

WORK FOR HIRE
BETWEEN NORTHEAST OHIO MEDICAL UNIVERSITY
AND
[INSERT NAME]

This Work for Hire Research Agreement (“Agreement”) is made between Northeast Ohio Medical University (“University” or “NEOMED”), an institution of higher education located at 4209 State Route 44, Rootstown, Ohio 44272 and **[insert name]** with its principal place of business at **[insert address]** (“Sponsor”). “Party” means the University or Sponsor, as determined by the context in which the term is used and “Parties” means the University and Sponsor.

RECITALS

- A. Sponsor desires that University perform certain research work hereinafter described and is willing to advance funds to sponsor such research;
- B. Sponsor desires to obtain certain rights to patents and technology developed during the course of such research with the potential to commercialize such patents and technology for the Sponsor’s benefit; and
- C. University is willing to perform such research and to grant rights to such patents and technology;

NOW THEREFORE, in consideration of the mutual covenants and promises herein contained, the University and Sponsor agree as follows:

1. EFFECTIVE DATE AND TERM

This Agreement shall be effective as of **[insert date]** (the “Effective Date”). The research shall be performed from the Effective Date through and including **[insert date]** (“Term”). The Term of this Agreement may be extended at no increase in cost to Sponsor by amendment to this Agreement or through written approval from Sponsor’s Designated Representative.

2. RESEARCH PROGRAM

2.1 University will use reasonable efforts to conduct the Research Program described in Attachment A which is hereby incorporated in full by reference (“Research Program”) and will furnish the facilities necessary to carry out said Research Program. The Research Program will

take place at the University and under the direction of _____ (“Principal Investigator”), or his or her successor or designee, as mutually agreed to by the Parties.

2.2 Sponsor understands that University’s primary mission is education and advancement of knowledge with benefit to society, and consequently the Research Program will be designed to carry out that mission. The manner of performance of the Research Program shall be determined by the Principal Investigator. University does not guarantee specific results, and the Research Program will be conducted only on a reasonable efforts basis.

2.3 Sponsor understands that University may be involved in similar research on behalf of itself and others. University shall be free to continue such research provided that it is conducted separately from the Research Program hereinafter defined, and Sponsor shall not gain any rights via this Agreement to such other research.

2.4 University does not guarantee that any patent rights will result from the Research Program, that the scope of any patent rights obtained will cover Sponsor’s commercial interests, or that any such patent rights will be free of dominance by other patents, including those based upon inventions made by other inventors at NEOMED who are independent of the Research Program.

2.5 In the event that physical deliverables or samples are exchanged between the parties, such exchanges shall be made pursuant to the provisions of separately executed Material Transfer Agreement.

3. FIXED PRICE

3.1 As consideration for the performance by University of its obligations under this Agreement, Sponsor will pay the University the fixed price of **[insert spelled out dollar amount and numeric value \$XXXX.00]**. The invoice shall be sent to Sponsor at the below address,

Insert Address _____

Attn: _____

Phone: _____

E-mail: _____

Payment in full in the amount of \$_____ shall be directed to University within thirty (30) days following Sponsor’s execution of the Agreement and receipt of an invoice.

3.2 University shall retain title to all equipment purchased and/or fabricated by it with funds provided by Sponsor under this Agreement.

4. CONSULTATION AND REPORTS

4.1 Sponsor's designated representative ("Designated Representative") for consultation and communications with the Principal Investigator shall be [insert name] or such other person as Sponsor may from time to time designate in writing to University and the Principal Investigator.

4.2 During the term of the Agreement, Sponsor's Designated Representative, or other designees, may consult with University's representatives regarding the project, both personally and by telephone. Access to work carried on in University laboratories in the course of these investigations shall be entirely under the control of University personnel but shall be made available on a reasonable basis.

4.3 The Principal Investigator will provide brief oral report(s) at periodic intervals agreed to by the Principal Investigator and Sponsor's Designated Representative, in addition to the reports and/or deliverables described in Attachment A.

5. PUBLICITY

5.1 Neither party will use the name, trade name, trademark or other designation of the other party in connection with any products, promotion, or advertising, without the prior written permission of the other party. However, nothing in this provision is intended to restrict either party from disclosing the existence of and nature of this Agreement (including the name of the other party) or from including the existence of and nature of this Agreement in the routine reporting of its activities.

5.2 University shall have the right to acknowledge Sponsor's support of the investigations under this Agreement in scientific or academic publications and other scientific or academic publications, without Sponsor's prior approval.

6. PUBLICATION AND ACADEMIC RIGHTS

6.1 University and the Principal Investigator shall have the right, at its discretion, to make or permit to be made scholarly disclosures of the results of the project, including without limitation, publication in scholarly journals, presentations at academic and other conferences, disclosures

to University and non-University scholars, and disclosures in grant and funding applications, except for Sponsor's confidential information ("Confidential Information") as may be furnished to University pursuant to a separate nondisclosure agreement executed by the Parties. University will furnish Sponsor with a copy or notice of any publication in any scholarly journal or conference presentation that includes a report of the results of the project at least thirty (30) days prior to submission for publication ("Review Period"). Upon written notification by Sponsor within the Review Period, University agrees to delete any of Sponsor's Confidential Information that appears in the publication. If it is determined that a patent application should be filed, University will delay publishing such proposed publication for a maximum of an additional thirty (30) days in order to protect the potential patentability of any invention described therein.

6.2 It is understood that the University investigators may discuss the research being performed under this Agreement with other investigators and shall exercise reasonable efforts to maintain Sponsor's Confidential Information furnished to University pursuant to a nondisclosure agreement executed by the Parties. In the event any joint inventions result, University shall grant to Sponsor the rights outlined in Article 7 to this Agreement, to the extent these are not in conflict with obligations to another party as a result of the involvement of the other investigator(s). In this latter case, University shall, in good faith, exercise reasonable efforts to enable Sponsor to obtain rights to the joint invention.

7. PATENTS AND COPYRIGHTS

7.1 Inventorship and ownership of patentable developments or discoveries invented in the performance of this Agreement ("Subject Inventions") will be determined in accordance with applicable U.S. Patent Law and University policy.

7.2 To the extent that University will have the legal right to do so, and provided Sponsor pays all costs as set forth in Article 7.3, Sponsor will have a time-limited first right to negotiate a license to the University's interest in any Subject Invention.

7.3 University shall promptly disclose to Sponsor any Subject Inventions. Sponsor shall hold this disclosure on a confidential basis and will not disclose the information to any third party without the prior written consent of University. Within thirty (30) days of receipt of disclosure Sponsor will notify University in writing whether or not it elects to secure a license to University's interest in the disclosed Subject Invention ("Election Period"). Sponsor will then have ninety (90) days from the date of its notice of election to conclude such license agreement with University ("Negotiation Period"). Said license will contain reasonable terms, will require diligent performance by Sponsor for the timely commercial development and early marketing of all

Subject Inventions subject to the license, and will include Sponsor's obligation to reimburse University's patent costs for all Subject Inventions subject to the license. University may file patent applications at its own discretion and expense or at the written request of the Sponsor at Sponsor's expense. If such license negotiation is not concluded within the Negotiation Period or if Sponsor does not notify University of its wish to secure a license within the Election Period, neither party will have any further obligation to the other with respect to University's interest in the Subject Invention and the rights to such Subject Invention will be disposed of in accordance with University's policies. In all cases, University reserves for itself a royalty-free, irrevocable license to make and use such Subject Inventions for its own research and educational purposes.

7.4 Nothing in this Agreement is or shall be construed as conferring by implication, estoppel, or otherwise any license or rights under any patents or other rights of the University.

7.5 Copyright in original works of authorship, including computer software, first created and fixed in a tangible medium of expression by University in the performance of this Agreement will vest in University. At Sponsor's request and to the extent that University has the legal right to do so, University will grant to Sponsor a license to University's interest in such works on reasonable terms and conditions, as the parties mutually agree in a separate writing.

8. LIABILITY

8.1 Sponsor agrees to indemnify and hold harmless System, University, their Regents, officers, agents and employees from any liability, loss or damage they may suffer as a result of claims, demands, costs or judgments against them arising out of the activities to be carried out pursuant to the obligations of this Agreement, including but not limited to the use by Sponsor of the results obtained from the activities performed by University under this Agreement; provided, however, that the following is excluded from Sponsor's obligation to indemnify and hold harmless:

- (a) the negligent failure of University to substantially comply with any applicable governmental requirements; or
- (b) the negligence or willful malfeasance of any officer, agent or employee of University.

8.2 Both Parties agree that upon receipt of a notice of claim or action arising out of the activities to be carried out pursuant to the Research Program, the party receiving such notice will notify the other party promptly. Sponsor agrees, at its own expense, to provide attorneys to

defend against any actions brought or filed against University, System, their Regents, officers, agents and/or employees with respect to the subject of the indemnity contained herein, whether such claims or actions are rightfully brought or filed; and University agrees to cooperate with Sponsor in the defense of such claim or action.

9. INDEPENDENT CONTRACTOR

For the purposes of this Agreement and all research to be provided hereunder, the Parties shall be, and shall be deemed to be, independent contractors and not agents or employees of the other party. Neither party shall have authority to make any statements, representations nor commitments of any kind, or to take any action which shall be binding on the other party, except as may be expressly provided for herein or authorized in writing.

10. TERMINATION

10.1 The Research Program shall be performed during the Term as described above, unless sooner terminated in accordance with the provisions of this Article 10.

10.2 Either University or Sponsor may terminate this Agreement by giving sixty (60) days' written notice to the other. Sponsor will pay University actual direct costs, research operating costs and non-cancellable commitments incurred prior to the effective date of termination and fair close-out related costs. If the total of such costs is less than the total funds advanced, the balance will be returned to Sponsor. In all instances, the total cost to Sponsor in the event of termination shall not exceed the total fixed price specified in Article 3.

10.3 Termination or cancellation of this Agreement shall not affect the rights and obligations of the Parties accrued prior to termination. Any provisions of this Agreement which by their nature extend beyond termination shall survive such termination. In the event of any early termination, Sponsor shall pay University for all actual expenses incurred or committed to be expended as of the effective termination date, including salaries for appointees for the remainder of their appointment.

11. GENERAL

11.1 This Agreement may not be assigned by either party without the prior written consent of the other party; provided, however, that subject to the approval of University, Sponsor may assign this Agreement to any purchaser or transferee of all or substantially all of Sponsor's assets or stock upon prior written notice to University; provided, however, that such assignee shall have

expressly assumed all of the obligations and liabilities of Sponsor under this Agreement, and provided, further that, University may assign its right to receive payments hereunder.

11.2 This Agreement constitutes the entire and only agreement between the Parties relating to the Research Program, and all prior negotiations, representations, agreements and understandings are superseded hereby. No agreements altering or supplementing the terms hereof may be made except by means of a written document signed by the duly authorized representatives of the parties. Terms and conditions which may be set forth (front, reverse, attached or incorporated) in any purchase order issued by Sponsor in connection with this Agreement shall not apply, except for informational billing purposes; i.e., reference to purchase order number, address for submission of invoices, or other invoicing items of a similar informational nature.

11.3 Any notice required by this Agreement by Articles 7 or 8 shall be given prepaid, first class, certified mail, return receipt requested, addressed in the case of University to:

Northeast Ohio Medical University
Office of Research and Sponsored Programs
4205 State Route 44
Rootstown, Ohio 44272

With a copy to: Office of the General Counsel (at the same address)

or in the case of Sponsor to:

[Sponsor]
[Sponsor Address]
Attn:

or at such other addresses as may be given from time to time in accordance with the terms of this notice provision.

11.4 This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Ohio.

11.5 The parties acknowledge that, because University is an institution of higher education and has many foreign persons who are students, employees and visitors, University conducts its research activities as “fundamental research” under export control regulations. Sponsor

acknowledges that this Agreement and the performance thereof are subject to compliance with any and all applicable United States laws, regulations, or orders, including those that may relate to the export of technical data, and Sponsor agrees to comply with all such laws, regulations and orders.

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

NORTHEAST OHIO MEDICAL UNIVERSITY SPONSOR

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

ATTACHMENT A – RESEARCH PROGRAM

(Document Program or Attach a Copy of Scope of Work)

