

RESEARCH AGREEMENT

BETWEEN

THE RESEARCH FOUNDATION FOR THE STATE UNIVERSITY OF NEW YORK

AND

(SPONSOR)

This RESEARCH AGREEMENT is made by and between THE RESEARCH FOUNDATION FOR THE STATE UNIVERSITY OF NEW YORK, a private, nonprofit, educational corporation organized and existing under the laws of the State of New York, with an office located at Office of Sponsored Programs, Stony Brook University, Stony Brook NY 11794-3362 (the "FOUNDATION"), acting for Stony Brook University ("UNIVERSITY"), and _____, a corporation organized and existing under the laws of the State of _____, with its principal office located at _____, ("SPONSOR"). FOUNDATION and SPONSOR may be referenced herein independently as "Party" or jointly as "Parties".

WITNESSETH:

WHEREAS, SPONSOR and FOUNDATION have a mutual interest in promoting research related to _____, hereinafter referred to as the "FIELD;" and

WHEREAS, FOUNDATION and/or UNIVERSITY has developed expertise relating to the FIELD; and

WHEREAS, the project contemplated by this RESEARCH AGREEMENT is of mutual interest and benefit to FOUNDATION and SPONSOR, will further the instructional and research objectives of The State University of New York at Stony Brook in a manner consistent with the FOUNDATION'S status as a nonprofit, tax-exempt, educational institution, and may provide benefits for both FOUNDATION and SPONSOR through inventions, improvements, and/or discoveries,

WHEREAS, SPONSOR has approved funding to support a research project entitled " _____," hereinafter referred to as the "PROJECT"

NOW, THEREFORE in consideration of the premises and the mutual covenants hereinafter contained, the parties agree as follows:

DEFINITIONS:

COMMERCIAL PURPOSE: The sale, lease, license, or other transfer of the Research Results, Prototypes, and Project Materials to another organization. COMMERCIAL PURPOSE(s) shall also include uses of the Research Results, Prototypes, and Project Materials by any organization, including SPONSOR, to perform contract research, to screen and/or test compound libraries, to produce or manufacture products for general sale, or to conduct research activities that result in

any sale, lease, license, or transfer of the Research Results, Prototypes, and Project Materials to a for-profit organization.

FOUNDATION PRINCIPAL INVESTIGATOR: an employee of UNIVERSITY or FOUNDATION appointed by the FOUNDATION to supervise and direct the PROJECT.

ORIGINAL MATERIAL: [Enter technology R# or corporate identifier and description when material is being sent under this.]

MATERIAL: ORIGINAL MATERIAL, PROGENY, and UNMODIFIED DERIVATIVES. The MATERIAL shall not include: (a) MODIFICATIONS, or (b) other substances created by the Party that receiving MATERIAL under this RESEARCH AGREEMENT through the use of the MATERIAL which are not MODIFICATIONS, PROGENY, or UNMODIFIED DERIVATIVES.

PROGENY: Unmodified descendant from the MATERIAL, such as virus from virus, cell from cell, or organism from organism.

UNMODIFIED DERIVATIVES: Substances created by the Party receiving MATERIAL under this RESEARCH AGREEMENT which constitute an unmodified functional subunit or product expressed by the ORIGINAL MATERIAL. Some examples include: subclones of unmodified cell lines, purified or fractionated subsets of the ORIGINAL MATERIAL, proteins expressed by DNA/RNA supplied by the PROVIDER, or monoclonal antibodies secreted by a hybridoma cell line.

MODIFICATIONS: Substances created by a receiving Party which contain/incorporate the MATERIAL.

PROJECT MATERIALS: shall mean MODIFICATIONS, UNMODIFIED DERIVATIVES or new materials that are discovered or developed during the course of performance of the PROJECT.

PROTOTYPES: shall mean tangible materials including, but not limited to software or devices that are created, designed or engineered during the course of performance of the PROJECT.

RAW DATA: shall mean laboratory books, scientific reports research notes, charts, graphs, comments, computations, recordings and photographs developed explicitly within the scope and during the course of performance of the PROJECT. Raw Data is the property of The State University of New York at Stony Brook.

RESEARCH RESULTS: shall mean all data excluding Raw Data, deliverables and technical information explicitly required by EXHIBIT A.

REPORT: means the written report of the PROJECT and the Research Results (providing a summary of the Research Results and plans) to be submitted by the FOUNDATION PRINCIPAL INVESTIGATOR to SPONSOR in accordance with Clause 5.

INVENTION: means any form of intellectual property, discovery, improvements, and know-how (whether patentable or not) based on the Research Results and/or Project Materials and/or Prototypes discovered, developed or conceived during the term of this Agreement by employees of a Party or the Parties to this Agreement.

1. Scope of Research

The FOUNDATION agrees to use reasonable efforts to conduct and carry out the PROJECT described in the scope of work, which is set forth in EXHIBIT A attached hereto. SPONSOR and FOUNDATION may at any time amend the PROJECT. However, any amendment shall not be binding upon the Parties unless by mutual written agreement signed by authorized representatives of the Parties.

2. Key Personnel

The FOUNDATION PRINCIPAL INVESTIGATOR for this PROJECT is _____. The SPONSOR's Technical Contact for this PROJECT is _____. If for any reason the FOUNDATION PRINCIPAL INVESTIGATOR is unable or unwilling to continue the PROJECT and/or the responsibilities required to carry out the performance of their duties under this RESEARCH AGREEMENT, the Parties shall negotiate the continuance of the PROJECT and/or this RESEARCH AGREEMENT in good faith. However, if another PRINCIPAL INVESTIGATOR cannot be agreed upon, either Party may terminate this RESEARCH AGREEMENT in accordance with Article 4 by giving written notice to the other Party of such termination.

3. Term

This RESEARCH AGREEMENT shall commence on _____ (“Commencement Date”) and shall continue through _____ (“Termination Date”), unless terminated sooner or extended by mutual written agreement of the parties hereto in accordance with provisions set forth in this RESEARCH AGREEMENT.

4. Termination

a) Either SPONSOR or FOUNDATION may terminate this RESEARCH AGREEMENT at any time by giving thirty (30) days written notice of termination to the other Party. The thirty (30) day notice period shall commence on the date of receipt of the notice by the receiving Party.

b) In the event that either Party commits any breach or default in any terms or conditions of this RESEARCH AGREEMENT, and also fails to cure such breach or default within thirty (30) days after receipt of written notice thereof, the non-breaching Party may, at its option and in addition to any other remedies which it may have in law or equity, terminate this RESEARCH AGREEMENT by sending a notice of termination in writing to the other Party to such effect. Termination shall be effective as of the date of receipt of such notice by the receiving Party.

c) FOUNDATION may, at its option, terminate this RESEARCH AGREEMENT effective immediately upon notice to the other Party if: i) SPONSOR has been declared insolvent, ceases or threatens to cease to carry on its business, or an administrator or receiver has been appointed over all or part of its assets; or ii) SPONSOR fails to comply with any payment obligation provided in Article 6 of this RESEARCH AGREEMENT.

d) Upon notification that this RESEARCH AGREEMENT has been terminated as provided above, the FOUNDATION shall immediately stop all work under this RESEARCH AGREEMENT on the date of receipt of said notice or to the extent specified in the written notice

of termination. SPONSOR agrees to pay all costs and non-cancellable commitments incurred by FOUNDATION during the course of performance of the PROJECT through the date of termination. Non-cancellable commitments shall include but are not limited to, personnel salary and benefits, and tuition costs for graduate research assistants employed under the PROJECT through the end of the semester during which notice of termination is made.

e) Any notice of termination shall be delivered to the non-terminating Party's administrative contact with a copy to the technical contact as identified in EXHIBIT C of this RESEARCH AGREEMENT.

5. Reports and Meetings

a) During the term of this RESEARCH AGREEMENT, FOUNDATION shall provide Reports to SPONSOR as specified in EXHIBIT A.

b) During the term of this RESEARCH AGREEMENT, FOUNDATION's PRINCIPAL INVESTIGATOR or other assigned representatives, and representatives of the SPONSOR shall communicate or will have the option to meet during the times and places specified in EXHIBIT A, to discuss the progress and results of, as well and any plans or modifications of the PROJECT.

6. Compensation

a) In consideration of FOUNDATION's performance pursuant to this RESEARCH AGREEMENT, SPONSOR shall make fixed payments in the total amount of _____ US DOLLARS. This amount shall be paid to FOUNDATION within forty-five (45) days of submission of invoices according to the following schedule:

_____ - on execution of this Agreement

_____ -

Payment shall be made by check or wire as follows:

By check: The Research Foundation for The SUNY
P.O. Box 9
Albany, NY 12201-0009
Attn: Cash Receipts Department

By wire: Key Bank of New York
66 Pearl Street
Albany, NY 12207-1501
Routing No: ABA-0213-00077; Account No: 10970107

b) The FOUNDATION shall retain title to all equipment, material, and supplies purchased and/or fabricated by it or the UNIVERSITY with funds provided by SPONSOR under this RESEARCH AGREEMENT. Such title shall remain with the FOUNDATION even if said equipment, material, and supplies are located in other than FOUNDATION or UNIVERSITY facilities.

c) An interest penalty of 1.5% per month will be added to the total invoice amount of payment if not received within forty-five (45) days of the invoice date.

[Alternate language to be used as negotiation only- COST REIMBURSABLE]

a) *In consideration of research services to be performed pursuant to this RESEARCH AGREEMENT, SPONSOR shall make payments to FOUNDATION in an amount not to exceed \$ _____ US Dollars. FOUNDATION shall spend these funds in general accordance with the budget provided in EXHIBIT B, which is attached to and made an integral part of this RESEARCH AGREEMENT. FOUNDATION may deviate from the budget consistent with PROJECT needs to complete the scope of work outlined in EXHIBIT A, provided that any budget deviations do not increase the total dollar amount to be paid by SPONSOR.*

b) *FOUNDATION will submit monthly to the SPONSOR's financial contact listed in Exhibit C an invoice of costs incurred by the FOUNDATION in the performance of this RESEARCH AGREEMENT and claimed to constitute allowable costs. Within forty-five (45) days after receipt of each invoice, SPONSOR shall make payment thereon.*

c) *An interest penalty of 1.5% per month will be added to the total invoice amount of payment if not received within forty-five (45) days of the invoice date.*

7. Proprietary Information

The Parties acknowledge that they may possess certain Proprietary Information which may be utilized in performance of the PROJECT. "PROPRIETARY INFORMATION" shall mean any information disclosed either directly or indirectly, in writing, orally or by inspection of tangible objects (including without limitation documents, software, prototypes, samples, plant and equipment) which is indicated as being Proprietary at the time of disclosure, or by circumstances that would alert a reasonable recipient that the information disclosed is of a Proprietary nature. For the avoidance of doubt, any and all software, manuals and documentation, code, screen interfaces, business models and plans for use of the software, features shall be considered PROPRIETARY INFORMATION. PROPRIETARY INFORMATION may also include information disclosed to the disclosing Party by third parties, and conveyed to the receiving Party.

PROPRIETARY INFORMATION shall not, however, include any information presented in substantially complete form which (i) was publicly known and made generally available in the public domain prior to the time of disclosure by the disclosing Party; (ii) becomes publicly known and made generally available after disclosure by the disclosing Party to the receiving Party through no action or inaction of the receiving Party; (iii) is already in the possession of the receiving Party without obligations of Proprietaryity to any third party at the time of disclosure by the disclosing Party; (iv) is obtained by the receiving Party from a third party without a breach of such third party's obligations of Proprietaryity; (v) is or has been independently developed by the receiving Party without use of or reference to the disclosing Party's PROPRIETARY INFORMATION, as evidenced by receiving Party's contemporaneous books and written records; or (vi) is required by law to be disclosed by the receiving Party, provided that the receiving Party gives the disclosing Party prompt written notice of such requirement prior to any such disclosure, and provides full assistance in obtaining an order protecting the information from public disclosure as a result of any such requirement.

PROPRIETARY INFORMATION will only be disclosed to the employees, agents, consultants and students (if applicable) who require the same to fulfill the purposes of the PROJECT. No

disclosure of PROPRIETARY INFORMATION to a third party shall be made without prior written consent of the disclosing Party. The receiving Party shall protect the disclosing Party's PROPRIETARY INFORMATION with the same standard of care with which the receiving Party treats its own PROPRIETARY INFORMATION of a similar nature. PROPRIETARY INFORMATION shall be used by the receiving Party only for the purposes permitted under this RESEARCH AGREEMENT. The receiving Party receives no commercial grant of rights to the PROPRIETARY INFORMATION of the disclosing Party.

Each Party shall, for a period of three (3) years after the termination of this RESEARCH AGREEMENT, maintain the same level of care to prevent the disclosure of a Party's PROPRIETARY INFORMATION, unless otherwise required by law.

(NOTE: if there is a Non-Disclosure Agreement in place, the following language should be used in place of above:

The conditions of the existing Non-Disclosure Agreement signed by both Parties on (date) and attached hereto as EXHIBIT D apply.

8. Research Results, Project Materials, Prototypes & Inventions

a) Rights in Research Results, Prototypes and Project Materials. FOUNDATION shall own right, title and interest in and have the right to protect, publish, disclose, disseminate and use, in whole or in part, all Research Results, Prototypes and Project Materials obtained or developed by FOUNDATION or UNIVERSITY personnel.

b) Use of Research Results, Prototypes, and Project Materials. SPONSOR may use Research Results, Prototypes, and Project Materials for internal research only. For the avoidance of doubt SPONSOR may not use Research Results, Prototypes, and Project Materials for any COMMERCIAL PURPOSE.

c) Inventions and Intellectual Property. FOUNDATION and SPONSOR shall cooperate fully in the preparation, filing, prosecution, and maintenance of intellectual property rights in any patentable Inventions or other form of protectable intellectual property, including but not limited to copyright, trade secret or trademark and agree as follows:

(i) Foundation Inventions: shall be defined as any Invention developed solely by UNIVERSITY AND/OR FOUNDATION personnel pursuant the Patents and Inventions Policy of State University of New York and/or any Invention made using UNIVERSITY and/or FOUNDATION facilities exclusively. FOUNDATION shall hold all right, title, and interest in Foundation Inventions. FOUNDATION shall control the preparation, filing, prosecution, and maintenance of all United States and foreign patent applications, trademarks or copyrights encompassing Foundation Inventions.

(ii) Sponsor Inventions: shall be defined as any Invention developed solely by SPONSOR personnel using SPONSOR facilities exclusively who are legally obligated to assign rights in inventions to SPONSOR and who are not otherwise legally obligated to assign rights in inventions to FOUNDATION pursuant to Patents and Inventions Policy of State University of New York. SPONSOR shall hold right, title, and interest, in Sponsor Inventions.

(iii) Joint Inventions: shall be defined as any Invention developed by both SPONSOR personnel and UNIVERSITY/FOUNDATION personnel developed under this Agreement. Joint Inventions shall be owned jointly. FOUNDATION shall control the preparation, filing, prosecution, and maintenance of all United States and foreign patent applications, trademarks or copyrights encompassing Joint Inventions. SPONSOR shall reimburse FOUNDATION for all reasonable patent expenses.

FOUNDATION shall notify SPONSOR in writing within Sixty (60) days of receipt of a formal invention disclosure covering a Foundation Invention or Joint Invention by UNIVERSITY's Office of Technology Licensing and Industry Relations (herein after "OTLIR"). SPONSOR shall notify FOUNDATION in writing within thirty (30) days of receipt of a formal invention disclosure covering Joint Invention received by SPONSOR's equivalent office.

This obligation of FOUNDATION extends solely to subject matter described in subsections "(i)" and "(iii)" above that FOUNDATION's OTLIR actually becomes aware of through either (a) a written disclosure made to OTLIR pursuant to FOUNDATION's established policies, or (b) an inquiry or other communication from SPONSOR concerning such subject matter, only when FOUNDATION is free to disclose to SPONSOR without breach of a contractual obligation of FOUNDATION to a third party.

d) Sponsor Background Intellectual Property (hereinafter "BIP") shall be defined as intellectual property developed independently or owned by the SPONSOR prior to, or independent of, this RESEARCH AGREEMENT. BIP shall include inventions, patent applications, patents, copyrights, trademarks, mask works, trade secrets and any information embodying proprietary data such as technical data and computer software. SPONSOR grants to FOUNDATION and UNIVERSITY a non-exclusive, non-commercial research license to use any BIP required for performance of FOUNDATION'S duties under this RESEARCH AGREEMENT.

(additional language if applicable)

Foundation Background Intellectual Property (hereinafter "FBIP") shall be defined as intellectual property developed by or owned by FOUNDATION or UNIVERSITY prior to, or independent of, this RESEARCH AGREEMENT, including Inventions, patent applications, patents, copyrights, trademarks, mask works, trade secrets and any information embodying proprietary data such as technical data, prototype and computer software which is known to the official signing this RESEARCH AGREEMENT on behalf of FOUNDATION. To the extent such license is available, FOUNDATION grants to SPONSOR a non-exclusive, non-commercial research license to use any FBIP required strictly for performance of the Project.

e) Option to License: FOUNDATION hereby grants to SPONSOR a ninety (90) day option to acquire a royalty-bearing license to Foundation Inventions or Joint Inventions. This ninety (90) day option period shall commence on the date of disclosure of said Invention(s) to SPONSOR by FOUNDATION. Should SPONSOR exercise its option under this paragraph, the parties shall negotiate a mutually acceptable license agreement. The option granted to SPONSOR hereunder may be subject to overriding obligations to the United States government as set forth in Public Law 96-517 (35 U.S.C. 200-204) or 15 U.S.C. § 3710a, as amended, or any similar obligations to a Governmental Authority under the laws of any state or country.

f) Third Party Rights: The Parties shall disclose any third party rights in the BIP or FBIP known at the time of execution of this RESEARCH AGREEMENT, including but not limited to, federal,

private or individual claims that impact the ownership of data or inventions arising from or used as background for performance of the PROJECT under this RESEARCH AGREEMENT.

g) Neither Party shall invoke the CREATE ACT with respect to any invention that is developed pursuant to this RESEARCH AGREEMENT without prior written consent to the other Party, such consent to include specific reference to the invention for which the benefits of the CREATE ACT are claimed.

9. WARRANTY AND LIABILITY

a) EXCEPT AS OTHERWISE EXPRESSLY SET FORTH HEREIN, FOUNDATION MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND VALIDITY OF INVENTIONS, RESEARCH RESULTS, PROTOTYPES, PROJECT MATERIALS, REPORTS OR ANY OTHER MATERIAL PROVIDED UNDER THIS RESEARCH AGREEMENT. ALL INVENTIONS, RESEARCH RESULTS, PROTOTYPES, PROJECT MATERIALS, REPORTS OR ANY OTHER MATERIAL PROVIDED BY FOUNDATION UNDER THIS RESEARCH AGREEMENT ARE PROVIDED “AS-IS”.

b) NO WARRANTY OR REPRESENTATION IS MADE THAT ANYTHING MADE, USED, SOLD, OR COMMERCIALY TRANSFERRED, UNDER THE TERMS OF THIS LICENSE, WILL BE FREE FROM INFRINGEMENT OF ANY THIRD PARTY INTELLECTUAL PROPERTY RIGHTS.

c) NOTHING IN THIS RESEARCH AGREEMENT, EITHER EXPRESS OR IMPLIED, OBLIGATES FOUNDATION EITHER TO BRING OR TO PROSECUTE ACTIONS OR SUITS AGAINST THIRD PARTIES FOR PATENT INFRINGEMENT OR ENFORCEMENT OF RIGHTS OR TO FURNISH ANY INTELLECTUAL PROPERTY, INFORMATION OR MATERIALS NOT EXPLICITLY PROVIDED FOR UNDER THIS RESEARCH AGREEMENT.

d) IN NO EVENT WILL FOUNDATION BE LIABLE FOR ANY INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES RESULTING FROM THE PERFORMANCE OF THIS RESEARCH AGREEMENT OR THE USE OF THE INVENTIONS, RESEARCH RESULTS, PROTOTYPES, PROJECT MATERIALS, REPORTS OR ANY OTHER MATERIAL PROVIDED UNDER THIS RESEARCH AGREEMENT INCLUDING, WITHOUT LIMITATION, FOR LOST PROFITS, LOST DATA, OR DOWNTIME, WHETHER OR NOT FOUNDATION HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

e) IN NO EVENT WILL FOUNDATION’S AGGREGATE LIABILITY TO LICENSEE OR ANY THIRD PARTY FOR ANY CLAIMS, LOSSES, INJURIES, SUITS, DEMANDS, JUDGMENTS, LIABILITIES, COSTS, EXPENSES, OR DAMAGES, FOR ANY CAUSE WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, THOSE ARISING OUT OF OR RELATED TO THIS RESEARCH AGREEMENT), AND REGARDLESS OF THE FORM OF ACTION OR LEGAL THEORY, EXCEED THE FEES RECEIVED BY FOUNDATION FROM SPONSOR PURSUANT TO THIS RESEARCH AGREEMENT. LIMITATIONS OF LIABILITY REFLECT THE ALLOCATION OF RISK BETWEEN THE PARTIES. THE

LIMITATIONS SPECIFIED IN THIS ARTICLE 9 WILL SURVIVE AND APPLY EVEN IF ANY LIMITED REMEDY SPECIFIED IN THIS RESEARCH AGREEMENT IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

f) THIS RESEARCH AGREEMENT DOES NOT CONFER BY IMPLICATION, ESTOPPEL, OR OTHERWISE ANY LICENSE OR RIGHTS TO ANY OTHER FOUNDATION PROPERTY OTHER THAN THOSE RIGHTS EXPRESSLY STATED HEREIN.

10. Publications

The FOUNDATION shall have the right to publish or otherwise disclose information gained in the course of the PROJECT conducted under this RESEARCH AGREEMENT. FOUNDATION shall provide SPONSOR with a copy of any proposed manuscript or oral presentation for review and comment at least sixty (60) days prior to planned submission for publication. SPONSOR shall notify FOUNDATION within thirty (30) days of receipt of such material whether they contain SPONSOR'S PROPRIETARY INFORMATION as described in Section 7. If FOUNDATION does not receive a written response from SPONSOR within thirty (30) days from date FOUNDATION sent proposed manuscript or oral presentation, FOUNDATION may proceed with publication and/or release of information as proposed. SPONSOR may require an additional thirty (30) day delay in publication in order to coordinate the filing of any invention disclosures with FOUNDATION. In no event shall this delay exceed a total of sixty (60) days without mutual written agreement by both Parties. Subject to its obligation not to disclose SPONSOR'S PROPRIETARY INFORMATION, FOUNDATION shall have the final authority to determine the scope and content of any publications.

11. Export Controls

This RESEARCH AGREEMENT shall be subject to all applicable government export and import laws and regulations. The Parties agree to comply and reasonably assist the other Party, upon request by that Party, in complying with all applicable government export and import laws and regulations. The Parties acknowledge that they may not directly or indirectly export, re-export, distribute or transfer any information of any value to any nation, individual, or entity that is prohibited or restricted by the International Traffic in Arms Regulation (ITAR), the Export Administration Regulations (EAR), the Office of Foreign Assets Controls (OFAC), the United States Department of State's State Sponsors of Terrorism, or by any other United States government agency without first obtaining the appropriate license.

SPONSOR confirms that any information it discloses does not contain export controlled technology or technical data identified on any US export control list, including but not limited to the Commerce Control List (CCL) at 15 CFR 774 and the US Munitions List (USML) at 22 CFR 121. In the event SPONSOR intends to provide FOUNDATION PRINCIPAL INVESTIGATOR with export controlled information, SPONSOR will inform FOUNDATION'S Export Controls Administrator, as identified in Section 16, in writing thirty (30) days prior to the release of export controlled technology or technical data. SPONSOR agrees not to provide any export controlled information to FOUNDATION'S PRINCIPAL INVESTIGATOR, or others at FOUNDATION without the written agreement of FOUNDATION'S Export Controls Administrator.

12. Indemnification

SPONSOR agrees to indemnify, defend, and hold harmless FOUNDATION and its trustees, officers, staff, employees, students, and agents and their respective successors, heirs, and assigns (the "Indemnified Parties"), against any liability, damage, loss, or expense (including reasonable attorneys' fees and expenses of litigation) incurred by or imposed upon the Indemnified Parties or any one of them in connection with any third party claims, suits, actions, demands, or judgments arising out of (i) the use or misuse of the research or any Inventions, Research Results, Prototypes, Project Materials, Reports or products, whether tangible or intangible, conceived, discovered or developed under this RESEARCH AGREEMENT or (ii) arising out of any other activities to be carried out by or on behalf of SPONSOR pursuant to this RESEARCH AGREEMENT.

13. Insurance

FOUNDATION shall, at its own expense, maintain insurance of the types and in the amounts specified below.

- a) Workers' Compensation (including occupational disease) and Employer's Liability: Statutory New York State Limits. Employers' Liability minimum limit of \$1,000,000;
- b) Disability Benefit Insurance as mandated by State law;
- c) Commercial General Liability: Bodily injury, Personal Injury, and Property Damage with minimum limit of \$2,000,000 per occurrence and \$5,000,000 aggregate. Limit may be provided through a combination of primary and umbrella/excess liability policies;
- d) Auto Liability (if applicable): \$2,000,000 combined single limit Bodily Injury/Property Damage per each accident (including owned, hired, leased and non-owned autos);

This insurance shall be written by a company licensed to do business in New York State with a minimum A.M. Best rating of A-IX. SPONSOR waives all rights of subrogation to the extent damages are covered by the above described policies.

14. Dispute Resolution

SPONSOR and FOUNDATION shall attempt to resolve any dispute as follows:

- a) In good faith by direct, Proprietary and informal negotiations.
- b) If the Parties are unable to resolve the dispute informally, they may consent to mediation upon mutual agreement.
- c) Notwithstanding the above, either Party may pursue litigation in any court of competent jurisdiction in New York State.

15. Assignment

Neither Party may assign or otherwise transfer this RESEARCH AGREEMENT and the rights acquired hereunder without the written consent of the other Party; this consent shall not be

unreasonably withheld. Any assignment or transfer shall be void unless the assignee agrees in writing to be bound by the terms and conditions of this RESEARCH AGREEMENT.

16. Notices

All notices, demands, and other communications hereunder, with the exception of technical information, shall be sent by U.S. First Class Mail, return receipt requested, or via overnight delivery. Notice will be deemed acceptable if sent via electronic mail (e-mail) if followed by formal written notice in accordance with this Section. Said notices shall be delivered to the appropriate financial, administrative and/or technical party(ies) as identified in Exhibit C, unless notice of change of address is provided in writing to the other.

Exchanges of export controlled information as per Article 11 shall be delivered to:

Any notices, demands, and other communications so mailed shall be deemed to have been received by the addressee seven (7) days after the time and date of its being so mailed.

17. Status of Parties

The relationship of the Parties shall be that of principal and independent contractor and not of an employer-employee relationship.

This RESEARCH AGREEMENT shall not be construed to contain any authority, either express or implied, enabling FOUNDATION to incur any expense or perform any act on behalf of SPONSOR without express written consent.

18. Binding Effect

This RESEARCH AGREEMENT shall be binding upon and inure to the benefit of the Parties hereto and their respective successors or assigns.

19. Governing Law

This RESEARCH AGREEMENT will be construed, governed, interpreted and applied in accordance with the laws of the State of New York, without regard to conflict of law provisions, except that questions affecting the construction and effect of any patent will be determined by the law of the country in which the patent was granted. This RESEARCH AGREEMENT shall be deemed to have been executed in the State of New York. The Parties consent to the exclusive personal jurisdiction of the state and federal courts of the State of New York.

20. Modifications

This RESEARCH AGREEMENT may not be changed, amended, modified or extended unless in writing and duly signed by the Parties hereto.

21. Severability

In the event any provisions of this RESEARCH AGREEMENT are determined to be invalid or unenforceable under any controlling body of law, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining provisions hereof.

22. Use of Name

The Parties agree not to use the name and any logotypes or symbols of the other Party in any advertising, sales promotion, or other publicity matter without the prior written approval of the other Party. However, this provision is not intended to restrict either Party from disclosing the existence and nature of this RESEARCH AGREEMENT, or from including its existence in the routine reporting of the Party's activities.

23. Compliance

The Parties agree that in completing their obligations under this RESEARCH AGREEMENT they will comply with all applicable laws and regulations.

24. Survival

In the event of termination of this RESEARCH AGREEMENT for any reason, the following sections shall survive termination: 7, 8, 9, 10, 11, 12, 14, 15, 16, 18, 19, and 22.

25. Entire Agreement

This RESEARCH AGREEMENT represents the entire agreement and understanding of the parties hereto. No prior writings, conversations, or representations of any nature shall be deemed to vary the provisions of this RESEARCH AGREEMENT.

26. Order of Precedence

In the event of any inconsistency between clauses 1-25 of this RESEARCH AGREEMENT, and the attached exhibits, the inconsistency should be resolved by giving precedence to clauses 1-25.

IN WITNESS WHEREOF, the parties hereto have executed this RESEARCH AGREEMENT the day and year last written below.

**THE RESEARCH FOUNDATION FOR
THE STATE UNIVERSITY OF NEW YORK**

SPONSOR

By: _____

By: _____

Title

Title

Date: _____

Date: _____

I have read this RESEARCH AGREEMENT and understand my obligations hereunder:

Signed: _____

Principal Investigator: _____ Date: _____

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EXHIBIT A

SCOPE OF WORK

- A. Scope of Work.** *Describe the actual work to be accomplished*
- B. Facilities and Equipment.** *Provide a brief description of the facilities and equipment currently available to support the research collaboration.*
- C. Deliverable(s) and Deadlines.** *Provide a clear statement of the data, information, maps, samples, services, etc. to be obtained and delivered to the SPONSOR, including a deadline for each deliverable (if applicable).*
- D. Reporting Requirements and Deadlines.**
- E. Meetings.** *Identify the dates, times and places that representatives of the FOUNDATION and representatives of the SPONSOR shall meet to discuss the progress and results of, as well and any plans or modifications of the PROJECT.*

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EXHIBIT B
BUDGET

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EXHIBIT C

PROJECT CONTACTS

FOUNDATION	SPONSOR
<p><i>Administrative Contact</i></p> <p>Name: Address:</p> <p>Telephone: Fax: Email:</p>	<p><i>Administrative Contact</i></p> <p>Name: Address:</p> <p>Telephone: Fax: Email:</p>
<p><i>Principal Investigator</i></p> <p>Name: Address:</p> <p>Telephone: Fax: Email:</p>	<p><i>Technical Contact</i></p> <p>Name: Address:</p> <p>Telephone: Fax: Email:</p>
<p><i>Financial Contact</i></p> <p>Name: Address:</p> <p>Telephone: Fax: Email:</p>	<p><i>Financial Contact</i></p> <p>Name: Address:</p> <p>Telephone: Fax: Email:</p>
<p><i>Authorized Official</i></p> <p>Name: Address:</p> <p>Telephone: Fax: Email:</p>	<p><i>Authorized Official</i></p> <p>Name: Address:</p> <p>Telephone: Fax: Email:</p>

EXHIBIT D

NDA (if applicable)

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