VISITING RESEARCHER AGREEMENT

This Visiting Researcher Agreement (this “**Agreement**”) is made effective as of October \_\_, 2024 (the “**Effective Date**”), by and among the University of Southern California, a California nonprofit public benefit corporation (“**USC**”)and \_\_\_\_\_\_\_\_\_\_\_\_, a [state][entity] (“**Company**”) and relates to work to be performed by employees of Company who will visit USC (each, a “**Visitor**”).

WHEREAS, Company desires to send Visitors to work in a USC owned or controlled facility (a “**USC Facility**”) for a limited period of time; and

WHEREAS, USC desires to have Visitors work in a USC Facility for that limited period of time.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

**ARTICLE 1**

1.1 USC hereby grants to each of a maximum of \_\_\_ Visitors per year of the Term, as defined below in Section 3.1, status as a visiting researcher at USC during the Term. Nothing in this Agreement, including without limitation, in any Exhibit, will be deemed or construed to create the relationship of employer and employee, principal and agent, or of partnership or joint venture between each Visitor and USC. Company agrees that Visitor is not entitled to any benefits that USC provides to its employees and each Visitor will waive the right to participate in any such programs pursuant to the Visitor’s Agreement in the form of Exhibit B, which also provides that Visitor will not apply for any government-sponsored benefits that are intended to apply to employees, including, but not limited to, unemployment benefits.

1.2 During the Term, Company will direct each Visitor to abide by and be subject to all USC policies, procedures and guidelines applicable to visiting researchers. Further, each Visitor shall, prior to arriving at USC, review and execute the USC Export Controls Acknowledgement attached as Exhibit A hereto and the Visitor’s Agreement attached as Exhibit B hereto, the terms of which are hereby incorporated by reference.

1.3 Each Visitor shall visit USC during the period of time set forth in Exhibit C to perform independent research and collaborate with USC researchers as contemplated in Exhibit C (a “**Visit**”). USC hereby grants each Visitor permission to enter and utilize USC Facilities during the Visit. Further, USC shall give necessary advice and assistance to each Visitor to facilitate such Visitor’s research. During the Visit, Visitor shall not use, nor knowingly permit any other person to use any part of USC Facilities for any purpose other than the performance of the Visitor’s duties in connection with Visit as set forth in Exhibit C.

1.4 Company shall be solely responsible for all of Visitor's costs and expenses incurred during the Visit, including salary or other compensation, bonuses, withholding federal, state and local income taxes and Social Security (FICA), payroll taxes, housing costs, meals, per diem, phone, travel, health care benefits, personal insurance, unemployment insurance, automobile insurance, disability insurance, Workers’ Compensation Insurance, accident insurance, retirement or pension benefits, or any other employee benefits. In no event shall USC be responsible for any accident which may befall any Visitor during any Visit.

1.5 Company hereby agrees to hold harmless, indemnify and defend USC, its officers, directors, and employees from and against all judgments, claims, suits, proceedings, settlements, recoveries, liabilities, demands, damages, interest, reasonable attorneys' fees, expenses, and losses (collectively, “**Claims**”) arising out of the performance of this Agreement caused by or resulting from the negligent, intentional act or omission by Visitor, including Claims arising out of or related to property damage or personal injury during the Visit, including costs of any suits or actions by USC against Company or Visitor to enforce Company's and/or Visitor’s compliance with the terms of this Agreement.

1.6 Patient Privacy

 1.6.1 **Privacy Rule.** In the course of the performance of the research under this Agreement, Visitor may interact with USC patients and may have access to detailed patient individually identifying information or protected health information including such information as set forth in 45 CFR 164.514(b)(2)(i) (“PHI”), as defined in and subject to the Health Insurance Portability and Accountability Act of 1996 and the Health Information Technology for Economic and Clinical Health Act and all implementing regulations all as may be amended from time to time (collectively, the “Privacy Rule”) including medical records and peer review data.

1.6.2 **Commitment to Privacy.** Without regard to the status of Company or any Visitor as a “covered entity” under the Privacy Rule, Sponsor shall not, nor shall any Visitor, use, publish or disclose such PHI in any manner whatsoever in violation of the Privacy Rule or other laws protecting privacy of individuals, and Company will ensure that appropriate security arrangements are made with internal policies in place to prevent any such use or disclosure including, without limitation, instructing Visitor to comply with the terms of this Section 2. Company shall comply, and by signing the Visitor’s Certification in Exhibit A, Visitor agrees to comply, with all applicable federal and state laws and regulations relating to the confidentiality and privacy of such PHI.

1.6.3 **Privacy Breach.** Each of Company and each Visitor agrees to notify USC and the principal investigator (the “PI”) orally and in writing within twenty-four (24) hours of Visitor’s discovery of any PHI in its/his/her possession which is improperly used, copied, or removed by anyone except an authorized representative of USC even if Company or any Visitor believes the incident will not rise to the level of a breach. Sponsor and each Visitor shall cooperate with USC and the PI in taking such steps as are deemed appropriate by USC to enjoin the misuse, regain possession of the PHI, and otherwise protect USC’s rights and patients’ privacy.

**ARTICLE 2**

2.1 The parties agree that the following provisions shall govern the ownership of all Inventions discovered, created, first conceived or reduced to practice, or made by Visitor during the Term:

2.1.1 “**Inventions**” shall mean any and all inventions, discoveries, developments, technical information, trade secrets, know-how, methods, techniques, formulae, data, processes and other proprietary ideas, whether or not patentable or copyrightable created or made by Visitor, alone or with others, during or as a result of the Visit. Inventions include without limitation, software, designs, text, artwork, graphics, audio or video recordings, and photos.

2.1.2 “**Intellectual Property Rights**” shall mean all legal rights in Inventions, including without limitation, trademarks, trade secrets, copyrights, and patent rights.

2.1.2 Each Visitor shall promptly disclose to USC all Inventions and USC shall own all right, title and interest to all Inventions. Each of Company and Visitor hereby agrees to assign and assigns to USC all of its/his right, title and interest in such Inventions. Each of Company and Visitor understands that USC will make no payment to Visitor or Company in connection with the provisions, activities or assignments covered in this Section 2.1.2.

2.1.3 Each Visitor agrees (a) not to intentionally include in any Invention (i) any software, text, designs, elements or other works authored or owned by third parties, including any open source software or other materials available under open licenses such as Creative Commons, GPL, etc. or (ii) pre-existing intellectual property in which either Visitor, Company or a third party have rights; (b) not to assign or license Inventions, in whole or in part, to anyone other than USC, (c) Visitor has the full right and authority, including any approvals from Company, if necessary, to assign ownership of Inventions to USC; and (d) Inventions and all Company’s and Visitor’s rights therein will be owned by USC.

2.1.4 Each of Company and each Visitor shall assist USC to the extent necessary in USC’s opinion, in procuring and perfecting USC’s Intellectual Property Rights in and to the Inventions, including by providing the documentation or other materials necessary to perfect those rights, such as executing, at USC’s expense, any copyright, patent, trademark or similar applications and assignments to USC and any other lawful documents deemed necessary by USC to register or protect the Intellectual Property Rights.

2.1.5 Provided USC has the legal right to do so, USC will grant Company and its subsidiaries (a company which is directly or indirectly controlled by Company, where, “controlled by” means possession, directly or indirectly, of at least 50% of the stock or other voting securities of such company or, if ownership of 50% is prohibited by applicable law, the power for Company to direct or cause the direction of management or policies of such company, whether through beneficial ownership of securities or other ownership interests, by contract or otherwise) a non-exclusive, worldwide, non-sublicensable, royalty-free license solely for internal research purposes and not for commercialization, under USC’s Intellectual Property Rights in Inventions.

2.1.6 Nothing contained in this Agreement shall be deemed by implication, estoppel or otherwise to grant Company or Visitor any Intellectual Property Rights or other rights in any Inventions owned or controlled by USC prior to or after the Effective Date of this Agreement that may be used by Visitor in his research.

**ARTICLE 3**

3.1 The term of this Agreement shall begin on the Effective Date and continue for a period of three (3) years (the “**Term**”).

3.2 Either party may terminate this Agreement by giving the other party a notice in writing in case the other party (i) breaches any material obligation contained herein unless such breach (if capable of such breach) is cured within thirty (30) days of receipt of written notification of such breach, or (ii) becomes insolvent, files a petition for bankruptcy or if a proceeding or other action is filed against such party under bankruptcy or similar laws (unless such petition or proceeding is dismissed within sixty (60) days), or makes an assignment for the benefit of creditors.

3.3 USC may terminate this Agreement at any time upon thirty (30) days written notice.

3.4 Termination of this Agreement shall not affect the rights and obligations of the parties accrued prior to termination hereof. The obligations of the parties under this Agreement which by their nature should continue beyond the termination or expiration of this Agreement, and provisions which provide meaning or context to any other provision, including, will remain in effect after termination or expiration.

**ARTICLE 4**

4.1 Company represents and warrants to USC that: (a) each Visitor is an employee of Company and is not an independent contractor; (b) it has the right to grant to USC the rights granted herein; (c) that each Visitor shall comply with and abide by USC's rules and regulations; and (d) each Visitor shall not disclose to USC or use in his/her work at USC any proprietary or confidential information of any prior employers or of any third party, including any trade secret or confidential information with respect to the business, work or investigations of such prior employer or other third party, or any ideas or writings related thereto.

4.2 Each Visitor and Company shall maintain in confidence and shall not disclose to any third party any confidential information of USC received pursuant to this Agreement for a period of five (5) years from receipt thereof, without the prior written consent to USC. Such confidential information of USC shall not include the information which (i) was already known to a Visitor at the time of disclosure; (ii) is or becomes accessible to the public through no fault of a Visitor; (iii) is obtained by a Visitor from a third party lawfully in possession thereof without restriction on disclosure or use; or (iv) is independently ascertained or developed by or for a Visitor without use of such confidential information of USC.

4.3 Each party retains the right to demonstrate, publish or publicize the results of the Visitor’s research during the Visit. Before such demonstration, publishing or publicizing, however, the publishing party (the “**Publishing Party**”) agrees to submit copies of any manuscript or other information proposed for publication to the other party at least thirty (30) days in advance of submission for demonstration, publishing or publicizing. The other party may request removal of any confidential information belonging to it prior to submission for publication and/or to delay such submission for a maximum of an additional sixty (60) days in order to protect the potential patentability of any Invention described therein. If the other party does not, within thirty (30) days after receipt of the manuscript or other information, ask the Publishing Party to remove confidential information or to defer submission, the Publishing Party may proceed with such submission.

4.4 Neither Company nor any Visitor shall use the name, logo, trademark, or symbol of USC or its affiliates without the prior written consent of USC.

4.5 To its knowledge, based upon reasonable investigation, Company, nor any of its officers, employees, or representatives, including Visitor, (i) has been, and shall not be, suspended, excluded from participation in, or sanctioned under, any federal or state health care program (including, without limitation, Medicare and Medicaid), (ii) convicted of any criminal offense related to the delivery of any medical or health care services or supplies, or related to the neglect or abuse of patients, or suspended, excluded or sanctioned under any other federal program, or (iii) has been debarred or is subject to a pending debarment pursuant to section 306 of the United States Food, Drug and Cosmetic Act, 21 U.S.C. § 335a. Company shall immediately notify USC in the event of any failure to remain in compliance with the terms of this Section 4.5.

4.6 Notwithstanding anything to the contrary contained herein, to the maximum extent permitted by law, in no event shall USC be responsible for any incidental, consequential, indirect, special, punitive, or exemplary damages of any kind, including damages for lost goodwill, lost profits, lost business or other indirect economic damages, whether such claim is based on contract, negligence, tort (including strict liability) or other legal theory, as a result of a breach of any warranty or any other term of this agreement, and regardless of whether a party was advised or had reason to know of the possibility of such damages in advance.

4.7 This Agreement shall be construed, governed, interpreted and applied in accordance with the laws of the State of California, without giving effect to conflict of law provisions. All disputes arising under or in connection with this Agreement shall be submitted to JAMS or successor organization for binding arbitration by a single arbitrator. The arbitrator shall be selected by JAMS in an impartial manner determined by it. The arbitration hearing will be commenced within one hundred eighty (180) days of the filing of this application with JAMS by any party hereto, and a decision shall be rendered by the arbitrator within thirty (30) days of the conclusion of the hearing. The arbitrator shall have complete authority to render any and all relief, legal and equitable, appropriate under this Agreement. The arbitrator shall award costs of the proceeding, including reasonable attorney’s fees, to the party determined to have substantially prevailed.

4.8 Neither this Agreement nor any of the rights and obligations hereunder shall be assignable or transferable, in whole or in part, to any third party without prior written consent of the other party. Any assignment or attempted assignment in violation of the provisions of this Section shall be null and void.

4.9 This Agreement, including the exhibits attached hereto, constitutes the entire agreement between the parties with respect to the subject matter of this Agreement, and supersedes and replaces all prior or contemporaneous communications, discussions, understandings or agreements, written or oral, regarding the subject matter hereof.

The parties have caused this Agreement to be executed as of the Effective Date by their duly authorized representatives.

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| **UNIVERSITY OF SOUTHERN CALIFORNIA** By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Its: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Its: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

**EXHIBIT A –RESTRICTED DATA**

**Acknowledgement of Obligation to Protect ITAR-restricted data and**

**Government Furnished Restricted Information**

By my signature below, I acknowledge that I have been assigned as a visiting researcher (“**Visitor**”) to the University of Southern California (“**USC**”) and that in my role as a Visitor I may conduct work on a project or projects that may be subject to export control regulations including the International Traffic in Arms Regulation (“**ITAR**”) or may have received government furnished restricted information/restricted-dissemination materials (“**GFRI**”).

I have been informed that:

1. **ITAR** is an American law that restricts transfer of restricted information and technologies to foreign countries and citizens of foreign countries;
2. **GFRI** refers to any documents, electronic media or oral information explicitly identified by the United States government as being controlled unclassified information (“**CUI**”), sensitive but unclassified information (“**SBU**”) or for official use only information (“**FOUO**”) or has a similar marking that indicates limited dissemination. The projects at USC require that all individuals assigned to perform work agree to protect restricted-access and dissemination materials from improper handling;
3. Performing work on certain projects involves limitations and that I am required to comply with these limitations and all ITAR and GFRI restrictions; and
4. ITAR work and GFRI cannot be published in open literature, cannot be freely distributed and cannot be published as a dissertation and that any publications or software I propose to generate from any work I perform must be reviewed by the appropriate project leader and USC compliance officer prior to publication or dissemination to ensure no export restricted information or GFRI is included.

I understand that I may not and agree that I shall not:

1. if I am a foreign national, receive any ITAR-restricted information, GFRI or work on an ITAR restricted project without prior written government consent and I agree to consult with my USC supervisor before accepting any information including software or other technical data, whether orally or in writing, which I have reason to believe is or may be ITAR-restricted or may contain GFRI;
2. transfer any ITAR-restricted information or materials to a foreign national, whether located in the United States or abroad;
3. bring or otherwise export any ITAR-restricted information or materials to any foreign country; and
4. publish or otherwise disseminate any articles, dissertations, blogs, software, or other materials arising out of my work at USC prior to review and approval by the applicable project leader and the USC compliance officer.

I hereby agree to the foregoing terms and to otherwise protect ITAR-controlled data and GFRI.

Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ cc: Office of Compliance

Department of Contracts and Grants

**EXHIBIT B – VISITOR’S AGREEMENT**

By my signature below, I (the undersigned “**Visitor**”) acknowledge that I have been assigned as a visiting researcher to the University of Southern California (“**USC**”) and that in consideration of USC accepting me in the role of Visitor:

1. I have read and understand the conditions outlined in the Visiting Researcher Agreement between USC and \_\_\_\_\_\_\_\_\_\_\_\_\_ dated \_\_\_\_\_\_\_\_\_\_\_ and I agree to abide by them during and after my Visit at USC, including without limitation, the terms in Exhibit C which define the research I will be conducting and the term of my Visit, from \_\_\_\_\_\_\_\_\_\_\_\_\_\_ to \_\_\_\_\_\_\_\_\_\_\_\_\_.

1. I hereby agree to assign and assign to USC all right, title and interest in and to my contribution (as defined in Section 3 below) while I am serving in that role. I agree to give USC and any person designated by USC any reasonable assistance required to perfect the rights assigned pursuant to this Visitor’s Agreement. USC hereby grants Visitor a non-exclusive, non-transferable, non-assignable, non-sublicensable, worldwide, royalty-free, fully paid-up license to use USC’s interest in and to my contributions in my ongoing non-commercial research and not for the development of products, including software, or services for commercial use or sale.

3. For purposes of this Visitor’s Agreement, “my contribution” means anything I author, develop or invent during the Visit and while serving in the role described in paragraph 1, including without limitation any software, designs, text, artwork, graphics, audio or video recordings, photos, discoveries or inventions, and any intellectual property rights therein (including trademarks, trade secrets, copyrights and patent rights, if any), including all Inventions (as defined in the Visiting Researcher Agreement covering my time at USC/USC).

4. I agree to report all of my contributions to the lead in the lab in which my contribution was created or made. I agree to keep accurate records of my contributions, to complete and execute USC disclosure documents regarding my contributions, to execute specific assignment documents and to take other actions reasonably requested by USC to secure and perfect USC’s ownership interest in my contributions.

5. I represent and warrant to USC that (a) I am and will be the sole creator of my contributions; and (b) unless I get previous written approval from the head of the lab in which I am working, I will not include in my contributions any software, text, designs, elements or other works authored or owned by third parties, including any open source software or other materials available under open licenses such as Creative Commons and I will keep detailed records of all such third party materials and code used in any of my contributions (including a copy of the license under which the material or code was obtained by me, in the case of open source or other free-ware); and (c) I have not and will not assign or license my contributions to anyone other than USC; and (d) I have the full right and authority to assign ownership of my contributions to USC.

6. USC may, but is not obligated to, further develop my contributions and license them for development and commercialization in whole or in part and in any medium without notifying me or paying me anything in connection therewith.

7. Nothing in this Visitor’s Agreement will be deemed or construed to create the relationship of employer and employee, principal and agent, or of partnership or joint venture between me and USC.

8. UNDER NO CIRCUMSTANCES SHALL USC BE LIABLE TO THE ME FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES (EVEN IF USC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), ARISING FROM THIS VISITOR’S AGREEMENT SUCH AS, BUT NOT LIMITED TO, LOSS OF REVENUE OR ANTICIPATED PROFIT OR LOST BUSINESS, COSTS OF DELAY OR FAILURE OF DELIVERY, OR LIABILITIES TO THIRD PARTIES ARISING FROM ANY SOURCE.

9. I agree to maintain in confidence and not disclose to any third party any confidential information of USC (or of any third party that has provided confidential information to USC, which information was provided to me in connection with my activities under this Visitor’s Agreement) received pursuant to this Visitor’s Agreement for a period of five (5) years from receipt thereof, without the prior written consent to USC.

I hereby agree to the foregoing terms.

**VISITOR**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name

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| **Home Address:**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Phone: Email: **Address While at USC:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  |

**EXHIBIT C
DESCRIPTION OF RESEARCH**

Place: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Description: \_\_\_\_\_\_\_\_\_\_\_\_\_

[end of Exhibit C]