**Sede**

Via …….., … - ….. ……, Italia

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………………, on ………………

Prot. N° \_\_\_\_\_\_\_\_\_\_\_\_\_ allegato/i\_\_\_\_

Tit. \_\_\_\_\_\_\_ cl. \_\_\_\_\_\_\_ fasc. \_\_\_\_\_\_\_

Dear

COUNTERPARTY ………………

n. ………………, ……………… Street

………………

**REGISTERED LETTER**

**RE: AGREEMENT FOR RESEARCH AND CONSULTANCY BETWEEN THE UNIVERSITY OF MODENA AND REGGIO EMILIA – DEPARTMENT/CENTRE OF** ……………… **AND THE COUNTERPARTY (substitute the term “counterparty” with the name of the entity/business) ………………**

The **University of Modena and Reggio Emilia – Department/Centre of ………………**, with its registered office in ……………… Via ……………… n. ………………, tax code and VAT No.00427620364, hereinafter referred to as the “Department/Centre”, represented by Prof. ………………, born in ……………… on the ………………, in their capacity as Acting Director, authorized to enter this agreement by resolution of the Departmental/Centre Board at the session on ……………… ;

**AND**

**Prof./Dott. ………………**, born in ……………… on the ………………, housed within the Department/Centre of ……………… at University of Modena and Reggio Emilia, later in this document called "Investigator" or "Scientific Coordinator of the Department/Centre"

**AND**

The **COUNTERPARTY ………………** with its registered office in ………………, n. ………………, ……………… Street, tax code and VAT No. ………………, hereinafter referred to as the “Purchaser” represented by ……………… born in ……………… on the ………………, in their capacity as ………………, authorized to enter this agreement with ………………;

**whereas**

- the “Purchaser” *(indicate the purchaser’s motivating interests in carrying out the research and consultancy activity);*

- the “Department/Centre” provides human resources and equipment for carrying out the research and consultancy as detailed below in Article 1 of this agreement:

*- (other premises may be inserted here)*

**agree and undertake:**

**Article 1 – PURPOSE (note no. [[1]](#footnote-1))**

The purchaser entrusts to the Department/Centre, which accepts, the following research and consultancy programme entitled “………………” to be undertaken within the said establishment of the Department/Centre, located in ……………. address ……………….., under the scientific direction of Prof./Dott. ………………, which accepts. The duty of Prof./Dott. …………………… is to coordinate the research and consultancy programme, liaise with the Purchaser and the operational units, supervise the staff involved in the research and consultancy programme.

The research and consultancy programme consists of ………………, as explained in details in the Technical Attachment, which is an integral part of this contract.

The Department/Centre ensures the Purchaser a proper implementation of the contract and the reliability of the devices used, even by other participants/subcontractors.

*The following clauses can be included in case of the following circumstances:*

*(For operations carried out by a party external to the Department/Centre or subcontracted to another hub of the High Technology Regional Network (RETE)* The Department/Centre declares that the execution of the operations specified in points …………. of the Technical Attachment will be carried out by the Agent ………… with registered office in …………. Address……………..…., tax code …………………, VAT no. ……………. and Business Register of ………………enrolment no. …………(further details of the Agent: share capital, etc, …)

*(For instrument measurement so to validate results)* The Department/Centre ensures that the level of reliability of instrument measurement and its results will be within the tolerance band agreed with the Purchaser, as indicated in the Technical Attachment.

**Article 2 – CONTRACT REVISION**

Both Parties will periodically evaluate the progresses made depending on the programme development.

At the end of each stage the Parties will revision the research and consultancy programme, apprising the other Party of any delay or difficulty in the execution of the research/consultancy, any related consequence on the objectives to be fulfilled and on the obligations of the Parties (times, costs, involved resources, re-examination of the activity carried out, etc…)

Any revision to the research and consultancy programme requires an adjustment of the payment due to the Department/Centre, including the covering of further expenses. However:

**Option 1**: The Purchaser can decide to let the programme carry on, to terminate or revise the contract, by making a written agreement with the Department/Centre on the related amendments (including those concerning times of execution). In case of termination of the research/consultancy the terms of the Article 11 “Withdrawal” will be applied.

**Option 2**: The Department/Centre can refuse to accept amendments that lead to an increase of more than a sixth of the total/initial amount (indicate the amount) or that make the execution impossible, having considered the available human, instrumental, logistic and financial resources. Should this be the case the Department/Centre must promptly inform the Purchaser and suggest other companies which can carry out the research, giving priority to those within the High Technology Regional Network (*RETE*) (note no. [[2]](#footnote-2)). The Purchaser will pay the Department/Centre the expenses already incurred or those that under the legislation in force or subject to the contract must be refunded. The terms of the Article 11 “Withdrawal” will be applied.

**Article 3- DURATION**

This agreement takes effect from the date of the parties’ signature *(an alternative date for the agreement coming into force may be inserted)* and is valid for ……………… .

This agreement may be renewed or extended through the signing of a new agreement, in both cases for a period no longer than 6 (six) months by written agreement between the parties.

**Article 4 – PERIODIC REPORTS**

The Department/Centre undertakes to provide periodic reports indicating the activities currently being carried out in the research and consultancy project referred to in Article 1, with particular reference to any results that may have been obtained.

Such reports must be forwarded by the following deadlines *(indicate the deadlines for forwarding the reports)*

1) ………………

2) ………………

3) a final report at the conclusion of the research activity.

The Department/Centre commits for a period of ………… to file and store all documentation

**Article 5 - REMUNERATION**

For carrying out the research and consultancy activities the Purchaser undertakes to pay to the Department/Centre the sum of € ……………… (……………… euros) plus VAT.

a) Such sum is to be paid in full on the date this agreement is signed by the parties.

*Option a) can be substituted by the following option*

b) Such sum is to be paid out in ………………(number) instalments as follows:

1. ……………… euros plus VAT, equal to ………………% of the entire sum payable, upon the signing of this agreement;
2. ……………… euros plus VAT, equal to ………………% of the entire sum payable, at the conclusion of the research and consultancy activity.

*or by the following option (if payment is made in more than two instalments)*

c) Such sum is to be paid in ………………(number) instalments, as follows:

1. ……………… euros plus VAT, equal to ………………% of the entire sum payable, upon the signing of this agreement;
2. ……………… euros plus VAT, equal to ………………% of the entire sum payable, on the date of ………………;
3. ……………… euros plus VAT, equal to ………………% of the entire sum payable, at the conclusion of the research and consultancy activity.

*whichever option is selected (options a, b or c), the following sentence must be inserted*

The above-indicated sums include all costs and any expense incurred by the Department/Centre for the activity carried out.

Payments are to be made following presentation of a standard invoice issued by the Department/Centre.

Original copy of invoices must be sent to the Purchaser to the following address …………………………..

The sums are to be paid out by the purchaser by bank transfer to C/C No. IBAN IT ……………… at UniCredit Banca S.p.A. Sede Centrale di Modena, Piazza Grande n. 40, made payable to the Department of ……………… of the University of Modena and Reggio Emilia.

**Article 6 – INTELLECTUAL PROPERTY**

***Option 1:*** *(Agreements for Research and Consultancy which by their very nature can give rise to patentable results which, not being previously foreseeable, represent an undoubted added value created by the research activity. The owner of any such patentable results is the Purchaser, who must recognise to the Department/Centre remuneration in the form of bonuses and/or royalties for obtaining the said results).* Although this agreement does not anticipate the carrying out of work by the Department/Centre aimed at attaining inventive results, which may be patentable, the Purchaser nonetheless reserves the right to full ownership of all knowledge, even that not patentable, as well as patents and all other private industrial rights resulting from the activities carried out under this agreement, except for the author or inventor’s moral rights in accordance with the laws in force; the Purchaser undertakes to indicate the name of the inventor in the patent application. In the event that the carrying out of the research requires an application for a patent to be filed, the Purchaser retains the right to apply for the patenting of the results under its own name in Italy and abroad, bearing the relevant costs in doing so; in such a case the University undertakes to supply exclusively to the Purchaser all scientific documentation necessary for obtaining the above-mentioned patents. In the event that the activities which are the object of this agreement lead to a patent application being made, the Purchaser must communicate to the University, within 30 days, the fact of the deposit of the patent application, indicating the date and the number of the application. For every patent, the Purchaser will recognise to the Department/Centre, even if the right to apply for the patent has been transferred to third parties, an additional payment consisting of the following: a) at least 10% *(or a higher percentage)* of the anticipated cost of the research necessary for the document depositing the patent application and 10% of the said anticipated cost (*or a higher percentage of the said payment)* for the document granting the patent; *(possible)* b) and furthermore, in addition to that set out at letter a), a royalty based on sales deriving from the commercial use of the patent made by the Purchaser and/or any licensees of the said patent, for the full duration of the patent (plus any extensions of time on the duration of the patent) in the proportion of ………………% of the relevant sales, in the following way: ……………… (*alternatively*: "the percentage and method of payment will be agreed at the time of the granting of the first patent").

***Option 2:*** *(Agreements for Research and Consultancy which by their purpose and nature can give rise to patentable results and, unlike other cases, share ownership of the results between the parties, justified to the entity by the financial contributions and resources supplied by both contracting parties).* Considering that both contracting parties undertake to be responsible for the costs and for making the necessary means available to carry out the research activity, they also undertake to keep the other party informed of the results which can be achieved during the course of the research and in particular of any results which may be patentable or of industrial use, meaning any type whatsoever of invention, idea, method, industrial process, information or other data realized, attained, and developed, and undertake to refrain from any action which may damage the patentability of the said results. The parties hereby furthermore agree and accept that the Purchaser’s share of ownership of the research results, over the relevant Intellectual Property Rights and their industrial use will be equal to ………………%, and that of the Department/Centre equal to ………………%, and all proceeds deriving from the financial exploitation of such rights will be apportioned accordingly.(note no. [[3]](#footnote-3)) The parties agree that the management and use of the industrial property rights over the research results, in so far as they are not governed by the provisions of the Italian civil code on shared ownership, are governed by this agreement.

***Option 3.*** *(Provision for the Purchaser to have full ownership over rights deriving from any patentable results, without an express provision for bonuses and/or royalties in favour of the Department/Centre.)*

Considering that the purpose of the research entrusted by the Purchaser to the Department/Centre is to pursue innovative results which may be patentable, and that which is expressly taken into account in determining the payment due to the Department/Centre, the parties agree that the ownership of any result or invention, whether patentable or not, deriving directly from the research and consultancy activity specifically set out in this agreement, will be held exclusively by the Purchaser, with the exception of the right of the researcher(s) to be named as author(s) in any patents relating to such results.

*Whichever option is selected (a, b, or c) the following paragraph must be inserted.*

Any patentable inventive results or those arising from carrying out research and consultancy activities, but which are not directly linked to the research and consultancy specifically outlined in this contract, are the property of the University.

**Article 7 – THE RIGHTS OF THE DEPARTMENT/CENTRE**

The Department/Centre has the right to use the results of the research freely, diversely from those set out in Article 6 “Intellectual Property” above, paragraph 1, for the purpose of producing publications of a scientific nature. *(“prior written authorization of the Purchaser” may also be inserted).*

**Article 8 – OBLIGATION OF CONFIDENTIALITY**

The Department/Centre, the Scientific Coordinator of the Department/Centre and the Purchaser undertake to consider as absolutely private and confidential every piece of data, information, every document, and all knowledge of facts relating to the technological innovations set out in Article 6 “Intellectual Property” above. In relation to the patentable inventive results, the obligations of confidentiality and privacy will cease on the date of publication of the relevant application for a patent, or after ……………… *(it is advisable to insert a duration of no less than five years)* years from the expiry date of this agreement, except in the case of previous written authorization by the owner of the right to take out the patent and/or the patent itself.

**Article 9 – FURTHER OBLIGATIONS OF CONFIDENTIALITY**

Each of the parties signatory to this agreement is held to maintain confidentiality in dealing with any unauthorized persons, concerning facts, information, knowledge, documentation and matters (hereafter “Information”) which have come to their knowledge or which have been communicated to them by the counterparty as a result of this agreement, and which are not governed by Article 8 “Obligation of Confidentiality” above and ensure the respect of the obligations of confidentiality of the staff under articles 2048 and 2049 of the Italian civil code.

Each of the parties undertakes to restrict the access to the Information only to the staff involved in the research/consultancy. The staff must be informed of the confidentiality of the Information and of the consequences in case of data disclosure and must undertake to respect all obligations of confidentiality provided for by this agreement. For this reason, a copy of this contract must be signed for unconditional acceptance by each researcher/consultant and an additional copy must be hand over to the other participants. This includes the consent for the use of personal data by the University, including the consent of transmission to and use of the data by third parties.

Obligations of confidentiality are not applicable when the disclosure is explicitly fixed by law and administrative or judicial authorities; in this case the Department/Centre undertakes to inform the Purchaser about these dispositions. It is to be understood that the Purchaser cannot demand the Department/Centre not to comply with the obligations fixed by administrative or judicial provision. The parties will not be held responsible for any damage which may arise from the breach of the provisions set out in this Article, provided the said breach arose despite the use of normal diligence in relation to the circumstances.

**Article 10 – INSURANCE COVER (note no. [[4]](#footnote-4))**

The Department declares that the University of Modena and Reggio Emilia has taken out the following insurance cover:

- "Civil Liability Towards Third Parties and Employers" policy no. 52981/23/65/136655447/4 issued by the company UnipolSai Assicurazioni S.p.A. valid until March 31, 2022, for personal and property damage to third parties, with a maximum limit of € 10,000.000.00. The said cover relates only to material and direct damage.

The Purchaser declares that it has taken out the appropriate insurance policy with an indemnity limit of € ……………… *(preferably not lower than € 3,000,000.00)* covering “Public liability towards third parties” no. ……………… issued by the Insurer ……………… expiring on ……………… for personal injury and damage to property for which it is held liable.

The parties undertake, upon the expiry of the said insurance policies, to renew insurance cover for the aforementioned types of risk, reserving the right to vary the cover - if necessary – to meet the required provisions and the indemnity limits and to provide to the other party a copy of the said policy.

The University undertakes to publish its own insurance policies on the website http://www.affaristituzionalicontrattigare.unimore.it/site/home/assicurazioni.html ; such publication will constitute notification to all intents and purposes.

The Department declares that the University of Modena and Reggio Emilia guarantees insurance cover for teaching staff, researchers and technicians, against accidents in the workplace with INAIL, with the system of insurance cover laid down by the State, in accordance with DPR 30th June 1965, No.1124 and its subsequent amendments.

The Purchaser similarly guarantees insurance cover against accidents in the workplace with INAIL, or an insurance company. In the event of an accident occurring whilst carrying out the activities under this agreement, it is agreed that:

- if the event occurred at the premises of the Purchaser, the Purchaser undertakes to notify immediately (with reference to the policy number) the Department of the event, as well as the University of Modena and Reggio Emilia – Rectorate - Via Università n. 4, 41121 Modena (MO) in order to enable the same Department/University to make the appropriate declaration as required by law and by the insurance contract;

- if the event occurred at the premises of the University, the Department of ……………… undertakes to notify the Purchaser immediately of the event (with reference to the policy number) to enable the same Purchaser to make the appropriate declaration as required by law and by the insurance contract.

It is understood that the existence of the said policies does not prejudice the right to commence legal proceedings for liability, damages, and compensation against third parties.

**Article 10 BIS – PERSONNEL AND LIABILITY FOR PERSONAL INJURY (note no. [[5]](#footnote-5))**

*(Should the participation in the research activity requires personnel sent by the Purchaser to work at the premises of the Department)*. Activities mentioned in paragraphs ……….. of the Technical Attachment will be carried out at the establishment of the Department/Centre located in …………..…… address………………………………. by the personnel appointed by the Purchaser as specified in the Technical Attachment.

The Purchaser is able to participate in the research activity for which it contracts in this agreement. Any staff or other personnel, in any event external to the Department, authorized to participate in the research, will be compensated and covered for insurance purposes (both for accidents in the workplace and for liability towards third parties) directly by the Purchaser, whereas from the scientific point of view, their work carried out in the collaboration will be under the scientific direction of the Scientific Coordinator of the Department/Centre.

It is the obligation of the Coordinator of the research activity to provide training and information on the risks and preventive and protective measures which must be adopted for the specific research and the activities carried out, and supervise and check the actions of such persons. The information provided must also relate to the risks of the structure, the system for supervising emergencies and administering first aid, the names of persons trained in these areas, the location of the first aid cupboard, the possible supply of individual protective devices (“DPI”), reasons for and methods of their use, and any other useful information for the carrying out of the activity in safety. The Purchaser is responsible for any health monitoring necessitated by the research activity carried out at the premises of the Department/Centre.

The Purchaser exonerates the Department/Centre from any responsibility for damages caused to persons and/or property arising from the carrying out of the research which is the subject of this contract, caused by persons charged by the said Purchaser to participate in the research activity in accordance with the preceding paragraph.

*(Should the participation in the research activity requires personnel sent by the Department/Centre to work at the premises of the Purchaser)*

Activities mentioned in paragraphs ……….. of the Technical Attachment will be carried out at the establishment of the Purchaser located in …………..…… address………………………………. by the personnel appointed by the Department/Centre as specified in the Technical Attachment.

The Purchaser permits the Department/Centre personnel to access the Purchaser’s premises for carrying out the research and consultancy activity.

*(in both cases)*

The Department/Centre guarantees that its own personnel participating in the research activity, is insured against accidents in the workplace and liability towards third parties.

The personnel of both contracting parties must comply with the safety regulations in force at the premises where the research takes place relating to this agreement.

The host structure undertakes, in compliance with Legislative Decree 81/08, to consider the Department/Centre personnel in the same manner as its own, and thus visiting personnel will benefit from exactly the same safeguards and information, with regard to safety, which are adopted for the function of the Purchaser’s own personnel.

Travel, board and lodging and other expenses paid and provided by the personnel participating in the research/consultancy activity are to be paid by the Purchaser.

**Article 11 - WITHDRAWAL**

The contracting parties can withdraw from this agreement by providing written notice of …… months (a three-month notice is advisable) , communicated by recorded delivery letter with acknowledgement of receipt.

In the event that the Purchaser wishes to withdraw from the contract, payment will be made by the Purchaser to the Department/Centre of the total sum of expenses already incurred, or for which the legal obligation to make payment has already arisen by law and under contract, at the moment of the withdrawal from the agreement. Agreements will be made between the Parties on what concerns the amount due to the Department/Centre. In case of lack of an agreement it is the Judge’s duty to decide upon the amount due.

Save for as set out in this article, no further claim or demand can be made to any right by the parties as a result of the premature termination of the contractual relationship.

Even in the case of withdrawal from the agreement, the parties remain bound by the obligations set out in the preceding articles 6 “Intellectual Property”, 7 “The Rights of the Department/Centre”, 8 “Obligations of Confidentiality” and 9 “Further Obligations of Confidentiality”.

**Article 12 – COMMUNICATION BETWEEN THE PARTIES**

Reports and other communication from the Department/Centre must be sent to the Purchaser at the address ………………………………., unless any other possible address has to be used to send invoices.

Communication from the Purchaser must be sent to the Department/Centre at the address …………………………………………………

**Article 13 – JURISDICTION AND APPLICABLE LAW**

The parties undertake to resolve amicably any disputes arising from this agreement. Any dispute that should arise between the parties relating to the interpretation, execution and resolution of this agreement shall be governed exclusively by the Court of Modena. This contract is subject to Italian law.

**Article 14 - PRIVACY**

The Parties undertake to the other to process personal data that they may gain knowledge of during the performance of this deed in accordance with the principles of fairness, lawfulness and transparency pursuant to EU Regulations no. 679/2016 (hereafter referred to as the “Regulations”), and Leg. Decree 196/2003, as last amended by Leg. Decree 101/2018.

In particular, they ensure compliance with the safeguards afforded to the stakeholders, by adopting suitable technical and organisational measures.

In addition, the Parties undertake to provide reciprocal assistance with regard to:

- any request made by the stakeholders pursuant to Arts. 15-22 of the Regulations;

- any procedures for assessing the impact of the processing and applied pursuant to Art. 35 of the Regulations;

- any request for cooperation made by the supervisory authority pursuant to Art. 31 of the Regulations.

In the event that the data processing carried out during the performance of this deed provides for the transferring of data to third countries, the transferring party will be responsible for informing the other party, as well as ensuring that data is transferred in accordance with the terms set forth by Arts. 44-49 of the Regulations.

**Article 15 - EXPENSES**

All direct and indirect duties payable deriving from this agreement, including stamp duty, are payable by the Purchaser.

This agreement, drawn up in form of a letter agreement, will be refined by sending it by mail, is subject to stamp duty in case of use (Article 24 "Tariffa", Attachment A, Part Two annexed to DPR-26 October 1972 No 642 as amended) and be subject to registration only in the event it is to be used in accordance with article 1 of the “Tariffa”, Part Two, annexed to DPR April 26, 1986, n. 131 and subsequent amendments.

This agreement comprises …… written pages and three copies will be sent to the Purchaser. The Purchaser must undersign all original copies and send two copies to the Department/Centre of …………………., of the University of Modena and Reggio Emilia (address: ………………………………….. – 41100 Modena/ 42100 Reggio Emilia).

Modena/Reggio Emilia, the ……………… day of ……………… ……………… .

UniversitY OF Modena AND Reggio Emilia,

Department/CENTRE

THE DIRECTOR

(Prof. ………………)

THE SCIENTIFIC COORDINATOR OF THE DEPERTMENT/CENTRE

(Prof./Dott. ………………)

signature for acceptance: at ………………, the ……………… day of ……………… ………………

THE PURCHASER

THE LEGAL REPRESENTATIVE

(………………)

In respect of articles 1341 and 1342 of the Italian Civil Code, the undersigned, in their above-stated capacity, hereby specifically approves the provisions contained within articles 1 (Purpose), 2 (Contract Revision), 8 (Obligations of Confidentiality), 9 (Further Obligations of Confidentiality), 10 (Insurance Cover), 10 BIS (Personnel and Liability for Personal Injury) and 12 (Jurisdiction and applicable law) of this agreement.

signature for acceptance: at ………………, the ……………… day of ……………… ………………

THE PURCHASER

THE LEGAL REPRESENTATIVE

(………………)

1. With reference to the research contracts within the High Technology Regional Network (*RETE*), please refer to “Information on the fulfilment of the contract and further additional clauses” and to “ Information on the fulfilment of the technical attachment”. Reference to these texts is useful for the signing of other research contracts. [↑](#footnote-ref-1)
2. Priority to companies within theHigh Technology Regional Network - *RETE* is subject to related contracts. [↑](#footnote-ref-2)
3. It is possible to weigh the rights of the parties on the intellectual property depending on their respective scientific, instrumental and financial contributions: *“ The Parties hereby agree that the property shares of the research results, of the related Rights of Intellectual Property or of an industrial use of the results of the research/consultancy programme of this contract will be divided among the parties depending on their respective scientific, instrumental and financial contributions”* [↑](#footnote-ref-3)
4. In case of no exchange of personnel between the parties the following clause may be inserted: <<**Article 10 – Insurance Cover** – The Department/Centre declares that the University of Modena and Reggio Emilia has taken out insurance covers for “Civil Liability towards Third Parties” and “ Accidents”.

The Purchaser declares to have taken out insurance covers for “Civil Liability towards Third Parties” and “Accidents”.

The parties undertake, upon the expiry of the said insurance policies, to renew insurance cover for the aforementioned types of risk, reserving the right to vary the cover - if necessary – to meet the required provisions and the indemnity limits and to provide to the other party a copy of the said policy.

The University undertakes to publish its own insurance policies on the website http://www.affaristituzionalicontrattigare.unimore.it/site/home/assicurazioni.html ; such publication will constitute notification to all intents and purposes.

In case of need to exchange personnel or instruments throughout the research/consultancy programme , the Parties undertake to comply with the insurance dispositions, in accordance with the general conditions set by the University.>> [↑](#footnote-ref-4)
5. Insert this article when needed and let the Purchaser approve its dispositions (art. 1341 and 1342 of the Italian Civil Code). [↑](#footnote-ref-5)