

## RESEARCH AGREEMENT

No. \_\_\_\_\_

BY AND BETWEEN

\_\_\_\_\_

AND

**The Board of Regents of the Nevada System of Higher Education obo**

**University of Nevada, Reno**

This Research Agreement (“Agreement”) is entered into and is effective as of \_\_\_\_\_, 2014, by and between \_\_\_\_\_, a \_\_\_\_\_ (type of entity), having its principal place of business at \_\_\_\_\_, (“Sponsor”) and the Board of Regents of the Nevada System of Higher Education (NSHE), obo the University of Nevada, Reno, an institution of higher education of the State of Nevada, (“University”) having its principal place of business at 1664 North Virginia Street, Reno, NV 89557 (Sponsor and University each to be referred to as “Party” or together as “Parties”).

### RECITALS

WHEREAS, Sponsor is engaged in the business of [state nature of business] and is committed to research on new and innovative approaches to the manufacture and delivery of its products and services;

WHEREAS, University has reviewed Sponsor’s research plan related to such new and innovative approaches;

WHEREAS, Sponsor wishes to have a research project performed in accordance with the scope of work outlined in this Agreement;

WHEREAS, the performance of such research is consistent, compatible and beneficial to the academic role and mission of University as an institution of higher education; and

WHEREAS, University is qualified to conduct the research associated with such project.

### AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual covenants, conditions and undertakings herein set forth, the parties agree as follows:

1. Scope of Work. University agrees to perform for Sponsor certain research (“Research”) described in the Scope of Work set forth in Appendix A, which is attached hereto and incorporated herein by this reference. Principal Investigator may select other University employees to

participate in the Research (including but not limited to, University technicians, undergraduate and graduate students, post-doctoral fellows, or faculty members).

2. Period of Performance. The Project period under this Agreement is intended to commence on \_\_\_\_\_ and continue until \_\_\_\_\_. This Agreement may be extended for additional periods of performance beyond the Initial Term, upon written approval by Sponsor and University.

3. Compensation and Payment.

3.1. Compensation. Sponsor shall pay to University a total of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) (“Compensation”) for performance of the Research under this Agreement.

A budget itemizing the costs for providing the Research is set forth in Appendix B, which is attached hereto and incorporated herein by this reference. [**\*Alternative: May be deleted in the case of a fixed price agreement.**]

3.2. Payment. Monthly cost reimbursable payments shall be made by Sponsor to University based upon monthly invoices submitted by University. Invoices submitted to Sponsor shall be paid by Sponsor within thirty (30) days of receipt. The monthly invoices for services performed shall identify the direct and facility and administrative costs. Final payment shall be made upon completion of the Research.

**\* NOTE: As an alternative to the above payments, you may wish to consider either progress payments with a lump sum advance payment, a fixed monthly billing schedule or fixed price with equal installments. In this case, you should replace the above paragraph 3.2 with one of the following:**

**[Alternative 1 - Progress Payments with Lump Sum Advance]**

3.2 Payment. Sponsor shall pay an initial payment equal to \_\_\_\_\_ percent (\_\_\_%) of the Compensation upon the effective date of this Agreement. Thereafter, monthly progress payments shall be made by Sponsor to University based upon monthly invoices submitted by University. Invoices submitted to Sponsor shall be paid by Sponsor within thirty (30) days of receipt. Final payment shall include the unpaid balance of the Compensation and shall be paid upon completion of the Research.

**[Alternative 2 - Fixed Schedule]**

3.2 Payment. Sponsor shall provide payment of invoices submitted by University within thirty (30) days of receipt of each invoice. Invoices shall be submitted according to the following schedule: **[Insert monthly billings or other schedule]**.

**[Alternative 3 – Fixed Price Equal Installments]**

3.2 Payment. Sponsor shall pay the Compensation in three equal payments. The first payment shall equal one-third (1/3) of the total Compensation and shall be paid upon the effective date

of this Agreement. The second payment shall equal one-third (1/3) of the total Compensation and shall be paid by \_\_\_\_\_. The third and final payment shall equal the remaining one-third (1/3) of the total Compensation and shall be paid by the last day of the project period.

3.3. Invoicing.

Invoices shall be delivered to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Compensation checks shall reference the appropriate UNR account number and be payable to “Board of Regents, NSHE obo the University of Nevada, Reno” and shall be delivered to:

University of Nevada, Reno  
Controller’s Office  
Mail Stop 124  
Reno, NV 89557-0025

4. Technical Supervision

4.1. Supervision by Sponsor. The person with primary responsibility for supervision of the performance of the Research on behalf of Sponsor shall be \_\_\_\_\_, or such other person as may be designated by Sponsor, who shall have primary responsibility for technical supervision of the Project.

4.2. Supervision by University. The person with primary responsibility for supervision of the performance of the Research on behalf of University shall be \_\_\_\_\_. No other person shall replace or substitute for him/her in the supervisory responsibilities hereunder without the prior written approval of University, which may be granted or withheld at University’s sole discretion.

5. Reporting Requirements. University shall provide written reports to Sponsor on the progress of the performance of Research as outlined or required in the Scope of Work. A final written report shall be furnished to Sponsor upon completion of the Research within 60 days of the last day of the project period and after the final payment has been received.

6. Equipment. All equipment, instruments and materials purchased or used by University in connection with performance of the Research shall at all times remain under the sole control and

ownership of University.

7. Confidentiality.

7.1. Confidential Information. All reports, data, other information of a proprietary, technical or business nature provided by one Party to the other Party in connection with the Research, whether in oral, written, graphic or electronic form and which is clearly marked or otherwise communicated to the recipient Party as Confidential Information. Confidential Information shall not include information which:

- a) is presently or becomes generally known or available to the public through no act or failure to act by the recipient party;
- b) is known by the recipient party at the time the information is received or, in the case of Intellectual Property, at the time of recipient Party's generation of such Intellectual Property;
- c) is hereafter furnished to the recipient Party by a third party, as matter of right and without restriction on disclosure;
- d) has been developed independently by recipient Party, as evidenced by contemporaneous written documentation.
- e) is required by law or court order to be disclosed. In the event of a request for such a disclosure, recipient Party will, to the extent permitted by law, provide the disclosing Party with prompt written notice thereof so that disclosing Party may seek a protective order or other appropriate remedy.

7.2. Confidentiality Obligation. During the term of this Agreement and for a period of three (3) years thereafter, each Party will maintain all Confidential Information of the other Party as confidential and will not disclose any such Confidential Information or use any such Confidential Information for any purpose except as expressly authorized in the Agreement or to perform necessary tasks for the subject matter of this Agreement. A recipient Party will promptly notify a disclosing Party upon discovery of any unauthorized use or disclosure of the disclosing Party's Confidential Information.

7.3. Open Records Act. Notwithstanding the foregoing, Sponsor acknowledges that University is a governmental entity and thus subject to the Nevada Open Records Act, NRS Code 239.005 to 239.011. Pursuant to the Act, this Agreement, any confidential information provided pursuant hereto, may be subject to public disclosure. Any person who provides University with records that such person believes should be protected from disclosure for business reasons must indicate the confidentiality of such records upon disclosure.

8. Data Ownership. University shall retain ownership of all data and information generated as a result of conducting the Research. University grants Sponsor a royalty free non-exclusive license, with right to sublicense, to use the data for internal and commercial purposes.

9. Publication. Sponsor recognizes that the results of University's involvement in the Research must be publishable or otherwise available for public dissemination, and agrees that University has the right to present at international, national or regional professional meetings or symposia, and to publish in journals, theses, or dissertations, or otherwise of their own choosing, methods, information and data resulting from or gained in pursuing the Research in connection with this Agreement.

**[\* Additional Text If Needed]**

Notwithstanding the foregoing, University agrees that it shall not publish the results of research conducted in connection with this Agreement, without the prior written consent of Sponsor, until the expiration of three (3) months following the first to occur of either the termination of this Agreement or submission of the final written report required under Section 4 hereof. In the event University wishes to publish research results prior to the expiration of the above described three (3) month period, University shall first provide to Sponsor written notice of University's intent to publish and a draft of such publication. Sponsor shall have thirty (30) days after receipt of the draft publication to request in writing the removal of Confidential Information [\*or Intellectual Property as defined in Addendum A – **only if there is an addendum A**] or to request a delay in submission of the draft for publication pending Sponsor's application for patent protection. In either event, University shall have no obligation to delay publication of the draft for longer than three (3) months following delivery of University's notice to Sponsor of intent to publish. If University does not receive Sponsor's written response to the notice of intent to publish within the thirty (30) day period, then Sponsor shall be deemed to have consented to such publication. Information supplied to University by Sponsor and identified by Sponsor as Confidential Information shall be deleted from the materials submitted, or portions thereof will be rewritten so as to protect the proprietary rights of Sponsor; provided that the Principal Investigator shall have final authority to determine the scope and content of any publication.

10. Intellectual Property.

10.1. University Intellectual Property. Intellectual property independently conceived or reduced to practice or writing by University prior to entering into this Agreement with no facilities, contribution, involvement or support by Sponsor, as to its conception or reduction to practice, shall remain the sole and exclusive property of University, and Sponsor shall have no title or claim to such intellectual property.

10.2. Sponsor Intellectual Property. Intellectual property independently conceived or reduced to practice or writing by Sponsor prior to entering into this Agreement with no facilities, contribution, involvement or support by University, as to its conception or reduction to practice, shall remain the sole and exclusive property of Sponsor, and the University shall have no title or claim to such intellectual property. Sponsor shall allow University access to Sponsor Intellectual Property only as far as is necessary to allow University to successfully conduct the Scope of Work of this Agreement.

10.3. Intellectual Property Conceived During Performance of Agreement. In the event

intellectual property is conceived or reduced to practice or writing in the performance of this Agreement, the provisions of Addendum A shall be applicable. [\*Optional]

11. Materials Transfer. In the event materials are requested for use in the performance of this Agreement, the provisions of Addendum B shall be applicable. [\*Optional]

12. Indemnification.

12.1. Indemnification by University. Indemnification by University. To the extent limited in accordance with NRS 41.0305 to NRS 41.039, University shall indemnify, defend, and hold harmless Sponsor from and against any and all liabilities, claims, losses, lawsuits, judgments, and/or expenses, including attorney fees, arising either directly or indirectly from any act or failure to act by University or any of its officers or employees, which may occur during or which may arise out of the performance of this Agreement. University will assert the defense of sovereign immunity as appropriate in all cases, including malpractice and indemnity actions. University indemnity obligation for actions sounding in tort is limited in accordance with the provisions of NRS 41.035 to \$100,000 per cause of action.

12.2. Indemnification by Sponsor. Sponsor shall indemnify, defend and hold harmless University, its directors, officers, agents and employees against any actions, suits, proceedings, liabilities and damages that may result from the negligent acts or omissions of Sponsor, its officers, agents or employees in connection with this Agreement.

**\* NOTE: We are not required to include an indemnification provision. If necessary, this is the clause approved by the Board of Regents.**

13. Compliance With Laws. In performance of the Research, Sponsor and University shall comply with all applicable federal, state and local laws, codes, regulations, rules and orders.

14. Relationship of Parties. In assuming and performing the obligations of this Agreement, University and Sponsor are each acting as independent parties and neither shall be considered or represent itself as a joint venturer, partner, agent or employee of the other. Neither party shall use the name or any trademark of the other party in any advertising, sales promotion or other publicity matter without the prior written approval of the other party.

15. Termination and Survival.

15.1. Termination. This Agreement may be terminated by either party at any time, by giving written notice thereof to the other party. Such termination shall be effective thirty (30) days after receipt of such notice. Termination shall not relieve either party of any obligation or liability accrued hereunder prior to such termination, or rescind or give rise to any right to rescind any payments made prior to the time of such termination.

15.2. Survival. 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 of this Agreement. No termination of this Agreement, however effectuated, shall affect the parties'

rights and obligations under Paragraphs 7, 8, 9, 10 [and 11] of this Agreement.

16. Uncontrollable Forces. Neither Sponsor nor University shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to uncontrollable forces the effect of which, by the exercise of reasonable diligence, the nonperforming party could not avoid. The term “uncontrollable forces” shall mean any event which results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the control of the nonperforming party. It includes, but is not limited to, fire, flood, earthquakes, storms, lightning, epidemic, war, riot, civil disturbance, sabotage, inability to procure permits, licenses, or authorizations from any state, local, or federal agency or person for any of the supplies, materials, accesses, or services required to be provided by either Sponsor or University under this Agreement, strikes, work slowdowns or other labor disturbances, and judicial restraint.

17. Miscellaneous.

17.1. Assignment. Neither party shall assign or transfer any interest in this Agreement, nor assign any claims for money due or to become due under this Agreement, without the prior written consent of the other party.

17.2. Entire Agreement. This Agreement, with its attachments, constitutes the entire agreement between the parties regarding the subject matter hereof and supersedes any other written or oral understanding of the parties. This Agreement may not be modified except by written instrument executed by both parties.

17.3. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties, their successors and permitted assigns.

17.4. Notices. Except as provided in Section 3 hereof regarding payment of invoices, any notice or other communication required or permitted to be given to either party hereto shall be in writing and shall be deemed to have been properly given and effective: (a) on the date of delivery if delivered in person during recipient’s normal business hours; or (b) on the date of delivery if delivered by courier, express mail service or first-class mail, registered or certified, return receipt requested. Such notice shall be sent or delivered to the respective addresses given below, or to such other address as either party shall designate by written notice given to the other party as follows:

To University

University of Nevada, Reno

204 Ross Hall MS 325

Reno, NV 89557

To Sponsor:

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17.5. Order of Precedence. In the event of any conflict, inconsistency or discrepancy amount, the Agreement and any other documents listed below shall be resolved by giving precedence in the following order.

(a) This Agreement including the Exhibits hereto

(b) Purchase Order issued by Sponsor. In the event a purchase order is issued under this Agreement and such purchase order contains standardized terms and conditions, the terms and conditions of this Agreement shall supercede and replace all such purchase order standardized terms and conditions.

17.6. Governing Law and Disputes. This Agreement shall be interpreted and construed in accordance with the laws of the State of Nevada, without application of any principles of choice of laws. Disputes that cannot be resolved by Sponsor and University shall be determined by a court of competent jurisdiction in the State of Nevada.

17.7. Nonwaiver. A waiver by either party of any breach of this Agreement shall not be binding upon the waiving party unless such waiver is in writing. In the event of a written waiver, such a waiver shall not affect the waiving party's rights with respect to any other or further breach.

17.8. Use of Name. Sponsor may not use the name of University in any news release or advertising or any publications directed to the general public without written approval of University.

17.9. Attorney Fees. The prevailing Party in any action or suit to enforce the terms or conditions of this Agreement shall be entitled to recover its costs of court and reasonable attorneys' fees incurred in enforcing the terms or conditions of this Agreement.

17.10. Counterparts and Facsimile Signatures. This Agreement may be executed in one or more counterparts each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Signed signature pages may be transmitted by facsimile, and any such signature shall have the same legal effect as an original.

17.11. Severability. If any provision of this Agreement is held void or unenforceable, the remaining provisions shall nevertheless be effective, the intent being to effectuate this



Agreement to the fullest extent possible.

Sample Contract

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives effective as of the day and year first written above.

**[INSERT NAME OF SPONSOR]**

**BOARD OF REGENTS, NSHE OBO**

**UNIVERSITY OF NEVADA, RENO**

“Sponsor”

“University”

By: \_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Signature

Name: \_\_\_\_\_  
(Please print)

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**SCOPE OF WORK**

**[Insert Scope of Work referenced in Article 1.]**

Sample Contract

**BUDGET**

**[Insert Budget referenced in Article 3.1]**

Sample Contract