

# UNIVERSITY - INDUSTRY SPONSORED RESEARCH AGREEMENT

Northeastern University, a non-profit Massachusetts educational corporation having a principal place of business at 360 Huntington Avenue, Boston, Massachusetts 02115 ( “University”) and [INSERT COMPANY NAME], a corporation organized under the laws of [INSERT STATE OF INCORPORATION] having a principal place of business at [INSERT ADDRESS] (“Sponsor”) are entering into this Sponsored Research Agreement (“Agreement”), effective as of the date of the last signature below (“Effective Date”), in order to conduct fundamental scientific research for the advancement of science.

In consideration of the foregoing premises and the mutual covenants set forth below, the parties agree to the following:

# Research Project

* 1. The Research Project, entitled , is described in Exhibit 1 to this Agreement, which is incorporated herein by this reference. The Research Project will be conducted under the direction of [INSERT NAME] (“Principal Investigator”). Sponsor’s Technical/Scientific Representative will be [INSERT NAME]. The manner of performance of the Research Project will be determined solely by the Principal Investigator. If the named Principal Investigator is no longer employed by University, the parties will cooperate in good faith to identify a mutually acceptable replacement or, if a satisfactory replacement cannot be identified, terminate the Agreement in accordance with its terms.
  2. The Research Project will begin on , 20 and, unless earlier terminated as provided in this Agreement, conclude on , 20 (the “Completion Date”).
  3. As used in this Agreement, “Proprietary Information” means any disclosed written information and/or data, marked in either case as proprietary, or any disclosed non-written information and/or data, which the disclosing party identifies at the time of disclosure as proprietary, and reduces to writing and transmits to the receiving party within thirty (30) days of the non-written disclosure. Proprietary Information will not include any disclosed written information or data developed as part of this Research Project, except as provided in Section 4.3.

# Payment

* 1. Sponsor will pay University under this fixed price agreement a total of dollars ($ ) for the Research Project as follows:

1. dollars ($ ) upon execution of the Agreement;
2. dollars ($ ) ( ) months after the Effective Date of the Agreement; and
3. dollars ($ ) within thirty (30) days of the “Completion Date”.

This obligation to pay shall not be contingent upon the issuance of any invoice or PO.

* 1. All payments will be made payable to “Northeastern University” with reference to the Principal Investigator and Agreement No:**[Insert Tracking Reference No.]** and will be sent to:

# Via Mail or Courier: Via Wire Transfer:

Northeastern University, Bank of America

Attn: Director, 100 Federal Street

Research Finance Boston, MA 02110

360 Huntington Avenue, 540-177 Routing No.: 011-00-0138

Acct. No.: 009373819714

Boston, MA 02115, U.S.A.

* 1. University will retain title to any equipment purchased with funds provided by Sponsor under this Agreement.
  2. If this Agreement is terminated prior to the Completion Date, Sponsor will pay all reasonable costs and non-cancelable obligations incurred by University as of the date of termination.

# Publicity

* 1. No advertising or publicity that includes any reference to University or its employees will be authorized or released by Sponsor except as approved in advance, in writing, by the University’s Office of Marketing and Communications.

# Publication and Reports

* 1. University will furnish Sponsor with a copy of any proposed publication or presentation at least thirty (30) days before submission of such proposed publication or presentation, or at least five (5) days before submission of any proposed abstracts, of the results of the Research Project to allow Sponsor to review such materials to identify any patentable inventions or any inadvertent disclosure of Proprietary Information. Sponsor may not edit the materials or limit dissemination of the research results in any other way. If Sponsor decides a patent application should be filed, the publication or presentation will be delayed an additional thirty (30) days or until a provisional patent application is filed, whichever is sooner. Following receipt of Sponsor’s written request within the applicable review period, University will remove Sponsor's Proprietary Information as identified by Sponsor. If University does not receive a request from Sponsor within the specified review period, Sponsor will be deemed to have no objection and University will be free to publish such material.
  2. Sponsor will maintain all such prepublication materials in confidence in accordance with Section 5 of this Agreement.
  3. The Principal Investigator will furnish Sponsor periodic written reports on the progress of the Research Project as mutually agreed by the parties and reasonably consistent with applicable research standards. The Principal Investigator will prepare and submit, on behalf of the University, a final report to the Sponsor within sixty (60) days of the Completion Date. All such reports and any drafts and information, including without limitation identification or description of any potentially patentable inventions, provided by University to Sponsor under this Section 4 will be deemed University Proprietary Information subject to the confidentiality obligations of Section 5.

# Confidentiality

* 1. Each Party will protect the Proprietary Information of the other party with the same degree of care with which it treats its own Proprietary Information, but not less than reasonable care, and will not disclose the other party’s Proprietary Information to a third party without the prior written consent of the disclosing party. In addition to the Principal Investigator, University may disclose and/or permit the disclosure of the Proprietary Information of Sponsor to any University faculty member, employee, graduate student, post-doctoral fellow, and/or nonemployees of University who use funds, facilities or other resources of University or participate in University-administered research (“University Personnel”) who have a need to know such Proprietary Information and who have been

advised of the need to maintain the confidential nature of the Proprietary Information. The Principal Investigator will have the right to decline receipt of the Proprietary Information of Sponsor.

* 1. The foregoing confidentiality obligations do not apply to Proprietary Information which:

1. was known to the recipient prior to the disclosure hereunder;
2. was received by the recipient without restriction from a third party who was not under an obligation of confidentiality to University, Sponsor or a third party regarding such information;
3. is in the public domain at the time of disclosure hereunder or subsequently enters the public domain without the fault of the recipient;
4. has been independently developed by personnel of recipient without access to such Proprietary Information, and recipient can substantiate any claim of independent development by competent proof; or
5. is required to be disclosed by law, regulation or valid demand of a government agency (provided that the party required to disclose the Proprietary Information will provide prompt notice to the owner of the Proprietary Information so that such party can seek adequate protections).
   1. Notwithstanding any provision in this Agreement, the obligations under this Section will terminate three (3) years after the Effective Date.

# Intellectual Property

* 1. Sponsor will own all right, title and interest to intellectual property first conceived and reduced to practice and/or fixed in a tangible medium solely by Sponsor’s personnel. University and Sponsor will jointly own intellectual property first conceived and reduced to practice and/or fixed in a tangible medium jointly by University’s and Sponsor’s personnel during the term of and directly arising from the Research Project (“Joint Intellectual Property”). University will own all right, title and interest to intellectual property first conceived and reduced to practice and/or fixed in a tangible medium solely by University’s personnel during the term of and directly arising from the Research Project (“Project Intellectual Property”).
  2. University will notify Sponsor of any Project Intellectual Property and Joint Intellectual Property promptly after Principal Investigator submits a written, complete invention disclosure to University's Center for Research Innovation. Sponsor shall have the right to elect a first option to negotiate a royalty-bearing license to University’s Project Intellectual Property and Joint Intellectual Property (“Option”) by providing a written election to University’s Center for Research Innovation within thirty (30) days of University’s notification of any Project Intellectual Property or Joint Intellectual Property under this Section.
  3. Upon written election of the Option, Sponsor will have ninety (90) days to negotiate and execute a license subject to the University Patent Policy and University’s compliance with applicable provisions of the Bayh-Dole Act. If the parties fail to reach a mutually acceptable license agreement within the 90-day period, Sponsor's Option rights will expire.

# Termination

* 1. Either party may terminate this Agreement upon ninety (90) days prior written notice to the other.
  2. In the event that either party hereto commits any material breach of any terms or conditions of this Agreement, and also fails to reasonably remedy such breach within sixty (60) days after receipt of written notice thereof, the non-breaching party may, at its option and in addition to any other remedies that it may have at law or in equity, terminate this Agreement by sending notice of termination in writing to the other party to such effect. Termination will be effective upon receipt of such notice.
  3. Termination of this Agreement by either party for any reason will not affect the rights and obligations of the parties accrued prior to the effective date of termination, except insofar as Sponsor’s failure to make timely payments under Section 2 will cause Sponsor to forfeit its Option rights.
  4. Any provisions of this Agreement that by their nature extend beyond termination hereof will survive such termination.

# Independent Contractor

* 1. In the performance of all services hereunder, University will be deemed to be and will be an independent contractor, and its employees will not be deemed to be employees of Sponsor.
  2. Neither party or any of its employees is authorized or empowered to act as agent for the other for any purpose and will not on behalf of the other enter into any contract, warranty, or representation as to any matter. Neither party will be bound by the acts or conduct of the other.

# Indemnity; Liability; Limitation of Liability; Disclaimer of Warranties

* 1. Sponsor will defend, indemnify, and hold harmless University, its trustees, officers, employees, students, agents, successors, heirs and assigns against all claims arising out of Sponsor’s use, commercialization, or distribution of information, materials, products or reports which result in whole or in part from the research performed pursuant to this Agreement, including without limitation claims for personal injury, death, property damage, and infringement of intellectual property.
  2. University will not be responsible or liable with respect to any subject matter of this Agreement under any contract, negligence, strict liability or other theory for any indirect, incidental, special or consequential damages including, but not limited to, loss of revenues and loss of profits.
  3. University’s liability to Sponsor for any claim related to or arising from this Agreement or the relationship created by this Agreement will be limited to the amount paid or to be paid by Sponsor to University.
  4. University will use reasonable efforts, consistent with its mission and in accordance with generally accepted professional standards as described in this Agreement, to perform the Research Project. UNIVERSITY MAKES NO GUARANTEES, REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, AND DISCLAIMS ANY IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT OF INTELLECTUAL PROPERTY, OR SPECIFIC RESEARCH RESULTS.

# Notices

Notices, invoices, and communications hereunder will be deemed made if given by overnight courier or by registered or certified mail, postage prepaid, and addressed to the party to receive such notice, invoice, or communication at the address given below or such other address as may hereafter be designated by notice to the other party in writing:

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|  | Research communications and reports | Notices with respect to any rights or obligations |
| University recipient: | [Contact]  [Address]  [City, State, Zip+4]  Phone: [(\*\*\*) \*\*\*-\*\*\*\*]  Fax: [(\*\*\*) \*\*\*-\*\*\*\*]  [Email address] | Director, Grants & Contracts Northeastern University  360 Huntington Avenue, 540-177  Boston, MA 02115-5000  Phone: (617) 373 5600  NU-RES@northeastern.edu |

|  |  |  |
| --- | --- | --- |
| Sponsor recipient: | [Contact] [Address]  [City, State, Zip+4] Phone: [(\*\*\*) \*\*\*-\*\*\*\*] Fax: [(\*\*\*) \*\*\*-\*\*\*\*] [Email address] | [Contact] [Address]  [City, State, Zip+4] Phone: [(\*\*\*) \*\*\*-\*\*\*\*] Fax: [(\*\*\*) \*\*\*-\*\*\*\*] [Email address] |

# Notice given pursuant to this Section will be effective as of the date of receipt of notice.

1. **Governing Law and Forum**

This Agreement will be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts without reference to its choice of law rules. Venue for any dispute related to or arising out of this Agreement or the relationship of the parties will be exclusively in the state or federal courts located in Suffolk County, Massachusetts, and the parties (for themselves and their successor and assigns) irrevocably consent to the jurisdiction and venue of such courts for such purpose.

# General Provisions

* 1. This Agreement may not be assigned without the prior written permission of the other party.
  2. *Entire Agreement –* This Agreement contains the entire and only agreement between the parties respecting the subject matter hereof and supersedes all other agreements between the parties on the subject of this Agreement, including, but not limited to, non-disclosure agreements between Sponsor and University and/or Principal Investigator. Should processing of this Agreement require issuance of a purchase order or other contractual document, all terms and conditions of said document are hereby deemed deleted in their entirety. This Agreement may not be amended in any manner except by an instrument in writing signed by the duly authorized representatives of each of the parties hereto.
  3. *Export Control Regulations –* Sponsor agrees that it shall comply with all applicable export control regulations of the United States of America. Sponsor shall provide written notice to University if Sponsor intends to disclose any export controlled information or technology to the University. Such notice will include the proper export classification and a reference the applicable export control laws and regulations. Export controlled information shall be labeled as “export controlled” with a reference to the applicable U.S. laws and regulations.

The University reserves the right, in its sole discretion, to refuse or accept such information or use it in performance of the Research Project. Sponsor shall indemnify and hold harmless the University against any claims, damages, losses or costs arising out of Sponsor’s breach of this Section. Notice required under this section shall be sent to Principal Investigator, with a copy to the University’s Office of Research Enterprise Services.

* 1. *Force Majeure* – Neither party will be responsible to the other for failure to perform any of the obligations imposed by this Agreement where such failure is due to a “force majeure” event, including (without limitation) fire, flood, explosion, severe weather, earthquake, failure or destruction, in whole or in part, of machinery or equipment, failure of supply of materials or power, governmental interference, civil commotion, war, labor disturbance or shortage, or any other cause beyond its reasonable control.

**IN WITNESS WHEREOF**, the parties have caused these presents to be executed in duplicate as of the day and year first above written.

# By an Authorized Official of By An Authorized Official Of

**[INSERT COMPANY NAME] Northeastern University**

By: By: Name: Name:

Title: Title:

Date: Date:

# Agreement Read and Understood By:

NU Principal Investigator

# EXHIBIT 1 RESEARCH PROJECT