**Subcontract**

# [INSERT Sponsor Number or use UVMClick AWD Number]

By and between

 **(INSERT COMPANY NAME)**

and the

**University of Vermont and State Agricultural College**

This Subcontract is entered into by and between **(insert COMPANY NAME )**, hereafter referred to as (SPONSOR), having a principal place of business at **-------------- Street, --------------------------------,** and the **University of Vermont and State Agricultural College**, hereafter referred to as (Subcontractor), having a principal place of business at Sponsored Project Administration, 217 Waterman Building, 85 South Prospect Street, Burlington, VT 05405

**WHEREAS,** the **(insert name of fed prime agency),** hereafter referred to as **(--------------------------------------------),** has awarded a contract, number **(---------------------------)**, hereafter referred to as (Prime Agreement), to SPONSOR in support of the SBIR project entitled; **“--------------------------------------.”**

**WHEREAS,** SPONSOR under the Prime Agreement has all the necessary approvals and authority to enter into this Subcontract for a portion of the work to be conducted by the Subcontractor.

**NOW THEREFORE,** in consideration of the mutual covenants and agreements contained herein, SPONSOR and Subcontractor agree to the following:

#### Schedule

**Article 1 Incorporation of Applicable Provisions**

This Subcontract sets forth the terms and conditions under which SPONSOR and Subcontractor, hereafter referred to as the (Parties), will engage to accomplish the work set forth by the Prime Agreement and consists of the following:

The Subcontract Agreement

Attachment 1 - Statement of Work

Attachment 2 - Budget

Attachment 3 - Prime Agreement

The Prime Agreement, with the exception of Intellectual Property and Audit clause, is modified to the extent where applicable as follows: "Contract" shall mean, "Subcontract"; "Contractor" shall mean "Subcontractor"; "Contracting Officer" shall mean "SPONSOR Authorized Official"; "Government" shall mean "SPONSOR".

**Article 2 Statement of Work**

The Subcontractor agree to engage in a collaborative research effort as necessary to accomplish the work as set forth in the **Attachment 1.**

**Article 3 Period of Performance**

In accordance with the Prime Agreement the period of performance of this Subcontract begins

on **---------------------** with spending and activities ending on **---------------------,** unless extended or otherwise modified in writing by SPONSOR.

**Article 4**

In consideration for the performance of work specified by Article 2, SPONSOR shall reimburse Subcontractor for allowable costs incurred up to an amount not to exceed **$ --------------------**. The budget for which SPONSOR has based this support is detailed in **Attachment 1**.

Subcontractor shall submit monthly invoices to:

If by email: [Insert email address]

Insert **SPONSOR & ADDRESS**

# Article 5 Allowable Costs

Allowable costs for the work performed under this Subcontract shall be determined in accordance with the Subcontract provisions and 2 CFR Part 200 UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS., in effect on the effective date of this Subcontract.

**Article 6 Prior Approvals**

Requests made by the Subcontractor for cost or other administrative prior approvals, required by the provisions set forth by this Subcontract should be signed by both the Subcontractor's Principal Investigator and Subcontractor’s Authorized Representative, and be delivered to the SPONSOR Administrative Officer, who will initiate the appropriate action required of the situation.

**Article 7 Subcontractor's Key Personnel**

The following individual is the named Subcontractor's Principal Investigator and is considered to be essential to the work being performed hereunder, and will have the responsibility of monitoring the technical, scientific, and programmatic aspects of this Subcontract.

 **Professor -------------------**

 **University of Vermont**

 **Department of**

 **--------------**

 **--------------**

 **--- ----------**

 **E-mail: ----------------**

In the event of a need for a substitution or replacement of the above named individual, the Subcontractor must obtain written approval of SPONSOR prior to appointing such substitute or replacement.

**Article 8 Technical Reporting Requirements**

Written program reports shall be provided by Subcontractor’s Principal Investigator to SPONSOR **every** (N/A if left blank), and a final report shall be submitted by University within forty-five (45) days of the conclusion of the Contract Period, or early termination of this Agreement.

## Article 9 Confidentiality/Publications

A. Any proprietary or confidential information of a Party, disclosed by that Party to the other in connection with this SBIR Project, shall be received and held in confidence by the receiving Party and, except with the consent of the disclosing Party or as permitted under this Agreement, neither used by the receiving Party nor disclosed by receiving Party to others, provided that the receiving Party has notice that such information is regarded by the disclosing Party as proprietary or confidential.

B. Confidentiality obligations shall not apply to use or disclosure by the receiving Party after such information (i) is or becomes known to the public without breach of this provision; (ii) is or becomes known to the receiving Party from a source reasonably believed to be independent of the disclosing Party; or (iii) is developed by or for the receiving Party independently of its disclosure by the disclosing Party.

C. Subject to the terms of paragraph (A) above, either Party may publish its results from this SBIR Project. Accordingly, Subcontractor’s researchers will not be restricted from presenting at symposia, national, or regional professional meetings, or from publishing in abstracts, journals, theses, or dissertations, or otherwise, whether in printed or in electronic media, methods and results of its work, under the following terms and conditions:

(i) Subcontractor shall deliver to SPONSOR copies of any proposed publication or presentation at least 30 days in advance of the submission of such proposed publication or presentation to a journal, editor, or other third party.

(ii) SPONSOR shall have 30 days, after receipt of said copies, to object to such proposed presentation or proposed publication because the publication contains SPONSOR Confidential Information or their is patentable subject matter which needs protection.

(iii) If SPONSOR makes objection on the grounds of the inclusion of Confidential Information, Subcontractor will ensure that its researchers remove such Confidential Information immediately from the proposed presentation or publication, after which University and its researchers may proceed with said presentation or publication.

(iv) If SPONSOR makes an objection on the grounds of protection of patentable subject matter, said Researcher(s) shall refrain from making such publication or presentation for a maximum of three (3) months from date of receipt of such objection in order for Subcontractor and/or SPONSOR as appropriate, file patent application(s) with the United States Patent and Trademark Office and/or foreign patent office(s)

D. No license to either Party under any other patents or intellectual property is granted or implied by conveying proprietary or other confidential information to that Party.

**Article 10 Intellectual Property**

1. "Project Intellectual Property" means the legal rights relating to Subject Inventions as defined in 37 CFR 401, and any resulting patent applications or patents, as well as any software first conceived and reduced to practice during the performance of this SBIR Agreement.
2. “Background Intellectual Property” means any intellectual property owned or controlled by a Party prior to the start of the Period of Performance or conceived outside the performance of the SBIR Agreement.
3. Neither Party shall have any claims to or rights in Background Intellectual Property of the other Party.
4. Project Intellectual Property shall be owned by the Party whose employees make or generate the Project Intellectual Property. Jointly made or generated Project Intellectual Property shall be jointly owned by the Parties, with each Party having an undivided interest therein.
5. SPONSOR shall have the first option to perfect the Parties' rights in jointly made or generated Project Intellectual Property unless agreed otherwise in writing.
6. Subcontractor will promptly notify SPONSOR of any Project Intellectual Property made by Subcontractor’s employees during the performance of the SBIR Agreement. If SPONSOR directs that a patent application or application for other intellectual property protection be filed, Subcontractor shall promptly prepare, file, and prosecute such U.S. and foreign application in Subcontractor’s name. SPONSOR shall bear all costs incurred in connection with such preparation, filing, prosecution, and maintenance of U.S. and foreign application(s) directed to said Project Intellectual Property. The Parties agree that the Government shall have an irrevocable, royalty free, non-exclusive license for any Governmental purpose in any Project Intellectual Property.
7. SPONSOR shall cooperate with Subcontractor to assure that such application(s) will cover, to the best of SPONSOR's knowledge, all items of commercial interest and importance. While Subcontractor shall be responsible for making decisions regarding scope and content of application(s) to be filed and prosecution thereof, SPONSOR shall be given an opportunity to review and provide input thereto. Subcontractor shall keep SPONSOR advised as to all developments with respect to such application(s) and shall promptly supply to SPONSOR copies of all papers received and filed in connection with the prosecution thereof in sufficient time for SPONSOR to comment thereon.
8. Pursuant to Article 10 (E), Subcontractor grants SPONSOR the first option, for consideration of a non-exclusive license or an exclusive license with a right to sublicense, on terms and conditions to be mutually agreed upon. The option shall extend for a time period of 90 days from the date of disclosure to SPONSOR.
9. If SPONSOR elects not to exercise its option or decides to discontinue the financial support of the prosecution or maintenance of the protection, Subcontractor shall be free to file or continue prosecution or maintain any such application(s), and to maintain any protection issuing thereon in the U.S. and in any foreign country at University's sole expense and with no further obligation to SPONSOR.

**Article 11 Notices**

Notices required in connection with the performance of this Subcontract shall be deemed properly delivered by sending such notices to the respective Administrative Officer of the Party.

**Subcontractor: SPONSOR:**

Lana Metayer, Director

Sponsored Project Administration

University of Vermont

217 Waterman Building

85 South Prospect Street

Burlington, VT 05405-0160

E-mail: spa@uvm.edu

**Article 12 Termination**

This Subcontract may be suspended or terminated early at any time by either party upon written notification to the other parties’ administrative officer.

In the event that either party shall be in breach, violation or default of any of its obligations under this Subcontract and shall fail to remedy such default within ten days (10) after receipt of written notice thereof, the party not in default (reserving cumulatively all other remedies and rights under this Subcontract and at law and in equity) shall have the option of terminating this Subcontract upon written notice thereof.

Upon any termination action, Subcontractor shall within thirty (30) days of the termination date, submit to SPONSOR a final invoice. SPONSOR shall reimburse Subcontractor for all allowable non-cancelable costs and commitments incurred in the performance of this Subcontract to date of termination, such reimbursement shall not exceed the total amount set forth by Article 4.

**Article 13 Dispute Resolution**

For any dispute concerning performance of the Agreement shall be decided by the appropriate administrative officials of each Party, who shall reduce any decision to writing.

**Article 14 Liability**

Each Party to this Agreement assumes responsibility for any liabilities, damages, or claims (including attorneys' fees) payable to third parties which may arise from the actions of that Party, its employees, or agents pursuant to this Agreement, except, unless prohibited by law, to the extent that such liability, damage, or claim is caused by the negligence or willful misconduct of the other Party, its employees, or agents or breach of this Agreement.

**Article 15 Access to Records**

During normal business hours and upon reasonable notice Subcontractor will allow SPONSOR, the Comptroller General of the United States, or any of their duly authorized representative's access to any Subcontractor books, documents, papers and records which are directly pertinent to the performance of this Subcontract for the purposes of making audits, examinations, excerpts and transcriptions.

**Article 16 Audit**

Subcontractor is subject to 2 CFR Part 200 UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS, in effect on the effective date of this Subcontract.

### Article 17 Compliance with Law

The parties shall comply with all applicable federal, state, local laws and regulations and nothing in this Subcontract shall be construed to require either party to violate such provisions of law or subject either party to liability for adhering to such provisions of law.

**Article 18 Independent Contractor**

For the purpose of this Subcontract, the parties shall be, and shall be deemed to be, independent contractors and not agents or employees of the other party. Neither party shall have the authority to make statements, representations or commitments of any kind, or to take action which shall be binding on the other party, except as may be explicitly provided for herein or otherwise authorized in writing.

**Article 19 Modifications**

Any changes or modifications to this Subcontract shall be accomplished by amendment to this Subcontract, fully executed by the authorized organizational representatives of each party.

**IN WITNESS WHEREOF,** the parties have caused this agreement to be executed by their duly authorized representatives;

**SPONSOR** **University of Vermont**

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Signature Signature

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Date Date

**Attachment 1**

**Statement of Work and Budget**