

INTERNATIONAL SPONSORED PROJECT
AGREEMENT OGRD #

I. PARTIES

1.1 THIS AGREEMENT is made and entered into by and between Washington State University (WSU), an institution of higher education and an agency of the state of Washington, and (SPONSOR). In this Agreement, the above entities are jointly referred to as PARTIES.

II. PURPOSE

- 2.1 This agreement provides the terms and conditions for a sponsored project which is of mutual interest and benefit to WSU and SPONSOR.
- 2.2 The performance of such sponsored project is consistent, compatible and beneficial to the academic role and mission of WSU as an institution of higher education.

III. DEFINITIONS

- 3.1 "Budget" shall mean the Project Budget contained in *Attachment B-Budget*, which is hereby incorporated by reference.
- 3.2 "Project Director(s)" shall be .
- 3.3 "Sponsor Liaison" shall be [name], a SPONSOR [employee, agent, contractor] designated by SPONSOR to be the primary contact with the Project Director.
- 3.4 "SCOPE OF WORK" shall mean the sponsored project, under the direction of the Project Director, described in *Attachment A-Scope of Work*, *Attachment B-Budget* and [any other attachments which may provide additional information on the sponsored project to be performed.]
- 3.5 "Confidential Information" shall mean information in written, graphic, oral or other tangible form protected by trade secret or other right of non-disclosure, including without limitation algorithms, formulae, techniques, improvements, technical drawings and data, and computer software. Further definitions and requirements for disclosure are addressed in Article 5.11.
- 3.6 "Intellectual Property" shall mean any Invention, Copyright, Trademark and/or Proprietary Information produced under the Scope of Work.

		reduced to practice in performance of the Scope of Work and resulting patents, divisionals, continuations, or substitutions of such applications, all reissues and foreign counterparts thereof, upon which a WSU employee or agent is a named inventor.
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	3.8	“Invention Disclosure(s)” shall mean a written disclosure of a potentially patentable Invention(s) provided to the WSU’s Office of Intellectual Property Administration.
	3.9	“Copyright” shall mean any work developed under the Scope of Work that is subject to copyright under copyright law.
	3.10	“Proprietary Information” means all data, sequences, and any other information obtained or developed during the course of the Scope of Work.
	3.11	“Trademark” shall mean any trade or service marks developed under the Scope of Work whether or not registered under either state or federal trademark law.
IV.	SCO P	E OF WORK

	4.1	SPONSOR acknowledges that this Agreement is for the performance of the SCOPE OF WORK as defined in Section 3.4 of this Agreement which shall be entitled “_____”.
	4.2	WSU agrees to use its reasonable best efforts to perform the SCOPE OF WORK. WSU does not represent or guarantee that the desired results will be obtained under this Agreement.
	4.3	Reporting Requirements.
		4.3.1 Progress Reports. WSU shall provide written reports on the progress of

the SCOPE OF WORK as follows: *[Insert frequency of progress reports, i.e., no progress reports shall be provided, or shall be provided monthly or quarterly or semi-annually].*

4.3.2 Final Report. A final written report shall be furnished at the completion of the Contract Term.

IV. GENERAL TERMS AND CONDITIONS

In consideration of the mutual premises and covenants contained herein, the PARTIES agree to the following terms and conditions.

5.1 No Partnership/Joint Venture. The relationship of the PARTIES under this Agreement is that of independent contractors and they are not agents, employees, partners or joint venturers of one another. No PARTY has the authority to bind any other PARTY in contract or to incur any debts or obligations on behalf of any other PARTY, and no PARTY (including any employee or other representative of a PARTY with responsibility for technical or administrative matters) shall take any action that attempts or purports to bind any other PARTY in contract or to incur any debts or approval.

5.2 Period of Performance. The specific period of performance for the SCOPE OF WORK shall be _____ to _____ unless a time extension is mutually agreed upon in writing between the PARTIES in accordance with Article 5.21– Amendments.

5.3 Funding. SPONSOR agrees to reimburse WSU for services performed under this Agreement in the amount of \$ _____ payment schedule:
 [Insert Payment Schedule]
 in accordance with the following

5.4 Currency. All compensation shall be in U.S. currency at the exchange rate in effect upon execution of this Agreement. Should the exchange rate fluctuate more than 5% from this original rate, an amendment to this Agreement to

reflect the difference shall be negotiated between the parties if so desired.

5.5 Taxes. With regard to payments to be made or made to WSU pursuant to this Agreement, all payments to be received by WSU hereunder shall be net of taxes (which for the purposes of this Agreement, shall mean the full amount owed pursuant to this Agreement, without any deduction for withholding or other taxes, or related penalties or interest). Any SPONSOR taxes assessed against WSU shall be paid by SPONSOR which shall prepare and file any related tax returns, in addition to paying the full amounts described in 5.2 above and the Payment Schedule.

5.6 Project Budget. *Attachment B–Budget* sets forth the Project Budget. Deviations from this Project Budget may be made to and from any expenditure object within the WSU system as long as such deviation is reasonable and necessary in the pursuit of the SCOPE OF WORK. The total amount identified above may not be exceeded without prior written amendment to this Agreement signed by the PARTIES.

5.7 Invoices. Periodic invoices will be provided, in accordance with 5.3, but not more often than monthly, using the standard WSU invoice. Payments are due to WSU within forty-five (45) days from the WSU invoice date. All payments to WSU under this Agreement shall be made by wire transfer, according the instructions referenced in Attachment C, in U.S. currency, net of taxes or impost of any kind (which for the purposes of this Agreement, shall mean the full amount owed pursuant to this Agreement, without any deduction for withholding or other taxes, or related penalties or interest), in accordance 5.3 above. SPONSOR shall give notice of each international wire transfer by e-mail or fax to: Washington State University, Cashier's Office – SPS, PO Box 641039, Pullman WA 99164-1039. Fax: 509.335.2071, spfo@wsu.edu.

Invoices should be sent to:

5.8 Equipment. WSU shall retain title to any equipment purchased with funds provided by SPONSOR under this Agreement.

5.9 Key Personnel. The Project Director may select and supervise other project staff as needed to perform the SCOPE OF WORK. No other person will be substituted for the Project Director except with SPONSOR's approval. SPONSOR may exercise Termination for Convenience provisions of this Agreement if a satisfactory substitute is not identified.

5.10 Control of Scope of Work. The control of the SCOPE OF WORK rests entirely with WSU. However, the PARTIES agree that WSU, through its Project Director, shall maintain communication with the designated liaison for SPONSOR. WSU's Project Director and SPONSOR's Liaison shall mutually define the frequency and nature of these communications.

5.11 Confidential Information.

5.11.1 To the extent allowed by law, WSU and SPONSOR agree to use

reasonable care to avoid unauthorized disclosure of Confidential Information, including without limitation taking measures to prevent creating a premature bar to a United States or foreign patent application. Each PARTY will limit access to Confidential Information received from another PARTY to those persons having a need to know. This clause shall not be interpreted to limit the potential disclosure pursuant to other provisions in this section. Each PARTY shall employ the same reasonable safeguards in receiving, storing, transmitting, and using Confidential Information that prudent organizations normally exercise with respect to their own confidential information of significant value.

5.11.2 Confidential Information shall include written, graphic, or oral communication. Confidential Information shall not be disclosed by the receiving PARTY to a third PARTY for a period of five (5) years from receipt of such information or until a patent is published or the Confidential Information is published by the disclosing PARTY or unless the disclosing and receiving PARTIES agree otherwise and in writing at the time of disclosure. Third PARTIES shall include all governmental offices.

5.11.3 The terms of confidentiality set forth in this Agreement shall not be construed to limit the PARTIES' right to independently develop products without the use of another PARTY's Confidential Information.

5.11.4 Confidential Information shall not include information which:

- 5.11.4.1 was in the receiving PARTY's possession prior to receipt of the disclosed information;
- 5.11.4.2 is or becomes a matter of public knowledge through no fault of the receiving PARTY;
- 5.11.4.3 is received from a third PARTY without a duty of confidentiality;
- 5.11.4.4 is independently developed by the receiving PARTY;
- 5.11.4.5 is required to be disclosed under operation of law;
- 5.11.4.6 is reasonably ascertained by WSU or SPONSOR to create a risk to a trial subject or to public health and safety.

5.11.5 It is understood that as an educational institution of the state of Washington, WSU is subject to Washington State laws and regulations including the Washington Public Disclosure Act, RCW 42.56 et seq. (<http://apps.leg.wa.gov/RCW/default.aspx?cite=42.56>). If a Public Disclosure Act request is made to view SPONSOR's Confidential Information, and the WSU's Public Records Officer either determines that no exemption to disclosure applies or is unable to determine whether an exemption to disclosure applies, WSU will notify SPONSOR of the request and the date that such records will be released to the requester unless SPONSOR obtains a court order enjoining that disclosure. If SPONSOR fails to obtain a court order enjoining disclosure, WSU will release the requested information on the date specified.

5.12 Publication. WSU reserves the right to publish or permit to be published by

WSU employees the results of the SCOPE OF WORK undertaken by WSU employees. To prevent untimely disclosure or exploitation of SPONSOR Confidential Information, WSU shall provide SPONSOR Liaison with a copy of any proposed publication resulting from the SCOPE OF WORK at least thirty (30) days prior to submission for publication. SPONSOR shall have thirty (30) days (the "Pre- publication Review Period") from receipt of the draft to review the proposed publication. If SPONSOR determines that SPONSOR Confidential Information is included in the proposed publication, WSU will at SPONSOR's request remove such SPONSOR Confidential Information prior to submission for publication. If the proposed draft publication contains SPONSOR Confidential Information, the SPONSOR may request that WSU's submission of the draft for publication be delayed for up to sixty (60) days beyond the end of the Pre-publication Review Period. If SPONSOR seeks to delay publication, SPONSOR shall make such request in writing prior to the expiration of the Pre-publication Review Period together with identification of the information or materials of concern and reasons why delay is warranted. WSU may delay publication by ninety (90) days to allow WSU or SPONSOR, as the case may be, to seek patent protection.

- 5.13 Publicity. SPONSOR shall not include the name of Washington State WSU, Washington State WSU Research Foundation or any of either entity's Trademarks in any advertising, sales promotion, or other publicity matter without prior written approval of the President of the WSU or his or her designee.
- 5.14 Termination for Convenience. This Agreement may be terminated by either PARTY hereto upon written notice delivered to the other PARTY at least thirty (30) days prior to the intended date of termination. By such termination, neither PARTY may nullify obligations already incurred prior to the date of termination. In the event of Termination for Convenience of this Agreement by SPONSOR, SPONSOR shall pay all reasonable costs and non-cancelable obligations incurred by WSU as of the date of termination. breach of or default in any terms or conditions of this Agreement, and also shall fail to remedy such default or 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 which it may have at law or in equity, terminate this Agreement by sending notice of termination in writing to the other PARTY to that effect. Termination shall be effective as of the day of receipt of such notice.
- 5.16 Termination Obligations. In addition to those obligations set out in 5.14 and 5.15, termination of this Agreement shall not relieve either PARTY of any obligations incurred prior to the date of termination including, but not limited to, any obligation of the SPONSOR to pay the option fee set forth in Article 5.19.
- 5.17 Dispute Resolution. Except as otherwise provided in this Agreement, when a dispute arises between the PARTIES and it cannot be resolved by direct negotiation, any PARTY may request a dispute resolution panel (DRP). A request for a DRP must be in writing, state the disputed issues(s), state the relative positions of the PARTIES and be sent to all PARTIES. PARTIES must provide a response within thirty (30) days unless the PARTIES mutually agree to an extension of time. Each PARTY shall designate a representative. The representatives shall mutually select an additional member. The DRP shall evaluate the facts, Agreement terms, and applicable

statutes and rules and make a determination by majority vote. The decision is binding on the PARTIES.

Nothing in this Agreement shall be construed to limit the PARTIES' choice of a mutually acceptable dispute resolution method in addition to the dispute resolution procedure outlined above.

5.18 Disclaimer. WSU MAKES NO EXPRESS OR IMPLIED WARRANTY AS TO THE CONDITIONS OF THE SCOPE OF WORK, SPONSORED PROJECT OR ANY INTELLECTUAL PROPERTY, GENERATED INFORMATION, OR PRODUCT MADE OR DEVELOPED UNDER THIS AGREEMENT, OR THE OWNERSHIP, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE SPONSORED PROJECT, SCOPE OF WORK, OR RESULTING PRODUCT.

5.19 Intellectual Property.

5.19.1 WSU Intellectual Property. WSU shall own all rights and title to Intellectual Property created solely by WSU employees.

5.19.2 SPONSOR Intellectual Property. SPONSOR shall own all rights and title to Intellectual Property created solely by SPONSOR and without use of WSU resources under this Agreement.

5.19.3 Joint Intellectual Property. WSU and SPONSOR shall jointly own all rights and title to Intellectual Property made jointly by WSU and SPONSOR pursuant to this Agreement.

5.19.4 Consistent with WSU policy, WSU may assign Intellectual Property to the Washington State WSU Research Foundation ("WSURF"). For purposes of Property assigned to it.

5.19.5 WSU hereby grants to SPONSOR an option to negotiate a license to WSU Intellectual Property and/or WSU's ownership interest in Joint Intellectual Property (Option Rights). WSU shall notify SPONSOR of such Intellectual Property within thirty (30) days of WSU's Office of Intellectual Property Administration's receipt of WSU Invention Disclosure forms from WSU inventors. SPONSOR shall, within ninety (90) days of receipt of such notification from WSU (the Option Period), indicate to WSU in writing its intent to negotiate a license. Upon receipt, by the WSU, of SPONSOR's notification of its intent to negotiate a license and as consideration for these Option Rights, SPONSOR shall pay a non-refundable fee of Seven Thousand Five Hundred dollars (\$7,500) to WSURF within sixty (60) days of WSURF's submission of an invoice to SPONSOR. In the event that SPONSOR exercises its option, the PARTIES shall negotiate the license terms in good faith. The license shall contain terms standard for agreements between universities and industry including, without limitation, clauses providing for payment of reasonable royalties and other compensation to the WSU; reimbursement of WSU for all past, present, and future expenses

incurred in the preparation, filing, prosecution, issuance, and maintenance of Intellectual Property rights; and product liability indemnification and insurance requirements which are acceptable to WSU. In the event that WSU and SPONSOR do not execute a written license agreement for the Option Rights within (insert number of days) days following SPONSOR's exercise of the option (the "Negotiation Period"), WSU shall be free to negotiate with and to enter into license agreements, including exclusive license agreements, with third PARTIES for the Options Rights.

5.19.6 Invention Disclosures submitted to SPONSOR by WSU are regarded by WSU as confidential. SPONSOR shall not disclose any information contained in Invention Disclosures to any third PARTY without WSU's prior written permission.

5.19.7 If SPONSOR declines to enter into a license with WSU under this Article, SPONSOR agrees for itself, its employees, successors, and assigns to be bound by a secrecy obligation for five (5) years with respect to information contained in the Invention Disclosure.

5.19.8 WSU hereby grants to SPONSOR a royalty-free license to use Copyrights, with the exception of copyrighted software, for its non-commercial use. WSU hereby grants to SPONSOR the right to negotiate a license for commercial use of Copyrights on reasonable terms and conditions, including a reasonable royalty, as the PARTIES hereto agree in a subsequent writing.

5.19.9 SPONSOR understands that WSU must comply with the provisions of US Patent law including the Bayh-Dole Act.

and/or omissions and those of its officers, employees and agents. SPONSOR shall fully indemnify and hold harmless WSU against all claims arising out of SPONSOR's use, commercialization, or distribution of Intellectual Property or products that result in whole or in part from the Scope of Work.

5.21 Amendments. This Agreement may be amended by mutual agreement of the PARTIES. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the PARTIES.

5.22 Assignment.

5.22.1 The work to be provided under this Agreement, and any claim arising hereunder, is not assignable or delegable by either PARTY in whole or in part, without the express prior written consent of the other PARTY, which consent shall not be unreasonably withheld.

5.22.2 Notwithstanding the foregoing, and consistent with WSU policy, SPONSOR agrees that WSU may assign any Inventions, Copyrights, or Trademarks developed under this Agreement to the Washington State WSU Research Foundation.

5.23 Notices. Any notice or communication required or permitted under this Agreement shall be delivered by overnight courier, or by registered or certified mail, postage prepaid and addressed to the PARTY to receive such notice at

the address given below or such other address as may hereafter be designated by notice in writing. Notice given hereunder shall be effective as of the date of receipt of such notice:

WSU:

Name/Title: Dan Nordquist, Director OGRD

Phone: (509) 335-9661

Address: 423 Neill Hall

Fax: (509) 335-1676

Address: PO Box 643140

E-mail: ogrd@wsu.edu City/

State/Zip: Pullman, WA 99164-3140

SPONSOR:

5.24 Governing Law. The rights and obligations of the PARTIES under this Agreement shall be governed by and construed in accordance with the laws of the State of Washington regardless of the conflicts of law rules. PARTIES hereby accept the exclusive venue and jurisdiction of the Federal District Court of Eastern Washington, located in Spokane, Washington, U.S.A. or Whitman County Superior Court, located in Colfax, Washington, U.S.A..

5.25 Governing Language. In the event that a translation of this Agreement is prepared and signed by the PARTIES, this English language version shall be the language version and the translation. All disputes [litigation and arbitration] under this Agreement shall be resolved and conducted, regardless of the means or authority, in the English language.

5.26 Compliance with Laws.

5.26.1 SPONSOR understands that WSU and SPONSOR are subject to United States laws and federal regulations, including the export of technical data, computer software, laboratory prototypes and other commodities (including the Arms Export Control Act, as amended, and the Export Administration Act of 1979), and that SPONSOR's and WSU's obligations hereunder are contingent upon compliance with applicable United States laws and regulations, including those for export control and embargos. The transfer of certain technical data and commodities may require a license from a cognizant agency of the United States Government and/or a written assurance by SPONSOR that SPONSOR shall not transfer data or commodities to certain foreign countries without prior approval of an appropriate agency of the United States Government. It is the responsibility of the SPONSOR to be aware of any and all laws and regulations of the SPONSOR's government and to fulfill any and all requirements associated to such laws and regulations as may be necessary. WSU nor SPONSOR represent that a license shall not be required by either government, nor that, if required, it will be issued. SPONSOR agrees that all data and deliverables will be used in compliance with all applicable United States anti-terrorist financing and asset control laws,

regulations, rules and executive orders.

5.26.2 SPONSOR understands that WSU and SPONSOR are subject to United States laws and federal regulations, including the export of technical data, computer software, laboratory prototypes and other commodities (including the Arms Export Control Act, as amended, and the Export Administration Act of 1979), and that SPONSOR's and WSU's obligations hereunder are contingent upon compliance with applicable United States laws and regulations, including those for export control. The transfer of certain technical data and commodities may require a license from a cognizant agency of the United States Government and/or a written assurance by SPONSOR that SPONSOR shall not transfer data or commodities to certain foreign countries without prior approval of an appropriate agency of the United States Government. WSU nor SPONSOR represent that a license shall not be required, nor that, if required, it will be issued. This provision shall survive the expiration or earlier termination of this Agreement.

5.27 Severability. If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Agreement, and to this end the provisions of this Agreement are declared to be severable.

5.28 Assurances. WSU and SPONSOR certify that the necessary protocols and assurances related to research and other sponsored activity for that PARTY's respective nation have been completed and approved. This includes but, is not limited to animal and human subjects, biological materials. WSU and SPONSOR assure that their respective employees, representatives, and collaborators comply with U.S. Anti-Bribery Laws. SPONSOR ensures that the U.S. government and therefore WSU enjoy "Most Favored Nation" status.

5.29 Order of Precedence. In the event of an inconsistency in this Agreement, the inconsistency shall be resolved by giving precedence in the following order:

1. Applicable statutes and regulations;
2. Terms and Conditions contained in the basic Agreement;
3. *Attachment A–Scope of Work*;
4. *Attachment B–Budget*;
5. Any other attachments; and
6. Any other provisions incorporated by reference or otherwise into this Agreement.

This Agreement contains all the terms and conditions agreed upon by the PARTIES. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the PARTIES hereto.

IN WITNESS WHEREOF, the PARTIES hereto have caused this Agreement to be executed as of the date set forth herein by their duly authorized representatives.

WASHINGTON STATE UNIVERSITY

SPONSOR

Name: Dan Nordquist

Title: Director, OGRD

Date: _____

Name:

Title:

Date:

ATTACHMENT A – SCOPE OF WORK
OGRD #
(See Articles 3.4 and 5.29)

Description:

ATTACHMENT B – BUDGET
OGRD #
(See Articles 3.1, 3.4, 5.6, and 5.29)

Salaries	\$
Wages	\$
Fringe Benefits	\$
Travel	\$
Supplies/Services	\$
Equipment	\$
Subcontracts	\$
Other Direct Costs	\$
Total Direct Costs	\$
Indirect Costs	\$

[___ % MTDC of \$ _____]

Total Costs \$

Attachment C-Wire Instructions
OGRD#

(See Article 5.7) WSU

wiring instructions from foreign sources are as follows:

Send to: Bank of America
Pullman, Washington Branch

Account Number –

ABA/Routing Number –

SWIFT Code –

Account Name – WASTATE UNIVERSITY

Comments: (Please include a detailed explanation as to what the wire payment is for and also include Invoice numbers, OGRD (this contract) number, or WSU account numbers if known.)