

NORTH CAROLINA STATE UNIVERSITY
MEMORANDUM OF AGREEMENT FOR RESEARCH
NCSU PINS NUMBER: [Click or tap here to enter text.](#)

This agreement (the “AGREEMENT” or “MOA”) entered into by and between the North Carolina State University, (hereinafter referred to as "UNIVERSITY"), Raleigh, North Carolina, and [Click or tap here to enter text.](#), with a principal place of business at [Click or tap here to enter text.](#), hereafter referred to as "SPONSOR".

WHEREAS, the PROJECT (as defined below) contemplated by this AGREEMENT is of mutual interest and benefit to the UNIVERSITY and the SPONSOR, and will further the research, instructional, and public service missions of the UNIVERSITY in a manner consistent with its status as a public educational institution; and

WHEREAS, SPONSOR desires to provide funding in support of a research PROJECT.

NOW, THEREFORE, the parties hereto agree as follows:

1. SCOPE OF PROJECT

The UNIVERSITY will use its best efforts to perform activities as described in its proposal entitled “[Click or tap here to enter text.](#)”, dated [Click or tap here to enter text.](#) which is attached hereto as Attachment A and hereby made a part of this AGREEMENT, and hereafter referred to as “PROJECT.” The parties agree that the selection of PROJECT procedures, sites, equipment used, the selection and supervision of personnel to be used in the conduct of PROJECT sponsored hereunder is at the UNIVERSITY'S sole and exclusive discretion.

2. PRINCIPAL INVESTIGATOR

The PROJECT shall be under the supervision of [Click or tap here to enter text.](#), from the Department of [Click or tap here to enter text.](#), who shall serve as Principal Investigator (“PI”). If for any reason the PI shall be unable to continue to serve, and a successor acceptable to both parties is not available, this AGREEMENT shall be terminated per Article 11.

3. PERIOD OF PERFORMANCE

The activities of this PROJECT shall be conducted during the period beginning [Click or tap here to enter text.](#) through [Click or tap here to enter text.](#). This period will be subject to modification or renewal only by mutual written agreement of the parties hereto.

4. PAYMENT FIXED PRICE

As consideration for the UNIVERSITY'S performance hereunder, SPONSOR agrees to pay the

UNIVERSITY fixed price of [Click or tap here to enter text.](#). This price will provide SPONSOR a one-time discount on UNIVERSITY'S facilities and administrative (F&A) rate. The one-time discounted F&A rate authorized for this effort is 15% of total direct cost is contingent upon SPONSOR's acceptance of all terms as stated herein. Once the MOA is executed, UNIVERSITY will not provide any financial reporting and will not provide access to UNIVERSITY's records or personnel for such purposes.

The SPONSOR must select one of two payment options as described below:

- ☐ Option 1: UNIVERSITY will submit one lump sum invoice for the full price within 30 days of the execution of the MOA. SPONSOR agrees to make full payment within 30 days after receiving the invoice. If SPONSOR fails to make payment within 30 days, all PROJECT work may stop and this MOA may be terminated.
- ☐ Option 2: UNIVERSITY will submit one invoice for 50% of the full price within 30 days of the execution of the MOA. SPONSOR agrees to make full payment within 30 days after receiving the invoice. UNIVERSITY will submit a final invoice for the remaining 50% upon completion of the MOA.

Unless otherwise noted below, UNIVERSITY will submit invoice to the address shown in Article 15. Invoices submitted to:

SPONSOR

Attention: [Click or tap here to enter text.](#)

Address 1: [Click or tap here to enter text.](#)

Address 2: [Click or tap here to enter text.](#)

City, State, Zip Code: [Click or tap here to enter text.](#)

Phone: [Click or tap here to enter text.](#)

Fax: [Click or tap here to enter text.](#)

Email: [Click or tap here to enter text.](#)

SPONSOR will send check, payable to "NC State University" to:

NC State University

ATTN: Contracts & Grants

2601 Wolf Village Way, Suite 240, Campus Box 7214

Raleigh, NC 27695-7214

Phone: 919-515-2153

Fax: 919-515-4693

Email: CNGHelpDesk@ncsu.edu

5. REPORTS

UNIVERSITY shall deliver to the SPONSOR reports showing the results of the activity performed and or

evaluation of samples when appropriate in accordance with the following schedule:

Interim Technical Reports: ☐ Monthly ☐ Quarterly

Final Technical Report within [Click or tap here to enter text.](#) days of Project completion

6. RIGHTS IN INTELLECTUAL PROPERTIES

- (a) “INTELLECTUAL PROPERTY” means all forms of intellectual property under the laws of any state or country, including but not limited to, patentable inventions, patentable plants, copyrightable works, mask works, novel plant varieties, trademarks, service marks, and trade secrets, that is conceived and actually or constructively reduced to practice by one or more employees of the UNIVERSITY, alone or in collaboration with others, in performance of the PROJECT. Inventorship will be determined in accordance with Title 35 of the United States Code (US Patent Law).
- (b) Each party shall promptly disclose to the other party in writing any INTELLECTUAL PROPERTY that it becomes aware of during the term of the PROJECT or afterwards. UNIVERSITY PI must disclose INTELLECTUAL PROPERTY to NC State Office of Research Commercialization (“ORC”) via eDisclosure portal and ORC will disclose INTELLECTUAL PROPERTY to SPONSOR.
- (c) Rights to INTELLECTUAL PROPERTY made by UNIVERSITY personnel and arising out of the PROJECT are subject to the NCSU policies, regulations and rules covering Patent, Tangible Research and Copyrights and are, therefore, owned by UNIVERSITY. INTELLECTUAL PROPERTY made jointly by UNIVERSITY personnel and SPONSOR personnel shall be owned jointly by UNIVERSITY and SPONSOR.
- (d) In consideration for sponsoring the PROJECT, the UNIVERSITY shall grant to SPONSOR a fully paid-up, non-exclusive, non-transferable, royalty-free license (without the right to sublicense) to use all PROJECT data and the final report from the PROJECT owned by University, either solely or jointly, exclusively for SPONSOR’s own internal, research and development purposes. Further, UNIVERSITY hereby grants to SPONSOR a time limited exclusive option to negotiate for a royalty-bearing, exclusive license to any INTELLECTUAL PROPERTY in which UNIVERSITY has ownership rights under this paragraph, provided the SPONSOR must exercise its option by notice in writing within two (2) months following the UNIVERSITY’S disclosure of the INTELLECTUAL PROPERTY to SPONSOR. If the UNIVERSITY and SPONSOR have not executed an exclusive license within six (6) months following SPONSOR’s notice of election, the option shall expire and UNIVERSITY shall, except for the license granted above, have no further obligation to SPONSOR with respect to UNIVERSITY’s INTELLECTUAL PROPERTY.

7. CONFIDENTIALITY, PROPRIETARY INFORMATION

- (a) Any proprietary information disclosed by one party to the other, including invention disclosures shall be disclosed in writing and designated as proprietary, or if disclosed orally, shall be confirmed in writing and designated proprietary within thirty (30) days of such disclosure. A party receiving proprietary information hereunder, hereafter referred to as "RECIPIENT", agrees to use the proprietary information only for the purpose of this AGREEMENT and further agrees that it will not disclose or publish such information except that foregoing restrictions shall not apply to:
 - (i) Information which is or becomes publicly known through no fault of RECIPIENT;
 - (ii) Information learned from a third party entitled to disclose such information;
 - (iii) Information already known to or developed by RECIPIENT prior to receipt hereunder, as shown by RECIPIENT's prior written records;
 - (iv) Information required to be disclosed by operation of law or court order.
- (b) The obligation of confidentiality imposed by this provision shall expire three (3) years following the expiration or termination of this AGREEMENT. Each party will use a reasonable degree of care to prevent the inadvertent, accidental, unauthorized or mistaken disclosure or use by its employees of proprietary information disclosed hereunder.

8. EXPORT CONTROLS

SPONSOR does not anticipate exchanging any information, data, materials, equipment, or software that is export controlled under the Export Administration Regulations (EAR), Title 15, sections 730-774 of the Code of Federal Regulations (CFR) or the International Traffic in Arms Regulations (ITAR), 22 CFR §§ 120-130. SPONSOR agrees that in addition to the requirements of paragraph (b), SPONSOR will give UNIVERSITY fifteen (15) days advance written notice of their intention to deliver any information, data, materials, equipment, software, or technology that is export controlled.

9. PUBLICATIONS

UNIVERSITY shall have the right to publish or present the results obtained from the PROJECT conducted hereunder. UNIVERSITY agrees to provide SPONSOR with a manuscript of any proposed presentation and/or publication for review at least thirty (30) days prior to submitting it for acceptance by a publisher or responsible event officials. SPONSOR may request a delay of up to thirty (30) additional days so that a patent application can be prepared or so that SPONSOR's proprietary information can be deleted from the publication. If SPONSOR does not respond with comments within thirty (30) days, UNIVERSITY shall be free to proceed with publication.

10. WARRANTY

UNIVERSITY makes no warranties, expressed or implied, as to any matter whatsoever, including without limitation, the ownership, merchantability, or fitness for a particular purpose of any goods or services provided. The UNIVERSITY makes no representation or warranty regarding the actual or potential

infringement of patents or copyrights of third parties, and SPONSOR acknowledges that the avoidance of such infringement in the use of the services related to this AGREEMENT shall remain the responsibility of SPONSOR.

11. TERMINATION

SPONSOR may terminate the PROJECT under this AGREEMENT without cause by providing thirty(30) days written notice per Article 15 NOTICES. Upon termination SPONSOR agrees to pay for all costs and noncancelable commitments and obligations made by UNIVERSITY incurred up to the date of termination. UNIVERSITY may terminate performance under this AGREEMENT by giving fifteen (15) days written notice to SPONSOR per Article 15 if circumstances beyond its control preclude the continuation of the Project. If UNIVERSITY initiates a termination, it agrees to negotiate an equitable adjustment to the price.

12. LIABILITY

Notwithstanding any other provision of this AGREEMENT, the liability of the UNIVERSITY, as an agency of the State of North Carolina, for any injury or damage arising out of this AGREEMENT or UNIVERSITY'S performance of the Project is subject to the immunities, procedures and limitations of the North Carolina Tort Claims Act, GS §143-291 *et seq.* Neither the UNIVERSITY nor North Carolina waives any rights or defenses under this Act. b.) The SPONSOR will indemnify and hold harmless UNIVERSITY, its trustees, officers, employees and agents from and against any liabilities, damages, or claims (including attorneys' fees) arising out of injuries (including death) or property damage suffered by any person as a result of SPONSOR's use or possession of the results produced hereunder.

13. HAZARDOUS MATERIALS

- (a) All materials provided by SPONSOR must be accompanied by the appropriate environmental and safety information for those materials as required by law. UNIVERSITY will observe all applicable safety precautions and governmental requirements concerning handling of any SPONSOR provided materials.
- (b) SPONSOR shall, upon request by UNIVERSITY, arrange and pay for appropriate transport and disposal of any remaining SPONSOR provided materials within 30 days of the request. Delivery of any final report of the PROJECT is contingent upon safe and timely removal of these materials. The UNIVERSITY may decline to accept PROJECT that impose undue risk.

14. USE OF NAMES

Neither party will use the name, marks, or symbols of the other for any commercial purpose without the express written permission of the other party.

15. NOTICES

Any notices required to be given or which shall be given under this AGREEMENT shall be in writing,

delivered by first-class mail, Email, or facsimile, addressed to the parties as follows:

For the SPONSOR:	For the UNIVERSITY:
Name: Click or tap here to enter text. Title: Click or tap here to enter text. Address: Click or tap here to enter text. Phone: Click or tap here to enter text. Fax: Click or tap here to enter text. Email: Click or tap here to enter text.	Name: Authorized Representative Sponsored Programs & Regulatory Compliance Services 2601 Wolf Village Way, Suite 240 Campus Box 7514 Raleigh, NC 27695-7514 Phone: 919-515-2444 Fax: 919-515-7721 Email: sps@ncsu.edu

16. INDEPENDENT PARTIES

For purposes of this AGREEMENT, the parties hereto shall be independent contractors and neither shall at any time be considered an agent or employee of the other. No joint venture, partnership, or like relationship is created between the parties by this AGREEMENT.

17. ASSIGNMENT

This AGREEMENT shall be binding upon and inure to the benefit of the parties hereto and may be assigned only to the successors of these parties. Any other assignment by either party without prior written consent of the other party shall be void.

18. GOVERNING LAW

This AGREEMENT is acknowledged to have been made and shall be construed and interpreted in accordance with the laws of the State of North Carolina, without reference to its conflict of laws provisions, provided that all questions concerning the construction or effect of patent applications and patents shall be decided in accordance with the laws of the country in which the particular patent application or patent has been filed or granted.

19. ENTIRE AGREEMENT

Unless otherwise specified herein, this AGREEMENT embodies the entire understanding of the parties for this PROJECT and any prior or contemporaneous representations, either oral or written, are hereby superseded. No amendments or changes to this AGREEMENT including, without limitation, changes in the activities of the program, total estimated cost, and period of performance, shall be effective unless made in writing and signed by authorized representatives of both parties. If any provisions stated in this AGREEMENT, resulting purchase orders, and the Project proposal are in conflict, the order of precedence, beginning with the first to last shall be (1) this AGREEMENT with attachments, (2) the PROJECT proposal,

and (3) the purchase order, it being understood and agreed that any purchase order or similar document issued by SPONSOR will be for the sole purpose of establishing a mechanism for payment of any sums due and owing hereunder. Notwithstanding any terms and conditions contained in said purchase order, the purchase order will in no way modify or add to the terms of this AGREEMENT.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT effective as stated in Article 3.

SPONSOR

NC STATE UNIVERSITY

By: _____

By: _____

Name: Click or tap here to enter text.

Name: Click or tap here to enter text.

Title: Click or tap here to enter text.

Title: Click or tap here to enter text.

Date: _____

Date: _____

Read and Understood by:

By: _____

Principal Investigator: Click or tap here to enter text.

Date: _____