**RESEARCH AGREEMENT**

**ARIZONA CHOICE 2**

Effective Date:

Research Project (title):

Parties: The following are the parties to this agreement (individually referred to as a **“Party”** and collectively the **“Parties”**):

 University:

 The Arizona Board of Regents, on behalf of The University of Arizona

 Company:

insert company name and address

The Parties hereby agree as follows:

1. **SCOPE OF WORK AND PAYMENT**
	1. Research Project. The University will use reasonable efforts to perform the research project as described on and in accordance with Exhibit A (the **“Research Project”**), in consideration for Company making the payments as described on and in accordance with Exhibit B (the **“Costs of Research”**). Unless otherwise set forth on Exhibit B, payments will be due within 30 days of the date of the University’s invoice. The Research Project will be supervised by the individual listed in Exhibit A, employed by University (the **“Principal Investigator”**).
	2. Reports. A final report setting forth the accomplishments and significant research findings will be prepared by the University and submitted to the Sponsor within sixty (60) days after the expiration of this Agreement.
	3. Non-Exclusivity of Research. Both Parties acknowledge and agree that each Party may engage in other research that is similar to the Research Project, funded by public or private sources and conducted separately, and the other Party has no rights or obligations with respect to such separate research.
	4. Equipment and Supplies. Equipment and supplies purchased specifically to conduct the Research Project belong to University at the termination of this Agreement.
2. **TERM AND TERMINATION**
	1. Term. This Agreement begins on the Effective Date and will expire upon final completion of the Research Project (the **“Term”**), unless sooner terminated in accordance with the provisions of this Section 2.
	2. Termination for Convenience. Either party may terminate this Agreement at any time upon (90) days written notice to the other Party.
	3. Termination for Breach. Either Party may terminate this Agreement in the event the other Party commits a material breach of any of the terms or conditions of this Agreement, and fails to remedy such breach within thirty (30) days after receipt of written notice. The right to terminate for material breach is in addition to any other remedies which a Party may have at law or in equity.
	4. Effect of Termination. Upon any expiration or termination of this Agreement, University will work to close down the Research Project, including termination of any obligations in force (except those that are non-cancelable), and will notify Company of those obligations remaining as of the date of termination. Company will pay University all Costs of Research incurred by University up to the date of termination. Further, if Company terminates for its convenience or if University terminates for Company’s material breach, Company will reimburse University for all costs associated with termination. Termination or expiration of this Agreement will not affect the rights and obligations of the Parties that have accrued prior to the termination date, including non-cancellable commitments , and specifically the obligations set forth in Sections 5 (Confidential Information), Section 7 (Indemnification and Limitation of Liability) and Section 8 (General Provisions) will survive termination or expiration. If Company terminates this Agreement prior to completion of the Research Project or if University terminates for material breach by Company, the Intellectual Property rights set forth in Section 3 will terminate; otherwise these rights will survive expiration of the Agreement.
3. **RESEARCH RESULTS; INTELLECTUAL PROPERTY OWNERSHIP AND LICENSE**
	1. Research Results. Company and University agree that, in exchange for paying the Costs of Research, Company may use the results of the research (**“Research Results”**) for any purpose, but may not publish Research Results prior to Principal Investigator’s publication of Research Results. The University retains ownership of the Research Results, and the right to publish as set forth in Section 5. Anything that falls under the definition of “Research Results” but that also constitutes “Intellectual Property” as set forth Section 3.2 below is considered “Intellectual Property,” and is subject to the terms set forth in Sections 3.2 through 3.5 below.
	2. Ownership of Intellectual Property. The Parties acknowledge that inventions, discoveries, and other technology that is patentable, or that is copyrightable software (**“Intellectual Property”**) may also arise from the Research Project. All Intellectual Property arising from the performance of the Research Project will be disclosed through University’s tech transfer organization, Tech Launch Arizona, who will promptly provide Company with a confidential written disclosure of the Intellectual Property. University owns all Intellectual Property developed by University under the Research Project (**“University Intellectual Property”**). The Parties will jointly own all Intellectual Property developed jointly under the Research Project (**“Joint Intellectual Property”**). Ownership will be determined in accordance with United States intellectual property laws. This Agreement does not grant either Party any rights to any Research Results or Intellectual Property developed outside the scope of the Research Project.
	3. Exclusive License to University Intellectual Property. Subject to Company’s payment of the Cost of Research as set forth in Section 1.1, the payment of patent expenses as set forth in Section 3.4, and an additional exclusivity premium in the amount of 20% of the Cost of Research, University grants to Companyan exclusive royalty-free, license to make, have made, import, use, market, offer for sale, sell, reproduce, distribute, prepare derivative works, publicly perform and publicly display the University Intellectual Property. Company will pay the exclusivity premium within thirty (30) days of the Effective Date of this Agreement. Company will have the right to grant sublicenses to the University Intellectual Property, but without a right for the sublicensee to further sublicense. Company will use its best efforts to diligently commercialize the University Intellectual Property. Upon the conclusion of the Research Project, both parties agree to execute the Intellectual Property Confirmation as set forth on Exhibit C.
	4. Patent Prosecution. Effective as of the Date that the Intellectual Property Confirmation is signed by both Parties, University delegates to Company the right to initiate and control the filing and prosecution of patent applications or other protective measures concerning the University Intellectual Property, at its sole expense. Company will prosecute the patent as diligently and fully as if Company were the owner, but in no event less than what is commercially reasonable. University will choose patent counsel and will be and remain the client of such patent counsel, but will consider Company’s input in good faith, and Company is free to hire its own additional counsel if it so chooses. Company will, and will instruct patent counsel to, send the University all copies of patent correspondence with the USPTO and foreign patent authorities, and all other significant occurrences within the patent prosecution process, at the same time that Company sends or receives them. University will cooperate with Company during the patent prosecution process. If Company elects to abandon prosecution or maintenance of a particular patent application in a particular country, University is free to file or continue prosecution or maintain any such application(s), and to maintain any protection issuing thereon in the U.S. and in any foreign country at University’s sole discretion and expense and all of Company’s rights in the applicable patents or patent applications will terminate. In connection with the filing and prosecution of patent applications for the University Intellectual Property, the Parties agree that the patent prosecution process raises issues of common legal interest because both Parties desire to achieve, and would benefit from, valid and enforceable patent protection for the University Intellectual Property. Therefore, the parties agree that they may exchange and share information and materials, with each other and with the patent counsel, during the patent prosecution process without waiving any privilege or immunity by reason of such disclosure. The Parties intend that all communications made in connection with the patent prosecution process will be privileged, and will be protected from discovery by a common interest privilege to the fullest extent permitted by law. Information shared as part of the prosecution effort will be held in confidence by the Parties and will be disclosed only to the Parties, their attorneys, and their employees who are engaged or involved in the patent prosecution process.
	5. Reservation of Right to Use for Educational Purposes. Without limiting any other rights it may have and even if Company exercises its option as set forth in Section 3.3 above, the University specifically reserves the right in and to the University Intellectual Property, Joint Intellectual Property and Research Results for any research, public service, internal (including clinical) and/or educational purposes, and to grant licenses to other non-profit institutions of these same reserved rights. All intellectual property rights not expressly granted in this Agreement are hereby reserved.
4. **PUBLICATION**

Notwithstanding anything to the contrary in this Agreement, the University and its employees have the right, at their discretion, to release information or to publish any data, writings, or material resulting from the Research Project, including Research Results and Intellectual Property, and to use it in any way for its educational and research purposes.  The University will furnish the Company with a copy of any proposed publication in advance of the proposed publication date and grant the Company thirty (30) days for review and comment. Within this period, the Sponsor may request the University, in writing, to delay such publication for a maximum of an additional (60) days in order to protect the potential patentability of any invention described therein. Such delay will not, however, be imposed on the filing of any student thesis or dissertation. Company’s failure to object to a publication or presentation within the thirty (30) day period above will be deemed acceptance by Company.

1. **CONFIDENTIALITY OBLIGATIONS**

5.1 Confidential Information. Company and University may choose, from time to time, in connection with the Research Project, to disclose confidential information to each other (**“Confidential Information”**). All such disclosures must be in writing and marked as Confidential Information. Any information that is transmitted orally or visually, in order to be protected hereunder, will be identified as such by the disclosing party at the time of disclosure, and identified in writing to the receiving party, as Confidential Information, within thirty (30) days after such oral or visual disclosure.

5.2 Use and Disclosure. The Parties will use reasonable efforts to prevent the disclosure to unauthorized third parties of any Confidential Information of the other Party and will use such information only for the purposes of this Agreement. Confidentiality obligations with respect to Confidential Information will survive for three (3) years after the termination of this Agreement.

5.3 Exceptions. Notwithstanding any marking or designation to the contrary, the confidentiality obligations set forth herein will not apply to information that: (a) is already in the receiving Party's possession at the time of disclosure; (b) is or later becomes part of the public domain through no fault of the receiving Party; (c) is received from a third party with no duty of confidentiality to the disclosing party; (d) was developed independently by the receiving party prior to disclosure; or (e) is required to be disclosed by law or regulation.

1. **PUBLIC STATEMENTS; USE OF NAMES OR LOGOS**

6.1 No Use of Names or Logos. Neither party is permitted to use the names, logos, or other identifiers associated with the other Party without such Party’s express prior written consent in each instance.

6.2 Press Releases. Except as required by law, neither party will issue any press release or other public statements in connection with this Agreement or the Research Project without the other Party’s prior written consent. University will acknowledge Company’s support of the Research Project in scientific publications and communications. All statements by the Parties will accurately describe the scope and nature of their participation. University may, without prior consent from Company, list Research Project title, amount awarded, Company name, and Principal Investigator(s) names and department(s) affiliation(s) in its reports, which while not disseminated, are available to the public.

1. **INDEMNIFICATION AND LIMITATION OF LIABILITY**
	1. Indemnification by Company. Company will indemnify, defend and hold harmless Principal Investigator and University, its governing board, officers, agents, and employees, from any liability, loss or damage they may suffer as the result of claims, demands, costs or judgments against them arising out of either Party’s performance of the Research Project pursuant to this Agreement, and/or Company’s use of the University Intellectual Property, Joint Intellectual Property, Research Results, or other information or materials provided under this Agreement, provided, however, that any such liability, loss, or damage resulting from the following are excluded from this agreement to indemnify and hold harmless: (a) University’s failure to adhere to the terms of the Research Project protocol in all material respects; (b) University’s failure to comply with any applicable government requirements; or (c) negligence or willful misconduct by the Principal Investigator, University, or its board, officers, agents, or employees as determined by a court of law. Principal Investigator and University agree to notify Company as soon as they become aware of any such claim or action, and to cooperate with and to authorize Company to carry out the sole management and defense of such claim or action. Company will not compromise or settle any claim or action without the prior written approval of each of the following if they are a named party: Principal Investigator, University, its governing board, officers, agents, or employees.
	2. Disclaimer of Warranties and Limitation of Liability.COMPANY ACKNOWLEDGES THAT THE WORK SET FORTH IN THE RESEARCH PROJECT IS EXPERIMENTAL IN NATURE AND THAT UNIVERSITY MAKES NO WARRANTIES OF ANY KIND, EXPRESSED OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, REGARDING THE RESEARCH PROJECT, RESEARCH RESULTS, THE UNIVERSITY INTELLECTUAL PROPERTY, JOINT INTELLECTUAL PROPERTY, OR OTHER RESULTS.
2. **GENERAL PROVISIONS**
	1. Applicable Law and Venue. This Agreement will be interpreted pursuant to the laws of the State of Arizona, where the Research Project is performed. Any arbitration or litigation between the Parties will be conducted in Pima County, Arizona, and Company hereby submits to venue and jurisdiction in Pima County, Arizona. This Agreement may be subject to mandatory non-binding arbitration in accordance with applicable law.
	2. Non-Discrimination. The Parties agree to be bound by state and federal laws and regulations governing equal opportunity and non-discrimination and immigration.
	3. Conflict of Interest. This Agreement is subject to the provisions of A.R.S. 38-511. Within three years from the Effective Date, the University may cancel this Agreement if any person significantly involved in negotiating, drafting, securing or obtaining this Agreement for or on behalf of the University becomes an employee in any capacity of Company or a consultant to Company with reference to the subject matter of this Agreement while the Agreement or any extension thereof is in effect.
	4. Notices. Notices will be in writing and deemed effective when sent, postage prepaid to:

 **If to Company:**

 **If to University (Notices and Correspondence):**

 Sherry L. Esham, Director

 Sponsored Projects Services

P.O The University of Arizona

 P.O. Box 210158

 Tucson, Arizona 85721-0158

* 1. Entire Agreement; Modifications. This Agreement embodies the entire understanding of the Parties and supersedes any other agreement or understanding between the Parties relating to the subject matter hereof. There are no additional or supplemental agreements related to the subject matter hereof. No waiver, amendment or modification of this Agreement will be valid or binding unless written and signed by the Parties. Waiver by either Party of any breach or default of any clause of this Agreement by the other Party will not operate as a waiver of any previous or future default or breach of the same or different clause of this Agreement.
	2. Export Laws. Each Party shall comply with all applicable export control laws and economic sanctions programs.  Applicable export control or economic sanctions programs may include U.S. export control laws such as the Export Administration Regulations and the International Traffic in Arms Regulations, and U.S. economic sanctions programs that are or may be maintained by the U.S. Government. The Parties will comply with U.S. export control and U.S. economic sanctions laws with respect to the export (including a deemed export) or re-export of U.S. origin goods, software, services and/or technical data, or the direct product thereof.
	3. Assignment. This Agreement may not be assigned or transferred (either directly or indirectly, by operation of law or otherwise, including by way of a merger, acquisition or other sale event) without the prior written consent of the other Party, which consent will not be unreasonably withheld. This Agreement is binding upon and will inure to each Party's respective permitted successors in interest.
	4. Severability. If any provision of this Agreement is held void or unenforceable, the remaining provisions will nevertheless be effective, the intent being to effectuate this Agreement to the fullest extent possible.
	5. Independent Contractors. The Parties are deemed independent contractors and may not bind the other, except as provided for herein or authorized in writing by the other Party.
	6. Electronic Signatures.The Parties agree that any xerographically or electronically reproduced copy of this fully-executed agreement will have the same legal force and effect as any copy bearing original signatures of the Parties.

 **IN WITNESS THEREOF, the Parties execute this Agreement as of the day and year written above.**

**COMPANY The Arizona Board of Regents**

 **on behalf of The University of Arizona**

By: By:

Name: Name:

Title: Title:

Date: Date:

I have read this Agreement, and understand the obligations placed on me and my laboratory and other UNIVERSITY employees under my supervision, and agree to be bound by it.

 PRINCIPAL INVESTIGATOR

 Date:

**EXHIBIT A**

**Research Project -- Statement of Work**

insert statement of work

**EXHIBIT B**

**Payment Schedule and Budget**

insert payment schedule and project cost

**EXHIBIT C**

**Intellectual Property Confirmation and Agreement**

This Intellectual Property Confirmation describes and confirms the Joint Intellectual Property and University Intellectual Property that is subject to the Research Agreement identified below.

**University:** The Arizona Board of Regents, on behalf of the University of Arizona

**Company:** insert company name

**Research Agreement:** Research Agreement dated insert date and ID number if applicable

**Intellectual Property:** The Parties agree that the Joint Intellectual Property and University Intellectual Property that is subject to the terms and conditions set forth in the Research Agreement is described as follows:

insert Tech Launch Arizona invention disclosure number, patent application number, and/or other applicable description

**Term**: The Parties agree that this Intellectual Property Confirmation and Agreement will continue for the life of the patent or copyright term applicable to such University Intellectual Property or Joint Intellectual Property, unless terminated by University for material breach of the license grant or non-payment.

**COMPANY The Arizona Board of Regents**

 **on behalf of The University of Arizona**

By: By:

Name: Name: Doug Hockstad

Title: Title: Director, Tech Transfer Arizona

Date: Date: