

Life Sciences Discovery Fund LSDF 08-02 Grant Award Agreement

This agreement ("Agreement"), is entered into by the Life Sciences Discovery Fund Authority, ("Grantor"), a granting agency of the State of Washington, with offices at 2324 Eastlake Avenue East, Suite 501, Seattle, WA 98102, and [REDACTED] ("Grantee"), having an administrative office at address, city, state, zip code;

Grantor is authorized by statute of the State of Washington to make grants for the fundamental government purpose of sponsoring life sciences research to improve health and health care, foster economic development, and strengthen the competitiveness of the life sciences sector within Washington State;

Grantee intends to establish a new program of life sciences research ("Program") under the direction of Grantee's researcher ("Principal Investigator");

Grantee intends to allocate space, monies, personnel and other resources to facilitate the launch and growth of the Program and Grantor desires to assist Grantee in this effort;

Grantor intends to provide funding for certain, but not all, activities within the Program ("Budgeted Activities"), as set forth in Article 2, and has awarded Grantee funds not to exceed [REDACTED] to conduct the Budgeted Activities;

Grantee intends to conduct the Budgeted Activities in accordance with the grant proposal submitted to Grantor;

NOW, THEREFORE, in consideration of the above and the mutual terms and conditions set forth below, Grantor and Grantee agree as follows:

ARTICLE 1. EFFECTIVE DATE AND AVAILABILITY OF GRANT MONEY

This Agreement shall be effective on the date of signature of the last party to sign ("Effective Date"). No funds shall be disbursed prior to the Effective Date of this Agreement. Disbursement of funds shall be subject to the conditions set forth in this Agreement.

ARTICLE 2. DESCRIPTION OF BUDGETED ACTIVITIES

2.1 Establishment of the Program. Grantee agrees to use its reasonable best efforts to establish, maintain and advance the Program as described in the proposal entitled, [REDACTED], (Grantor ref. [REDACTED]) ("Proposal"), which is attached to this Agreement as Exhibit A. Such reasonable best efforts shall include allocating space, monies, personnel and other resources to the Program as described within the Proposal and as necessary to launch and facilitate the growth of the Program. Grantee's failure to allocate the resources described within the Proposal to the Program shall be deemed to be a termination of the Program by Grantee. Termination of the Program by Grantee is grounds for termination of this Agreement.

2.2 Conduct of the Budgeted Activities. Grantee will use reasonable best efforts to conduct the Budgeted Activities in accordance with the Proposal. The Budgeted Activities will be carried out in accordance with the terms and conditions of this Agreement and with the Budget (as defined below) and the work plan described in the Proposal. In performing the Budgeted Activities, Grantee will adhere to the milestones and timeline ("Milestones and Timeline") set forth in Exhibit B. Substantive changes in the scope or objectives of the Budgeted Activities or the Milestones and Timeline require the advance written approval of Grantor. Commonly accepted standards of workmanship will be followed. In performing the Program and the Budgeted Activities, Grantee shall comply with all relevant federal, state, or local laws and regulations, and executive orders. Without limiting the general requirement contained herein, Grantee shall comply with all federal and state laws relating to discrimination by employers or in public accommodations, receipt and disbursement of state and federal funds, tax reporting and withholding requirements, workers' compensation, and wage and hour laws.

2.3 Key Personnel. The Budgeted Activities will be carried out under the direction of the Principal Investigator identified in the Proposal as [REDACTED], who shall select and supervise other participants as needed, and as consistent with the Proposal. The Principal Investigator will be responsible for leading the Program and the Budgeted Activities, ensuring that the scientific, technical and Milestones and Timeline requirements of this Agreement are met, administering the grant in accordance with the terms and conditions of this Agreement, submitting progress reports to Grantor in a timely manner, overseeing personnel matters and disbursement of grant funds and responding to any inquiries from Grantor related to progress or financial reports or to an audit of grant expenses. The Principal Investigator shall sign or otherwise authorize all progress reports and requests made subject to this Agreement.

In the event that the Principal Investigator changes his or her employment status with the Grantee, relocates outside of Washington, or otherwise is unable

to fulfill the role of Principal Investigator during the Grant Period, Grantee shall notify Grantor in writing within 30 days of such an event and identify in writing an alternate Principal Investigator, acceptable to Grantor, to assume leadership of the Program and the Budgeted Activities. Failure to have an approved Principal Investigator is grounds for termination of this Agreement.

In the event that Principal Investigator or other Program or Budgeted Activities participants are debarred or become subject to debarment under the provisions of the Generic Drug Enforcement Act of 1992, 21 U.S.C. or have otherwise been disqualified or suspended from performing the Program or the Budgeted Activities or otherwise subject to any restrictions or sanctions by the FDA or any other governmental agency or professional body with respect to the performance of scientific or clinical investigations, Grantee shall immediately notify Grantor in writing. Debarment of any participant is grounds for termination of this Agreement.

2.4 Control of Budgeted Activities. Control of the Program and the Budgeted Activities will rest with Grantee. Subject to the terms of this Agreement, Grantee may engage third party collaborators in the conduct of the Program and the Budgeted Activities.

2.5 Collaborators. In the event that performance of the Budgeted Activities involves third party collaborators of Grantee, Grantee shall be responsible for the performance of such collaborators and for ensuring that the work performed by such collaborators is subject to the terms and conditions of this Agreement. Grantee warrants that it will enter into written agreement(s) with all collaborators involved in the conduct of the Budgeted Activities according to the time set in the Milestones and Timeline. Among other provisions, such agreements must allow for the allocation of the rights that the Grantee and collaborators will have in any Inventions (as defined in Article 6 below) developed during the course of performing the Budgeted Activities and have identified which of the parties will be responsible for commercialization of such Inventions. Grantee's collaborator agreements are listed in Exhibit C.

2.6 Grant Period. The period in which the Budgeted Activities will be performed ("Grant Period") is ___ months from the Effective Date of this Agreement.

2.7 Title to Equipment and Computers. Title to equipment and computers purchased with funds awarded under this Agreement will be vested in the Grantee, on condition that such equipment is used for performance of the Program and the Budgeted Activities. Failure to keep equipment and computers available for these purposes, is grounds for termination of this Agreement. Grantee may make equipment and computers available for use in other research

studies as long as such use does not interfere with the work on the Program or the Budgeted Activities.

ARTICLE 3. FUNDING AND PAYMENT

3.1 Funding. Grantor has awarded funding to the Grantee in the amount of \$_____. Grantee shall allocate funding to the Budgeted Activities according to the budget ("Budget") shown in Exhibit D. All funding provided to Grantee under this Agreement is contingent upon Grantor having sufficient funds and expenditure authorization to fund the Budgeted Activities, as determined by Grantor.

3.2 Supplemental Funding. Grantor will not provide supplemental funding to the Budget. Notwithstanding the foregoing, in the event that the Budgeted Activities have been catastrophically disrupted by events anticipated by Article 21 (Force Majeure) herein, as timely reported in writing to Grantor by Grantee, Grantor may, but shall not be obligated to, provide supplemental funding to the Budget.

3.3 Budget Modifications. Monetary shifts of 25 percent or less between categories within a Budget year may be made without advance written approval of Grantor. However, if Grantee proposes expenditures that previously were not a part of the Budget, or if Grantee proposes to spend more than 125 percent of the cumulative budgetary amount for any Budget category or to make programmatic changes that impact the Budget, Grantee must seek the advance written approval of Grantor. Grantee may request, such request to be made in writing, a no-cost extension of the Grant Period for a maximum of two years, in one-year increments. Grantee will be required to submit an amended budget for any extension period. The decision to grant such an extension vests solely in the discretion of the Grantor.

Upon the advance written approval of Grantor, unexpended amounts contained in the Budget for a budget year within the Grant Period may be carried over to the subsequent budget year within the Grant Period. Unexpended amounts of 10 percent or less of that allocated within a budget year may be carried over to the subsequent budget year within the Grant Period without the advance written approval of Grantor.

3.4 Allowable Costs. Costs allowable under the grant are based on the Budget and must be consistent with Grantee's policies. Allowable costs shall include costs incurred by Grantee from the first date of the Grant Period, until completion of the Budgeted Activities or the expiration of the Grant Period, or termination of the Program or the Budgeted Activities, whichever is earliest, but in no event shall allowable costs exceed the amount of the grant award. Expenditures for the following are not allowable: costs associated with patient

care beyond what are required for Budgeted Activities research, and computers not essential for performance of the Budgeted Activities. Facilities and administration ("F&A") support for the Budgeted Activities is allowable, provided that such F&A costs represent the true and actual costs of performing the Budgeted Activities and are expressed as direct costs. F&A reimbursement is based on such true and actual costs and not on the federally-negotiated F&A rate of the applicant organization or its collaborators. The following direct costs are allowable: personnel (including wages, benefits, stipends, and education fees for trainees), equipment at a unit cost above \$5,000, supplies, services, subcontracts, Budgeted Activities-related travel, and "other" costs. F&A costs incurred by a for-profit company collaborating with Grantee in the Budgeted Activities are not eligible for payment by Grantor. Costs incurred by a for-profit company, collaborating with Grantee in the Budgeted Activities, for activities performed on a best efforts basis are not allowable within the Budget.

In the event that the Budget allocates funds for Budgeted Activities whose costs or nature cannot be accurately determined at the time of execution of this Agreement, including but not limited to, re-granting activities or recruitment startup packages, Grantee agrees not to spend or otherwise encumber such funds until it obtains the advance written permission of Grantor. In seeking Grantor's permission, Grantee shall provide a detailed written and justified description of how such funds are to be spent and the time period during which the expenditure is to be made.

3.5 Payments. Grantor will make payments to Grantee for the conduct of the Budgeted Activities on a cost-reimbursement basis upon receipt of written invoices submitted to and approved by Grantor. All payments shall be subject to Grantee's timely progress in achieving the goals set forth in the Milestones and Timeline, as determined by Grantor, and timely submission of annual financial reports described in Article 3.7 below and progress reports described in Article 4 below. Each invoice shall be submitted by the Grantee using Grantor's on-line system, with a signed copy sent by mail or other means as specified in Article 19 (Notices) herein, and the reimbursement request form found in Exhibit E. Commencing on the Effective Date of this Agreement, invoices may be submitted for expenditure periods of not less than one month and not greater than six months and must be submitted no later than two months from the end of the invoice period. Invoices must state the milestone(s) within the Milestones and Timeline against which costs have been incurred within the reporting period, must itemize all allowable costs according to the categories within the Budget, and must be signed by an authorized institutional official certifying that all expenditures are directly related to the and Budget. Grantor may require expenditure documentation as part of the disbursement process, if reasonably necessary to ensure consistency with the Milestones and Timeline and the Budget. Grantor shall pay to Grantee all allowable costs incurred from the first date of the Grant Period until completion of the Budgeted Activities or the

expiration of the Grant Period or termination of the Program or the Budgeted Activities, whichever is earliest, insofar as those allowable costs do not exceed the amount granted or otherwise available for such purposes as stated in the Budget. All payments will be sent to Grantee via electronic funds transfer. Grantee must complete and send a Direct Deposit Authorization form and signed W-9 form to Grantor for payments to commence.

3.6 Final Request(s) for Payment. Grantee shall submit final requests for reimbursement within 60 days of completion of the Budgeted Activities or the expiration of the Grant Period or termination of the Program or the Budgeted Activities, whichever is earliest. Failure to comply may result in the Grantor's refusal or inability to reimburse. Grantor shall not make the final payment until the proper invoice, marked "Final, " has been approved by Grantor and the final progress report of the Budgeted Activities has been received and approved by Grantor.

3.7 Annual Financial Reporting. Grantee shall submit an annual financial report to Grantor using Grantor's on-line system and the form provided in Exhibit F. The first annual financial report shall be due on the first anniversary of the Effective Date of this Agreement and subsequent reports due on each anniversary thereafter until the completion of the Budgeted Activities or the expiration of the Grant Period or termination of the Program or the Budgeted Activities, whichever is earliest. Financial reports must cover all expenditures made since the previous reporting period. Annual financial reports must be signed by an authorized institutional official certifying that all expenditures are directly related to the Budgeted Activities and Budget. Grantee shall continue to submit annual financial reports to the Grantor until all of the grant funds have been expended or this Agreement is terminated.

ARTICLE 4. PROGRESS REPORTS

Grantee shall submit written semi-annual progress reports to Grantor describing Grantee's progress in advancing the Program and performing the Budgeted Activities. All reports shall be submitted by the Principal Investigator and shall detail the activities of Grantee and Grantee's collaborators in the Program and the Budgeted Activities during the period covered by the report. The first progress report shall be due 6 months after the Effective Date of this Agreement and subsequent reports due at 6 month intervals thereafter until the completion of the Budgeted Activities or the expiration of the Grant Period or termination of the Program or the Budgeted Activities, whichever is earliest.

The content of progress reports is shown in Exhibit G. Grantor reserves the right to change the content of progress reports during the Grant Period and Grantee shall make subsequent progress reports according to the template then in use by Grantor. Progress reports shall be submitted electronically through Grantor's

on-line grant system. Progress reports shall be of sufficient detail to allow Grantor to assess progress made on the Program and the Budgeted Activities and the Milestones and Timeline since the prior report. In the event that a progress report lacks sufficient detail to allow Grantor to assess progress made on the Budgeted Activities and the Milestones and Timeline, Grantee shall provide Grantor with additional detail in a timely manner as requested by Grantor. Grantee shall also disclose in writing to Grantor any problems, delays or adverse conditions which may materially affect its ability to meet the Budgeted Activities objectives or the Milestones and Timeline. This disclosure shall be accompanied by a statement of the action taken or proposed and any assistance needed from Grantor to resolve the situation. Grantor will hold all progress reports confidential, subject to the public disclosure laws of the State of Washington (See e.g., RCW 42.56.270(14)). Any payment due will be predicated on receipt of a progress report satisfactory to Grantor for the most recent required period. Grantee must submit a final progress report detailing the outcome of the Budgeted Activities to Grantor within 60 days of the completion of the Budgeted Activities or the expiration of the Grant Period, or termination of the Program or Budgeted Activities, whichever is earliest. In addition to progress reports and at the reasonable request of the Grantor, during the Grant Period and after expiration of the Grant Period or termination of the Agreement, Grantee will arrange site visits or in-person briefings to enable the Grantor to assess the impact of its funding and the potential for additional funding in this subject area.

Grantee shall provide Grantor with post-award progress reports regarding the Program and the Budgeted Activities according to a mutually agreeable schedule for a period of five years after the expiration of this Agreement. The content of, schedule for, and reimbursement of Grantee for preparation of such reports shall be specified within an agreement to be executed between Grantor and Grantee prior to Grantor's last payment to Grantee under this Agreement.

ARTICLE 5. ACCOUNTING AND AUDITING

Grantee must record the receipt of the grant funds and any Budgeted Activities-related expenditures, in such a form as to enable Grantor to verify that the funds were expended for the stated purposes of the grant and in accordance with generally accepted accounting principles. All pertinent records, including invoices, purchase orders, packing lists, warranties, rebates and worksheets supporting allocations shall be retained in Grantee files for at least three years, or as otherwise required by state and federal law, or as requested by Grantor, after the Grant Period or after the expenditure of all grant funds, whichever comes later. If there are unresolved audit questions at the end of the retention period, Grantee shall retain the records until the questions are resolved. Grantor reserves the right at reasonable times and during normal business hours to audit these records, or have them audited, during the term of this Agreement or

thereafter. If as a result of an audit Grantor reasonably concludes that funds were spent for purposes not related to approved Budgeted Activities, as set forth in the Budget and subject to this Agreement, Grantor will be entitled to a refund of such funds, including interest on the amount refunded. Grantee shall return such funds to Grantor within 30 days of Grantor's written demand.

ARTICLE 6. INVENTIONS

6.1 Policies and Management. Grantor's grant awards are intended to support research that enhances competitiveness, improves health and health-care and fosters economic development in Washington State. Grantor recognizes that discoveries and developments having public health, scientific, business, or commercial application or value may be made in the course of performing the Program and the Budgeted Activities. Grantor desires that such discoveries and developments be administered in such a manner that they are brought into public use at the earliest possible time. Grantor recognizes that this may be best accomplished through patenting, copyrighting, trademarking and/or licensing such discoveries and developments. In accepting an award from Grantor, Grantee warrants that it has policies in place regarding ownership and management of intellectual property. Grantee further warrants that it has expertise in management of intellectual property, including evaluation of invention disclosures and patenting and licensing, or in the absence of such expertise, that it will engage individuals or entities, acceptable to Grantor, having such expertise to assist it in managing any discoveries and developments made in the course of performing the Program and the Budgeted Activities.

6.2 Invention Reporting. "Invention" is any discovery, material, method, process, product, program, software or use, whether or not patented or patentable or copyrighted or copyrightable, that is conceived or made in the course of performing the Budgeted Activities. All Inventions shall be reported to Grantor by Grantee's office of technology transfer, or equivalent entity, in writing within 30 days after their written disclosure to Grantee. Grantee, through its office of technology transfer or equivalent entity, shall make semi-annual Invention reports to Grantor, using Grantor's on-line system, about the status of such Inventions, including Grantee's activities regarding protection of the Invention as intellectual property, licensing or other transfer of rights regarding the Invention and cumulative receipt of Invention Income (as defined below). Grantor will hold all such Invention reports confidential, subject to the public disclosure laws of the State of Washington (See e.g. RCW 42.56.270(14)). Invention reports shall commence with Grantee's first disclosure of the Invention to Grantor and subsequent reports shall be provided to Grantor at each six month interval thereafter until such time as Grantee reports that it has ceased all activities related to intellectual property protection and licensing of the Invention and receipt of Invention Income or Grantee has paid back to Grantor the grant award as specified under Article 6.4 herein, whichever occurs first.

6.3 Ownership and Disposition. Grantor claims no ownership rights in any Inventions. Grantee agrees to use its reasonable best efforts to make Inventions available to the public on reasonable terms and on a timely basis. Grantee further agrees that if Grantor believes that Inventions are not being made available to the public on reasonable terms and on a timely basis, Grantee will work with Grantor in good faith to ensure that Inventions become publicly available on reasonable terms and on a timely basis.

6.4 Grant Award Payback. In the event that Grantee receives any financial consideration for licensing or otherwise transferring rights in an Invention to a third party ("Invention Income"), and in the event that cumulative Invention Income exceeds \$X,XXX,XXX (equivalent to seven and one half times the amount of the grant award provided under this Agreement), Grantee shall pay to Grantor the sum of \$X,XXX,XXX (equivalent to the amount of the grant award provided under this Agreement). Such grant payback shall be made in annual installments, at the rate of 20 percent of the Invention Income received by Grantee within a given calendar year. Such payback to Grantor shall commence with the first semi-annual Invention report after which Grantee's cumulative Invention Income has exceeded \$X,XXX,XXX. Subsequent payments shall be made to Grantor on an annual basis thereafter until the grant has been fully paid back.

Invention Income shall include all revenues received by Grantee from licensing or otherwise transferring rights to an Invention to a third party, including, but not limited to, fees, royalties, income received under sublicenses and equity. Invention Income shall not include amounts paid to Grantee by a third party in the form of a research grant.

In calculating "cumulative Invention Income" Grantee shall be allowed to deduct its documentable, unreimbursed, out-of-pocket expenses associated with intellectual property protection and licensing or other transfer of the Invention, including standard, fixed administrative fees supported by Grantee's written policies. Grantee shall provide documentation of such expenses and policies in a timely fashion upon request of Grantor.

In instances where the Invention is co-owned by Grantee and one or more other organizations and Grantee is contractually required to share a portion of Invention Income with such one or more organizations, in calculating cumulative Invention Income, Grantee shall be allowed to deduct cumulative payments made to all such organizations for their portion of Invention Income. Grantee shall provide documentation of the requirement for and the amount of such payments in a timely fashion upon request of Grantor.

In instances where a single licensing agreement or equivalent transfer of rights covers other intellectual property in addition to an Invention, Invention Income shall include only those revenues that are attributable to the Invention. In such cases, Grantee shall provide documentation and justification for the distribution of revenues between the Invention and such other covered intellectual property in a timely fashion upon request of Grantor.

6.5 Diligence. In licensing or otherwise transferring an Invention to a third party, Grantee shall include provisions in the license or transfer document obligating such third party to commercialize, or otherwise make available for public use, the Invention in a diligent manner and include appropriate diligence requirements and milestones, and shall monitor performance of such third party. The terms and conditions of this Article 6 shall apply to any third party to whom Grantee has assigned ownership rights to an Invention.

6.6 Jointly Funded Inventions. If any Invention is made with the joint support of Grantor and another funding organization and that other organization has an intellectual property policy that conflicts with Grantee's obligations under this Agreement, Grantor and Grantee shall negotiate in good faith a mutually satisfactory resolution of the conflict.

ARTICLE 7. CONFLICT OF INTEREST

Grantee represents and warrants that it has a financial conflict of interest policy in place applicable to performing the Budgeted Activities and that Grantee has taken reasonable steps to inform the Principal Investigator and all personnel performing the Budgeted Activities of the policy and requirements for complying with its terms. In accepting this award, Grantee represents that Grantee has advised the Principal Investigator and Grantee's personnel performing the Budgeted Activities that they are required to disclose, in accordance with the foregoing policy, any potential financial conflicts of interest associated with their participation in the Budgeted Activities to Grantee and that Grantee has received such disclosures or received an affirmative statement that there are no conflicts to disclose. Grantee further represents that it has eliminated or mitigated all disclosed financial conflicts consistent with the terms of its policy. Grantee also agrees to take reasonable measures to assure that its collaborators in the Budgeted Activities are aware of and have agreed to comply with the provisions of this Article.

At execution of this Agreement, Grantee shall provide to Grantor a written statement affirming Grantor's understandings (as expressed in Exhibit H herein) of any potential financial conflicts of interest associated with personnel performing the Budgeted Activities; attesting to its receipt of disclosures from such personnel that, at a minimum, confirm Grantor's understandings; and assuring that all disclosed potential conflicts of interest have been eliminated or

mitigated. Such written statement shall be provided according to the form provided in Exhibit H. Statements shall include the Grantor ref. number, the Grantee, the name of the Principal Investigator, and the name(s) of the personnel having disclosed a financial conflict.

In the event that new financial conflicts of interest are disclosed during the course of performing the Budgeted Activities, Grantee shall report such disclosures in writing to Grantor in a timely manner using the procedure specified within this Article 7.

Upon the request of Grantor, Grantee shall provide in writing information about any financial conflicts of interest that have been disclosed subject to this Article 7 and about how the disclosed conflicts have been eliminated or mitigated. As further requested by Grantor, Grantee shall provide any additional information known by Grantee with respect to other potential financial conflicts of interest identified by Grantor.

ARTICLE 8. PRESENTATIONS AND PUBLICATIONS BY GRANTEE

The parties recognize that the results of the Budgeted Activities may be publishable and agree that the persons performing the Budgeted Activities shall be permitted to present at symposia and professional meetings and to publish in journals, theses or dissertations, or otherwise of their own choosing, the methods and results of the Budgeted Activities. Following publication, copies of published papers describing the Budgeted Activities shall be submitted by Grantee to Grantor. Grantee agrees to acknowledge the support of Grantor in all public disclosures of the results of the Budgeted Activities.

ARTICLE 9. REPRESENTATIONS OF GRANTEE AUTHORITY AND STATUS

9.1 Grantee represents and warrants that it is an organization exempt from Federal income tax. Grantee agrees to notify Grantor immediately of any change or expected change in its status as an organization exempt from Federal income tax.

9.2 Grantee represents and warrants that it has authority to enter into this Agreement and to incur and perform the obligations herein and further warrants that the signatories to this Agreement are authorized to execute this Agreement on behalf of Grantee.

ARTICLE 10. USE OF HUMAN SUBJECTS AND VERTEBRATE ANIMALS

10.1 Human Subjects. In the event the Budgeted Activities involve the use of human subjects, Grantee shall ensure that the research site operates under an appropriate Office of Human Research Protections (OHRP)-approved assurance

for the protection of human subjects and complies with all Department of Health and Human Services human-subjects-related policies and any other applicable laws or regulations. In accepting an award involving human subjects use within the Budgeted Activities, Grantee warrants that it has a system that complies with federal, state, and local government regulations to protect the rights, well-being, and personal privacy of human subjects in research and that the work to be performed within the Budgeted Activities has been reviewed and approved by the applicable human subjects oversight bodies. Grantee shall provide documentation of review and approval by the applicable oversight bodies of all human subjects work performed within the Budgeted Activities in a timely fashion upon request of Grantor.

10.2 Vertebrate Animals. In the event the Budgeted Activities involve involve the use of vertebrate animals, Grantee shall ensure that all performance sites hold Office of Laboratory Animal Welfare (OLAW)-approved assurances. In accepting an award involving vertebrate animal use within the Budgeted Activities, Grantee warrants that it has a system that complies with federal, state, and local government regulations to humanely, efficiently, effectively and legally use live vertebrate animals in research and that the work to be performed within the Budgeted Activities has been reviewed and approved by the applicable animal use and care oversight bodies. Grantee shall provide documentation of review and approval by the applicable oversight bodies of all vertebrate animal work performed within the Budgeted Activities in a timely fashion upon request of Grantor.

ARTICLE 11. TERMINATION

11.1 Termination by Grantor. Grantor shall have the right to terminate this Agreement upon the occurrence of any one or more of the following events:

- (a) failure of Grantor to receive sufficient funds or expenditure authorization to meet its payment obligations under this Agreement; or
- (b) Grantor's lack of authority to provide funding for the Budgeted Activities due to modification, change or interpretation of state or federal laws, regulations or guidelines; or
- (c) Grantee's termination of the Program; or
- (d) failure of Grantee to meet the goals set out within the Milestones and Timeline in a timely manner; or
- (e) failure of Grantee to render progress reports, Invention reports or financial reports to Grantor as required by this Agreement; or
- (f) Principal Investigator or other Program or Budgeted Activities participants have been debarred or have been subject to debarment under the provisions of the Generic Drug Enforcement Act of 1992, 21 U.S.C. or have otherwise been disqualified or

- suspended from performing the Program or the Budgeted Activities or otherwise subject to any restrictions or sanctions by the FDA or any other governmental agency or professional body with respect to the performance of scientific or clinical investigations; or
- (g) in the case of the replacement of the Principal Investigator, failure of Grantee to identify an alternate Principal Investigator, acceptable to Grantor; or
 - (h) the insolvency of Grantee; or
 - (i) any assignment by Grantee of substantially all of its assets for the benefit of creditors; or
 - (j) the institution of any proceeding by Grantee or a third party under any reorganization, bankruptcy, insolvency, or moratorium law; or
 - (k) placement of Grantee's assets in the hands of a trustee or a receiver unless the receivership or trust is dissolved within 30 days thereafter; or
 - (l) a change in Grantee's status as an organization exempt from Federal income tax; or
 - (m) failure of Grantee to comply with applicable federal or state law; or
 - (n) failure of Grantee to make equipment purchased or leased with funds disbursed pursuant to this Agreement available for Program or Budgeted Activities purposes; or
 - (o) the breach of any other material term of this Agreement.

11.2 Exercise. Grantor may terminate this Agreement by giving Grantee or Grantee's trustees, receivers, or assigns, 30 days advance written notice. Upon the expiration of such period, this Agreement shall automatically terminate unless the Grantee has cured the breach and Grantor has acknowledged that it accepts the cure. Upon exercise of its right to terminate, Grantor reserves the right to withhold further payments and prohibit Grantee from incurring additional obligations of funds for the Budgeted Activities.

11.3 Termination by Grantee. Grantee may terminate this Agreement at its sole discretion upon two months advance written notice to Grantor. If this Agreement is so terminated, Grantor shall be liable only for payment required under the terms of this Agreement for performance of the Budgeted Activities and any reasonable non-cancellable obligations incurred by Grantee in performance of the Budgeted Activities prior to the effective date of termination. In the event of termination of the Program, or of this Agreement by Grantee, Grantor shall be entitled to take title and possession of any equipment valued at greater than \$5,000 purchased by Grantee for the Budgeted Activities with funding provided under this Agreement.

11.4 Effects. Upon termination of this Agreement, Grantor shall have no further obligation to disburse grant funds to Grantee, whether or not the entire grant has been disbursed to Grantee, and Grantee's authority to expend previously disbursed grant funds shall end. In the event that this Agreement is terminated for any reason whatsoever, and no later than 60 days after the effective date of termination:

- (a) Grantee shall promptly return any unused funds, including interest, to Grantor; and
- (b) Grantee shall refund to Grantor any funds spent for purposes other than approved grant activities as set forth in the Budget; and
- (c) Upon Grantor's request, Grantee shall transfer title to Grantor for all equipment purchased with grant funds and not made available as needed for the Program or the Budgeted Activities, as described in Article 2.7 above; and
- (d) Grantee shall invoice Grantor for outstanding reimbursable expenditures and/or any reasonable non-cancellable obligations incurred by Grantee in the performance of the Budgeted Activities prior to the effective date of termination as applicable; and
- (e) Grantee shall provide Grantor, in writing, with a final report of the Budgeted Activities and a final financial report.

Nothing herein shall be construed to release Grantee from any obligation which matured prior to the effective date of such termination or to waive any rights Grantor may have to recover damages incurred by it as a result of Grantee's breach of the Agreement.

11.5 Survival. All terms and provisions of this Agreement which by their nature are intended to be observed and performed after the expiration or termination of this Agreement shall survive such expiration or termination, and shall continue in full force and effect. Without limiting the generality of the foregoing, the following provisions of this Agreement shall survive any expiration or termination: Article 2, Description of Budgeted Activities; Article 3, Funding and Payment; Article 4, Progress Reports; Article 5, Accounting and Auditing; Article 6, Inventions; Article 8, Presentations and Publications by Grantee; Article 11, Termination; Article 12, Communications and Public Disclosures by Grantor; Article 13, Responsibility for Loss; Article 15, Relationship of the Parties; Article 16, Governing Law; and Article 23, Disputes.

ARTICLE 12. COMMUNICATIONS AND PUBLIC DISCLOSURES BY GRANTOR

Grantor reserves the right to publicly disseminate information about its granting activities, including matter related to the Program and the Budgeted Activities. Grantor shall not publicly disclose information about the progress or outcomes of the Program or the Budgeted Activities without the advance approval of the

Principal Investigator, such approval not to be unreasonably withheld, if such information has not been previously disclosed to the public. From time to time Grantor may request Grantee or Principal Investigator to assist Grantor with communications and public disclosures pertaining to the Program or the Budgeted Activities. Such assistance provided by Grantee or Principal Investigator shall be at reasonable times and locales and at Grantor's expense.

ARTICLE 13. INDEMNIFICATION

To the fullest extent permitted by law, Grantee shall indemnify, defend, and hold harmless Grantor and all officials, agents and employees of Grantor, from and against all claims for injuries or death arising out of or resulting from the performance of the Project and the Budgeted Activities under this Agreement.

"Claim," as used in this Agreement, means any financial loss, claim, suit, action, damage or expense, including but not limited to attorney's fees, attributable for bodily injury, sickness, disease, or death, or injury to or destruction of tangible property including loss of use resulting therefrom. Grantee's obligations to indemnify, defend, and hold harmless include any claim by Grantee's agents, employees, representatives, or any sub-contractor or its employees.

ARTICLE 14. FAILURE TO ENFORCE

The failure of Grantor at any time, or for any period of time, to enforce any of the provisions of this Agreement shall not be construed as a waiver of such provisions or as a waiver of the right of Grantor thereafter to enforce each and every such provision.

ARTICLE 15. RELATIONSHIP OF THE PARTIES

The relationship of the parties is that of independent contractors. Nothing herein is intended or will be construed to establish any agency, partnership, or joint venture. Neither party is authorized or empowered to act as an agent for the other party for any purpose and neither party shall be bound by the acts or conduct of the other party.

ARTICLE 16. GOVERNING LAW

This Agreement shall be governed and construed in accordance with the laws of the State of Washington.

ARTICLE 17. ASSIGNMENT

This Agreement shall not be assigned by Grantee without the advance written consent of Grantor and any attempted assignment shall be null and void.

