



Office of Research Initiatives
Santa Clara University
500 El Camino Real
Santa Clara, CA 95053
(408) 551-1817 phone
(408) 551-1873 fax

Sponsored Research Agreement

This agreement is entered into effective _____, by and between _____ (hereinafter referred to as the “Sponsor”) and the PRESIDENT AND BOARD OF TRUSTEES OF SANTA CLARA COLLEGE, dba SANTA CLARA UNIVERSITY (hereinafter referred to as the “University”).

WHEREAS, the project contemplated by this Agreement is of mutual interest and benefit to the University and to the Sponsor and will further the instructional and research objectives of the University in a manner consistent with its status as a non-profit, tax-exempt, educational institution,

NOW, THEREFORE, the parties hereto agree as follows:

1. **STATEMENT OF WORK.** The University agrees to use its reasonable best efforts to perform the project described in the statement of work (the “Project”) in Exhibit A, which may be modified by mutual written agreement of the parties (the “Statement of Work”) and is hereby incorporated and made a part of this agreement. The Sponsor understands that the University’s primary mission is education and advancement of knowledge and the project will be designed to carry out that mission. The manner of performance of the project shall be determined solely by Principal Investigator (as defined below). University does not guarantee specific results.

The Statement of work shall include a budget for the Project. University shall have the flexibility to revise the budget as necessary during the term of the Project so as to provide the Principal Investigator the opportunity to use resources as he or she deems most reasonable, provided any changes are within the scope of the Project.

2. **PRINCIPAL INVESTIGATOR.** The Project will be supervised by the individual set forth in the Statement of Work (the “Principal Investigator”). If, for any reason, s/he is unable to continue his/her involvement in the project, and a successor acceptable to both the University and the Sponsor is not available, this Agreement may be terminated by either party with ten (10) days notice in writing.
3. **TERM.** The project shall be conducted during the period set forth in the Statement of Work, unless the otherwise agreed to in writing by the parties, and will be subject to renewal only by mutual written agreement of the parties (the “Term”).
4. **REIMBURSEMENT OF COSTS.** In consideration of the foregoing, the Sponsor will reimburse the University for costs incurred by it in connection with the Project up to a

maximum amount that is set forth in Exhibit A or as otherwise agreed to in writing by the parties.

The University will maintain records of its costs hereunder and of funds received in accordance with its regular policies and procedures based on recognized institutional accounting principles consistently applied. Sponsor shall have the right to examine the University's accounting records during the Term and for a period of one (1) year following the expiration of this Agreement. A final financial report setting forth costs incurred and funds received by the University under this Agreement shall be submitted within 90 days after termination of this Agreement. The report shall be accompanied by a payment by University in the amount, if any, of the excess funds advanced over allowable costs and commitments incurred.

5. PAYMENT. Sponsor shall make payments to the University as set forth in Exhibit A or if no payment schedule is described, Sponsor shall make payments when requested by University but such payments shall not be requested more than once a month during the Term. The University may submit to the Sponsor, in the University's usual form, but with reasonable detail that the Sponsor may require, an invoice or voucher supported by a statement of claimed allowable costs for performing this Agreement. Sponsor shall pay any amounts due within thirty (30) days of request by University.

Checks shall be made payable to Santa Clara University and shall be sent to:

Director of Sponsored Projects
Sponsored Projects Office
Santa Clara University
500 El Camino Real
Santa Clara, CA 95053-0250

6. INTELLECTUAL PROPERTY.
 - (a) University owns the entire right, title, and interest, including to all patents, copyrights and other intellectual property rights in and to all tangible materials, inventions, works of authorship, software, information and data conceived or developed in the performance of the Project (the "University Inventions"), except as provided in subparagraph (b) below.
 - (b) Sponsor owns the entire right, title, and interest, including to all patents, copyrights and other intellectual property rights in and to all tangible materials, inventions, works of authorship, software, information and data conceived or developed using Sponsor facilities and solely by Sponsor personnel related to the Project (the "Sponsor Work Product").
 - (c) University and Sponsor shall promptly provide a reasonable written disclosure to each other of any University Inventions or Sponsor Work Product, respectively.

The Sponsor shall, upon reviewing such invention disclosure, determine whether to request the University to file and prosecute any patent application, domestic or foreign, covering the University Invention described in such invention disclosure; provided, however, that the University of its own accord may elect to file and prosecute a patent application should the Sponsor determine not to request the University to do so. If Sponsor so requests that University files and prosecutes a patent application, the Sponsor shall reimburse all reasonable costs associated with such filing and prosecution within thirty (30) days of receipt of invoice therefor.

- (d) Within 60 days of receipt of an invention disclosure with respect to a particular University Invention, Sponsor shall notify University in writing whether it desires to obtain a commercial license under such University Invention and any associated intellectual property. If Sponsor so notifies University, University and Sponsor shall negotiate in good faith the terms and conditions pursuant to which University would grant to Sponsor a commercial license under the University Invention (including associated intellectual property rights) for 90 days (the "Negotiation Period"). If the parties have not entered into a definitive license agreement during such period, University may offer a license under such University Invention (including associated intellectual property rights) to third parties, provided that for 12 months after the Negotiation Period, University shall not grant any such license on more favorable terms to such third party than those offered by Sponsor during the Negotiation Period unless University first offers such more favorable terms to Sponsor.
 - (e) University shall grant to Sponsor a non-exclusive license to use any University Invention comprising copyrightable material other than software code solely for Sponsor's internal research and development purposes. This license shall be subject to any government rights as set forth in Section 6(f).
 - (f) Sponsor acknowledges that University Inventions under certain governmentally funded projects may be subject to government rights and to the extent applicable, the licenses granted to Sponsor by University hereunder would be subject to such government rights.
7. PUBLICATION. The Principal Investigator shall have the right at his or her discretion to publish freely or otherwise publicly disclose the results of the Project subject to the following. If University reasonably determines that any subject matter to be disclosed in such a publication is patentable, University will submit such publication materials to the Sponsor for review and comment at least thirty (30) days prior to planned submission for publication. If Sponsor notifies University within ten (10) days of receipt of such materials that it desires University to file a patent application with respect to such subject matter, then University shall first file such application in accordance with Section 6 herein and shall submit such materials for publication only after written notice is provided to Sponsor before materials are

submitted for publication. University shall have the final authority to determine the scope and content of any publications.

8. **CONFIDENTIAL INFORMATION.** “Confidential Information” means any information related to the Project which is disclosed by either party to the other party and is marked as “Confidential” or if disclosed orally, is designated as confidential at the time of disclosure and is reduced in writing and confirmed to the other party as being Confidential Information within five (5) days of disclosure. Confidential Information shall not, however, include any information which (i) was publicly known and made generally available in the public domain prior to the time of disclosure by the disclosing party; or (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. The Confidential Information may not be disclosed except for circumstances in which (a) it 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 such disclosure and assistance in obtaining an order protecting the information from public disclosure; or (b) it is necessary for the purposes of legal or financial due diligence in connection with an investment, merger, or acquisition, provided that it is only disclosed to each party’s legal counsel, accountants, or professional advisors, without the prior written consent of the other party.
 - (a) Each party agrees not to use or disclose any Confidential Information of the other party to third parties or University employees, agents or students for any purpose except to fulfill the obligations of this Agreement.
 - (b) Each party agrees that it shall take reasonable measures to protect the secrecy of and avoid disclosure and unauthorized use of the Confidential Information of the other party. Without limiting the foregoing, each party shall take at least those measures that it takes to protect its own confidential information of a similar nature, but in no case less than reasonable care.
 - (c) The obligations of each receiving party hereunder shall survive until such time as all Confidential Information of the other party disclosed hereunder becomes publicly known and made generally available through no action or inaction of the receiving party.
9. **PUBLICITY.** Neither the University nor the Sponsor shall use the name of the other in a press release without the written permission of the other party. University may acknowledge Sponsor’s support of the Project in scientific or academic publications or communications without Sponsor’s prior approval. In any permitted statement, the parties shall describe the scope and nature of their participation accurately and appropriately.
10. **APPLICABLE LAW.** Each party agrees to abide by all applicable laws, including any export laws, in the conduct of activities or exercise of rights hereunder. Sponsor

represents and warrants that Sponsor has notified University in writing of any export control requirements.

11. PUBLICITY. Neither the University nor the Sponsor shall use the name of the other in any form of publicity without the written permission of the other party.

12. REPRESENTATIONS AND WARRANTIES.

- (a) University represents and warrants that University will perform the Project in conformance with any applicable laws and regulations. University also represents that all of its employees, students and consultants who participate in the Project will be obligated to assign to University all of their rights in the University Inventions.
- (b) EXCEPT AS OTHERWISE PROVIDED HEREIN, THE UNIVERSITY MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE CONDITION OF THE RESEARCH OR ANY INVENTION(S) OR PRODUCT(S), WHETHER TANGIBLE OR INTANGIBLE, CONCEIVED, DISCOVERED, OR DEVELOPED UNDER THIS AGREEMENT; OR THE OWNERSHIP, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE RESEARCH OR ANY SUCH INVENTION OR PRODUCT. THE UNIVERSITY SHALL NOT BE LIABLE FOR ANY DIRECT, CONSEQUENTIAL, OR OTHER DAMAGES SUFFERED BY ANY LICENSEE OR ANY OTHERS RESULTING FROM THE USE OF THE RESEARCH OR ANY SUCH INVENTION OR PRODUCT.

13. FORCE MAJEURE. The University shall not be liable for any failure to perform as required by this Agreement, to the extent such failure to perform is caused due to circumstances reasonably beyond its control, such as labor disturbances or labor disputed of any kind, accidents, failure of any governmental approval required for full performance, civil disorders or commotions, acts of aggression, acts of God, energy or other conservation measures, general failure of the Internet, explosions, failure of utilities, mechanical breakdowns, material shortages, disease, or other such occurrences.

14. TERMINATION. Either party may terminate this Agreement for any reason upon 30 days written notice to the other party after the completion of a Statement of Work or as otherwise set forth in the Statement of Work. University may terminate this Agreement for non-payment by Sponsor in excess of forty-five (45) days from invoice by Sponsor. Upon termination by either or both parties, the University will be reimbursed as specified in Article 4 for all non-cancelable commitments and other costs already incurred in the performance of the Agreement.

15. INDEMNIFICATION. The Sponsor agrees to indemnify, defend, and hold harmless the University, its trustees, directors, employees, agents and students (each, a "University Indemnitee") from any and all liability, loss (including attorneys' fees) or damage any University Indemnitee may suffer as a result of any third party claims

arising out of or connected with the Project, except to the extent that such claim is due to gross negligence or willful misconduct by a University Indemnitee, or a breach of any applicable law or regulation by a University Indemnitee related to the Project. The University Indemnitee shall promptly notify the Sponsor of any such claim and shall cooperate with the Sponsor in the defense of the claim.

- 16. **NONDISCRIMINATION.** University and Sponsor shall not discriminate against any employee or applicant for employment because of race, religion, national origin, sex, age or physical limitation, except where sex, age, or physical limitation is a bona fide occupational qualification.
- 17. **ASSIGNMENT.** Neither party shall assign this Agreement to another without the prior written consent of the other. Any such purported assignment shall be void.
- 18. **SEVERABILITY.** In the event a court of competent jurisdiction holds any provision of this Agreement to be invalid, such holding shall have no effect on the remaining provisions of this Agreement, and they shall continue in full force and effect.
- 19. **INDEPENDENT CONTRACTOR.** The University and Sponsor are independent contractors and neither is an agent, joint venturer, or partner of the other.
- 20. **GOVERNING LAW.** This Agreement shall be governed by the laws of the State of California. Any legal action arising out of or connected with the Agreement shall be adjudicated in the State of California.
- 21. **PROPERTY.** Title to all property purchased by the University with funds provided by the Sponsor pursuant to this Agreement shall become and remain property of the University unless otherwise agreed to in writing by both parties.
- 22. **NOTICES.** Any notices given under this agreement shall be in writing and delivered by first-class mail, postage prepaid, and addressed to the party to receive such notice at the address given below, or such other address as may be hereafter be designated by notice in writing:

University: Director of Sponsored Projects
 Sponsored Projects Office
 Santa Clara University
 500 El Camino Real
 Santa Clara, CA 95053-0250

Sponsor: _____

- 23. **ENTIRE AGREEMENT—CHANGES.** This Agreement constitutes the entire and only understanding between the University and the Sponsor relating to the subject

matter of the Project. Any alterations or supplements to this Agreement must be made in writing and signed by duly authorized representatives of both parties.

IN WITNESS WHEREOF, the University and the Sponsor have caused this Agreement to be executed by their duly authorized representatives.

SANTA CLARA UNIVERSITY

(SPONSOR)

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibit A

Statement of Work

Principal Investigator(s):

Description of the Project:

Deliverables:

Budget:

Payment Schedule:

Maximum Amount of Costs that will be reimbursed by Sponsor unless otherwise agreed to by the parties: