Model Sponsorship Agreement with Explanation

If the research is not based on a contract from an external financier, but an external financier does make a financial contribution available for the research, sponsorship is concerned. If, for example, the sponsor delivers data free of charge, the model will then have to be adjusted. Please contact Legal Affairs.

NB1. For the rest, the model sponsorship agreement is not suitable for the case in which a sponsored chair must be established. HR has made the model sponsored chair contract available for this purpose. Please contact HR.

NB2. The model sponsoring agreement is not suitable for the case in which the other party makes a dataset available.

Drafting a good contract/agreement is custom work. The user of the model is responsible for determining whether the model can be followed in the particular case, or that adjustment is necessary. A clause-by-clause description is given in the model. Options for provisions of the model are given in italics. In case of doubt or specific questions, advice can, of course, be obtained from Legal Affairs.

Model Agreement	**Explanation**
THE UNDERSIGNED **Tilburg University (TiU)**[1], located at Warandelaan 2, 5037 AB Tilburg, duly represented in this matter by the [*dean or director or president of the Executive Board*] _____ [*fill in name*] of _____ [*fill in name of faculty/research institute*], hereinafter referred to as: "TiU" ;	TiU From a formal point of view, Tilburg University (established by the Stichting Katholieke Universiteit Brabant) is the party that concludes the contract/agreement with the other party. The faculty/ researcher or head researcher is internally responsible for conducting the research or, as the case may be, complying with the obligations under the contract/agreement.
AND	
……. [fill in Sponsor's legal form and name], based in _____ at _____, duly represented in this matter by _____, hereinafter referred to as: "Sponsor";	Other Party It is important to determine who the other party is. Is it a natural person or a legal entity? In the event of a legal entity, the next question is who is authorized to represent the legal entity and therefore to sign the agreement. This information can be found in the register of the Chamber of Commerce. It is advisable to request an extract of the other party from the Chamber of Commerce via Legal Affairs. It will usually be evident from the extract which natural person is authorized to sign the contracts. Minor costs are involved in requesting this information. If the

[1] Tilburg University was established by the Stichting Katholieke Universiteit Brabant.

	researcher wants to spare them, the other party can also be asked to provide an extract not older than 3 months.
WHEREAS 1. TiU is a university within the meaning of the Higher Education and Research Act (WHW), and is aimed at providing academic education and conducting research; 2. TiU, in particular _____ [fill in name of faculty, department or institute], conducts research, especially in the field of _____; 3. The Sponsor wants to support the research financially; 4. The Parties want to set out the rights and obligations under this agreement as follows;	Among the grounds are the reasons/considerations that led to entering into the agreement. You can fill in and/or add to information here on the intended research/collaboration.
AGREE AS FOLLOWS	
1. Definitions Background knowledge: all data, know how or information in any form and of any nature, tangible or intangible, including the Intellectual Property Rights attached thereto which are necessary for the research, except for the Results. Intellectual property rights: all intellectual property rights conferred by law, such as, for example, copyrights, patent rights, trademark rights, design rights, database rights and grower's rights. Party/Parties: TiU and the Other Party jointly or one of them. Results: all tangible and intangible outcomes of the research conducted under this agreement, such as data, knowledge or information, inventions and software generated by the research, irrespective of their form or nature, and irrespective of whether or not they can be protected, as well as all related rights, including any intellectual property possibly established therein.	If, in addition to the four definitions (background knowledge, results, intellectual property rights and parties), other terms are also used more often in the agreement, it is wise to include those terms in the definitions.

2. Research TiU will conduct research into _____ as specified in more detail in the Research Plan attached to the agreement as Appendix I (hereinafter the: Research), which forms an integral part of this agreement.	This clause, together with clauses 3 and 4, forms the core of the agreement. If the research is already in progress, the Research Plan can be attached as an appendix.
3. Conducting the Research TiU is responsible for conducting the Research and, in doing so, is bound by the principles of good academic research as elaborated upon, e.g. in: - Netherlands Code of Conduct for Research Integrity of the Association of Universities in the Netherlands (VSNU); - Academic Integrity Memorandum of the Royal Netherlands Academy of Arts and Sciences (KNAW). - TiU Code of Conduct; - [TiU Research Data Management Regulations]	Conducting ethical research is one of the conditions for the existence TiU. In conducting research, TiU and researchers are bound by the 5 principles from the VSNU Code of Conduct for Research Integrity: carefulness, reliability, verifiability, impartiality and independence. These principles also apply fully when research is conducted under contract. In order to guarantee this, the relevant codes of conduct are referred to in clause 3. Depending on the circumstances, other items can also be added to clause 3 that could play a role in conducting the research. Think, for example, of faculty regulations in relation to data management. Several of those items are mentioned below, plus optional provisions that can be added to clause 3 of the agreement. <u>Personal data</u> If personal data are used for the Research, the Researcher must find out if one or more other codes of conduct should possibly be added to the list in clause 3. If human subjects are used, approval of the research protocol by a Medical Ethical Committee must be obtained before the agreement is signed. *Optional provisions:* If personal data are processed for the Research, add the following text: *If personal data are processed for the Research, TiU will process those data in accordance with the Personal Data Protection Act (Wbp),[2] the VSNU Code of Use of Personal Data in Research, and the applicable university and faculty regulations pertaining to data management*

[2] As of May 25, 2018, Regulation (EU) General Data Protection Regulation (2016/679)

	If retrospective research is concerned with existing patient data, after the VSNU Code of Use of Personal Data in Research, you must add: *", the Code of Conduct for Health Examinations (also called the Code of Good Conduct)"* If medical (psychological) research is done with human subjects, add: *TiU has obtained approval of the research plan from the Medical Ethical Review Committee.* Data delivered by the other party If the other party makes the personal data available to TiU for the research, additional and precise agreements must be made, for example on: which data are to be made available, whether or not pseudonymized, which party requires the permission of the persons concerned, how the data can be delivered safely, where the data can be processed and stored safely during the study, where the data will be kept after the study plus the retention period, whose property it is and who may inspect and use and reuse the data after its end. The model <u>does not</u> provide for that situation. If this situation occurs, the agreement will have to be supplemented by the specific agreements the researcher makes on it with the other party. If desired, Legal Affairs can assist with this, after being informed of the specific agreements the researcher has made. <u>Specific researcher</u> In case the other party has set the condition that a specific researcher must conduct the Research, it is advisable to include the following: *The research will be conducted by [or under the responsibility of] _____ [fill in researcher's name]. TiU will inform ……. [other party's name] if the employment contract between TiU and the aforementioned researcher is terminated. TiU will appoint a suitable successor as soon as possible and inform ……. [other party's name] to that effect. ……. [other party's name] will accept the appointment of the successor, unless the reasonable interests of …… [other party's name] oppose this. In that case, ……. [other party's name] will have the right to terminate the contract in a reasonable period. If the contract is terminated on this ground, the provisions of clause 6 paragraph 3 of this agreement will apply.*

4. Funding of the Research The Sponsor will make a sum available for conducting the Research as specified in the fee arrangements attached to this agreement as Appendix II, which forms an integral part of this contract.	VAT will have to be charged in most cases. If a long term or large project is concerned, it could be that the fee will be paid in installments. Make clear agreements on this (amount of the periodic payment and which installments), and include them in Appendix II. Make clear whether a fixed fee is concerned or reimbursement of the actual costs (and which costs will be reimbursed).
5. Reporting TiU will report to the Sponsor on the progress in the performance of the agreement in accordance with the provisions in the Research Plan (Appendix I).	The model assumes that the other party wants a report on the progress of the research. The specific agreements, such as, for example on frequency, should be set out in Appendix I.
6. Term and end of the agreement This agreement will enter into effect from the time the agreement is signed by both Parties. If the agreement enters into effect after the work for the Research has started, the agreement will apply with retroactive effect to the work already performed by both Parties before the date of signing. The agreement will remain in force until the Parties have complied with all obligations under this agreement, unless the agreement is terminated early in accordance with the provisions in the second paragraph of this clause. A Party can terminate this agreement early with immediate effect by written notice, if: the other Party should fail to comply with its obligations under this agreement, also after notice of default; the other Party is adjudicated bankrupt; the other Party applies for a moratorium on payment. Termination of the agreement shall have no effect on the provisions of this agreement on intellectual property rights, Confidential Information, liability and publication, which shall remain fully in force.	Preferably do not change this provision, and certainly not in the case that TiU has engaged a researcher/support staff for conducting the research for the duration of the research.
7. Background Knowledge, Results and	The Sponsor wants to make a financial contribution to the

Intellectual Property Rights The Background Knowledge, including the Intellectual Property Rights established therein, shall remain vested in the providing Party. The parties reciprocally grant each other the right to use the Background Knowledge contributed by them for the purposes of the Research. Results generated by TiU shall be the property of TiU. Prior permission from the other Party is required for use by one Party of the name and/or pictorial mark of the other Party, with the exception of use of the Client's name in academic publications, as referred to in clause 8.	research, for which he has not provided an assignment. The research will probably be funded (largely) from the first flow of funds or other flows of funds. It is preferable that TiU retains the intellectual property rights in the Results. As the party entitled to the intellectual property rights, TiU will have the most certainty that the results will remain available for follow-up research (whether or not under contract). Do not agree to the Sponsor's condition to transfer the intellectual property rights to the Sponsor or grant it an exclusive license without prior advice from Legal Affairs. If the Sponsor wants to acquire (part of) the intellectual property rights, the agreements must go hand in hand with the amount of the fee to be paid to TiU for this. To acquire the intellectual property rights, the Sponsor will have to pay a fee in line with the market.[3] The amount the Sponsor has paid may be deducted from this. If the research will be partly funded by a grant, the grant terms and conditions will have to be examined for the conditions relating to intellectual property. In the other case, if TiU acquires only a right to use the Results, the faculty would have to administer the agreements in such a way that the Results not contrary to the agreements can be used in the future.
8. Publication With due observance of the provisions in clause 9, TiU will have the right to publish the Results of the Research in academic journals and to communicate the Results of the Research by way of abstracts, posters and lectures for academic gatherings and to mention the Sponsor's name as external financier of the Research in doing so.	To ensure independent and objective research, the right to publish with mention of the name of the external financier must be guaranteed. Publication may not be made dependent on permission from the other party.
9. Confidential Information The Parties must treat all information, including company-sensitive information, which the Parties provide to each other in writing, orally or on a data carrier or otherwise in the context of	Preferably do not change this provision.

[3] There are several ways to determine the amount of a fee in line with the market, according to the European Commission (Communication 2014/C 198/01). The most practical way comes down to the knowledge institution being able to demonstrate that it has actually negotiated on the fee on arm's length terms in order to gain the maximum economic advantage. Another way could be to have an independent expert appraise the value of the intellectual property.

performing this agreement, and which is clearly indicated as “confidential” (“Confidential Information”) as such. The receiving Party must treat all Confidential Information which the Parties provide to each other in the context of executing this Research as such, and must not copy, reproduce or disclose or provide it to third parties without prior written permission from the providing Party. The receiving Party must use the Confidential Information only for the performance of this agreement. The duty of secrecy shall apply during the term of the agreement and for a period of 5 years after the agreement. The obligation to keep Confidential Information secret will not apply or will no longer apply if: 1) the Confidential Information becomes generally known outside the actions of the receiving Party and without any duty of secrecy being violated; 2) the Confidential Information was already in the possession of the receiving Party at the time of receipt and is not subject to any (other) duty of secrecy; 3) the receiving Party also receives the Confidential Information from an independent information source, and it is not subject to any (other) duty of secrecy; 4) the receiving Party has developed the Confidential Information independently; 5) the receiving Party is required to disclose the Confidential Information under the laws or regulations applicable to that Party, or pursuant to a ruling of a competent authority.	
10. Liability TiU shall perform the agreement to the best of its ability and according to the applicable academic standards. TiU does not offer any guarantee as to the usability by the Sponsor of the Results of the Research. The Sponsor shall indemnify TiU for claims of	Preferably do not change these provisions.

third parties relating to use of the Results by the Sponsor. TiU excludes all liability for direct and indirect damage and/or loss that the Sponsor sustains as a result of applying the Results. TiU excludes all liability for damage to the Sponsor, its employees or property caused by employees or students of TiU in the context of performing the agreement. TiU shall never be liable for indirect loss, including consequential loss, lost profits, missed savings and loss due to business interruption. The above-mentioned exclusions of liability will not apply insofar as direct injury or property damage is concerned that is the direct consequence of a willfully reckless or intentional breach on the part of TiU.	
11. Force majeure Neither of the Parties will be required to comply with any obligation under the agreement if they are prevented from doing so as a result of force majeure. A failure to comply with the contract that cannot be imputed to the fault of a Party, and for which that Party cannot be held responsible either by the law, a legal act or generally accepted opinion, constitutes force majeure. If the force majeure situation lasts more than 3 calendar months, each Party will have the right to terminate the contract in writing.	Preferably do not change these provisions.
12. Miscellaneous This agreement and Appendices ___ contain all agreements made between the Parties in relation to the Research. Amendments to the contents of the agreement and/or the Appendices can be made only by means of a written document that is signed by the authorized persons of the Parties. If a provision of this agreement proves to be null	Preferably do not change these provisions.

and void, the other provisions of the agreement will remain in force. The agreement shall be governed by Dutch law. All disputes that might arise between the Parties as a result of this agreement, if they cannot be resolved in consultation between the boards of directors of the Parties, shall be brought before the court with jurisdiction in the District of Zeeland-West Brabant, except to the extent that mandatory rules of competent jurisdiction prevent this.	
AGREED AND SIGNED IN DUPLICATE AND PROVIDED WITH _____ APPENDIX/APPENDICES:	For signatures, see_____

Appendix I Research Plan

Objective of the project:

Description of the project:

Research:

Reports:

Appendix II Funding Agreements

The agreements on the funding of the research should be included here, unless the research must be done at one's own expense and risk.

Payment of the sums referred to in this appendix must be made within ----- days of receipt of the invoice from TiU relating to the relevant installment or expenses.

If payment is not made on the aforementioned payment dates at the latest, TiU will have the right each time to charge the Other Party additional statutory interest on the period from 3 weeks after the intended payment date to the date on which payment is ultimately made. In case of late payment, TiU will also have the right to charge the collection costs to the Other Party.