties relating to the Project and the tasks, and all prior negotiations, representations, agreements, and understandings are superseded hereby.

1.2 In case of any conflicts between the Confirmation and the Terms and Conditions of CTU, the Confirmation shall prevail.

2. Obligations /Aims

2.1 CTU agrees to use its good faith efforts to conduct its tasks within the Project as set forth in the Confirmation ("Tasks") signed by both parties as an independent contractor, in accordance with CTU policy, applicable laws and regulations and the Protocol, in its current version and as provided for by Partner if applicable. If appropriate Partner assumes all obligations as the sponsor of the Project according to Swiss Human Research Act of 30. September 2011 and related ordinances and according to applicable laws and regulations.

2.2 The Partner agrees to support CTU in order to conduct the Tasks within the Project by paying a contribution according to Article 3 as well as providing all necessary data and information as required to perform the Tasks.

2.3 For the sake of clarity, CTU shall only perform the Tasks as set out in the Confirmation and have no obligation to perform further work except additional specification of activities and their remuneration agreed upon written amendment.

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3. Contribution

As a support for performing the Tasks within the Project, CTU shall be paid in accordance with the agreed costing. Costs will be invoiced quarterly and for actual working hours performed, which may deviate from the estimate of required hours made in the costing. Without prejudice to the aforesaid, each party shall bear its own costs, arising in the conduct of the Project.

The payments shall be made to the following account of the CTU:

Finanzverwaltung des Kts. Bern, 3011 Bern
Postkonto in Bern/CH: 30-406-7
Clearing: 09000
Swift: POFICHBE (Swiss Post, PostFinance, CH-3030 Bern)
IBAN elektronisch: CH9209000000300004067
IBAN Papierform: IBAN CH 92 0900 0000 3000 0406 7
Vermerk: 1535 Kredit: 34-890
MWSt.: CH-115.2501.351

The calculation of the budget depends on the hourly rates of the CTU. The hourly rates are subject to annual adaptation.

Meal allowances are invoiced as lump sum in accordance with the terms of University of Bern.

4. Term

4.1 The term of this Agreement shall begin on the date of signature of the Confirmation by CTU and shall continue until all responsibilities are completed.

4.2 CTU and Partner may terminate the Agreement at any time in the event of untoward side effects or other medical risks occurring during the Project.

4.3 A party may terminate the Agreement immediately if the other party breaches or is in default of any obligation agreed upon in the Confirmation or of the included TCs of CTU and which has not been cured within thirty (30) days after receiving written notice of such breach or default.

5. Liability

Partner shall indemnify and hold harmless CTU, its regents, officers, agents, employees from any and all liabilities, losses, damages, claims, and expenses in connection with any claim or lawsuit brought against CTU by a third party as a result of i) the performance of the Tasks as set out in the Confirmation by CTU or ii) from the use by Partner of the results of the Study iii) from a possible miss use of the local super user rights provided to the Partner on the study database. In case Partner asks CTU Bern to rescue data/database (e.g. data correction/restore) all costs have to be beard by Partner; provided,

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however, that Partner shall not hold CTU harmless from liability resulting from wilful misconduct or gross negligence of CTU, its agents, or employees. Furthermore, Partner shall have a recourse claim against CTU for the cover of damages resulting from wilful misconduct or gross negligence of CTU, its agents, or employees.

6. Warranties

6.1 CTU agrees to properly perform, to the best of its knowledge and taking into account the current state of the art, the Tasks assumed by it under this Agreement.

6.2 CTU makes no warranties, expressed or implied, as to any matter whatsoever, including and without limitation, the accuracy of the results of the Tasks or any invention(s) or product(s), whether tangible or intangible, conceived, discovered, or developed under this Agreement; or the merchantability, or the fitness for a particular purpose of the results of the Tasks or for any such invention or product.

7. Intellectual property

7.1 Partner shall retain full ownership of the results arising from performing work governed by the Agreement, provided, however, that CTU shall be entitled to use the results for internal and non-commercial purposes.

7.2 All know-how, processes, procedures, methods and developments including but not limited to scripts provided for the use of data preparation, validation and analysis, which are solely developed and used by CTU to perform the Tasks and all intellectual property related thereto, whether created before, during or after the Project, shall be owned solely by CTU, ("Know-how") and, if made available to Partner. Partner agrees to acknowledge the use of Know-how or consider co-authorship in any publication Know-how is used for (altered or unaltered).

7.3 Partner agrees and acknowledges that CTU may collaborate with and uses software/database solutions of 2mt software GmbH; Kurze Lemppen 1; D-89075 Ulm in the performance of the tasks hereunder.

8. Publication and confidentiality

8.1 Partner shall have the right, consistent with internationally accepted academic standards, to present and publish results of the work governed by the Agreement. Authorship will be governed by the Uniform Requirements issued by the International Committee of Medical Editors (ICMJE).

8.2 Each party shall hold in confidence for three (3) years after the termination of the Agreement any confidential information identified as confidential and obtained from the other party during the course of this Project ("Confidential Information"). Nothing herein, however, shall prevent the parties from using any information generated hereunder for ordinary research and educational purposes. Confidential Information may be disclosed to the extent required by Information-, data protection- and archive legislation and for purposes of subject care.

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8.3 The parties agree that CTU's use and disclosure of patient health and medical information is subject to compliance with applicable state and federal data privacy laws. The parties, therefore, agree to take all reasonable steps to protect the confidentiality of any patient health and medical information that they have access to and to comply with applicable laws.

8.4 Partner acknowledges, that CTU aims at being independent of financially driven biases and therefore maintains a funding list on CTU's website, where the projects will be included, if relevant.

8.5 All works such as templates, work instructions and user manuals are created and authored by CTU Bern. These works are under the Creative Commons Attribution 4.0 International License. Partner may reproduce, distribute and make publicly accessible the work. Partner must include the name of CTU Bern, the title of the work, its sources, and this license CC-BY 4.0. To view a copy of this license, visit <http://creativecommons.org/licenses/by/4.0/>.

9. Governing law and Place of Jurisdiction

The Confirmation and these Terms and Conditions of CTU shall be governed by the laws of Switzerland. Place of Jurisdiction shall be Bern, Switzerland.

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Revision Index

Version	Chapter	Summary of changes
01 / 26.10.2018	---	T&C removed from contract template; standalone document with code MAN_CON_FOR-01
02 / 29.04.2019	---	Code change from MAN_CON_FOR-01 to GS_GEN_REC-01 to align with QMS processes and document codes in use