

Agreement Number _____

Salt Lake Community College
Research and Development Instructional Experience Agreement

This Research and Development Instructional Experience Agreement (“Agreement”) is entered into this _____ day of _____, 20____ (the “Effective Date”) between Salt Lake Community College (“College”), a body politic and corporate of the State of Utah, on behalf of its Schools and Programs, specifically SLCC InnovaBio™ (“InnovaBio”) located at 3491 W 9000 S, West Jordan, UT 84088, and _____ (“Agency”) a legal entity duly licensed to do business in the State of Utah and having an address at _____ (College and Agency each being a “Party” and collectively the “Parties”).

RECITALS

InnovaBio is a program of the College through which commercial entities may contract with the College to permit qualified students of the College, supervised by the InnovaBio staff (“InnovaBio Students”), to conduct biotechnology research, participate in new product development, and complete similar services. The goals of the InnovaBio program are to educate students and to provide a low-risk environment where businesses can develop needed technology.

Through InnovaBio, the College will obtain for its students (a) sufficient training and experience to fulfill part of the requirements for the College’s Biotechnology programs; (b) experience with hands-on research and development projects; and (c) preparation for future careers in biotechnology fields.

Through InnovaBio, the Agency will obtain reasonably priced access to practical experimental outcomes, while facilitating the development of future biotechnology professionals.

TERMS

In consideration of the above recitals and the terms and conditions of this Agreement as set forth below, the Parties agree as follows:

1. OBLIGATIONS OF THE COLLEGE

- 1.1. Definition of Activities and Project Outcomes: A detailed description of the research and development activities that the Parties shall engage in shall be defined by an “Experimental Outline,” which, when executed by the Parties,

shall be deemed a part of this Agreement. At a minimum, the Experimental Outline shall (a) identify the research and development activities in which InnovaBio Students will participate; and (b) define the expected project outcomes from those activities. The College agrees to make InnovaBio staff available to collaborate with the designated Agency contact in developing the Experimental Outline. **Attachment A** to this Agreement provides a content template for the Experimental Outline that the Parties shall create as set forth in this paragraph. In the event Agency chooses to use College equipment or facilities to complete the activities in the Experimental Outline, the parties acknowledge that the specifics of such arrangement will be set forth in an executed standard College Facilities Use Agreement prior to commencement of the project.

- 1.2. Provision of Materials: Except for those materials that the Experimental Outline defines as being provided by the Agency, the College will provide InnovaBio Students with all equipment and facilities reasonably deemed necessary to complete the activities set forth in the Experimental Outline.
- 1.3. Administration of Program: The activities set forth in the Experimental Outline shall be implemented under the direction of the InnovaBio Laboratory Director, Department of Biotechnology, or his/her designee. The College will select those students that will act as InnovaBio Students and will ensure that all InnovaBio Students have appropriate technical skills to participate in the assigned research and development activities. The Agency acknowledges that InnovaBio staff, and only InnovaBio staff, will provide oversight of InnovaBio Students.
- 1.4. Orientation: The College shall ensure that InnovaBio Students are informed regarding professional standards of practice, and shall advise InnovaBio Students that they may be required to sign a College Statement of Responsibility and Confidentiality similar to the example included as **Attachment B** to this Agreement.
- 1.5. Records and Reporting: The College will create and maintain records relating to activities under the Experimental Outline. The College agrees to make such records available to the Agency contact upon request and as set forth in the Experimental Outline.
- 1.6. Ownership of Agency Materials; No Liability: All Agency Materials (as hereinafter defined) shall remain the sole property of the Agency and the unused portion thereof shall be returned to Agency at the conclusion of activities under the Experimental Outline. Notwithstanding the foregoing, the Agency agrees that, except in cases of gross negligence, neither the College nor any InnovaBio Student shall be liable for any breakage, damage, loss, devaluation, or waste of Agency Materials (as hereinafter defined).

2. OBLIGATIONS OF THE AGENCY

- 2.1. Remuneration: The College shall invoice the Agency for amounts and according to the deliverables and schedule set forth in the Experimental Outline. The Agency agrees to pay such invoices in full within thirty (30) days following receipt.
- 2.2. Provision of Materials: The Agency shall promptly supply to InnovaBio all equipment, supplies, reagents, consumables, and other materials as set forth in the Experimental Outline or in this Agreement (“Agency Materials”).
- 2.3. Notice of Changes in Procedure or Staff: The Agency agrees to promptly inform the College about changes in the Agency’s policies or procedures that may affect activities under the Experimental Outline. The Agency also agrees to promptly notify the College in advance and in writing regarding any relevant changes in the Agency’s staffing.

3. CHANGES AND INTELLECTUAL PROPERTY

- 3.1. Changes or Extensions: Any change to, addition to, or extension of activities set forth in the Experimental Outline shall require a written addendum to this Agreement, executed by the Parties.
- 3.2. Ownership of Intellectual Property: Subject to payment by the Agency of all fees due to College hereunder, all know-how, techniques, methods, materials, experimental outcomes, and other developments created by InnovaBio Students or by any employee or contractor of the College under this Agreement (collectively “Developments”) shall be owned exclusively by the Agency, as set forth in **Attachment C** of this Agreement. The Agency hereby grants to the College a non-exclusive, limited, royalty-free, fully paid up license to use Developments solely within the schools and programs of the College to facilitate instruction of students. Subject to the provision below for Reversion of Intellectual Property Rights, the Agency shall be solely responsible for prosecution of patent protection on Developments throughout the world. The College agrees, for itself and on behalf of InnovaBio Students, to cooperate with Agency, at the Agency’s sole expense, in permitting the Agency to perfect its intellectual property rights in Developments, including cooperation with patent prosecution, execution of documents, and all reasonably related activities.
- 3.3. Reversion of Intellectual Property Rights: In the event that the Agency determines not to seek patent protection for any patentable or potentially patentable Development, the Agency agrees to (a) inform the College of such determination within a time frame that reasonably permits the College to pursue patent protection; (b) to cooperate fully with the College if the College elects to seek such patent protection, including participating in invention disclosures and execution of documents; (c) refrain from any disclosure that would prejudice the

College's ability to obtain patent protection relating to the Development in the United States or in any foreign country; and (d) refrain, both during and after the term of this Agreement, from taking any action intended to or tending to infringe, object to, call into question, or diminish the value of any patent or other intellectual property related to the Development.

- 3.4. Publication Rights: Subject to a reasonable delay during which the Agency may initiate efforts to seek patent protection for Developments, staff and faculty of the College and InnovaBio Students shall have the right to publish information regarding Developments as part of College, scholarly, research, and related publications, conferences, and the like. Agency agrees to recognize authorship contributions by College faculty, staff, and students for any publication of information regarding the project..

4. CONFIDENTIALITY, WARRANTIES, LIABILITY, AND INDEMNIFICATION

- 4.1. Confidentiality: Subject to the other terms of this Agreement, if the College is provided with or learns about trade secrets or confidential matters of the Agency ("Confidential Information") during participation in this Agreement, the College agrees to exert commercially reasonable efforts to maintain the confidentiality of all such matters, both during the term of this Agreement and for three years thereafter, except with the Agency's prior written consent or as required by law. Confidential Information shall mean written materials provided to the College by the Agency that are marked "Confidential." Notwithstanding the foregoing, the Agency acknowledges that the College is a political subdivision of the State of Utah and is subject to the Utah Governmental Records Access & Management Act ("GRAMA", codified at Utah Code Ann. Sections 63-2-101 *et. seq.*) under which Agreements with government entities and documents relating thereto that are not appropriately marked are classified as public documents and are subject to public disclosure. No notice is provided to the Agency before release of public documents. The Agency acknowledges that in the event of any conflict between the provisions of GRAMA and the obligations of the College under this Agreement, the provisions of GRAMA shall prevail.
- 4.2. Results of Activities Not Warranted: The Parties acknowledge that the Experimental Outline defines a sponsored research and development activity, the outcomes of which, by their very nature, cannot be known or predicted with any certainty. Accordingly, the College does not represent or warrant that the Experimental Outline will result in any specific, desired, or anticipated outcome and expressly waives all liability for failure of the Experimental Outline to achieve the goals of the Agency. The Agency agrees that such a failure shall not relieve the Agency of its obligations hereunder.

- 4.3. Minors Not Bound: The Agency acknowledges that some InnovaBio Students may be minors and thus may not be legally bound by obligations of confidentiality or otherwise. The Agency hereby assumes all risk associated with use of minors as participants in activities under the Experimental Outline.
- 4.4. Insurance: Each Party agrees, at its own cost, to maintain reasonable insurance coverage for liability and the protection of personal property at all times during the term of this Agreement, either through commercial insurance or self-insurance, the nature of which will be reasonably provided to the other Party.
- 4.5. Limitation of Liability: Except in connection with injury or loss of life and cases of willful misconduct or gross negligence, each Party limits its total liability for loss or damage in connection with its actions in fulfilling its obligations under this Agreement to actual damages or \$10,000, whichever is less. Except in case of willful misconduct or gross negligence, no Party will be liable to the other for indirect, punitive, or consequential losses or damage.
- 4.6. Indemnification: The Agency agrees to indemnify, defend, and hold harmless the College, its agents and employees, and InnovaBio Students from any and all costs, damages, losses, or judgments arising from (a) any allegation that Developments used by the Agency or its licensees violate the intellectual property rights of any third party; (b) any injury to person(s) or personal property occurring during the performance of activities set forth under the Experimental Outline, unless such injury resulted from gross negligence; or (c) any breach by the Agency of any express representation or warranty made herein. The College agrees to indemnify, defend, and hold harmless the Agency, its agents, and employees from any and all costs, damages, losses, or judgments arising from (a) any allegation that Developments used by the College or its licensees violate the intellectual property rights of any third party; or (b) any breach by the College of any express representation or warranty made herein.
- 4.7. No Waiver of Statutory Rights: The Agency acknowledges that the College is an institution of higher education of The State of Utah and is bound by the provisions of the Utah Governmental Immunity Act, Title 63, Chapter 30, Utah Code Annotated, 1953, as amended, and does not, by the terms of this Agreement or by any act, waive any procedural or substantive defense or benefit provided or to be provided by the Utah Governmental Immunity Act or comparable legislative enactment.
- 4.8. Worker's Compensation: The Parties agree that the Agency is not responsible for any Worker's Compensation or disability claim filed by any InnovaBio Student or College faculty member. The Parties agree that InnovaBio Students are not employees of the College or the Agency and are not covered by Worker's Compensation. College faculty and staff are employees of the College and are covered accordingly under Worker's Compensation.

4.9. Notice of Claim: Each Party agrees that it shall give the other Party prompt written notice of any claim, threatened or made, or suit instituted against it, which could result in a claim for indemnification under this Agreement.

5. LAWS, RULES AND REGULATIONS: NON DISCRIMINATION

5.1. Law, Rules and Regulations: The College and the Agency agree to abide by all applicable executive orders, federal, state, and local laws, rules and regulations in effect as of the date of this Agreement, and as they may change or be amended from time to time.

5.2. Non-Discrimination: The College and the Agency agree that no person shall be subject to unlawful discrimination on the basis of race, color, religion, sex, national origin, age, veteran status or disability in connection with participation in activities under the Experimental Outline.

6. TERM AND TERMINATION

6.1. Term: The term of this Agreement shall commence on the Effective Date and shall continue thereafter through **April 2012** unless terminated by either Party pursuant to the terms of this Agreement.

6.2. Termination: Either Party may terminate this Agreement upon thirty (30) days written notice to the other party. If the Agency gives notice of Termination under this paragraph, the Agency shall nevertheless be obligated to pay all amounts due under the Experimental Outline for services completed through the effective date of such termination, as well as all expenses and costs accruing to the College that the College reasonably obligated itself to pay prior to receiving notice of termination from the Agency, and which are based on the College's original expectation of completing all activities under the Experimental Outline. The College shall promptly invoice the Agency for all such costs and expenses and the Agency shall pay such invoice within 20 days.

6.3. Failure of Legislature to appropriate: If the College's performance under this Agreement depends upon the appropriation of funds by the Utah Legislature, and if the Legislature fails to appropriate the funds necessary for performance, then the College may provide written notice of this to the Agency and cancel this Agreement without further obligation of the College. Appropriation is a legislative act and is beyond the control of the College.

7. OTHER PROVISIONS

7.1. Force Majeure: Without affecting any right of cancellation or termination set forth in this Agreement, and except for obligations to make payments, either Party may suspend this Agreement at any time because of a labor dispute or disruption of its personnel, war, the declaration of a state of national emergency,

acts of God or the public enemy, or other cause beyond the control of such Party, by giving the other Party written notice of such suspension and the reason for the same. Payments to be made and services to be provided hereunder shall be made and performed to the date of such suspension and shall thenceforth cease until the period of such suspension has ended.

- 7.2. Use of Name: Except as expressly permitted herein, neither Party shall, without prior written consent, use the other's trade name, trademarks, or service marks in any manner that is likely to suggest that the Parties are related, or that one Party sponsors or endorses the products, services, activities, or views of the other Party. Notwithstanding the foregoing, the College shall have the right to use and publish the name of the Agency as an InnoVaBio participant.
- 7.3. Non-Assignment: Except for the use of non-employee InnoVaBio Students by the College, neither Party shall assign this Agreement or shall transfer or subcontract for the furnishing of services to be performed under this Agreement without the prior written approval of the other.
- 7.4. Entire Agreement and Modification: This Agreement and its attachments constitute the entire understanding between the parties with respect to the Agency's participation in the InnoVaBio Program and shall supersede all prior or contemporaneous writings, oral discussions, or representations. This Agreement may be modified only by a writing signed by both Parties.
- 7.5. Governing Law; Venue: This Agreement shall be governed by and construed under the laws of the State of Utah, without reference to any conflicts of laws provisions. Any dispute arising between the Parties related to this Agreement shall be resolved exclusively in the state or federal courts located in Salt Lake County, Utah, and the Parties hereby expressly consent to personal jurisdiction and venue therein.
- 7.6. Agreement Binding on Successors: The provisions of this Agreement shall be binding upon and shall inure to the benefit of the Parties hereto, their administrators, successors, and permitted assigns. The parties acknowledge that they are independent contractors and may not purport to bind or affect the duties or obligations of the other.
- 7.7. Notices: All notices required or permitted under this Agreement shall be sent by certified mail to the attention of the authorized persons executing this Agreement at the addresses specified in the first paragraph of this Agreement and shall be deemed received as of the date of actual receipt as evidenced by the courier's delivery records.
- 7.8. Waiver: No waiver by either Party of any default shall be deemed a waiver of any prior or subsequent default of the same or other provisions of this Agreement.

7.9. Severability: The invalidity or unenforceability of any provision of this Agreement shall not affect the validity and enforceability of any other provision of this Agreement; provided, however, that in the event that the invalidity or unenforceability of any provision of this Agreement has a material adverse effect on any of the rights or obligations of the Parties, the Parties shall negotiate in good faith to modify this Agreement so as to effect, as closely as possible, the original intent of the Parties.

IN WITNESS WHEREOF, the parties have caused this Research and Development Instructional Experience Agreement to be executed by their duly authorized representatives.

SALT LAKE COMMUNITY COLLEGE

AGENCY

By: _____ By: _____

Printed Name: _____ Printed Name: _____

Title: _____ Title: _____

Date: _____ Date: _____

ATTACHMENT A

EXPERIMENTAL OUTLINE

Please provide the following:

1. A descriptive title or name for this Experimental Outline
2. The overall nature of the activities to be undertaken (summarize the type of work to be performed)
3. A detailed description of the activities to be undertaken, including protocols, controls, anticipated results, equipment to be utilized, etc.
4. A detailed description of the reporting that the Agency wishes to have prepared regarding the activities themselves and the outcomes thereof
5. A detailed description of any other deliverables that the Agency wishes to have prepared, along with the method of preparation and any desired time frames
6. A detailed description of all items to be furnished to the College by the Agency, with some explanation of the intended purpose of each (include equipment, supplies, reagents, consumables, etc.)
7. The number of InnovaBio Students that the Agency anticipates will participate
8. The number of College staff that the Agency anticipates will be needed as supervisors
9. A proposed schedule for completing the activities and for completing any reports or other deliverables
10. A proposed payment plan, with milestones, target dates, and dollar amounts, indicating with care the specific steps that must be completed in order for a payment milestone to be fulfilled (such steps must not be tied to achieving specific experimental outcomes, but merely to taking steps that can be scheduled and controlled by InnovaBio staff)

NOTE: In the event Agency chooses to use College equipment or facilities to complete the activities in this Experimental Outline, the parties acknowledge that the specifics of such arrangement will be set forth in an executed standard College Facilities Use Agreement prior to commencement of the project.

ATTACHMENT C

FACULTY, STAFF, OR CONTRACTOR AGREEMENT (PARTICIPANT)

This Agreement ("Agreement") is entered into this _____ day of _____, 20____ (the "Effective Date") between Salt Lake Community College ("College"), a body politic and corporate of the State of Utah, on behalf of its Schools and Programs, specifically, SLCC InnovaBio™ ("InnovaBio") located at 3491 W 9000 S, West Jordan, UT 84088, and

_____ ("Participant") an individual residing at
_____.

1. Participant acknowledges that he/she may be permitted to participate in leading edge biotechnology research activities under the InnovaBio Program.
2. Participant acknowledges that as a participant in InnovaBio, Participant may receive or be exposed to the confidential information of those third parties that have contracted with the College to provide research activities under the InnovaBio Program ("Research Partners"). Such "Confidential Information" may include, but is not necessarily limited to, techniques, methods, materials, processes, trade secrets, business plans, financial data, personnel data, vendor data, customer lists, marketing plans, product development plans, and similar information of the College or of Research Partners.
3. As a condition of participation in the InnovaBio Program, Participant agrees to use all reasonable measures to avoid disclosure, dissemination or unauthorized use of Confidential Information by any person or entity, including other faculty, students, and staff of the College who are not participants in the InnovaBio Program, either during or after the time that the Participant provides services under the InnovaBio Program.
4. Promptly upon request by the College, Participant will return all copies of any media or materials containing Confidential Information, including but not limited to all computer programs, documentation, notes, plans, drawings, and copies thereof, electronic or otherwise, and shall provide an affidavit to that effect if so requested by the College.
5. Participant agrees that all Confidential Information shall be used solely for the express purposes of facilitating the research programs under the InnovaBio Program. Participant shall not store, analyze, process, use, or disclose the Confidential Information for any other purpose.
6. Participant may also have the opportunity to participate in the creation of innovative and novel developments in the field of biotechnology or otherwise.
7. Participant agrees that all of Participant's contributions, activities, and work ("Contributions") related in any way to the InnovaBio Program are and shall be made on a work made for hire basis, and that the College shall accordingly be the owner of all intellectual property rights in and to any such Contributions. If and to the extent that any Contributions are not deemed a work made for hire, Participant hereby assigns all of Participant's right, title and interest in all Contributions to the College.
8. Participant agrees to cooperate with the College and its assignees and licensees in perfecting, at the expense of the College or such assignees or licensees, the ownership interest, license, or transfer, as applicable, of Contributions or related intellectual property rights, including without limitation participation in invention disclosures, execution of documents, and otherwise.
9. Participant represents and warrants that (a) all Contributions and all work of any manner performed or prepared by Participant, including without limitation all Contributions, shall be the Participant's own work or a collaboration with others who are participating in the

InnovaBio Program; and (b) Participant shall not knowingly infringe the intellectual property or other rights of any third party.

- 10. This Agreement may not be changed except by a written agreement signed by authorized representatives of both parties. This Agreement will be governed by and construed in accordance with the laws of the State of Utah, without reference to any conflict of laws provisions thereof. Any legal action or proceeding arising under this Agreement will be brought exclusively in the federal or state courts located in Salt Lake City, Utah and the parties hereby consent to personal jurisdiction and venue therein. This Agreement may be executed in counterpart copies, and, in the absence of an original signature, faxed signatures will be considered the equivalent of an original signature. If a provision of this Agreement is held invalid under any applicable law, such invalidity will not affect any other provision of this Agreement that can be given effect without the invalid provision. Further, all terms and conditions of this Agreement will be deemed enforceable to the fullest extent permissible under applicable law, and, when necessary, the court is requested to reform any and all terms or conditions to give them such effect. No waiver by either Party of any default shall be deemed a waiver of any prior or subsequent default of the same or other provisions of this Agreement. Participant acknowledges that this Agreement constitutes an agreement for personal services and as such Participant may not assign this Agreement or the rights or obligations hereunder to any third party without the prior express written approval of the College and any attempt to do so is void. Participant agrees to comply with all applicable laws, regulation, and rules of the College.

Intending to be legally bound, the parties indicate their agreement to the above terms:

SALT LAKE COMMUNITY COLLEGE

PARTICIPANT

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Date: _____

Date: _____