

**Master Research and Development Agreement**

This Master Research and Development Agreement (“Agreement”) is entered into effective as of (“Effective Date”), by and between \_\_\_\_\_, a \_\_\_\_\_ located \_\_\_\_\_ (“Sponsor”) and The Board of Governors of the Colorado State CSU System, acting by and through Colorado State University, an institution of higher education of the State of Colorado, located at Fort Collins, Colorado, 80523-2002 (“CSU”).

WHEREAS, CSU is a comprehensive, land-grant University with experience and resources in fields of mutual interest between CSU and Sponsor; and

WHEREAS Sponsor desires a research relationship with CSU; and

WHEREAS such a relationship is consistent, compatible and beneficial to the role and mission of CSU and the mission and purpose of Sponsor.

Now therefore, in consideration of the above and the mutual promises contained herein, the Parties agree as follows:

1. **Scope of Work.** The University shall furnish the necessary personnel, materials, equipment and facilities, and otherwise perform all things necessary for or incident to the performance of specific projects as agreed upon from time to time by execution of individual Task Orders, substantially in the form attached hereto as Schedule I.

The University agrees to conduct and/or cooperate with Sponsor using best efforts for such research as is agreed upon in each executed Task Order. Each Task Order will include: (1) a description of the Sponsor-funded research activities to be performed by the University independently and/or in cooperation with Sponsor, further described in Exhibit “A” to the Task Order; (2) the project period for the Task Order; and (3) the payment terms. Unless explicitly stated otherwise within the Task Order, each provision of this Agreement shall be incorporated into the subject Task Order by reference. In the event of any conflict between the terms of this Agreement and the Task Order, the terms of this Agreement shall take precedence.

2. **Principal Investigator.** The representative of University who will be responsible for conducting or supervising the research described and ensuring compliance with the terms of each Task Order will be the “Principal Investigator” or “PI” designated in each individual Task Order. The University contacts for programmatic issues to this Agreement shall be:

Program Contact:

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

Further, the parties agree that all of the PI’s research activities under this Agreement and all research activities in which the PI shall be deemed to have been undertaken as an employee of the University for purposes of applying the provisions of Paragraph 8 regarding IP (as defined therein).

3. **Term.** This Agreement shall become effective on the Effective Date set forth above, and shall remain in effect for a period of five (5) years unless sooner terminated as provided in Paragraph 14. This

Agreement may only be extended by mutual written agreement of the Parties. If any Task Order, initiated prior to the end date of this Agreement, extends beyond the end date of this Agreement, the Task Order(s) will remain in full force and effect including the terms of this Agreement until such Task Orders is completed.

4. **Payment.** Payment terms will be designated as fixed price or cost reimbursable in each Task Order and Task Order amendment which contains changes in funding or the term of the Task Order.

If any Task Order is fixed price, the fixed price not-to-exceed amount is the total value of the Task Order to be paid by Sponsor. Sponsor acknowledges that the University's payment policy is 50% at signature, 40% at the half-term milestone and 10% with the presentation of the final report for fixed price Task Orders.

If any Task Order is cost reimbursable, the total not-to-exceed value of the Task Order set forth in that Task Order shall be the maximum amount reimbursable to the University based on actual University costs, both direct and indirect, using best efforts to complete the Scope of Work. An itemized budget will be provided as Exhibit B to that Task Order. The University reserves the right to re-budget between budget categories consistent with the terms of the Agreement and within the Scope of Work. The University will invoice Sponsor monthly for actual costs incurred.

5. **Reporting Requirements.** The University will provide reports on the progress of the research as outlined in each Task Order.

6. **Confidentiality.** It may be necessary for either party, as the "Disclosing Party", to disclose proprietary information to the other party (the "Recipient") in order to facilitate the performance of the work described in each Task Order. At the time of disclosure, the Disclosing Party must declare in writing which information is proprietary. Proprietary information does not include information that: a) at the time of disclosure or subsequent to that time is generally available to the public; b) is known by the Recipient at the time of disclosure and substantiated in written documents; or, c) is made known to the Recipient by a third party not connected with the Disclosing Party. Except as may be required by law, the Recipient agrees to use its best efforts: a) to maintain the confidentiality of the information; b) not to use the information for any purposes other than contained in the scope of work defined in this Agreement; and, c) not to disclose the information to anyone other than those directly involved with this Agreement.

7. **Publication.**

- a. The University, as a state institution of higher education, engages only in research that is compatible, consistent, and beneficial to its academic role and mission. Therefore, significant results of research activities must be reasonably available for publication. The parties acknowledge that the University shall have the right to publish results. The University agrees, however, that during the term of this Agreement and for 6 months thereafter, the Sponsor shall have 45 days to review and comment on any proposed publication of research data, information and results arising from work under this Agreement. The University agrees that any proprietary information supplied to it by the Sponsor during the course of research performed by the University will not be included in any published material without prior approval by the Sponsor, which approval will be wholly within Sponsor's discretion.

- b. The Sponsor will not include the name of Colorado State University in any advertising, sales promotion, or other publicity matter without the prior written approval of the University Vice President for Research.
8. **Intellectual Property.** “Intellectual Property” as used herein shall mean all discoveries, inventions, methodologies, improvements, software, writings and copyrightable works conceived, made, discovered, written, and first reduced to practice in performance of the research under this Agreement (“IP”).
- (a) IP shall be owned as follows:
    - (i) IP created solely by one or more persons who are employees of CSU (“CSU IP”) shall be owned by Colorado State CSU, subject to the rights of its inventors in accordance with the policies of CSU. CSU may, at any time and without notice, assign or convey any or all of its rights in CSU IP (and in JOINT IP under subsection (c) below) to the Colorado State CSU Research Foundation (CSURF), which shall act as CSU’s patent and technology transfer agent. With the exception of student thesis and dissertation copyrights, Sponsor will be provided a non-exclusive, unrestricted, perpetual, royalty-free license to use such CSU IP, for any purpose, but without the right to sublicense, provided that Sponsor shall pay all costs incurred in the course of obtaining patent or other intellectual property protection on behalf of CSU and/or CSURF for such IP and will consult with CSU and/or CSURF on all CSU IP issues and applications.
    - (ii) IP created solely by one or more persons who are employees of Sponsor (“SPONSOR IP”) shall be owned by Sponsor, subject to policies of Sponsor; provided, CSU shall retain a non-exclusive, perpetual, royalty-free license, without the right to sublicense, to use such SPONSOR IP for its own internal academic, research, and publication purposes, subject to the publication provisions of Section 7 above.
    - (iii) IP jointly created by one or more employees of CSU and one or more employees of Sponsor (“JOINT IP”) shall be jointly owned by CSU and Sponsor. Sponsor shall pay all costs incurred in the course of obtaining patent or other intellectual property protection, and will consult CSU with regard to filing of patent and copyright registration for all JOINT IP. Each party is free to enjoy its undivided interests in JOINT IP. Sponsor is not obligated to pay for JOINT IP protection; however, if Sponsor decides not to pay for specific JOINT IP patent or other intellectual property protection pursuant to this Section 8(a)iii, Sponsor shall fully assign in writing all of its right, title and interests in such specific JOINT IP to CSU, and shall have no continuing commercialization rights to such specific JOINT IP whatsoever.
  - (b) Each party shall require its employees to promptly disclose to its respective technology transfer office any IP. Each party agrees to provide the other party with a copy of each IP disclosure within thirty (30) days after the disclosure is made, and in addition, will provide the other party with a written listing of all IP created pursuant to this Agreement within sixty (60) days from the expiration or termination of this Agreement or any Task Order whichever comes first. For all such IP identified, CSURF will provide, upon agreement by Sponsor to its payment of patent costs to CSURF, via separate written agreement(s), licenses to CSU IP and JOINT IP according to the provisions of Section 8(a)(i) and 8(a)(iii) above. Each party will consult with the

other party at least thirty (30) days prior to filing any patent or copyright application for IP and shall promptly notify the other of any patents or copyright registrations issued.

(c) Intellectual property created external to the Project (“EXTERNAL IP”) will be owned by the originating party. Nothing in this Agreement will be construed as any conferral of rights to any of the parties regarding such EXTERNAL IP. Nothing contained herein is to be construed as permission, a recommendation or an inducement to use or practice any product, process, equipment or formulation that may infringe upon any other intellectual property rights without the prior written permission of the intellectual property owner.

(d) CSU does not make any representation or warranty, express or implied, that the use of CSU IP and/or JOINT IP will not infringe any patent or other intellectual property rights.

9. **Equipment.** All equipment purchased with funds provided under this Agreement for use in connection with this Agreement shall be the property of the University, and shall be dedicated first to providing research under this Agreement while this Agreement is in effect.

10. **Liability; Insurance.** Each party hereto agrees to be responsible for its own wrongful or negligent acts or omissions, or those of its officers, agents, or employees to the full extent permitted by law. Liability of the University is at all times herein strictly limited and controlled by the provisions of the Colorado Governmental Immunity Act, C.R.S. §24-10-101, *et seq.* (the “Act”), as now in effect or hereafter amended, Nothing in this Agreement shall be construed as a waiver of the protection of the Act. Each party represents and warrants that it maintains comprehensive general liability insurance and all coverages required by law sufficient for the purpose of carrying out the duties and obligations arising under this Agreement. A party will furnish the other party with a certificate evidencing such insurance upon written request.

11. **Compliance with Laws; Governing Law; Venue.** Each party agrees to comply with all applicable federal, state and local laws, codes, regulations, rules, and orders in the performance of this Agreement. The laws of the State of Colorado shall apply in the interpretation and enforcement of this Agreement (without regard to any conflicts of law rules) and any action arising hereunder shall be filed and tried, if at all, in the District Court, City and County of Denver, State of Colorado.

12. **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 approval of the other party, except that University may assign any interest in Intellectual Property arising under this Agreement to CSURF without notice or consent of the Sponsor, and CSURF shall be bound by the provisions respecting Intellectual Property herein.

13. **Termination.**

- a. A Party will be considered in default of its obligations under this Agreement if such Party should fail to observe, to comply with, or to perform any term, condition, or covenant contained in this Agreement or in any Task Order and such failure continues for ten (10) days after the non-defaulting party gives the defaulting party written notice thereof. In the event of default, the non-defaulting party, upon written notice to the defaulting party, may terminate this Agreement and/or any and all Task Orders as of the date specified in the notice, and may seek such other and further relief as may be provided by law. If this Agreement is terminated for cause, all rights provided the defaulting party pursuant to this agreement and any related Task Orders are also terminated.

- b. Each party shall have the right to terminate this Agreement and/or any accompanying Task Orders, without cause, upon not less than sixty (60) days prior written notice to the other party. If notice is so given, this Agreement shall terminate on the expiration of the specified time period, and the liability of the parties hereunder for further performance of the terms of this Agreement shall thereupon cease, but the parties shall not be released from the duty to perform their obligations up to the date of termination.

14. **Late Charges; Expenses.** All amounts payable by Sponsor to University under this Agreement shall be paid to University without any setoff, deduction or counterclaim. Any amounts billed to Sponsor not paid within five (5) days of the due date thereof shall be subject to a late charge of five percent (5%) of the amount billed. In addition, such unpaid amount shall bear interest until paid at the rate of eighteen percent (18%) per annum. In the event any payment from Sponsor by check is returned by the financial institution on which it is drawn for any reason, a service charge of One Hundred Dollars (\$100.00) shall be due and payable in addition to the late charge set forth above. In the event of any default by Sponsor hereunder, Sponsor shall pay to University all attorneys' fees incurred by University in connection with such default or the enforcement of University's rights or remedies arising in connection therewith, whether or not this Agreement is terminated and whether or not University institutes any lawsuit against Sponsor as a result of such default.

15. **Export of Technology.** It is understood that University and Sponsor are subject to United States laws and regulations controlling the export of technical data, computer software, laboratory prototypes and other commodities, and that obligations hereunder are contingent on compliance with applicable U.S. export laws and regulations (including the Arms Export Control Act, as amended, and the Export Administration Act of 1979). The transfer of certain technical data and commodities may require a license from the cognizant agency of the United States Government and/or written assurances that such data or commodities will not be exported to certain foreign countries without prior approval of the cognizant government agency. Sponsor and University agree to cooperate in securing any license which the cognizant agency deems necessary in connection with this Agreement. Sponsor shall notify University if any data or materials to be supplied to University by Sponsor are subject to export control license requirements or are listed under export control regulations.

16. **Conflict of Interest.** Except as set forth herein, Sponsor certifies that no officer, employee, student or agent of University has been employed, retained, or paid a fee, or has otherwise received or will receive during the term of this Agreement any personal compensation or consideration by or from Sponsor or any of Sponsor's directors, officers, employees, or agents in connection with the obtaining, arranging, or negotiating of this Agreement without advance, written notification to the University.

17. **Changes and Amendments.** This Agreement with all related Task Orders constitutes the entire agreement between the parties. No amendment to this Agreement or any Task Order shall be valid unless it is made in writing and signed by the authorized representatives of both parties.

18. **Exclusive Warranty; Disclaimer.** University warrants that all deliverables provided under this Agreement will be provided substantially in accordance with the Scope of Work and/or written protocol provided by Sponsor. Research results, deliverables, reports, IP disclosures and IP provided by University are provided strictly "as-is" without any other warranty or guaranty of any kind. All other warranties, express and implied, are hereby expressly disclaimed INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. University does not perform any services under this agreement that may be subject to FDA Regulations, e.g. GMP, cGMP,

GLP, GCP work/services. University shall not be liable for any indirect, special, incidental, consequential or punitive loss or damage of any kind, including but not limited to lost profits (regardless of whether or not University knows or should know of the possibility of such loss or damages). The liability of either party under this Agreement shall not exceed the amount paid or payable to the University under this Agreement.

19. **Notices.** All notices and other correspondence related to this Agreement or to any Task Order shall be in writing and shall be effective when delivered by: (i) certified mail with return receipt, (ii) hand delivery with signature or delivery receipt provided by a third party courier service (such as FedEx, UPS, etc.), (iii) fax transmission if verification of receipt is obtained, or (iv) email with return receipt, to the designated representative of the party as indicated below. A party may change its designated representative for notice purposes at any time by written notice to the other party. The initial representatives of the parties are as follows:

If to CSU:

If to Sponsor

20. **Legal Authority.** Each party to this Agreement or any Task Order warrants that it possesses the legal authority to enter into the Agreement and that it has taken all actions required by its procedures, bylaws, and/or applicable law to exercise that authority, and to lawfully authorize its undersigned signatory to execute the Agreement and to bind it to its terms. The person(s) executing the Agreement on behalf of a party warrant(s) that such person(s) have full authorization to execute this Agreement. The Agreement shall not be binding upon Colorado State CSU, its governing board or the State of Colorado unless signed by CSU Vice-President for Research or his/her authorized delegate.

21. **Survival.** The respective rights and obligations of University and Sponsor under Paragraphs 6, 7, 8, 11 and 18 shall survive the expiration or earlier termination of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year written below.

**The Board of Governors of the Colorado State University System, acting by and through Colorado State University:**

**Sponsor**

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

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

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

Updated 11-7-12

Schedule I

TASK ORDER NUMBER \_\_\_\_\_

Master Research and Development Agreement

between

The Board of Governors of the Colorado State University System

acting by and through Colorado State University

And

\_\_\_\_\_

This Task Order is entered into by and between \_\_\_\_\_ (hereinafter referred to as the “Sponsor”) and the Board of Governors of the Colorado State University System, acting by and through Colorado State University, (hereinafter referred to as the “University”).

The University and Sponsor entered into a Master Research and Development Agreement effective \_\_\_\_\_, the terms and conditions of which are incorporated herein by reference. Any conflict between the terms of the Agreement and this Task Order shall be controlled by the Agreement.

**Scope of Work.**

The University agrees to perform the research activities (“Scope of Services”) as described in Exhibit A of this Task Order number \_\_\_\_\_ under the direction and supervision of the Principal Investigator \_\_\_\_\_.

**Term.**

\_\_\_\_\_ This project period for this Task Order is effective from \_\_\_\_\_ through \_\_\_\_\_.

\_\_\_\_\_ The project period for this Task Order will commence on \_\_\_\_\_ and continue until the earlier of when the not-to-exceed amount is expended or University or Sponsor terminate this Task Order. Such termination may be effected by the terminating party providing written notice to the other party at least thirty (30) days prior to the termination date.

**Compensation.**

The total value of this Task Order is not-to-exceed \$ \_\_\_\_\_. This Task Order is  fixed price or  cost reimbursable. Payment will be based on conditions contained in Article 4 of the Agreement.

Updated 11-7-12

**Reporting Requirements.**

The University will provide reports on the progress of the research including a final report as required in the Scope of Services, **Exhibit A.**

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year written first above.

**THE BOARD OF GOVERNORS OF THE  
COLORADO STATE UNIVERSITY  
SYSTEM, ACTING BY AND THROUGH  
COLORADO STATE UNIVERSITY:**

**SPONSOR**

By:

By:

Printed Name:

Printed Name:

Title:

Title:

Date:

Date:



Updated 11-7-12

**EXHIBIT A  
SCOPE OF SERVICES  
To  
TASK ORDER # \_\_\_\_\_  
MASTER RESEARCH AND DEVELOPMENT AGREEMENT**

*(Enter or attach a complete description of the work to be performed, including any supplies, deliverables or work product to be provided by University. Specify time and manner of performance as required)..*

**UNIVERSITY PRINCIPAL INVESTIGATOR:** \_\_\_\_\_

**SPONSOR PRINCIPAL INVESTIGATOR:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**DETAILED DESCRIPTION:**