SEMINOLE COUNTY/UCFRF
BUSINESS INCUBATOR PARTNERSHIP AGREEMENT

THIS AGREEMENT is effective as of the ____ day of _____ , 2021, by and between **SEMINOLE COUNTY**, hereinafter referred to as the "COUNTY", a political subdivision of the State of Florida, whose address is Seminole County Services, 1101 East First Street, Sanford, Florida 32771, and the **UNIVERSITY OF CENTRAL FLORIDA RESEARCH FOUNDATION, INC.**, hereinafter referred to as the "UCFRF", acting as a direct support organization and as an instrumentality of The University of Central Florida Board of Trustees, hereinafter referred to as "UCF", a public university existing and operating under the laws of the State of Florida for the benefit of the UCF Business Incubator – Winter Springs, whose address is 12201 Research Parkway, Suite 501, Orlando, Florida 32826.

W I T N E S S E T H :

WHEREAS, it is the policy of COUNTY to aggressively stimulate economic growth in Seminole County by, among other things, either attracting new industries and businesses to Seminole County or by encouraging the expansion of existing industries and businesses within Seminole County; and

WHEREAS, the creation of new employment opportunities for residents of Seminole County and the increased tax revenues resulting from such industry or business expansion and relocation within Seminole County is beneficial to the local economy; and

WHEREAS, a jobs growth/economic development business incubator is currently located in the City of Winter Springs within Seminole County; and

WHEREAS, UCFRF has proposed and demonstrated to COUNTY that it can fully and adequately provide administrative support consistent with the terms of this Agreement for the UCF Seminole County Business Technology Accelerator (more commonly referred to as the UCF Business Incubator – Winter Springs or "Incubator"); and

WHEREAS, UCFRF and COUNTY desire to enter into this Agreement for the purpose of encouraging job growth and economic development in Seminole County; and

WHEREAS, COUNTY has determined that in order to enhance and preserve the economic well-being and health and welfare of the citizens of COUNTY it is necessary, proper and desirable to enter into this Agreement with UCFRF in order to enhance the economic development of Seminole County,

NOW, THEREFORE, in consideration of the premises and mutual covenants hereinafter contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties do hereby covenant and agree as follows:

Section 1. Recitals. The above recitals are true and correct and form a material part of the agreement upon which the parties have relied.

Section 2. Purpose. The purpose of this Agreement is for UCFRF to provide the following services to COUNTY in the manner hereinafter set forth.

UCFRF will leverage the resources and infrastructure in place at UCFRF, specifically at the UCF Business Incubator – Winter Springs to aide in the development of companies located in Seminole County. This includes:

(a) using the existing client application and screening process and overseeing the selection process;

(b) utilizing UCFRF service provider network and expand to include additional resources focused on later stage incubator companies;

(c) providing marketing for the Incubator and its clients;

(d) using existing criteria to graduate companies out of the program;

(e) providing staffing for the Incubator; and

(f) providing annual reports which shall include, but not be limited to, recommendations relative to the continuing development and operation of the Incubator. Additionally, on or before April 1 of each year this agreement is in effect, UCFRF will provide a verbal report to the Board of County Commissioners.

Section 3. Services. COUNTY agrees to purchase and UCFRF agrees to furnish, during the term of this Agreement, the services described in Section 2 of this Agreement.

Section 4. Billing and Payment. COUNTY hereby agrees to pay UCFRF the sum of TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS ($250,000.00) per year for all services provided hereunder by UCFRF during the term of this Agreement. Said sum is payable on or before December 1 of each year this agreement is in effect, starting December 1, 2021 through December 1, 2023.

Section 5. Term. This Agreement shall be effective from October 1, 2021 and shall remain in effect until September 30, 2024. With the compensation to UCFRF to be limited to TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS ($250,000.00) per year.

Section 6. Reports. UCFRF shall provide COUNTY with an annual report regarding the activities pursuant to this Agreement for each term under this Agreement.

Section 7. Name of Business Incubator. For the full term of this Agreement and any extensions thereof, UCFRF agrees that the name of its Business Incubator shall be either "UCF

Business Incubator – Winter Springs" or "Winter Springs Incubator" and shall not be changed for any reason. Changing the name of the business incubator during the time of this Agreement shall constitute a breach of this Agreement such that UCFRF shall be required to repay to COUNTY the full amount tendered to UCFRF by COUNTY during the year in which the breach occurs.

Section 8. Force Majeure. In the event any party hereunder fails to satisfy a requirement imposed in a timely manner due to a hurricane, flood, tornado, or other act of God or force majeure, then said party shall not be in default hereunder; provided, however, that performance shall recommence upon such event ceasing its effect.

Section 9. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and the successors in interest, transferees, and designees of the parties.

Section 10. Assignment. This Agreement shall not be assigned by either party without prior written approval of the other.

Section 11. Public Records. UCFRF shall allow public access to all documents, papers, letters, or other materials which have been made or received by UCFRF in conjunction with this Agreement.

Section 12. Records and Audits.

(a) UCFRF shall maintain in its place of business all non-exempt books, documents, papers, and other evidence pertaining to work performed under this Agreement. Such non-exempt public records shall be and remain available at UCFRF's main campus at all reasonable times during the term of this Agreement and for five (5) years after closure of this Agreement.

(b) UCFRF agrees that COUNTY or its duly authorized representative shall, until the expiration of five (5) years after Agreement closure, have access to examine any of UCFRF's non-exempt books, documents, papers, and records involving transactions related to this Agreement.

UCFRF agrees that payments made under this Agreement shall be subject to reduction for amounts charged which are found on the basis of audit examination not to constitute allowable costs.

(c) All required records shall be maintained until an audit has been completed and all questions arising from it are resolved or until five (5) years after closure of this Agreement, in writing and submission of a final invoice, whichever is sooner. UCFRF will provide proper facilities for access to and inspection of all required records.

(d) The phrase "non-exempt", as used herein, means that the record is not exempt under the public records law of the State of Florida.

Section 13. Notices.

(a) Whenever either party desires to give notice unto the other, notice may be sent to:

For COUNTY:

County Manager
Seminole County Services Building
1101 East First Street
Sanford, Florida 32771

With a copy to:

Business Development Manager
Seminole County Government
1055 AAA Drive
Lake Mary, Florida 32746

For UCF (Technical):

Carol Ann Logue
UCF Business Incubation Program
3259 Progress Drive
Orlando, FL 32826

For UCF (Administrative):

Amanda Coveney, Assistant Director
UCF Research Foundation, Inc.
12201 Research Parkway, Suite 501
Orlando, Florida 32826

(b) Either of the parties may change, by written notice as provided herein, the address or persons for receipt of notices or invoices. All notices shall be effective upon receipt.

Section 14. Indemnity and Insurance.

(a) Each party to this Agreement is responsible for all personal injury and property damage attributable to the negligent acts or omissions of that party and officers, employees and agents thereof while acting within the scope of their employment.

(b) The parties further agree that nothing contained herein shall be construed or interpreted as denying to any party any remedy or defense available to such parties under the laws of the State of Florida, nor as a waiver of sovereign immunity of either party beyond the waiver provided for in Section 768.28, Florida Statutes.

(c) UCFRF, through UCF, shall provide necessary workers' compensation coverage and unemployment compensation for its employees. COUNTY understands and agrees that all employees performing under this Agreement are employees of UCF.

Section 15. Conflict of Interest.

(a) UCFRF agrees that it will not knowingly engage in any action that would create a conflict of interest in the performance of its obligations pursuant to this Agreement with COUNTY or which would knowingly violate or cause others to violate the provisions of Part III, Chapter 112, Florida Statutes, relating to ethics in government.

(b) UCFRF hereby certifies that no officer, agent or employee of COUNTY has any material interest, as defined in Section 112.312, Florida Statutes, either directly or indirectly, in

the business of UCFRF to be conducted here and that no such person shall have any such interest at any time during the term of this Agreement.

(c) Pursuant to Section 216.347, Florida Statutes, UCFRF hereby agrees that monies received from COUNTY pursuant to this Agreement will not be used for the purpose of lobbying the Legislature or other State or Federal agency.

Section 16. Equal Opportunity Employment.

(a) UCFRF agrees that it will not discriminate against any contractor, employee or applicant for employment or work under this Agreement because or on account of race, color, religion, sex, age, or national origin and will insure that applicants and employees are treated during employment without regard to race, color, religion, sex, age, or national origin. This provision shall include, but not be limited to, the following: retention, award of contracts, employment upgrading, demotion or transfer, recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(b) UCFRF agrees that it will comport all of its activities with the provisions of Chapter 760, Florida Statutes.

Section 17. Compliance with Laws and Regulations. In performing under this Agreement, the parties shall abide by all applicable laws, statutes, ordinances, rules and regulations pertaining to or regulating the performance set forth herein, including those now in effect and hereinafter adopted. Any material violation of said laws, statutes, ordinances, rules or regulations shall constitute a material breach of this Agreement, and shall entitle the non-violating party to terminate this Agreement immediately upon delivery of written notice of termination to the violating party.

Section 18. Employee Status.

(a) Persons employed or retained by UCFRF or UCF in the performance of services and functions pursuant to this Agreement shall have no claim to pension, workers' compensation, unemployment compensation, civil service, or other employee rights or privileges granted to COUNTY's officers and employees either by operation of law or by COUNTY.

(b) UCFRF and UCF assume total responsibility for salaries, employment benefits, contractual rights and benefits, contract payments, and Federal, State and local employment taxes, if any, attributable to UCFRF personnel or contractors working on behalf of UCFRF obligations under this Agreement and agree, to the extent required in Section 768.28, Florida Statutes, to indemnify and hold COUNTY harmless from any responsibility for same.

(c) In performing this Agreement, planning, development, constructing, equipping, and operating the project or carrying out any of the activities to be performed by UCFRF, UCFRF and UCF will be acting independently, in the capacity of an independent entity and not as a joint venture, associate, employee, agent, or representative of COUNTY.

Section 19. No Third Party Beneficiaries. This Agreement is made for the sole benefit of the parties hereto and their respective successors and assigns, including any successor in interest to UCFRF's interest in this project, and is not intended to nor shall benefit a third party. No third party shall have any rights hereunder or as a result of this Agreement, or any rights to enforce any provisions of this Agreement.

Section 20. Contingent Fees/Conflicting Employment. UCFRF covenants only bona fide employees, attorneys, and consultants have been employed and retained to perform hereunder on behalf of UCFRF to solicit or secure this Agreement. UCFRF warrants that it has not paid or agreed to pay any personal company, corporation, individual or firm, other than a bona fide employee

working for UCFRF or UCF any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award of making this Agreement.

Section 21. Governing Law. This Agreement shall be construed and interpreted according to the laws of the State of Florida.

Section 22. Construction of Agreement. This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the parties, it being recognized that both parties, COUNTY and UCFRF, have contributed substantially and materially to the preparation hereof.

Section 23. Constitutional and Statutory Limitation on Authority of COUNTY. The terms and conditions of this Agreement placed upon COUNTY are applicable only to the extent they are within and consistent with the constitutional and statutory limitation of the authority of COUNTY. Specifically, the parties acknowledge that COUNTY is without authority to grant or pledge a security interest in any of COUNTY's revenue.

Section 24. Event of Default/Remedies. For purposes of this Agreement, "Event of Default" shall mean any of the following:

(a) UCFRF shall misapply or cause the misapplication of COUNTY funds or credits pursuant to this Agreement.

(b) Any representation or warranty made by UCFRF herein or in any statement, invoice, or certificate furnished to COUNTY in connection with the performance of this Agreement proves to be untrue in a material respect as of the date of issuance or making thereof and shall not be corrected or brought into compliance within thirty (30) days after written notice thereof to UCFRF by COUNTY.

(c) UCFRF shall materially breach any covenant contained in this Agreement and such breach shall not be corrected or cured within thirty (30) days after written notice thereof to UCFRF by COUNTY; provided, however, that COUNTY may declare a lesser time period in the event that it finds, in its sole and absolute discretion, that such lesser period is necessary to protect the public health, safety, or welfare.

(d) UCFRF fails to provide to COUNTY the written verification, satisfactory to COUNTY, of its performance obligations herein.

(e) UCFRF fails to expend funds in accordance with this Agreement.

Section 25. Termination. COUNTY may, by written notice to UCFRF, terminate this Agreement, in whole or in part, at any time, either for COUNTY's convenience or because of the failure of UCFRF to fulfill the Agreement obligations. Upon receipt of such notice, UCFRF shall:

(a) immediately discontinue all services affected unless the notice directs otherwise; and

(b) deliver to COUNTY all plans, studies, reports, estimates, summaries, and such other information and materials which do not have an exemption from the definition of "public record" pursuant to Section 119.011(12), Florida Statutes, as may have been accumulated by UCFRF in performing this Agreement, whether completed or in process. In no event shall such delivery include UCFRF's background intellectual property or any intellectual property developed solely by UCFRF during the performance of this project.

(c) If the termination is for the convenience of COUNTY, UCFRF shall be paid compensation for costs and uncancellable obligations properly incurred through the effective date of termination. If the termination is due to an "Event of Default" by either party, UCFRF shall be

paid compensation for costs and uncancellable obligations properly incurred through the effective date of termination.

(d) If the termination is due to the failure of UCFRF to fulfill its Agreement obligations, COUNTY may take over the work and prosecute the same to completion by agreement or otherwise. UCFRF shall not be liable for such additional costs if the failure to perform this Agreement arises out of causes beyond the control and without the fault or negligence of UCFRF. Such causes may include, but are not limited to, acts of God or of the public enemy, acts of COUNTY in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargos, and unusually severe weather; but, in every case, the failure to perform must be beyond the control and without the fault or negligence of UCFRF.

(e) If, after notice of termination for failure to fulfill its Agreement obligations, it is determined that UCFRF had not so failed, the termination shall be deemed to have been effected for the convenience of COUNTY. In such event, adjustment in the Agreement price shall be made as provided in subsection (c) of this Section.

(f) The rights and remedies of the parties provided in this clause are in addition to any other rights and remedies provided by law or under this Agreement.

Section 26. Counterparts. This Agreement may be executed in any number of counterparts each of which, when executed and delivered, shall be original, but all counterparts shall together constitute one and the same instrument.

Section 27. Headings. All sections and descriptive headings in this Agreement are inserted for convenience only and shall not affect the construction or interpretation hereof.

Section 28. Severability. If any provision, term, or clause of this Agreement is determined to be invalid or unenforceable, then such provision, term, or clause shall be null and void and shall

be deemed separable from the remaining covenants of this Agreement, and shall in no way affect the validity of the remaining covenants and provisions of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below.

ATTEST:

UNIVERSITY OF CENTRAL FLORIDA RESEARCH FOUNDATION, INC.

_____
JENNIFER F. CERASA, Senior Associate General Counsel

By: _____
AMANDA COVEY, Assistant Director

Date: _____

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Attestations continued on the following page.]

ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

_____
GRANT MALOY
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

For the use and reliance
of Seminole County only.

Approved as to form and
legal sufficiency.

_____
County Attorney

By: _____
LEE CONSTANTINE, Chairman

Date: _____

As authorized for execution by the Board of
County Commissioners at its _____,
20____ regular meeting.

PHC:org
9/9/21
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