

## SPONSORED RESEARCH AGREEMENT

**THIS AGREEMENT**, effective this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between Worcester Polytechnic Institute (hereinafter referred to as "University") and \_\_\_\_\_, having a principal place of business at: \_\_\_\_\_ (hereinafter referred to as "Sponsor").

**1. Period of Performance.** Period of performance shall be from \_\_\_\_\_ to \_\_\_\_\_ (hereinafter referred to as "Period of Performance").

**2. Research Work.** As used herein, "Project" shall mean the research described in Appendix A hereof, under the direction of \_\_\_\_\_ (hereinafter referred to as "Principal Investigator"). University shall commence the performance of Project on the first day of Period of Performance and shall use reasonable efforts to perform Project substantially in accordance with the terms and conditions of this Agreement.

### 3. Fiscal Considerations.

#### 3.1 [Choose one of the following options:]

**(a) Cost-Reimbursement.** This Agreement will be conducted on a cost-reimbursement basis with a total estimated cost of \_\_\_\_\_ dollars (\$\_\_\_\_\_) ("Contract Price"). Sponsor agrees to make quarterly equal payments of \_\_\_\_\_ dollars (\$\_\_\_\_\_) following receipt of an invoice from the University. The initial invoice will be sent within thirty (30) days following execution of this Agreement. If the unexpended balance as of the expiration date is one hundred dollars (\$100) or more, the University will refund this amount to the Sponsor within ninety (90) days, unless the parties have agreed otherwise.

**(b) Fixed Price.** University shall use reasonable efforts to complete the project for a fixed of \_\_\_\_\_ dollars (\$\_\_\_\_\_) ("Contract Price"). Sponsor agrees to make quarterly equal payments of \_\_\_\_\_ dollars (\$\_\_\_\_\_) following receipt of an invoice from the University. The initial invoice will be sent within thirty (30) days following execution of this Agreement. Sponsor shall make a final payment of \_\_\_\_\_ dollars (\$\_\_\_\_\_) within thirty (30) days of receipt of the final report. No financial reporting of expenditures is required.

**3.2** University shall acquire title upon acquisition of any equipment purchased or fabricated with funds provide by sponsor under this agreement.

**3.3** WPI may transfer funds within the budget as needed at the discretion of the Principal Investigator without Sponsor's approval as long as the scope of work under the Research Project remains unchanged

**3.4** WPI shall submit invoices to:

---

**3.5** Payments made under this agreement shall be in United States Dollars and shall be made payable to Worcester Polytechnic Institute. All payment shall be accompanied by the University invoice number, the contract number, and name of Principle Investigator. Payments shall be sent to: Director, Sponsored Programs Accounting, 100 Institute Road, Worcester Polytechnic Institute, Worcester, MA 01609.

**4. Publicity.** Neither party to this Agreement will use the name, trademarks, or logos of the other party or its employees, in any publicity advertising, or news release without the prior written approval of an authorized representative of that party.

### 5. Confidentiality.

**5.1** "Confidential Information" means any and all information or materials provided by one party to the other that is (a) in tangible form and labeled "confidential" or the like, (b) disclosed orally, and identified

as being confidential at the time of disclosure, or (c) disclosed under circumstances that would be understood by a reasonable business person to be confidential. Confidential Information does not include information or materials that (i) were, on the Effective Date, generally known to the public; (ii) become generally known to the public after the Effective Date other than as a result of the act or omission of the receiving party; (iii) were rightfully known to the receiving party prior to that party receiving same from the disclosing party; (iv) are or were disclosed by the disclosing party to a third party generally without restriction on disclosure; (v) the receiving party lawfully received from a third party without that third party's breach of agreement or obligation of trust; or (vi) are independently developed by the receiving party.

**5.2** The receiving party will protect the disclosing party's Confidential Information by means of the same standard of care as used by the receiving party to protect its own information of a similar nature and importance, and no less than reasonable care. Each party will use the other party's Confidential Information only to perform this Agreement, will disclose such Confidential Information only to those persons in its organization who have a need to know, and will promptly report to the disclosing party any actual or suspected breach of the terms hereof.

**5.3** If disclosure of Confidential Information by the receiving party is required by law or court order, the receiving party may comply with that order as long as it immediately notifies the disclosing party to allow the disclosing party to seek an appropriate protective order and it cooperates with the disclosing party in seeking such order.

**5.4** Unless otherwise agreed to in writing, the period of confidentiality shall be five (5) years from the date of receipt of Proprietary Information.

**6. Publication.** Sponsor acknowledges that University, subject to prior review by Sponsor, shall have the right to publish any results of the Project that do not disclose Proprietary Information. University agrees not to publish or otherwise disclose Proprietary Information. Sponsor shall be furnished copies of any proposed publication or presentation at least 60 days before submission of such proposed publication or presentation. During that time, Sponsor shall have the right to review the material for Proprietary Information provided by Sponsor and to assess the patentability of any invention described in the material. If Sponsor decides that a patent application should be filed, the publication or presentation shall be delayed an additional seventy-five (75) days or until a patent application is filed, whichever is sooner. At Sponsor's request, Proprietary Information provided by Sponsor shall be deleted. Notwithstanding the limitations of Article 4, the University reserves the right to identify its sponsors in academic publications and in award reports.

**7. Intellectual Property.** As used herein, "Intellectual Property" shall mean those inventions and/or discoveries conceived and/or reduced to practice in performance of this Project and resulting patents, divisions, continuations, or substitutions of such applications and all reissues thereof. It shall also include software authored in the performance of this Project and resulting copyrights

#### **7.1 Intellectual Property Rights**

**(a) University Sole Intellectual Property Rights.** All right, title, and interest to all University Sole Intellectual Property shall be owned solely and exclusively by and vest entirely in University.

**(b) Sponsor Sole Intellectual Property Rights.** All right, title, and interest to all Sponsor Sole Intellectual Property shall be solely and exclusively by and vest entirely in Sponsor.

**(c) Joint Intellectual Property Rights.** All right, title, and interest to all Joint Intellectual Property shall be jointly owned by University and Sponsor.

**(d)** Upon University's receipt of a written invention disclosure describing any University Sole

Intellectual Property or Joint Intellectual Property developed under this Agreement, it shall notify Sponsor in writing and provide all available, pertinent information for evaluation by Sponsor.

## **7.2 Licensing Rights of Intellectual Property**

(a) University grants to Sponsor an option to negotiate an exclusive license, subject to any existing third party rights, to any University Sole Intellectual Property and University's rights in any Joint Intellectual Property. Any such license shall be negotiated in good faith on fair and reasonable terms by University and Sponsor.

(b) The period of Sponsor's option shall commence upon disclosure of the Project Intellectual Property and terminate six (6) months after disclosure of such Project Intellectual Property. Sponsor shall exercise its right by written notice to University, prior to the expiration of the six (6) month term, of its desire to license such Project Intellectual Property.

(c) University reserves for itself the right to use University Sole Intellectual Property and Joint Intellectual Property for educational and research and development purposes, whether alone or with a third party.

(d) Sponsor hereby grants to University a fully paid-up, royalty-free license under Sponsor Sole Intellectual Property first conceived or reduced to practice, or authored in the case of software, under this Research Agreement, to use such Sponsor Sole Intellectual Property solely for its own internal academic and research purposes.

(e) In the event University background intellectual property is required to practice Intellectual Property, University will negotiate an option or license to the extent such rights are available.

**8. Termination.** Either party may terminate this Agreement upon ninety (90) days prior written notice to the other. In the event that either party hereto shall commit any material breach of or default in any terms or conditions of this Agreement, and also shall fail to reasonably remedy such default or breach 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 at law or in equity, terminate this Agreement by sending notice of termination in writing to the other party to such effect. Termination shall be effective as of the day of the receipt of such notice. 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, except insofar as Sponsor's breach of contract for failure to make payments under Article 3 shall cause Sponsor to forfeit its rights under Article 7. The rights and obligations of Article 5 of this Agreement shall survive termination.

**9. Independent Contractor.** In the performance of project, neither party hereto is authorized or empowered to act as agent for the other for any purpose and shall not on behalf of the other enter into any contract, warranty, or representation as to any matter. Neither party shall be bound by the acts or conduct of the other.

## **10. Warranties, Limitations of Liability, and Indemnification.**

**10.1** NEITHER PARTY MAKES ANY EXPRESSED OR IMPLIED WARRANTIES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, REGARDING THE SPONSORED PROJECT(S) AND/OR ANY WORK PRODUCT RESULTING THEREFROM.

**10.2** IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY CONSEQUENTIAL SPECIAL OR INDIRECT DAMAGES ARISING HERUNDER. EXCEPT IN CASES OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, IN NO EVENT SHALL EITHER PARTY BE

LIABLE FOR MONETARY DAMAGES EXCEEDING THE AMOUNT OF THE SPONSORED PROGRAM.

**10.3** Each Party assumes all risks of personal injury, bodily injury including death, and property damage caused by the negligent acts or omissions of that party.

**10.4** WPI, its trustees, officers, students, employees and agents, and their respective successors, heirs, and assigns will have no liability for, and Sponsor will defend and indemnify such individuals and entities against, any claims, damages, liabilities, costs and expenses, including reasonable outside legal fees and expenses, resulting from, arising out of, or related to, Sponsor's use of any Intellectual Property in Sponsor's products, processes or services.

**10.5** Each party agrees to defend, indemnify and hold harmless the other party, its affiliates, subsidiaries, trustees, officers, students, employees and agents, and their respective successors, heirs, and assigns, from and against any and all third party claims, damages, liabilities, costs and expenses, including reasonable legal fees and expenses, resulting from, arising out of, or related to claims of any kind or nature, including but not limited to claims related to an alleged breach of this Agreement. The foregoing indemnity is conditioned upon prompt written notice by the indemnified party; complete control of the defense and settlement by the indemnifying party; and reasonable cooperation by the indemnified party in the defense of such claim.

**10.6** Sponsor will hold University harmless from any claims arising from third party claims that the work performed hereunder infringes third party intellectual property rights. University has no knowledge of any such claims.

**11. Notices.** Notices, invoices, communications, and payments delivered hereunder shall be deemed made to the party designated to receive such items at the addresses identified in Appendix B. Notice given pursuant to this Article shall be effective as of the day of receipt of notice.

**12. Governing Law.** Both parties agree to comply with all applicable federal, state, and local laws and regulations in the performance of this Project, as well as any requirements under any applicable protocol or statement of work. This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Massachusetts.

**13. Dispute Resolution.** In the event of dispute, controversy or claim arising out of or relating to this Agreement or any subsequent amendments to this Agreement including, without limitation, the breach, termination, validity or invalidity thereof, or any non-contractual issues relating to this Agreement, each of the parties will appoint a designated officer to confer, face-to-face, by telephone or by exchange of correspondence, for the purpose of resolving such dispute or to negotiate for an adjustment to such provision. Any dispute not disposed of by mutual consent shall be referred to mediation in accordance with the then current Commercial Mediation Rules of the American Arbitration Association. Any Dispute not disposed of by mediation shall be decided by procedures jointly agreed upon by the parties.

#### **14. Export Controls**

**14.1** The parties acknowledge that they must comply with export control laws, including the International Traffic in Arms Regulations (ITAR), 22 C.F.R. pts. 120-130; the Export Administration Regulations (EAR), 15 C.F.R. pts. 730-774; and the Foreign Assets Control Regulations, 31 C.F.R. pts. 501-598.

**14.2** Notwithstanding any other term herein, the University's research in connection with this Agreement shall constitute "fundamental research" for purposes of export control laws. University-generated technical data and software that arise during or result from "fundamental research" are not subject to the ITAR or EAR.

**14.3** The Sponsor shall not convey technical data, technology, commodities, or software on the U.S. Munitions List, 22 C.F.R. pt. 121, or the Commerce Control List, 15 C.F.R. pt. 774, to the University without the prior written consent of the University's Export Controls Officer. The University may decline receipt of listed items at its sole discretion and at no penalty.

## **15. General Provisions**

**15.1 *Non-assignability.*** The rights and obligations of the parties under this Agreement shall not be assignable without written permission of the other party.

**15.2 *Severability.*** If any provision hereof is held unenforceable or void, the remaining provisions shall be enforced in accordance with their terms.

**15.3 *Entire Agreement.*** This agreement contains the entire and only agreement between the parties respecting the subject matter hereof and supersedes or cancels all previous negotiations, agreements, commitments and writings between the parties on the subject of this Agreement. Should processing of this Agreement require issuance of a purchase order or other contractual document, all terms and conditions of said document are hereby deleted in 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



Revised 12-19-18

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

**By An Authorized Official of University**

**By An Authorized Official of Sponsor**

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

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

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

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

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

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