

RESEARCH SERVICES AGREEMENT
(UNIVERSITY PROVIDING SERVICES)

THIS RESEARCH SERVICES AGREEMENT (this "Agreement"), effective the ___ day of _____, 20__, is entered into by and between the Board of Regents of the University of Nebraska, a public body corporate and governing body of the University of Nebraska-Lincoln (the "University") and _____, a _____ (the "Sponsor"). The University and the Sponsor may be referred to individually as a "Party" or collectively as the "Parties".

WHEREAS, the University has developed research and analysis expertise and related technologies, equipment, or facilities (hereinafter referred to as "Research Services"); and

WHEREAS, Sponsor desires specialized assistance requiring the Research Services; and

WHEREAS, the Research Services are available on a limited basis from the University; and

WHEREAS, the Research Services contemplated by this Agreement are of mutual interest and benefit to the University and Sponsor.

NOW THEREFORE, the University and the Sponsor mutually agree as follows:

1. Project. The University will use reasonable efforts to perform the Research Services and deliver the reports and other items specified in the Statement of Work, attached hereto and incorporated herein as Exhibit "A" (the "Project").

2. Term. The term of this Agreement begins _____, 20__ and ends _____, 20__, unless sooner terminated as provided herein (the "Term"). The Parties may extend the Term at any time upon mutual written agreement. In the event of termination, Sponsor agrees to pay all costs and non-cancelable obligations incurred by the University as of the time of termination.

3. Contract Price. For the services, reports, and other items to be delivered hereunder, Sponsor shall pay the University a fee in the amount of \$_____ (the "Contract Price"), payable as follows:

- a. Payment of a non-refundable deposit in the amount of \$_____ within five (5) days of the effective date of this Agreement; and
- b. Payment of monthly invoices submitted by the University within thirty (30) days after receipt of invoice; and
- c. Payment of the balance of the Contract Price within thirty (30) days after submission of the final report provided pursuant to this Agreement. Any monies remaining at the

end of the Project may be used by the University to support general research within the University.

To the extent the Statement of Work is modified by mutual agreement of the Parties during the Term, the Contract Price will be adjusted to reflect such modifications.

4. Confidential Information. “Confidential Information” is defined as business information, strategies, technical data, information, trade secrets and/or other proprietary information of the Sponsor relating to the product or process that is a part of the Project that is not disclosed to the public in the ordinary course of business and is marked as “Confidential Information” when received by the University. The University hereby agrees to use the same degree of care it uses to protect its own confidential information and will not use the Confidential Information, except for the purpose of performing its obligations under this Agreement, and will not disclose to third parties said Confidential Information except upon written permission of the Sponsor or where otherwise required by law. Sponsor is and shall remain the owner of said Confidential Information and, upon completion of the Project and upon written request received from the Sponsor, the University will return Confidential Information to Sponsor, except that the University may retain one copy thereof for archival purposes. The provisions relating to confidentiality will remain in effect for three (3) years from the date of termination of this Agreement. The University’s obligations relating to Confidential Information shall not extend to information which: (a) is in or comes into the public domain from a source other than the University; (b) was independently known or developed by the University or already possessed by the University at the time of disclosure; (c) came from a third party source not under obligation to the Sponsor to maintain confidentiality thereof; and/or (d) is required to be disclosed by operation of law.

5. Reports and Publication. The University shall provide Sponsor with a final written report regarding the data obtained in the course of the Research Services to the extent required in the Statement of Work. Said reports shall be maintained as Confidential Information pursuant to Section 4 of this Agreement. Sponsor recognizes that the results of Research Services which do not disclose Confidential Information provided hereunder may be deemed publishable by the University and that the University shall be free to publish these results, consistent with the obligations imposed in Section 4 of this Agreement. The University may publish and/or present results of the Project or new scientific information regarding the Research Services performed. The University will provide Sponsor with copies of the proposed publication or presentation and Sponsor will have thirty (30) days after receipt to object because the same contains Confidential Information or patentable subject matter. If Sponsor does not object within said thirty (30) day period, Sponsor waives any claim that the proposed publication or presentation includes Confidential Information. If Sponsor objects, the University will remove any Confidential Information and will refrain from publication/presentation for a period

not to exceed ninety (90) days to enable Sponsor to obtain protection directed to patentable subject matter contained in the proposed publication or presentation.

6. Independent Entities. In the making and performing of this Agreement, the Parties act and shall act at all times as independent entities and nothing contained herein shall be construed or implied to create any agency, partnership, joint venture, or employer and employee relationship between the Parties and neither Party is authorized to act as agent for the other for any purpose.

7. Intellectual Property. Sponsor is the owner or licensee of the product or process that is the subject of this Project. Any inventions, whether or not patentable, that are conceived by University personnel or students assigned by the University to work on this Project, involving the use, formulation or administration of the product or process that is the subject matter of this Project will belong to Sponsor. University will promptly notify Sponsor in writing of any such inventions and the University, and University personnel assigned to work on the Project, will cooperate with Sponsor, at Sponsor's expense, in the filing of the necessary patent applications. Notwithstanding the foregoing, all inventions, whether or not patentable, conceived by University personnel or students which cover a scientific process, technique, procedure, medium, device or other process which is not unique to processing Sponsor's proprietary materials or does not derive from Sponsor-provided materials or information shall be and remain the property of the University.

8. No University Endorsements. In no event shall Sponsor (or its successors, employees, agents or contractors) state or imply in any publication, advertisement, or other medium that the University approved or endorsed any product or service. In no event shall the University's performance of the Research Services be considered the basis for any endorsement of a product or service.

9. Use of University Names or Logos. Sponsor agrees not to use the name, logo or any other marks (including, but not limited to, colors and music) owned by or associated with the University, or the name of any representative of the University in any sales promotion work or advertising, or any form of publicity, without the prior written consent of the University in each instance, which consent shall be in the University's sole discretion.

10. Warranties and Indemnity. The University in no way guarantees the Research Services performed pursuant to this Agreement and makes no warranties, express or implied, regarding the quality of product produced under this Agreement. Sponsor agrees to indemnify and hold the University, its governing board, officers, agents and employees, harmless from any and all liability, loss, damage or injuries as the result of claims, demands, costs or judgments against them, including attorneys' fees, arising out of or in connection with the activities to be

carried out pursuant to this Agreement, or the use, design, manufacture, or distribution of the system, process or products that is the subject matter of the Project.

11. Insurance. At all times during the Term, Sponsor shall obtain and keep in full force and effect, general and professional liability insurance, including coverage for death, bodily or personal injury, and property damage, including products liability, with limits of not less than \$1,000,000 per each occurrence, and naming the Board of Regents of the University of Nebraska as an additional insured. Sponsor represents that it has workers' compensation insurance to the extent required by law. Sponsor agrees to furnish proof of all such insurance to the University upon written request.

12. Termination. Either Party may terminate this Agreement upon thirty (30) days prior written notice to the other. All reasonable costs and non-cancelable obligations incurred by the University at the time of such termination shall be reimbursed by Sponsor.

13. Limitation of Remedies. IN THE EVENT OF THE UNIVERSITY'S BREACH OR FAILURE TO PERFORM ANY OBLIGATION UNDER THIS AGREEMENT, THE UNIVERSITY'S ENTIRE LIABILITY AND SPONSOR'S EXCLUSIVE REMEDY SHALL BE, AT THE UNIVERSITY'S OPTION, EITHER (I) RETURN OF THE MONETARY CONSIDERATION PAID TO THE UNIVERSITY UNDER THIS AGREEMENT OR (II) THE UNIVERSITY'S PERFORMANCE OF ANY OBLIGATION THAT FAILED TO SATISFY THE TERMS OF THIS AGREEMENT.

14. Notices. Notices and communications hereunder shall be deemed made if given by hand delivery or registered, certified, federal or express mail, postage prepaid, or via nationally recognized courier, addressed to the Party to receive such notice at that address given at the end of this Agreement, or such other address as may hereafter be designated by notice in writing.

15. Assignment. This Agreement is non-assignable and non-transferrable. Any attempt by either Party to assign its obligations hereunder shall be void.

16. Governing Law and Forum. This Agreement shall be interpreted and governed by the laws of the State of Nebraska, without reference to conflict of law rules, and the forum for any proceeding or suit arising from or incident to this Agreement shall be the District Court of Lancaster County, Nebraska.

17. Entire Agreement. This Agreement and the exhibit(s) hereto constitute the entire agreement and understanding between the Parties with respect to the subject matter hereof and supersedes any prior and/or contemporaneous discussions, representations or agreements,

whether written or oral, of the Parties regarding this matter. This Agreement may be extended, renewed or otherwise amended at any time by the mutual written consent of the Parties.

18. Waiver. A waiver by either Party of a breach or violation of any provision of this Agreement will not constitute or be construed as a waiver of any subsequent breach or violation of that provision or as a waiver of any breach or violation of any other provision of this Agreement.

19. Severability. In the event any part, section, clause, paragraph or subparagraph of this Agreement shall be held to be indefinite, invalid, illegal or otherwise voidable or unenforceable, the entire Agreement shall not fail on account thereof, and the balance of this Agreement shall continue in full force and effect.

20. Debarment List. No contract shall be executed with Sponsor if Sponsor is listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with Executive Orders 12549 and 12689, "Debarment and Suspension," (the "Debarment List"). For contracts which in the aggregate exceed \$25,000, the Sponsor specifically warrants and represents that it is not included on the Debarment List. Sponsor further agrees that should Sponsor be included on the Debarment List at the time this Agreement is proposed, or at any time during the Term, such listing shall be considered a material breach of this Agreement.

21. Export Controls. Sponsor shall notify the University in writing if any technological information or data provided to the University is subject to export controls under U.S. law or if technological information or data that Sponsor is requesting the University to produce during the course of work under this Agreement is expected to be subject to such controls. Sponsor shall notify the University of the applicable export controls (for example, Commerce Control List designations, reasons for control, countries for which an export license is required). The University shall have the right to decline export controlled information or tasks requiring production of such information.

[The remainder of this page is intentionally left blank. Signature page follows.]

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

BOARD OF REGENTS OF THE
UNIVERSITY OF NEBRASKA, a public
body corporate and governing body of the
University of Nebraska-Lincoln

[SPONSOR]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

UNIVERSITY OF NEBRASKA-LINCOLN
DEPARTMENT APPROVAL

By: _____

Name: _____

Title: _____

UNIVERSITY ADDRESS FOR
NOTICE AND PAYMENT:

SPONSOR ADDRESS FOR NOTICE:

EXHIBIT A TO RESEARCH SERVICES AGREEMENT
STATEMENT OF WORK

[To be completed by Department]