Model Clinical Trial Agreement (mCTA) and

Clinical Research Organisation Model Clinical Trial Agreement (CRO-mCTA)

Guidance

February 2018

Model Clinical Trial Agreement and Clinical Research Organisation Model Clinical Trial Agreement 2018 Guidance

Introduction

The first model clinical trial agreement ("***mCTA***") for pharmaceutical research was drawn up and published by the Department of Health and the ABPI in 2003 with the intention that a template agreement would make the contracting process more straightforward and efficient.

Since 2003, the mCTA has been refined and developed to take account of a changing regulatory regime and clinical trial environment. The first version of the clinical research organisation model clinical trial agreement ("***CRO-mCTA"***) was published in 2007 and this was updated in 2011, in line with the 2011 version of the mCTA. More information about the development of the mCTA and CRO-mCTA (the "***mCTAs"***) is provided below.

The mCTAs have been developed through consultations between the various stakeholder groups including, representatives from the Department of Health, the Health Research Authority, the National Institute for Health Research, the Medical Research Council, the Devolved Administrations, the NHS, life sciences trade associations and national and global heads of research from biopharmaceutical companies and clinical research organisations.

The mCTAs have been devised to meet the needs of the companies sponsoring trials and Clinical Research Organisations managing sites and to reflect the duty of care that Participating Organisations have for their patients.

This Guidance provides an introduction to the mCTAs, outlining when and how they should be used as well as providing an overview of the changes made in 2018 to update the mCTAs and summarising some of their key provisions.

mCTA and CRO-mCTA – Background

The mCTA was published by the Department of Health and the ABPI in 2003.

The mCTA was updated in 2006 to take into account the introduction of the EU clinical trials directive and the directive on good clinical practice in pharmaceutical research. Versions of the mCTA were also created for use in Northern Ireland, Scotland and Wales.

The first CRO-mCTA was published in 2007. Based on mCTA 2006, it allowed unmodified use of a template agreement in circumstances where a CRO undertook site management responsibilities and allowed for the division of responsibilities between Sponsor and CRO to be set out.

A further update, to both the mCTA and CRO-mCTA, took place in 2011. Modifications were made in two areas only: clarification that universities employing staff involved in Contract Clinical Trials at Participating Organisations are classed as agents of the Participating Organisation; and anti-bribery and corruption provisions were included.

The 2018 model is the fourth version of the mCTA, and the third version of the CRO-mCTA, and has been influenced by the work of the Ministerial Industry Steering Group (MISG), a body which brings together government and the bio-pharmaceutical industry.

In 2016, the MISG Clinical Research Working Group (CRWG) recognised the need to enhance further the UK's position as a great place to do commercially funded research. Following feedback from NHS stakeholders and industry partners, it was decided to develop UK-wide mCTAs as well as bringing the mCTAs up-to-date with current practice, regulations and changes in the regulatory environment.

It is anticipated that the mCTAs will be kept under ongoing review.

Key Changes in 2018

UK-wide Agreement - Unlike previous versions, the 2018 mCTAs have been drafted in a standard form that allows for use in England, Northern Ireland, Scotland and Wales. Their wording takes into account, where appropriate, any legal and administrative differences between the nations that comprise the UK. For example, the mCTAs no longer refer to an "NHS Trust" as a contracting party, but to a "Participating Organisation". Users are not required to select specific provisions or to make any other amendments to these clauses as the updated mCTAs have been drafted so that the relevant legislation/legal system applies.

Updated Data Protection Clauses – The mCTAs now more clearly specify the responsibilities of the parties with respect to managing the consent process, as this applies to Principal Investigators and Sub-Investigators.

Freedom of Information and Confidentiality - There are now separate clauses dealing with these separate issues.

Declaration of Helsinki - Clause 1.2 of the mCTAs makes it clear that the version of the Declaration of Helsinki that will be applicable to the trial is the one set out at Clause 3.3.4. All other legislative references are deemed to be references to the most current version of the legislation.

Clinical Trial Compensation Guidelines - The 2015 clinical trial compensation guidelines have been included as Appendix 2 of the mCTAs, updating those attached to the 2011 versions.

Structure of the Guidance

This guidance is in two parts.

1. Section 1 provides an overview of how the mCTAs should be used.

2. Section 2 is an overview of some of the provisions within the mCTAs.

1. <u>Section 1 – Use of the mCTAs</u>

1.1. What are the mCTAs?

The mCTA is the standard form contract for use by industry sponsors and NHS organisations running contract clinical trials.

The CRO-mCTA is the standard form contract used by industry sponsors, the clinical research organisation separately contracted by them to undertake site management responsibilities and NHS organisations running contract clinical trials.

Contract Clinical Trials are industry-sponsored trials in which NHS patients receive Investigational Medicinal Products ("***IMPs***") in NHS hospitals.

All references in this Guidance to "clinical trial" should be read as a reference to a contract clinical trial.

1.2. When Should the mCTAs be used?

The mCTA is intended to be used for all phases of contract clinical trials, including Phase I trials, but should not be used with respect to Phase I trials in healthy volunteers.

The CRO-mCTA is intended to be used as above but where, in addition, the sponsor has contracted with a clinical research organisation to be responsible for aspects of trial management at site. Where the CRO-mCTA is used, it forms a bi-partite agreement between the Sponsor, CRO and NHS organisation.

The mCTAs are **not** for use in non-commercial studies funded or sponsored by charities, government departments or Research Councils, whether or not such trials involve NHS patients and whether or not they are carried out by NHS Organisations. The Model Agreement for Non-Commercial Research in the Health Service should be used for this purpose. Details can be found on the UK Clinical Research Collaboration website.

The mCTAs are **not** for use in Collaborative Clinical Research trials. Such studies should be contracted using the Model Agreement for Collaborative Commercial Clinical Research Conducted by Companies in the Pharmaceutical and Biotechnology Industries, Universities and NHS Organisations (MICRA). Details can be found on the NOCRI website.

The mCTAs are **not** designed for the purposes of any Contract Clinical Trials (Phases I to V) performed by private institutions with patients recruited independent of their treatment within the NHS.

The mCTAs are **not** for use in primary care situations. Such studies should be contracted using the Primary Care model Clinical Trial Agreement. Details can be found on the IRAS website.

The mCTAs are not for use in investigator initiated trials. The Model Agreement for Non-Commercial Research in the Health Service should be used for this purpose. Details can be found on the UK Clinical Research Collaboration website.

1.3. Modifications of the mCTAs

The mCTAs have been developed through negotiation and discussion between a wide stakeholder group.

Prior to execution of a clinical trial agreement, it is necessary for trial specific information to be appended to the mCTAs. The information required is identified on the front page of the mCTAs. Notwithstanding the inclusion of this information, it is strongly recommended by all the UK Health Departments that the mCTAs should be used without modification.

2. Section 2 – Guidance on the Provisions in the mCTAs

2.1. Contracting Parties

In order to comply with research and clinical governance requirements and expectations, and to establish the correct lines of accountability for clinicians practising in the NHS, all contract clinical trials must be governed by contracts between the sponsor and the participating organisation responsible for the clinical care of the clinical trial subjects. This remains the case even when, for example, the investigator is employed by a university and holds an honorary contract with the participating organisation. Where the sponsor has contracted a CRO to manage aspects of the clinical trial, the CRO should be a party to the contract and the separation of responsibilities between the sponsor and CRO should be set out clearly.

Participating organisations have an obligation to inform medical academics' substantive employers, which are usually universities, about trials in which they are to take part.

The mCTAs **should not be modified** to form a tripartite agreement with an academic institution as a third Party. In the event that a sponsor has engaged a contract research organisation to recruit and manage trial sites, the CRO-mCTA should be used.

In no case should a clinical trial sponsor enter into a contract with an individual employee of either a participating organisation or a university in a personal capacity to undertake a clinical trial involving NHS patients.

2.2. Clause 2 – Principal Investigator and Personnel

The principal investigator is not to be a signatory to the mCTAs. Clause 2 makes clear the obligation of the participating organisation to secure the performance of the principal investigator with respect to the participating organisation's obligations under the Agreement. The mCTAs do not seek to amend the well-understood and established obligations of principal investigators. Participating organisations should bring these responsibilities to the attention of principal investigators in the course of research governance training.

As the obligations of the participating organisation will be fulfilled through the work of the principal investigator, it is important that the participating organisation incorporates the obligations of the principal investigator and other investigators set out in the mCTAs, into a separate contract (in a form

that is at the discretion of the participating organisation) between the participating organisation and the principal investigator.

It is prudent for the clinical trial activities to be included in the work plans of the principal investigator and any sub-investigators. The participating organisation may seek warranties from the principal investigator and any sub-investigators to satisfy the conditions of the mCTAs.

2.3. **Clause 2.5 - Attendance at Investigator Meetings and Reimbursement of Expenses.**
Clause 2.5 sets out an obligation on the Principal Investigator and the Personnel to attend meetings reasonably requested by the Sponsor (or CRO). It should be noted that no compensation will be paid for attendance at such meetings and any expenses incurred will be paid at the rate of fair market value, subject to documentation evidencing the expenses incurred being in sufficient detail to for the Sponsor's financial reporting purposes (or those of the CRO, as applicable), provided that this is not overly burdensome for the participating organisation.

2.4. **Clause 3.2 & 3.3 - Governance**

These Clauses set out the minimum compliance requirements for the conduct of trials, including in respect of European law and IND in respect of trials conducted by US companies. However it is essential that Sponsors (or CROs, where applicable) notify participating organisations of specific requirements that relate to the performance of trials and that arise from such laws.

2.5. **Clause 3.3.7 - WHO Ethical Principles**
A reference has been included to the WHO Ethical Principles if the study involves transplantation of human cells, tissue or organs. This is an optional reference to be deleted if not applicable to the Clinical Trial.

2.6. **Clause 3.5 - Training**

Clause 3.5 has been amended to make clear that the training to be provided to any new research staff joining the Clinical Trial is equivalent to the training that would have been provided at the start of the Clinical Trial.

2.7. **Clause 3.7 - Adverse Event Reporting**

To facilitate use of the mCTAs for Phase I trials in NHS patients, clauses setting out obligations in relation to adverse event reporting have been included. **Note**: The mCTAs should not be used for Phase I trials involving healthy volunteers.

2.8. **Clause 4.6 - No Supply of IMP Prior to Approval**

Clause 4.6 requires Sponsors (and CROs, as applicable) to delay supply of the IMPs to the relevant Site(s) until all regulatory and ethics approvals have been obtained. There is an obligation on the Participating Organisation to ensure that no non-routine clinical interventions mandated by the Protocol take place before receipt of final, written ethical and regulatory approval.

2.9. **mCTA Clause 4.8 (CRO-mCTA Clause 4.9) - Site File Data**

mCTA Clause 4.8 (CRO-mCTA Clause 4.9) has been amended to include a reference to the inclusion of all safety and toxicology data relating to the IMP in the Site File.

2.10. **mCTA Clause 4.12.2 (CRO-mCTA 4.13.2)– Enrollment Targets**

mCTA Clause 4.12.2 (CRO-mCTA Clause 4.13.2) makes clear that payment will only be made for patients who have been enrolled into the clinical trial prior to the date of receipt of the notice.

2.11. **mCTA Clause 4.13 – (CRO-mCTA Clause 4.14) Access, Research Misconduct and Regulatory Authorities**

Reflecting the strict regulatory environment faced by Sponsors (and CROs), representations have been included to confirm that the Participating Organisation is unaware of any restriction on the Principal Investigator or the Personnel that would prevent that individual from having a role in the clinical trial.

Detailed provisions covering the Sponsor's (and CROs) access to the premises/site and handling of possible misconduct have been agreed and these include various reporting requirements.

2.12. **mCTA Clause 4.13.8 and 4.13.9 (CRO-mCTA Clauses 4.14.8 and 4.14.9) - Use of Material**

The mCTAs define "Material" *as* "…any clinical biological sample, or portion thereof, derived from Clinical Trial Subjects, including information related to such material, analysed by the Participating Organisation in accordance with the protocol, or otherwise supplied under Appendix 6 to the Sponsor or its nominee;*."* mCTA Clauses 4.13.8 and 4.13.9 (CRO-mCTA 4.14.8 and 4.14.9) distinguish between the situations where a participating organisation analyses material, and situations where a sponsor takes that responsibility and it is carried out either in the Sponsor's own laboratory or through a third party laboratory.

mCTA Clause 4.13.8 (CRO-mCTA 4.14.8) should be deleted where no analysis of Material will take place at the participating organisation.

mCTA Clause 4.13.9 (CRO-mCTA 4.14.9) should be deleted where no transfer of Material from the participating organisation will take place for analysis by the sponsor or their nominee.

Both clauses should remain where analysis of Material will be undertaken by the participating organisation and by the sponsor or their nominee.

Appendix 6 sets out general responsibilities with respect to the handling and use of Material transferred to the sponsor (or their nominee) by the participating organisation, applicable to both Parties and is applicable only where clause mCTA 4.13.9 (CRO-mCTA 4.14.9) applies.

Additional requirements relating to the use of Material in any specific Clinical Trial are also captured in the Integrated Research Application System ("***IRAS***") required to obtain approval for the Clinical Trial. Sponsors and Participating Organisations (and CROs, where applicable) are strongly encouraged to review both the IRAS question relating to use of Material and Clinical Trial Subjects in order to determine the feasibility (or otherwise) of use/participation in multiple Clinical Trials, as well as the accompanying notes which place restrictions on the use of Material.

2.13. mCTA Clause 4.13.11(a) (CRO-mCTA 4.14.11(a)) - Archiving

This sub-clause allows for circumstances in which archiving is arranged on behalf of the Participating Organisation, as well as where the archiving is arranged by the Participating Organisation itself. Costs associated with archiving may be reimbursed by a Sponsor (or CRO, where applicable), provided that those costs are reasonable, agreed in advance and set out in the financial schedule.

2.14. Clause 5 - Liabilities and Indemnities

It is essential that Sponsors and Participating Organisations (and CROs, where relevant) indemnify each other for any liabilities other than those covered under the ABPI Indemnity Agreement in case participation in a clinical trial results in damage to either party's property and facilities. Hospitals' non-clinical liabilities in relation to research are not usually covered by existing NHS litigation schemes and it is unlikely that their management would authorise the taking on of unquantified and potentially unlimited liabilities, such as might arise from an Intellectual Property Rights claim.

The liabilities of Participating Organisations to Sponsors (and CROs, where applicable) have been capped at two different levels depending on the nature of the breach. The first cap, covering (a) wilful and/or deliberate breaches of the agreement and (b) any breach related to Clauses 6, (Data Protection), 7 (Freedom of Information) 8 (Confidential Information), 10 (Publications) and 11 (Intellectual Property), provides for the Participating Organisation's liability to be limited to a maximum of twice the value of the agreement. The agreement value is the total payment due to be made by the Sponsor (or CRO, as applicable) to the Participating Organisation, if the target number of patients is recruited. The second cap covers all other breaches of the agreement by the Participating Organisation, and limits the Participating Organisation's liability to the maximum value of the contract.

While for a number of types of possible breaches these provisions might not fully compensate the Sponsor (or CRO) for their loss, it is considered that the risk of paying compensation on this basis provides an additional incentive for Participating Organisations to take every reasonable precaution to prevent a breach of the agreement. These precautions could include (i) having in place robust research governance arrangements; (ii) instituting training programmes for researchers undertaking commercial trials; (iii) emphasising to staff the importance of protecting the integrity of Sponsors' (and CROs) confidential information; and taking disciplinary action in the event of a wilful or reckless breach of the provisions of clinical trial agreements.

Under the Medicines for Human Use (Clinical Trials) Regulations 2004, Sponsors are not required to take out clinical trials insurance, but Participating Organisations will wish to be assured either that sufficient insurance cover has been purchased, or that the Sponsor has provided an indemnity covering potential liabilities to Clinical Trial Subjects participating in the relevant trial. Research ethics committees that provide an opinion on the trial proposal, may therefore take a view, in relation to the risks posed by a specific trial, as to the indemnity and/or the adequacy of the Sponsor's clinical trials insurance.

2.15. **Clause 6 – Data Protection**

The mCTA includes general provisions related to compliance with the relevant data protection laws. It is noted that in addition to compliance with legislation, Sponsors (and CROs) are also required to comply with NHS specific data protection guidance. Oversight of this compliance is provided through the clinical trials approval process which includes a review of the mechanisms for protecting personal data.

It is noted that in order for personal data to be collected and processed, the legal basis for such collection must be established. With respect to the personal data of the Principal Investigator and any Sub-Investigators, the collection and processing of personal data is often based on the consent of each individual.

The mCTA determines a clear principle that it is the responsibility of the Sponsor (or CRO, as applicable) to collect the consent of the Principal Investigator and all Sub-Investigators participating in the Clinical Trial. Sponsors (and CROs) are strongly encouraged to use the Clinical Trial delegation log to collect consent from the Principal Investigator and Sub-Investigators for the processing of their personal data. General guidance with respect to the consent process is set out in the Schedule to this Guidance.

While acknowledging the responsibility of the Sponsor (or CRO) to obtain consent from the Principal Investigator and all Sub-Investigators, both the Sponsor (and CRO, where applicable) and the representatives of the Participating Organisation are encouraged to take a practical approach and to provide mutual assistance to facilitate the consent process. A failure to obtain consent in a timely manner can result in delays to the start of a Clinical Trial.

A Sponsor or CRO request to assist in obtaining a signed form from someone who is on annual leave would be reasonable. Requesting that the representatives of the Participating Organisation take responsibility for collating all signatures would not be reasonable, as this is burdensome and takes NHS staff away from their day to day duties.

2.16. **Clause 7 – Freedom of Information**

This Clause imposes obligations on participating organisations to take timely action to inform Sponsors (and CROs, as applicable) about requests for information, consult fully with them about disclosure, and inform them,

where reasonably practicable, in a timely way of any plans they may have to disclose information against the wishes of a sponsor.

2.17. **Clause 10 – Publications**

The mCTAs recognise that participating organisations have a responsibility to ensure appropriate publication and dissemination of clinical research for the benefit of patients and their peers. Publication should be done in an orderly way, usually in compliance with the publication policy set out in the Protocol, provided such policy is consistent with the Joint Position as defined in the mCTAs.

This Clause sets out conditions governing the way that individual investigators should prepare their publications, and the opportunities they should allow trial Sponsors to comment on them. It also specifies the window of opportunity available to Sponsors in which they can protect proprietary information. It was drafted to ensure that publications based on limited and perhaps unrepresentative data from one or a limited number of Sites do not inadvertently misrepresent results, by requiring that the principal report(s) of each clinical trial are published before articles based on subsets of the data.

The terms of the mCTAs allow publication of data derived from the Participating Organisation after the Multi-Centre publication and subject to the terms of Clause 10.

2.18. **Clause 11 - Intellectual Property**

Four core principles underlie the mCTAs' IP clauses. First, each party retains ownership of any pre-existing IP or Know How owned by it or licensed to it. Second, any IP or Know How generated at the Participating Organisation that relates to the clinical trial, the IMP or the Protocol (excluding any clinical procedure or related improvements) is the property of the Sponsor. Third, clinical procedures and related improvements are the property of the Participating Organisation and, depending on the inventor's employer (hospital or university), could be protected accordingly. Four, the Participating Organisation also has the right to use Know How gained during the trial in its normal clinical work, provided it does not result in disclosure of the Sponsor's confidential information. These provisions are designed to protect the Sponsor's IP and give it ownership of anything derived from it, while allowing the investigator's employer to protect and exploit clinical procedures and related improvements, and to use Know How generated while the Clinical Trial is being undertaken.

Example 1: If an investigator, supplied with information in the investigator Brochure about the characteristics of a new drug, identified a possible role for the drug in a different disease, or a potentially more effective combination with a second drug, the rights to that IP would lie with the Sponsor.

Example 2: If a Protocol specified that a certain type of CT scan should be taken, and while analysing the scan, an employee at the trial site developed a new method of analysing CT scans, the rights to that IP would lie with the site.

Example 3: A Sponsor supplies a Case Report Form for use by an investigator for the Sponsor's Clinical Trial. In the course of carrying out the Sponsor's Clinical Trial, the investigator develops, for her own convenience and without being requested to or paid to by the Sponsor, a novel database on which to manage the trial subject data. The rights to that IP would lie with the site.

The terms of the mCTAs do not give the Sponsor rights to all IP generated by employees at the site either in the course of the Clinical Trial or in the field of the Clinical Trial.

2.19. **Clause 12.6 – Longstop Date**

It is noted that the Sponsor (or CRO, as applicable) has a right to refuse payment of invoices which are not dated within 60 days of Site close out (or within 60 days of the Sponsor providing final invoicing data, if that data is requested within 45 days of the Site close out.

2.20. **Clause 12.7 - Payment Terms**

The mCTAs provide a payment term of 45 days. Sponsors, CROs and Participating Organisations are strongly advised that this payment term should not be revised with respect to any specific Clinical Trial. This payment term represents a balance between the financial processes of Participating Organisations and those of Sponsors and CROs.

2.21. **Clause 16.1 – Order of Precedence**

In most respects, the terms of the Protocol will prevail over the other terms of the mCTA. However, in respect of six important Clauses: 5 (Liabilities and Indemnities), 6 (Data Protection), 7 (Freedom of Information), 8 (Confidentiality), 10 (Publications) and 11 (Intellectual Property), the terms set out in the mCTAs will prevail.

2.22. **Clause 16.3 - Changes to the Protocol**

The procedure to be followed when changes are made is set out in Clause 16.3 and if the change requires a revised Financial Schedule, this should be agreed, signed by the Parties and attached to the Agreement.

2.23. **Clause 17 - Force Majeure**

The Parties will agree a reasonable time limit after which delays due to an act of God etc., affecting one party's performance of their duties allow the unaffected party to terminate the contract.

2.24. **Clause 18.1.1 - Notices**

It is now permitted to serve notice by email as set out in this clause.

2.25. **Clause 19 - Dispute resolution**

Under the mCTAs, the parties are required, in the first instance, to attempt to resolve any dispute through discussion between senior managers which, if unsuccessful, may proceed to mediation. An informal local procedure is specified, escalating, if necessary, through more formal processes. If mediation fails, the Parties can take the dispute to the courts of the jurisdiction in which the site is constituted.

2.26. **Clause 20.4 - Governing Law**

The Governing law of the mCTA and CRO-mCTA is determined by reference to the nation of the UK within which the Participating Organisation is constituted.

2.27. **Clause 20.5 – Counterparts & Signatures**

The signatories to the mCTA and CRO-mCTA will be the authorised representatives of the Sponsor and the Participating Organisation (and CRO, where applicable). In the case of the Participating Organisation, the signatory must have legal authority to bind it. This might be the Chief Executive, the Director of R&D or the Director of Finance.

The mCTAs allow for execution to be through the use of an electronic signature.

Sponsors, CROs and participating organisations are encouraged to discuss execution arrangements early in the finalisation process in order to determine the most appropriate arrangements for all parties.

2.28. **Appendix 1**

The target dates included in the Appendix are by way of example and the parties may jointly amend the list as they see fit. It is noted that the target dates should be determined in relation to individual Sites and not in relation to the relevant trial as a whole. Timelines will require early negotiation involving the Principal Investigator and the Sponsor (and the CRO, where applicable). It will be particularly important that they are realistic with respect to the date that the Protocol will be finalised, and should build in as footnotes, contingency plans for changes in the event that there is delay in, for example, regulatory or ethics committee approval. The shared responsibilities indicated on the table in Appendix 1 show that the timing of some events is dependent on good co-ordination between the parties in, for example, scheduling all participants' availabilities for the initiation visit.

2.29. **Appendix 4**

The financial arrangements for the clinical trial should be appended as Appendix 4 of the mCTAs. Sponsors (and/or CROs, as applicable) and Participating Organisations should use the NIHR Industry Costing Templates as a starting point for the negotiation of the financial arrangements as this template provides a framework for transparent cost display and calculation.

As set out in the template, costs should be considered negotiable to reflect the specific protocol and clinical trial requirements until agreed and finalised.

The template does not constitute a national set tariff. More information about the Industry Costing Template can be found on the NIHR website.

The financial and other interests of universities that employ the medical academics and sometimes the research fellows and research nurses involved in clinical trials should be recognised by Participating Organisations. The notification arrangements noted above are designed to ensure that universities have the information needed for the protection of their interests. There should be formal agreement between Participating Organisations and universities, covering their entire clinical trials portfolio, setting out processes for the identification of the university's direct and indirect costs and overheads, and the apportioning of research income between the institutions. This issue could be covered in the partnership agreements between Participating Organisations and associated academic institutions that are negotiated in the process of implementing research governance arrangements. In the case of trials for which the investigator's or site team members' substantive contract is held by a university, the university should be involved in the calculation of staff costs for the trial and the NHS research managers should agree the content of the financial schedule with the university. Appendix 4 should be populated with details of the financial arrangements of the clinical trial and it should not be used for other matters.

There should not be separate financial arrangements between the Sponsor (and CRO, as applicable) and any Participating Organisation departments such as the pharmacy, nor with the university that employs an investigator.

The staging or scheduling of payments should be negotiated, including any payments to be made before administration of the IMP, or any other clinical intervention mandated by the Protocol, (e.g. site set-up costs) and whether such payments are refundable or non-refundable.

Clinical trials are undertaken by Participating Organisations under Income Generation Rules and are commercial services supplied under contract to companies. Invoicing arrangements should be via the Participating Organisation's Finance Department using formal VAT invoices in compliance with NHS Standing Financial Instructions.

2.30. **Appendix 5**

It should be noted that there is an obligation on Participating Organisations that are not members of the relevant risk pooling scheme, to ensure that the Principal Investigator carries medical liability insurance.

2.31. **Appendix 7 – Equipment & Resources**

Where no Equipment/ Resources are being provided Appendix 7 should be omitted from the final Clinical Trial Agreement.

Appendix 7 includes tables where Equipment and Resources that are provided by Sponsors (and/or CROs, as applicable) for the Clinical Trial should be listed. These tables include a column where the depreciated value of the Equipment/Resources can be detailed. It is noted that there is no standard method for determining depreciation and therefore, this must be

discussed and agreed between Sponsor and Participating Organisation (and CRO, as applicable).

The Sponsor (or CRO, as applicable) should indicate whether Alternative 1 or 2 should be used with respect to liability in Clause 7.2 of Appendix 7. The selection should be clearly indicated in the Agreement.

It is noted that Northern Ireland does not have any MIA arrangements in place and therefore, Alternative#1 must be used where the participating organisation is constituted in Northern Ireland.

2.32. **Appendix 8 – (CRO-mCTA only) Sponsor's Clinical Trial Related Duties and Functions Under ICH GCP to be Performed by CRO**

This appendix should clearly set out which sponsor responsibilities for site management will be performed by the CRO.

Contact Points for Advice and Assistance

For queries relating to the use of the mCTAs for trials taking place in England, please contact the Health Research Authority, at hra.mcta@nhs.net. For queries relating to use in Wales, please contact the Health and Care Research Wales Support Centre at research-contracts@wales.nhs.uk. For queries relating to use in Scotland, please contact NHS Research Scotland at enquiries@nrs.org.uk. For queries relating to use in Northern Ireland, please contact ResearchContracts@innovations.hscni.net.

Schedule 1

Data Protection Consent Guidance

The following elements are to be considered by Sponsors (and, where appropriate, CROs) when writing a data privacy consent for the Principal Investigator and any personnel to sign. It is noted that Sponsors/CROs are strongly encouraged to gain consent for the processing of personal data through the Delegation Log.

When drafting the data privacy consent documentation, Sponsors/CROS should take account of the provisions of the relevant data protection legislation and guidance. The examples provided below are provided for general information only and should not be relied upon in any specific context. The Sponsor/CRO must carry out its own review of all terms and conditions to be contained within the data privacy consent documentation.

1. Introduction

This should state which organisation (the Sponsor and/or, where relevant, the CRO) is requesting use of your personal data and for what purpose(s). The purposes for which data is held should be described clearly.

For example:

XXX requests your consent for the collection, use and disclosure of your personal data for purposes related to this clinical study. Signing this document is an acknowledgment that you consent to collection, use and disclosure of certain personal data.

2. Scope of Consent

This should cover what information the Principal Investigator and any sub-investigators are consenting to disclose and the legal basis pursuant to which the personal data will be held. For example:

All information (including personal data) relating to you and provided by you during and after the conduct of this clinical study, including: Name, date of birth, present/previous appointment(s), address, telephone number, qualifications, number of articles published, previous experience in clinical trials and type of GCP training received.

3. How the information will be used

This should cover how the information will be used. For example:

For the conduct of the clinical study, to support applications for approval of the study medication, and for research related to the development of pharmaceutical products, diagnostics or medical aids.

For subject recruitment advertisements (print media or on Internet).

4. Who Has Access To Your Personal Data?

This should cover who will have access to the data and where they are located and consent to any such transfer outside of the EEA. For example:

Other companies associated with the Sponsor (e.g. a headquarters located outside the UK, development partners, contractors and service providers).

Location of any other companies

Any potential transferring of the data outside the UK including XXX areas. Data privacy laws in these areas may not be as strict as in the UK.

Any transfer to third parties, including possible divesting of the business.

Any potential disclosure to relevant competent authorities when necessary to achieve any of the above purposes.

Any posting online of data, e.g. ClinicalTrials.gov

5. Data Access, Updating & Correction

There should be information about how an individual can:

- Access information about him/herself.
- Update personal data.
- Request for any inaccuracies to be corrected.
- Remove personal details on request.

6. How Long Personal Data will be kept

A statement about how long data will be kept should be included.

7. How Your Personal Data will be Protected?

There should be information about how the Sponsor (and, where relevant, the CRI) will keep personal data safe.

There should also be information about any provision to keep personal data safe when it is transferred.

8. Signatures

There should be a place to sign and date the individual's consent to the use of their data as described. For example:

Please read, sign and date to evidence that you consent to the provisions of this document.