



Berkeley Research Infrastructure Commons (RIC)

**Faculty Lab Exceptional-Use for
Innovation & Entrepreneurship**

Agreement

between

The Regents of the University of California

and

[Startup Name]

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Faculty Lab Exceptional-Use for Innovation & Entrepreneurship Agreement

This agreement ("**AGREEMENT**") is entered into on the date that **AGREEMENT** is fully executive by both parties ("EFFECTIVE DATE"), by and between The Regents of the University of California, a California public corporation, having its statewide administrative offices at 1111 Franklin Street, 12th Floor, Oakland, California 94607-5200 acting through its Industry Alliances Office at the University of California, Berkeley, having an administrative office at 2150 Shattuck Avenue, 10th Floor, Berkeley, CA 94704-6701 ("**UNIVERSITY**"), and company as specified in Exhibit A ("**STARTUP**"), an entity as specified in Exhibit A, having a principal place of business as stated in Exhibit A.

The parties agree as follows:

1. BACKGROUND & DEFINITIONS

1.1 UNIVERSITY Accelerators: **UNIVERSITY** together with collaborating organizations, such as Lawrence Berkeley National Laboratory and National Science Foundation, operates a variety of accelerator programs that foster the development of new products and companies through a honed process that includes soliciting, vetting, accepting and providing resources to cohorts of high-potential startups and their entrepreneurs ("**ACCELERATORS**"). **ACCELERATORS** advance **UNIVERSITY**'s tax-exempt purposes by helping to ensure that the results of **UNIVERSITY**'s scientific research are made available to the public at large through commercialization and other means. **ACCELERATORS** include but aren't limited to: Cyclotron Road, CITRIS Foundry, NSF I-Corps, and SkyDeck.

1.2 Startup Company: As of **EFFECTIVE DATE**, **STARTUP** is a current or recent participant of **ACCELERATOR** as listed in Exhibit A of **AGREEMENT**; and accordingly, **STARTUP** has an affiliation with **UNIVERSITY**, and is an early/research stage company that is conducting research and development to create products that solve societal problems, and/or address promising technological opportunities for the benefit of the public at large, as described in Exhibit A of **AGREEMENT** ("**PRODUCT-ORIENTED R&D**").

1.3 STARTUP Visiting Entrepreneurial Fellow: **STARTUP** has a representative who will participate in the performance of **AGREEMENT** as listed in Exhibit A of **AGREEMENT** ("**STARTUP VEF**"); and **STARTUP** agrees that:

1.3a **AGREEMENT** does not confer **UNIVERSITY** employee status to **STARTUP VEF**, nor does **AGREEMENT** entitle **STARTUP VEF** to health insurance, workers compensation, or other benefits provided by **UNIVERSITY**; and

1.3b Before **STARTUP VEF** participates in the performance of **AGREEMENT**, he/she will:

- i Successfully complete all required UNIVERSITY safety and orientation training, and has attached such proof to Exhibit A of AGREEMENT;
- ii Obtain health insurance, and has attached such proof to Exhibit A of AGREEMENT;
- iii Obtain workers compensation insurance to the extent required by law; and has attached such proof to Exhibit A of AGREEMENT; and
- iv Attain the status of Visiting Scholar (or comparable official UNIVERSITY status) at UNIVERSITY (as administered by the Visiting Scholar and Postdoc Affairs office), including execution of the Visiting Entrepreneurial Fellow Intellectual Property Agreement as contained in Exhibit E of AGREEMENT.

1.4 Special Facility, Equipment and/or Service: UNIVERSITY has a special facility, equipment and/or service as described in Exhibit B of AGREEMENT that are not fully utilized 24 hours a day, seven days a week by students and faculty for research and education; furthermore, this specialized facility, equipment and/or service could be used by a third party for research and development of new products ("FACULTY LAB EXCEPTION-USE FOR INNOVATION AND ENTREPRENEURSHIP" or "FLEXIE"). Accordingly, UNIVERSITY has determined that such incidental use by a third party does not interfere with primary use by students and faculty.

1.5 FLEXIE User Fees: UNIVERSITY has established fees for third party use of FLEXIE as described in Exhibit B of AGREEMENT, and these fees fully cover all direct and indirect costs as well as wear and tear and UNIVERSITY overhead such that these fees are considered fair market value for third party use of FLEXIE ("FLEXIE USER FEES").

1.6 FLEXIE Faculty Leader: FLEXIE is managed by the UNIVERSITY faculty member as listed in Exhibit B of AGREEMENT ("FLEXIE FACULTY LEADER"), who each year that AGREEMENT is in effect will:

1.6a Approve FLEXIE as described in Exhibit B for use in the performance of AGREEMENT in accordance with AGREEMENT;

1.6b Approve STARTUP VEF, including confirm that STARTUP VEF has met all the requirements in Paragraph 1.3b;

1.6c Manage FLEXIE such that STARTUP VEF does not interfere with, or take priority over the activities of UNIVERSITY students and researchers;

1.6d Prior to execution of AGREEMENT or while AGREEMENT is in effect, report to UNIVERSITY via Exhibit B whether FLEXIE FACULTY LEADER or any UNIVERSITY employee under supervision of FLEXIE FACULTY LEADER has an operating position, advisory role, or financial interest in STARTUP;

1.6e Obtain approval or concurrence from the following UNIVERSITY entities that FLEXIE described in Exhibit B can be used in the performance of AGREEMENT:

- i The chair of FLEXIE FACULTY LEADER's department (if applicable);
- ii The dean (or equivalent such as Vice Chancellor of Research) of FLEXIE FACULTY LEADER's college/unit;
- iii Vice Provost for Academic and Space Planning, along with corresponding UNIVERSITY Space Allocation and Capital Improvements (SACI) committee;
- iv UNIVERSITY capital planning office to track and ensure that performance of AGREEMENT does not exceed the cumulative allowable thresholds of private use, as defined in Section 141 of the Internal Revenue Code of 1986, as amended ("TAX CODE");
- v UNIVERSITY budget office (or proxy such as IPIRA) for review of the fair market value of FLEXIE USER FEES;
- vi If required in Exhibit A, then UNIVERSITY Office of Environment, Health & Safety (EH&S) Director (or designate);
- vii If required in Exhibit B, then UNIVERSITY Conflict of Interest Committee, or Vice Chancellor of Research; and
- viii If required in Exhibit A, then the Animal Care and Use Committee (ACUC), Office of Laboratory Animal Care (OLAC), and UNIVERSITY Attending Veterinarian.

1.7 STARTUP Request for Special Capabilities: STARTUP requests that its STARTUP VEF use FLEXIE to conduct PRODUCT-ORIENTED R&D under AGREEMENT as detailed in Exhibit C, because STARTUP has determined that comparable capabilities are not adequately available from other agencies or commercial firms ("STATEMENT OF WORK").

1.8 UNIVERSITY Offer of Special Capabilities: UNIVERSITY would like to allow STARTUP VEF to use FLEXIE to conduct PRODUCT-ORIENTED R&D under AGREEMENT as detailed in STATEMENT OF WORK; and UNIVERSITY has determined that the performance of AGREEMENT is in support of, and does not interfere with UNIVERSITY's mission because of the benefits described in Paragraphs 1.9 and 1.10 of AGREEMENT.

1.9 Benefits in Support of UNIVERSITY Tax-Exempt Purposes: AGREEMENT has the following benefits in support of UNIVERSITY's tax exempt purposes:

- 1.9a Leverages UNIVERSITY's special facility, equipment, and/or service to foster the development of products that solve societal problems, and/or address promising technological opportunities for the benefit of the public at large;

1.9b Facilitates insightful awareness of PRODUCT-ORIENTED R&D in ways that furthers the UNIVERSITY'S scientific research and the education of UNIVERSITY students, faculty and staff; and

1.9c Facilitates insightful awareness of STARTUPS in ways that are conducive to future career opportunities for UNIVERSITY students.

1.10 Other Benefits to UNIVERSITY: In addition to the benefits in support of UNIVERSITY's tax-exempt purposes described in Paragraph 1.9, UNIVERSITY has determined that AGREEMENT has the following additional benefits to UNIVERSITY:

1.10a Leverages spare capacity of particular UNIVERSITY facility, equipment and/or service (as specified in Paragraph 1.4) to help fund research and education programs associated with those particular resources via FLEXIE USER FEES;

1.10b Increases the value of ACCELERATORS by expanding the special resources that they can provide to startup companies and entrepreneurs;

1.10c Enhances UNIVERSITY's innovation and entrepreneurship ecosystem by contributing to the growth of UNIVERSITY's hyper-local, supercritical mass of startups, entrepreneurs, technologists and related professionals.

1.11 Constraints: UNIVERSITY and STARTUP acknowledge that the performance of AGREEMENT has constraints such as (but not limited to) the following:

1.11a Private Use: STARTUP VEF's activities as detailed in STATEMENT OF WORK may constitute private business use within the meaning of Section 141(b)(6)(A) of TAX CODE, and therefore need to be tracked by UNIVERSITY to ensure that such use does not cause any tax-exempt bonds issued by the UNIVERSITY to constitute "private activity bonds" within the meaning of Section 141 of the TAX CODE. Accordingly, STARTUP VEF'S activities shall be actively monitored in accordance with the concurrence and reporting requirements in Paragraph 1.6b and 1.6c. To the extent that UNIVERSITY deems, in its sole discretion, that STARTUP VEF's activities exceed allowable thresholds of private use, UNIVERSITY may terminate AGREEMENT for cause in accordance with Section 10 of AGREEMENT.

1.11b Private Benefit: UNIVERSITY facilities cannot be used to more than incidentally benefit any private party; however, certain UNIVERSITY facilities are designated as user core facilities that can be used by private parties provided that UNIVERSITY receives payment that is considered fair market value for this use (as addressed in Paragraph 1.5 of AGREEMENT); and the use of the facilities is for an activity that furthers the UNIVERSITY'S purposes as an organization qualified under Section 501(c)(3) of TAX CODE. UNIVERSITY has determined that the activities under AGREEMENT further such purposes.

1.11c Contractual Research Obligations: UNIVERSITY engages with third party sponsors of research and providers of materials. The agreements associated with those third parties have contractual obligations, including obligations associated with the intellectual property. Therefore, provisions in AGREEMENT concerning intellectual property are subordinate to third party or government contractual obligations undertaken by UNIVERSITY.

1.11d Conflict of Interest or Commitment: If UNIVERSITY employees have a business or financial relationship with STARTUP, then these employees need to be aware of, and reconcile any conflicts of interest or commitment (as addressed in Paragraph 1.6e.vii).

1.11e Startup Challenges: Successfully creating companies is challenging. Furthermore intellectual property rights can be a key aspect of a startup company's success. Accordingly, STARTUP needs royalty-free and fee-free, exclusive commercial rights to, and control of materials and intellectual property developed in the performance of AGREEMENT (as addressed in Sections 5 and 6 of AGREEMENT).

2. PAYMENT

2.1 Cost: STARTUP (or its corresponding ACCELERATOR and/or sponsor) will pay UNIVERSITY the FLEXIE USER FEES in accordance with Exhibit B and C of AGREEMENT.

2.2 Term: FLEXIE USER FEES are non-refundable, and subject to change without notice.

2.3 Advanced Payments: As a condition of STARTUP VEF's access to FLEXIE, UNIVERSITY requires STARTUP (or organization that is covering STARTUP's FLEXIE USER FEES) to pay UNIVERSITY advanced payments of at least 3 months as specified in Exhibit C of AGREEMENT.

2.4 Delivery: Payments are due thirty (30) days after STARTUP receipt of invoices from UNIVERSITY in accordance with Section 11 (Notices) of AGREEMENT. Payments should reference AGREEMENT and invoice numbers. Payments should be delivered as specified in Exhibit B.

2.5 Good Standing: STARTUP must be in good-standing in all respects with UNIVERSITY, and must be up-to-date on all payments that STARTUP owes to UNIVERSITY in accordance with any other agreements between STARTUP and UNIVERSITY including intellectual property rights license agreements and collaborative sponsored research agreements.

2.6 Damage: If STARTUP VEF damages UNIVERSITY equipment and/or facilities, then STARTUP is responsible for paying UNIVERSITY the full costs of UNIVERSITY's corresponding repair and temporary replacement of such equipment and facilities.

3. ACTIVITIES

3.1 Use: STARTUP VEF will use FLEXIE to conduct PRODUCT-ORIENTED R&D under the direction of FLEXIE FACULTY LEADER as detailed in STATEMENT OF WORK, and in accordance with AGREEMENT.

3.2 Personnel: STARTUP cannot change STARTUP VEF without prior written approval of FLEXIE FACULTY LEADER, and if new STARTUP VEF is not approved, then STARTUP is free to terminate AGREEMENT (as specified in Section 10 of AGREEMENT), but STARTUP is not entitled to any reimbursement of FLEXIE USER FEES (as specified in Section 2 of AGREEMENT)

3.3 Equipment: Legal title to equipment will be unaffected by AGREEMENT, or the physical transfer of equipment between STARTUP and UNIVERSITY.

3.4 Collaboration: AGREEMENT is not a collaborative research agreement with UNIVERSITY, and accordingly, UNIVERSITY employees' (including FLEXIE FACULTY LEADER) interaction with STARTUP VEF will be limited to interactions that contribute to the UNIVERSITY'S educational or research purposes. However the services of UNIVERSITY employees such as lab/equipment technicians may be required and, if applicable, are included in FLEXIE USER FEES.

3.5 Sponsorship: AGREEMENT is not a sponsored research agreement with UNIVERSITY, and accordingly, STARTUP VEF will not use UNIVERSITY gifts, grants or contract funds in the performance of AGREEMENT without prior written consent of UNIVERSITY. However, STARTUP VEF may use funds provided to STARTUP by an ACCELERATOR in furtherance of its activities

3.6 Export Control: AGREEMENT does not allow for activities that are export controlled or classified under US law.

3.7 Results: STARTUP and STARTUP VEF are solely responsible for progress of PRODUCT-ORIENTED R&D, and accordingly, AGREEMENT will not be construed as a promise by UNIVERSITY (including FLEXIE FACULTY LEADER) that STARTUP VEF will achieve any specific results under AGREEMENT.

4. RAW MATERIALS

4.1 Definition: STARTUP can bring raw materials for use in the performance of AGREEMENT; and these raw materials can include, without limitation, equipment, prototypes,

organisms, cell lines, biological samples, tissues, chemicals, proteins, and/or nucleic acids ("RAW MATERIALS"). However, these RAW MATERIALS are subject to the following terms:

4.2 Authorization: STARTUP VEF is prohibited from bringing onto UNIVERSITY property, using on UNIVERSITY property, or in any way using under AGREEMENT the following hazardous items without prior written authorization from EH&S by the EH&S Director (or designate) as specified in Exhibit B. Furthermore, authorization for use of certain hazardous items may also require a background check by the UNIVERSITY Police Department as a prerequisite to authorization from EH&S (see Section 15.16 for further information on certain classifications listed below):

4.2a Radioactive materials and radiation producing machines, including x-ray machines;

4.2b Recombinant DNA; synthetic nucleic acids; WHO Risk Group 2 or higher pathogens; biological toxins; material of human or non-human primate origin, including cell lines; HHS and USDA Select Agents and Toxins; Plant Pathogens or Noxious Weeds that require USDA permits; transgenic animals;

4.2c Explosives;

4.2d Pyrophoric materials (ignite on contact with air);

4.2e Toxic gases;

4.2f DEA Controlled Substances or California precursor chemicals; or

4.2g Class 3b or 4 lasers.

4.3 Ownership: Legal title to RAW MATERIALS will be unaffected by AGREEMENT, or the physical transfer of RAW MATERIALS between STARTUP and UNIVERSITY.

4.4 Procurement: UNIVERSITY often obtains certain raw materials at discounted prices due to the institution's non-profit status as well as research and education focus. Accordingly, STARTUP will not procure or otherwise obtain raw materials through UNIVERSITY that would put UNIVERSITY's discounted pricing in jeopardy.

4.5 Warrants: STARTUP warrants that any RAW MATERIALS used in the performance of AGREEMENT have been:

4.5a Approved by the FLEXIE FACULTY LEADER, and to the extent reasonably required, other UNIVERSITY employees who are responsible for the health, safety and operation of FLEXIE;

4.5b Collected, stored, or otherwise handled in accordance with applicable laws, regulations, and patient consent forms;

4.5c De-identified in accordance with the Health Insurance Portability and Accountability Act;

4.5d Properly labeled, packaged and transported in accordance with applicable State and Federal laws and regulations;

4.5e Properly disposed of through the FLEXIE FACULTY LEADER laboratory group in accordance with applicable laws, and at STARTUP's expense;

4.5f Removed from UNIVERSITY upon termination of this AGREEMENT if property of STARTUP, and

4.5g Determined not to be confidential or export-controlled.

5. PRODUCED MATERIALS

5.1 Definition: Materials, substances, prototypes and other tangible objects may be developed in the performance of AGREEMENT ("PRODUCED MATERIALS").

5.2 Ownership: Any PRODUCED MATERIALS made by STARTUP VEF in the performance of AGREEMENT are the property of STARTUP.

5.3 No License: AGREEMENT does not provide STARTUP with any express or implied licenses, patent rights, copyrights, or other rights owned by UNIVERSITY to use PRODUCED MATERIALS.

5.4 No Warranties: PRODUCED MATERIALS are understood to be experimental in nature and may have hazardous properties; and UNIVERSITY makes no representations and extends no express or implied warranties, merchantabilities or fitness of PRODUCED MATERIALS for a particular purpose, or that the use of PRODUCED MATERIALS will not infringe any patent, copyright, trademark, or other proprietary rights.

5.5 No Liability: STARTUP assumes all liability for damages that may arise from its use, storage or disposal of PRODUCED MATERIALS. UNIVERSITY will not be liable to STARTUP for any loss, claim or demand made by STARTUP, or made against the STARTUP by any other party, due to or arising from the use of PRODUCED MATERIALS.

6. INTELLECTUAL PROPERTY

6.1 Intellectual Property:

6.1a FLEXIE Inventions: Inventions are any invention or discovery conceived and reduced to practice in the performance of STATEMENT OF WORK as attached in Exhibit C ("FLEXIE PATENTABLE INVENTIONS"). US patent law will determine inventorship of FLEXIE PATENTABLE INVENTIONS.

6.1b FLEXIE Software: Software is any copyrightable software first authored in the performance in STATEMENT OF WORK as attached in Exhibit C ("FLEXIE COPYRIGHTABLE SOFTWARE"). US copyright law will determine authorship of any FLEXIE COPYRIGHTABLE SOFTWARE.

6.1c UNIVERSITY Inventions and Software: Notwithstanding the foregoing, if STARTUP VEF engages in any UNIVERSITY activities outside of the performance of STATEMENT OF WORK as attached in Exhibit C, then any results are subject to standard UNIVERSITY policies and procedures.

6.2 Jointly Developed IP:

6.2a Ownership of Patent Rights: If FLEXIE PATENTABLE INVENTIONS are co-invented by STARTUP VEF and UNIVERSITY personnel, then STARTUP and UNIVERSITY will jointly own any resulting patent rights, each having an equal and undivided interest ("JOINTLY DEVELOPED PATENT RIGHTS").

6.2b Ownership of Software Copyrights: If FLEXIE COPYRIGHTABLE SOFTWARE is first co-authored by STARTUP VEF and UNIVERSITY personnel, then STARTUP and UNIVERSITY will jointly own any resulting copyrights, each having an equal and undivided interest ("JOINTLY DEVELOPED COPYRIGHTABLE SOFTWARE").

6.2c Disclosure: If STARTUP VEF becomes aware of JOINTLY DEVELOPED PATENT RIGHTS or JOINTLY DEVELOPED COPYRIGHTABLE SOFTWARE, then STARTUP VEF will promptly notify UNIVERSITY in writing in accordance with Section 11 (Notices) of AGREEMENT.

6.2d Patenting:

i Lead: UNIVERSITY will have the first right to lead the patenting of JOINTLY DEVELOPED PATENT RIGHTS. However UNIVERSITY can elect not to lead the patenting, and thereby allow STARTUP to lead the patenting. The leading party, by counsel it selects, will prepare, file and prosecute these patent applications, and do so in consultation with the non-leading party and the counsel it selects.

ii Costs: AGREEMENT does not obligate either STARTUP or UNIVERSITY to pay any patenting costs for JOINTLY DEVELOPED PATENT RIGHTS, and accordingly, any sharing of patent costs will be agreed to in a separate agreement.

6.2e Use by STARTUP: STARTUP can freely use and license its own interest in JOINTLY DEVELOPED PATENT RIGHTS and JOINTLY DEVELOPED

COPYRIGHTABLE SOFTWARE without accounting to UNIVERSITY, and without prior approval of UNIVERSITY.

6.2f Use by UNIVERSITY: University can freely use and license its own interest in JOINTLY DEVELOPED PATENT RIGHTS and JOINTLY DEVELOPED COPYRIGHTABLE SOFTWARE without accounting to STARTUP, and without prior approval of STARTUP. Subject to any limitations imposed by law or by a contract, and limiting the UNIVERSITY right to license in the previous sentence, UNIVERSITY will give STARTUP sixty (60) days from the date by which time both UNIVERSITY and STARTUP have received a disclosure for JOINTLY DEVELOPED PATENT RIGHTS or JOINTLY DEVELOPED COPYRIGHTABLE SOFTWARE to request an exclusive license from UNIVERSITY for UNIVERSITY's undivided interest in such intellectual property. This exclusive license would include standard terms, fair consideration, diligence provisions, and reservation of rights by UNIVERSITY to use the intellectual property for research and educational purposes and to enable others in the nonprofit sector to do the same.

6.3 Solely Developed IP:

6.3a Ownership: If FLEXIE PATENTABLE INVENTIONS are invented by STARTUP VEF and not co-invented by UNIVERSITY personnel, or if FLEXIE COPYRIGHTABLE SOFTWARE is first authored by STARTUP VEF and not co-authored by UNIVERSITY personnel, then STARTUP and UNIVERSITY will jointly own any resulting intellectual property rights ("IP SOLELY DEVELOPED BY STARTUP VEF IN FLEXIE") in accordance with this Section 6.3.

6.3b Disclosure: If STARTUP VEF becomes aware of IP SOLELY DEVELOPED BY STARTUP VEF IN FLEXIE, then STARTUP VEF will promptly notify UNIVERSITY in writing in accordance with Section 11 (Notices) of AGREEMENT.

6.3c Patenting:

i Lead: STARTUP will have the first right to lead the patenting of IP SOLELY DEVELOPED BY STARTUP VEF IN FLEXIE. However STARTUP can elect not to lead the patenting, and thereby allow UNIVERSITY to lead the patenting. The leading party, by counsel it selects, will prepare, file and prosecute such patent applications, and do so in consultation with the non-leading party and the counsel it selects

ii Costs: AGREEMENT does not obligate either STARTUP or UNIVERSITY to pay any patenting costs for IP SOLELY DEVELOPED BY

STARTUP VEF IN FLEXIE, and accordingly, any sharing of patent costs will be agreed to in a separate agreement.

6.3d Use by STARTUP: STARTUP can freely use and license IP SOLELY DEVELOPED BY STARTUP VEF IN FLEXIE as if it were the sole owner without accounting to UNIVERSITY, and without prior approval of UNIVERSITY.

6.3e Use by UNIVERSITY:

i Research and Education: UNIVERSITY is free to use its undivided rights to IP SOLELY DEVELOPED BY STARTUP VEF IN FLEXIE for research and educational purposes, and to enable others in the nonprofit sector to do the same.

ii Commercial Licensing: UNIVERSITY will forbear from granting a commercial license to UNIVERSITY's undivided rights to IP SOLELY DEVELOPED BY STARTUP VEF IN FLEXIE, except if STARTUP or its assignee agrees in writing to UNIVERSITY, or if STARTUP or its assignee ceases to exist as a legal entity without a successor entity.

7. CONFIDENTIALITY

7.1 STARTUP Confidential Information: UNIVERSITY maintains an open academic environment and does not engage in classified or proprietary research. Therefore, to the extent that STARTUP brings proprietary, export controlled, or classified materials or information onto UNIVERSITY, then STARTUP is solely responsible for the protection of these materials and information. This includes the responsibility for STARTUP to provide all elements of physical security, cyber-security and privacy protection of these materials.

7.2 UNIVERSITY Confidential Information: It is expected that the performance of AGREEMENT can be conducted without STARTUP receiving UNIVERSITY's confidential information. However, if STARTUP obtains or receives any UNIVERSITY invention disclosures documents or pre-published documents, then STARTUP will treat these documents as UNIVERSITY's confidential information, and accordingly, STARTUP will not disclose or make available information in these documents to any third party without UNIVERSITY's prior written permission.

7.3 Exceptions: The obligations of confidentiality under this section of AGREEMENT do not apply to any information that:

7.3a Previously Known: The receiving party can demonstrate by written records was previously known to it prior to its disclosure by the disclosing party;

7.3b Public Knowledge: The receiving party can demonstrate by written records is now, or becomes in the future, public knowledge other than through acts or omissions of recipient;

7.3c Obtained Without Restriction: The receiving party can demonstrate by written records was lawfully obtained without restrictions by the receiving party from sources independent of the disclosing party

7.3d Developed Independently: The receiving party can demonstrate by written records was developed independent of the other party's confidential information; or

7.3e Required By Law: Is required to be disclosed pursuant to the California Public Records Act ("ACT") or other applicable law, and STARTUP acknowledges that UNIVERSITY is a California constitutional corporation subject to ACT, and that all records and files of UNIVERSITY except those that may be exempted by ACT are available to any member of the public who makes a request pursuant to ACT.

7.4 Export Control: Neither party shall disclose to the other, confidential information that is technology as defined in 15 CFR 772, or technical data as defined in 22 CFR 120.10, unless and until an authorized representative of the other party agrees in writing to receive such export controlled information.

8. USE OF NAMES AND TRADEMARKS

8.1 Obligations: Except as specified in Paragraphs 8.2 and 8.3 of AGREEMENT, nothing contained in this AGREEMENT will be construed as conferring any right to either party to use in advertising, publicity, or other promotional activities any name, trade name, trademark, or other designation of the other party (including a contraction, abbreviation or simulation of any of the foregoing). STARTUP is expressly prohibited from using the name "The Regents of the University of California" or the name of any campus of the University of California in advertising, publicity, or other promotional activities unless consent is obtained by STARTUP from UNIVERSITY to do so.

8.2 STARTUP Exceptions: Notwithstanding the foregoing, STARTUP may make the statement of fact that it has an agreement with UNIVERSITY, and STARTUP can provide a copy of AGREEMENT to investors and potential investors to the extent allowed by law.

8.3 UNIVERSITY Exceptions: Notwithstanding the foregoing, UNIVERSITY can publicly identify STARTUP by corporate name and contact information as an entity with which UNIVERSITY has an agreement that involves research, development, innovation and entrepreneurship.

9. INDEMNIFICATION AND OBLIGATIONS

9.1 Indemnification: STARTUP and STARTUP VEF will defend, indemnify, and hold UNIVERSITY, its officers, employees, and agents harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of AGREEMENT but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of STARTUP, its officers, agents, or employees

9.2 Disclaimer of Warranty: Any services and deliverables provided by UNIVERSITY to STARTUP under AGREEMENT are provided without warranty of merchantability or fitness for a particular purpose or any other warranty expressed or implied, including any warranty of non-infringement of any third party intellectual property right.

9.3 Limitation of Liability: UNIVERSITY will not be liable for any lost profits, costs of procuring substitute goods or services, lost business, or for any indirect, incidental, consequential, punitive, or other special damages, suffered by the other party, its affiliates, employees, agents, sublicensees, or joint ventures arising out of, or related to AGREEMENT for all causes of action of any kind including tort, contract, negligence, strict liability and breach of warranty. In no event will UNIVERSITY's total cumulative liability for any and all claims arising from or in connection with AGREEMENT exceed the fees paid under AGREEMENT during the twelve (12) month period immediately preceding the written notice of the claim for liability hereunder.

9.4 Obligations: Nothing in AGREEMENT is or will be construed as an obligation to:

9.4a Bring or prosecute actions or suits against third parties for patent or copyright infringement;

9.4b Confer by implication, estoppel, or otherwise any license or rights under any patents or other rights of UNIVERSITY; or

9.4c Furnish any new developments, know-how, technology, or technological information.

10. LIFE OF AGREEMENT

10.1 Duration: AGREEMENT is in effect for one (1) year from EFFECTIVE DATE, or for the (shorter) duration specified in Exhibit B, but in no case is a single term of AGREEMENT longer than one (1) year.

10.2 Extension: By mutual written agreement of STARTUP and UNIVERSITY, AGREEMENT may be extended for consecutive periods subject to Paragraph 1.6 of AGREEMENT.

10.3 Termination without Cause: UNIVERSITY or STARTUP can immediately terminate AGREEMENT at any time for any reason upon notification in accordance with Section 11 (Notices) of AGREEMENT. If UNIVERSITY is the party that terminates this AGREEMENT without cause, then UNIVERSITY will refund payments from STARTUP to UNIVERSITY in accordance with Paragraph 2.3 (Advanced Payments) of AGREEMENT in the amount prorated for the time remaining in the pay period after the termination without cause.

10.4 Termination with Cause: If UNIVERSITY or STARTUP is in default of any of its obligations under AGREEMENT, and fails to remedy the default within thirty (30) days after written notice thereof, then the party not in default will have the option of immediately terminating AGREEMENT by giving written notice of termination to the defaulting party.

10.5 Bankruptcy: AGREEMENT will automatically terminate without the obligation to provide any notice as set forth in AGREEMENT upon STARTUP's insolvency or the filing of a petition for relief under the U.S. Bankruptcy Code by or against the STARTUP as a debtor or alleged debtor.

10.6 Surviving Rights: Any termination or expiration of AGREEMENT will not affect the rights and obligations accrued prior to termination or expiration, and in particular (but not limited to) the rights and obligations set forth in the following Paragraphs and Articles of AGREEMENT:

- Article 1 Overview
- Article 2 Payment
- Article 4 Raw Materials
- Article 5 Produced Materials
- Article 6 Intellectual Property
- Article 7 Confidentiality
- Article 8 Use of Names and Trademarks
- Article 9 Indemnification and Obligations
- Article 10 Life of Agreement
- Article 11 Notices
- Article 12 Governing Laws; Venue; and Attorneys' Fees

11. NOTICES

11.1 Addresses: Any notice or payment that is required to be given to either party will be deemed to have been properly given when done in writing and deposited in the U.S. mail, registered or certified, addressed as follows or to another address as designated in writing by the party changing its address:

11.1a To STARTUP:

- Company name as shown in Exhibit A, Paragraph 15.1
- Street address as shown in Exhibit A, Paragraph 15.3
- Email address as shown in Exhibit A, Paragraph 15.4
- Phone number as shown in Exhibit A, Paragraph 15.4
- Attention name as shown in Exhibit A, Paragraph 15.4

11.1b To UNIVERSITY:

- Industry Alliances Office
- Office of Intellectual Property & Industry Research Alliances
- University of California, Berkeley
- 2150 Shattuck Avenue, 10th Floor
- Berkeley, CA 94704-1347
- Attn: Director

11.2 Effective Date: Any such properly given notice or payment will be deemed to be effective as follows:

11.2a On the date of delivery if delivered in person;

11.2b On the date of mailing if mailed by first-class certified mail; or

11.2c On the date of mailing if mailed by any global express carrier service that requires the signature of recipient to demonstrate the delivery of such notice or payment.

12. GOVERNING LAWS; VENUE; ATTORNEYS' FEES

12.1 Laws: Agreement will be interpreted and construed in accordance with the laws of the State of California.

12.2 Actions: Any legal action related to AGREEMENT will be conducted in San Francisco, California.

12.3 Costs: The prevailing party in any suit related to AGREEMENT will be entitled to recover its reasonable attorneys' fees in addition to its costs and necessary disbursements.

13. GOVERNMENT EXPORT AND IMPORT LAWS

13.1 Laws: STARTUP will comply with all applicable international, national, state, regional, and local laws and regulations in performing its obligations hereunder.

13.2 Materials: STARTUP will observe all applicable U.S. and foreign laws with respect to the transfer or provision of RAW MATERIALS, PRODUCED MATERIALS and related technical data to foreign countries, including, without limitation, the International Traffic in Arms Regulations (ITAR) and the Export Administration Regulations.

14. MISCELLANEOUS

14.1 Assignment:

14.1a STARTUP: AGREEMENT is personal to STARTUP and assignable by STARTUP only with the written consent of UNIVERSITY.

14.1b UNIVERSITY: AGREEMENT is binding upon and will inure to the benefit of UNIVERSITY, its successors and assigns.

14.2 Waiver:

14.2a No waiver by either party of any breach or default of any of the duties, obligations, or agreements contained herein will be deemed a waiver as to any subsequent and/or similar breach or default.

14.2b No waiver will be valid or binding upon the parties unless made in writing and signed by a duly authorized officer of each party.

14.3 Force Majeure:

14.3a Responsibility: Except for STARTUP's obligation to make any payments to UNIVERSITY hereunder, the parties will not be responsible for any failure to perform due to the occurrence of any events beyond their reasonable control which render their performance impossible or onerous, including, but not limited to: accidents (environmental, toxic spill, etc.); acts of God; biological or nuclear incidents; casualties; earthquakes; pandemic; fires; floods; governmental acts, orders or restrictions; inability to obtain suitable and sufficient labor, transportation, fuel and materials; local, national, or state emergency; power failure and power outages; acts of terrorism; strike; and war. When such events have abated, then the parties' respective obligations hereunder will resume.

14.3b Termination: Either party to AGREEMENT, however, will have the right to terminate AGREEMENT upon thirty (30) days' prior written notice if either party is

unable to fulfill its obligations under AGREEMENT due to any of the causes specified in the Force Majeure Paragraph above for a period of one (1) year.

14.4 Severability: If any of the provisions contained in AGREEMENT are held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provisions hereof, and AGREEMENT will be construed as if such invalid, illegal or unenforceable provisions had never been contained herein.

14.5 Scope: AGREEMENT embodies the entire understanding of the parties and supersedes all previous communications, representations, or understandings, whether oral or written, between the parties relating to the subject matter hereof.

14.6 Amendments: No amendment or modification of AGREEMENT will be valid or binding upon the parties unless made in writing and signed by an authorized representative on behalf of each party.

14.7 Exhibits: Any exhibits attached hereto are incorporated herein by reference and made a part of AGREEMENT.

14.8 Parties: No provisions of AGREEMENT are intended or will be construed to confer upon or give to any person or entity other than REGENTS and LICENSEE any rights, remedies, or other benefits under, or by reason of AGREEMENT.

14.9 Independence: Nothing in AGREEMENT will in any way constitute any association, partnership, or joint venture between the parties hereto, or be construed to evidence the intention of the parties to establish any such relationship. Neither party will have the power to bind the other party or incur obligations on the other party's behalf without the other party's prior written consent.

14.10 Headings: The headings of the sections are inserted for convenience of reference only and are not intended to affect the meaning or interpretation of AGREEMENT.

14.11 Electronic Copy: The parties to this document agree that a copy of the original signature (including an electronic copy) may be used for any and all purposes for which the original signature may have been used. The parties further waive any right to challenge the admissibility or authenticity of this document in a court of law based solely on the absence of an original signature.

[The remainder of this page is intentionally left blank.]

UNIVERSITY and STARTUP have executed AGREEMENT by their respective duly authorized officers in duplicate originals on the following date.

[Company Name]	The Regents of the University of California on behalf of the Berkeley Campus
By: _____	By: _____
Name: _____	Name: _____
Title _____	Title _____
Date: _____	Date: _____
	Read and Understood FLEXIE FACULTY LEADER By: _____ Name: _____ Title _____ Date: _____

15. EXHIBIT A: STARTUP AND VISITING ENTREPRENEURIAL FELLOW

15.1 STARTUP name:

15.2 STARTUP Entity Status (e.g. Delaware Corporation):

15.3 STARTUP address:

15.4 STARTUP point of contact (name, email, phone):

15.5 STARTUP UC Berkeley ACCELERATOR Affiliate (see Paragraph 1.2 of AGREEMENT):

15.6 Does STARTUP have another agreement with UNIVERSITY (such as a license agreement or sponsored research agreement), and if yes, then identify / describe the agreement:

15.7 STARTUP acknowledges that it is in good-standing in all respects with UNIVERSITY, and up-to-date on all payments that STARTUP owes to UNIVERSITY in accordance with any other active agreements between STARTUP and UNIVERSITY (including intellectual property rights license agreements and collaborative sponsored research agreements) as listed here (in accordance with paragraph 2.5 of AGREEMENT):

15.8 STARTUP commercial liability insurance obtained as follows (Note that no activities under AGREEMENT can begin until commercial insurance is established as follows)¹:

15.8a Insurance company and policy number:

15.8b Coverage of at least \$1 million per occurrence, \$1 million in personal/advertising injury, and \$2 million aggregate:

15.8c UNIVERSITY named as an additional insured using the name: *The Regents of the University of California on behalf of the Berkeley Campus*; with the address: *2150 Shattuck Ave. 10th floor Berkeley CA 94704.*

¹ UNIVERSITY does not endorse or recommend any particular insurer. However, STARTUPS have obtained the appropriate commercial liability insurance via the following entity(s): Marsh & McLennan Insurance Agency LLC, MarshMMA.com, +1 858 587 7582

15.9 STARTUP VISITING ENTREPRENEURAL FELLOW(s) (VEF) (names, emails, phones):

15.10 STARTUP acknowledges that VEF(s) is/are not also concurrently employees of UNIVERSITY (e.g. GSR or postdoc):

15.11 STARTUP VEF(s) Visiting Scholar status obtained (or comparable official UC Berkeley status obtained such as <https://calnetweb.berkeley.edu/calnet-technologists/ldap-directory-service/data-proprietorship-and-privacy/authoritative-sources-10>):

15.12 STARTUP VEF FLEXIE training and orientation completed such that Exhibit B Paragraph 16.9b can be affirmed by FLEXIE FACULTY LEADER:

15.13 STARTUP VEF health insurance obtained (include name of insurance company):

15.14 STARTUP VEF workers compensation insurance obtained (if required by law):

15.15 STARTUP VEF is prohibited from using animals under AGREEMENT without the prior written authorization from UNIVERSITY. Indicates “YES” or “NO” for the use of animals under AGREEMENT. (Note that if the answer to this questions is, “yes”, then the FLEXIE FACULTY LEADER will be instructed to, (a) obtain approval from the UNIVERSITY Animal Care and Use Committee (ACUC) to perform the work under a protocol covering only this AGREEMENT; and (b) refer corresponding animal use space issues to UNIVERSITY Office of Laboratory Animal Care (OLAC) and UNIVERSITY Attending Veterinarian):

15.16 STARTUP VEF is prohibited from bringing onto UNIVERSITY property, using on UNIVERSITY property, or in any way using under AGREEMENT the following items without prior written authorization from UNIVERSITY Environmental, Health & Safety (EH&S) office by the EH&S Director (or designate) as specified in Exhibit B and as confirmed in Exhibit D. Furthermore, authorization for use of certain hazardous items may also require a background check by the UNIVERSITY Police Department as a prerequisite to authorization from EH&S.

Indicate “YES” or “NO” for the use under AGREEMENT of each line-item below:

15.16a Radioactive materials and radiation producing machines, including x-ray machines:

15.16b Recombinant DNA; synthetic nucleic acids; WHO Risk Group 2 or higher pathogens; biological toxins; material of human or non-human primate origin, including cell lines; HHS and USDA Select Agents and Toxins; Plant Pathogens or Noxious Weeds that require USDA permits; transgenic animals:

15.16c Explosives²:

15.16d Pyrophoric materials (ignite on contact with air):

15.16e Toxic gases³:

15.16f DEA Controlled Substances or California precursor chemicals:

15.16g Class 3b or 4 lasers⁴:

² Per 2016 California Fire Code, which references the Department of Transportation (DOT) section of the Code or Federal Regulations (CFR): A chemical compound, mixture or device, the primary or common purpose of which is to function by explosion. The term includes, but is not limited to, dynamite, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, ignitor cord, igniters and display fireworks, 1.3G.

The term "Explosive" includes any material determined to be within the scope of United States Code Title 18, Chapter 40 and also includes any material classified as an explosive other than consumer fireworks, 1.4G, by the hazardous materials regulations of DOT 49 CFR Parts 100-185.

³ 2019 California Fire Code: A gas which has a median lethal concentration (LC50) in air of less than or equal to 2,000 parts per million by volume of gas or vapor, or less than or equal to 20 milligrams per liter of mist, fume or dust, when administered by continuous inhalation for 1 hour to albino rats weighing between 200-300 grams each.

Note: UNIVERSITY EH&S may review gases that fall outside this range based on published health effects. This includes gases that, when discharged into a room, may be considered immediately dangerous to life and health (above IDLH). Please see <https://ehs.berkeley.edu/toxic-gas-program> for additional information.

⁴ Includes Class 1 laser systems with embedded Class 3B or 4 used for materials processing.

15.17 STARTUP description of PRODUCT-ORIENTED R&D (please send photos of all the equipment and space to be used by STARUP under FLEXIE):

Not for Use

16. EXHIBIT B: SHARED SPECIAL USER FACILITY FOR INNOVATION AND ENTREPRENEURSIP

16.1 FLEXIE FACULTY LEADER (name, email, phone):

16.2 Is FLEXIE FACULTY LEADER an HHMI Investigator (if yes, then UNIVERSITY needs to enable HHMI to review this AGREEMENT): “YES or “NO”

16.3 FLEXIE point of contact if different from FLEXIE FACULTY LEADER who must be a UC employee and can't be a STARTUP VEF (name, email, phone):

16.4 FLEXIE building's EH&S contact (name, email, phone):

16.5 FLEXIE location / address (include room numbers or other specific room-identifying information):

16.6 FLEXIE description of facility, equipment, and/or service (please send photos of all the equipment and space to be used by STARUP under FLEXIE):

16.7 FLEXIE source of capital funding of the FLEXIE facility or equipment (e.g. gifts, tax-exempt bond funded, NSF):

16.8 Term of Agreement:

16.8a Duration: The standard duration of FLEXIE AGREEMENT is one (1) year. If this agreement's duration is other than one year, then specify the duration here

16.8b Effective Start Date: The standard FLEXIE AGREEMENT's EFFECTIVE DATE is when this agreement is fully executed. If the EFFECTIVE DATE is other than when this agreement is fully executed, then specify here:

16.9 FLEXIE FACULTY LEADER confirmation of the following (Indicate “YES” or “NO”):

16.9a FLEXIE has excess capacity in accordance with Paragraph 1.4 of AGREEMENT:

16.9b VEF(s) (as listed in Exhibit A) will not be allowed in FLEXIE until VEF(s) is/are trained, qualified and ready to conduct STATEMENT OF WORK (as listed in Exhibit C) in accordance with Paragraph 1.6b of AGREEMENT:

16.9c FLEXIE will be managed such that VEF(s) do/does not interfere with, or take priority over activities of UNIVERSITY students and researchers in accordance with Paragraph 1.6c of AGREEMENT:

16.10 FLEXIE FACULTY LEADER statement of relationship between STARTUP and FLEXIE FACULTY LEADER, FLEXIE FACULTY LEADER's immediate family members, or any UNIVERSITY employee who is under the supervision of FLEXIE FACULTY LEADER. (Note that if the answer to any of these questions is, "YES", then a separate FLEXIE COI Form will be provided to FLEXIE FACULTY LEADER to be completed for the UNIVERSITY COI Committee review process):

16.10a Operating position in STARTUP:

16.10b Advisory role in STARTUP:

16.10c Stock equity ownership in STARTUP:

16.10d Other compensation from STARTUP:

16.10e Co-inventor on intellectual property rights that STARTUP is commercializing:

16.11 FLEXIE Payment Instructions: Unless otherwise instructed:

16.11a By Mail: Contracts and Grants Accounting, ATTN: Manager, 2195 Hearst Avenue, Room 130, Mail Code 1103, University of California, Berkeley, California 94720-1103; or

16.11b By Wire:

i Bank Address: Bank of America, 100 West 33rd Street, New York, NY 10001

ii Account Title: Regents of the University of California

iii Account Type: Checking Account, Account Number: 0175380001, Wire ABA/Routing Transit Number: 026009593, Swift Code:

BOFA US3N, DUNS Number: 124726725, UCB Tax ID Number: 946002123,
DFAS Cage Code: 50853.

16.12 FLEXIE Payment Distribution: Indicate any agreement on distribution of FLEXIE payments (for example among department and PI lab):

16.13 Fair market value research, analysis and support for rates that will be used in the FLEXIE USER FEE calculations of Exhibit C:

Not for Use

17. EXHIBIT C: STATEMENT OF WORK

Note: Under-representing use of UNIVERSITY facilities under FLEXIE can subject STARTUP to immediate termination of AGREEMENT, removal from the UNIVERSITY premises, and commensurate fines imposed by UNIVERSITY on STARTUP.

17.1 Narrative of VEF activities in FLEXIE (including instruments, devices, benches used):

17.2 Space Usage: Estimate of VEF square footage used in FLEXIE. Estimates can be based on this formula: number of VEF(s) (as specified in Paragraph 15.7) x 160 SF / person = total square footage:

17.3 Equipment Usage: Specify the facilities, machines, equipment and devices used:

17.4 Time Usage: Estimate of VEF time usage of FLEXIE on an hourly, weekly, or monthly basis so that we can apply the time estimate to the FLEXIE USER FEE as specified in Section 16.12 and derive a 3 month invoice as specified in Paragraph 17.5:

17.5 Total Costs: Total dollar amount to be invoiced at the onset of every payment period (typically 3 months). *Note that this amount must include indirect costs rate of at least 20% (some UNIVERSITY units might have a higher indirect cost rate). Additionally, if FLEXIE requires a review by EH&S, CARSA animal use, or COI, then a corresponding surcharge is added to the FLEXIE costs (but not included in the indirect costs calculation).*

18. EXHIBIT D: APPROVALS, CONCURRENCES AND NOTIFICATIONS

18.1 Approval from FLEXIE FACULTY LEADER (who is the PI of the lab in which the FLEXIE is located):

Yes, see Section 16.9 of Exhibit B.

18.2 Approval from chair of FLEXIE FACULTY LEADER's department (if applicable):

18.3 Approval from the dean (or equivalent such as Vice Chancellor of Research) of FLEXIE FACULTY LEADER's college/unit:

18.4 Approval from the Vice Provost for Academic and Space Planning, along with UNIVERSITY Space Assignment & Capital Improvements (SACI) office:

18.5 If Approval or notification from UNIVERSITY EH&S contact as specified in Paragraph 16.3 of AGREEMENT:

See Section 15.16 in Exhibit A.

18.6 Notification of UNIVERSITY capital planning office for tracking that performance of AGREEMENT does not exceed the cumulative allowable thresholds of private use:

18.7 Evaluation from UNIVERSITY budget office (or proxy) for review of fair market value determination of FLEXIE USER FEE:

18.8 If Paragraph 16.10 (conflict of interest) is affirmative, then approval of UNIVERSITY Conflict of Interest Committee, or Vice Chancellor of Research:

See Section 16.10 in Exhibit B.

18.9 If Paragraph 15.14 (animal use) is affirmative, then approval of Animal Care and Use Committee (ACUC), Office of Laboratory Animal Care (OLAC), and UNIVERSITY Attending Veterinarian:

See Section 15.15 in Exhibit A.

19. EXHIBIT E: VISITING ENTREPRENEURIAL FELLOW INTELLECTUAL PROPERTY AGREEMENT

This Agreement, hereafter referred to as, “VEFIP Agreement”, is made by me with the Regents of the University of California, a California constitutional corporation, hereinafter called “University”, in part consideration for my use of University campus and research facilities at the UC Berkeley campus under a Shared Special User Facility for Innovation & Entrepreneurship Agreement and Visiting Entrepreneurial Fellow Agreement.

Source of Funding (for FLEXIE User Fees): _____ {Typically is Name of Company}

University Faculty Host (FLEXIE Faculty Leader): _____

Name of Department/Unit: _____

Address of Shared Special User Facility for Innovation & Entrepreneurship:

During the course of this VEFIP Agreement, the parties agree that the sole reason for my presence at University is as a Visiting Entrepreneurial Fellow to conduct New Product R&D in a Shared Special User Facility for Innovation & Entrepreneurship in return for a User Fee paid to University, hereinafter referred to as, “Sole Activities at University”.

In exchange for the opportunity described above:

1. Disclosure: I will promptly report and fully disclose the conception and/or reduction to practice of potentially patentable inventions made by me, either solely or jointly with others, in the course of my Sole Activities at University (“Inventions”) to my Employer and University’s authorized licensing office. Additionally, I will promptly report and fully disclose works of authorship made by me, either solely or jointly with others, in the course of my Sole Activities at University (“Works”) to my Employer and University’s authorized licensing office.

2. Assignment: I will assign, and do hereby assign, jointly to my Employer and University all right, title and interest in any Invention and any applicable (under my Employer’s and University’s intellectual property policies) Works made by me, either solely or jointly with others, in the performance of my Sole Activities at University; and to execute and deliver any transfers, assignments, documents or other instruments necessary or appropriate to effect such assignment.

3. Other Activities: I acknowledge that any other inventions or works arising from my use of University resources and/or facilities (and therefore not made by me in the performance of Sole Activities at University) are subject to University’s Patent Policy (<http://policy.ucop.edu/doc/2500493/PatentPolicy>).

4. Works of Authorship: I acknowledge that University’s interest in my works of authorship created in the performance of my activities at University is limited to only such works as

provided for in University's Policy on Copyright Ownership (<http://policy.ucop.edu/doc/2100003/CopyrightOwnership>).

5. Proprietary Information: I will not disclose to University any proprietary information of my Employer or any third party, and such information includes, without limitation, trade secrets or confidential information of such party.
6. Limitations: Without the prior written consent of University, I will not accept or use any gift, grant, or contract research funds through the University, participate in any sponsored research projects at University, perform any work for third party sponsors of research in University facilities, or perform any research at University using third party proprietary research materials administered by University.
7. Consulting: I will not use University funds, facilities or resources to conduct outside consulting activities.
8. Accommodation: Should my activities at University result in my participation in the conduct of research projects at University that are subject to third-party obligations, then University and Employer, to the extent possible, will accommodate University's obligations to such third-party sponsors of research.
9. Precedence: If the parties cannot agree on an appropriate resolution under Item 8 above, then the obligations to research sponsors shall take precedence.
10. Duration: This VEFIP Agreement shall be in effect for **one (1) year** from the date of execution.
11. Termination: Either party may terminate this VEFIP Agreement upon giving of thirty (30) days advance written notice to the other party.
12. Scope: This VEFIP Agreement supersedes all previous agreements, oral or written, relating in whole or part to the performance of my activities as a visitor at University.

[The remainder of this page is intentionally left blank.]

I represent that I have not executed any agreements with or incurred any obligations to others in conflict with the foregoing, and I will not, while bound to VEFIP Agreement, enter into any other agreements, or otherwise, that conflict with the foregoing.

Acknowledged and Accepted:

VISITOR'S EMPLOYER

Name of Company: _____

Authorized Representative Signature: _____

Authorized Representative Name (print): _____

Authorized Representative Title: _____

Date: _____

VISITOR

Signature: _____

Name: _____

Title: _____

Date: _____

VISITOR

Signature: _____

Name: _____

Title: _____

Date: _____

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Title: _____

Date: _____

VISITOR

Signature: _____

Name: _____

Title: _____

Date: _____