Note: This sort of agreement might be used, for example, where a company has agreed to allow a university to use equipment in connection with a research project.

**THIS SAMPLE AGREEMENT HAS NOT BEEN APPROVED BY THE LAMBERT WORKING GROUP; IT IS INCLUDED IN THE TOOLKIT TO GIVE YOU AN IDEA OF THE SORT OF PROVISION THAT IS OFTEN INCLUDED IN THIS SORT OF AGREEMENT.**

Dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_20[ ]

(1) **[…………………………………………………………]**

(2) **[………………………………………………………..]**

EQUIPMENT LOAN AGREEMENT

(University borrows Equipment from the Company)

**THIS AGREEMENT** dated […………………………………………..] 20[ ] is made **BETWEEN:**

**(1)** **[…………………………..]**, whose administrative offices are at [……………………] (the University);

**(2)** **[……………………..]** [**LIMITED**], a company registered in [England] under number[………………], whose registered office is at [………………………………………………………………] (the Company)

1**.** **DEFINITIONS**

In this Agreement the following expressions have the meaning set opposite:

|  |  |
| --- | --- |
| **this Agreement:** | this document including its Schedule, as amended from time to time in accordance with clause 6.9; |
| **a Business Day:** | Monday to Friday (inclusive) except bank or public holidays in [England]; |
| **the Equipment:** | the equipment listed in Part A of the Schedule; |
| **[the Price:** | [£[*insert amount*] sterling;] |
| **the Principal Investigator:** | [*insert name*]; |
| **the Project:** | the [academic] OR [non-clinical] research project(s) described in Part B of the Schedule; and |
| **the Term:** | [*insert figure*] [months][years] beginning on the date of this Agreement, or the end of the Project (whichever is earlier). |

# **TERMS AND CONDITIONS OF LOAN**

# 2.1 The Company will lend the Equipment to the University on the terms and conditions of this Agreement.

2.2 The University will use the Equipment only for the Project [and only as specified in the PI’s request to the Company for the Equipment], and not for any commercial purpose or commercially-sponsored research (even if these activities are being pursued in the University's laboratory) without first obtaining the Company’s written consent.

* 1. The University will not supply the Equipment to any person except the Principal Investigator and people under the Principal Investigator’s direct supervision, or allow it to be removed from the University’s premises unless it first obtains the Company’s written consent.
	2. The University will use the Equipment in accordance with all applicable laws, regulations, and governmental guidelines.
	3. Risk of any loss or damage to the Equipment will become the responsibility of the University on delivery to the University and will remain with the University until the Equipment has been returned to the Company under clause 5.4. The University will insure the Equipment for its full re-instatement value.
	4. The University will keep the Equipment in good condition and repair (fair wear and tear excepted) throughout the Term, and will be liable for the costs and expenses of maintaining and repairing the Equipment, and of consumable items and accessories required for the use of the Equipment during the Term.
	5. The University will not modify the Equipment without first obtaining the Company’s written approval.
	6. The Term may be extended only by the written agreement of the Company and the University.
	7. No licence under any Intellectual Property owned or controlled by the Company is granted or implied by this Agreement other than the right for the University to have possession of, and use, the Equipment in accordance with the terms of this Agreement.

3. **PAYMENT**

 The University will pay the Company the Price in full on the date of this Agreement. All amounts payable to the Company under this Agreement are exclusive of VAT (or any similar tax) which the University will pay at the rate from time to time prescribed by law.

OR

The Equipment is loaned to the University free of charge.

4. **LIMITATION OF LIABILITY**

* 1. The University will have the Equipment checked by a suitably qualified person before it is used.
	2. [The Company makes no representation and gives no warranty, condition or undertaking in relation to the Equipment.] [Without limiting the foregoing, the][The] Company gives no warranty or condition that the Equipment and its use will not infringe any third-party rights or that its has been tested for, and is free from, defects and that it is safe to use.]
	3. Subject to clause 4.5, the liability of either party to the other for any breach of this Agreement, any negligence or arising in any other way out of the subject matter of this Agreement and the Equipment, will not extend to any indirect damages or losses, or any loss of profits, loss of revenue, loss of data, loss of contracts or opportunity, whether direct or indirect, even if 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.
	4. Subject to clause 4.5, the aggregate liability of each party to the other for all and any breaches of this Agreement, any negligence or arising in any other way out of the subject matter of this Agreement, the Project and the Results, will not exceed [*insert amount*].
	5. Nothing in this Agreement limits or excludes either party's liability for:

4.5.1 death or personal injury;

4.5.2 any fraud or for any sort of liability that, by law, cannot be limited or excluded; or

* + 1. any loss or damage caused by a deliberate breach of this Agreement.

4.6 The express undertakings and warranties given by the parties in this Agreement are in lieu of all other warranties, conditions, terms, undertakings and obligations, whether express or implied by statute, common law, custom, trade usage, course of dealing or in any other way. All of these are excluded to the fullest extent permitted by law.

5. **TERMINATION**

5.1 The University may terminate this Agreement with immediate effect and for any reason by giving written notice to the Company.

5.2 Either party may terminate this Agreement with immediate effect by giving notice to the other party if:

5.2.1 the other party is in breach of any provision of this Agreement and (if it is capable of remedy) the breach has not been remedied within [30][60][90] days after receipt of written notice specifying the breach and requiring its remedy; or

5.2.2 the other party 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 other party's assets, or if the other party makes any arrangement with its creditors.

5.3 Unless terminated under clause 5.1 or 5.2, this Agreement, and the University’s right to use the Equipment, will come to an end on the expiry of the Term.

5.4 Within [5] days after the termination or expiry of this Agreement [the University will, at its expense, return the Equipment in good working order to the Company at the address the Company notifies to the University for that purpose][The Company will collect the Equipment from the University].

5.5 Clauses 1, 2.5, 2.9, 4, 5.4, 5.5 and 6 will survive the expiry of the Term or the termination of this Agreement for any reason and continue indefinitely.

6. **GENERAL**

6.1**Notices:**  Any notice to be given under this Agreement must be in writing, may be delivered to the other party by any of the methods set out in the left hand column below, and will be deemed to be received on the corresponding day set out in the right hand column:

|  |  |
| --- | --- |
| **Method of service**  | Deemed day of receipt |
| By hand or courier | the day of delivery |
| By pre-paid first class post | the second Business Day after posting |
| By recorded delivery post | the next Business Day after posting |
| By fax (provided the sender’s fax machine confirms complete and error-free transmission of that notice to the correct fax number) | the next Business Day after sending or, if sent before 16.00 (sender’s local time) on the Business Day it was sent |

The parties' respective representatives for the receipt of notices are, until changed by notice given in accordance with this clause, as follows:

|  |  |
| --- | --- |
| **For the University:** | **For the Company:** |
| Name:Address: | Name:Address: |
| Fax number: | Fax number: |

6.2 **Headings:** The headings in this Agreement are for ease of reference only; they do not affect its construction or interpretation.

6.3 **Assignment:** Neither party may assign or transfer this Agreement as a whole, or any of its rights or obligations under it, without first obtaining the written consent of the other party. That consent may not be unreasonably withheld or delayed.

6.4 **Illegal/unenforceable provisions:**  If the whole or any part of any provision of this Agreement is void or unenforceable in any jurisdiction, the other provisions of this Agreement, and the rest of the void or unenforceable provision, will continue in force in that jurisdiction, and the validity and enforceability of that provision in any other jurisdiction will not be affected.

6.5 **Waiver of rights:** If a party fails to enforce, or delays in enforcing, an obligation of the other party, or fails to exercise, or delays in exercising, a right under this Agreement, that failure or delay will not affect its right to enforce that obligation or constitute a waiver of that right. Any waiver of any provision of this Agreement will not, unless expressly stated to the contrary, constitute a waiver of that provision on a future occasion.

6.6 **No agency:** Nothing in this Agreement creates, implies or evidences any partnership or joint venture between the parties, or the relationship between them of principal and agent. Neither party has any authority to make any representation or commitment, or to incur any liability, on behalf of the other.

6.7 **Entire agreement:**This Agreement constitutes the entire agreement between the parties relating to its subject matter. Each party acknowledges that it has not entered into this Agreement on the basis of any warranty, representation, statement, agreement or undertaking except those expressly set out in this Agreement. Each party waives any claim for breach of this Agreement, or any right to rescind this Agreement in respect of any representation which is not an express provision of this Agreement. However, this clause does not exclude any liability which either party may have to the other (or any right which either party may have to rescind this Agreement) in respect of any fraudulent misrepresentation or fraudulent concealment prior to the execution of this Agreement.

6.8 **Formalities:** Each party will take any action and execute any document reasonably required by the other party to give effect to any of its rights under this Agreement, or to enable their registration in any relevant territory provided the requesting party pays the other party’s reasonable expenses.

6.9 **Amendments:**  No variation or amendment of this Agreement will be effective unless it is made in writing and signed by each party's representative.

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

6.11 **Governing law:** This Agreement is governed by, and is to be construed in accordance with, English law. The English Courts will have exclusive jurisdiction to deal with any dispute which has arisen or may arise out of, or in connection with, this Agreement, except that either party may bring proceedings for an injunction in any jurisdiction.

6.12 **Escalation:** If the parties are unable to reach agreement on any issue concerning this Agreement within 14 days after one party has notified the other of that issue, they will refer the matter to [*insert officer*] in the case of the University, and to [*insert officer*] in the case of the Company in an attempt to resolve the issue within 14 days after the referral. Either party may bring proceedings in accordance with clause 8.11 if the matter has not been resolved within that 14 day period, and either party may apply to the court for an injunction whether or not any issue has been escalated under this clause.

|  |  |
| --- | --- |
| **SIGNED** for and on behalf of the University:NamePositionSignature | **SIGNED** for and on behalf of the Company:NamePositionSignature |

[Read and understood by the Principal

Investigator

……………………………………………………………..

Signature

……………………………………………………………..

Date]

# **THE SCHEDULE**

**Part A**

**The Equipment**

**Part B**

**The Project**