

**BOARD OF SUPERVISORS FOR THE  
UNIVERSITY OF LOUISIANA SYSTEM**

**FINANCE COMMITTEE**

**August 26, 2021**

**Item J.1.**      **Grambling State University's** request for approval to enter a sponsorship agreement with Coca-Cola Bottling Company, United/Coca-Cola North America.

**EXECUTIVE SUMMARY**

Grambling State University requests permission to enter into a 10-year sponsorship agreement with the Coca-Cola Bottling Company. In exchange for agreed-upon compensation, the agreement will allow Coca-Cola to offer beverages for sale and/or sampling on the Grambling campus, to market and associate beverages with Grambling, including use of Grambling trademarks, and to promote beverage consumption and sale generally and on the Grambling campus. The agreement will require a presence on campus, including a requirement that Grambling purchase Coca-Cola products, but with specified and agreed-upon exceptions. The agreement contains the following notable financial consideration for the parties:

**Consideration provided by Coca-Cola to Grambling State University:**

- Pay Grambling a one-time up-front payment in the amount of Two Hundred Thousand Dollars (\$200,000).
- Pay Grambling annual sponsorship fees of \$225,000 in years 1-5 and \$245,000 in years 6-10.
- Pay the Grambling commissions of 35% on certain listed full-service beverages at agreed-upon vending sales prices.
- Provide Grambling, upon Grambling's request, with complimentary beverages of Coca-Cola's choosing, with an estimated annual retail value of Eight Thousand Dollars (\$8,000), as determined in good faith by Coca-Cola.
- Make available annually to Grambling up to Twenty-five Thousand Dollars (\$25,000) for mutually-agreed marketing initiatives.
- Provide Grambling with Twenty-five Thousand Dollars (\$25,000) annually for Grambling's use for capital improvements.
- Provide Grambling with Twenty-five Thousand Dollars (\$25,000) annually for Grambling to use for student scholarships in Grambling's sole discretion.
- Make available annually to Grambling PowerAde sideline support, such as Ten Gallon Coolers, PowerAde powder, cups, squeeze bottles and carriers or other items, with an approximate annual retail value of Ten Thousand Dollars (\$10,000), as determined in good faith by Coca-Cola.

### **Consideration provided by Grambling State University to Coca-Cola:**

Grambling will allow Coca-Cola to market and promote Coca-Cola beverages in connection with the University, the campus, and teams, including royalty free use of University marks with University pre-approval. Notable specific sponsorship rights follow:

#### **Sponsorship Recognition Panels**

- Coca-Cola will have the right to have sponsorship recognition panels on Football, Baseball, and Basketball scoreboards.
- Coca-Cola's relative proportion of sponsor recognition and/or advertising available on campus will not become less than thirty-three percent (33%).
- No competitive product signage will be present in any facilities on campus.
- If Grambling changes or rebrands its logo, Grambling would bear the cost to replace any signage on campus.
- Grambling will maintain all scoreboards, signs and other advertising for Company Beverages in good order and repair.
- All lighted signs and panels advertising or promoting Coca-Cola Beverages will be fully illuminated at all events on the campus for which any signs are illuminated.
- If Grambling elects to replace or upgrade any scoreboards or other structures containing or supporting Coca-Cola's acknowledgment panels, then Grambling will provide to Coca-Cola, without any additional charge, new acknowledgment panels on the replacement or upgrade scoreboards or structures, being equal in size and prominence to Coca-Cola's panels on the original scoreboards or structures.

#### **Athletic Event Tickets**

During the Term, Grambling agrees to provide Coca-Cola with the following types and quantities of complimentary tickets:

- Twenty (20) reserved chair back tickets for all football team home games
- Forty (40) general admission tickets for all football team home games
- Fifteen (15) court side seats for all basketball team home games
- Twenty-five (25) reserved chair seats for all basketball team home games
- Eight (8) season tickets for all baseball/softball team home games
- Eight (8) VIP parking passes for all Home Football/Basketball games
- Two (2) sideline passes to all Home games
- Eight (8) tickets to all special events scheduled on campus (promoted or non-promoted school events)
- Twelve (12) tickets to the Bayou Classic game
- Twelve (12) tickets to the Battle of the Bands

- Upon request of Coca-Cola, Grambling will provide Coca-Cola with tickets for unsold seats at events held on the Campus; such tickets will be used by Coca-Cola primarily for charitable and promotional purposes.

### **Facility Usage**

Access to a mutually agreed facility on Campus twice each year, at no charge to Coca-Cola, to host employee or customer events.

### **Television Spots**

Grambling will provide Coca-Cola, at no additional cost, upon request and availability, thirty second (:30) advertising spots on each televised team event. University agrees to require each broadcaster to (i) broadcast Company's advertising spots on an equal rotation basis during the air-time segment of each broadcast so as to give Sponsor equal opportunity to have its advertising run in "premium" positions and (ii) agree that Sponsor's advertising will be the exclusive advertising for beverages on and adjacent to such program(s). Grambling will also provide Coca-Cola with one opening and one closing billboard during each team broadcast. Grambling warrants that it will use its best efforts to cause the broadcast of football events.

### **Scoreboard Advertising**

Grambling will provide Coca-Cola, at no additional cost, a mutually agreed upon amount of advertising time on the video replay board during each event held at Grambling. Grambling agrees that such advertising time will be on an equal rotation with Grambling's other sponsors.

### **Print Advertising**

Grambling will provide Coca-Cola, at no additional cost, one full page ad for each sports season.

## **RECOMMENDATION**

It is recommended that the following resolution be adopted:

***NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors for the University of Louisiana System hereby approves Grambling State University's request to enter into a ten-year sponsorship agreement with Coca-Cola Bottling Company, United/Coca-Cola North America.***

***BE IT FURTHER RESOLVED***, that Mr. Richard J. Gallot, Jr., President of Grambling State University, is hereby designated and authorized to execute any and all documents necessary to execute this sponsorship agreement

***AND FURTHER***, that UL System staff and legal counsel ensure that all documents conform to statutory and administrative requirements.





August 17, 2021

**MEMORANDUM TO THE BOARD OF SUPERVISORS OF THE  
UNIVERSITY OF LOUISIANA SYSTEM**

**SUBJECT: REQUEST FOR APPROVAL OF THE SPONSORSHIP AGREEMENT  
WITH COCA-COLA**

Grambling State University (GSU) respectfully requests approval of the sponsorship agreement with Coca-Cola Bottling Company United/Coca-Cola North America.

Your favorable consideration of this request is greatly appreciated.

Sincerely,

A handwritten signature in blue ink, appearing to read "RJ Gallot", is written over the printed name.

Richard J. Gallot, Jr., JD  
President

Attachment

## SPONSORSHIP AGREEMENT

This agreement (the "**Agreement**") is made by and between Coca-Cola Bottling Company United – Gulf Coast, LLC, a Delaware Limited Liability Company ("**Bottler**"), The Coca-Cola Company, by and through Coca-Cola North America ("**Company**") (Bottler and Company are collectively referred to herein as the "**Sponsor**"), and Grambling State University located in Grambling, LA at 403 Main St. (the "**University**"). The parties are entering into this sponsorship agreement because the University wishes to grant to Sponsor, and Sponsor wishes to obtain, the rights (i) to offer Beverages for sale and/or sampling on the Campus, and (ii) to market and associate Beverages with the University and to promote their consumption and sale generally and on the Campus. In consideration of the mutual promises contained herein, the parties agree as set forth below.

1. **Term.** This Agreement shall be in effect for a period of Ten (10) years beginning August 1, 2021 (the "Effective Date") and expires on July 31, 2031, unless (i) mutually extended under the terms hereof or by written agreement of the parties, or (ii) sooner terminated as provided herein (the "Term").

2. **Definitions.** All defined terms used in this Agreement and not otherwise defined will have the meanings set forth on **Exhibit A**.

3. **Beverage Availability Rights.**

3.1 University agrees that all Beverages sold at the Campus will be Company Beverages, subject to the Permitted Exceptions detailed in Section 3.5 below. University further agrees that all Beverages distributed, or sampled (that is, distributed at no cost), advertised or promoted anywhere, anytime on the Campus and in connection with the University and/or the Teams will be Company Beverages. Sponsor and University agree that, at a minimum, the following Company Beverages will be available: Coca-Cola® Classic (or Coke®), diet Coke®, Coke Zero®, Sprite®, Minute-Maid® juices, Dasani® and PowerAde®. Except as otherwise provided herein, no Competitive Products will be sold, distributed, sampled, advertised, or promoted anywhere, any time on Campus. All concession Beverage sales will be consistent with the terms of this Agreement, and will include specifically Company 20 oz. carbonated, bottled Company Beverages, including all PowerAde and Dasani water brands.

3.2 University and its Concessionaires will comply with all applicable provisions of this Agreement, including purchasing their entire requirements for Company Beverages from Sponsor and using Approved Cups, provided however that certain chilled juice brands may be delivered by Company or by a third-party distributor as shall be designated from time to time by Sponsor.

(i) To the extent University does not as of the commencement of the Term, but does at some point thereafter, have self-operated Beverage concessions, then University shall purchase Company Beverages and Bottler Beverages at the prices set forth in **Exhibit B**. Such prices shall remain in effect until December 31, 2021. Thereafter, prices are subject to an annual increase of no more than Five percent (5%) over the previous Agreement Year's price. Annual price increases generally occur automatically on January 1<sup>st</sup> of each Agreement Year. Notwithstanding the foregoing, in the event of an increase in a component of Bottler's cost of goods, manufacture or delivery, or increases in taxes, deposits and other government related fees, Bottler may further increase prices to cover such increased costs at other times during the Agreement Year, in which case Bottler will provide thirty (30) days written notice to University prior to such price changes taking effect.

(ii) To the extent University has a Concessionaire operating its facilities on Campus, and that Concessionaire has an agreement with Sponsor that describes the terms for Beverage pricing, equipment and service provided by Sponsor to that Concessionaire, then such terms will apply and the Concessionaire will purchase all such Company Beverages as set forth in Sponsor's current local pricing agreement with the Concessionaire as set forth in **Exhibit B**. Such prices shall remain in effect until December 31, 2021. Thereafter, prices are subject to an annual increase of no more than Five percent (5%) over the previous Agreement Year's price. Annual price increases generally occur automatically on January 1<sup>st</sup> of each Agreement Year. Notwithstanding the foregoing, in the event of an increase in a component of Bottler's cost of goods, manufacture or delivery, or increases in taxes, deposits and other government related fees, Bottler may further increase prices to cover such increased costs at other times during the Agreement Year, in which case Bottler will provide thirty (30) days written notice to University prior to such price changes taking effect.

(iii) Twenty-ounce sparkling Company Beverages and twenty-ounce Dasani shall be the only Beverages available at every concession stand location for each Athletic event and anywhere concessions are available.

3.3 University will use its reasonable efforts to maximize the sale and distribution of Company Beverages on Campus. University will promote the sale of Company Beverages by causing Company Beverages to be hawked in stands in Approved

Cups and plastic bottles (currently twenty-ounce) at all sporting events and during all events when any items of any make or description are hawked on the Campus.

3.4 University hereby grants to Bottler the exclusive Beverage vending rights on the Campus, including any unattended retail or Micro Marts. University agrees that Bottler shall have the right to place a minimum of Thirty-five (35) Beverage vending machines in mutually agreed upon locations on Campus.

3.5 Permitted Exceptions:

3.5.1 Company Beverages will be the only Beverages sold, served, distributed, sampled, or otherwise made available on Campus, provided however University may, on a non-exclusive basis, serve, sell or dispense the following Competitive Products ("Permitted Exceptions") on Campus, provided that no Competitive Products are sold, vended, distributed, dispensed or otherwise served from Company's Equipment:

- Bottler Beverages;
- Up to ten percent (10%) of the Beverages sold on Campus may be Dr Pepper® Beverages (where Bottler has the bottle/can territory distribution rights) so long as University or its Concessionaires purchase all requirements for Dr Pepper® beverages from Bottler.

3.5.2 Permitted Exceptions, to the extent served or sold in cups, shall not be served or sold in Approved Cups.

3.5.3 University may display generic names of unbranded Permitted Exceptions, and the trademarks of any branded Permitted Exceptions, on menus, menuboards, dispensing equipment, and coolers for the sole purpose to indicate availability, but no Permitted Exceptions will be marketed, advertised, promoted, or sampled on Campus, or otherwise in connection with the University, the Campus or the University Marks. No Permitted Exception trademark shall appear on any Beverage vessel, or on any licensed merchandise, sold or distributed on Campus.

3.5.4 The private, personal consumption of Competitive Products by players, coaches, musicians, actors, comedians, or other entertainment personalities appearing and performing on the Campus is permitted.

#### 4. **Marketing Rights**

4.1 University grants to Sponsor the following promotional rights, which are exclusive as to Beverages, to:

4.1.1 Market and promote Company Beverages in connection with the University, the Campus, and the Teams, including the right to recognition of its sponsorship on panels, as further described on **Exhibit C**.

4.1.2 Use, subject to Section 4.5, the University Marks on a royalty-free basis. University acknowledges and agrees that such promotional activities may be conducted in conjunction with Sponsor's customers; and Sponsor will have the right to incorporate its customers' marks, logos and/or branded products with the University Marks on any advertising, point-of-sale, packaging, or premium items or materials. University hereby grants Sponsor a license to use the University Marks on a royalty-free basis for the purposes of promoting Company Beverages as provided herein. University agrees to work with Sponsor on a case-by-case basis to assist in promotions conducted by Sponsor with its customers.

4.1.3 Refer to Sponsor in any of Sponsor's marketing materials as a "sponsor" of the Campus, the University, and/or the Teams, and refer to any brand of Company Beverages in any of Sponsor's marketing materials as the "official" or "exclusive" [soft drink, sports drink, tea, juice, or juice drink, etc.] of the Campus, University or the Teams.

4.1.4 Undertake Beverage promotions at or in connection with the Campus and/or the Teams, including offering Company Beverages in promotional packaging bearing the University Marks on a royalty-free basis.

4.1.5 Create and market for retail sale merchandise incorporating the University Marks and trademarks of Company Beverages. Sponsor will pay a royalty on each item of merchandise consistent with industry standards for sales of such merchandise. Notwithstanding the foregoing, University agrees that the following items shall not be deemed to be licensed merchandise and royalties will not apply in any circumstances to any of the following that bear University Marks: cups; vessels; cans, bottles, commemorative cans, bottles or cups; multipack wraps and all other forms of packaging; beverage dispensing equipment; and point-of-sale, advertising, merchandising or promotional materials.

4.1.6 Sample Company Beverages and survey individuals on the Campus with University's prior approval as to location and time.

4.2 University grants to Sponsor the following exclusive merchandising rights:

- 4.2.1 University agrees that all Beverages served, sold, or dispensed on the Campus in disposable vessels, excluding any Permitted Exceptions (including Beverages sold, served, or made available in locker rooms and players' benches) will be served in Approved Cups. If University desires to make available non-disposable souvenir cups, all such non-disposable souvenir cups will bear only Sponsor's Marks or only Sponsor's Marks and University Marks exclusively with equal share of the exterior cup surface. Account shall only use images of Sponsor's Marks that have been provided or approved by Sponsor. Sponsor will have the right to approve in advance of publication any materials created by University that incorporate Sponsor's Marks.
- 4.2.2 Materials promoting the Company Beverages at the point-of-sale on the Campus, which will include translites and pictorials on dispensing equipment depicting Approved Cups and Company Beverages, will be clearly visible to the purchasing public and will be displayed in a manner and location acceptable to Sponsor.
- 4.2.3 Company Beverage trademarks will be prominently displayed on each menu board and Beverage vending machine on the Campus.
- 4.3 University will provide Sponsor with tickets and hospitality as set forth on **Exhibit C**.
- 4.4 University will provide Sponsor with the media and other marketing rights set forth on **Exhibit C**, all of which will be exclusive with respect to Beverages.
- 4.5 University will have the right to pre-approve: (i) the concept for any promotional activity undertaken hereunder; and (ii) any artwork or other items created by Sponsor for use in promotional activities or otherwise in accordance with the terms of this Agreement and that incorporate any of the University Marks. If University fails to respond to any submission within a period of ten (10) working days subsequent to the actual receipt by University of such submission, then such submission will be deemed approved by University. University agrees that its approval hereunder will not be unreasonably withheld.
- 4.6 University agrees that it will not, directly or indirectly (nor will University permit anyone to whom University has granted promotional, advertising or other rights), maintain any agreement or relationship pursuant to which any Competitive Products are associated in any manner with University, the Campus, or the Teams in any fashion that creates or tends to create the impression of a relationship or connection between the University, the Campus or the Teams and any Competitive Product. For further specificity, and not by way of limitation, University agrees that no permanent or temporary advertising, signage, or trademark visibility for Competitive Products will be displayed or permitted anywhere on the Campus. Nothing contained herein will prevent on-Campus consumption by students, faculty or their guests of Competitive Products purchased outside the Campus.
- 4.7 University will use cups, coolers and equipment featuring POWERADE® brand trademarks -- or if requested by Sponsor, trademarks for any other Company Beverage -- on sidelines and players' benches, and in locker rooms for all intercollegiate athletic events on Campus. Sponsor may also make such Company Beverages available for consumption by players, coaches and staff on the sidelines, player's benches, and in locker rooms.
5. **Consideration.** For the rights described herein, Sponsor agrees to the following (the following collectively the "Consideration"):
- 5.1 Up-Front Payment. Sponsor agrees to pay University a one-time up-front payment in the amount of Two Hundred Thousand Dollars (\$200,000) (the "**Up-Front Payment**"). The Up-Front Payment will be paid within sixty (60) days of the date that this Agreement is fully executed. The Upfront Payment shall be deemed earned pro rata on a daily basis over the entire Term.
- 5.2 Sponsorship Fees. Sponsor agrees to pay University annual sponsorship fees during the Term (the "**Sponsorship Fees**"), as follows:

Agreement Year 1	August 1, 2021 – July 31, 2022	\$225,000
Agreement Year 2	August 1, 2022 – July 31, 2023	\$225,000
Agreement Year 3	August 1, 2023 – July 31, 2024	\$225,000
Agreement Year 4	August 1, 2024 – July 31, 2025	\$225,000
Agreement Year 5	August 1, 2025 – July 31, 2026	\$225,000
Agreement Year 6	August 1, 2026 – July 31, 2027	\$245,000
Agreement Year 7	August 1, 2027 – July 31, 2028	\$245,000
Agreement Year 8	August 1, 2028 – July 31, 2029	\$245,000
Agreement Year 9	August 1, 2029 – July 31, 2030	\$245,000
Agreement Year 10	August 1, 2030 – July 31, 2031	\$245,000

The first installment of Sponsorship Fees will be paid within sixty (60) days of the date that this Agreement is fully executed and subsequent installments will be due within thirty (30) days from the anniversary of the Effective Date. The Sponsorship Fees shall be deemed earned pro rata on a daily basis over the Agreement Year in which they are paid.

- 5.3 Commissions. Bottler shall pay the University commissions on full-service Beverage vending sales based on the following rates and initial vend prices:

<u>Package</u>	<u>Commission</u>	<u>Vend Rate</u>
16 oz. Energy (can)	35%	\$2.75
20 oz. CSD, MM Refresh, DASANI	35%	\$1.75
20oz POWERADE, vitaminwater, Smart water	35%	\$2.00
15.2 OZ MINUTE MAID JUICE, 18.5 Gold Peak	35%	\$2.00

All taxes, deposits, recycling fees, other handling fees, communication charges and credit and debit card fees, if any, may be deducted from funds collected before calculating commissions. Commissions shall not be payable on any sales from vending machines not filled or serviced exclusively by Bottler. Bottler may adjust the vend prices and/or commission rates to recover its costs, including cost of goods, to implement cash discounts, or as it otherwise deems necessary or desirable, in its sole discretion. Commissions will be paid monthly following the month in which they are earned, with an accounting of all sales and monies in a form reasonably satisfactory to the University, and shall become immediate property of University. Vend rate increases will occur in Agreement Year 3 and Agreement Year 7 (if applicable).

- 5.4 Complimentary Product. Each Agreement Year, Bottler shall provide University, upon University's request, with complimentary Company Beverages of Bottler's choosing, with an estimated annual retail value of Eight Thousand Dollars (\$8,000), as determined in good faith by Bottler. In the event University does not request all complimentary Company Beverages by the end of each Agreement Year, any remaining complimentary Company Beverages shall be retained by Sponsor with no further obligation.

- 5.5 Marketing Support. Each Agreement Year, Sponsor agrees to make available up to Twenty-five Thousand Dollars (\$25,000) (the "**Marketing Fund**") for mutually-agreed marketing initiatives. The funds will be held in a fund managed by Sponsor for use toward marketing programs designed to promote and increase Beverage sales on Campus. All funds made available must be spent within the Agreement Year for which they are budgeted. Unused funds shall be forfeited.

- 5.6 Capital Improvements Fund. Each Agreement Year, Sponsor will provide University with Twenty-five Thousand Dollars (\$25,000) for University to use for capital improvements (the "**Capital Improvements Fund**"). The first installment of the Capital Improvements Fund will be paid within sixty (60) days of the date that this Agreement is fully executed and subsequent installments will be due on the anniversary of the Effective Date. The Capital Improvements Fund shall be deemed earned pro rata on a daily basis over the Agreement Year for which they are paid.

- 5.7 Scholarship Fund. Each Agreement Year, Sponsor will provide University with Twenty-five Thousand Dollars (\$25,000) for University to use for student scholarships in University's sole discretion (the "**Scholarship Fund**"). The first installment of the Scholarship Fund will be paid within sixty (60) days of the date that this Agreement is fully executed and subsequent installments will be due on the anniversary of the Effective Date. The Scholarship Fund shall be deemed earned pro rata on a daily basis over the Agreement Year for which they are paid.

- 5.8 PowerAde Sideline Support. Each Agreement Year, Sponsor agrees to make available to University PowerAde sideline support, such as Ten Gallon Coolers, PowerAde powder, cups, squeeze bottles and carriers or other items, with an approximate annual retail value of Ten Thousand Dollars (\$10,000), as determined in good faith by Sponsor ("**PowerAde Sideline Support**"). Such PowerAde Sideline Support will be provided to University upon reasonable advance request. University must request available PowerAde Sideline Support during the course of each Agreement Year. If University does not request all available PowerAde Sideline Support by the end of each Agreement Year, then any PowerAde Sideline Support remaining at the end of each Agreement Year shall be forfeited by University and retained by Sponsor with no further obligation. University understands and acknowledges that it will not receive cash in lieu of PowerAde Sideline Support.

6. **Equipment and Service.** During the Term, Bottler will loan to University, subject to the terms of Bottler's Equipment Placement Agreement ("EPA") attached hereto as **Exhibit D**, at no cost, the Beverage dispensing equipment reasonably required and as mutually agreed upon to dispense Company Beverages and Bottler Beverages at the Campus. No Freestyle, ICEE® equipment, ice makers or water filters will be provided. In the event that Freestyle equipment will be made available to University, such equipment will be the subject to a separate equipment agreement between the parties and fees may apply. University hereby agrees to the terms of the EPA set forth in **Exhibit D**. In the event that University

self-operates any beverage services on Campus, any Company fountain equipment loaned free of charge to the University by Company shall be governed by the terms of the lease agreement shown in **Exhibit D-2** and incorporated herein by this reference.

**7. Remedies for Loss of Rights.**

- 7.1 In addition to any other legal or equitable remedy, University will have the right to terminate this Agreement upon forty-five (45) days' written notice to Sponsor at any time if:
  - 7.1.1 Sponsor fails to make any payment due under this Agreement, and if such default continues uncured for the forty-five day period referenced in this Section 7.1; or
  - 7.1.2 Sponsor breaches any material term or condition of this Agreement, and if such breach continues uncured for the forty-five day period referenced in this Section 7.1.
- 7.2 In addition to any other legal or equitable remedy, Sponsor will have the right to terminate this Agreement upon forty-five (45) days' written notice to University at any time if:
  - 7.2.1 University breaches any material term or condition of this Agreement, and if such breach continues uncured for the forty-five day period referenced in this Section 7.2; or
  - 7.2.2 University's right to convey any of the promotional and Beverage availability rights contained in this Agreement expire or are revoked; or
  - 7.2.3 Any material component of the Campus is closed for a period of at least one hundred twenty (120) days, whether or not such closure is due to a cause beyond the reasonable control of University.
- 7.3 Upon early termination of this Agreement for any reason, University will refund the unearned portion of the Up-Front Payment paid during the Term and the unearned portion of all Sponsorship Fees, Scholarship Fund and Capital Improvements Fund and a pro rata portion of the costs of refurbishing and installing the Equipment paid with respect to the Agreement Year in which termination occurs. The Up-Front Payment will be deemed earned pro rata on a daily basis over the entire Term, and other Consideration for each Agreement Year will be deemed earned pro rata on a daily basis during each applicable Agreement Year, in each case up to the date of termination or, if earlier, the date of any breach hereunder by University.
- 7.4 If any material component of the Campus is closed for more than thirty (30) consecutive days, but less than one hundred twenty (120) consecutive days, Sponsor may extend the Term for a corresponding period at no additional charge to Sponsor, whether or not such closure is due to a cause beyond the reasonable control of University.
- 7.5 If (i) any of the rights granted to Sponsor herein are materially restricted or limited during the Term (including as a result of Ambush Marketing), or (ii) if any material component of the Campus is closed, or substantially closed, (iii) if the volume of Company Beverages and Bottler Beverages combined sold to the University decreases for any reason in any twelve month period by ten percent (10%) or more over the prior twelve month period during which there were no Campus closures or restrictions or (iv) a Team fails to play all of its scheduled home games on the Campus for a period of more than thirty (30) consecutive calendar days during its scheduled season (whether or not due to a cause beyond the reasonable control of University, including a strike or other work stoppage), then in addition to any other remedies available to Sponsor, Sponsor may elect, at its option, to adjust the Consideration to be paid to University for the then remaining portion of the Term (and University will pay to Sponsor a pro rata refund of any prepaid amounts and a pro rata refund of the costs of refurbishing and installing the Equipment) to reflect the diminution of the value of rights granted hereunder to Sponsor. In the event Sponsor elects to exercise its right to such adjustment and refund, University may, at its option, within ten (10) days following receipt of notice of any adjustment, notify Sponsor of its disagreement with the amount of the adjustment. The parties will then attempt in good faith to resolve the disagreement over such adjustment. If the parties cannot, after good faith negotiations, resolve the matter, Sponsor may terminate this Agreement.
- 7.6 The parties acknowledge that the rights granted to Sponsor herein are special, unique and extraordinary, and are of peculiar value, the loss of which cannot be fully compensated by damages in an action at law or any application of other remedies described herein. As a result, University acknowledges and agrees that, in addition to any other available remedies, in the event of a material limitation of any of Sponsor's rights hereunder, Sponsor will be entitled to seek and obtain equitable relief, including an injunction requiring University to comply fully with its obligations under this Agreement.
- 7.7 University recognizes that Sponsor has paid valuable consideration to ensure an exclusive associational relationship with University, the Teams, the University Marks, and the Campus with respect to Beverages and that any dilution or diminution of such exclusivity seriously impairs Sponsor's valuable rights. Accordingly, University will promptly oppose Ambush Marketing and take all reasonable steps to stop Ambush Marketing and to protect the exclusive associational rights

granted to Sponsor by University in this Agreement. In the event any such Ambush Marketing occurs during the Term, each party will notify the other parties of such activity immediately upon learning thereof.

- 7.8 Sponsor shall have the right to withhold and not pay further Sponsorship Fees or any other amounts which may become payable to University pursuant to this Agreement if: (i) University has failed to perform its obligations hereunder; (ii) Sponsor's rights hereunder have been lost, limited or restricted, including the existence of Ambush Marketing; or (iii) there exists a bona fide dispute between the parties.

8. **Rights of First Negotiation and Refusal.**

- 8.1 Sponsor will have the Rights of First Negotiation and Refusal upon expiration of this Agreement for any similar agreement regarding Beverage availability, merchandising, promotional or advertising rights.

9. **Confidentiality.** University agrees that the terms and conditions provided to University by Sponsor under this Agreement will be kept confidential by University, its agents, employees and representatives and will not be disclosed in any manner except as otherwise required by applicable law. The foregoing obligation regarding confidentiality will remain in effect for a period of three (3) years after the expiration of this Agreement.

10. **Representations, Warranties and Covenants.**

- 10.1 University represents, warrants and covenants to Sponsor as follows:

10.1.1 University has full power and authority to enter into this Agreement and to grant and convey to Sponsor the rights set forth herein.

10.1.2 All necessary approvals for the execution, delivery and performance of this Agreement by University have been obtained, and this Agreement has been duly executed and delivered by University and constitutes the legal and binding obligation of University enforceable in accordance with its terms.

10.1.3 University has the exclusive right to license the University Marks.

10.1.4 University has not entered into, and during the Term of this Agreement, will not enter into: (a) any other agreements (including agreements with any Broadcaster or any other sponsors of the Campus and/or any Team) which would prevent it from fully complying with the provisions of this Agreement; or (b) any agreement granting Beverage availability or merchandising or promotional or advertising rights that are inconsistent with the rights granted to Sponsor pursuant to this Agreement, including any agreements with Concessionaires or third party food service operators, vending companies, and/or other entities which sell or distribute Beverages (including agreements with Broadcasters or other sponsors of the Campus and/or any Team).

- 10.2 Sponsor hereby represents, warrants and covenants as follows:

10.2.1 Sponsor has full power and authority to enter into and perform this Agreement.

10.2.2 All necessary approvals for the execution, delivery and performance of this Agreement by Sponsor have been obtained, and this Agreement has been duly executed and delivered by Sponsor and constitutes the legal and binding obligation of such party enforceable in accordance with its terms.

10.2.3 Sponsor has not entered into, and during the Term of this Agreement will not enter into, any other agreements which would prevent it from fully complying with the provisions of this Agreement.

11. **Construction of this Agreement.**

- 11.1 This Agreement and any dispute arising out of or relating to this Agreement will be governed by and construed in accordance with the laws of the State of Louisiana without regard to principles of conflicts of law.

- 11.2 The captions used in this Agreement are for convenience only and will not affect in any way the meaning or interpretation of the provisions set forth herein.

- 11.3 This Agreement, including the Exhibits, which are an integral part of this Agreement and are expressly incorporated herein by this reference, and the document(s) referred to herein, shall constitute the final, complete and exclusive written expression of the intentions of the parties hereto with respect to the subject matter hereof and will supersede all previous communications, representations, agreements, promises or statements, either oral or written, by or between any party with respect thereto. This provision will not be read to invalidate or amend any other written agreements between Sponsor and/or any Affiliate of Sponsor and University and/or any Affiliate of University. This Agreement, and each of its terms and conditions, may be amended, modified, or waived only in

writing signed by each of the parties hereto. Any such modifications, waivers, or amendments will not require additional consideration to be effective.

- 11.4 Each of the parties hereto agrees that it will, in its performance of its obligations hereunder, fully comply with all applicable laws, regulations and ordinances of all relevant authorities and shall obtain all licenses, registrations or other approvals required in order to fully perform its obligations hereunder.

## 12. Miscellaneous.

### 12.1 Indemnification Rights

12.1.1 University Indemnification Obligations. Except as otherwise provided by Section 12.1.15 below, University agrees to defend, indemnify, and hold Sponsor harmless from and against all claims, suits, liabilities, costs, and expenses, including reasonable attorneys' costs and fees related to: (i) University's material breach of this Agreement; (ii) for injury to, including death of, persons (whether they be third persons or employees of any of the parties hereto) or any loss of or damage to property in any manner arising from, the rights conveyed herein; and (iii) all claims, demands or litigation alleging that any of the University Marks violates or infringes on trademarks, tradenames, copyrights, or other proprietary rights provided that such tradenames, trademarks, and copyrights have been used in the exact manner provided by University.

12.1.2 Bottler Indemnification Obligations. Except as otherwise provided by Section 12.1.15 below, Bottler agrees to defend, indemnify, and hold University and Company harmless from and against all claims, suits, liabilities, costs, and expenses, including reasonable attorney's costs and fees related to: (i) Bottler's material breach of this Agreement; and (ii) for injury to, including death of, persons (whether they be third persons or employees of any of the parties hereto) or any loss of or damage to property in any manner arising from the negligence of Bottler, or its employees or agents in the course of their duties to Bottler.

12.1.3 Company Indemnification Obligations. Except as otherwise provided by Section 12.1.15 below, Company agrees to defend, indemnify, and hold harmless each of University and Bottler, and each of their respective officers, directors, employees, and agents, from and against all claims, suits, liabilities, costs, and expenses (including reasonable attorneys' fees and expenses) related to (i) Company's material breach of this Agreement, (ii) the injury or death of any person, or the loss of or damage to any property, arising from the negligence of Company, or its employees or agents in the course of their duties to Company, or (iii) allegations that any of the Company Marks violates or infringes any rights of third parties, provided that the indemnified party has used the Company Marks in the exact manner provided or approved by Company.

12.1.4 Indemnification Procedures. Whenever any party entitled to indemnification (the "Indemnified Party") pursuant to the previous paragraphs receives notice of any potential claim which may be subject to indemnity, such party shall promptly notify the party obligated to indemnify (the "Indemnifying Party"). The Indemnifying Party shall have the obligation to assume the defense of such claim by counsel designated by it and reasonably acceptable to the Indemnified Party, provided that the Indemnifying Party shall not settle or compromise any such claim, or consent to the entry of any judgment, without the written consent of the Indemnified Party, which consent shall not be unreasonably withheld. The Indemnified Party, its affiliates, employees and representatives, shall fully cooperate with and timely assist the Indemnifying Party with the defense of such claim. If the Indemnifying Party fails to assume the defense of such claim as soon as reasonably possible, in any event prior to the earlier of twenty (20) days after receipt of notice of the claim or five (5) days before the date an answer to a complaint or similar initiation of legal proceeding shall be due, the Indemnified Party shall have the right to undertake, at the Indemnifying Party's expense, the compromise or settlement of any such claim on behalf of and at the risk and expense of the Indemnifying Party.

12.1.5 Limitation on Obligations. No party has any obligation to indemnify, defend, or hold harmless another party for any claims, suits, liabilities, costs, or expenses to the extent caused by the acts, omissions, or negligence of the party seeking indemnification.

- 12.2 Bottler and University each agree to maintain sufficient insurance to adequately protect the respective interests of the parties hereto. Minimum insurance requirements are attached as **Exhibit E**. The limits of coverage, as mutually agreed among the parties, will not be construed as a limitation of any potential liability to any of the parties, and failure to request evidence of this insurance will in no way be construed as a waiver of each party's obligation to provide the agreed insurance coverage.



- 12.3 Any notice or other communication hereunder will be in writing, will be sent via registered or certified mail, overnight courier, or confirmed facsimile transmission and will be deemed given (i) if mailed, when deposited, postage pre-paid, in the United States mail, (ii) if sent by overnight courier, one business day after delivery to such courier, and (iii) if sent by facsimile, when transmitted. Any notice or other communication will be addressed as set forth below, or to such other address as any party will advise the others in writing:

If to Company:

The Coca Cola Company,  
acting by and through its Coca-Cola North America division  
One Coca Cola Plaza  
Atlanta, Georgia 30313  
Attention: Vice President, Strategic Marketing Finance and Business Affairs

Copy to: Group Counsel, Coca-Cola North America  
legaldocuments@coca-cola.com

If to Bottler:

Coca-Cola Bottling Company United – Gulf Coast, LLC  
1300 Martin Luther King Jr. Drive  
Monroe, LA 71202  
Attention: Sales Center Manager (tickets)  
Phone: 318-331-6578

with a copy to:

Patrick Grieme, Area Sales manager  
1300 MLK BLVD  
Monroe, LA. 71202

and

Coca-Cola Bottling Company United, Inc.  
4600 East Lake Boulevard  
Birmingham, AL 35217  
Attention: General Counsel

If to University:

**Grambling State University**  
**403 Main Street**  
**Grambling, LA 71245**

Attention: President

- 12.4 Assignment. (i) By University. Because this Agreement is for rights unique to University, none of University's rights or obligations may be assigned, by operation of law or otherwise, without Sponsor's prior written consent. Any assignment that violates the terms of this provision is void. (ii) By Sponsor. Sponsor may assign all or part of its rights and obligations under this Agreement to any licensed Coca-Cola Company bottler, The Coca-Cola Company or any of Sponsor's or The Coca-Cola Company's subsidiaries.
- 12.5 The parties are acting herein as independent contractors and independent employers. Nothing herein contained will create or be construed as creating a partnership, joint venture or agency relationship between the parties and no party will have the authority to bind the other in any respect.
- 12.6 Jury Waiver. **EACH PARTY, TO THE EXTENT PERMITTED BY LAW, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ITS RIGHT TO A TRIAL BY JURY IN ANY ACTION OR OTHER LEGAL PROCEEDING ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT AND THE TRANSACTIONS IT CONTEMPLATES. THIS WAIVER APPLIES TO ANY ACTION OR LEGAL PROCEEDING, WHETHER ARISING IN CONTRACT.**
- 12.7 No party will obtain, by this Agreement, any right, title, or interest in the trademarks of the other parties, nor, except as provided herein, will this Agreement give any party the right to use, refer to, or incorporate in marketing or other materials the name, logos, trademarks or copyrights of the other parties.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be duly executed.

Coca-Cola Bottling Company United – Gulf Coast,  
LLC

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

Printed Name: \_\_\_\_\_

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

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

Grambling State University

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

Printed Name: Richard J. Gallot, Jr.

Title: President

Date: 08/16/2021

The Coca-Cola Company, by and through Coca-Cola North America

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

Printed Name: \_\_\_\_\_

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

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

**EXHIBIT A**  
**GLOSSARY OF DEFINED TERMS**

**"Affiliate"** means, as to any entity, any other entity which is controlled by, controls, or is under common control with such entity. The term "control" (including the terms "controlled," "controlled by" and "under common control with") will mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an entity.

**"Agreement Year"** means each twelve-month period during the Term beginning with the Effective Date and subsequent anniversaries thereof.

**"Ambush Marketing"** means an attempt by a third party, including any Broadcaster, without Sponsor's consent, to associate Competitive Products with the Campus, the University, the University Marks, or any Team, or to suggest that Competitive Products are endorsed by or associated with University, the Campus, the University Marks, and/or any Team by referring directly or indirectly to University, the Campus, or the University Marks, and/or the Teams.

**"Approved Cups"** means disposable cups the design of which is approved by Sponsor from time to time as its standard trademark cups and/or vessels and/or other (disposable and non-disposable) containers approved by Sponsor from time to time, all of which shall prominently bear the trademark(s) of Coca-Cola® and/or other Company Beverages (as herein defined) on all of the cup surface.

**"Beverages"** means all non-alcoholic beverages (i.e. anything consumed by drinking), whether or not such beverages (i) contain nutritive, food, or dairy ingredients, OR (ii) are in a frozen form. This definition applies without regard to the beverage's labeling, marketing or packaging. Powders, syrups, grounds (such as for coffee), herbs (such as for tea), concentrates, K-Cups® pods and all other beverage bases from which Beverages can be made and brands and products of water purification and beverage making systems (e.g. Brita®, Soda Stream®, Keurig®), are deemed to be included in this definition. For the avoidance of doubt "flavor enhancers", "liquid water enhancers", drinking water dispensing systems and non-alcoholic beverages sold as "shots" or "supplements" are considered Beverages.

**"Bona Fide Offer"** means a proposed agreement concerning rights and obligations with respect to Beverage availability, merchandising, promotional, and/or advertising, which agreement, if executed by University and the third party, would be legally binding.

**"Bottler Beverages"** means Beverage products that are not Company Beverages that are purchased, or available for purchase, directly from Bottler or sold through vending machines owned and stocked exclusively by Bottler.

**"Broadcaster"** means any entity which for any business purpose publishes, prints, syndicates, televises or broadcasts any photograph, film, videotape or other recording or rendering of the Campus (or any portion thereof) and/or of any event held on the Campus including any Team games.

**"Campus"** means all buildings and grounds owned, leased, controlled by or operated by the University during the Term, whether currently existing or built or acquired during the Term, including without limitation, the main campus located at, 403 Main Street, Grambling University, LA and any satellite or successor campus locations. References to Campus include all buildings and grounds associated with the University including branded or unbranded food service outlets, vending locations, auditoriums, theatres, housing and medical facilities, convenience stores, retail outlets, areas and facilities where intramural sports are conducted and all athletic facilities (including press boxes, players' benches and locker rooms).

**"Company"** means The Coca-Cola Company.

**"Company Beverages"** means Beverages (i) manufactured, distributed, or marketed by Company; or (ii) sold under trademarks or brand names owned or controlled by or licensed for use by Company.

**"Competitive Products"** means any and all Beverages other than Company Beverages (as defined herein).

**"Concessionaire"** means any current or future third-party food service provider under agreement with University at the Campus that directly or indirectly relate to the service of Beverages.

**"Micro Mart"** shall mean any unattended retail location on the Campus where Beverages may be purchased using self-checkout kiosks, coolers, or other forms of self-service equipment provided by Sponsor.

**"Rights of First Negotiation and Refusal"** means that University will negotiate exclusively with Sponsor (i) for a period of ninety (90) days before the termination of this Agreement for any similar agreement regarding Beverage availability, merchandising, promotional or advertising rights and/or (ii) for a period of ninety (90) days following the date new forms of signage or advertising become available. After such exclusive negotiation period, University will be free to negotiate with any person or entity. If University receives a Bona Fide Offer regarding such rights from a third party, then University will be obligated to notify Sponsor of such offer, provide Sponsor with a copy of such offer and Sponsor will have thirty (30) business days from the date of such notice to offer to contract with University on terms no less favorable to University than those contained in the Bona Fide Offer of a third party. In no event will University enter into a contract with a third party upon terms and conditions more favorable to such third party than those previously offered to Sponsor.

**"Team" or "Team(s)"** means all intercollegiate athletic teams associated with the University.

**"University Marks"** means the University's name, each Team's name, colors and uniforms, and emblems, and all tradenames, trademarks, service marks, designs, logos, mascots, characters, identifications, symbols and other proprietary designs that are in existence on the Effective Date or which will be created during the Term and which are owned, licensed or otherwise controlled by the University.

**EXHIBIT B  
INITIAL PRICE LIST**

8oz Glass	103172	Loose	24	\$23.60
10oz Glass	102879	6pk	4	\$18.92
12oz Glass - Barq's	103239	6pk	4	\$23.60
12oz Glass - Dr Pepper	151230	Loose	24	\$23.60
355ml Mexican Coke (incl. 4pk)	122360	Loose	24	\$23.60
500ml Mexican Coke	126689	Loose	24	\$23.60
.5 Liter (incl. 24pk)	102279	6pk	4	\$35.88
12oz PET (incl. 24pk)	125596	8pk	3	\$16.73
1 Liter Mixers	117679	Loose	12	\$20.31
1 Liter FUZE	157721	Loose	12	\$20.80
1.25 Liter	137072	Loose	12	\$20.80
2 Liter Core	132530	Loose	8	\$13.97
2 Liter Flavors	132542	Loose	8	\$13.97
20oz Core	102603	Loose	24	\$30.57
20oz Flavors	114230	Loose	24	\$30.57
24oz Sparkling	132218	Loose	24	\$43.68
16oz 24ct Cans	146858	Loose	24	\$19.21
16oz 12ct Cans	150523	Loose	12	\$9.51
8.5oz Aluminum	128833	Loose	24	\$25.95
7.5oz Cans	151773	6pk	4	\$12.04
7.5oz Cans	151757	10pk	3	\$12.04
12oz Cans Core	100278	6pk	4	\$14.11
12oz Cans Flavors	100304	6pk	4	\$14.11
12oz Cans Core	115583	12pk	2	\$14.11
12oz Cans Flavors	116150	12pk	2	\$14.11
12oz Cans	100722	24pk	1	\$14.11
<b>Sports</b>				\$0.00
Powerade 12oz	114433	6pk	4	\$16.05
Powerade 20oz	101728	All	24	\$27.54
Powerade Ultra 20oz	157251	Loose	12	\$18.72
Powerade 28oz	156843	Loose	15	\$19.50
Powerade 2.5 Gallon Powder	144208	Loose	8	\$29.82
Powerade 5 Gallon Powder	151969	Loose	12	\$78.00
Body Armor 12oz	156340	8pk	3	\$30.00
Body Armor 16oz	156112	Loose	12	\$18.38
Body Armor 28oz	156124	Loose	12	\$23.92
<b>Water</b>				\$0.00
Dasani 20oz	112259	Loose	24	\$20.66
Dasani Sparkling 20oz	151749	Loose	24	\$34.32
Dasani 1-Liter	112260	Loose	12	\$16.52
Dasani 1.5-Liter	112261	Loose	12	\$31.20
Dasani 12oz PET (incl. 12p & 24p)	135910	8pk	3	\$14.11
Dasani .5L	113098	6pk	4	\$7.57
Dasani .5L	114929	12pk	2	\$42.00
Dasani .5L	116366	24pk	1	\$7.57
300ml	119516	Loose	24	\$14.11

Smartwater 20oz	129254	Loose	24	\$30.57
Smartwater 20oz Sparkling	151856	Loose	24	\$35.88
Smartwater 700ml	132296	Loose	24	\$30.57
Smartwater 700ml	154537	6pk	4	\$30.57
Smartwater 700ml Flavors	157206	Loose	12	\$18.54
Smartwater .5 Liter	145098	6pk	4	\$20.66
Smartwater .5 Liter Sparkling	155307	6pk	4	\$20.66
Smartwater 1-Liter	129252	Loose	12	\$20.66
Smartwater 1-Liter Sparkling	151586	Loose	12	\$20.66
Smartwater 1-Liter	135239	6pk	2	\$20.66
Smartwater 1.5-Liter	129253	Loose	12	\$26.00
Sparkling Water Aha 12oz	157373	8pk	3	\$10.40
Sparkling Water Aha 16oz	157362	Loose	24	\$18.72
Body Armor SportWater 1L	156136	Loose	12	\$19.96
Body Armor SportWater 700ML	156137	Loose	24	\$30.46
Body Armor SportWater 20oz	157105	6pk	4	\$35.88
Powerade PowerWater 20oz	157308	Loose	12	\$18.72
Powerade PowerWater .5L	157140	6pk	2	\$18.72
Enhanced Water				\$0.00
Vitamin Water 20oz	156078	Loose	12	\$15.28
Vitamin Water .5 Liter	142717	6pk	4	\$35.88
Monster Hydro 25.4oz	155405	Loose	12	\$26.00
Aloe Gloe 15.2oz	151476	Loose	12	\$30.00
Juice				\$0.00
Minute Maid 6.75oz Juice Box	114402	Loose	20	\$22.88
Minute Maid 10oz	124580	Loose	24	\$20.66
Minute Maid 12oz	154898	Loose	24	\$32.72
Minute Maid Smoothies 46oz	145641	Loose	12	\$95.00
Tea				\$0.00
Gold Peak 18.5oz	135334	Loose	12	\$17.57
Gold Peak 64oz	146817	Loose	8	\$18.72
Gold Peak .5 Liter	135249	6pk	4	\$20.55
Honest Tea .5 Liter	132861	Loose	12	\$17.97
Peace Tea 23oz Can	152950	Loose	12	\$12.97
Peace Tea 16oz Can	157280	4pk	6	\$29.12
Tum E Yummies				\$0.00
Tum E Yummie 300ml PET	135479	Loose	12	\$9.18
Energy				\$0.00
Monster 15.5/16oz Can	133129	Loose	24	\$43.28
Monster 15.5/16oz Can	133109	4pk	6	\$43.28
Monster 16oz Can	136793	10pk	2	\$43.28
Monster Reign 16oz Can	156572	Loose	12	\$21.64
Monster Reign 16oz Can	157204	4pk	6	\$43.28
Monster 23/24oz Can	133145	Loose	12	\$27.04
Monster Nitrous 12oz Can	145128	Loose	12	\$27.04
Monster Import 18.6oz Can	147198	Loose	12	\$27.04
Coke Energy 12oz	157041	Loose	24	\$28.00
NOS 16oz Can	128259	Loose	24	\$43.28

NOS 16oz Can	136494	Loose	12	\$24.96
NOS 16oz Can	152944	8pk	3	\$49.92
NOS 24oz Can	151988	Loose	12	\$27.04
Full Throttle 16oz Can	119451	Loose	24	\$43.28
Full Throttle 16oz Can	152943	8pk	3	\$49.92
Coffee				\$0.00
Monster JAVA 15oz Can	134929	Loose	12	\$24.96
Monster JAVA 11oz Can	152685	4pk	6	\$60.00
Dunkin Donuts Coffee 13.7oz	152923	Loose	12	\$24.33
Dunkin Donuts Coffee 9.4oz PET	156174	4pk	6	\$49.92
Coke Coffee 12oz	157399	Loose	12	\$18.00
Coke Coffee 12oz	157423	4pk	6	\$36.00
Enhanced Dairy				\$0.00
Core Power 14oz PET	156184	Loose	12	\$18.50
Core Power Elite 14oz PET	151817	Loose	12	\$25.00
YUP! 14oz PET	151091	Loose	12	\$18.39
Chocolate Drink				\$0.00
Yoo Hoo 11.5oz Can	112424	6pk	4	\$24.00
In & Out Products				\$0.00
Body Armor 16oz/473m Vpk		12pk	1	\$25.00
New Products				\$0.00
Coke Coffee 12oz		Loose	24	\$36.00
SmartWater Wellness 23.7z/700m		Loose	12	\$18.72
Core Power 8oz/240m		4pk	6	\$36.00
Coke Energy 12oz/355m		4pk	6	\$36.00
Monster Energy 12oz/355m		Loose	24	\$34.00
Body Armor Edge 20oz/591m		Loose	12	\$23.92
Rainbow Cans #114049		6pk	4	\$6.00
Rainbow 20oz #155915		Loose	24	\$14.50
Monster Rainbow Case #157301		Loose	24	\$26.00

## EXHIBIT C

### 1 Sponsorship Recognition Panels

- 1.1 Sponsor will have the right to the following sponsorship recognition panels during the Term:  
For Football, Baseball and Basketball score boards
- 1.2 Sponsor's relative proportion of the sponsor recognition and/or advertising available on the Campus will not during the Term, become less than 33 percent (33%) of all panels available on the Campus, and University will ensure that this percentage is maintained at no additional cost to Sponsor. University shall ensure that no Competitive Product signage will be present in any facilities on Campus throughout the term of the Agreement. Sponsor will also have the first right to negotiate for any new panels or other forms of sponsor recognition and/or advertising added on the Campus during the Term. If Sponsor Changes or rebrands its logo during this contract it will be the Sponsor's cost to replace any signage on campus
- 1.3 Without the express written consent of Sponsor, Sponsor's signage on the Campus will not be altered or obscured in any way or draped at any time or for any reason by any person or entity, including any Broadcaster. Without the express written consent of Sponsor in its sole discretion, University will not permit Sponsor's signage on the Campus to be electronically altered, deleted or covered by any person or entity, including any Broadcaster, during any photographing of the Campus or during the broadcast of any event held on the Campus (including Team games).
- 1.4 University will maintain all scoreboards, signs and other advertising for Company Beverages in good order and repair.
- 1.5 All lighted signs and panels advertising or promoting Company Beverages (including lighted concession advertising) will be fully illuminated at all events on the Campus for which any signs are illuminated.
- 1.6 Sponsor will have the right of access to its permanent signage at all reasonable times for the purpose of replacement or removal of the same or to modify, change or alter the promotional messages appearing thereon at Sponsor's cost and discretion.
- 1.7 If at any time during the Term, University elects to replace or upgrade any scoreboards or other structures containing or supporting Sponsor's acknowledgment panels, then University will provide to Sponsor, without any additional charge, new acknowledgment panels on the replacement or upgrade scoreboard or structure, being equal in size and prominence to Sponsor's panels on the original scoreboard or structure.

### 2 Tickets

- 2.1 During the Term, University agrees to provide Sponsor with the following types and quantities of complimentary tickets:
  - *Twenty (20) reserved chair back tickets for all football team home games*
  - *Forty (40) General admission tickets for all football team home games*
  - *Fifteen (15) court side seats for all basketball team home games*
  - *Twenty-five (25) reserved chair seats for all basketball team home games*
  - *Eight (8) season tickets for all baseball/softball team home games*
  - *Eight (8) VIP parking passes for all Home Football/Basketball games*
  - *Two (2) Sideline passes to all Home games*
  - *Eight (8) tickets to all special events scheduled on Campus (promoted or non-promoted school events)*
  - Twelve (12) tickets to the Bayou Classic game
  - Twelve (12) tickets to the Battle of the Bands
- 2.2 Upon request of Sponsor, University will provide Sponsor with tickets for unsold seats at events held on the Campus; such tickets will be used by Sponsor primarily for charitable and promotional purposes.
- 2.3 As soon as tickets for any event become available, University will deliver them to Sponsor, addressed to them in care of the persons specified for ticket delivery in Section 12.3.

### 3 Facility Usage

Access to a mutually agreed facility on Campus twice each Agreement Year, at no charge to Sponsor, to host employee or customer events.

### 4 Television Spots

University will provide Sponsor, at no additional cost, upon request and availability, thirty second (:30) advertising spots on each televised Team event. University agrees to require each Broadcaster to (i) broadcast Company's advertising

spots on an equal rotation basis during the air-time segment of each broadcast so as to give Sponsor equal opportunity to have its advertising run in "premium" positions and (ii) agree that Sponsor's advertising will be the exclusive advertising for Beverages on and adjacent to such program(s). University will also provide Sponsor with one opening and one closing billboard during each Team broadcast. University warrants that it will use its best efforts to cause the broadcast of events for Teams in each of the following sports: football.

5 Scoreboard Advertising

University will provide Sponsor, at no additional cost, a mutually agreed upon amount of advertising time on the video replay board during each event held at University. The University agrees that such advertising time will be on an equal rotation with University's other sponsors.

6 Print Advertising

University will provide Sponsor, at no additional cost: one full page ad for each sports season.



## EXHIBIT D

### EQUIPMENT PLACEMENT AGREEMENT

In consideration of the mutual promises set forth below, Coca-Cola Bottling Company United – Gulf Coast, LLC ("**Bottler**") and Grambling State University ("**Customer**") hereby agree to the following terms and conditions of this Equipment Placement Agreement ("**Agreement**"):

1. Installation and Use Restrictions. Bottler may, from time to time, deliver and install the "**Equipment**" (which term encompasses all equipment provided by Bottler at any time, including, without limitation, vending machines, coolers, fountain equipment, racks and/or any replacement parts, replacements, additions or accessories) at the location(s) to which such Equipment is actually delivered. Customer shall use the Equipment only at the particular location to which such Equipment is actually delivered unless otherwise agreed by Bottler. At all times during the term of this Agreement, Customer shall maintain records of the location of all Equipment and promptly provide copies of such records to Bottler upon request. This Agreement, in addition to any additional documents and/or records by and/or between the parties describing the Equipment and the location(s) where such Equipment is placed, shall be maintained by Bottler and shall constitute the official book of record pertaining to the Equipment. Customer hereby agrees that: (i) no logo, trademark, advertisement, or other indication of Bottler's ownership of the Equipment shall be obstructed, defaced, or removed, and no other logo, trademark, or advertisement shall be attached to the Equipment; (ii) the Equipment shall not be obstructed, moved, or removed without the prior written consent of Bottler; (iii) the Equipment shall not be sold, reassigned, loaned, leased, or rented to any other party except as authorized by Bottler; in which case, Customer shall remain fully responsible for the Equipment as per the terms of this Agreement; (iv) no racks, merchandise, or any other objects shall be placed on top of or attached to the Equipment unless expressly authorized by Bottler; and (v) Customer will not attach the Equipment, or allow the Equipment to be attached, in such a manner as to become part of the realty as a fixture or otherwise, and that the Equipment will be maintained so that it may be easily removed without damage to buildings or realty.
2. Operation. In consideration of the provision of the Equipment by the Bottler to Customer pursuant to this Agreement, Customer agrees to purchase from Bottler and store in, or sell through, the Equipment only products supplied by Bottler. In Bottler's sole discretion, a review of Customer's product purchase volume and Equipment usage may justify ongoing Equipment placement or Equipment removal.
  - a. If Bottler is providing full-service vending, Customer agrees to permit Bottler to place the vending Equipment on Customer's premises. Bottler shall stock such vending Equipment and shall collect all vending proceeds from the sale of beverages. If Bottler has agreed to pay Customer a commission on sales through the Equipment, all taxes, deposits, recycling fees, other handling fees, communication charges and credit and debit card fees, if any, may be deducted from funds collected before calculating any commissions due to Customer.
  - b. Bottler hereby loans the Equipment to Customer; however, during the term of this Agreement, Bottler reserves the right, upon prior notice to Customer, to lease or rent the Equipment to the Customer and, upon commencement of the lease or rental program, Customer agrees to pay a monthly rental/lease amount. Bottler may change the rental/lease rate charged under this Agreement by sending notice of such change to Customer at its present address. Customer may terminate this Agreement as set forth herein if it objects to such change.
  - c. If the Equipment includes a fountain beverage dispenser, Customer agrees to permit Bottler to install the fountain Equipment on Customer's premises. Customer agrees such fountain Equipment will be used only for the purpose of dispensing fountain beverage products of The Coca-Cola Company ("**Company**"), such as Coca-Cola® classic (or Coke®), diet Coke® and Sprite®, and other fountain products distributed by Bottler with the understanding that no product of PepsiCo, Inc. or of an affiliate thereof may be dispensed. Customer further agrees not to dispense any product whose pungency could affect the normal taste or quality of the Company's fountain beverage products.
3. Ownership. Bottler is and, at all times, shall remain, the exclusive owner of the Equipment. Customer shall protect Bottler's title and keep the Equipment free from all claims, liens, and encumbrances arising from the actions or inactions of Customer. Customer's obligation under this paragraph remains until such time as Bottler or Bottler's designee picks up the Equipment. Customer authorizes Bottler to execute and file any additional instruments in all jurisdictions where it deems it necessary to perfect and maintain Bottler's interest in the Equipment. Bottler shall have the right, during Customer's regular business hours, to inspect the Equipment at Customer's premises or wherever the Equipment may be located and to review all records that reasonably relate to the Equipment upon reasonable notice to Customer. Customer shall promptly notify Bottler of all details arising out of any alleged encumbrances thereon or any accident allegedly resulting from the use or operation thereof.
4. Service and Repair. Customer shall take reasonable care of the Equipment. Bottler agrees to provide reasonable service and repair for the Equipment during the term hereof. Customer shall allow Bottler to enter its premises for the purpose of inspection or performance of such service and repair, or necessary replacement or return or removal of the Equipment. In the event additional service and repair is requested by Customer or reasonably necessary as a result of Customer's negligence or willful misconduct, Bottler may bill Customer its standard rate per service call. All service and repair calls must be exclusively handled or authorized by Bottler. Customer's sole recourse against Bottler with respect to service and repair provided by Bottler or its agents to the Equipment is that Bottler will correct any defective workmanship at no additional charge to Customer, provided that Bottler is given prompt notification of any defective workmanship. Customer shall promptly notify Bottler of any Equipment malfunction and take reasonable steps to mitigate any risk of injury to person or property arising from such malfunction. For example, if a piece of Equipment is not cooling properly, Customer will unplug that piece of Equipment until it is repaired or replaced by Bottler.

5. Disclaimer of Warranties: Liability and Costs. Customer acknowledges that Bottler is not the manufacturer of the Equipment. BOTTLER MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND AND EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTIES AS TO THE FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, DESIGN, CONSTRUCTION, CONDITION, SPECIFICATIONS, OR PERFORMANCE OF THE EQUIPMENT. Customer accepts no warranties and expressly waives any implied warranties as to the fitness for a particular purpose, merchantability, design, construction, condition, specification, or performance of the Equipment. Except to the extent attributable to the gross negligence or willful misconduct of Bottler, Customer hereby assumes liability for any and all damage to (normal wear and tear excepted), or loss of, the Equipment from the time the Equipment is delivered to Customer until returned to or removed and accepted by Bottler. Customer assumes responsibility to report any damage to, or loss of, Equipment to Bottler immediately. To the extent any payment is due from Bottler to Customer under this Agreement or otherwise, Bottler may deduct from such payment the cost of repair or replacement of Equipment due to damages for which Customer is responsible hereunder. Customer shall pay all taxes, licenses, charges, or other fees which may be imposed on Customer's sales of products through the Equipment or in connection with this Agreement by any taxing authority. In the event of a default by Customer under this Agreement, including non-payment of lease/rental charges, if any, Customer shall be liable for reasonable attorneys' fees and other costs incurred by Bottler in enforcing its rights hereunder by litigation or otherwise.
6. Exculpation: Indemnity. **CUSTOMER ACKNOWLEDGES THAT INSTALLATION, USE, OR OPERATION OF EQUIPMENT CARRIES INHERENT RISKS INCLUDING BUT NOT LIMITED TO FLOODING AND DAMAGE TO FIXTURES AND OTHER PROPERTY.** Bottler shall not be liable to Customer for any claims based on or arising out of injury to person or property in any way relating to the installation, use, repair, or operation of the Equipment, except such claims as might arise solely out of Bottler's gross negligence or willful misconduct. In no event and under no circumstances shall Bottler be liable to Customer for any claims based upon or arising out of lost profits or prospective profits, loss of product, or consequential, special or incidental damages in any way relating to the installation, use, repair, or operation of the Equipment. Customer shall indemnify and hold Bottler and Bottler's officers, agents, employees, directors, shareholders, affiliates, successors, and assigns (hereinafter the "**Indemnified Parties**") harmless from all losses, damages, claims, suits, proceedings, damages and liabilities of whatever nature, and all costs and expenses, including Indemnified Parties' reasonable attorneys' fees resulting from any and all claims, demands, or rights of action that may be asserted at any time against Bottler which are caused by or result from Customer's negligence or willful misconduct in the possession, use or operation of the Equipment or due to Customer's breach of any provision of this Agreement. Customer represents and warrants that plumbing and electric service on the property is proper and adequate for the installation and use of the Equipment, and Customer will not use extension cords or other electrical connections not expressly approved by Bottler. Customer agrees to indemnify and hold harmless Bottler from any damages arising out of defective plumbing or electrical hook-up or service. Notwithstanding anything herein to the contrary, the provisions of this section will survive termination of this Agreement.
7. Term and Termination. The term of this Agreement shall commence on the date of initial delivery of any Equipment and shall continue until terminated by either party. Either party may terminate this Agreement for any or no cause upon 10 days' written notice to the other; provided however, Bottler may immediately terminate this Agreement upon the failure by Customer to perform or comply with any one or more terms, conditions, or provisions of this Agreement or if Customer is adjudicated insolvent by any court or tribunal or files voluntary petition in bankruptcy or enters into an arrangement with its creditors. In the event of any termination, Customer shall promptly return all Equipment to Bottler, and this Agreement shall survive with respect to any Equipment remaining in the Customer's possession. In the event of default, Bottler shall have the immediate right to exercise any one or more of the following remedies: (w) to terminate the Agreement; (x) to declare the entire amount of any rent immediately due and payable, without notice to or demand of Customer; (y) to take possession of any or all of the Equipment without demand or notice wherever the same may be located, without any court order or other process of law; or (z) to pursue any other remedy at law or in equity. If the Equipment is not made accessible by Customer, then Customer shall pay all costs and expenses relating to the removal of the Equipment. If this Agreement is terminated with respect to any piece of Equipment for any reason prior to one year from the commencement date hereof, then Customer shall pay Bottler all costs and expenses for installation, removal and refurbishment of the Equipment. All rights and remedies provided herein may be exercised exclusively, concurrently, or cumulatively with any other right or remedy hereunder, or as otherwise provided by law.
8. Casters (if applicable). If Customer requests, at any time during the term of this Agreement, that Bottler provide the Equipment equipped with casters, the following provisions shall apply. Customer represents and warrants that the Equipment is required by a governmental authority pursuant to applicable health, safety, sanitary or other applicable codes or ordinances, or the Customer desires the Equipment, to be equipped with casters to permit the efficient and thorough cleaning of the Equipment and surrounding areas. Customer recognizes and acknowledges that the casters provided on the Equipment are not designed or intended to allow for the movement of the Equipment beyond the minimal distances required for cleaning of the immediate area and are not designed for movement from room to room or other similar distances. Customer agrees that it shall not, and shall not permit its employees, agents, or subcontractors to use the casters to move the Equipment beyond the short distances necessary to adequately clean and maintain the Equipment and immediately surrounding areas. Customer agrees not to otherwise move or displace the Equipment from the area in which it was placed by Bottler. Any violation of this section by Customer shall constitute a breach of this Agreement.
9. Miscellaneous. This Agreement shall not be transferred, subleased, or assigned, in whole or in part, by Customer without the prior written consent of Bottler, except that Bottler may assign this Agreement to any affiliate or any U.S. Coca-Cola bottler. This Agreement constitutes the entire agreement between the parties with respect to the Equipment and may be amended only in a writing signed by both parties. To the extent that any of the terms of this Agreement conflict with the terms set forth in any other agreement between the parties (and the effect of such conflict diminishes the rights of Bottler under this Agreement), the terms of this Agreement will control; provided further that removal of any Equipment will not affect the terms of any other agreement between the parties. No modification or waiver shall be enforceable unless in writing and signed by the party against whom enforcement is sought. Bottler shall be entitled to recover from Customer its reasonable attorneys' fees incurred in enforcing this Agreement. Any notices permitted or required by this Agreement will be in writing and mailed by certified mail or hand delivered, addressed to the respective addresses of the parties. The parties hereby waive trial by jury in any matter concerning this Agreement or the Equipment.

**EXHIBIT D-2**  
**COCA COLA NORTH AMERICA FOUNTAIN EQUIPMENT LEASE AGREEMENT**

**1. LEASE AGREEMENT AND TERM.** The Coca-Cola Company, through its Coca-Cola North America division, ("Company") hereby leases to the account identified on the attached Sponsorship Agreement ("Lessee") all fountain beverage dispensing equipment provided to Lessee (the "Equipment"), subject to the terms and conditions set forth in this Lease Agreement. Each piece of Equipment is leased commencing on its installation date (the "Commencement Date"). Company may remove any piece of Equipment for any reason upon thirty (30) days prior written notice to Lessee. If this Lease is terminated with respect to any piece of Equipment for any reason, other than Company removing a piece of Equipment without cause under this section, prior to 100 months from the Commencement Date for that piece of Equipment unless Lessee has terminated the Sponsorship Agreement for an uncured breach by Company or unless a concessionaire has assumed the Lease Agreement, Lessee will pay Company the actual cost of removal of that Equipment, as well as the unamortized portion of the costs of (i) installation, (ii) non-serialized parts (e.g., pumps, racks and regulators) and other ancillary equipment, (iii) remanufacturing, and (iv) standard shipping and handling charges. The terms of this Lease will continue in effect with respect to each piece of Equipment until the Equipment has been removed from Lessee's premises and will survive the expiration or termination of the Sponsorship Agreement. Company agrees that it will not charge Lessee for any removals or reinstallations of equipment removed and relocated due to remodeling on campus if Lessee agrees to store Company's equipment on campus until the equipment can be reinstalled in new locations.

**2. TITLE TO THE EQUIPMENT.** Title to the Equipment is, and will at all times remain, vested in Company. Lessee will have no right, title, or interest in or to the Equipment, except the right to quiet use of the Equipment in the ordinary course of its business as provided in this Lease. THE PARTIES AGREE, AND LESSEE WARRANTS, THAT THE EQUIPMENT IS, AND WILL AT ALL TIMES REMAIN, PERSONAL PROPERTY OF COMPANY NOTWITHSTANDING THAT THE EQUIPMENT OR ANY PART THEREOF MAY NOW BE, OR HEREAFTER BECOME, IN ANY MANNER AFFIXED OR ATTACHED TO, OR EMBEDDED IN, OR PERMANENTLY RESTING UPON, REAL PROPERTY OR IMPROVEMENTS ON REAL PROPERTY

**3. USE OF EQUIPMENT.** Lessee agrees that the Equipment will be used to dispense only Company Beverages.

**4. WARRANTY DISCLAIMER:** LESSEE ACKNOWLEDGES THAT COMPANY IS NOT A MANUFACTURER OF THE EQUIPMENT AND THAT COMPANY HAS MADE NO REPRESENTATIONS OF ANY NATURE WHATSOEVER PERTAINING TO THE EQUIPMENT OR ITS PERFORMANCE, WHETHER EXPRESS OR IMPLIED, INCLUDING (WITHOUT LIMITATION) ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR ANY OTHER WARRANTIES RELATING TO THE DESIGN, CONDITION, QUALITY, CAPACITY, MATERIAL OR WORKMANSHIP OF THE EQUIPMENT OR ITS PERFORMANCE, OR ANY WARRANTY AGAINST INTERFERENCE OR INFRINGEMENT, OR ANY WARRANTY WITH RESPECT TO PATENT RIGHTS, IF ANY, PERTAINING TO THE EQUIPMENT. COMPANY SHALL NOT BE RESPONSIBLE FOR ANY LOSS OF PROFITS, ANY DIRECT, INCIDENTAL OR CONSEQUENTIAL LOSSES, OR DAMAGES OF ANY NATURE WHATSOEVER, RESULTING FROM THE DELIVERY, INSTALLATION, MAINTENANCE, OPERATIONS, SERVICE OR USE OF ANY EQUIPMENT OR OTHERWISE.

**5. MAINTENANCE AND REPAIRS.** Lessee's sole recourse against Company with respect to service provided by Company or its agents to the Equipment is that Company will correct any defective workmanship at no additional charge to Lessee, provided that Company is given prompt notification of any defective workmanship. Company shall not be otherwise liable for negligent acts or omissions committed in regard to maintenance or repair of the Equipment and Company assumes no responsibility for incidental, consequential or special damages occasioned by such negligent acts or omissions.

**6. RISK OF LOSS.** All risk of loss, including damage, theft or destruction, to each item of Equipment will be borne by Lessee. No such loss, damage, theft or destruction of Equipment, in whole or in part, will impair the obligations of Lessee under this Lease, all of which will continue in full force and effect.

**7. DEFAULT AND REMEDIES.** The failure of Lessee to comply with any provision of this Lease, and the failure of Lessee to remedy, cure, or remove such failure within ten (10) days after receipt of written notice thereof from Company shall constitute a "Default." Upon the occurrence of any Default or at any time thereafter, Company may terminate this Lease as to any or all items of Equipment, may enter Lessee's premises and retake possession of the Equipment at Lessee's expense, and will have all other remedies at law or in equity for breach of this Lease.

**8. LIQUIDATED DAMAGES.** If Lessee is unable or unwilling to return the Equipment to Company in good working order, normal usage wear and tear excepted, at the expiration or termination of the Lease, Lessee shall pay as liquidated damages the total of: (i) the value of Company's residual interest in the Equipment, plus (ii) all tax indemnities associated with the Equipment to which Company would have been entitled if Lessee had fully performed this Lease, plus (iii) costs, interest, and attorneys' fees incurred by Company due to Lessee's violation of Section 2 or its failure to return the Equipment to Company, minus (iv) any proceeds or offset from the release or sale of the Equipment by Company.

**9. OTHER TERMS.** Lessee acknowledges and agrees to comply with all equipment manufacturers' specifications and product dispensing and preparation instructions and specifications. No failure by Company to exercise and no delay in exercising any of Company's rights hereunder will operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or of any other rights. THIS LEASE WILL BE GOVERNED BY THE LAWS OF THE STATE OF Louisiana.

**EXHIBIT E**  
**Insurance Requirements**

**INSURANCE**

1. Bottler, consistent with its status as an independent contractor will carry and will cause its subcontractors ("Subcontractors") to carry, at least the following insurance in the form, with companies admitted to do business in the State of Louisiana and having an A.M. Best Rating of A-:VII or better, and in amounts (unless otherwise specified), as University may require:

2. Workers Compensation Insurance with statutory limits, and Employer's Liability Insurance with limits of not less than \$1,000,000.00:

Policies must include (a) Other States Endorsement to include LOUISIANA if business is domiciled outside the State of Louisiana

3. Commercial General Liability Insurance with limits of not less than \$1,000,000.00:

- A. Each Occurrence Limit
- B. Fire Legal Liability
- C. Medical Expenses (any one person)
- D. Personal & Advertising Injury
- E. General Aggregate
- F. Products - Completed Operations Aggregate

Policy will include independent contractor's liability, covering, but not limited to, the liability assumed under the indemnification provision of this contract, fully insuring Bottler's (or Subcontractor's) liability for bodily injury (including death) and property damage.

4. Business Auto Liability Insurance covering all owned, non-owned or hired automobiles, with limits of not less than \$1,000,000 Combined Single Limit Bodily Injury and Property Damage;

5 Umbrella/Excess Liability Insurance with limits of not less than \$2,000,000 per occurrence and aggregate with a deductible of no more than \$10,000, and (i) providing coverage in excess of the coverage's of, and (ii) "following form" subject to the same provisions as, the underlying policies required in Section 11.1.1 Employers Liability Insurance, Section 11.1.2 Commercial General Liability Insurance, and Section 11.1.3 Commercial Auto Liability Insurance; and

6 Third Party Employee Crime Insurance to protect the assets and property of University with limits of not less than \$1,000,000 per claim. Independent contractors insurance will be primary to any insurance carried by The University Louisiana System or any of its Institutions.

7. Bottler will deliver to University:

Evidence satisfactory to University in its sole discretion, evidencing the existence of all insurance after the execution and delivery of this Agreement and prior to the performance or continued performance of any services to be performed by Bottler under this Agreement.

Additional evidence, satisfactory to University in its sole discretion, of the continued existence of all insurance not less than thirty (30) days prior to the expiration of any insurance. Insurance policies, with the exception of Workers' Compensation and Employer's Liability, will be endorsed and name University as an Additional Insured. All policies with the exception of Workers' Compensation and Employer's Liability will be endorsed to provide primary and non-contributory coverage. Bottler will endeavor to provide thirty (30) days' unconditional written notice to University prior to expiration of cancellation or non-renewal.

Bottler will be responsible for providing to University immediate notice of its receipt of a notice of cancellation, termination, material change, or non-renewal relating to any insurance policy required herein. This requirement may be satisfied by providing a copy of the notice received by the Bottler to the University within two business days or by endorsement of the policy to require notice to the University to be provided by the insurer.

**BOARD OF SUPERVISORS FOR THE  
UNIVERSITY OF LOUISIANA SYSTEM**

**FINANCE COMMITTEE**

**August 26, 2021**

**Item J.2.**     **Southeastern Louisiana University's** request for approval to modify the Student Publication Fee, an existing university-assessed fee, to establish financial support for Title IX needs.

**EXECUTIVE SUMMARY**

Southeastern Louisiana University is requesting permission to modify an existing university-assessed fee. The current fee was established in the mid-1960s and was implemented to support the student publication activity of the University including, but not limited to, the publication of the Lion's Roar, the students' weekly newspaper, and Le Souvenir, the annual yearbook. The current fee collected is \$12 per student each fall and spring semester and \$6 per student each summer. The fee generates approximately \$300,000 on an annual basis.

Recognizing the shift in how students receive and use information, the Office of Student Publications began utilizing electronic media to produce and distribute the weekly campus newspaper in the fall of 2020. Likewise, the campus yearbook will transition to a digital platform with a print version available as a purchase option. The transition from print to electronic media will result in significant savings. More importantly, the move to digital platforms is more closely aligned with market trends and curriculum which will better prepare students to be more competitive and effective in the workplace. This results in fewer resources being required to support this function, while enhancing the student experience.

At the same time, sexual assault and other power-based offenses across academia have increased, and Southeastern has experienced similar trends. The increase in caseload as well as increased expectations in training, accountability and support services will require more resources. Current staffing levels in relevant areas are not optimal to meet the needs associated with investigation and adjudication, victim support and training. Additional full-time staff will be hired to allow dedicated personnel to give the attention needed to the response and prevention of sexual assault and other power-based offenses. This proposal shifts resources, which would have been utilized primarily to pay for printed media, toward support for student discipline and victim support, particularly for power-based incident response, prevention, outreach, and victim assistance.

The proposal equally divides the existing \$12 fee resulting in a Student Publication Fee of \$6 per student each fall and spring semester and \$3 per student each summer, and a Title IX Support Fee of \$6 per student each fall and spring semester and \$3 per student each summer. The total amount currently assessed to students will remain unchanged.

The University is and has been extremely mindful of the impact cost of attendance on students and, as such, fees assessed at Southeastern remain some of the lowest among University of Louisiana System schools. However, the University is also incredibly mindful of the importance of Title IX issues and concerns and the repurposing of this fee, along with other University support provided for this purpose, will better position the University to meet the needs of students as it relates to both Title IX and Student Publications.

### **RECOMMENDATION**

It is recommended that the following resolution be adopted.

***NOW, THEREFORE, BE IT RESOLVED***, that the Board of Supervisors for the University of Louisiana System hereby approves Southeastern Louisiana University's request to modify an existing University-Assessed fee, the Student Publication Fee, by reducing the Student Publication Fee to \$6 per student each fall and spring semester and \$3 per student each summer and establishing a Title IX Support Fee at \$6 per student each fall and spring semester and \$3 per student each summer.

August 5, 2021

Dr. James B. Henderson, President  
University of Louisiana System  
1201 North Third Street, Suite 7-300  
Baton Rouge, Louisiana 70802

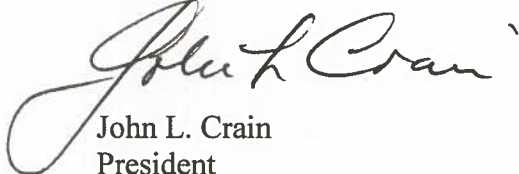
Dear Dr. Henderson:

Southeastern Louisiana University respectfully requests approval to modify an existing university-assessed fee, the Student Publication Fee, and establish a Title IX Support Fee. The modification will not result in an increase in the total amount of fees assessed to students. The modification will reallocate funds to provide additional support to address Title IX needs while maintaining an appropriate level of support for Student Publications given efficiencies that can be achieved through the use of electronic media.

This proposal reallocates resources, which historically have been utilized primarily to pay for printed media, towards support for student discipline and victim support, particularly for power-based incident response, prevention, outreach, and victim assistance. The proposal would equally divide the existing \$12.00 fee by reducing the Student Publication fee to \$6.00 per student each fall and spring semester and \$3.00 per student each summer and establishing a Title IX Support Fee at \$6.00 per student each fall and spring semester and \$3.00 per student each semester.

Please place this item on the Agenda for the August 26, 2021 meeting of the University of Louisiana System Board of Supervisors. Your consideration of this request is greatly appreciated.

Sincerely,



John L. Crain  
President

**BOARD OF SUPERVISORS FOR THE  
UNIVERSITY OF LOUISIANA SYSTEM**

**FINANCE COMMITTEE**

**August 26, 2021**

- Item J.3.**      **University of New Orleans'** request for approval to enter into a Cooperative Endeavor Agreement with Golden Leaf Energy to team up with University's Advanced Materials Research Institute (AMRI) to study biofoams.

**EXECUTIVE SUMMARY**

Golden Leaf Energy is a Louisiana biotechnology company working to develop biofuels and biofoams from natural, renewable sustainable sources, such as vegetable oils, and the University's Advanced Materials Research Institute (AMRI) is a recognized world leader in nanomaterials research. Golden Leaf Energy and AMRI will team up on the study of biofoams. Initial projects will investigate the structure and composition of synthesized biofoams.

Golden Leaf Energy will occupy space in UNO's Science Building, and the immediate proximity of Golden Leaf Energy to AMRI will readily allow for the exchange of ideas, the development of new technologies involving Golden Leaf Energy and AMRI researchers, characterization of materials prepared through this collaboration using AMRI state of the art instrumentation, the training of undergraduate and graduate students in biomaterials, and the development of State and Federal research proposals in basic and applied research. The proximity of Golden Leaf Energy to AMRI researchers will serve as a model for the development of other small businesses based on existing or new AMRI technologies involving various biomaterials.

This cooperative endeavor collaboration will:

1. Serve the public through the development of a small business in biotechnology - Golden Leaf Energy will employ Louisiana workers including students and graduates from UNO;
2. Serve to elevate the research programs of UNO faculty through the development of new collaborative projects;
3. Will bring in additional State and Federal funding through applied research programs (NSF, DOE, etc.) and small business development grants (SBIR);
4. Will serve to train undergraduate students through internships and graduate students through collaborative projects between AMRI faculty and Golden Leaf Energy.



This Cooperative Endeavor Agreement will begin on September 1, 2021 and terminate on August 31, 2022. The agreement may be extended for additional periods by mutual agreement of the parties.

### **RECOMMENDATION**

It is recommended that the following resolution be adopted:

***NOW, THEREFORE, BE IT RESOLVED***, that the Board of Supervisors for the University of Louisiana System hereby approves the University of New Orleans' request to enter into a Cooperative Endeavor Agreement with Golden Leaf Energy for the study of biofoams.

***BE IT FURTHER RESOLVED***, that Dr. John W. Nicklow, President of University of New Orleans, is hereby designated and authorized to execute any and all documents necessary to execute this Cooperative Endeavor agreement.

***AND FURTHER***, that UL System staff and legal counsel ensure that all documents conform to statutory and administrative requirements.



THE UNIVERSITY of  
NEW ORLEANS  
OFFICE OF THE PRESIDENT

J.3.

July 29, 2021

Dr. James B. Henderson  
President  
The University of Louisiana System  
1201 North Third Street  
Baton Rouge, LA 70802

Re: Cooperative Endeavor Agreement with Gold Leaf Energy

Dear Dr. Henderson,

On behalf of the University of New Orleans, I am requesting that the attached proposal to enter into a Cooperative Endeavor Agreement with Golden Leaf Energy be submitted to the University Of Louisiana System Board Of Supervisors for its consideration and approval.

Thank you for your consideration.

Sincerely,

John W. Nicklow  
President

**UNIVERSITY OF NEW ORLEANS**  
**COOPERATIVE ENDEAVOR AGREEMENT**

**THIS COOPERATIVE ENDEAVOR**, made and entered into this 1<sup>st</sup> day of September, 2021, by and between the University of New Orleans, a member of the University of Louisiana System, hereinafter referred to as “University,” and/or “UNO” and Golden Leaf Energy, Inc., hereinafter referred to as “Contracting Party” and/or “Golden Leaf Energy”.

**ARTICLE I**

**WITNESSETH:**

1.1 WHEREAS, Article VII, Section 14(C) of the Constitution of the State of Louisiana provides that “For a public purpose, the state and its political subdivisions...may engage in cooperative endeavors with each other, with the United States or its agencies, or with any public or private association, corporation, or individual;” and

1.2 WHEREAS, the University desires to cooperate with the Contracting Party in the implementation of the Project as hereinafter provided;

1.3 WHEREAS, the University has the authority to enter into this Agreement as evidenced by its governmental purpose to perform its public higher education mission of instruction, research and public service.

1.4 WHEREAS, the public purpose of the Project is described as: Golden Leaf Energy is a Louisiana biotechnology company working to develop biofuels and biofoams from natural, renewable, sustainable sources, such as vegetable oils, and the University’s Advanced Materials Research Institute (AMRI) is a recognized world leader in nanomaterials research. Golden Leaf Energy and AMRI will team up on the study of biofoams. Initial projects, for example, will investigate the structure and composition of synthesized biofoams. The immediate proximity of Golden Leaf Energy to AMRI readily allows for the exchange of ideas, the development of new technologies involving Golden Leaf Energy and AMRI researchers, characterization of materials prepared through this collaboration using AMRI state of the art instrumentation, the training of undergraduate and graduate students in biomaterials, and the development of state and federal research proposals in basic and applied research. Further, the proximity of Golden Leaf Energy to AMRI researchers will serve as a model for the development of other small businesses based on existing or new AMRI technologies involving various biomaterials. All of these aspects of this collaborative agreement will: 1) serve the public through the development of a small business in biotechnology – Golden Leaf Energy will employ Louisiana workers including students and graduates from UNO; 2) serve to elevate the research programs of UNO faculty through the development of new collaborative projects; 3) will bring in additional federal funding through applied research programs (NSF, DOE, etc.) and small business development grants (SBIR); and 4) will serve to train undergraduate students through internships and graduate students through collaborative projects between AMRI faculty and Golden Leaf Energy.

1.5 WHEREAS, the University has a reasonable expectation of receiving a benefit or value described in detail that is at least equivalent to or greater than the consideration described in this Agreement;

1.6 WHEREAS, the transfer or expenditure of public funds or property is not a gratuitous donation;

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties hereto agree as follows:

## **ARTICLE II**

### **SCOPE OF SERVICES**

2.1 The Contracting Party shall:

- a) Engage in collaborative research with AMRI researchers involving the development techniques for the characterization of Golden Leaf Energy biofoams.
- b) Work with AMRI researchers to seek state and federal funding in applied research and the development of small business.
- c) Provide internships for UNO undergraduates giving them experience in biofoam synthesis and characterization.
- d) Provide training in biofoam synthesis and characterization to graduate students that work for collaborating AMRI researchers.
- e) Give seminars at least 1-2 times a year, as part of the AMRI weekly program, on developments in Golden Leaf Energy in biomaterials, biofuels, biofoams, their synthesis and characterization and small business development. The latter will be especially important for those AMRI faculty that are planning the development of their own small businesses.

## **ARTICLE III**

### **DELIVERABLES**

3.1 Deliverables:

- a) Collaborative research with AMRI researchers will be established in techniques for the characterization of biomaterials.
- b) Golden Leaf Energy and AMRI researchers will apply for state and federal grants to further Golden Leaf Energy and UNO faculty research; these will include the Board of Regents Industrial ties program and NSF and/or DOE small business grants.



c) Golden Leaf Energy will host UNO undergraduates in internships in biofoam development and characterization.

d) Golden Leaf Energy researchers will give seminars sharing their expertise in biomaterials, biofuels, biofoams, characterization, and the development of small businesses.

#### **ARTICLE IV**

#### **BENEFITS TO CONTRACTING PARTY**

4.1 In consideration of the services described above, the University hereby agrees to provide benefits to the Contracting Party. Benefits will be received/provided in the following manner:

The Contracting Party will receive a reduced rental rate for space in UNO's Science Building. The benefits received by the University are commensurate with the benefits provided to the Contracting Party because the benefits received by the University are more than worth the value of reduced rent. These benefits include: the advancement in AMRI programs in the science and engineering of materials, development and discovery of new materials and materials applications, training of undergraduates through internship opportunities, and seminars on the technology and small business aspects of Golden Leaf Energy.

4.2 Additional Costs and Expenses. No additional costs or expenses incurred by the Contracting Party in performance of this Agreement shall be reimbursed or paid by the University unless agreed upon in writing by the parties.

#### **ARTICLE V**

#### **TERMINATION FOR CAUSE**

5.1 See Article XLIV.

#### **ARTICLE VI**

#### **NOT USED**

6.1 Not used.

#### **ARTICLE VII**

#### **OWNERSHIP OF WORK PRODUCT, CONFIDENTIALITY AND COPYRIGHT**

7.1 It is understood that any intellectual property developed solely by Contracting Party will be owned by Contracting Party, including but not limited to, any intellectual property developed solely by Contracting Party while on the Leased Premises, using University/AMRI equipment, or utilizing University/AMRI administrative staff, lab technicians, students or others who provide technical/administrative or other support. Any intellectual property developed by University will be owned by University. Any intellectual property jointly developed will be jointly owned by respective party and such joint efforts or collaboration shall be clarified in advance of such development in good faith. Both parties will make good faith efforts to identify appropriate ownership regarding jointly developed intellectual property. The University and the Contracting Party will enter into a mutually agreeable collaboration/non-disclosure agreement.

**ARTICLE VIII**  
**ASSIGNMENT**

8.1 Contracting Party shall not assign any interest in this Agreement and shall not transfer any interest in same (whether by assignment or novation), without prior written consent of the University, provided however, that claims for money due or to become due to Contracting Party from the University may be assigned to a bank, trust company, or other financial institution without such prior written consent. Notice of any such assignment or transfer shall be furnished promptly to the University. Additionally, the Contracting Party shall not subcontract any work to any party without the prior written consent of the University.

**ARTICLE IX**  
**FINANCIAL DISCLOSURE**

9.1 Each recipient shall be audited in accordance with R.S. 24:513. If the amount of public funds received by the provider is below the amount for which an audit is required under R.S. 24:513, the transferring agency shall monitor and evaluate the use of the funds to ensure effective achievement of the project goals and objectives.

**ARTICLE X**  
**AUDIT CLAUSE**

10.1 It is hereby agreed that the Legislative Auditor of the State of Louisiana, and/or the Office of the Governor, Division of Administration auditors shall have the option of inspecting and auditing all data, records and accounts of the Contracting Party which relate to this Agreement, upon request.

10.2 The Contracting Party and any subcontractors paid under this Agreement shall maintain all books and records pertaining to this Agreement for a period of four years after the date of final payment under the prime contract and any subcontract entered into under this Agreement or four years from the date of termination of the prime contract and any subcontract entered into under this Agreement, whichever is later.

**ARTICLE XI**  
**AMENDMENTS IN WRITING**

11.1 Any alteration, variation, modification, or waiver of provisions of this Agreement shall be valid only when it has been reduced to writing and executed by all parties.

**ARTICLE XII**  
**FISCAL FUNDING (NON-APPROPRIATION) CLAUSE**

12.1 In the event funds are not budgeted or appropriated in any fiscal year for payments due under this Agreement for the then current or succeeding fiscal year, this Agreement shall impose no obligation on the University as to such current or succeeding fiscal year, and said Agreement shall become null and void, and no right of action shall accrue to the benefit of the Contracting Party, its successors or assigns for any further payments.



**ARTICLE XIII**  
**TERM OF AGREEMENT**

13.1 The term of this Agreement shall commence on September 1, 2021 and shall continue in effect until August 31, 2022, unless sooner terminated as provided in Paragraph XLIV. This agreement may be extended for additional periods by mutual agreement of the parties.

**ARTICLE XIV**  
**DISCRIMINATION CLAUSE**

14.1 The Contracting Party agrees to abide by the requirements of the following as applicable: Title VI and VII of the Civil Rights Act of 1964, as amended by the Equal Opportunity Act of 1972, Federal Executive Order 11246, the Federal Rehabilitation Act of 1973, as amended, the Vietnam Era Veteran's Readjustment Assistance Act of 1974, Title IX of the Education Amendments of 1972, as amended, the Age Act of 1975, as amended, and Contracting Party agrees to abide by the requirements of the Americans with Disabilities Act of 1990, as amended. Contracting Party agrees not to discriminate in its employment practices and will render services under this Agreement without regard to race, color, religion, sex, sexual orientation, national origin, veteran status, political affiliation, or disabilities. The Contracting Party acknowledges and agrees that any act of unlawful discrimination committed by Contracting Party, or any other failure to comply with these statutory obligations when applicable shall be grounds for termination of this Agreement.

**ARTICLE XV**  
**INDEMNIFICATION; INSURANCE**

15.1 See Articles XXXVIII and XL.

**ARTICLE XVI**  
**PARTIAL INVALIDITY; SEVERABILITY**

16.1 If any term, covenant, condition, or provision of this Agreement or the application thereof to any person or circumstances shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant, condition or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition, and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

**ARTICLE XVII**  
**ENTIRE AGREEMENT; MODIFICATION**

17.1 This Agreement, including any attachments that are expressly referred to in this Agreement, contains the entire agreement between the parties and supersedes any and all agreements or contracts previously entered into between the parties. No representations were

made or relied upon by either party, other than those that are expressly set forth. This Agreement may be modified or amended at any time by mutual consent of the parties, provided that, before any modification or amendment shall be operative and valid, it shall be reduced to writing and signed by both parties.

#### **ARTICLE XVIII** **CONTROLLING LAW**

18.1 The validity, interpretation, and performance of this Agreement shall be controlled by and construed in accordance with the laws of the State of Louisiana.

#### **ARTICLE XIX** **LEGAL COMPLIANCE**

19.1 The University shall comply with all federal, state, and local laws and regulations, including, specifically, the Louisiana Code of Governmental Ethics (R.S. 42:1101, et seq.) in carrying out the provisions of this Agreement.

#### **ARTICLE XX** **RELATIONSHIP BETWEEN THE PARTIES; EXCLUSION OF BENEFITS**

20.1 The Contracting Party is engaged by the University for the purposes set forth in this Agreement. The relationship between the Contracting Party and the University shall be, and only be, that of an independent contractor and the Contracting Party shall not be construed to be an employee, agent, partner of, or in joint venture with, the University.

#### **ARTICLE XXI** **ACKNOWLEDGMENT OF EXCLUSION OF WORKER'S COMPENSATION COVERAGE**

21.1 The University and the Contracting Party expressly agree that the Contracting Party is an independent contractor as defined in R.S. 23:1021(7) and, as such, expressly agree that the University shall not be liable to the Contracting Party or to anyone employed by the Contracting Party for any benefits or coverage as provided by the Worker's Compensation Law of the State of Louisiana.

#### **ARTICLE XXII** **ACKNOWLEDGMENT OF EXCLUSION OF UNEMPLOYMENT COMPENSATION COVERAGE**

22.1 The University and the Contracting Party expressly declare and acknowledge that the Contracting Party is an independent contractor and, as such, is being engaged by the University under this Agreement as noted and defined in R.S. 23:1472(12)(E) and, therefore, it is expressly declared and understood between the parties hereto, that for the purposes of unemployment compensation only: A. The Contracting Party has been and will be free from any control or



direction by the University over the performance of the services covered by this Agreement; B. The services to be rendered by the Contracting Party are outside the normal course and scope of the University's usual business; and C. The Contracting Party is customarily engaged in an independently established trade, occupation, profession, or business. Consequently, neither the Contracting Party nor anyone employed or contracted by the Contracting Party shall be considered an employee of the University for the purpose of unemployment compensation coverage.

### **ARTICLE XXIII**

#### **FORCE MAJEURE**

23.1 Neither party to this Agreement shall be responsible to the other party hereto for any delays or failure to perform caused by any circumstances reasonably beyond the immediate control of the party prevented from performing, including, but not limited to, acts of God.

### **ARTICLE XXIV**

#### **EMPLOYMENT OF STATE PERSONNEL**

24.1 The Contracting Party certifies that it has not employed and will not employ any person to engage in the performance of this Agreement who is, presently, or at the time of such employment, an employee of the State of Louisiana.

### **ARTICLE XXV**

#### **COVENANT AGAINST CONTINGENT FEES**

25.1 The Contracting Party warrants that it has not employed or retained any entity or person, other than a bona fide employee working solely for the Contracting Party, to solicit or secure this Agreement, and that it has not paid or agreed to pay any entity or person, other than a bona fide employee working solely for the Contracting Party any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the University shall have the right to annul this Agreement without liability or, in University's discretion, to deduct from the contract price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

### **ARTICLE XXVI**

#### **REMEDIES FOR DEFAULT**

26.1 See Article XLIV.

### **ARTICLE XXVII**

#### **NOTICES**

27.1 All notices and other communications pertaining to this Agreement shall be in writing and shall be transmitted either by personal hand-delivery (and receipted for) or deposited in the United States mail, as certified mail, return receipt requested and postage prepaid, to the other party, addressed as follows:

John Wiley  
President's Research Professor and Director of AMRI  
University of New Orleans  
Science Building Room 2064  
New Orleans, Louisiana 70148

Troy Clark  
Golden Leaf Energy, Inc.  
2000 Lakeshore Dr.  
New Orleans, LA 70148

## **ARTICLE XXVIII**

### **PREMISES**

28.1 PREMISES. University owns a tract of property with improvements located at 2000 Lakeshore Drive, New Orleans, LA 70148, hereinafter referred to as "University's Tract", and Contracting Party wishes to lease a part thereof. University agrees to lease and does hereby lease to Contracting Party and Contracting Party does hereby agree to lease and does hereby lease from University, delivery of possession of which is hereby acknowledged, a portion of University's Tract, hereinafter referred to as the "Leased Premises". The Leased Premises shall consist of that portion of the University of New Orleans' Science Building ("Science Building"), an improvement located on University's Tract, totaling approximately 187.9 square feet. This 187.9 square feet is lab space in Science 2038. The use of the lab benches and sinks are included in this Agreement. Licensee may use other University equipment for an additional charge. The Contracting Party will have shared use of Common Areas as described herein.

## **ARTICLE XXIX**

### **NOT USED**

29.1 NOT USED

## **ARTICLE XXX**

### **RENT**

30.1 RENT. Rental rates have been calculated as follows: \$15.30 per square foot for 187.9 square feet of laboratory space and \$12.60 per square foot for any future office space. This Agreement is made for an annual rent of \$2,874.87 which is an average price per square foot of \$15.30. Rent is payable in a monthly amount of TWO HUNDRED THIRTY-NINE AND 57/100 DOLLARS (\$239.57) due on the first day of each month, in advance, to University, at University's permanent mailing address as noted in section 27 of this agreement. Electrical, water, gas, taxes, property insurance, flood insurance, basic ongoing repairs, A/C & heating systems, lawn care, pest control (including termite), fire system maintenance, and waste management are the responsibility of the University. Telephone, internet, cable, janitorial and disposal of waste (other than common trash) are the responsibility of Contracting Party. Internet and phone service, if needed will be through Cox cable, which will be invoiced separately.



Parking will be available to Licensee's employees and guests according to UNO's Parking Policies <http://www.uno.edu/upd/docs/UNOParking2014.pdf>

#### **ARTICLE XXXI**

#### **COMMON AREAS**

31.1 COMMON AREAS. Contracting Party will have the non-exclusive right, along with the other tenants of the Science Building and their employees and invitees, to use the parking areas, landscaped areas, entrance ways, hallways, elevators, fire stairs, restrooms, loading dock and other areas designated from time to time by University for common tenant use (the "Common Areas"). In using the Common Areas, Contracting Party will not impede the use of the Common Areas by other tenants, and Contracting Party will use its best efforts to prevent its employees and invitees from loitering in the Common Areas or using the Common Areas for other than their intended purpose. University will have exclusive control and management over the Common Areas and will have the right, from time to time, to establish rules and regulations with respect to the use of the Common Areas, to restrict parking by employees of Contracting Party to designated parking areas, to close temporarily any portion of the Common Areas, and to increase, reduce, reconfigure, or change the Common Areas in any way University determines to be necessary or desirable. University will have no liability to Contracting Party by reason of any such closure, increase, reduction, reconfiguring, or other change in the Common Areas.

Contracting Party shall use its best efforts to cause its agents, employees, permittees and invitees to keep the Common Areas in good condition. Any dispute between Contracting Party and any other tenant on University's Tract regarding the repair, upkeep, maintenance, and appearance of the Common Areas or use of the Common Areas shall be resolved by a meeting with the parties and an agreement between the parties. University shall decide what, if any, repairs, upkeep, and maintenance shall be performed to the Common Areas and University shall select the contractor to perform any such repair, upkeep, and maintenance.

#### **ARTICLE XXXII**

#### **USE OF PREMISES**

32.1 USE OF PREMISES. Contracting Party may use the Leased Premises only for conducting research related to advancing the development of green technologies based on renewable nonhazardous resources. Contracting Party shall not cause or permit any hazardous or toxic substances to be present on or about University's Tract. The Common Areas are for the use of Contracting Party and University and all of University's tenants on University's Tract. Contracting Party shall not make any use of Leased Premises and Common Areas in violation of any statutes, ordinances, or laws and shall not permit any contamination or pollution on or about the premises or increase the fire or insurance hazard by any use thereof.

**ARTICLE XXXIII**  
**REPAIRS, UPKEEP AND MAINTENANCE**

33.1 REPAIRS, UPKEEP AND MAINTENANCE. Contracting Party shall keep the Common Areas and Leased Premises in as good condition as they were in when received, caring for them as a prudent administrator would care for his own property.

University shall be responsible for all ordinary upkeep, maintenance, and repairs to the Leased Premises arising from use of the premises except those repairs which are necessitated in whole or in part by the fault or neglect of Contracting Party. University shall select the contractor to perform any such upkeep, maintenance, and repairs. University shall be responsible for extraordinary repairs to the structure and roof of the building except those repairs which are necessitated in whole or in part by the fault or neglect of Contracting Party.

Contracting Party shall provide, install and pay all costs and expenses associated with equipment he may need to conduct his business and operations from the Leased Premises.

At the termination of this Agreement, by expiration of the term or otherwise, Contracting Party shall return Leased Premises in as good an order as they were when received, free from any contamination or pollution.

**ARTICLE XXXIV**  
**CONTAMINATION OR POLLUTION**

34.1 CONTAMINATION OR POLLUTION. Contracting Party and their employees shall use their best efforts to keep University's Tract free from any and all contamination and pollution, whether resulting from any overfill, discharge, spill, or other release of toxic or hazardous substances or otherwise. Contracting Party agrees to notify University immediately of any and all contamination or pollution on or about University's Tract, including but not limited to, notice of any and all overfills, spills, discharges, or other releases of petroleum products on or about University's Tract irrespective of the cause of such.

Contracting Party and their employees shall conform to any and all federal, state, or local laws or ordinances concerning the storage, handling, transportation, sale, or distribution of all hazardous or toxic substances and shall use their best effort to cause their permittees and invitees to conform thereto, and Contracting Party will save and hold University harmless for any charge or liability resulting from same. Contracting Party shall promptly reimburse University for Contracting Party's pro rata share of any costs, charges or assessments related to any environmental monitoring by any governmental entity or regulatory authority that resulted from contaminants caused by Contracting Party, which shall be considered as additional rent. If contaminants were caused by University, University will pay all of the associated costs listed above.



**ARTICLE XXXV**  
**RENOVATIONS, ALTERATIONS AND IMPROVEMENTS**

35.1 RENOVATIONS, ALTERATIONS AND IMPROVEMENTS. Contracting Party shall not construct any improvements on or make any renovations or alterations to the Common Areas or Leased Premises without first obtaining the written consent of University. All such renovations, alterations, and improvements constructed by Contracting Party shall become the property of University upon expiration or termination of this Agreement unless University requires removal of all or part of such improvements by Contracting Party, in which event such improvements as may be designated by University shall be removed by Contracting Party, at Contracting Party's expense, within thirty (30) days of the expiration or termination of this Agreement. Damages, if any, caused by such removal shall be repaired at Contracting Party's expense.

Any and all installations, improvements or other work performed by or for Contracting Party to the Leased Premises shall, upon termination of this Agreement, become property of the University.

Prior to the commencement of any of the renovations, alterations, or improvements described herein above, Contracting Party shall promptly notify University, in writing, of all construction work being undertaken or planned, the costs and expenses thereof, all purchase orders or agreements therefore, and the dates upon which Contracting Party shall pay such costs and expenses. Upon request by University, Contracting Party shall promptly furnish University with copies of all such documents. All renovations, alterations, or improvements shall be done in a thoroughly workmanlike manner and at the sole cost and expense of Contracting Party, all of which costs and expenses shall be promptly and timely paid by Contracting Party.

**ARTICLE XXXVI**  
**BONDING OUT LIENS**

36.1 BONDING OUT LIENS. In the event Contracting Party makes any renovations, alterations, or improvements as provided herein, and a laborer's or material man's lien is filed against University's Tract or any part thereof as a result of said renovations, alterations or improvements, Contracting Party shall promptly deposit with the recorder of mortgages of Orleans Parish, Louisiana, a bond guaranteeing payment of said lien in accordance with Louisiana Revised Statute 9:4835, as amended.

**ARTICLE XXXVII**  
**ASSIGNMENT AND SUBLEASE**

37.1 ASSIGNMENT AND SUBLEASE. Contracting Party shall not have the right to sublease and/or assign any portion of the Leased Premises.

## **ARTICLE XXXVIII**

### **INSURANCE**

38.1 **INSURANCE.** University shall obtain and maintain fire and extended coverage insurance on University's Tract and such insurance shall be for the sole benefit of University. All proceeds, payments, and rights to proceeds and payments made by an insurer pursuant to said policies are payable only to University and Contracting Party shall not be a beneficiary of said policies. Any insurance payments or proceeds shall be used to repair and restore, to the extent possible, the Common Areas and Leased Premises to their pre-damage condition; however, University shall not be obligated to make repairs to the extent that the cost of such repairs exceeds the amount of the insurance payments or proceeds actually received.

Contracting Party shall, at their own cost and expense, obtain and maintain such other insurance as it deems desirable on the property and improvements of Contracting Party located on or about the Leased Premises. Contracting Party shall, at all times during the term of this Agreement, at their own cost and expense, fully protect themselves and University against loss or liability by carrying Workers' Compensation and public liability insurance with responsible insurance companies authorized to do business in Louisiana, insuring against all hazards and risks to which they may be subjected in connection with their operations on the Leased Premises and Common Areas. University shall be named as an additional insured. Without limiting the generality of the foregoing:

- a) Contracting Party shall carry an Employer's Liability and Workers' Compensation Liability Insurance policy for full coverage and protection against liability to employees.
- b) Contracting Party shall secure and keep in force, during the performance of the operations on the Leased Premises and Common Areas, such public liability and property damage insurance as shall protect them and the University from any and all claims for personal injury, including death, as well as claims for property damage, which may arise from Contracting Party's operations on the Leased Premises or Common Areas. The amount of such public liability insurance shall not be less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) for injuries, including death, to any one person, and not less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) as the result of any one accident. General liability insurance for property damage shall be in an amount not less than ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00) for any one accident.

Prior to or subsequent to the commencement of this Agreement, Contracting Party, upon demand by University, shall furnish certificates of all insurance policies required in connection with this agreement as aforesaid, which policies shall be issued to Contracting Party and/or University, as their interests may appear, together with certificates certifying to University that all said insurance is in force and that said insurance will not be canceled or otherwise changed or modified during the term of this agreement without notifying University in writing at least thirty (30) days in advance of such cancellation.



Should Contracting Party's insurance be cancelled for any reason, University has the non-exclusive option, but not the obligation, of obtaining insurance coverage for the benefit of Contracting Party, the cost of which Contracting Party must pay and reimburse University promptly upon demand as additional rent.

#### **ARTICLE XXXIX** **DESTRUCTION OF PREMISES**

39.1 DESTRUCTION OF PREMISES. If the Leased Premises shall be destroyed or damaged by fire or otherwise during the term of this Agreement, the University shall restore the Leased Premises to substantially its former condition as promptly as is reasonably possible, the cost of which is limited to insurance payments or proceeds actually received as provided above. During any period in which Contracting Party is unable to occupy the premises on account of such damage, the rent due under this Agreement for said period shall be abated. In case the damage by fire or otherwise substantially reduces the use of the Leased Premises by the Contracting Party, but does not wholly prevent the reasonable use thereof, then, in such case, the rents due under this Agreement shall be abated in proportion to the diminished utility of the Leased Premises.

#### **ARTICLE XL** **INDEMNITY**

40.1 INDEMNITY. Contracting Party's assuming possession of the Leased Premises and Common Areas constitutes an admission that Contracting Party has examined them and found them in good and safe condition at that moment. Contracting Party agrees to hold University harmless from any and all responsibility whatsoever for any and all liability for loss, injuries, or damages caused by Contracting Party or others by any vice or defect of the Leased Premises and/or Common Areas caused in whole or in part by any act or omission by Contracting Party. Contracting Party expressly assumes all such liability, and Contracting Party agrees to indemnify and to hold University harmless from any loss, injury, or damage (including costs and reasonable attorney's fees) to any person or persons whomsoever, other than employees or invitees of University caused by Contracting Party, or to the property of any persons whomsoever arising out of the occupancy or use of the Leased Premises or Contracting Party's use of the Common Areas. Likewise, University agrees to indemnify and hold Contracting Party harmless for any loss, injuries, or damages caused by any latent defect in the property that could not be reasonably be detected by Contracting Party

#### **ARTICLE XLI** **AMUSEMENT DEVICES AND VENDING MACHINES**

41.1 AMUSEMENT DEVICES AND VENDING MACHINES. Contracting Party shall not maintain or otherwise allow any currency, coin or token operated amusement devices or video games on or about the Leased Premises or Common Areas. Contracting Party shall not maintain or otherwise allow any type of vending machine on or about the Leased Premises or Common Areas without University's prior consent.

**ARTICLE XLII**  
**IMAGE REQUIREMENT**

42.1 IMAGE REQUIREMENT. Contracting Party shall keep the Leased Premises and Common Areas in a clean and orderly condition to the satisfaction of University. Contracting Party shall not make use of outdoor advertising materials without University's prior consent. Contracting Party shall keep the Leased Premises in accordance with the image standards required by University.

**ARTICLE XLIII**  
**INSPECTION OF LEASED PREMISES AND OTHER**

43.1 INSPECTION OF LEASED PREMISES AND OTHER. The University and his agents shall have the right, but not the obligation, to enter upon and inspect all parts of the Leased Premises at any reasonable time for any lawful purpose; provided, however, that the foregoing shall be done with reasonable notice and without substantial interruption to or interference with the business being transacted therein. University may place any signs or markings on or about the Leased Premises and/or Common Areas relating to the leasing, sale or other disposition of the Leased Premises, University's Tract, or any part thereof. University shall also be entitled to allow others to inspect the Leased Premises in the event of any prospective lease, sale or other disposition of the Leased Premises, University's Tract or any part thereof.

**ARTICLE XLIV**  
**DEFAULT**

44.1 DEFAULT. At the option of University, the rent for the unexpired term of this Agreement shall become due if any of the following listed events occur and Contracting Party fails to remedy same after having been given thirty (30) days prior written notice at the addresses herein designated:

- (a) If Contracting Party fails to pay any installment of rent, additional rent or expenses assumed by Contracting Party in this Agreement promptly, as stipulated.
- (b) If Contracting Party fails to comply with any of the provisions and/or conditions contained herein.
- (c) If the Leased Premises or Common Areas are abandoned or cease to be actively occupied and used for business purposes for a period in excess of thirty (30) days.
- (d) If any lien, privilege or other encumbrance is imposed or is filed against University's Tract or any portion thereof as a result of any act or omission by Contracting Party.

If any event listed above occurs, University shall have the further options to cancel this Agreement immediately, or proceed for past due installments of rent only, reserving the right to proceed for remaining installments later.

If Contracting Party fails or refuses to permit University to reenter the premises, University shall have the right to evict Contracting Party in accordance with the provisions of Louisiana



law, without forfeiting any of University's rights under this Agreement. Failure to strictly and promptly enforce any of the conditions of this Agreement shall not operate as a waiver of University's rights hereunder.

#### **ARTICLE XLV** **ATTORNEY'S FEES**

45.1 ATTORNEY'S FEES. On claims by University to collect fees owed by Contracting Party, Contracting Party shall pay University's costs and attorney's fees if University prevails as to any portion of such a claim. If Contracting Party prevails University will pay Consulting Party's costs and attorney's fees. Should either party fail to pay any sums due to other party under this Agreement, such sums shall bear interest at the rate of twelve percent (12%) per annum or the maximum amount allowed by Louisiana law from date due until paid.

#### **ARTICLE XLVI** **WAIVER**

46.1 WAIVER. The waiver by University of any breach of any term, covenant, condition or provision herein contained shall not be deemed to be a waiver of such term, covenant, condition or provision with respect to any preceding or subsequent breach of the same or any other term, covenant, condition or provision hereunder.

No term, covenant, condition or provision of this Agreement shall be deemed to have been waived by University, unless such waiver is in writing by University.

#### **ARTICLE XLVII** **HOLDOVER BY CONTRACTING PARTY**

47.1 HOLDOVER BY CONTRACTING PARTY. If Contracting Party shall not immediately surrender possession of the Leased Premises or Common Areas upon the expiration of this Agreement, Contracting Party, at the option of University, shall thereafter become a Contracting Party from month-to-month at a monthly rental equal to one and one-tenth times the previous month's rent installment, subject to all other conditions, provisions, and obligations of this Agreement insofar as the same are applicable to a month-to-month tenancy, and Contracting Party shall indemnify University against loss or liability resulting from Contracting Party's delay in so surrendering the Leased Premises or Common Areas including, but not limited to, reasonable attorney's fees and any claim made by a succeeding Contracting Party founded on such delay.

#### **ARTICLE XLVIII** **UNIVERSITY'S RIGHT TO CURE DEFAULTS**

48.1 UNIVERSITY'S RIGHT TO CURE DEFAULTS. University, at any time and without notice, may, but shall not be obligated to, cure any default by Contracting Party of any of Contracting Party's obligations under this Agreement; and whenever University so elects, all costs and expenses incurred by University in curing any default, including, but not limited to,

reasonable attorney's fees, together with interest on the amount of costs and expenses so incurred at the legal rate, shall be paid by Contracting Party to University on demand, and shall be recoverable as additional rent.

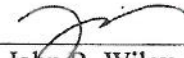
**ARTICLE XLIX**  
**SUBSTITUTION OF PREMISES**

49.1 SUBSTITUTION OF PREMISES. University reserves the right to substitute for the Leased Premises comparable premises within the UNO campus (University's Tract) upon sixty (60) days prior written notice to Contracting Party. If University elects to make this substitution, the substitute premises will be leased to Contracting Party at the same Rent that Contracting Party is required to pay under this Agreement, and on the other terms of this Agreement, and University will pay all of Contracting Party's reasonable relocation costs, including, but not limited to, moving and telecommunications (including internet services).


**ARTICLE L**  
**COMPLIANCE WITH RULES AND REGULATIONS**

50.1 COMPLIANCE WITH RULES AND REGULATIONS. Contracting Party and Contracting Party's employees, agents, and visitors shall observe and comply with the Rules and Regulations that are annexed hereto and made a part hereof as Exhibit "A" and all other reasonable rules and regulations that University may from time to time adopt. Additional rules and regulations will not be binding on Contracting Party until University has given Contracting Party notice of said rules and regulations. **THUS DONE AND SIGNED AT New Orleans, Louisiana, on the 1<sup>st</sup> day of September, 2021.**

WITNESSES:


  
\_\_\_\_\_  
John B. Wiley, Ph.D., Professor of  
Chemistry and Director of AMRI

University of New Orleans

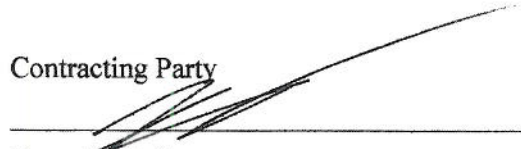
  
\_\_\_\_\_  
Gloria J. Walker, Ed.D., MBA, CPA  
Vice President of Business Affairs and CFO

**THUS DONE AND SIGNED AT New Orleans, Louisiana, on the 1st day of September, 2021.**

WITNESSES:

  
\_\_\_\_\_  
Evette Clark

Contracting Party

  
\_\_\_\_\_  
Troy A. Clark  
Golden Leaf Energy, Inc.

# EXHIBIT A

Firearm-free Zone <http://www.uno.edu/upd/weapons.aspx>

Tobacco Free Campus Policy <http://www.uno.edu/president/administrative-policies/documents/AP-OP-04.3-Tobacco-Use-Free-Campus.pdf>

Alcohol and Drugs <http://www.uno.edu/president/administrative-policies/documents/AP-SA-02.2-Alcohol-and-Drugs-4-30-14.pdf>

Accident Reports Involving Non-Employees <http://www.uno.edu/president/administrative-policies/documents/AP-OP-12.2-Accident-Reports-Involving-Non-Employees.pdf>

UNO Disaster/Emergency Plans [http://www.uno.edu/president/administrative-policies/documents/AP-OP-09.2\\_UNO\\_Disaster\\_Emergency\\_Plans.pdf](http://www.uno.edu/president/administrative-policies/documents/AP-OP-09.2_UNO_Disaster_Emergency_Plans.pdf)

Parking and Traffic Regulations <http://www.uno.edu/upd/docs/UNOParking2014.pdf>

**BOARD OF SUPERVISORS FOR THE  
UNIVERSITY OF LOUISIANA SYSTEM**

**FINANCE COMMITTEE**

**August 26, 2021**

- Item J.4.**      **University of New Orleans'** request for approval to enter into a Cooperative Endeavor Agreement with Cell Free Systems, Inc. for the development of nanoscale inorganic-biomaterial composites.

**EXECUTIVE SUMMARY**

Cell Free Systems is a Louisiana biotechnology startup company working to develop methods for producing cell-free protein expression extract as well as testing the activity of the extract, and the University's Advanced Materials Research Institute (AMRI) is a recognized world leader in nanomaterials research. Cell Free Systems and AMRI will explore electrochemical methods to aid protein production and the development of nanoscale inorganic-biomaterial composites for potential application in biosensors, molecular interaction studies, energy harvesting, or water purification.

Cell Free Systems will occupy space in UNO's Science Building and the immediate proximity of Cell Free Systems to AMRI will readily allow for the exchange of ideas, the development of new technologies involving Cell Free Systems and AMRI researchers, characterization of materials using AMRI state of the art instrumentation, the training of undergraduate and graduate students in manufacturing of bulk materials, and the development of State and Federal research proposals in basic and applied research. The proximity of Cell Free Systems to AMRI researchers will serve as a model for the development of other small businesses based on existing AMRI technologies in nanomaterials.

This cooperative endeavor collaboration will:

1. Serve the public through the development of a small business in biotechnology – Cell Free Systems will employ Louisiana workers including student and graduates from UNO;
2. Serve to elevate the research programs of UNO faculty through the development of new collaborative projects;
3. Will bring in additional State and Federal funding through applied research programs (BOR, NSF, etc.) and small business development grants (SBIR);
4. Will serve to train undergraduate students through internships and graduate students through collaborative projects between AMRI faculty and Cell Free Systems.

This Cooperative Endeavor Agreement will begin on September 1, 2021 and terminate on August 31, 2022. The agreement may be extended for additional periods by mutual agreement of the parties.

### **RECOMMENDATION**

It is recommended that the following resolution be adopted:

***NOW, THEREFORE, BE IT RESOLVED***, that the Board of Supervisors for the University of Louisiana System hereby approves the University of New Orleans' request to enter into a Cooperative Endeavor Agreement with Cell Free Systems, Inc. for the development of nanoscale inorganic-biomaterial composites.

***BE IT FURTHER RESOLVED***, that Dr. John W. Nicklow, President of University of New Orleans, is hereby designated and authorized to execute any and all documents necessary to execute this Cooperative Endeavor Agreement.

***AND FURTHER***, that UL System staff and legal counsel ensure that all documents conform to statutory and administrative requirements.





J.4.

THE UNIVERSITY of  
**NEW ORLEANS**  
OFFICE OF THE PRESIDENT

July 29, 2021

Dr. James B. Henderson  
President  
The University of Louisiana System  
1201 North Third Street  
Baton Rouge, LA 70802

Re: Cooperative Endeavor Agreement with Cell Free Systems

Dear Dr. Henderson,

On behalf of the University of New Orleans, I am requesting that the attached proposal to enter into a Cooperative Endeavor Agreement with Cell Free Systems be submitted to the University Of Louisiana System Board Of Supervisors for its consideration and approval.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read 'JW Nicklow'.

John W. Nicklow  
President

**UNIVERSITY OF NEW ORLEANS**  
**COOPERATIVE ENDEAVOR AGREEMENT**

**THIS COOPERATIVE ENDEAVOR**, made and entered into this 1st day of September, 2021, by and between the University of New Orleans, a member of the University of Louisiana System, hereinafter referred to as “University,” and/or “UNO” and Cell Free Systems, Inc., hereinafter referred to as “Contracting Party” and/or “Cell Free Systems”.

**ARTICLE I**

**WITNESSETH:**

1.1 WHEREAS, Article VII, Section 14(C) of the Constitution of the State of Louisiana provides that “For a public purpose, the state and its political subdivisions...may engage in cooperative endeavors with each other, with the United States or its agencies, or with any public or private association, corporation, or individual;” and

1.2 WHEREAS, the University desires to cooperate with the Contracting Party in the implementation of the Project as hereinafter provided;

1.3 WHEREAS, the University has the authority to enter into this Agreement as evidenced by its governmental purpose to perform its public higher education mission of instruction, research and public service.

1.4 WHEREAS, the public purpose of the Project is described as: Cell Free Systems is a Louisiana biotechnology startup company working to develop methods for producing cell-free protein expression extract as well as testing the activity of the extract and the University’s Advanced Materials Research Institute (AMRI) is a recognized world leader in nanomaterials research. Cell Free Systems and AMRI will explore electrochemical methods to aid protein production and the development of nanoscale inorganic-biomaterial composites for potential applications in biosensors, molecular interaction studies, energy harvesting, or water purification. The immediate proximity of Cell Free Systems to AMRI readily allows for the exchange of ideas, the development of new technologies involving Cell Free Systems and AMRI researchers, characterization of materials prepared through this collaboration using AMRI state of the art instrumentation, the training of undergraduate and graduate students in manufacturing of bulk materials, and the development of state and federal research proposals in basic and applied research. Further, the proximity of Cell Free Systems to AMRI researchers will serve as a model for the development of other small businesses based on existing AMRI technologies in nanomaterials. All of these aspects of this collaborative agreement will: 1) serve the public through the development of a small business in biotechnology – Cell Free Systems will employ Louisiana workers including students and graduates from UNO; 2) serve to elevate the research programs of UNO faculty through the development of new collaborative projects; 3) will bring in additional state and federal funding through applied research programs (BOR, NSF, etc.) and small business development grants (SBIR); and 4) will serve to train undergraduate students through internships and graduate students through collaborative projects between AMRI faculty and Cell Free Systems.

1.5 WHEREAS, the University has a reasonable expectation of receiving a benefit or value described in detail that is at least equivalent to or greater than the consideration described in this Agreement;

1.6 WHEREAS, the transfer or expenditure of public funds or property is not a gratuitous donation;

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties hereto agree as follows:

## **ARTICLE II**

### **SCOPE OF SERVICES**

2.1 The Contracting Party shall:

- a) Engage in collaborative research with AMRI researchers involving the development of electrochemical methods to aid protein production and nanoscale inorganic-biomaterial composites.
- b) Work with AMRI researchers to seek state and federal funding in applied research and the development of small business.
- c) Provide internships for UNO undergraduates giving them experience in cell free protein production.
- d) Provide training in cell free protein production to graduate students that work for collaborating AMRI researchers.
- e) Give seminars at least 1-2 times a year, as part of the AMRI weekly program, on developments cell free protein production and small business development. The latter will be especially important for those AMRI faculty that are planning the development of their own small businesses.

## **ARTICLE III**

### **DELIVERABLES**

3.1 Deliverables:

- a) Collaborative research with AMRI researchers will be established in electrochemical aids to protein production and inorganic-biomaterial composites.
- b) Cell Free Systems and AMRI researchers will apply for state and federal grants to further Cell Free Systems and UNO faculty research; these will include the Board of Regents Industrial ties program and NSF and/or DOE small business grants.



- c) Cell Free Systems will host UNO undergraduates in internships in cell free protein production.
- d) Cell Free Systems researchers will give seminars sharing their expertise in proteins, cell free protein production, and the development of small businesses.

#### **ARTICLE IV**

##### **BENEFITS TO CONTRACTING PARTY**

4.1 In consideration of the services described above, the University hereby agrees to provide benefits to the Contracting Party. Benefits will be received/provided in the following manner:

The Contracting Party will receive a reduced rental rate for space in UNO's Science Building. The benefits received by the University are commensurate with the benefits provided to the Contracting Party because the benefits received by the University are more than worth the value of reduced rent. These benefits include: the advancement in AMRI programs in the science and engineering of materials, development and discovery of new materials and materials applications, training of undergraduates through internship opportunities, and seminars on the technology and small business aspects of Cell Free Systems.

4.2 Additional Costs and Expenses. No additional costs or expenses incurred by the Contracting Party in performance of this Agreement shall be reimbursed or paid by the University unless agreed upon in writing by the parties.

#### **ARTICLE V**

##### **TERMINATION FOR CAUSE**

5.1 See Article XLIV.

#### **ARTICLE VI**

##### **NOT USED**

6.1 Not used.

#### **ARTICLE VII**

##### **OWNERSHIP OF WORK PRODUCT, CONFIDENTIALITY AND COPYRIGHT**

7.1 It is understood that any intellectual property developed solely by Contracting Party will be owned by Contracting Party, including but not limited to, any intellectual property developed solely by Contracting Party while on the Leased Premises, using University/AMRI equipment, or utilizing University/AMRI administrative staff, lab technicians, students or others who provide technical/administrative or other support. Any intellectual property developed by University will be owned by University. Any intellectual property jointly developed will be jointly owned by respective party and such joint efforts or collaboration shall be clarified in advance of such development in good faith. Both parties will make good faith efforts to identify appropriate ownership regarding jointly developed intellectual property. The University and the Contracting Party will enter into a mutually agreeable collaboration/non-disclosure agreement.

**ARTICLE VIII**  
**ASSIGNMENT**

8.1 Contracting Party shall not assign any interest in this Agreement and shall not transfer any interest in same (whether by assignment or novation), without prior written consent of the University, provided however, that claims for money due or to become due to Contracting Party from the University may be assigned to a bank, trust company, or other financial institution without such prior written consent. Notice of any such assignment or transfer shall be furnished promptly to the University. Additionally, the Contracting Party shall not subcontract any work to any party without the prior written consent of the University.

**ARTICLE IX**  
**FINANCIAL DISCLOSURE**

9.1 Each recipient shall be audited in accordance with R.S. 24:513. If the amount of public funds received by the provider is below the amount for which an audit is required under R.S. 24:513, the transferring agency shall monitor and evaluate the use of the funds to ensure effective achievement of the project goals and objectives.

**ARTICLE X**  
**AUDIT CLAUSE**

10.1 It is hereby agreed that the Legislative Auditor of the State of Louisiana, and/or the Office of the Governor, Division of Administration auditors shall have the option of inspecting and auditing all data, records and accounts of the Contracting Party which relate to this Agreement, upon request.

10.2 The Contracting Party and any subcontractors paid under this Agreement shall maintain all books and records pertaining to this Agreement for a period of four years after the date of final payment under the prime contract and any subcontract entered into under this Agreement or four years from the date of termination of the prime contract and any subcontract entered into under this Agreement, whichever is later.

**ARTICLE XI**  
**AMENDMENTS IN WRITING**

11.1 Any alteration, variation, modification, or waiver of provisions of this Agreement shall be valid only when it has been reduced to writing and executed by all parties.

**ARTICLE XII**  
**FISCAL FUNDING (NON-APPROPRIATION) CLAUSE**

12.1 In the event funds are not budgeted or appropriated in any fiscal year for payments due under this Agreement for the then current or succeeding fiscal year, this Agreement shall impose no obligation on the University as to such current or succeeding fiscal year, and said Agreement shall become null and void, and no right of action shall accrue to the benefit of the Contracting Party, its successors or assigns for any further payments.



**ARTICLE XIII**  
**TERM OF AGREEMENT**

13.1 The term of this Agreement shall commence on September 1, 2021 and shall continue in effect until August 31, 2022, unless sooner terminated as provided in Paragraph XLIV. This agreement may be extended for additional periods by mutual agreement of the parties.

**ARTICLE XIV**  
**DISCRIMINATION CLAUSE**

14.1 The Contracting Party agrees to abide by the requirements of the following as applicable: Title VI and VII of the Civil Rights Act of 1964, as amended by the Equal Opportunity Act of 1972, Federal Executive Order 11246, the Federal Rehabilitation Act of 1973, as amended, the Vietnam Era Veteran's Readjustment Assistance Act of 1974, Title IX of the Education Amendments of 1972, as amended, the Age Act of 1975, as amended, and Contracting Party agrees to abide by the requirements of the Americans with Disabilities Act of 1990, as amended. Contracting Party agrees not to discriminate in its employment practices and will render services under this Agreement without regard to race, color, religion, sex, sexual orientation, national origin, veteran status, political affiliation, or disabilities. The Contracting Party acknowledges and agrees that any act of unlawful discrimination committed by Contracting Party, or any other failure to comply with these statutory obligations when applicable shall be grounds for termination of this Agreement.

**ARTICLE XV**  
**INDEMNIFICATION; INSURANCE**

15.1 See Articles XXXVIII and XL.

**ARTICLE XVI**  
**PARTIAL INVALIDITY; SEVERABILITY**

16.1 If any term, covenant, condition, or provision of this Agreement or the application thereof to any person or circumstances shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant, condition or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition, and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

**ARTICLE XVII**  
**ENTIRE AGREEMENT; MODIFICATION**

17.1 This Agreement, including any attachments that are expressly referred to in this Agreement, contains the entire agreement between the parties and supersedes any and all agreements or contracts previously entered into between the parties. No representations were

made or relied upon by either party, other than those that are expressly set forth. This Agreement may be modified or amended at any time by mutual consent of the parties, provided that, before any modification or amendment shall be operative and valid, it shall be reduced to writing and signed by both parties.

#### **ARTICLE XVIII** **CONTROLLING LAW**

18.1 The validity, interpretation, and performance of this Agreement shall be controlled by and construed in accordance with the laws of the State of Louisiana.

#### **ARTICLE XIX** **LEGAL COMPLIANCE**

19.1 The University shall comply with all federal, state, and local laws and regulations, including, specifically, the Louisiana Code of Governmental Ethics (R.S. 42:1101, et seq.) in carrying out the provisions of this Agreement.

#### **ARTICLE XX** **RELATIONSHIP BETWEEN THE PARTIES; EXCLUSION OF BENEFITS**

20.1 The Contracting Party is engaged by the University for the purposes set forth in this Agreement. The relationship between the Contracting Party and the University shall be, and only be, that of an independent contractor and the Contracting Party shall not be construed to be an employee, agent, partner of, or in joint venture with, the University.

#### **ARTICLE XXI** **ACKNOWLEDGMENT OF EXCLUSION OF WORKER'S COMPENSATION COVERAGE**

21.1 The University and the Contracting Party expressly agree that the Contracting Party is an independent contractor as defined in R.S. 23:1021(7) and, as such, expressly agree that the University shall not be liable to the Contracting Party or to anyone employed by the Contracting Party for any benefits or coverage as provided by the Worker's Compensation Law of the State of Louisiana.

#### **ARTICLE XXII** **ACKNOWLEDGMENT OF EXCLUSION OF UNEMPLOYMENT COMPENSATION COVERAGE**

22.1 The University and the Contracting Party expressly declare and acknowledge that the Contracting Party is an independent contractor and, as such, is being engaged by the University under this Agreement as noted and defined in R.S. 23:1472(12)(E) and, therefore, it is expressly declared and understood between the parties hereto, that for the purposes of unemployment compensation only: A. The Contracting Party has been and will be free from any control or



direction by the University over the performance of the services covered by this Agreement; B. The services to be rendered by the Contracting Party are outside the normal course and scope of the University's usual business; and C. The Contracting Party is customarily engaged in an independently established trade, occupation, profession, or business. Consequently, neither the Contracting Party nor anyone employed or contracted by the Contracting Party shall be considered an employee of the University for the purpose of unemployment compensation coverage.

### **ARTICLE XXIII**

#### **FORCE MAJEURE**

23.1 Neither party to this Agreement shall be responsible to the other party hereto for any delays or failure to perform caused by any circumstances reasonably beyond the immediate control of the party prevented from performing, including, but not limited to, acts of God.

### **ARTICLE XXIV**

#### **EMPLOYMENT OF STATE PERSONNEL**

24.1 The Contracting Party certifies that it has not employed and will not employ any person to engage in the performance of this Agreement who is, presently, or at the time of such employment, an employee of the State of Louisiana.

### **ARTICLE XXV**

#### **COVENANT AGAINST CONTINGENT FEES**

25.1 The Contracting Party warrants that it has not employed or retained any entity or person, other than a bona fide employee working solely for the Contracting Party, to solicit or secure this Agreement, and that it has not paid or agreed to pay any entity or person, other than a bona fide employee working solely for the Contracting Party any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the University shall have the right to annul this Agreement without liability or, in University's discretion, to deduct from the contract price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

### **ARTICLE XXVI**

#### **REMEDIES FOR DEFAULT**

26.1 See Article XLIV.

### **ARTICLE XXVII**

#### **NOTICES**

27.1 All notices and other communications pertaining to this Agreement shall be in writing and shall be transmitted either by personal hand-delivery (and receipted for) or deposited in the United States mail, as certified mail, return receipt requested and postage prepaid, to the other party, addressed as follows:

John Wiley  
President's Research Professor and Director of AMRI  
University of New Orleans  
Science Building Room 2064  
New Orleans, Louisiana 70148

Ben Hunt  
Cell Free Systems, Inc.  
2000 Lakeshore Dr.  
New Orleans, LA 70148

## **ARTICLE XXVIII**

### **PREMISES**

28.1 PREMISES. University owns a tract of property with improvements located at 2000 Lakeshore Drive, New Orleans, LA 70148, hereinafter referred to as "University's Tract", and Contracting Party wishes to lease a part thereof. University agrees to lease and does hereby lease to Contracting Party and Contracting Party does hereby agree to lease and does hereby lease from University, delivery of possession of which is hereby acknowledged, a portion of University's Tract, hereinafter referred to as the "Leased Premises". The Leased Premises shall consist of that portion of the University of New Orleans' Science Building ("Science Building"), an improvement located on University's Tract, totaling approximately 911.8 square feet. This 911.8 square feet is lab space in Science 2092. The use of the lab benches and sinks are included in this Agreement. Licensee may use other University equipment for an additional charge. The Contracting Party will have shared use of Common Areas as described herein.

## **ARTICLE XXIX**

### **NOT USED**

29.1 NOT USED

## **ARTICLE XXX**

### **RENT**

30.1 RENT. Rental rates have been calculated as follows: \$15.30 per square foot for 911.8 square feet of laboratory space and \$12.60 per square foot for any future office space. This Agreement is made for an annual rent of \$13,950.54 which is an average price per square foot of \$15.30. Rent is payable in a monthly amount of ONE THOUSAND ONE HUNDRED SIXTY-TWO AND 55/100 DOLLARS (\$1,162.55) due on the first day of each month, in advance, to University, at University's permanent mailing address as noted in section 27 of this agreement. Electrical, water, gas, taxes, property insurance, flood insurance, basic ongoing repairs, A/C & heating systems, lawn care, pest control (including termite), fire system maintenance, and waste management are the responsibility of the University. Telephone, internet, cable, janitorial and disposal of waste (other than common trash) are the responsibility of Contracting Party. Internet and phone service, if needed will be through Cox cable, which will be invoiced separately.



Parking will be available to Licensee's employees and guests according to UNO's Parking Policies <http://www.uno.edu/upd/docs/UNOParking2014.pdf>

#### **ARTICLE XXXI**

#### **COMMON AREAS**

31.1 COMMON AREAS. Contracting Party will have the non-exclusive right, along with the other tenants of the Science Building and their employees and invitees, to use the parking areas, landscaped areas, entrance ways, hallways, elevators, fire stairs, restrooms, loading dock and other areas designated from time to time by University for common tenant use (the "Common Areas"). In using the Common Areas, Contracting Party will not impede the use of the Common Areas by other tenants, and Contracting Party will use its best efforts to prevent its employees and invitees from loitering in the Common Areas or using the Common Areas for other than their intended purpose. University will have exclusive control and management over the Common Areas and will have the right, from time to time, to establish rules and regulations with respect to the use of the Common Areas, to restrict parking by employees of Contracting Party to designated parking areas, to close temporarily any portion of the Common Areas, and to increase, reduce, reconfigure, or change the Common Areas in any way University determines to be necessary or desirable. University will have no liability to Contracting Party by reason of any such closure, increase, reduction, reconfiguring, or other change in the Common Areas.

Contracting Party shall use its best efforts to cause its agents, employees, permittees and invitees to keep the Common Areas in good condition. Any dispute between Contracting Party and any other tenant on University's Tract regarding the repair, upkeep, maintenance, and appearance of the Common Areas or use of the Common Areas shall be resolved by a meeting with the parties and an agreement between the parties. University shall decide what, if any, repairs, upkeep, and maintenance shall be performed to the Common Areas and University shall select the contractor to perform any such repair, upkeep, and maintenance.

#### **ARTICLE XXXII**

#### **USE OF PREMISES**

32.1 USE OF PREMISES. Contracting Party may use the Leased Premises only for conducting research to develop methods for producing cell-free protein expression extract as well as testing the activity of the extract. Contracting Party shall not cause or permit any hazardous or toxic substances to be present on or about University's Tract. The Common Areas are for the use of Contracting Party and University and all of University's tenants on University's Tract. Contracting Party shall not make any use of Leased Premises and Common Areas in violation of any statutes, ordinances, or laws and shall not permit any contamination or pollution on or about the premises or increase the fire or insurance hazard by any use thereof.

**ARTICLE XXXIII**  
**REPAIRS, UPKEEP AND MAINTENANCE**

33.1 REPAIRS, UPKEEP AND MAINTENANCE. Contracting Party shall keep the Common Areas and Leased Premises in as good condition as they were in when received, caring for them as a prudent administrator would care for his own property.

University shall be responsible for all ordinary upkeep, maintenance, and repairs to the Leased Premises arising from use of the premises except those repairs which are necessitated in whole or in part by the fault or neglect of Contracting Party. University shall select the contractor to perform any such upkeep, maintenance, and repairs. University shall be responsible for extraordinary repairs to the structure and roof of the building except those repairs which are necessitated in whole or in part by the fault or neglect of Contracting Party.

Contracting Party shall provide, install and pay all costs and expenses associated with equipment he may need to conduct his business and operations from the Leased Premises.

At the termination of this Agreement, by expiration of the term or otherwise, Contracting Party shall return Leased Premises in as good an order as they were when received, free from any contamination or pollution.

**ARTICLE XXXIV**  
**CONTAMINATION OR POLLUTION**

34.1 CONTAMINATION OR POLLUTION. Contracting Party and their employees shall use their best efforts to keep University's Tract free from any and all contamination and pollution, whether resulting from any overfill, discharge, spill, or other release of toxic or hazardous substances or otherwise. Contracting Party agrees to notify University immediately of any and all contamination or pollution on or about University's Tract, including but not limited to, notice of any and all overfills, spills, discharges, or other releases of petroleum products on or about University's Tract irrespective of the cause of such.

Contracting Party and their employees shall conform to any and all federal, state, or local laws or ordinances concerning the storage, handling, transportation, sale, or distribution of all hazardous or toxic substances and shall use their best effort to cause their permittees and invitees to conform thereto, and Contracting Party will save and hold University harmless for any charge or liability resulting from same. Contracting Party shall promptly reimburse University for Contracting Party's pro rata share of any costs, charges or assessments related to any environmental monitoring by any governmental entity or regulatory authority that resulted from contaminants caused by Contracting Party, which shall be considered as additional rent. If contaminants were caused by University, University will pay all of the associated costs listed above.



**ARTICLE XXXV**  
**RENOVATIONS, ALTERATIONS AND IMPROVEMENTS**

35.1 RENOVATIONS, ALTERATIONS AND IMPROVEMENTS. Contracting Party shall not construct any improvements on or make any renovations or alterations to the Common Areas or Leased Premises without first obtaining the written consent of University. All such renovations, alterations, and improvements constructed by Contracting Party shall become the property of University upon expiration or termination of this Agreement unless University requires removal of all or part of such improvements by Contracting Party, in which event such improvements as may be designated by University shall be removed by Contracting Party, at Contracting Party's expense, within thirty (30) days of the expiration or termination of this Agreement. Damages, if any, caused by such removal shall be repaired at Contracting Party's expense.

Any and all installations, improvements or other work performed by or for Contracting Party to the Leased Premises shall, upon termination of this Agreement, become property of the University.

Prior to the commencement of any of the renovations, alterations, or improvements described herein above, Contracting Party shall promptly notify University, in writing, of all construction work being undertaken or planned, the costs and expenses thereof, all purchase orders or agreements therefore, and the dates upon which Contracting Party shall pay such costs and expenses. Upon request by University, Contracting Party shall promptly furnish University with copies of all such documents. All renovations, alterations, or improvements shall be done in a thoroughly workmanlike manner and at the sole cost and expense of Contracting Party, all of which costs and expenses shall be promptly and timely paid by Contracting Party.

**ARTICLE XXXVI**  
**BONDING OUT LIENS**

36.1 BONDING OUT LIENS. In the event Contracting Party makes any renovations, alterations, or improvements as provided herein, and a laborer's or material man's lien is filed against University's Tract or any part thereof as a result of said renovations, alterations or improvements, Contracting Party shall promptly deposit with the recorder of mortgages of Orleans Parish, Louisiana, a bond guaranteeing payment of said lien in accordance with Louisiana Revised Statute 9:4835, as amended.

**ARTICLE XXXVII**  
**ASSIGNMENT AND SUBLEASE**

37.1 ASSIGNMENT AND SUBLEASE. Contracting Party shall not have the right to sublease and/or assign any portion of the Leased Premises.

## **ARTICLE XXXVIII**

### **INSURANCE**

38.1 **INSURANCE.** University shall obtain and maintain fire and extended coverage insurance on University's Tract and such insurance shall be for the sole benefit of University. All proceeds, payments, and rights to proceeds and payments made by an insurer pursuant to said policies are payable only to University and Contracting Party shall not be a beneficiary of said policies. Any insurance payments or proceeds shall be used to repair and restore, to the extent possible, the Common Areas and Leased Premises to their pre-damage condition; however, University shall not be obligated to make repairs to the extent that the cost of such repairs exceeds the amount of the insurance payments or proceeds actually received.

Contracting Party shall, at their own cost and expense, obtain and maintain such other insurance as it deems desirable on the property and improvements of Contracting Party located on or about the Leased Premises. Contracting Party shall, at all times during the term of this Agreement, at their own cost and expense, fully protect themselves and University against loss or liability by carrying Workers' Compensation and public liability insurance with responsible insurance companies authorized to do business in Louisiana, insuring against all hazards and risks to which they may be subjected in connection with their operations on the Leased Premises and Common Areas. University shall be named as an additional insured. Without limiting the generality of the foregoing:

- a) Contracting Party shall carry an Employer's Liability and Workers' Compensation Liability Insurance policy for full coverage and protection against liability to employees.
- b) Contracting Party shall secure and keep in force, during the performance of the operations on the Leased Premises and Common Areas, such public liability and property damage insurance as shall protect them and the University from any and all claims for personal injury, including death, as well as claims for property damage, which may arise from Contracting Party's operations on the Leased Premises or Common Areas. The amount of such public liability insurance shall not be less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) for injuries, including death, to any one person, and not less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) as the result of any one accident. General liability insurance for property damage shall be in an amount not less than ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00) for any one accident.

Prior to or subsequent to the commencement of this Agreement, Contracting Party, upon demand by University, shall furnish certificates of all insurance policies required in connection with this agreement as aforesaid, which policies shall be issued to Contracting Party and/or University, as their interests may appear, together with certificates certifying to University that all said insurance is in force and that said insurance will not be canceled or otherwise changed or modified during the term of this agreement without notifying University in writing at least thirty (30) days in advance of such cancellation.



Should Contracting Party's insurance be cancelled for any reason, University has the non-exclusive option, but not the obligation, of obtaining insurance coverage for the benefit of Contracting Party, the cost of which Contracting Party must pay and reimburse University promptly upon demand as additional rent.

#### **ARTICLE XXXIX** **DESTRUCTION OF PREMISES**

39.1 DESTRUCTION OF PREMISES. If the Leased Premises shall be destroyed or damaged by fire or otherwise during the term of this Agreement, the University shall restore the Leased Premises to substantially its former condition as promptly as is reasonably possible, the cost of which is limited to insurance payments or proceeds actually received as provided above. During any period in which Contracting Party is unable to occupy the premises on account of such damage, the rent due under this Agreement for said period shall be abated. In case the damage by fire or otherwise substantially reduces the use of the Leased Premises by the Contracting Party, but does not wholly prevent the reasonable use thereof, then, in such case, the rents due under this Agreement shall be abated in proportion to the diminished utility of the Leased Premises.

#### **ARTICLE XL** **INDEMNITY**

40.1 INDEMNITY. Contracting Party's assuming possession of the Leased Premises and Common Areas constitutes an admission that Contracting Party has examined them and found them in good and safe condition at that moment. Contracting Party agrees to hold University harmless from any and all responsibility whatsoever for any and all liability for loss, injuries, or damages caused by Contracting Party or others by any vice or defect of the Leased Premises and/or Common Areas caused in whole or in part by any act or omission by Contracting Party. Contracting Party expressly assumes all such liability, and Contracting Party agrees to indemnify and to hold University harmless from any loss, injury, or damage (including costs and reasonable attorney's fees) to any person or persons whomsoever, other than employees or invitees of University caused by Contracting Party, or to the property of any persons whomsoever arising out of the occupancy or use of the Leased Premises or Contracting Party's use of the Common Areas. Likewise, University agrees to indemnify and hold Contracting Party harmless for any loss, injuries, or damages caused by any latent defect in the property that could not be reasonably be detected by Contracting Party

#### **ARTICLE XLI** **AMUSEMENT DEVICES AND VENDING MACHINES**

41.1 AMUSEMENT DEVICES AND VENDING MACHINES. Contracting Party shall not maintain or otherwise allow any currency, coin or token operated amusement devices or video games on or about the Leased Premises or Common Areas. Contracting Party shall not maintain or otherwise allow any type of vending machine on or about the Leased Premises or Common Areas without University's prior consent.

**ARTICLE XLII**  
**IMAGE REQUIREMENT**

42.1 **IMAGE REQUIREMENT.** Contracting Party shall keep the Leased Premises and Common Areas in a clean and orderly condition to the satisfaction of University. Contracting Party shall not make use of outdoor advertising materials without University's prior consent. Contracting Party shall keep the Leased Premises in accordance with the image standards required by University.

**ARTICLE XLIII**  
**INSPECTION OF LEASED PREMISES AND OTHER**

43.1 **INSPECTION OF LEASED PREMISES AND OTHER.** The University and his agents shall have the right, but not the obligation, to enter upon and inspect all parts of the Leased Premises at any reasonable time for any lawful purpose; provided, however, that the foregoing shall be done with reasonable notice and without substantial interruption to or interference with the business being transacted therein. University may place any signs or markings on or about the Leased Premises and/or Common Areas relating to the leasing, sale or other disposition of the Leased Premises, University's Tract, or any part thereof. University shall also be entitled to allow others to inspect the Leased Premises in the event of any prospective lease, sale or other disposition of the Leased Premises, University's Tract or any part thereof.

**ARTICLE XLIV**  
**DEFAULT**

44.1 **DEFAULT.** At the option of University, the rent for the unexpired term of this Agreement shall become due if any of the following listed events occur and Contracting Party fails to remedy same after having been given thirty (30) days prior written notice at the addresses herein designated:

- (a) If Contracting Party fails to pay any installment of rent, additional rent or expenses assumed by Contracting Party in this Agreement promptly, as stipulated.
- (b) If Contracting Party fails to comply with any of the provisions and/or conditions contained herein.
- (c) If the Leased Premises or Common Areas are abandoned or cease to be actively occupied and used for business purposes for a period in excess of thirty (30) days.
- (d) If any lien, privilege or other encumbrance is imposed or is filed against University's Tract or any portion thereof as a result of any act or omission by Contracting Party.

If any event listed above occurs, University shall have the further options to cancel this Agreement immediately, or proceed for past due installments of rent only, reserving the right to proceed for remaining installments later.

If Contracting Party fails or refuses to permit University to reenter the premises, University shall have the right to evict Contracting Party in accordance with the provisions of Louisiana



law, without forfeiting any of University's rights under this Agreement. Failure to strictly and promptly enforce any of the conditions of this Agreement shall not operate as a waiver of University's rights hereunder.

#### **ARTICLE XLV** **ATTORNEY'S FEES**

45.1 ATTORNEY'S FEES. On claims by University to collect fees owed by Contracting Party, Contracting Party shall pay University's costs and attorney's fees if University prevails as to any portion of such a claim. If Contracting Party prevails University will pay Consulting Party's costs and attorney's fees. Should either party fail to pay any sums due to other party under this Agreement, such sums shall bear interest at the rate of twelve percent (12%) per annum or the maximum amount allowed by Louisiana law from date due until paid.

#### **ARTICLE XLVI** **WAIVER**

46.1 WAIVER. The waiver by University of any breach of any term, covenant, condition or provision herein contained shall not be deemed to be a waiver of such term, covenant, condition or provision with respect to any preceding or subsequent breach of the same or any other term, covenant, condition or provision hereunder.

No term, covenant, condition or provision of this Agreement shall be deemed to have been waived by University, unless such waiver is in writing by University.

#### **ARTICLE XLVII** **HOLDOVER BY CONTRACTING PARTY**

47.1 HOLDOVER BY CONTRACTING PARTY. If Contracting Party shall not immediately surrender possession of the Leased Premises or Common Areas upon the expiration of this Agreement, Contracting Party, at the option of University, shall thereafter become a Contracting Party from month-to-month at a monthly rental equal to one and one-tenth times the previous month's rent installment, subject to all other conditions, provisions, and obligations of this Agreement insofar as the same are applicable to a month-to-month tenancy, and Contracting Party shall indemnify University against loss or liability resulting from Contracting Party's delay in so surrendering the Leased Premises or Common Areas including, but not limited to, reasonable attorney's fees and any claim made by a succeeding Contracting Party founded on such delay.

#### **ARTICLE XLVIII** **UNIVERSITY'S RIGHT TO CURE DEFAULTS**

48.1 UNIVERSITY'S RIGHT TO CURE DEFAULTS. University, at any time and without notice, may, but shall not be obligated to, cure any default by Contracting Party of any of Contracting Party's obligations under this Agreement; and whenever University so elects, all costs and expenses incurred by University in curing any default, including, but not limited to,

reasonable attorney's fees, together with interest on the amount of costs and expenses so incurred at the legal rate, shall be paid by Contracting Party to University on demand, and shall be recoverable as additional rent.


**ARTICLE XLIX**  
**SUBSTITUTION OF PREMISES**

49.1 SUBSTITUTION OF PREMISES. University reserves the right to substitute for the Leased Premises comparable premises within the UNO campus (University's Tract) upon sixty (60) days prior written notice to Contracting Party. If University elects to make this substitution, the substitute premises will be leased to Contracting Party at the same Rent that Contracting Party is required to pay under this Agreement, and on the other terms of this Agreement, and University will pay all of Contracting Party's reasonable relocation costs, including, but not limited to, moving and telecommunications (including internet services).

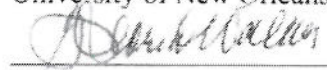
**ARTICLE L**  
**COMPLIANCE WITH RULES AND REGULATIONS**

50.1 COMPLIANCE WITH RULES AND REGULATIONS. Contracting Party and Contracting Party's employees, agents, and visitors shall observe and comply with the Rules and Regulations that are annexed hereto and made a part hereof as Exhibit "A" and all other reasonable rules and regulations that University may from time to time adopt. Additional rules and regulations will not be binding on Contracting Party until University has given Contracting Party notice of said rules and regulations. **THUS DONE AND SIGNED AT New Orleans, Louisiana, on the 1<sup>st</sup> day of September, 2021.**

WITNESSES:

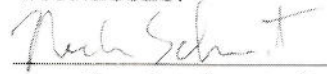
  
Stephen Kolz, Director of Materials  
Management and Contracts Administrator

University of New Orleans

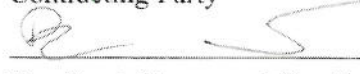
  
Gloria J. Walker, Ed.D., MBA, CPA  
Vice President of Business Affairs and CFO

**THUS DONE AND SIGNED AT New Orleans, Louisiana, on the 1<sup>st</sup> day of September, 2021.**

WITNESSES:

  
NICK SCHMIDT  
TRIEDO TRUE WOODWORKING

Contracting Party

  
Ben Hunt, Owner and President  
Cell Free Systems, Inc.

## EXHIBIT A

Firearm-free Zone <http://www.uno.edu/upd/weapons.aspx>

Tobacco Free Campus Policy <http://www.uno.edu/president/administrative-policies/documents/AP-OP-04.3-Tobacco-Use-Free-Campus.pdf>

Alcohol and Drugs <http://www.uno.edu/president/administrative-policies/documents/AP-SA-02.2-Alcohol-and-Drugs-4-30-14.pdf>

Accident Reports Involving Non-Employees <http://www.uno.edu/president/administrative-policies/documents/AP-OP-12.2-Accident-Reports-Involving-Non-Employees.pdf>

UNO Disaster/Emergency Plans [http://www.uno.edu/president/administrative-policies/documents/AP-OP-09.2\\_UNO\\_Disaster\\_Emergency\\_Plans.pdf](http://www.uno.edu/president/administrative-policies/documents/AP-OP-09.2_UNO_Disaster_Emergency_Plans.pdf)

Parking and Traffic Regulations <http://www.uno.edu/upd/docs/UNOParking2014.pdf>



**BOARD OF SUPERVISORS FOR THE  
UNIVERSITY OF LOUISIANA SYSTEM**

**FINANCE COMMITTEE**

**August 26, 2021**

- Item J.5.**      **University of New Orleans'** request for approval to enter into a Cooperative Endeavor Agreement with TMS BioScience to provide support for the University's Advanced Materials Research Institute (AMRI)

**EXECUTIVE SUMMARY**

TMS BioScience is a Louisiana clinical laboratory with an expertise in mass spectroscopy that provides specialty testing for a variety of patients and companies, and the University's Advanced Materials Research Institute (AMRI) is a recognized world leader in nanomaterials research. TMS BioScience will provide support for AMRI researchers in terms of characterization of organic components in nanomaterial composites and simple organic and biomolecules. Initial projects will investigate the structure and composition of synthesized materials.

TMS BioScience will occupy space in UNO's Science Building, and the immediate proximity of TMS BioScience to AMRI will readily allow for the exchange of ideas, the immediate characterization of new materials developed by AMRI members researchers, the training of undergraduate and graduate students in mass spectral techniques, and the support of State and Federal research proposals in basic and applied research. Further, TMS BioScience will serve as a model for AMRI researchers in the development of other small businesses based on existing or new AMRI technologies or new analytical methods.

This collaboration will:

1. Serve the public through the development of a small business clinical laboratory – TMS BioScience will employ Louisiana workers including students and graduates from UNO;
2. Serve to elevate the research programs of UNO faculty through the development of new collaborative projects;
3. Will bring in additional State and Federal funding through applied research programs (ITRS, NSF, DOE, etc.) and small business development grants (SBIR);
4. Will serve to train undergraduate students through internships and graduate students through collaborative projects between AMRI faculty and TMS BioScience.

This Cooperative Endeavor Agreement will begin on September 1, 2021 and terminate on August 31, 2022. The agreement may be extended for additional periods by mutual agreement of the parties.

### **RECOMMENDATION**

It is recommended that the following resolution be adopted:

***NOW, THEREFORE, BE IT RESOLVED***, that the Board of Supervisors for the University of Louisiana System hereby approves the University of New Orleans' request to enter into a Cooperative Endeavor Agreement with TMS BioScience for the development of nanoscale inorganic-biomaterial composites.

***BE IT FURTHER RESOLVED***, that Dr. John W. Nicklow, President of University of New Orleans, is hereby designated and authorized to execute any and all documents necessary to execute this Cooperative Endeavor Agreement.

***AND FURTHER***, that UL System staff and legal counsel ensure that all documents conform to statutory and administrative requirements.



THE UNIVERSITY of  
**NEW ORLEANS**  
OFFICE OF THE PRESIDENT

J.5.

August 2, 2021

Dr. James B. Henderson  
President  
The University of Louisiana System  
1201 North Third Street  
Baton Rouge, LA 70802

Re: Cooperative Endeavor Agreement with TMS BioScience Labs, LLC

Dear Dr. Henderson,

On behalf of the University of New Orleans, I am requesting that the attached proposal to enter into a Cooperative Endeavor Agreement with TMS BioScience Labs, LLC be submitted to the University Of Louisiana System Board Of Supervisors for its consideration and approval.

Thank you for your consideration.

Sincerely,

John W. Nicklow  
President

**UNIVERSITY OF NEW ORLEANS**  
**COOPERATIVE ENDEAVOR AGREEMENT**

**THIS COOPERATIVE ENDEAVOR**, made and entered into this 1st day of September, 2021, by and between the University of New Orleans, a member of the University of Louisiana System, hereinafter referred to as “University,” and/or “UNO” and TMS BioScience Labs, LLC, hereinafter referred to as “Contracting Party” and/or “TMS BioScience”.

**ARTICLE I**

**WITNESSETH:**

1.1 WHEREAS, Article VII, Section 14(C) of the Constitution of the State of Louisiana provides that “For a public purpose, the state and its political subdivisions...may engage in cooperative endeavors with each other, with the United States or its agencies, or with any public or private association, corporation, or individual;” and

1.2 WHEREAS, the University desires to cooperate with the Contracting Party in the implementation of the Project as hereinafter provided;

1.3 WHEREAS, the University has the authority to enter into this Agreement as evidenced by its governmental purpose to perform its public higher education mission of instruction, research and public service.

1.4 WHEREAS, the public purpose of the Project is described as: TMS BioScience is a Louisiana clinical laboratory with an expertise in mass spectroscopy that provides specialty testing for variety of patients and companies, and the University’s Advanced Materials Research Institute (AMRI) is a recognized world leader in nanomaterials research. TMS BioScience will provide support for AMRI researchers in terms of characterization of organic components in nanomaterial composites and simple organic and biomolecules. Initial projects, for example, will investigate the structure and composition of synthesized materials. The immediate proximity of TMS BioScience to AMRI readily allows for the exchange of ideas, the immediate characterization of new materials developed by AMRI members researchers, the training of undergraduate and graduate students in mass spectral techniques, and the support of state and federal research proposals in basic and applied research. Further, TMS BioScience will serve as a model for AMRI researchers in the development of other small businesses based on existing or new AMRI technologies or new analytical methods. All of these aspects of this collaborative agreement will: 1) serve the public through the development of a small business clinical laboratory – TMS BioScience will employ Louisiana workers including students and graduates from UNO; 2) serve to elevate the research programs of UNO faculty through the development of new collaborative projects; 3) will bring in additional state and federal funding through applied research programs (ITRS, NSF, DOE, etc.); and 4) will serve to train undergraduate students through internships and graduate students through collaborative projects between AMRI faculty and TMS BioScience.

1.5 WHEREAS, the University has a reasonable expectation of receiving a benefit or value described in detail that is at least equivalent to or greater than the consideration described in this Agreement;

1.6 WHEREAS, the transfer or expenditure of public funds or property is not a gratuitous donation;

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties hereto agree as follows:

## **ARTICLE II**

### **SCOPE OF SERVICES**

2.1 The Contracting Party shall:

- a) Engage in collaborative research with AMRI researchers involving the characterization of nanomaterial composites and simple organic and biomolecules.
- b) Work with AMRI researchers to support efforts to seek state and federal funding in applied research and in the development of small business based on AMRI technology.
- c) Provide internships for UNO undergraduates giving them training in mass spectral techniques.
- d) Provide training in mass spectral techniques to graduate students that work for collaborating AMRI researchers.
- e) Give seminars at least 1-2 times a year, as part of the AMRI weekly program or annual review, on methodologies used in TMS BioScience, especially as they pertain to characterization of AMRI materials. Further, they will provide insight based on their experiences in small business development. The latter will be especially important for those AMRI faculty that are working to the development of their own small businesses.

## **ARTICLE III**

### **DELIVERABLES**

3.1 Deliverables:

- a) Collaborative research with AMRI researchers will be established involving the characterization of nanomaterial composites and simple organic and biomolecules.
- b) TMS BioScience will support AMRI researchers in their applications for state and federal grants to further UNO faculty research; these will include the Board of Regents Industrial ties program and NSF and/or DOE small business grants.



- c) TMS BioScience will host UNO undergraduates in internships in mass spectral characterization.
- d) TMS BioScience researchers will give seminars sharing their expertise in mass spectral characterization and the development of a small business.

#### **ARTICLE IV**

#### **BENEFITS TO CONTRACTING PARTY**

4.1 In consideration of the services described above, the University hereby agrees to provide benefits to the Contracting Party. Benefits will be received/provided in the following manner:

The Contracting Party will receive a reduced rental rate for space in UNO's Science Building. The benefits received by the University are commensurate with the benefits provided to the Contracting Party because the benefits received by the University are more than worth the value of reduced rent. These benefits include: the advancement in AMRI programs in the science and engineering of materials, development and discovery of new materials and materials applications, training of undergraduates through internship opportunities, and seminars on the technology and small business aspects of TMS BioScience.

4.2 Additional Costs and Expenses. No additional costs or expenses incurred by the Contracting Party in performance of this Agreement shall be reimbursed or paid by the University unless agreed upon in writing by the parties.

#### **ARTICLE V**

#### **TERMINATION FOR CAUSE**

5.1 See Article XLIV.

#### **ARTICLE VI**

#### **NOT USED**

6.1 Not used.

#### **ARTICLE VII**

#### **OWNERSHIP OF WORK PRODUCT, CONFIDENTIALITY AND COPYRIGHT**

7.1 It is understood that any intellectual property developed solely by Contracting Party will be owned by Contracting Party, including but not limited to, any intellectual property developed solely by Contracting Party while on the Leased Premises, using University/AMRI equipment, or utilizing University/AMRI administrative staff, lab technicians, students or others who provide technical/administrative or other support. Any intellectual property developed by University will be owned by University. Any intellectual property jointly developed will be jointly owned by respective party and such joint efforts or collaboration shall be clarified in advance of such development in good faith. Both parties will make good faith efforts to identify appropriate ownership regarding jointly developed intellectual property. The University and the Contracting Party will enter into a mutually agreeable collaboration/non-disclosure agreement.

## **ARTICLE VIII** **ASSIGNMENT**

8.1 Contracting Party shall not assign any interest in this Agreement and shall not transfer any interest in same (whether by assignment or novation), without prior written consent of the University, provided however, that claims for money due or to become due to Contracting Party from the University may be assigned to a bank, trust company, or other financial institution without such prior written consent. Notice of any such assignment or transfer shall be furnished promptly to the University. Additionally, the Contracting Party shall not subcontract any work to any party without the prior written consent of the University.

## **ARTICLE IX** **FINANCIAL DISCLOSURE**

9.1 Each recipient shall be audited in accordance with R.S. 24:513. If the amount of public funds received by the provider is below the amount for which an audit is required under R.S. 24:513, the transferring agency shall monitor and evaluate the use of the funds to ensure effective achievement of the project goals and objectives.

## **ARTICLE X** **AUDIT CLAUSE**

10.1 It is hereby agreed that the Legislative Auditor of the State of Louisiana, and/or the Office of the Governor, Division of Administration auditors shall have the option of inspecting and auditing all data, records and accounts of the Contracting Party which relate to this Agreement, upon request.

10.2 The Contracting Party and any subcontractors paid under this Agreement shall maintain all books and records pertaining to this Agreement for a period of four years after the date of final payment under the prime contract and any subcontract entered into under this Agreement or four years from the date of termination of the prime contract and any subcontract entered into under this Agreement, whichever is later.

## **ARTICLE XI** **AMENDMENTS IN WRITING**

11.1 Any alteration, variation, modification, or waiver of provisions of this Agreement shall be valid only when it has been reduced to writing and executed by all parties.

## **ARTICLE XII** **FISCAL FUNDING (NON-APPROPRIATION) CLAUSE**

12.1 In the event funds are not budgeted or appropriated in any fiscal year for payments due under this Agreement for the then current or succeeding fiscal year, this Agreement shall impose no obligation on the University as to such current or succeeding fiscal year, and said Agreement shall become null and void, and no right of action shall accrue to the benefit of the Contracting Party, its successors or assigns for any further payments.



**ARTICLE XIII**  
**TERM OF AGREEMENT**

13.1 The term of this Agreement shall commence on September 1, 2021 and shall continue in effect until August 31, 2022, unless sooner terminated as provided in Paragraph XLIV. This agreement may be extended for additional periods by mutual agreement of the parties.

**ARTICLE XIV**  
**DISCRIMINATION CLAUSE**

14.1 The Contracting Party agrees to abide by the requirements of the following as applicable: Title VI and VII of the Civil Rights Act of 1964, as amended by the Equal Opportunity Act of 1972, Federal Executive Order 11246, the Federal Rehabilitation Act of 1973, as amended, the Vietnam Era Veteran's Readjustment Assistance Act of 1974, Title IX of the Education Amendments of 1972, as amended, the Age Act of 1975, as amended, and Contracting Party agrees to abide by the requirements of the Americans with Disabilities Act of 1990, as amended. Contracting Party agrees not to discriminate in its employment practices and will render services under this Agreement without regard to race, color, religion, sex, sexual orientation, national origin, veteran status, political affiliation, or disabilities. The Contracting Party acknowledges and agrees that any act of unlawful discrimination committed by Contracting Party, or any other failure to comply with these statutory obligations when applicable shall be grounds for termination of this Agreement.

**ARTICLE XV**  
**INDEMNIFICATION; INSURANCE**

15.1 See Articles XXXVIII and XL.

**ARTICLE XVI**  
**PARTIAL INVALIDITY; SEVERABILITY**

16.1 If any term, covenant, condition, or provision of this Agreement or the application thereof to any person or circumstances shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant, condition or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition, and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

**ARTICLE XVII**  
**ENTIRE AGREEMENT; MODIFICATION**

17.1 This Agreement, including any attachments that are expressly referred to in this Agreement, contains the entire agreement between the parties and supersedes any and all agreements or contracts previously entered into between the parties. No representations were

made or relied upon by either party, other than those that are expressly set forth. This Agreement may be modified or amended at any time by mutual consent of the parties, provided that, before any modification or amendment shall be operative and valid, it shall be reduced to writing and signed by both parties.

#### **ARTICLE XVIII** **CONTROLLING LAW**

18.1 The validity, interpretation, and performance of this Agreement shall be controlled by and construed in accordance with the laws of the State of Louisiana.

#### **ARTICLE XIX** **LEGAL COMPLIANCE**

19.1 The University shall comply with all federal, state, and local laws and regulations, including, specifically, the Louisiana Code of Governmental Ethics (R.S. 42:1101, et seq.) in carrying out the provisions of this Agreement.

#### **ARTICLE XX** **RELATIONSHIP BETWEEN THE PARTIES; EXCLUSION OF BENEFITS**

20.1 The Contracting Party is engaged by the University for the purposes set forth in this Agreement. The relationship between the Contracting Party and the University shall be, and only be, that of an independent contractor and the Contracting Party shall not be construed to be an employee, agent, partner of, or in joint venture with, the University.

#### **ARTICLE XXI** **ACKNOWLEDGMENT OF EXCLUSION OF WORKER'S COMPENSATION COVERAGE**

21.1 The University and the Contracting Party expressly agree that the Contracting Party is an independent contractor as defined in R.S. 23:1021(7) and, as such, expressly agree that the University shall not be liable to the Contracting Party or to anyone employed by the Contracting Party for any benefits or coverage as provided by the Worker's Compensation Law of the State of Louisiana.

#### **ARTICLE XXII** **ACKNOWLEDGMENT OF EXCLUSION OF UNEMPLOYMENT COMPENSATION COVERAGE**

22.1 The University and the Contracting Party expressly declare and acknowledge that the Contracting Party is an independent contractor and, as such, is being engaged by the University under this Agreement as noted and defined in R.S. 23:1472(12)(E) and, therefore, it is expressly declared and understood between the parties hereto, that for the purposes of unemployment compensation only: A. The Contracting Party has been and will be free from any control or



direction by the University over the performance of the services covered by this Agreement; B. The services to be rendered by the Contracting Party are outside the normal course and scope of the University's usual business; and C. The Contracting Party is customarily engaged in an independently established trade, occupation, profession, or business. Consequently, neither the Contracting Party nor anyone employed or contracted by the Contracting Party shall be considered an employee of the University for the purpose of unemployment compensation coverage.

### **ARTICLE XXIII**

#### **FORCE MAJEURE**

23.1 Neither party to this Agreement shall be responsible to the other party hereto for any delays or failure to perform caused by any circumstances reasonably beyond the immediate control of the party prevented from performing, including, but not limited to, acts of God.

### **ARTICLE XXIV**

#### **EMPLOYMENT OF STATE PERSONNEL**

24.1 The Contracting Party certifies that it has not employed and will not employ any person to engage in the performance of this Agreement who is, presently, or at the time of such employment, an employee of the State of Louisiana.

### **ARTICLE XXV**

#### **COVENANT AGAINST CONTINGENT FEES**

25.1 The Contracting Party warrants that it has not employed or retained any entity or person, other than a bona fide employee working solely for the Contracting Party, to solicit or secure this Agreement, and that it has not paid or agreed to pay any entity or person, other than a bona fide employee working solely for the Contracting Party any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the University shall have the right to annul this Agreement without liability or, in University's discretion, to deduct from the contract price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

### **ARTICLE XXVI**

#### **REMEDIES FOR DEFAULT**

26.1 See Article XLIV.

### **ARTICLE XXVII**

#### **NOTICES**

27.1 All notices and other communications pertaining to this Agreement shall be in writing and shall be transmitted either by personal hand-delivery (and receipted for) or deposited in the United States mail, as certified mail, return receipt requested and postage prepaid, to the other party, addressed as follows:

John Wiley, Ph.D.  
President's Research Professor and Director of AMRI  
University of New Orleans  
Science Building Room 2064  
New Orleans, Louisiana 70148

Pleasant "Hoop" Hooper, MD  
TMS BioScience Labs, LLC  
2000 Lakeshore Dr.  
New Orleans, LA 70148

#### **ARTICLE XXVIII** **PREMISES**

28.1 PREMISES. University owns a tract of property with improvements located at 2000 Lakeshore Drive, New Orleans, LA 70148, hereinafter referred to as "University's Tract", and Contracting Party wishes to lease a part thereof. University agrees to lease and does hereby lease to Contracting Party and Contracting Party does hereby agree to lease and does hereby lease from University, delivery of possession of which is hereby acknowledged, a portion of University's Tract, hereinafter referred to as the "Leased Premises". The Leased Premises shall consist of that portion of the University of New Orleans' Science Building ("Science Building"), an improvement located on University's Tract, totaling approximately 442.4 square feet. This includes 211.8 square feet in Science 1052 and 230.6 square feet (75%) of Science 2019C. The use of the lab benches and sinks are included in this Agreement. Licensee may use other University equipment for an additional charge. The Contracting Party will have shared use of Common Areas as described herein.

#### **ARTICLE XXIX** **NOT USED**

29.1 NOT USED

#### **ARTICLE XXX** **RENT**

30.1 RENT. Rental rates have been calculated as follows: \$15.30 per square foot 442.4 square feet of laboratory space and \$12.60 per square foot for any future office space. This Agreement is made for an annual rent of \$6,768.72 which is an average price per square foot of \$15.30. Rent is payable in a monthly amount of FIVE HUNDRED SIXTY-FOUR AND 06/100 DOLLARS (\$564.06) due on the first day of each month, in advance, to University, at University's permanent mailing address as noted in section 27 of this agreement. Electrical, water, gas, taxes, property insurance, flood insurance, basic ongoing repairs, A/C & heating systems, lawn care, pest control (including termite), fire system maintenance, and waste management are the responsibility of the University. Telephone, internet, cable, janitorial and disposal of waste (other than common trash) are the responsibility of Contracting Party. Internet and phone service, if needed will be through Cox cable, which will be invoiced separately.



Parking will be available to Licensee's employees and guests according to UNO's Parking Policies <http://www.uno.edu/upd/docs/UNOParking2014.pdf>

#### **ARTICLE XXXI**

#### **COMMON AREAS**

31.1 COMMON AREAS. Contracting Party will have the non-exclusive right, along with the other tenants of the Science Building and their employees and invitees, to use the parking areas, landscaped areas, entrance ways, hallways, elevators, fire stairs, restrooms, loading dock and other areas designated from time to time by University for common tenant use (the "Common Areas"). In using the Common Areas, Contracting Party will not impede the use of the Common Areas by other tenants, and Contracting Party will use its best efforts to prevent its employees and invitees from loitering in the Common Areas or using the Common Areas for other than their intended purpose. University will have exclusive control and management over the Common Areas and will have the right, from time to time, to establish rules and regulations with respect to the use of the Common Areas, to restrict parking by employees of Contracting Party to designated parking areas, to close temporarily any portion of the Common Areas, and to increase, reduce, reconfigure, or change the Common Areas in any way University determines to be necessary or desirable. University will have no liability to Contracting Party by reason of any such closure, increase, reduction, reconfiguring, or other change in the Common Areas.

Contracting Party shall use its best efforts to cause its agents, employees, permittees and invitees to keep the Common Areas in good condition. Any dispute between Contracting Party and any other tenant on University's Tract regarding the repair, upkeep, maintenance, and appearance of the Common Areas or use of the Common Areas shall be resolved by a meeting with the parties and an agreement between the parties. University shall decide what, if any, repairs, upkeep, and maintenance shall be performed to the Common Areas and University shall select the contractor to perform any such repair, upkeep, and maintenance.

#### **ARTICLE XXXII**

#### **USE OF PREMISES**

32.1 USE OF PREMISES. Contracting Party may use the Leased Premises only as a clinical laboratory for testing samples from patients and companies via mass spectroscopy. Contracting Party shall not cause or permit any hazardous or toxic substances to be present on or about University's Tract. The Common Areas are for the use of Contracting Party and University and all of University's tenants on University's Tract. Contracting Party shall not make any use of Leased Premises and Common Areas in violation of any statutes, ordinances, or laws and shall not permit any contamination or pollution on or about the premises or increase the fire or insurance hazard by any use thereof.

**ARTICLE XXXIII**  
**REPAIRS, UPKEEP AND MAINTENANCE**

33.1 REPAIRS, UPKEEP AND MAINTENANCE. Contracting Party shall keep the Common Areas and Leased Premises in as good condition as they were in when received, caring for them as a prudent administrator would care for his own property.

University shall be responsible for all ordinary upkeep, maintenance, and repairs to the Leased Premises arising from use of the premises except those repairs which are necessitated in whole or in part by the fault or neglect of Contracting Party. University shall select the contractor to perform any such upkeep, maintenance, and repairs. University shall be responsible for extraordinary repairs to the structure and roof of the building except those repairs which are necessitated in whole or in part by the fault or neglect of Contracting Party.

Contracting Party shall provide, install and pay all costs and expenses associated with equipment he may need to conduct his business and operations from the Leased Premises.

At the termination of this Agreement, by expiration of the term or otherwise, Contracting Party shall return Leased Premises in as good an order as they were when received, free from any contamination or pollution.

**ARTICLE XXXIV**  
**CONTAMINATION OR POLLUTION**

34.1 CONTAMINATION OR POLLUTION. Contracting Party and their employees shall use their best efforts to keep University's Tract free from any and all contamination and pollution, whether resulting from any overfill, discharge, spill, or other release of toxic or hazardous substances or otherwise. Contracting Party agrees to notify University immediately of any and all contamination or pollution on or about University's Tract, including but not limited to, notice of any and all overfills, spills, discharges, or other releases of petroleum products on or about University's Tract irrespective of the cause of such.

Contracting Party and their employees shall conform to any and all federal, state, or local laws or ordinances concerning the storage, handling, transportation, sale, or distribution of all hazardous or toxic substances and shall use their best effort to cause their permittees and invitees to conform thereto, and Contracting Party will save and hold University harmless for any charge or liability resulting from same. Contracting Party shall promptly reimburse University for Contracting Party's pro rata share of any costs, charges or assessments related to any environmental monitoring by any governmental entity or regulatory authority that resulted from contaminants caused by Contracting Party, which shall be considered as additional rent. If contaminants were caused by University, University will pay all of the associated costs listed above.



**ARTICLE XXXV**  
**RENOVATIONS, ALTERATIONS AND IMPROVEMENTS**

35.1 **RENOVATIONS, ALTERATIONS AND IMPROVEMENTS.** Contracting Party shall not construct any improvements on or make any renovations or alterations to the Common Areas or Leased Premises without first obtaining the written consent of University. All such renovations, alterations, and improvements constructed by Contracting Party shall become the property of University upon expiration or termination of this Agreement unless University requires removal of all or part of such improvements by Contracting Party, in which event such improvements as may be designated by University shall be removed by Contracting Party, at Contracting Party's expense, within thirty (30) days of the expiration or termination of this Agreement. Damages, if any, caused by such removal shall be repaired at Contracting Party's expense.

Any and all installations, improvements or other work performed by or for Contracting Party to the Leased Premises shall, upon termination of this Agreement, become property of the University.

Prior to the commencement of any of the renovations, alterations, or improvements described herein above, Contracting Party shall promptly notify University, in writing, of all construction work being undertaken or planned, the costs and expenses thereof, all purchase orders or agreements therefore, and the dates upon which Contracting Party shall pay such costs and expenses. Upon request by University, Contracting Party shall promptly furnish University with copies of all such documents. All renovations, alterations, or improvements shall be done in a thoroughly workmanlike manner and at the sole cost and expense of Contracting Party, all of which costs and expenses shall be promptly and timely paid by Contracting Party.

**ARTICLE XXXVI**  
**BONDING OUT LIENS**

36.1 **BONDING OUT LIENS.** In the event Contracting Party makes any renovations, alterations, or improvements as provided herein, and a laborer's or material man's lien is filed against University's Tract or any part thereof as a result of said renovations, alterations or improvements, Contracting Party shall promptly deposit with the recorder of mortgages of Orleans Parish, Louisiana, a bond guaranteeing payment of said lien in accordance with Louisiana Revised Statute 9:4835, as amended.

**ARTICLE XXXVII**  
**ASSIGNMENT AND SUBLEASE**

37.1 **ASSIGNMENT AND SUBLEASE.** Contracting Party shall not have the right to sublease and/or assign any portion of the Leased Premises.

## ARTICLE XXXVIII

### INSURANCE

38.1 INSURANCE. University shall obtain and maintain fire and extended coverage insurance on University's Tract and such insurance shall be for the sole benefit of University. All proceeds, payments, and rights to proceeds and payments made by an insurer pursuant to said policies are payable only to University and Contracting Party shall not be a beneficiary of said policies. Any insurance payments or proceeds shall be used to repair and restore, to the extent possible, the Common Areas and Leased Premises to their pre-damage condition; however, University shall not be obligated to make repairs to the extent that the cost of such repairs exceeds the amount of the insurance payments or proceeds actually received.

Contracting Party shall, at their own cost and expense, obtain and maintain such other insurance as it deems desirable on the property and improvements of Contracting Party located on or about the Leased Premises. Contracting Party shall, at all times during the term of this Agreement, at their own cost and expense, fully protect themselves and University against loss or liability by carrying Workers' Compensation and public liability insurance with responsible insurance companies authorized to do business in Louisiana, insuring against all hazards and risks to which they may be subjected in connection with their operations on the Leased Premises and Common Areas. University shall be named as an additional insured. Without limiting the generality of the foregoing:

- a) Contracting Party shall carry an Employer's Liability and Workers' Compensation Liability Insurance policy for full coverage and protection against liability to employees.
- b) Contracting Party shall secure and keep in force, during the performance of the operations on the Leased Premises and Common Areas, such public liability and property damage insurance as shall protect them and the University from any and all claims for personal injury, including death, as well as claims for property damage, which may arise from Contracting Party's operations on the Leased Premises or Common Areas. The amount of such public liability insurance shall not be less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) for injuries, including death, to any one person, and not less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) as the result of any one accident. General liability insurance for property damage shall be in an amount not less than ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00) for any one accident.

Prior to or subsequent to the commencement of this Agreement, Contracting Party, upon demand by University, shall furnish certificates of all insurance policies required in connection with this agreement as aforesaid, which policies shall be issued to Contracting Party and/or University, as their interests may appear, together with certificates certifying to University that all said insurance is in force and that said insurance will not be canceled or otherwise changed or modified during the term of this agreement without notifying University in writing at least thirty (30) days in advance of such cancellation.



Should Contracting Party's insurance be cancelled for any reason, University has the non-exclusive option, but not the obligation, of obtaining insurance coverage for the benefit of Contracting Party, the cost of which Contracting Party must pay and reimburse University promptly upon demand as additional rent.

#### **ARTICLE XXXIX** **DESTRUCTION OF PREMISES**

39.1 DESTRUCTION OF PREMISES. If the Leased Premises shall be destroyed or damaged by fire or otherwise during the term of this Agreement, the University shall restore the Leased Premises to substantially its former condition as promptly as is reasonably possible, the cost of which is limited to insurance payments or proceeds actually received as provided above. During any period in which Contracting Party is unable to occupy the premises on account of such damage, the rent due under this Agreement for said period shall be abated. In case the damage by fire or otherwise substantially reduces the use of the Leased Premises by the Contracting Party, but does not wholly prevent the reasonable use thereof, then, in such case, the rents due under this Agreement shall be abated in proportion to the diminished utility of the Leased Premises.

#### **ARTICLE XL** **INDEMNITY**

40.1 INDEMNITY. Contracting Party's assuming possession of the Leased Premises and Common Areas constitutes an admission that Contracting Party has examined them and found them in good and safe condition at that moment. Contracting Party agrees to hold University harmless from any and all responsibility whatsoever for any and all liability for loss, injuries, or damages caused by Contracting Party or others by any vice or defect of the Leased Premises and/or Common Areas caused in whole or in part by any act or omission by Contracting Party. Contracting Party expressly assumes all such liability, and Contracting Party agrees to indemnify and to hold University harmless from any loss, injury, or damage (including costs and reasonable attorney's fees) to any person or persons whomsoever, other than employees or invitees of University caused by Contracting Party, or to the property of any persons whomsoever arising out of the occupancy or use of the Leased Premises or Contracting Party's use of the Common Areas. Likewise, University agrees to indemnify and hold Contracting Party harmless for any loss, injuries, or damages caused by any latent defect in the property that could not be reasonably be detected by Contracting Party

#### **ARTICLE XLI** **AMUSEMENT DEVICES AND VENDING MACHINES**

41.1 AMUSEMENT DEVICES AND VENDING MACHINES. Contracting Party shall not maintain or otherwise allow any currency, coin or token operated amusement devices or video games on or about the Leased Premises or Common Areas. Contracting Party shall not maintain or otherwise allow any type of vending machine on or about the Leased Premises or Common Areas without University's prior consent.

**ARTICLE XLII**  
**IMAGE REQUIREMENT**

42.1 IMAGE REQUIREMENT. Contracting Party shall keep the Leased Premises and Common Areas in a clean and orderly condition to the satisfaction of University. Contracting Party shall not make use of outdoor advertising materials without University's prior consent. Contracting Party shall keep the Leased Premises in accordance with the image standards required by University.

**ARTICLE XLIII**  
**INSPECTION OF LEASED PREMISES AND OTHER**

43.1 INSPECTION OF LEASED PREMISES AND OTHER. The University and his agents shall have the right, but not the obligation, to enter upon and inspect all parts of the Leased Premises at any reasonable time for any lawful purpose; provided, however, that the foregoing shall be done with reasonable notice and without substantial interruption to or interference with the business being transacted therein. University may place any signs or markings on or about the Leased Premises and/or Common Areas relating to the leasing, sale or other disposition of the Leased Premises, University's Tract, or any part thereof. University shall also be entitled to allow others to inspect the Leased Premises in the event of any prospective lease, sale or other disposition of the Leased Premises, University's Tract or any part thereof.

**ARTICLE XLIV**  
**DEFAULT**

44.1 DEFAULT. At the option of University, the rent for the unexpired term of this Agreement shall become due if any of the following listed events occur and Contracting Party fails to remedy same after having been given thirty (30) days prior written notice at the addresses herein designated:

- (a) If Contracting Party fails to pay any installment of rent, additional rent or expenses assumed by Contracting Party in this Agreement promptly, as stipulated.
- (b) If Contracting Party fails to comply with any of the provisions and/or conditions contained herein.
- (c) If the Leased Premises or Common Areas are abandoned or cease to be actively occupied and used for business purposes for a period in excess of thirty (30) days.
- (d) If any lien, privilege or other encumbrance is imposed or is filed against University's Tract or any portion thereof as a result of any act or omission by Contracting Party.

If any event listed above occurs, University shall have the further options to cancel this Agreement immediately, or proceed for past due installments of rent only, reserving the right to proceed for remaining installments later.

If Contracting Party fails or refuses to permit University to reenter the premises, University shall have the right to evict Contracting Party in accordance with the provisions of Louisiana



law, without forfeiting any of University's rights under this Agreement. Failure to strictly and promptly enforce any of the conditions of this Agreement shall not operate as a waiver of University's rights hereunder.

**ARTICLE XLV**  
**ATTORNEY'S FEES**

45.1 ATTORNEY'S FEES. On claims by University to collect fees owed by Contracting Party, Contracting Party shall pay University's costs and attorney's fees if University prevails as to any portion of such a claim. If Contracting Party prevails University will pay Consulting Party's costs and attorney's fees. Should either party fail to pay any sums due to other party under this Agreement, such sums shall bear interest at the rate of twelve percent (12%) per annum or the maximum amount allowed by Louisiana law from date due until paid.

**ARTICLE XLVI**  
**WAIVER**

46.1 WAIVER. The waiver by University of any breach of any term, covenant, condition or provision herein contained shall not be deemed to be a waiver of such term, covenant, condition or provision with respect to any preceding or subsequent breach of the same or any other term, covenant, condition or provision hereunder.

No term, covenant, condition or provision of this Agreement shall be deemed to have been waived by University, unless such waiver is in writing by University.

**ARTICLE XLVII**  
**HOLDOVER BY CONTRACTING PARTY**

47.1 HOLDOVER BY CONTRACTING PARTY. If Contracting Party shall not immediately surrender possession of the Leased Premises or Common Areas upon the expiration of this Agreement, Contracting Party, at the option of University, shall thereafter become a Contracting Party from month-to-month at a monthly rental equal to one and one-tenth times the previous month's rent installment, subject to all other conditions, provisions, and obligations of this Agreement insofar as the same are applicable to a month-to-month tenancy, and Contracting Party shall indemnify University against loss or liability resulting from Contracting Party's delay in so surrendering the Leased Premises or Common Areas including, but not limited to, reasonable attorney's fees and any claim made by a succeeding Contracting Party founded on such delay.

**ARTICLE XLVIII**  
**UNIVERSITY'S RIGHT TO CURE DEFAULTS**

48.1 UNIVERSITY'S RIGHT TO CURE DEFAULTS. University, at any time and without notice, may, but shall not be obligated to, cure any default by Contracting Party of any of Contracting Party's obligations under this Agreement; and whenever University so elects, all costs and expenses incurred by University in curing any default, including, but not limited to,

reasonable attorney's fees, together with interest on the amount of costs and expenses so incurred at the legal rate, shall be paid by Contracting Party to University on demand, and shall be recoverable as additional rent.

**ARTICLE XLIX**  
**SUBSTITUTION OF PREMISES**

49.1 **SUBSTITUTION OF PREMISES.** University reserves the right to substitute for the Leased Premises comparable premises within the UNO campus (University's Tract) upon sixty (60) days prior written notice to Contracting Party. If University elects to make this substitution, the substitute premises will be leased to Contracting Party at the same Rent that Contracting Party is required to pay under this Agreement, and on the other terms of this Agreement, and University will pay all of Contracting Party's reasonable relocation costs, including, but not limited to, moving and telecommunications (including internet services).

**ARTICLE L**  
**COMPLIANCE WITH RULES AND REGULATIONS**

50.1 **COMPLIANCE WITH RULES AND REGULATIONS.** Contracting Party and Contracting Party's employees, agents, and visitors shall observe and comply with the Rules and Regulations that are annexed hereto and made a part hereof as Exhibit "A" and all other reasonable rules and regulations that University may from time to time adopt. Additional rules and regulations will not be binding on Contracting Party until University has given Contracting Party notice of said rules and regulations. **THUS DONE AND SIGNED AT New Orleans, Louisiana, on the 1<sup>st</sup> day of September, 2021.**

WITNESSES:



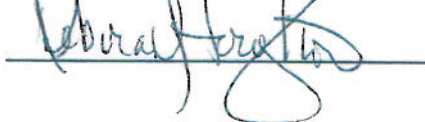
University of New Orleans



Gloria J. Walker, Ed.D., MBA, CPA  
Vice President of Business Affairs and CFO

**THUS DONE AND SIGNED AT New Orleans, Louisiana, on the 1<sup>st</sup> day of September, 2021.**

WITNESSES:



Contracting Party



Pleasant "Hoop" Hooper, MD  
Owner and President, TMS BioScience Labs

# EXHIBIT A

Firearm-free Zone <http://www.uno.edu/upd/weapons.aspx>

Tobacco Free Campus Policy <http://www.uno.edu/president/administrative-policies/documents/AP-OP-04.3-Tobacco-Use-Free-Campus.pdf>

Alcohol and Drugs <http://www.uno.edu/president/administrative-policies/documents/AP-SA-02.2-Alcohol-and-Drugs-4-30-14.pdf>

Accident Reports Involving Non-Employees <http://www.uno.edu/president/administrative-policies/documents/AP-OP-12.2-Accident-Reports-Involving-Non-Employees.pdf>

UNO Disaster/Emergency Plans [http://www.uno.edu/president/administrative-policies/documents/AP-OP-09.2\\_UNO\\_Disaster\\_Emergency\\_Plans.pdf](http://www.uno.edu/president/administrative-policies/documents/AP-OP-09.2_UNO_Disaster_Emergency_Plans.pdf)

Parking and Traffic Regulations <http://www.uno.edu/upd/docs/UNOParking2014.pdf>



**BOARD OF SUPERVISORS FOR THE  
UNIVERSITY OF LOUISIANA SYSTEM**

**FINANCE COMMITTEE**

**August 26, 2021**

- Item J.6.**      **University of Louisiana System's** request for acceptance of Fiscal Year 2020-21 Financial and Compliance and Federal Award Programs Representation Letters for (a) Grambling State University, (b) Louisiana Tech University, (c) Nicholls State University, (d) Northwestern State University, (e) Southeastern Louisiana University, (f) University of Louisiana at Lafayette, (g) University of New Orleans, and (h) University of Louisiana System.

**EXECUTIVE SUMMARY**

In connection with its financial and compliance audits of colleges and universities, the Legislative Auditor's Office requires the President and Chief Fiscal Officer to review certain representations and certify that those representations are true and correct. The officers answer and sign a financial and compliance and federal award programs questionnaire at the beginning of the audit and then sign an update upon conclusion of the audit certifying that: (1) there were no material changes to the original certification; or (2) any such changes have been disclosed to the Legislative Auditor. Office of Legislative Auditor policy further requires that the appropriate management board accept the university's questionnaire in a public meeting. The documentation is available in the System Office.

**RECOMMENDATION**

It is recommended that the following resolution be adopted:

***NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors for the University of Louisiana System hereby accepts Fiscal Year 2020-21 Financial and Compliance and Federal Award Programs Representation Letters for (a) Grambling State University, (b) Louisiana Tech University, (c) Nicholls State University, (d) Northwestern State University, (e) Southeastern Louisiana University, (f) University of Louisiana at Lafayette, (g) University of New Orleans, and (h) University of Louisiana System.***



**BOARD OF SUPERVISORS FOR THE  
UNIVERSITY OF LOUISIANA SYSTEM**

**FINANCE COMMITTEE**

**August 26, 2021**

- Item J.7.**      **University of Louisiana System's** request for approval of Fiscal Year 2021-22 Operating Budgets, including organizational charts, undergraduate/graduate mandatory attendance fees, and scholarships.

**EXECUTIVE SUMMARY**

The 2021-22 Operating Budgets were prepared in accordance with instructions received from the System Office, the Division of Administration Office of Planning and Budget, and the Louisiana Board of Regents.

System staff has prepared a comparative Operating Budget Summary for the System including Revenues by Source, Expenditures by Function and Object, and other summary data on Mandatory Attendance Fees, Organizational Charts, Employees, Scholarships, and Athletic Budgets.

Informational items are included in each institution's full operating budget document that will be available at the Board meeting.

**RECOMMENDATION**

It is recommended that the following resolution be adopted:

***NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors for the University of Louisiana System hereby approves Fiscal Year 2021-22 Operating Budgets, including organizational charts, undergraduate/graduate mandatory attendance fees, scholarships.***

**BOARD OF SUPERVISORS FOR THE  
UNIVERSITY OF LOUISIANA SYSTEM**

**FINANCE COMMITTEE**

**August 26, 2021**

**Item J.9.**      **University of Louisiana System's** report on internal and external audit activity for the period of June 21 to August 22, 2021.

**EXECUTIVE SUMMARY**

Attached is a list of internal and external reports completed by various auditors since the last Board meeting. The internal audit reports are prepared based upon independent review of university departments and functions. The internal audits are designed to ascertain compliance with established policies and procedures, to evaluate operational efficiencies of business and management practices, and to determine adequacy of internal controls. The internal audits are conducted to provide management with recommendations and comments designed to improve the operations of university departments and functions. External audits are generally conducted in accordance with laws, regulations, or contracts. Also included are internal audits that are currently in progress.

This is a report only and no action by the Board is necessary.