**FORDHAM UNIVERSITY SUBAWARD**

**FOR NON-FEDERAL SPONSORS**

**Subaward No:** FORD00\_\_\_\_\_\_\_\_

Fordham University (“Fordham”) and (“Subawardee”) enter into this Subaward, in support of Fordham’s performance of contract/grant number (“Prime Agreement”) between Fordham and (“Sponsor”).

The parties to this Subaward agree as follows:

1. Scope of Work. Subawardee will perform the research and associated work detailed in the Scope or Statement of Work that is attached as **Attachment 1** and incorporated herein by reference (“Scope of Work”). Fordham can change the Scope of Work if: (a) the Sponsor requires the changes; or, (b) Fordham, in its sole and exclusive discretion, determines that the changes are necessary for performance of the Prime Agreement. If any such changes to the Scope of Work affect the cost or scheduling of work under this Subaward, the parties will negotiate cost and/or scheduling adjustments in good faith and within the Prime Agreement’s parameters.

1. Performance Period. The performance period commences on and ends on unless terminated earlier as provided in this Subaward (“Termination Date”). Subawardee is not obligated to continue work or provide services after the Termination Date and Fordham is not obligated to compensate Subawardee for expenses incurred or commitments made after the Termination Date. Subawardee will immediately notify Fordham, in writing, if Subawardee knows or reasonably should know of any actual or potential condition that may delay Subawardee’s timely performance. The parties may extend the performance period by written amendment, subject to the Prime Agreement’s terms, conditions, time limitations and funding restrictions.

1. Staffing. Fordham’s Principal Investigator (“Fordham’s PI”) is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and Subawardee’s Principal Investigator (“Subawardee’s PI”) is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Fordham’s PI is responsible for the technical, scientific and programmatic aspects of this Subaward and for coordinating the research efforts of the collaborating investigators. Subawardee’s PI’s participation is considered essential to Subawardee’s performance of this Subaward. Subawardee will not replace or remove Subawardee’s PI from the work required by this Subaward, or substantially reduce the level of his/her participation, without Fordham’s prior written approval.
2. Independent Contractor. The Subawardee is engaged as an independent contractor. Nothing in the Subaward is intended to, or shall be deemed to, constitute a partnership or joint venture between the parties. No party has the authority to bind any other party in contract or to incur any debts or obligations on behalf of any other party, and no party (including any employee or other representative of a party with responsibility for program matters) shall take any action that attempts or purports to bind any other party in contract or to incur any debts or obligations on behalf of any other party, without the affected party’s prior written approval.

1. Terms and Conditions of the Prime Agreement. All of the Prime Agreement’s terms and conditions are incorporated by reference into this Subaward. Subawardee acknowledges that it has received, reviewed, understands and agrees to be bound by the terms and conditions in the Prime Agreement. Subawardee will assume and does assume all of Fordham’s responsibilities to the Sponsor under the Prime Agreement as they relate to services to be performed by Subawardee.

1. Allowable Costs. The Prime Agreement will determine the extent to which costs are allowable under this Subaward. Subawardee’s normal policies governing salaries, wages and fringe benefits will apply to all of its employees paid from this Subaward. Subawardee’s published policy on travel and travel reimbursement must apply to all costs for travel and transportation charged to this Subaward. Foreign travel is prohibited without prior written approval of Fordham. When Subawardee’s policies conflict with the Prime Agreement, the more restrictive rules will apply.

1. Consideration. Fordham will reimburse Subawardee the total incurred cost as invoiced, up to a maximum of $\_\_\_\_\_\_\_\_\_, as set forth in the preapproved budget (**Attachment 2** (“Budget”)), which is subject to any limitations in the Prime Agreement or this Subaward. Costs incurred in excess of the Budget are at Subawardee’s risk.

1. Re-budgeting of Funds. The parties understand that the Budget is an estimate and that there may be a need to depart from it to cover certain unanticipated requirements of the Statement of Work. Subawardee is authorized to re-budget funds which do not require prior approval in accordance with the Prime Agreement. All other re-budgeting of funds must have prior written approval of Fordham.

1. Invoices and Payments. Fordham will reimburse Subawardee for those Total Costs that are actually incurred and invoiced, subject to approval by and payment from the Sponsor. Subawardee will submit invoices to Fordham at least quarterly, but not more often than monthly. Each invoice will be categorized with monthly and cumulative charges entered appropriately, include the period in which the costs were incurred and identify the categories of costs consistent with the Budget designations. Upon request, Subawardee will furnish Fordham with any necessary documentation supporting invoiced amounts.

Invoices should be sent to:

Fordham University

Grants Accounting Office

441 E. Fordham Road

Faculty Memorial Hall Rm. 525

Bronx, NY 10458

grantsaccountingoffice@fordham.edu

The final invoice, clearly marked FINAL, must be submitted within 30 days after the termination or expiration of this Subaward. Fordham may, at its sole discretion, refuse to reimburse Subawardee for any cost included in an invoice submitted more than 90 days after termination or expiration of this Subaward.

Final invoice payment will be withheld until Subawardee completes and delivers to Fordham any final reports and all closeout documents required by Fordham.

1. Accounts, Audits and Records. Subawardee will maintain books, records, documents, and other evidence, accounting procedures, and practices (“Records”) sufficient to prove all direct

and indirect costs of whatever nature it claims to have incurred for the performance of this Subaward.

All of Subawardee’s facilities used in the performance of this Subaward, and all of Subawardee’s Records, will be subject at all reasonable times to inspection and audit by Fordham or the Sponsor.

Subawardee will preserve and make available its Records for at least six (6) years following expiration or termination of this Subaward or until audit is completed and all resulting questions are resolved, whichever occurs last.

1. Intellectual Property. The Parties acknowledge that during the course of and in furtherance of their collaboration certain discoveries, inventions, improvements, know-how or data and the like, whether or not patentable, may be generated by a Party or the Parties (“Collaboration Inventions”). Each Party will promptly disclose to the other all such Collaboration Inventions. Title to all inventions and discoveries made solely by University inventors resulting from the Research Program shall reside in University; title to all inventions and discoveries made solely by Subawardee inventors resulting from the research program shall reside in Subawardee; title to all inventions and discoveries made jointly by University and Subawardee inventors resulting from the research program shall reside jointly in University and Subawardee.
2. Reports. Subawardee will provide reports to Fordham as required by the Scope of Work and/or the Prime Agreement, and Subawardee will, upon Fordham’s request, assist Fordham in the preparation of all reports required by Fordham to the Sponsor under the Prime Agreement. Subawardee will also render any other reports as may be requested by Fordham’s PI during the period of performance of this Subaward, and will submit a final report upon completion of the Scope of Work.

1. Publications. Subawardee will acknowledge the support of the Sponsor whenever activities funded in whole or in part by this Subaward are published. Any presentations or publications arising from and supported by this Subaward will include a positive statement clearly setting forth that the contents are in no way the responsibility of the Sponsor.
2. Confidentiality. "Confidential Information" shall mean any business or proprietary information provided by one party to the other and clearly identified as "Confidential" by the transmitting party at the time of disclosure. If such transmittal occurs orally, the transmitting party will within thirty (30) days reduce such transmittal to written form, mark and identify it as confidential, and provide such record to the other party.

In the event that a party discloses Confidential Information to the other during the Subaward, the receiving Party agrees to disclose the Confidential Information only on a need-to-know basis to its employees, directors or other advisors or representatives who are subject to confidentiality obligations, to use the Confidential Information only for the purposes contemplated by this Subaward and to use reasonable efforts to prevent its disclosure to third parties.

However, the receiving party may disclose the Confidential Information if such information (i) was already in the public domain or becomes publicly available through no wrongful act of receiving party, (ii) was previously known or developed by the receiving party without any violation of existing confidentiality obligations, (iii) was known by receiving party prior to disclosure by disclosing party, as evidenced by tangible records; (iv) becomes known to receiving party after disclosure from a third party having an apparent bona fide right to disclose it; (v) is independently developed or discovered by receiving party without use of disclosing party’s Confidential Information, as evidenced by tangible records; or (vi) was required to be disclosed by operation of law.

The parties agree that each party retains ownership of the Confidential Information it provides to the other. The receiving party shall promptly return the disclosing party’s Confidential Information upon request. The obligations of this clause shall survive for a period of three (3) years following termination of this Subaward. Notwithstanding the forgoing, the parties agree that any personally identifiable health information shall be considered confidential.

1. Export Controls. The parties understand that the export of goods and/or technical data from the United States may require some form of export control license from the U.S. Government in accordance with Export Administration Regulations, Title 15 CFR, sections 730-774. The parties agree that they will not disclose, export or re-export any materials or technical data received under this Subcontract to any countries for which the U.S. Government requires an export license unless it has obtained prior written authorization first from the U.S. Office of Export Control or other authority responsible for such matters. The parties further agree that in the event that export license is required, the party requiring such a license shall be responsible for the cost of obtaining such license.
2. Assignments and Subawards. Subawardee will not assign this Subaward, or subaward any of the work required by the Scope of Work, without Fordham’s prior written approval. This restriction on subawards will not apply to the purchase of standard commercial supplies or raw materials or subawards included in the Scope of Work document attached in **Attachment 1**. To the extent that the Subawardee subawards any of the work required by the Scope of Work, Subawardee will secure the subawardee’s written agreement to accept and comply with all of the terms and conditions of this Subaward.

1. Termination. Fordham may, in its sole and exclusive discretion, terminate this Subaward upon written notice to Subawardee if funding becomes unavailable for this Subaward or if such funds are restricted. Either party may also terminate this Subaward, upon written notice to other party, in addition to any other remedies it may have, if the other party fails in whole or part to perform its obligations under this Subaward.

1. Post-Termination Obligations. Upon receipt of a termination notice, Subawardee will take immediate action to minimize all expenditures and obligations financed by this Subaward and will cancel obligations as soon as possible. Subawardee will be compensated for all actual and allowable expenses and all un-cancelable obligations properly incurred prior to the date of termination subject to the Total Cost limitation set forth in Paragraphs 6 and 7. Subawardee will promptly deliver to Fordham all data, reports, summaries and such other information and material as may have been prepared for and/or accumulated by Subawardee in the performance of this Subaward, whether completed or in process.

1. Continuation of Work Pending Dispute Resolution. During the pendency of any dispute relating in any way to this Subaward, both parties will proceed diligently with performance as feasible.

1. Notices. All notices required to be given pursuant to this Subaward will be made in writing, and sent by first class mail or email to:

Fordham Subawardee

|  |  |
| --- | --- |
| [Name] |  |
| Fordham University |  |
| Office of Sponsored Programs |  |
| 441 E. Fordham Road |  |
| Canisius Hall |  |
| Bronx, NY 10458  Email: |  |

1. Research Misconduct and Conflict of Interest. Subawardee certifies that it has established written, enforced policies on responsible conduct of research, research misconduct and conflict of interest (financial or otherwise) that comply with the applicable regulations and the provisions of this Subaward. In the event that Subawardee does not have such policies established, Subawardee will request a copies of Fordham’s written responsible conduct of research, research misconduct and conflict of interest policies and will comply with those policies.
2. Indemnification. Each party to this Subaward shall indemnify, defend, and hold harmless the other party and its agents, trustees, directors, employees, and representatives, from and against any and all demands, claims, damages, losses, liabilities, and costs (including reasonable attorney’s fees), arising out of, or caused by, (i) the indemnifying party’s negligence or willful misconduct in connection with its performance of this Subaward, or (ii) any breach by the indemnifying party of any of its representations, warranties or covenants made herein.
3. Insurance. Subawardee represents that it carries sufficient insurance coverage to comply with the requirements of federal, state and local laws as well as its obligations under this Subaward and shall produce certificates of insurance evidencing same upon request.
4. Severability. If any provision of this Subaward or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Subaward which can be given effect without the invalid provision, and to this end the provisions of this Subaward are declared to be severable.
5. Integration. This Subaward and Attachments contain the entire agreement between the parties, and no statements, promises, or inducements made by either party or agent of either party that are not contained in this written Subaward shall be valid or binding; and this Subaward may not be enlarged, modified, or altered except in writing signed by the parties.
6. Waiver. No waiver of any term or provision of this Subaward whether by conduct or otherwise in any one or more instances shall be deemed to be, or construed as, a further or continuing waiver of any such term or provision, or of any other term or provision, of this Subaward.
7. Counterparts. This Subaward may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.  The parties agree that a party’s signature on this Subaward that is exchanged by portable document format (PDF) or facsimile shall have the effect of original signature of the party for all purposes.

Choice of Law/Jurisdiction. This Subaward is entered into under and pursuant to, and is to be construed and enforceable in accordance with, the laws of the State of New York, without regard to its conflict of laws principles. Each party hereto consents to the jurisdiction of the state and federal courts of New York. All claims brought by a party hereunder shall be brought in the State or Federal courts located in New York County, New York.

Fordham University Subawardee

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_