

INDEPENDENT CONTRACTOR AGREEMENT

This Agreement is made this effective _____ by and between Boston VA Research Institute, Inc. (BVARI) and _____ (the "Contractor"). (Collectively, BVARI and Contractor are referred to as the "Parties"). This Agreement will become effective on the date of full execution and will expire on _____. In consideration of the mutual covenants contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge, and intending to be legally bound, the Parties agree as follows:

1. **Description of Services:** Contractor shall perform services at the scheduled dates and times, and in a manner mutually agreed-upon by the Parties. The Contractor shall perform services on the Principal Investigator's, _____, research titled " _____", where Contractor shall conduct the following:

Contractor's work will be treated as Confidential, per Addendum A: Nondisclosure Agreement. This work is authorized under BVARI's statutory authority at 38 USC § 7362.

2. **Relationship of the Parties:** BVARI is a 501(c)(3) nonprofit organization established to facilitate research and education with the VA Boston Healthcare System (VABHS) located in Boston, Massachusetts. BVARI has authority to support the VABHS and is authorized and established under Title 38, Subchapter IV, sections 7361-7366.
 - a. The Parties agree that Contractor, as well as any individual working for Contractor, is an independent contractor and is not an employee of BVARI for any purpose. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between BVARI and Contractor, or any individual working for Contractor.
 - b. Neither Contractor, nor anyone performing services on Contractor's behalf, either as an agent or sub-contractor, shall be eligible to participate in any benefit program provided by BVARI for its employees.
 - c. Contractor shall be solely responsible for, and shall pay, any and all taxes and withholding that may be assessed as a result of the work performed by Contractor under this Agreement including, without limitation, federal and state income taxes, workers' compensation insurance, disability insurance, unemployment insurance, etc. Contractor is also solely responsible for the creation and maintenance of appropriate legal entities necessary to operate independently.
 - d. Contractor shall carry appropriate levels of workers' compensation insurance, disability insurance, unemployment insurance, etc. as required by law for independent businesses, and shall provide written proof of such insurance to BVARI upon request. Contractor shall also carry appropriate levels of general liability insurance. In the event that any administrative agency or court shall determine that, for its purposes, the relationship between BVARI and Contractor is one of employment as between the Parties, the Contractor shall bear all costs associated with that redetermination, whether in the nature of past or future taxes, fines, penalties, or other payments.
 - e. Contractor does not have, nor shall Contractor hold itself out as having, any right, power, or authority to create any contract or obligation, either express or implied, on behalf of, in the name of, or binding upon BVARI, or to pledge BVARI credit, or to extend credit in BVARI's name, unless BVARI shall consent to the obligation in advance.

3. **Compensation:** Contractor shall be paid up to _____ for the work performed under this agreement for assigned/authorized work performed with the Principal Investigator's prior approval and at an hourly rate of _____. Contractor shall submit an invoice _____ to BVARI at accountspayable@bvvari.org within thirty (30) days of completion of contracted work for the reporting period. BVARI shall make payment to Contractor within thirty (30) days of receipt of Contractor's complete and valid invoice.

4. **Term:**
 - a. This Agreement may be terminated at any time by either party upon the delivery of thirty (30) days' written notice of termination to the other party for any reason; or immediately "for cause" by BVARI, as defined in paragraph 4(b), below.
 - b. BVARI shall have the right to immediately terminate this Agreement for "cause," which is defined as Contractor's (i) conviction of (or plea of no contest to) a felony; (ii) violation of any term of this Agreement; (iii) conviction of (or plea of no contest to) a misdemeanor involving dishonesty or moral turpitude; (iv) a pattern of abusive, disrespectful, or unprofessional conduct towards any employees, contractors, and/or agents of BVARI; or (v) engaging in any illicit, immoral, or illegal activity that adversely affects BVARI, its operations, its reputation, or its goodwill.

5. **Confidential Information and Trade Secrets:** Contractor acknowledges that all of BVARI's records; its business papers, forms, agreements, and other records; its business methods and business information relating to or dealing with its operations and activities ("Confidential Information"), constitute the proprietary and confidential information of BVARI. Confidential Information shall not for any reason or purpose whatsoever, be disclosed or disseminated or used by Contractor for the benefit, direct or indirect, of any person, firm, association, or corporation other than BVARI and for the work to be performed under this agreement, during the term of this Agreement and at all times thereafter, and the same shall remain the exclusive property of BVARI.

6. **BVARI Property:** All materials and records embodying Confidential Information and all property of BVARI (hereinafter "Company Property") are and shall remain the sole and exclusive property of BVARI, and all such Company Property, including copies, and information required to perform services under this agreement, shall be returned immediately upon termination of this Agreement for any reason. Contractor shall have no right in any creative ideas and/or creative properties of BVARI in whatever form, including, but not limited to, information or ideas on computer disks, or otherwise electronically recorded or filed, as such property is the exclusive property of BVARI, regardless of the source of the property or customer. Contractor shall also immediately return all items, goods, computers, or other property belonging to BVARI.

7. **Resort to Courts:** In the event BVARI or Contractor is obligated to resort to the courts for the enforcement of any of the covenants contained in this agreement, BVARI and the Contractor agree that the term of said covenant(s) shall continue and the period of post-contractual restrictions referred to above shall be extended by a period of time equal to that period beginning when any violation of said covenant commenced and ending when the activities constituting such violation shall have finally been terminated in good faith, or when there has been a final adjudication by the trial court as to the enforcement of the covenant(s), whichever is earlier.

8. **Reasonable Restriction:** Contractor acknowledges that the restrictions and the covenants contained herein are reasonable and necessary to protect VABHS, BVARI, and Sponsor/Collaborator trade secrets, confidential information, interests and rights in its relationship with the parties including third party beneficiaries who benefit from Contractor's work and services, and good will.
9. **Relief Upon Breach:** Contractor agrees that in the event of a breach of any provision herein by Contractor, that BVARI may recover monetary relief in the amount of all damages, costs, and expenses, including attorneys' fees, incurred as a result of the breach and/or in the enforcement of this Agreement. Contractor also agrees that in the event that BVARI takes any action to enforce this Agreement, that all fees as set forth in paragraph 3 shall be suspended during the pendency of such action. Nothing contained herein shall be construed as prohibiting the parties from pursuing any other remedies available for such a breach or threatened breach.
10. **Loss or Damage:** Contractor shall indemnify and hold harmless BVARI, its partners, agents, and employees, from and against any and all liability or expense resulting from (a) bodily injury to any person (including injury resulting in death) or damage to property arising out of the performance by Contractor of this Agreement or of any work performed by Contractor, provided such injury or property damage is due or claimed to be due to the negligence of the Contractor, its employees, agents, or subcontractors; (b) any action taken by or on behalf of Contractor which is not permitted by or pursuant to the terms of this Agreement; (c) any act or omission constituting gross negligence or willful misconduct in connection with Contractor's performance under this Agreement; (d) claims by any of Contractor's employees or agents; or (e) Contractor's breach of any agreement with his/her former or current employer(s) or business relationships, including but not limited to breach of any non-competition, non-solicitation, and/or confidentiality agreement.
11. **Representations and Warranties:** Contractor represents and warrants that he/she has the full right and authority to enter into this Agreement and that Contractor is not under any pre-existing obligation or obligations inconsistent with the provisions of this Agreement.
12. **Nonassignability:** Contractor shall not assign, transfer, or subcontract this Agreement or any of its obligations hereunder without BVARI's express prior written permission.
13. **Non-Exclusivity:** During the term of this Agreement and thereafter, BVARI may engage the services of any other individual or company that competes with Contractor or offers services similar to those offered by Contractor, and any such engagement shall not be considered a breach of this Agreement.
14. **Severability:** The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions, and this Agreement shall be construed in all respects as though the invalid or unenforceable provision was omitted.
15. **Governing Law:** This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts. Contractor hereby consents to the exclusive jurisdiction of the Massachusetts courts in any and all actions arising pursuant to this Agreement and waives the right to object to this venue as improper or inconvenient.

16. **Jury Waiver:** Contractor hereby waives the right to a trial by jury in connection with any litigation commenced with respect to this Agreement. Further, Contractor acknowledges that he/she has had the opportunity to review this Agreement with counsel prior to execution.
17. **Amendment:** This Agreement may only be amended, whether in whole or in part, in writing signed by all the Parties.
18. **Entire Agreement:** This Agreement sets forth the entire agreement between the Parties and supersedes all prior arrangements or understandings.

IN WITNESS WHEREOF, intending to be legally bound, the Parties have executed this Agreement as of the day and year stated above.

Contractor

Signature: _____

Address: _____

Boston VA Research Institute, Inc.

Signature: _____

Director of Research Administration

(For internal use only: BVARI Project/Account: _____)

Addendum A
BOSTON VA RESEARCH INSTITUTE, INC. AND CONTRACTOR NONDISCLOSURE AGREEMENT

FOR GOOD CONSIDERATION, and in consideration of being contracted for services by Boston VA Research, Inc. ("BVARI"), a nonprofit corporation created under the Commonwealth of Massachusetts to serve as a flexible funding mechanism for U.S. Department of Veterans Affairs ("VA") approved research and education pursuant to 38 U.S.C. §§ 7361-7366, the undersigned party hereby agrees and acknowledges the following:

1. During the course of my contract for services with BVARI, there may be information disclosed to me that may be considered confidential information. This information includes, but is not limited to:
 - a. VA patient and employee information, including but not limited to: personnel files, credentialing and licensure files, VA research or other records protected by the Privacy Act (5 U.S.C. § 552a), the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191), or other federal laws, such as 38 U.S.C. §§ 5701, 5705, and 7332.
 - b. Trade secrets, commercial, financial and other confidential information from third parties, such as for-profit and nonprofit business entities, academic affiliates, public and private foundations, and government agencies, obtained during discussions or engagements in collaborative research with VA. Other confidential information may consist of but not necessarily be limited to:
 - (1) Technical information: Methods, processes, formulae, compositions, systems, techniques, inventions, machines, computer programs and research projects.
 - (2) Business information: Customer lists, pricing data, sources of supply, financial data and marketing, production, or merchandising systems or plans.
 - c. BVARI's internal information of a confidential nature, such as budget, personnel, and information related to internal business operations matters, etc.
2. During or at any time after the termination of my contract with BVARI, I shall not use for myself or others, or disclose to others, any confidential information of VA, external third party, or BVARI in violation of this agreement.
3. I am not under any preexisting obligations inconsistent with the provisions of this Agreement.
4. Upon the termination of my contract from BVARI:
 - a. I shall return to BVARI all documents and property obtained by me in the performance of my duties. I further agree that I shall not retain copies, notes, or abstracts of the foregoing.
 - b. BVARI may notify any future or prospective employer or third party of the existence of this agreement, and shall be entitled to all remedies including injunctive relief for any breach.
5. This agreement shall be binding upon me, my personal representatives, and any successors in interest, and shall inure to the benefit of BVARI, its successors and assigns.
6. VA is an intended third party beneficiary of this agreement and may seek enforcement and remedies for any breach of its terms.