Memorandum of Understanding

1. Parties and effective date

1.1 **Date and Parties.** This Memorandum of Understanding (the "MOU") is made on **[Effective date: _____]** (the "Effective Date") between **[Party A's full legal name: _____]**, [Party A's entity type and state: _____], whose address is [Party A's address: _____] ("Party A"), and **[Party B's full legal name: _____]**, [Party B's entity type and state: _____], whose address is [Party B's address: _____] ("Party B"). Each is a "Party" and together they are the "Parties".

1.2 **If signed on different days.** If the Parties sign on different days, this MOU starts on the later of the Effective Date and the date of the last signature.

1.3 **Affiliates and departments.** Only the two organizations named in Section 1.1 are Parties. An affiliate, parent, subsidiary, chapter, department or individual employee does not become a Party because it takes part in an activity described in this MOU.

2. Background and recitals

2.1 Party A is engaged in [Party A's business or mission: _____].

2.2 Party B is engaged in [Party B's business or mission: _____].

2.3 The Parties wish to explore and, where each chooses to do so, carry out the following project: [Project description: _____] (the "Project").

2.4 The Parties wish to record their present intentions, so that each can plan its own work, and to agree a limited set of binding rules that protect both of them while they cooperate and discuss the Project.

2.5 These recitals state background facts and expectations. They do not create obligations.

3. Definitions and interpretation

3.1 **Defined terms.** In this MOU:

(a) "Background IP" means Intellectual Property that a Party owned or controlled before the Effective Date, or that it develops or acquires independently of the Project.

(b) "Binding Provisions" means the provisions listed in Section 6.1.

(c) "Business Day" means a day other than a Saturday, a Sunday or a federal legal holiday.

(d) "Confidential Information" has the meaning given in Section 17.1.

(e) "Definitive Agreement" means a later written agreement about all or part of the Project that states that it is binding and is signed by an authorized signatory of each Party.

(f) "Intellectual Property" means patents, inventions, copyrights, works of authorship, trademarks, trade names, trade secrets, designs, software, databases and know-how, together with applications, registrations and similar rights.

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(g) "Non-Binding Provisions" means every part of this MOU that is not a Binding Provision.

(h) "Project Materials" means documents, data, software, reports, designs and other materials that a Party prepares for the Project during the Term.

(i) "Representative" means the person a Party names in Schedule 3, or a replacement named under Section 11.2.

(j) "Term" means the period described in Section 24.

3.2 **Interpretation.** Headings are for convenience. "Including" means including without limitation. A reference to a Section or Schedule is to a section of, or schedule to, this MOU. Examples do not limit general words. A reference to a law includes that law as amended. This MOU is not to be interpreted against a Party because that Party drafted it.

3.3 **Words of intention.** In the Non-Binding Provisions, words such as "intends", "expects", "plans", "proposes" and "responsible for" describe present intention only. If "will" or "shall" appears in a Non-Binding Provision, it also describes present intention only.

3.4 **Order of priority.** If Sections 5 and 6 conflict with another part of this MOU, Sections 5 and 6 control. If the body of this MOU conflicts with a Schedule, the body controls.

4. Purpose and shared objectives

4.1 **Purpose.** The purpose of this MOU is to describe the Project, the part that each Party expects to play, and how the Parties intend to communicate while they assess whether and how to proceed.

4.2 **Objectives.** The Parties share these objectives:

(a) [First shared objective: _____];

(b) [Second shared objective: _____]; and

(c) [Third shared objective: _____].

4.3 **Measures of progress.** The Parties expect to judge progress by reference to: [Measures of progress: _____].

4.4 **No guarantee.** The objectives and measures are goals. Neither Party promises that a goal will be reached, that the Project will proceed, or that it will produce any saving, revenue, result or benefit.

5. Status of this MOU: non-binding terms

5.1 **Intention.** This MOU states the Parties' present intentions. Except for the Binding Provisions, it is not a contract, is not intended to be legally binding or enforceable, and creates no right, duty, commitment or liability in contract, promissory estoppel, quasi-contract or otherwise.

5.2 **No commitment to proceed.** Nothing in the Non-Binding Provisions requires a Party to carry out the Project, sign a Definitive Agreement, buy or sell anything, hire anyone, transfer property, or provide money, staff, facilities or services.

5.3 **Binding commitments need a Definitive Agreement.** A Party will be bound to a commitment about the Project beyond the Binding Provisions only when a Definitive Agreement has been signed and

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delivered by both Parties, and then only on its terms.

5.4 **Conduct and drafts.** None of the following turns a Non-Binding Provision into a binding obligation or is evidence of an intention to be bound: negotiations; drafts; emails, messages or oral statements; meeting notes; press statements; the start or continuation of work; the spending of money; the exchange of samples or data; or internal approval by a Party.

5.5 **No binding preliminary agreement.** The Parties have not agreed all material terms of the Project. They do not intend the Non-Binding Provisions to be a complete agreement awaiting only formal documents, or an agreement that binds them to the main terms while other terms are settled.

5.6 **Voluntary cooperation.** Any activity that a Party carries out under the Non-Binding Provisions is voluntary and may be stopped at any time, subject to the Binding Provisions.

6. Binding provisions (exhaustive list)

6.1 **Binding Provisions.** Only the following provisions are legally binding from the start of this MOU:

(a) Sections 1, 3, 5 and 6 (parties, definitions, status and this list);

(b) Section 13 (costs and no commitment of funds), but not Schedule 2;

(c) Sections 14.2 to 14.6 (negotiation and Definitive Agreement);

(d) Sections 15.3 and 15.4 (status of due diligence);

(e) Section 16 (exclusivity), if Section 16.1 states that it applies;

(f) Sections 17 to 23 (confidentiality, data, Intellectual Property, names, relationship, non-exclusivity and compliance); and

(g) Sections 24 to 38 (term, termination and the general provisions) and the statement above the signatures.

6.2 **Exhaustive list.** The list in Section 6.1 is complete. Every other provision, including each Schedule, is a Non-Binding Provision. Naming certain provisions as binding confirms the Parties' intention that the others do not bind them.

6.3 **Exchange of promises.** Each Party gives its promises in the Binding Provisions in return for the other Party's promises in them, and acknowledges that this exchange is sufficient consideration.

6.4 **Contact details.** The addresses and contacts in Schedule 3 may be used for notices under Section 31, although the Schedule creates no other obligation.

6.5 **Independent effect.** The Binding Provisions apply whether or not the Project proceeds or a Definitive Agreement is signed, until they end under Section 26.

7. Scope of cooperation

7.1 **Planned activities.** The Parties intend to explore cooperation in the following areas: [Planned areas of cooperation: _____].

7.2 **Location or market.** The Parties expect the Project to take place in or concern: [Location or market: _____].

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7.3 **Outside the scope.** The Parties do not presently intend the Project to include: [Activities outside the scope: _____].

7.4 **Stages.** The Parties expect to proceed in three stages: planning and exchange of information; a limited pilot or joint assessment, if both Parties choose to carry one out; and a decision on whether to negotiate a Definitive Agreement. Completion of one stage does not commit a Party to the next.

7.5 **Changes in scope.** The Representatives may discuss changes in the planned activities. A change that would give a Party a binding obligation needs a Definitive Agreement or an amendment under Section 33.

8. Responsibilities of Party A

8.1 **Planned role.** Party A intends to be responsible for: [Party A's planned tasks: _____].

8.2 **People and resources.** Party A expects to make available, if and when it considers this appropriate: [Party A's expected resources: _____].

8.3 **Information.** Party A expects to share information that it considers useful for the Project and that it is free to disclose, under Section 17.

8.4 **Own decisions.** Party A keeps control of its staff, budget, methods and priorities. It expects to tell Party B early if it can no longer carry out its planned role or if a planned date is likely to move.

8.5 **Approvals.** Party A expects to seek any internal approval, license, permit or consent that it needs for its planned role, at its own cost. It makes no promise that an approval will be given.

9. Responsibilities of Party B

9.1 **Planned role.** Party B intends to be responsible for: [Party B's planned tasks: _____].

9.2 **People and resources.** Party B expects to make available, if and when it considers this appropriate: [Party B's expected resources: _____].

9.3 **Information.** Party B expects to share information that it considers useful for the Project and that it is free to disclose, under Section 17.

9.4 **Own decisions.** Party B keeps control of its staff, budget, methods and priorities. It expects to tell Party A early if it can no longer carry out its planned role or if a planned date is likely to move.

9.5 **Approvals.** Party B expects to seek any internal approval, license, permit or consent that it needs for its planned role, at its own cost. It makes no promise that an approval will be given.

10. Joint responsibilities

10.1 **Shared tasks.** The Parties intend to work together on: [Shared tasks: _____].

10.2 **Lead.** For each shared task, the Representatives expect to agree which Party takes the lead, what the other contributes and when the result is needed, and to record this in Schedule 1.

10.3 **Decisions.** Decisions about shared tasks are expected to be made by agreement between the Representatives. Neither Party has a casting vote, and neither can commit the other.

10.4 **Review of shared work.** Each Party expects to review a draft shared document within a reasonable time. Silence is not approval. A shared document is not to be released outside the Parties until both have

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approved it in writing.

10.5 **Risks.** The Representatives expect to keep a short list of open issues and risks, and to review it at each meeting.

11. Governance, representatives and reporting

11.1 **Representatives.** Each Party names the Representative in Schedule 3 as its day-to-day contact for the Project.

11.2 **Replacement.** A Party may replace its Representative by written notice to the other Party, and expects to choose a person with suitable knowledge and authority.

11.3 **Meetings.** The Representatives expect to meet [Meeting frequency: _____], in person or by video or telephone. The host expects to circulate an agenda beforehand and a short written record of actions within 5 Business Days afterward.

11.4 **Progress reports.** Each Party expects to report to the other [Reporting frequency: _____] on work done, work planned, issues, and changes in the dates in Schedule 1.

11.5 **Limits of authority.** A Representative cannot amend or waive a Binding Provision, sign a Definitive Agreement or commit funds, unless that person is also an authorized signatory acting under Section 33 or Section 37. Meeting notes and reports do not amend this MOU.

11.6 **Working groups.** The Representatives may form working groups. A working group makes recommendations only. Its members must follow Sections 17, 18 and 23.

12. Timeline and milestones

12.1 **Workplan.** The Parties intend to follow the workplan and target dates in Schedule 1.

12.2 **Target dates.** Every date in Schedule 1 is an estimate. Missing one is not a breach and gives rise to no liability.

12.3 **Review.** The Representatives expect to review Schedule 1 at each meeting and may update it by written exchange, including email. An update that affects only planned tasks or dates does not need an amendment under Section 33.

12.4 **Events outside a Party's control.** If an event outside a Party's reasonable control affects its planned work, that Party expects to tell the other Party promptly, and the Representatives expect to discuss new dates.

13. Costs and no commitment of funds

13.1 **Own costs.** Each Party bears its own costs of this MOU and the Project, including staff, travel, professional advice, equipment and overhead, unless a Definitive Agreement or a separate signed writing says otherwise.

13.2 **No commitment of funds.** Except for a payment due under Section 17.5, 27 or 29.4 or for breach of a Binding Provision, this MOU does not obligate or authorize either Party to pay, lend, advance, reimburse, grant, invest or set aside any money, or to transfer anything of value.

13.3 **Cost plan.** Schedule 2 shows how the Parties presently expect costs to fall. It is an estimate for

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planning. A Party may charge the other for a shared cost only under a written agreement or order that identifies the cost and is signed by the Party to be charged before the cost is incurred.

13.4 **No profit sharing.** This MOU does not provide for the sharing of profits or losses. The Parties will sign a Definitive Agreement, after taking tax advice if needed, before they carry on any activity in which profits are to be divided.

13.5 **Public bodies.** If a Party is a government body, nothing in this MOU requires or authorizes it to spend or promise money in advance of an appropriation or contrary to any law on public spending, procurement, grants or gifts. A purchase, interagency order, grant, cooperative agreement or subaward must be made in the separate instrument that the law requires.

13.6 **Grant funds.** If a Party expects to use grant money for the Project, it will check its award terms before it incurs the cost. This MOU is not a subaward or a procurement contract.

13.7 **Taxes.** Each Party is responsible for its own taxes and tax filings.

14. Definitive agreement and negotiation

14.1 **Expected terms.** If both Parties decide to proceed, they expect a Definitive Agreement to address: [Topics for a later binding agreement: _____]. They hope to decide whether to proceed by [Target date for a decision to proceed: _____]. This Section 14.1 is non-binding.

14.2 **No duty to negotiate.** Neither Party has a duty to begin, continue or conclude negotiations, in good faith or otherwise. Each may stop talks at any time, for any lawful reason or no reason, without liability, subject to the other Binding Provisions.

14.3 **No duty to agree.** Neither Party is bound to accept a term because it appears in this MOU, in a draft or in correspondence, or because it was accepted at an earlier stage. Each may propose different or additional terms.

14.4 **Conditions.** Signing any Definitive Agreement is subject to each Party's satisfaction, in its sole discretion, with due diligence, legal and tax review, funding, terms, and all approvals it needs, including: [Approvals needed before a binding agreement: _____].

14.5 **Honest dealing.** Section 14.2 does not excuse fraud. A Party that decides to end talks should tell the other Party reasonably promptly, but a delay in doing so is not a breach.

14.6 **Effect of signature.** A Definitive Agreement replaces this MOU to the extent it says so. If it is silent, it controls wherever it conflicts with this MOU, and Section 17 continues for information already disclosed unless the Definitive Agreement covers that information.

15. Due diligence and conditions

15.1 **Exchange of information.** Each Party expects to consider reasonable requests for information that the other needs to assess the Project, including: [Information for due diligence: _____].

15.2 **Access.** A visit to premises or access to systems or staff is expected to take place by appointment, during normal hours, and under the host's safety, security and confidentiality rules.

15.3 **No duty to disclose and no warranty.** Neither Party must disclose a particular item. Information is provided "as is" for evaluation. Neither Party makes an express or implied representation or warranty

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about its accuracy, completeness or fitness, except in a Definitive Agreement. Nothing in this Section limits liability for fraud.

15.4 **No acceptance.** A review, comment, test or inspection is not acceptance of a product, service or term, and does not waive a right. Information that a Party receives in due diligence is subject to Section 17.

16. Exclusivity (optional, binding)

16.1 **Choice.** This Section 16 [Exclusivity: applies or does not apply: _____]. If it does not apply, Sections 16.2 to 16.6 have no effect.

16.2 **Exclusive period.** The exclusive period starts at the start of this MOU and ends on [End date of any exclusive period: _____], or earlier if this MOU ends or the Parties sign a Definitive Agreement.

16.3 **Restriction.** During the exclusive period, neither Party will solicit, start, continue or accept an offer from, or negotiate with, a third party for a transaction that covers substantially the same subject as the Project, namely: [Subject of any exclusivity: _____].

16.4 **Permitted activity.** Section 16.3 does not stop a Party from carrying on its ordinary business, meeting a contract that existed at the Effective Date, answering an unsolicited approach by saying that it is not available, or doing something that law or a fiduciary duty requires.

16.5 **Notice of approaches.** If a Party receives a serious unsolicited proposal that Section 16.3 covers, it will tell the other Party within 5 Business Days that a proposal was received, unless law or a duty of confidence prevents this. It need not name the third party.

16.6 **Limits.** This Section does not restrict prices, customers, territories, output, hiring or bidding. It does not require a Party to negotiate with the other, or to sign a Definitive Agreement.

17. Confidentiality (binding)

17.1 **Meaning.** "Confidential Information" means non-public information that a Party (the "Discloser") makes available to the other (the "Recipient") for the Project, in any form, that is marked confidential or that a reasonable person would understand to be confidential. It includes business plans, prices, customer information, technical data, unpublished research, the Discloser's drafts, and the content of the Parties' discussions.

17.2 **Exceptions.** Confidential Information does not include information that the Recipient can show: (a) is or becomes public other than through its breach; (b) was lawfully known to it without a duty of confidence before disclosure; (c) was lawfully received from a third party without a duty of confidence; or (d) was developed independently without use of the Discloser's information. These exceptions do not allow the disclosure of personal data that law protects.

17.3 **Duties.** The Recipient will: (a) use Confidential Information only to assess or carry out the Project; (b) protect it with at least the care it uses for its own similar information, and no less than reasonable care; (c) not disclose it except as this Section allows; and (d) tell the Discloser promptly after learning of unauthorized use or disclosure, and take reasonable steps to limit the harm.

17.4 **Permitted recipients.** The Recipient may disclose Confidential Information to its employees,

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officers, directors, professional advisers, insurers, contractors and prospective funders who need it for the Project and are bound by a duty of confidence at least as protective. The Recipient is responsible if one of them does what this Section prohibits the Recipient from doing.

17.5 **Legal disclosure.** The Recipient may disclose Confidential Information to the extent that law, a court order or a regulator requires it. Where lawful, it will give prompt notice, disclose only what is required, and cooperate reasonably, at the Discloser's cost, if the Discloser seeks protection.

17.6 **Public records.** If a Party is subject to a public records law, it may disclose what that law requires. Before doing so it will, where the law permits, tell the Discloser and consider any exemption the Discloser identifies. The Discloser should mark information that it believes is exempt.

17.7 **Return or destruction.** Within [Days to return or destroy information: _____] days after a written request, or after this MOU ends, the Recipient will return or destroy Confidential Information and confirm in writing that it has done so. It may keep copies that law or a genuine retention policy requires, and routine backup copies until they are overwritten. This Section continues to apply to all retained copies.

17.8 **Duration.** The duties in this Section last for [Confidentiality period in years: _____] years after this MOU ends. For a trade secret, they last for as long as it remains a trade secret under applicable law. For personal data, they last for as long as law protects it.

17.9 **Protected disclosures.** Nothing in this MOU stops a person from reporting a possible violation of law to a government agency, cooperating with an investigation, or exercising a right that cannot lawfully be waived. Notice of immunity: under 18 U.S.C. § 1833(b), an individual is not criminally or civilly liable under any federal or state trade secret law for disclosing a trade secret that is made (a) in confidence to a federal, state or local government official, directly or indirectly, or to an attorney, and solely to report or investigate a suspected violation of law; or (b) in a complaint or other document filed under seal in a lawsuit or other proceeding. An individual who sues an employer for retaliation for reporting a suspected violation of law may disclose the trade secret to his or her attorney and use it in the court proceeding, if each document containing it is filed under seal and the individual does not disclose it except under court order.

17.10 **Remedies.** A breach of this Section may cause harm that money cannot fully repair. The Discloser may ask a court for an injunction or other equitable relief, in addition to any other remedy.

17.11 **Residual position.** Nothing in this Section requires a Party to disclose information, prevents independent development, or grants a license.

18. Data protection and regulated data

18.1 **No sharing by default.** Neither Party will send the other personal data that a special privacy law protects, such as protected health information, student education records, government identification numbers or financial account data, until the Parties have signed the agreement that law requires. The following data is planned for the Project: [Personal or regulated data planned: _____].

18.2 **Business contact data.** Each Party may use the names and work contact details of the other's staff to administer the Project, and will protect them with reasonable care.

18.3 **Health information.** If a Party would receive protected health information on behalf of a HIPAA

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covered entity, the Parties will first sign a business associate contract, or another arrangement that 45 C.F.R. § 164.504(e) permits. This MOU is not that contract.

18.4 **Education records.** If education records would be shared for an audit or evaluation of an education program, the Parties will first sign a written agreement that meets 34 C.F.R. § 99.35, including the purpose, the data, how it will be protected, and the time by which it must be destroyed. For any other purpose, they will confirm the legal basis and sign any agreement needed.

18.5 **Security incidents.** If a Party learns of unauthorized access to personal data that it received from the other for the Project, it will give notice without unreasonable delay, and in any case within [Hours to report a data incident: _____] hours after it confirms the incident. It will give the facts the other Party needs to meet its legal duties.

18.6 **Deidentified data.** A Party that receives deidentified data will not try to identify any person from it.

18.7 **Mistaken disclosure.** A Party that receives protected data by mistake will stop using it, tell the sender, keep it secure, and return or destroy it as the sender lawfully directs.

19. Intellectual property

19.1 **Background IP.** Each Party keeps all rights in its Background IP. This MOU does not assign, license or pledge any Intellectual Property.

19.2 **Limited evaluation use.** A Party may use the other's Confidential Information and materials only for evaluation and the purposes that Section 17 allows. It will not reverse engineer, resell, publish or make derivative works from them without written permission, except as law allows despite this restriction.

19.3 **Project Materials.** As between the Parties, each Party owns the Project Materials that it prepares alone. The other Party may use a copy internally to assess the Project during the Term.

19.4 **No joint work intended.** The Parties do not intend, under this MOU alone, to merge their contributions into a joint work or to make a joint invention. Before starting an activity likely to create jointly developed Intellectual Property, they will sign a written agreement on ownership, filing, costs, use and licensing.

19.5 **Unplanned joint results.** If jointly developed Intellectual Property nevertheless arises, ownership follows applicable law until the Parties agree otherwise in a signed writing. Each Party will tell the other promptly and keep unpublished details confidential under Section 17. For 60 days after that notice, neither Party will license or assign its interest in the joint result or file a patent application on it without first consulting the other, unless an earlier filing is needed to avoid losing rights.

19.6 **Publication review.** A Party that plans to publish results of the Project will send the draft to the other at least 30 days beforehand. The publishing Party will remove the other's Confidential Information and, if asked within that time, will delay publication by up to 60 more days so that a patent application can be prepared.

19.7 **Employees.** Each Party is responsible for the arrangements it needs with its own staff and contractors to meet this Section.

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20. Names, logos and publicity

20.1 **Consent.** Neither Party will use the other's name, logo, seal, trademark or staff names in advertising, a website, a press release, a grant application or social media without prior written consent for that use.

20.2 **Conditions of use.** A consent is limited to the use described, is non-exclusive, cannot be transferred, and may be withdrawn on [Days' notice to withdraw logo consent: _____] days' written notice. The user will follow the owner's brand guidelines, show samples on request, and correct any use that the owner reasonably says does not meet its quality standards. All goodwill from the use belongs to the owner of the mark.

20.3 **Joint announcements.** The Parties will agree the text, time and place of any joint announcement in writing. An announcement must not describe the Parties as partners in a legal sense, or state that a binding Project has been agreed.

20.4 **Required statements.** A Party may make a statement that law or a funder's written terms require. Where lawful and practicable, it will show the text to the other Party first.

20.5 **No endorsement.** Nothing in this MOU is an endorsement of a Party's products, services or views.

20.6 **End of use.** When consent or this MOU ends, the user will stop new uses at once and remove existing online uses within 30 days. Archive copies and lawfully distributed printed copies do not need to be recalled.

21. Relationship of the parties: no partnership, agency or joint venture

21.1 **Independent parties.** The Parties are independent. They do not intend this MOU to create a partnership, joint venture, agency, franchise, trust, fiduciary relationship, employment relationship, or separate entity for tax or any other purpose.

21.2 **No co-ownership or profit sharing.** The Parties will not carry on a business together as co-owners, divide profits or hold property together under this MOU.

21.3 **No authority.** Neither Party may bind the other, make a promise on its behalf, receive money for it or hold itself out as its agent.

21.4 **Staff.** Each Party's staff and volunteers remain its own. Each Party is responsible for its staff's pay, benefits, tax withholding, supervision, insurance and compliance with employment law.

21.5 **Word "partner".** If a Party uses "partner" or "partnership" in ordinary speech or publicity, it describes cooperation only.

21.6 **Tax filings.** Neither Party will report the Project as a partnership on a tax return unless the Parties agree in writing or law requires it.

22. Non-exclusivity

22.1 **Freedom to work with others.** Subject to Section 16 if it applies, each Party may pursue similar projects, alone or with others, including a competitor of the other Party.

22.2 **No duty to offer.** Neither Party must offer an opportunity, customer, grant or investment to the other.

22.3 **Other duties continue.** This Section does not permit use or disclosure of Confidential Information,

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or use of Intellectual Property, contrary to this MOU.

23. Compliance with laws, antitrust and conflicts of interest

23.1 **Laws.** Each Party will comply with the laws that apply to its own activities for the Project, including laws on bribery, sanctions, export control, employment, discrimination, privacy, procurement and health and safety.

23.2 **Antitrust.** The Parties will not use the Project to fix prices, divide customers or markets, limit output, rig bids, agree wages, or agree not to hire. If they compete, they will not exchange current or future prices, costs, bids, customer plans or wages, except under a process approved by antitrust counsel. A person who hears such a discussion will object, stop it and tell that person's legal adviser.

23.3 **Anti-bribery.** Neither Party will give, offer, ask for or accept anything of value to obtain an improper advantage in connection with the Project.

23.4 **Conflicts of interest.** Each Party will tell the other promptly about a financial, family or other interest that could improperly influence its decisions on the Project. An affected person will take no part in those decisions until the Parties have dealt with the conflict in writing.

23.5 **Export-controlled items.** Neither Party will send the other controlled technology, software or data without giving notice, and obtaining any license needed first.

23.6 **Records.** Each Party will keep reasonable records of its activities for the Project for any period that law or a funder requires. This MOU does not give a Party a right to audit the other.

24. Term and renewal

24.1 **Term.** This MOU starts as Section 1 states and ends on **[End date of the MOU: _____]**, unless it ends earlier under Section 25 or is renewed under Section 24.2.

24.2 **Renewal.** The Parties may extend the Term by a writing signed by both before the end date. It does not renew automatically.

24.3 **Continued activity.** If the Parties continue to cooperate after the end date without a signed renewal, the Non-Binding Provisions still create no obligation. The Binding Provisions apply to information, materials and names exchanged during that continued cooperation.

24.4 **End on Definitive Agreement.** This MOU ends when a Definitive Agreement that replaces it takes effect, subject to Sections 14.6 and 26.

25. Termination and wind-down

25.1 **Without cause.** Either Party may end this MOU, for any reason or no reason, by [Days' notice to end the MOU: _____] days' written notice.

25.2 **Agreement.** The Parties may end this MOU at any time by a signed writing.

25.3 **Breach of a Binding Provision.** If a Party materially breaches a Binding Provision, the other may give notice that describes the breach. If the breach can be cured and is not cured within [Days to cure a breach: _____] days after notice, or if it cannot be cured, the other Party may end this MOU at once by a second notice.

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25.4 **Immediate end.** A Party may end this MOU at once by notice if continuing would break a law, a court order or the terms of its funding, or would create a serious safety or security risk.

25.5 **Wind-down.** After notice of termination, the Representatives expect to agree an orderly end to planned activities. Each Party will: (a) stop using the other's names as Section 20 requires; (b) return or destroy Confidential Information under Section 17.7; (c) return borrowed equipment and property within 30 days, in the condition received apart from normal wear; and (d) end system and site access.

25.6 **Effect.** Ending this MOU does not affect rights or liabilities under the Binding Provisions that arose earlier, or any Definitive Agreement or other contract unless that contract says so. Neither Party owes a termination fee or compensation only because this MOU ends.

26. Survival

26.1 **Provisions that continue.** Sections 3, 5, 6, 13, 14.2 to 14.6, 15.3, 15.4, 17 to 21, 23.6, 25.5, 25.6, 26, 27 and 29 to 38 continue after this MOU ends, to the extent needed for their purpose.

26.2 **Duration.** A provision with a stated period continues for that period. Other surviving provisions continue until all rights and duties they govern have been performed or have expired.

26.3 **Provisions that end.** All other provisions end with this MOU. Section 16 ends at the time that Section 16.2 states, but a claim for an earlier breach continues.

27. Liability and reliance

27.1 **Non-Binding Provisions.** Neither Party is liable for failing to do something described in a Non-Binding Provision, or because the Project does not proceed or no Definitive Agreement is signed.

27.2 **No reliance.** Each Party has made its own assessment. It will not rely on a Non-Binding Provision, statement, forecast or draft as a promise. Money it spends, or opportunities it gives up, before a Definitive Agreement are at its own risk.

27.3 **Measure of loss.** For breach of a Binding Provision, a Party may recover only its direct and reasonably foreseeable losses that the breach caused. It may not recover the profit or other benefit that it would have received under a Definitive Agreement that was not signed.

27.4 **Excluded loss.** Neither Party is liable under this MOU for special, incidental, punitive or exemplary damages, or for indirect or consequential loss.

27.5 **Limit.** Each Party's total liability under this MOU is limited to [Limit of each Party's liability: _____].

27.6 **Exceptions.** Sections 27.1 to 27.5 do not limit: (a) liability for fraud, willful misconduct or gross negligence; (b) liability for death or bodily injury to the extent law does not allow a limit; (c) an injunction under Section 17.10; or (d) any liability that law does not allow the Parties to limit. Sections 27.4 and 27.5 also do not limit liability for willful breach of Section 17 or for misuse of the other Party's Intellectual Property.

27.7 **Indemnity.** To the extent law permits, each Party will indemnify the other against third-party claims, and the reasonable costs of defending them, to the extent caused by its breach of Sections 17 to 20 or 23, or by the willful misconduct of its staff in the Project. The indemnified Party will give prompt

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notice, allow the other to control the defense, and cooperate reasonably. A settlement that admits fault by the indemnified Party, or imposes a duty on it, needs its written consent. Delay in notice reduces the indemnity only to the extent it causes harm.

27.8 **Public bodies.** Nothing in this MOU waives sovereign or governmental immunity, or requires a government body to give an indemnity or accept liability that law forbids.

27.9 **Mitigation.** A Party that suffers loss will take reasonable steps to reduce it.

28. Insurance and risk of own activities

28.1 **Own activities.** Each Party is responsible for the acts and omissions of its own staff, volunteers and contractors, and for its own property, to the extent the law provides.

28.2 **Insurance.** During the Term, each Party will keep the insurance it reasonably needs for its own activities in the Project, including: [Insurance types: _____]. A government body may meet this Section by lawful self-insurance.

28.3 **Evidence.** A Party will provide a certificate of insurance within 10 Business Days after a reasonable written request.

28.4 **Site rules.** A Party's staff will follow the host's reasonable safety and security rules, which the host will give in advance.

28.5 **Events outside control.** A Party is not liable for delay or failure in performing a Binding Provision caused by an event outside its reasonable control, such as natural disaster, war, epidemic, government action, failure of public utilities, or a labor dispute not limited to its own staff. It will give prompt notice, limit the effect, and resume when reasonably possible. This Section does not excuse unauthorized disclosure of Confidential Information that reasonable safeguards would have prevented.

29. Dispute resolution: escalation and mediation

29.1 **Scope.** This Section applies to a dispute about a Binding Provision. A difference about planned work should be discussed by the Representatives, but gives rise to no claim. Nothing in this Section requires a Party to negotiate a Definitive Agreement.

29.2 **Written notice.** A Party that raises a dispute will send the other a written summary of the facts, the provision concerned and the result it seeks. The Representatives will confer within 10 Business Days after receipt.

29.3 **Senior officers.** If the dispute is not resolved within 20 Business Days after the notice, each Party will document its position and refer the dispute to the senior officer named in Schedule 3. The senior officers will confer within the next 10 Business Days.

29.4 **Mediation.** If the dispute is not resolved within 10 Business Days after the senior officers were due to confer, either Party may require mediation under the procedures of [Mediation provider: _____] or before another mediator whom the Parties choose. The mediation will take place in [Place of mediation: _____] or by video. Each Party will bear its own costs and half of the mediator's fees, unless law prevents this.

29.5 **Court.** If the dispute is not resolved within 45 days after a request for mediation, or if the other

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Party does not take part, a Party may bring a claim under Section 30.

29.6 **Urgent relief and deadlines.** A Party may go to court at any time for urgent relief, or to preserve a claim from a limitation period. To the extent law permits, limitation periods stop running from the date of a dispute notice until 15 days after mediation ends.

29.7 **Settlement discussions.** Discussions under this Section are for settlement. They are confidential and are protected to the extent that law provides. Information that is otherwise discoverable or admissible does not lose that character because it was used in them.

29.8 **Legal fees.** Each Party bears its own legal fees, unless a statute provides otherwise.

30. Governing law and venue (binding)

30.1 **Governing law.** The Binding Provisions, and any claim connected with this MOU or with the Parties' discussions about the Project, are governed by the law of the State of [Governing state: _____] and applicable federal law, without regard to conflict of laws rules that would apply another law.

30.2 **Courts.** The state courts located in [County and state for court claims: _____], and the federal court for the district that includes that place if it has jurisdiction, have exclusive jurisdiction over a claim connected with this MOU. Each Party consents to personal jurisdiction there and waives an objection that the place is inconvenient.

30.3 **Urgent relief elsewhere.** A Party may seek urgent relief in another court that has jurisdiction over the person or property concerned.

30.4 **Public bodies.** If a law fixes the governing law or court for claims by or against a government Party, that law applies in place of this Section.

30.5 **Status.** The choice of law and court in this Section does not make a Non-Binding Provision enforceable.

31. Notices

31.1 **Form.** A notice under a Binding Provision must be in writing and sent by hand, recognized overnight courier, certified mail or email to the notice address in Schedule 3.

31.2 **Receipt.** A notice is received: (a) by hand, on delivery; (b) by courier, on the delivery date the courier records; (c) by certified mail, on delivery or first refusal; and (d) by email, when sent, if no failure message is received. A notice received after 5:00 p.m. local time or on a day that is not a Business Day is treated as received on the next Business Day.

31.3 **Copy of formal notices.** A notice of breach, termination or dispute sent by email must also be sent by courier or certified mail within 2 Business Days.

31.4 **Changes.** A Party may change its notice details by notice to the other. Day-to-day messages may be sent by any agreed means.

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32. Assignment

32.1 **Consent.** Neither Party may assign a right or delegate a duty under the Binding Provisions without the other's prior written consent. An attempted assignment without consent has no effect, to the extent law permits.

32.2 **Successors.** A Party may assign the Binding Provisions as a whole to a successor to substantially all of the business or functions concerned, by prompt written notice. The successor must accept them in writing. The other Party may then end this MOU at once by notice within 30 days after it receives that notice.

32.3 **Binding on successors.** The Binding Provisions bind and benefit the Parties and their permitted successors and assigns.

33. Amendment and waiver

33.1 **Amendment.** A Binding Provision may be amended only by a writing that refers to this MOU and is signed by an authorized signatory of each Party. An email exchange is not enough for this purpose, unless it attaches a signed document.

33.2 **Planning updates.** The Representatives may update a Schedule, other than notice details, in writing. An update does not become binding by that means.

33.3 **Waiver.** A waiver must be in writing and signed by the Party giving it. It applies only to the case described. Delay, silence or partial exercise of a right is not a waiver.

33.4 **No conversion.** An amendment makes a Non-Binding Provision binding only if it says so expressly, identifies the provision by number and updates Section 6.1.

34. Entire understanding and supersession

34.1 **Entire understanding.** This MOU, with its Schedules, states the Parties' whole understanding about its subject. It replaces earlier discussions and proposals about the Project.

34.2 **Documents replaced.** This MOU replaces the following earlier documents, by title and date: [Earlier documents replaced: _____].

34.3 **Documents that continue.** The following contracts between the Parties continue and are not changed: [Contracts that continue: _____]. If a continuing nondisclosure agreement conflicts with Section 17, the term that gives the Confidential Information more protection applies, but the protected disclosures in Section 17.9 always apply.

34.4 **No other statements.** Neither Party relies on a statement that is not in this MOU when it enters into the Binding Provisions. This does not limit liability for fraud.

35. Severability

35.1 **Invalid terms.** If a court finds a Binding Provision invalid or unenforceable, it is to be enforced to the extent law permits, and the other Binding Provisions continue.

35.2 **Replacement.** The Parties expect to discuss a lawful term that comes close to the purpose of the invalid one.

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35.3 **Non-Binding Provisions.** Nothing in this Section makes a Non-Binding Provision enforceable.

36. No third-party beneficiaries

36.1 **No rights for others.** This MOU is for the Parties and their permitted successors and assigns only. No other person, including a funder, customer, community member, employee or affiliate, has a right to enforce it or benefit from it.

36.2 **Changes without consent.** The Parties may change or end this MOU without the consent of any other person.

37. Authority

37.1 **Power and approvals.** Each Party states that it has the power to enter into the Binding Provisions and has obtained the approvals it needs to do so. This statement does not cover approval of the Project or of a Definitive Agreement.

37.2 **Signers.** Each person who signs for a Party states that he or she is authorized to do so. A Party will provide reasonable evidence of authority on request.

37.3 **No conflict.** Each Party states that, to its knowledge, entering into the Binding Provisions does not break a law, a court order or a contract that binds it.

38. Counterparts and electronic signatures

38.1 **Counterparts.** This MOU may be signed in counterparts. Each is an original and together they are one document.

38.2 **Electronic signatures and copies.** The Parties agree that they may sign electronically and deliver signed copies electronically, unless a law that applies to a Party requires another form. A complete electronic copy has the same effect as a paper original.

38.3 **Records.** Each Party will keep a complete signed copy. A signed copy does not show that the Non-Binding Provisions are binding.

By signing below, each Party confirms that it has read this MOU, that it accepts the Binding Provisions listed in Section 6.1, and that the Non-Binding Provisions record intentions only.

Party A: [Party A's full legal name: _____]
By (signature):
Printed name: [Party A signer's name: _____]
Title: [Party A signer's title: _____]
Date signed:

Party B: [Party B's full legal name: _____]
By (signature):
Printed name: [Party B signer's name: _____]
Title: [Party B signer's title: _____]
Date signed:

SCHEDULE 1: WORKPLAN AND MILESTONES (NON-BINDING)

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1. Planning stage
Task: [Planning task: _____]
Lead: [Planning lead: _____]
Expected result: [Planning result: _____]
Target date: [Planning target date: _____]

2. Pilot or joint assessment stage
Task: [Pilot task: _____]
Lead: [Pilot lead: _____]
Expected result: [Pilot result: _____]
Target date: [Pilot target date: _____]

3. Decision stage
Task: [Decision task: _____]
Lead: [Decision lead: _____]
Expected result: [Decision result: _____]
Target date: [Decision target date: _____]

4. Assumptions and dependencies: [Workplan assumptions: _____]

5. Open issues and risks: [Open issues and risks: _____]

All entries are estimates. Section 12 applies to this Schedule.

SCHEDULE 2: COST ALLOCATION (NON-BINDING ESTIMATE)

1. Staff time: each Party bears its own staff cost. Estimated effort of Party A: [Party A's estimated effort: _____]. Estimated effort of Party B: [Party B's estimated effort: _____].

2. Travel and meetings: [Expected travel costs and payer: _____]

3. Equipment, software and facilities: [Expected equipment costs and payer: _____]

4. Outside advisers and contractors: [Expected adviser costs and payer: _____]

5. Other expected costs: [Other expected costs and payer: _____]

6. Outside funding expected: [Outside funding expected: _____]

7. Separate agreements needed before money moves: [Separate agreements needed: _____]

This Schedule does not commit funds or authorize a charge. Section 13 applies to it. It does not provide for profits or losses to be shared.

SCHEDULE 3: REPRESENTATIVES

1. Party A
Representative: [Party A's representative and title: _____]
Telephone and email: [Party A representative's phone and email: _____]
Senior officer for disputes: [Party A's senior officer: _____]
Address and email for notices: [Party A's notice address and email: _____]

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2. Party B
Representative: [Party B's representative and title: _____]
Telephone and email: [Party B representative's phone and email: _____]
Senior officer for disputes: [Party B's senior officer: _____]
Address and email for notices: [Party B's notice address and email: _____]

3. Updates. A Party may update its entry by notice under Section 11.2 or Section 31.4.

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