



UNIVERSITY OF MINNESOTA

DOMESTIC RESEARCH AGREEMENT

THIS AGREEMENT is entered into effective as of _____ (the "Effective Date") by and between Regents of the University of Minnesota (the "University"), a public educational institution and a Minnesota constitutional corporation, and _____ (the "Sponsor"), a _____. This Agreement is entered into by the University through its Office of Sponsored Projects Administration.

Purpose

The research program contemplated by this Agreement is of mutual interest and benefit to University and to Sponsor and will further the instructional and research objectives of the University. The research is to be funded by Sponsor and carried out by the University.

NOW, THEREFORE, the parties agree as follows.

Article 1 – Term

1.1 The Term of this Agreement shall commence on the Effective Date and unless earlier terminated as provided in Article 10 shall expire on _____ ("Expiration Date"). The parties may extend the term of this Agreement for additional periods with or without additional funding through duly executed amendments.

Article 2- Research Work

2.1 University shall perform the project as set forth in Appendix A (the "Project") in accordance with the terms and conditions of this Agreement. Anything in this Agreement to the contrary notwithstanding, Sponsor and University may at any time amend Project by mutual written agreement. Any budgetary information included in the attachments to this agreement is for informational purposes only; the University retains the right to re-budget funds within the funded amount as needed to further project objectives.

2.2 The Project shall be under the direction of _____ ("Principal Investigator"). In the event that the Principal Investigator becomes unable or unwilling to continue Project, and a mutually acceptable substitute is not available, University and/or Sponsor shall have the option to



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terminate said Project in accordance with Article 10. This Agreement does not limit the freedom of individuals participating in this Project to engage in any other research.

Article 3 - Reports and Conferences

- 3.1 Written progress reports shall be provided by University to Sponsor upon reasonable request or upon completion of each phase of the Project as detailed in Appendix A as applicable. A Final Report shall be submitted by University within ninety (90) days of the conclusion of the Contract Period, or early termination of this Agreement.
- 3.2 During the term of this Agreement, representatives of University will meet with representatives of Sponsor at times and places mutually agreed upon to discuss the progress and results, as well as ongoing plans or changes.

Article 4- Costs, Billings, and Other Support

[Choose one of the following options:]

Option A: [Cost-Reimbursement]

- 4.1A This Agreement will be conducted on a cost-reimbursement basis, with a total estimated cost of \$_____. University will use reasonable efforts to complete the Project within the estimated cost. Sponsor is not required to pay more than the contract price, and the University is not required to perform work above the estimated cost until and unless the parties have executed an amendment to this Agreement allocating additional funds. If the Principal Investigator incurred project costs prior to the Effective Date, those costs will be considered allowable charges and billable to the Sponsor once the Agreement has been signed. The University has the authority to rebudget costs from time to time, at the discretion of the Principal Investigator, as long as the rebudgeting is consistent with the goals of the Project.
- 4.2A Sponsor agrees to make quarterly equal payments of _____dollars (\$_____) following receipt of an invoice from the University. The initial invoice will be sent within 30 days following execution of this Agreement. If the unexpended balance as of the expiration date is \$100 or more, the University will refund this amount to the Sponsor within 90 days, unless the parties have agreed otherwise.

Option B: [Fixed Price]

- 4.1B University shall use reasonable efforts to complete the Project for a fixed sum of _____dollars (\$_____) (“Contract Price”).



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4.2B Sponsor agrees to make quarterly equal payments of _____dollars (\$____) following receipt of an invoice from the University. The initial invoice will be sent within 30 days following execution of this Agreement. Sponsor shall make a final payment of _____dollars (\$____) within 30 days of receipt of the final report.

4.3 University shall acquire title upon acquisition of any equipment purchased or fabricated with funds provided by Sponsor under this Agreement. Sponsor shall provide the following equipment to University under the following conditions:

[Either (a) indicate “none” or (b) insert a list of equipment to be provided, indicate loan or gift, and attach a signed copy of equipment loan(s) or deed(s) of gift:]

4.4 Payments made under this agreement shall be made payable to “The Regents of the University of Minnesota” and shall be accompanied by the University invoice number, the Contract number, and name of PI. Payments shall be sent to:

Regents of the University of Minnesota
NW 5957
P.O. Box 1450
Minneapolis, MN 55485-5957
Ph: 612.624.4313
Fax: 612.626.0321

Article 5 - Nondisclosure

5.1 For purposes of this Agreement, "Confidential Information" means written or tangible information disclosed by either party to the other, which at the time of disclosure is clearly and conspicuously labeled “Confidential” or “Proprietary”. Confidential Information shall also include oral and visual disclosures which are identified as confidential at the time of such disclosures and which are confirmed and summarized within fifteen (15) days of the disclosure by the disclosing party in a writing that sets forth the substance of the Confidential Information disclosed. The parties agree to maintain confidentiality of the Confidential Information during the term of this Agreement, including any renewal periods, and for a period of three (3) years from the effective termination or expiration date of this Agreement. Neither party shall use said Confidential Information for any purpose other than those purposes specified in this Agreement. The parties may disclose Confidential Information to employees requiring access thereto for the purposes of this Agreement provided, however, that prior to making any such disclosures each such employee shall be apprised of the duty and obligation to maintain Confidential Information in confidence and not to use such



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information for any purpose other than in accordance with the terms and conditions of this Agreement. Neither party will be held financially liable for any inadvertent disclosure, but each will agree to use its reasonable efforts not to disclose any Confidential Information.

- 5.2 Nothing contained herein will in any way restrict or impair either party's right to use, disclose, or otherwise deal with any Confidential Information which:
- 5.2.1 At the time of its receipt, is generally available in the public domain, or thereafter becomes available to the public through no act of the receiving party;
 - 5.2.2 Was independently known prior to receipt thereof, or made available to such receiving party as a matter of lawful right by a third party;
 - 5.2.3 Is received without obligation of confidentiality from a third party; or
 - 5.2.4 Is required by law (including the Minnesota Government Data Practices Act), and/or regulation or court order to be disclosed. In the event that information is required to be disclosed pursuant to this subsection, the party required to make disclosure shall notify the other to allow that party to assert whatever exclusions or exemptions may be available to it under law.
- 5.3 Sponsor shall notify the University in writing if any Confidential Information to be provided to the University is subject to export controls under U.S. law. Sponsor shall notify the University of the applicable export controls (for example, Commerce Control List designations, reasons for control, and countries for which an export license is required). The University shall have the right to decline export controlled information or activities requiring access to such information. If the Project cannot reasonably be conducted without access to export controlled information, the Agreement may be terminated by either party in accordance with Article 10.1. Sponsor shall not release export controlled information to the University until Sponsor has been notified in writing by the University that University has implemented a technology control plan for such information. .

Article 6 - Publicity

- 6.1 Sponsor will not use the name, logos and other marks and trade names of University, nor of any member of University's Project staff, in any publicity, advertising, or news release without the prior written approval of an authorized representative of University. University will not use the name, logos and other marks and trade names of Sponsor, nor any employee of Sponsor, in any publicity without the prior written approval of Sponsor.



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- 6.2 Pursuant to the University's Openness in Research Policy (a copy of which may be found at: http://www1.umn.edu/regents/policies/academic/Openness_in_Research) the University shall be allowed to disclose the following non-confidential information without the approval of the Sponsor: (1) the existence of the contract or grant; (2) the identity of the Sponsor or the grantor and, if a subcontract is involved, the identity of the prime contractor if the results of the research must be reported to the sponsor, grantor, or prime contractor; and (3) the purpose and the scope of the proposed research. The University may also disclose information as needed to comply with institutional reporting requirements, conflict of interest reviews, or in sponsored projects proposals or award documents (e.g., list of current and pending support.)

Article 7 – Publications

- 7.1 Sponsor recognizes that under University policy the results of the Project must be publishable and agrees that Researchers engaged in Project shall be permitted to present at symposia, national or regional professional meetings and to publish in journals, theses or dissertations, or otherwise of their own choosing, methods and results of Project. University shall have the final authority to determine the scope and content of any publication; provided, however, that University shall provide copies of any proposed publication at least thirty (30) days in advance of the publication or presentation to Sponsor to review and object to such publication or presentation because such draft either contains information deemed to be Confidential Information under the provisions of Article 5 of this Agreement, or reveals information that if published within thirty (30) days would have an adverse effect on a patent application in which Sponsor owns full or part interest, or intends to obtain an interest from University pursuant to this Agreement. In the event that Sponsor notifies the University in writing that the proposed publication or presentation contains Confidential Information, the University shall remove any Sponsor Confidential Information from the draft prior to such publication or presentation. In the event Sponsor requests in writing a delay in publication to file for patent protection, the University and the Researcher shall refrain from making such publication or presentation for a maximum of ninety (90) days from the receipt of such objection, and Sponsor shall indicate with specificity to what manner and degree University may disclose said information during the ninety (90) day period.
- 7.2 Publication by either party to this Agreement shall give proper credit to the other party for the cooperative character of the investigation.
- 7.3 No commercial brands or trade names shall appear in the publication of the results except as such brand or trade name is essential in the description of the research.



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Article 8 - Inventions

- 8.1 Rights to inventions, improvements and/or discoveries, whether or not patentable (“Inventions”), relating to Project made solely by employees of Sponsor shall belong to Sponsor. Such Inventions, improvements, and/or discoveries shall not be subject to the terms and conditions of this Agreement.
- 8.2 All rights and title to Inventions conceived or actually reduced to practice in performance of the Project (“Project Inventions”) made solely by one or more employees of the University (“University Project Inventions”) shall belong to the University. All right and title to Project Inventions made jointly by one or more employees of the University and Sponsor (“Joint Project Inventions”) shall be owned jointly.
- 8.3 University will notify Sponsor of any University Project Inventions and of any Joint Project Inventions promptly after disclosure of such Project Inventions by University researcher(s). Sponsor shall notify University of any Joint Project Inventions promptly after the disclosure of such Joint Project Inventions by Sponsor’s researchers. If Sponsor directs that a patent application be filed, University shall promptly prepare, file, and prosecute such U.S. and/or foreign applications in University's name or in the names of the parties jointly, as the case may be. Sponsor shall bear all costs incurred in connection with such preparation, filing, prosecution, and maintenance of U.S. and/or foreign application(s) directed to such Project Inventions. Sponsor shall cooperate with University to assure that such application(s) will cover, to the best of Sponsor's knowledge, all items of commercial interest and importance. While University shall be responsible for making decisions regarding scope and content of application(s) to be filed and prosecution thereof, University shall keep Sponsor advised as to all developments with respect to such application(s) and shall promptly supply to Sponsor copies of all papers received and filed in connection with the prosecution thereof in sufficient time for Sponsor to comment .
- 8.4 If Sponsor has not directed that a patent application be filed, or elects not to exercise its option in Article 9, or fails to timely reimburse for the costs of the patent filing or prosecution or for the costs of maintaining the patent, the University may in its discretion file, prosecute and/or maintain any such application(s) and/or patent(s) in the U.S. and in any foreign country.

Article 9 - Grant of Rights

- 9.1 University grants Sponsor the first option to a license to Project Inventions within Sponsor’s business field of use. At Sponsor’s election the License shall be either (a) non-exclusive and royalty free, or (b) exclusive and royalty-bearing and with a right to sublicense; provided that, as to (b), Sponsor has paid University the full costs of the Project, both direct and indirect, and has made timely reimbursement for patent costs. The additional terms and conditions will be



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mutually agreed upon. The option shall extend for a time period of one hundred and eighty (180) days from the date of expiration or termination of the Agreement, except that in the event of termination for breach or default by Sponsor, no option is hereby granted. If no option is exercised by Sponsor within this time, the University is free to independently pursue such protection and license arrangements without further obligation to Sponsor. This agreement does not convey any rights to Sponsor of other University technology, including background intellectual property.

Article 10 - Termination

- 10.1 Either party may terminate this Agreement upon thirty (30) days prior written notice to the other. Upon submission/receipt of a notice of termination, University shall take measures to stop spending as soon as possible. A final accounting of expenses will be submitted within sixty (60) days of the termination date documenting all expenses incurred and all non-cancellable expenses which Sponsor is responsible for and showing the amount of funding overpaid or owed. If Sponsor has an unpaid balance remaining, Sponsor shall make the final payment within thirty (30) days after receipt of the final invoice. If Sponsor has overpaid, a check for the balance will be included within 30 days of submission of the final accounting.
- 10.2 In the event of early termination of this Agreement by Sponsor pursuant to Article 10.1, Sponsor shall pay all costs incurred by University as of the date of termination, together with all non-cancellable obligations, which shall include all non-cancelable contracts, graduate assistantships, fellowships and postdoctoral associate appointments, entered into prior to the notice of termination. After termination, any obligation of Sponsor for fellowships, graduate assistantships or postdoctoral associates shall end no later than the end of University's academic year following termination.
- 10.3 In the event of early termination of this agreement by University pursuant to Article 10.1 or by either party pursuant to Article 2.2, Sponsor shall pay only the costs incurred up to the date of termination.
- 10.4 In the event that either party hereto shall commit any material breach of or default in any of the terms or conditions of this Agreement, and also shall fail to remedy such default or breach within ninety (90) days after receipt of written notice thereof from the other party hereto, the party giving notice may, at its option and in addition to any other remedies which it may have at law or in equity, terminate this Agreement by sending notice of termination in writing to the other party to such effect, and such termination shall be effective as of the date of the receipt of such notice.
- 10.5 Subject to Article 9, termination of this Agreement by either party for any reason shall not affect the rights and obligations of the parties accrued prior to the effective date of termination



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of this Agreement. No termination of this Agreement, however effectuated, shall affect the Sponsor's rights and duties hereof, or release the parties hereto from their rights and obligations under Articles 2, 4, 6, 7, 8, 9, 12, 14, 15, 16, 17 and 19.

Article 11 - Independent Contractor

11.1 It is expressly understood that University and Sponsor are independent contractors and not the agent, partner, or employee of the other. In this regard, neither party shall have the authority to enter into any contract or agreement to bind the other and shall not represent to anyone that it has such authority, nor shall their respective employees be entitled to any benefits applicable to employee of the other party.

Article 12 - Insurance and Indemnification

- 12.1 Each party represents that it has and will continue to have at least the following levels of insurance or self-insurance during the term of this Agreement: (i) as to the University, Workers' Compensation in statutory compliance with Minnesota State Law; and (ii) as to both parties, General Liability Insurance in an amount not less than \$1,000,000 each claim/\$3,000,000 each occurrence. University represents that the University and Principal Investigator have and will continue to have Professional Liability insurance in an amount not less than \$1,000,000 each claim/\$3,000,000 each occurrence. Sponsor represents that it has and will continue to have Product Liability insurance or self-insurance in an amount not less than \$1,000,000 per claim/\$3,000,000 per occurrence. Certificates of all insurance detailed above shall be furnished to the other party upon request.
- 12.2 Each party shall be responsible for its own acts and the results thereof and not for the acts of the other party. Liability of the University is subject to the terms and limitations of the Minnesota Tort Claims Act, Minnesota Statutes Section 3.736.
- 12.3 Sponsor shall indemnify, defend, and hold harmless University against any and all claims, costs, or liabilities, including attorneys' fees and court costs at both trial and appellate levels, for any loss, damage, injury, or loss of life (other than that attributable to willful, wanton or intentional acts or omissions of the University) arising out of use by Sponsor or any third party acting on behalf of or under authorization from Sponsor of information, reports, discoveries, deliverables, materials, products or other results of University's work under this Agreement. Article 12.3 shall apply with the provision that (a) University promptly notifies Sponsor in writing after University receives notice of any claim, (b) Sponsor is given the opportunity, at its option, to participate and associate with University in control, defense, and



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trial of any claim and any related settlement negotiations and (c) University fully cooperates with Sponsor in the defense of any such claim.

Article 13 – Disclaimer of Warranties

University makes no warranties, express or implied, as to any matter whatsoever, including without limitation, the condition, originality or accuracy of the research or any invention (s) or product(s), whether tangible or intangible, conceived, discovered, or developed under this agreement; or the ownership, merchantability, or fitness for a particular purpose of the research or any such invention or product.

Article 14 – LIMITATION OF LIABILITY FOR BREACH OF CONTRACT

IN NO EVENT SHALL EITHER PARTY'S LIABILITY FOR BREACH OF CONTRACT INCLUDE DAMAGES FOR WORK STOPPAGE, LOST DATA, OR INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFIT), OF ANY KIND. THE UNIVERSITY'S LIABILITY TO SPONSOR FOR BREACH OF THIS AGREEMENT SHALL NOT EXCEED THE MONETARY CONSIDERATION PAID TO THE UNIVERSITY UNDER THIS AGREEMENT. EXCEPT FOR SPONSOR'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 12.3, SPONSOR'S LIABILITY TO THE UNIVERSITY FOR BREACH OF THIS AGREEMENT SHALL NOT EXCEED THE MONETARY CONSIDERATION DUE UNDER THIS AGREEMENT.

Article 15 - Governing Law and Jurisdiction

The internal laws of the state of Minnesota shall govern this Agreement, without giving effect to its conflict of laws principles. All suits, actions, claims and causes of action relating to the construction, validity, performance and enforcement of this Agreement shall be in the courts of Hennepin County, Minnesota.

Article 16 - Assignment

The parties may not assign any rights or obligations of this Agreement without the prior written consent of the other party. Any assignment attempted to be made in violation of this Agreement shall be void.

Article 17 - Agreement Modification



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This Agreement shall be amended only in writing duly executed by all the parties to this Agreement. No waiver by any party of any default or nonperformance shall be deemed a waiver of any subsequent default or nonperformance.

Article 18 - Notices

Notices, requests, invoices, or communications, hereunder shall be deemed made upon submission to an overnight courier service or priority United States Mail, or three days after mailing by United States, first-class mail, certified or registered, postage prepaid, and addressed to the party to receive such notice, invoice, or communication at the address given below, or such other address as may hereafter be designated by notice in writing:

If to Sponsor:

Telephone:

Fax:

E-Mail:

If to University:

Sponsored Projects Administration

University of Minnesota

450 McNamara Alumni Center

200 Oak Street S.E.

Minneapolis, MN 55455-2070

Telephone: (612)

Fax : (612)

E-Mail: @umn.edu

with a copy to Principal Investigator

Telephone:

Fax:

E-Mail:



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Article 19 - Force Majeure

No party to this Agreement shall be responsible for any delays or failure to perform any obligation under this Agreement due to acts of God, strikes or other disturbances, including, without limitation, war, insurrection, embargoes, governmental restrictions, acts of governments or governmental authorities, and any other cause beyond the control of such party.

Article 20 - Entire Agreement

This Agreement (including all attached or referenced exhibits, schedules, appendices, addenda, or other documents) (collectively, the "Attachments") is intended by the parties as the final and binding expression of their agreement and as the complete and exclusive statement of its terms. This Agreement cancels, supersedes and revokes all prior negotiations, representations and agreements among the parties, whether oral or written, relating to the subject matter of this Agreement, including any non-disclosure or confidentiality agreements. To the extent the Attachments contain any terms and conditions that conflict with the terms and conditions of this Agreement or which materially change or add to the terms and conditions contained in this Agreement, such changes will be ignored and given no effect.

Article 21 – Severability

If any provision of this Contract becomes or is declared illegal, invalid, or unenforceable, the provision will be divisible from this Contract and deemed to be deleted from this Agreement. If the deletion substantially alters the basis of this Contract, the parties will negotiate in good faith to amend the provisions of this Contract to give effect to the original intent of the parties.

Article 22 - Counterparts

This Agreement may be signed in counterparts, each of which shall be deemed one and the same original.



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IN WITNESS WHEREOF, the undersigned have executed this Agreement as of on the date first written above.

REGENTS OF THE UNIVERSITY OF MINNESOTA

BY: _____

BY: _____

Sponsored Projects Administration

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

I have read the above agreement and agree to perform my obligations as principal investigator(s) under this agreement. I also understand and agree to the disposition of rights in inventions, discoveries, and other results as provided by this agreement and to the provisions concerning confidentiality and publications. I will inform students and other participants working on this research of their rights and obligations under this agreement.

BY: _____

Principal Investigator

TITLE: _____

DATE: _____

Appendices:

Appendix – Description of the Research Project

Appendix B – Project Budget



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Appendix A – Description of the Research Project



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Appendix B – Project Budget