

THIS SERVICES AGREEMENT is made on the 12th day of April 2013

BETWEEN:

- (1) **The Human Fertilisation and Embryology Authority** of Finsbury Tower, 103-105 Bunhill Row, London, EC1Y 8HF (the "HFEA"); and
- (2) **Robson Dowry Associates Limited** of 7 Berkeley Square, Clifton, Bristol, BS8 1HG (the "Contractor").

1 Services

- 1.1 The HFEA engages the Contractor to provide, and the Contractor agrees to provide, the services set out in Annex 1 (the "Services") on the terms and conditions set out in this Agreement.

2 Standard of work

- 2.1 The Contractor warrants and represents that he/she is appropriately experienced, qualified and trained with all due skill and diligence to provide and carry out these Services.
- 2.2 The Contractor warrants and represents that he/she in connection with the agreement :
 - 2.2.1 shall discharge the Contractor's obligations hereunder with all due skill, care and diligence including good industry practice and principles of professional conduct;
 - 2.2.2 shall observe current published policies of the HFEA relating to Health and Safety (www.hfea.gov.uk/docs/HFEA_Corporate_policies_-_Health_and_Safety.pdf) and equality and diversity (www.hfea.gov.uk/131.html) issued by the HFEA from time to time;
 - 2.2.3 shall do nothing which is likely to bring the HFEA into disrepute or which is materially contrary to the interests of the HFEA;
 - 2.2.4 may apply his/her own method of work and shall comply with the reasonable requests of the HFEA Representative named in Annex 1 or that person's designate as to the effective performance of the Services;
 - 2.2.5 shall correct any errors at the Contractor's own expense;
 - 2.2.6 unless otherwise agreed shall provide all equipment and materials necessary for the performance of the Services.

3 Term

- 3.1 Subject to Clause 10, this Agreement shall be deemed to commence on 12 April 2013 and shall continue until 3 June 2013 or until such time as the Services have been provided to the satisfaction of the HFEA.
- 3.2 Any time, date or period mentioned in this Agreement may be extended by written agreement between the parties but otherwise and except as expressly provided, time shall be of the essence.

4 Non-exclusivity

- 4.1 The Contractor will not be restricted to providing services for the HFEA, and nothing in this Agreement will prevent the Contractor from providing services to anyone else, provided that such provision of services does not interfere or conflict with the provision of the Services to the HFEA pursuant to this Agreement.

5 Remuneration and expenses

- 5.1 The Contractor shall be paid the fee set out in Annex 2 in accordance with the payment arrangements set out in Annex 2.
- 5.2 The Contractor shall, if so requested by the HFEA, furnish such information as may reasonably be required by the HFEA relating to the amount of Value Added Tax chargeable on the Services.
- 5.3 The Contractor shall be wholly responsible for all income tax and national insurance and other similar contributions or taxes (together "Taxes") which may be payable out of, or as a result of the receipt of, any fees or other monies paid or payable by the HFEA under this Agreement.
- 5.4 In the event that the HFEA is required to pay any Taxes in relation to such fees or other monies :
- 5.4.1 the HFEA shall be entitled to withhold an amount equal to such Taxes from any sums remaining to be paid pursuant to Annex 2; and
- 5.4.2 to the extent that any such withholding falls short of the total Taxes to be paid, the Contractor shall indemnify the HFEA against any such Taxes which become payable by the HFEA.

6 Confidentiality

- 6.1 The Contractor acknowledges that the HFEA is subject to the duty set out in Section 33A of the Human Fertilisation and Embryology Act 1990 (as amended) (the “Act”) to prevent unauthorised disclosure of patient identifying and other confidential information.
- 6.2 The Contractor shall assist the HFEA to comply with this duty by notifying the HFEA in advance of any proposed visits to the HFEA premises, to enable the HFEA to ensure that patient identifying and confidential information is not on display during the visit.
- 6.3 The Contractor warrants and represents that:
 - 6.3.1 he/she shall keep secret and confidential all matters relating to the research or affairs of the HFEA, including any information referred to in section 31 of the Act that may inadvertently be disclosed (“Confidential Information”), and shall exercise in relation thereto no less security measures and degree of care than those which it applies to its own confidential information which it warrants as providing adequate protection against unauthorised disclosure, copying or use;
 - 6.3.2 he/she will not use for own purposes or for the purpose of any unauthorised third party any Confidential Information;
 - 6.3.3 he/she shall not, in the course of such employment or engagement, disclose or cause to be disclosed and will use [his/her] best endeavours to prevent the publication or disclosure of any Confidential Information to any third party unless authorised to do so by the HFEA in writing;
 - 6.3.4 he/she shall take all necessary precautions to ensure that all Confidential Information is treated as confidential and not disclosed or used other than for the purposes of this Contract.
- 6.4 Clause 6.3.3 shall cease to apply to information that:
 - 6.4.1 enters the public domain other than by reason of the Contractor’s default;
 - 6.4.2 is in the Contractor’s possession without restriction as to its disclosure, before receiving it from the HFEA;
 - 6.4.3 must be disclosed pursuant to a statutory, legal, professional or parliamentary obligation placed upon the party making the disclosure, including any requirements for disclosure under the Freedom of Information Act 2000 or the Environmental

Information Regulations 2004 or the disclosure is in accordance with the provisions of section 33A of the Act.

- 6.5 Upon request by the HFEA, or automatically upon the termination or expiration of this Agreement, the Contractor shall promptly and irrevocably delete any information belonging to the HFEA from any computer system in the Contractor's possession or under the Contractor's control having first ensured that the HFEA has a copy of any such information.
- 6.6 The obligations contained in this clause shall continue to apply after the expiry or termination of the agreement.
- 6.7 The Contractor shall not communicate with representatives of the general or technical press, radio, television or other communications media, with regard to the agreement, the Services, or views held or expressed by the HFEA unless previously agreed in writing with the HFEA.

7 Relationship between the parties

- 7.1 Nothing in this Agreement shall be construed as constituting a partnership between the parties or as constituting either party as the agent or employee of the other for any purpose.
- 7.2 At no time shall the Contractor represent himself/herself or hold himself/herself out as an employee of the HFEA.
- 7.3 The Contractor is not entitled to the benefit of any employment contract rights granted to employees of the HFEA nor to participate in any of the HFEA's grievance or disciplinary procedures.
- 7.4 Save as expressly specified in writing, the Contractor shall not hold himself/herself out as an agent of the HFEA, and shall not have any authority to act on behalf of the HFEA, to conclude any contracts or incur any obligation or liability on behalf of or binding upon the HFEA, or to sign any document on the HFEA's behalf.
- 7.5 The Contractor shall ensure that any necessary leave for him/her to enter or remain in the United Kingdom to perform the Services is valid and subsisting and is not subject to any restriction precluding him/her from performing the Services.

8 Assignment of interest

- 8.1 The Contractor may not sub-contract, assign, transfer, mortgage or part with this Agreement or any of its rights, duties or obligations under this Agreement without prior written consent from the HFEA.

9 Termination

9.1 Notwithstanding Clause 3, either party may terminate this Agreement at any time by giving the other party notice in writing of termination which is no less than six calendar weeks. The HFEA shall be entitled to terminate this Agreement without any compensation or damages due to the Contractor, but without prejudice to any other rights or remedies the HFEA may have, if the Contractor:

9.1.1 commits a serious breach of the terms of this Agreement which the Contractor fails to remedy within 14 days of receipt of written notice from the HFEA specifying the breach and requesting specific remedy;

9.1.2 persistently neglects, fails or refuses for whatever reason to perform to the satisfaction of the HFEA the Services which are to be provided under this Agreement;

9.1.3 becomes unfit to perform the Services under this Agreement or incapable of performing them fully by 3 June 2013; or

9.1.4 has a receiving order made against him/her, or makes any arrangement with his/her creditors.

9.2 In the event of the termination of this Agreement under Clause 9.1, the HFEA shall only be liable to the Contractor in respect of fees and expenses in accordance with the terms of this Agreement up to the effective date of termination.

9.3 On the expiry or termination of this Agreement (however arising), the Contractor shall deliver up to the HFEA all documents, formulae, papers, drawings, software, data, specifications, reports, notes, programs, portfolios, equipment, materials of any sort, identity cards and keys which were furnished by the HFEA to the Contractor, or which were prepared by or on behalf of the Contractor for the HFEA in the course of providing Services under this Agreement.

9.4 The obligations of the parties under Clauses 6, 7 and 8 shall survive the expiry or termination of this Agreement (for whatever reason).

10 Variation

10.1 No variation of this Agreement shall be effective unless made in writing.

11 Miscellaneous

11.1 This Agreement, together with its Appendices, constitutes the entire agreement between the parties and supersedes all previous

agreements and arrangements between the Contractor and the HFEA and sets out the entire agreement of the parties in relation to the provision of services by the Contractor to the HFEA.

- 11.2 If any provision of this Agreement shall be held to be illegal, void, invalid or unenforceable under the laws of any jurisdiction, the legality, validity and enforceability of the remainder of this Agreement shall not be affected.
- 11.3 This Agreement is governed and to be construed in accordance with the laws of England and Wales and each party agrees to submit to the exclusive jurisdiction of the English courts as regards any claim or matter arising out of this Agreement.
- 11.4 A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Agreement.
- 11.5 The Contractor shall not use the name, any adaptation of the name, any logo, trademark or other device of the "HFEA", or any part of it, in any advertising, promotional or sales materials without the prior written consent of the HFEA.

12 Data protection

- 12.1 In this Clause, references to "personal data", "data subjects" and "data processor" are to be interpreted as defined in the Data Protection Act 1998 ("the Act"). The Contractor shall comply with all relevant provisions of the Act and do nothing which causes, or may cause, the HFEA to be in breach of its obligations under the Act. In particular, to the extent that the contractor acts as a data processor in respect of any personal data pursuant to the Contract, the HFEA shall only process such personal data as is necessary to enable it to fulfil its obligations under this Contract.
- 12.2 The Contractor warrants that it has appropriate technical and organisational measures in place to protect any personal data it is processing on the HFEA's behalf against any unauthorised or unlawful processing and against any accidental loss, destruction or damage and undertakes to maintain such measures during the course of this agreement.
- 12.3 The Contractor consents to the HFEA holding and processing data relating to it for legal, personnel, administrative and management purposes in particular the processing of any "sensitive personal data" as defined in the Act.

- 12.4 With respect to the Parties' rights and obligations under this Contract, the Parties acknowledge that, except where otherwise agreed, the HFEA is the Data Controller and the Contractor is the Data Processor.
- 12.5 The Contractor shall provide the HFEA with full co-operation and assistance in relation to any complaint or request made under the Data Protection Act, including providing the Authority with any Personal Data it holds in relation to a Data Subject within such timescales as the Authority may require.
- 12.6 The Contractor shall be liable for and shall indemnify (and keep indemnified) the HFEA against each and every action, proceeding, liability, cost, claim, loss, expense and demands incurred by the HFEA which arise directly or in connection with the Contractor's data Processing activities under this agreement, including without limitation those arising out of any third party demand, claim or action, or any breach of contract, negligence, fraud, willful misconduct, breach of statutory duty or non-compliance with any part of the Data Protection Requirements by the contractor.
- 12.7 The Contractor shall not Process Personal Data outside the European Economic Area without the prior written consent of the HFEA and, where the HFEA consents to a transfer, to comply with:
- 12.7.1 the obligations of a Data Controller under the Eighth Data Protection Principle set out in Schedule 1 of the Data Protection Act 1998 by providing an adequate level of protection to any Personal Data that is transferred; and
- 12.7.2 any reasonable instructions notified to it by the HFEA.

13 Data Handling

- 13.1 The Contractor shall not store, copy, disclose, or use data supplied by the HFEA except as necessary for the performance by the Contractor of its obligations under this Agreement or as otherwise expressly authorised in writing by the HFEA.

14 Freedom of information

- 14.1 The Contractor acknowledges that the HFEA is subject to the requirements of the Freedom of Information Act 2000 ("FOIA") and Environmental Information Regulations ("EIR") and shall assist and cooperate with the HFEA, at the Contractor's expense, to enable the HFEA to comply with these information disclosure requirements; and:
- 14.1.1 acknowledges that, subject to the application of any relevant FOIA exemptions, the HFEA may be required to disclose this

Services Agreement and details of any payments made in respect thereof

- 14.2 In this Clause, "Information" has the meaning ascribed to it in section 84 of the FOIA; "Request for Information" has the meaning ascribed to it in section 8 of the FOIA, or any apparent request for information under the FOIA or EIR.
- 14.3 The Contractor shall:
- 14.3.1 Transfer any Request for Information to the HFEA as soon as practicable after receipt and in any event within two working days;
- 14.3.2 Provide the HFEA with a copy of all Information in its possession or power in the form that the HFEA requires within five working days (or such other period as the HFEA may specify) of the HFEA requesting that Information;
- 14.3.3 Provide all necessary assistance as reasonably requested by the HFEA to enable it to respond to a Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the EIR.
- 14.3.4 The HFEA shall be responsible for determining, at its absolute discretion, whether any Information:
- 14.3.4.1 is exempt from disclosure in accordance with the provisions of the FOIA or the EIR;
- 14.3.4.2 is to be disclosed in response to a Request for Information.
- 14.4 In no event shall the Contractor respond directly to a Request of Information unless expressly authorised to do so in writing by the HFEA.
- 14.5 The Contractor acknowledges that the HFEA may, acting in accordance with the Secretary of State for Constitutional Affairs' Code of Practice on the discharge of public authorities' functions under Part 1 of the FOIA (issued under section 45 of the FOIA in November 2004), be obliged under the FOIA or the EIR to disclose Information unless an exemption applies. The HFEA may at its discretion consult the Contractor with regard to whether the FOIA applies to the Information and whether an exemption applies.
- 14.6 The Contractor shall ensure that all Information produced in the course of this agreement or relating to this agreement is retained for disclosure and shall permit the HFEA to inspect such records as requested from time to time.

15 Equal opportunities and diversity

15.1 The Contractor shall, act in accordance with the HFEA's policies in relation to equal opportunities and diversity, and shall, before commencing provision of services to the HFEA, sign and return the equal opportunities and diversity statement in Annex 3.

AGREED by the Parties through their authorised signatories:

For and on behalf of the HFEA

Juliet Tizzard
Head of Policy and Communications
HFEA

Dated -----

For and on behalf of the Contractor

Ian Robson
Managing Director
Robson Dowry Associates Limited

Dated-----

ANNEX 1

the “Services”

1. The Contractor shall provide the services below, in accordance with the timetable specified in paragraph 2: :
 - Develop the name for the brand for the National Donation Strategy Group (the Group)
 - Develop the words for the accompanying strap line and how this fits in with the design
 - Develop the concept for the logo/imagery to support the brand name
 - Develop corporate identity guidelines on how to use the brand
 - Design examples of identity use showing how to adapt the brand to be used in different formats, including:
 - electronic formats
 - leaflets
 - booklets
 - banners
 - letter-heads
 - powerpoint presentation

2. Timetable

Service	Deadline
Develop the name for the Group	3 May 2013
Develop the strapline for the Group	
Develop the concept for the logo/imagery to support the brand name	17 May 2013
Present the brand to the Group members	20 May 2013
Develop the corporate identity guidelines	3 June 2013
Design examples of identity use in the following formats: <ul style="list-style-type: none">• electronic formats• leaflets• booklets• banners• letter-heads• powerpoint presentation	3 June 2013

3. Where extra work is required by the Contractor to comply with such additional specifications, the amount of extra hours to be worked by the Contractor shall be agreed by the Parties in writing before the extra work is undertaken.

4. The HFEA representative shall be Sharon Neaves, Senior Communications Manager.

ANNEX 2

Financial Arrangements

1. The HFEA shall pay the Contractor in accordance with the cost agreed between the Contractor and the HFEA for the first 36 days worked by the Contractor providing the Services under this agreement.
2. Where the Parties agree in writing that the Contractor should work extra hours to provide the Services under this agreement in addition to the 36 days already performed, then subject to paragraph 3, the HFEA shall pay the Contractor the hourly rate agreed between the Contractor and the HFEA for each extra hour worked.
3. The total amount that the HFEA will pay the Contractor for the provision of the Services under this agreement shall not exceed £16 000.
4. The work will be paid for as follows:

Upon completion of the development of the brand name and strapline, as well as the logo design – 50%

Upon completion of the corporate identity guidelines and the examples of identity use – 50%
5. No expenses will be paid under this agreement unless:
 - a) First agreed by the HFEA representative in writing, before such expenses are incurred;
 - b) the HFEA is provided with receipts of expenses claimed;
 - c) the expenses have actually been incurred; and
 - d) the expenses are reasonable and necessarily incurred for the performance of the Services under this agreement.
6. Upon written confirmation that the Services have been provided to the satisfaction of the HFEA, the Contractor shall invoice the HFEA and the HFEA shall pay the Contractor within 28 days of receipt of the invoice from the Contractor.

ANNEX 3

Equal Opportunities and Diversity Statement

In accordance with its corporate values of integrity, impartiality, fairness and best practice, the HFEA is committed to providing a working environment where a policy of equal opportunity and promotion of diversity and human rights is upheld. We will not tolerate discrimination or bullying and harassment.

In addition to ensuring compliance with a range of anti-discrimination legislation covering, race, gender, disability, religion or belief, sexual orientation and age, the HFEA along with all public authorities, has additional legal duties relating to race, gender and disability. Their obligations within each of these areas focus on:

- promoting equality of opportunity
- promoting good relations
- promoting positive attitudes
- eliminating harassment, and
- eliminating unlawful discrimination

Our obligations relate to employment, policies and the provision of services or activities. The HFEA retains responsibility for ensuring good practice in these areas, including where it contracts out services, e.g. to recruitment agencies, training providers or companies undertaking surveys, producing publications and providing goods and equipment.

To ensure that our standards are maintained we require all organisations that we contract with, to be aware of our standards, to uphold these standards on our behalf and to sign an agreement to do so. Any specific requirements will be notified to the Contractor as part of contracts issued, e.g. monitoring activities.

Copies of the HFEA'S policies can be found on our website:

www.hfea.gov.uk/130.html

Equality and diversity at the HFEA: www.hfea.gov.uk/6225.html

Diversity Strategy: www.hfea.gov.uk/131.html

Name _____

I have read the policies on the HFEA's website, and agree to abide by and uphold the HFEA'S equality and diversity standards in all our business dealings with and on behalf of the HFEA.

Signed: _____ Date: _____

Print Name: _____ Position: _____

Please return this form to Sharon Neaves, Senior Communications Manager, HFEA, Finsbury Tower, 103-105 Bunhill Row, London, EC1Y 8HF. Fax: 020 7291 8201