

Texas A&M University - Texarkana  
Visiting Scholar Agreement



“Participant’s Institution/Employer” – Name of University/Organization  
“Participant” – Name of individual  
“Nominator” – TAMUT Host

**VISITING SCHOLAR AGREEMENT  
BETWEEN**

\_\_\_\_\_ (“Participant’s Institution/Employer”)  
**AND**

\_\_\_\_\_ (“Participant”)

**AND  
Texas A&M University - Texarkana**

\_\_\_\_\_ (the “Participant’s Institution/Employer”), located at

\_\_\_\_\_,  
\_\_\_\_\_ (the “Participant”), and

Texas A&M University - Texarkana, a member of The Texas A&M University System (“TAMUS”), and an agency of the State of Texas (acting on its own behalf and on behalf of any other TAMUS member institution or agency participating in the activities described herein) and referred to as “TAMUT”, enter into this Visiting Scholar Agreement (the “Agreement”).

TAMUT shall appoint the Participant as a Visiting Scholar/Researcher/Scientist in

\_\_\_\_\_ under the direction of \_\_\_\_\_

(the “Nominator”). Each of the foregoing (excluding the Nominator) is referred to as a “Party” or collectively as the “Parties”.

In consideration of the mutual promises and covenants described below, the Parties agree as follows:

**Section 1. Scope of Agreement**

*1.1 Purpose of Visit.*

The visit by the Participant contemplated by this Agreement is of mutual interest and benefit to TAMUT and to the Participant’s Institution/Employer and will further their respective research and scientific objectives in a manner consistent with their individual missions. The Participant shall collaborate with TAMUT personnel at TAMUT’s facilities to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (the “Research/Training”).

*1.2 Adherence to Policies and Procedures.*

The Research/Training shall be performed in accordance with established policies, regulations, and procedures of The Texas A&M University System (“TAMUS”) and TAMUT (or other TAMUS member, as applicable), as well as all applicable state and federal laws and regulations including but not limited to research involving human subjects, laboratory animals, hazardous agents and materials, ethical conduct, safety, and conflicts of interest.

**Section 2. Period of Performance**

This Agreement shall commence on \_\_\_\_\_, and shall end on \_\_\_\_\_.

unless extended by mutual agreement in writing between the parties, or unless terminated by one of the parties as provided in this Agreement.

**Section 3. Consideration and Payment**

**3.1 Consideration.**

The Participant’s Institution/Employer shall continue to be the employer of record for the Participant and shall be responsible for all compensation to be paid to the Participant, including but not limited to salary and fringe benefits (e.g., health insurance, leave, retirement, etc.). The Participant’s Institution/Employer shall be responsible for paying any and all employment withholding taxes, workers compensation insurance, and governmental assessments. The Participant’s Institution/Employer is responsible for the Participant’s travel expenses while on assignment at TAMUT. The Parties agree that the anticipated benefits of this collaborative research and training shall constitute sufficient consideration for this Agreement to be considered binding.

**3.2 Other Costs.**

In addition to the costs described in Section 3.1 above, any other fees and expenses will be paid as described below (select appropriate box):

There will be no charge by TAMUT to Participant’s Institution/Employer or Participant as a result of this Agreement.

Participant’s Institution/Employer has generously agreed to provide TAMUT an unrestricted gift of \$ \_\_\_\_\_ to cover laboratory expenses associated with the research and training activities conducted under this Agreement.

Participant’s Institution/Employer shall reimburse TAMUT for actual laboratory/supply expenses incurred by TAMUT related to Participant’s research and training activities conducted under this Agreement. Expenses incurred may be billed by TAMUT to Participant’s Institution/Employer monthly, or as TAMUT deems appropriate (e.g. in lump sum). Payment by Participant’s Institution/Employer is due within thirty (30) days after receipt of invoice.

Participant’s Institution/Employer shall pay a bench fee to TAMUT in the amount of \$ \_\_\_\_\_. The bench fee will be billed by TAMUT to Participant’s Institution/Employer following the execution of this Agreement. Payment of bench fee by Participant’s Institution/Employer is due within thirty (30) days after receipt of invoice.

Failure by Participant’s Institution/Employer to timely pay an invoice may result in the termination of this Agreement by TAMUT.

**Section 4. Notices**

All notices or communications to a Party by another Party shall be sent by registered or certified mail, postage prepaid, or express delivery services to the following respective addresses for each party and shall be deemed given on the date so delivered or so deposited in the mail unless otherwise provided.

**Participant’s Institution/Employer Technical Contact**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**TAMUT Technical Contact**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Participant’s Institution/Employer Business Contact**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**TAMUT Business Contact**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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***Participant***

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**Section 5. Publicity**

None of the Parties shall use the name of the other Parties, nor of any of the names of the other Parties employees or Affiliates, nor any adaptation thereof in any advertising, promotional or sales literature or news release without the prior written consent obtained from the other Party, as applicable in each case. Any marketing, advertisements, or publicity statements referring to the Research/Training results of this Agreement shall be worded so as not to imply, directly or indirectly, endorsement by TAMUT (or other TAMUS member, as applicable) of a specific product or producer and shall reflect credit on TAMUT (or other TAMUS member, as applicable), TAMUS, their personnel and activities under this Agreement.

**Section 6. Independent Contractor**

The Participant will continue to be the assignee and employee of the Participant's Institution/Employer at all times. TAMUT will exercise administrative control and technical supervision over the Participant's Research/Training activities during the term of the visit. At no time during the term of this Agreement will Participant be an employee of TAMUT. For the purposes of this Agreement, the Participant's Institution/Employer and TAMUT be, and shall be deemed to be, independent contractors and not an agent, representative, or affiliate of the other Party. Neither Party shall have authority to make any statements; representations; commitments of any kind; or to take any action which shall purport to be binding on the other Party, except as may be explicitly provided for herein or authorized in writing.

**Section 7. Confidentiality**

*7.1 Overview.*

A primary reason for the Participant's presence at TAMUT is the collaborative interaction between the Participant and the TAMUT research and diagnostic community, including faculty, researchers, diagnosticians, and students. During the course of this Agreement, however, the Participant may receive or be exposed to information or material which TAMUT (or other TAMUS member, as applicable) considers confidential or proprietary, or both and which it wishes to be held in confidence by the Participant or Participant's Institution/Employer, or both. In such situations the following provisions shall apply.

*7.2 Confidential Information Defined.*

For purposes of this Agreement, "Confidential Information" means nonpublic information that is identified or designated as being confidential or which, in light of the circumstances under which it was disclosed, whether oral or written, is reasonably apparent to the Participant to be considered confidential or proprietary by TAMUT (or other TAMUS member, as applicable). "Confidential Information" includes, without limitation, information which may be contained in materials such as inventions, discoveries, concepts, ideas, methodologies, research data, research results, drawings, plans, programs, software, codifications, models, data, specifications, reports, compilations and may also be in the nature of unwritten knowledge and know-how.

*7.3 Obligations & Restrictions.*

(a) Except as required by law, the Participant and Participant's Institution/Employer must receive and hold such Confidential Information in confidence to the same degree of care that Participant's Institution/Employer uses with its own information of like kind to prevent its disclosure to third parties. Subject to any exception(s) herein, the Participant and Participant's Institution/Employer hereby agree that, with respect to any Confidential Information that is acquired by Participant during his/her tenure at TAMUT (or other TAMUS member, as applicable), Participant and Participant's Institution/Employer must:

- i. hold the Confidential Information in strict confidence and not disclose, or cause or permit the disclosure of the Confidential Information, except as permitted under this Agreement or with the prior written consent of TAMUT (or other TAMUS member, as applicable);

- ii. keep the Confidential Information and any documents created by Participant which incorporate Confidential Information, secure and protected from any use, disclosure or access which is inconsistent with this Agreement;
- iii. use the Confidential Information only for research or training purposes as related to Participant's collaborative efforts at TAMUT (or other TAMUS member, as applicable);
- iv. do anything required by TAMUT to restrain a breach of this Agreement or any infringement of TAMUT's (or other TAMUS member's, as applicable) rights arising out of this Agreement by any person, whether by court proceedings or otherwise;
- v. obtain the written consent of TAMUT, through the TAMUT Director's Office or Dean (if appropriate), before he/she applies for, or directly or indirectly assist any other person, company or institution to apply for, any patent, design or other industrial or intellectual property or proprietary right in respect of any invention, process, or design that is based on or utilizes the Confidential Information;
- vi. not contest or oppose, or attempt to invalidate, any application for or any industrial or intellectual property or proprietary right of TAMUT (or other TAMUS member, as applicable) that is based on or utilizes the Confidential Information; and
- vii. not use the Confidential Information to compete against TAMUT (or other TAMUS member, as applicable).

(b) Participant may, however, report to Participant's Institution/Employer on his/her personally obtained research results. Participant may report on such results only when their disclosure does not lead to acquisition of unpublished TAMUT (or other TAMUS member, as applicable) results or other TAMUT (or other TAMUS member, as applicable) intellectual property by Participant's Institution/Employer or any third party. All reports containing technical information by Participant to Participant's Institution/Employer, or to a third party, will be accompanied by an English translation if necessary, which must be reviewed and approved by Nominator in advance of transmittal of any report containing technical information. No other technical information will be transmitted or disclosed by Participant. TAMUT shall have the right to use and disclose all data/research results generated by Participant for any purpose. Participant must comply with any obligation of confidentiality owed to a third party by TAMUT in accordance with the terms and conditions agreed between TAMUT and the third party.

#### *7.4 Period of Confidentiality.*

The period of confidentiality shall expire five years from the expiration or termination of this Agreement or the disclosure of the Confidential Information, whichever is longer unless otherwise agreed. Note: The period of confidentiality related to Texas A&M Veterinary Medical Diagnostic Laboratory confidential information such as client information, client results, or diagnostic trends shall remain confidential permanently.

#### *7.5 Exceptions.*

The Participant's Institution/Employer or Participant shall not be obligated to keep as confidential information received from TAMUT (or other TAMUS member, as applicable) if any such information (a) was already in the possession of the Participant's Institution/Employer or Participant as evidenced by existing documentation, prior to the receipt of the information from TAMUT (or other TAMUS member, as applicable); (b) appears in issued patents or printed publications; (c) which is now or hereafter becomes generally available to the public on a non-confidential basis through no fault or failure to act on the part of the Participant's Institution/Employer or Participant; (d) is disclosed to the Participant's Institution/Employer or Participant by third parties having a bona fide right to make such disclosure; or (e) is ordered produced or disclosed by a court or administrative body of competent jurisdiction, the Attorney General of Texas, or otherwise required by law.

#### *7.6 Ownership of Confidential Information.*

All Confidential Information disclosed under this Agreement shall remain the property of TAMUT (or other TAMUS member, as applicable). At TAMUT's request, all Confidential Information received by Participant's Institution/Employer or Participant in tangible form shall be promptly returned or destroyed.

#### *7.7 No License Granted.*

Nothing in this Section 7 shall be construed as an offer to grant or as granting a license to any patent, copyright, know-how, trade secret or other form of intellectual property to any other Party.

## **Section 8. Publications**

### **8.1 Publishing Rights.**

The timing, extent and content of all publications regarding the results of the Research/Training under this Agreement, including those of the Participant, shall be at the discretion of TAMUT and the Nominator.

## **Section 9. Intellectual Property**

### **9.1 Agreement Intellectual Property Defined.**

The term "Agreement Intellectual Property" shall mean, individually and collectively: (a) inventions, discoveries, and/or improvements which are conceived or first reduced to practice, whether or not patentable, in the performance of the collaborative research efforts under this Agreement; and (b) all works of authorship created, prepared and/or developed (including compilations) in the performance of the collaborative research efforts under this Agreement that are the subject matter of copyright under Title 17 of the United States Code.

### **9.2 Pre-Existing (Background) Intellectual Property.**

Each Party retains title to any of its pre-existing intellectual property (e.g., patents; non-patented discoveries and inventions; copyrights; technical know-how; trade secrets; etc.) that it may use or provide for use in these collaborative research efforts. Except as otherwise specifically stated in this Agreement no rights in pre-existing intellectual property are granted by license or otherwise by one party to the other.

### **9.3 Intellectual Property Rights Arising During Visit.**

Title to any Agreement Intellectual Property conceived and/or reduced to practice by the Participant during the course of performing the Research/Training activities described in this Agreement shall be, and are hereby, assigned to TAMUS on behalf of TAMUT (or other TAMUS member, as applicable) in accordance with TAMUS's Intellectual Property Policy. TAMUT (or other TAMUS member, as applicable) shall own all tangible research results and intellectual property generated by the Participant during his/her tenure at TAMUT, including but not limited to know-how, original data, computer programs, and records of the work and activities performed.

### **9.4 Duty to Disclose.**

Participant shall promptly notify the Nominator and TAMUT of any Agreement Intellectual Property arising out of the performance of the Research/Training activities performed under this Agreement. The Parties shall keep in confidence all information contained in disclosures and notifications relating to Agreement Intellectual Property before and during any period prior to the application for a patent or other legal protection of such Agreement Intellectual Property.

### **9.5 Rights in Data.**

TAMUT (or other TAMUS member, as applicable) shall own all research data, diagnostic data, and information generated by the Participant while he or she is participating in Research/Training activities described in this Agreement. Although owned by TAMUT, TAMUT agrees to make copies of information generated by the Participant's discoveries available to the Participant's Institution/Employer on a confidential basis through the Participant, to the extent permitted by law or preexisting contractual commitments to third parties, and subject to TAMUT's Intellectual Property Policy and/or Guidelines.

### **9.6 Third Party Support.**

To the extent the collaborative research efforts under this Agreement are supported by a grant, cooperative agreement, or contract between TAMUT (or other TAMUS member, as applicable) and the U.S. Government or other third party, the Nominator, Participant, and Participant's Institution/Employer must comply with the intellectual property provisions of such U.S. Government or third-party grant, cooperative agreement, or contract as determined by the TAMUT Director, Executive Associate Director, or Dean (if appropriate).

## **Section 10. Disputes**

### **10.1 Informal Resolution.**

The Parties shall make a good faith effort to resolve in an amicable manner any disputes that may arise from this Agreement.

### **10.2 Governing Law.**

The validity, interpretation, and enforcement of this Agreement shall be governed and determined by the laws of the State of Texas without regard to its conflicts of laws principles.

## Section 11. Indemnity and Liability

### 11.1 Indemnity.

The Participant's Institution/Employer shall defend, indemnify and hold TAMUT (or other TAMUS member, as applicable), its officers, employees, and agents harmless from and against any and all liability, loss, expense, (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this Agreement, but only in proportion to and to the extent such liability, loss, expense, attorneys' fees or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of the Participant's Institution/Employer or its officers, employees, or agents (including without limitation the Participant).

### 11.2 Limitation of Liability.

TAMUT (or other TAMUS member, as applicable) shall not be liable to the Participant's Institution/Employer for direct, indirect, special, consequential, punitive, exemplary, incidental, or other damages (including but not limited to lost revenue, profits, use, data, or other economic loss or damage) however caused and regardless of theory of liability (whether for breach of contract or tortious acts) arising from, related to, or connected with the Participant's Institution/Employer's use of TAMUT (or other TAMUS member, as applicable) scientific or laboratory equipment, data, inventions, copyrights, or other research results provided by TAMUT (or other TAMUS member, as applicable), even if TAMUT (or other TAMUS member, as applicable) was advised of the possibility of such loss or damage and even if such loss or damage results from the sole, joint, or concurrent negligence, negligence per se, statutory fault, or strict liability of TAMUT (or other TAMUS member, as applicable).

### 11.3 Assumption of Risk and Release.

Participant understands and agrees that he/she will not be covered by any health and/or accident insurance while using TAMUT (or other TAMUS member, as applicable) facilities. Participant understands and acknowledges there is a risk of injury from using TAMUT (or other TAMUS member, as applicable) facilities and equipment, including the potential for serious injury. Participant voluntarily assumes the risk of any injuries he/she may incur due to negligence or accidental occurrences while Participant is using TAMUT (or other TAMUS member, as applicable) facilities and equipment. Participant agrees that if he/she is personally injured or suffers any loss of or damage to personal property, Participant will not attempt to claim coverage under any TAMUT (or other TAMUS member, as applicable) insurance policy. Participant agrees to be personally responsible for his/her own acts and for any medical care that may be rendered to Participant. Further, Participant voluntarily assumes the risk of damage to or loss of his/her personal property that may occur during Participant's use of TAMUT (or other TAMUS member, as applicable) facilities and equipment. **Participant, personally and on behalf of Participant's heirs, personal representatives or assigns, hereby releases, waives, covenants not to sue, indemnifies and holds harmless for any and all purposes TAMUT (or other TAMUS member, as applicable), TAMUS, the Board of Regents for TAMUS, and their respective members, officers, agents, volunteers, or employees ("Releasees") from any and all liabilities, claims, demands, injuries (including death), or damages, including court costs and attorney's fees and expenses, which may occur to Participant as a result of Participant's activities under this Agreement while on the premises owned, leased, or controlled by Releasees, including injuries sustained as a result of the sole, joint, or concurrent negligence, negligence per se, statutory fault, or strict liability of Releasees.** This waiver does not apply to injuries caused by intentional or grossly negligent conduct. **Participant hereby gives consent for any medical treatment, rescue or evacuation services that may be required** (as determined by Releasee staff, medics, emergency personnel, or other medical professionals) during the performance of this Agreement with the understanding that the cost of any such treatment will be Participant's responsibility. **Participant, including Participant's heirs, personal representatives, or assigns, agrees to indemnify and hold harmless Releasees for any costs incurred to treat Participant, even if Releasee has signed medical care facility documentation promising to pay for the treatment due to Participant's inability to sign the documentation. Participant, including Participant's heirs, personal representatives, or assigns, further agrees to release, waive, covenant not to sue, and agree to hold harmless for any and all purposes, Releasees from any and all liabilities, claims, demands, injuries (including death), or damages, including court costs and attorney's fees and expenses, that may be sustained by Participant while receiving medical care or in deciding to seek medical care, including while traveling to and from a medical care facility, including injuries sustained as a result of the sole, joint, or concurrent negligence, negligence per se, statutory fault, or strict liability of Releasees.** This waiver does not apply to injuries caused by intentional or grossly negligent conduct.

## Section 12. Compliance

### 12.1 Compliance.

The Participant and Participant's Institution/Employer will comply, and Participant's Institution/Employer will be responsible for Participant's compliance, with all local, state and federal laws, rules and regulations that apply to the performance of this Agreement, including but not limited to those governing: export control (including but not limited to Export Administration Regulations (15 CFR Part 730, et seq); International Traffic in Arms Regulations (22 CFR Part 120,

et seq); and Foreign Assets Controls (31 CFR Part 500, et seq)); animal welfare; human subject research; workplace safety; and handling, storage, use and disposal of biological materials, chemicals, hazardous or radioactive materials. The Participant's Institution/Employer also will be responsible for the Participant's compliance with all applicable TAMUT (or other TAMUS member, as applicable) policies while on TAMUT (or other TAMUS member, as applicable) premises.

#### **12.2 Background Check.**

The Participant hereby gives TAMUT permission to inquire into his/her education, references, driving record, employment, volunteer history, and criminal background. The Participant further gives permission to the holder of such records to release the same to TAMUT (or other TAMUS member, as applicable). The Participant understands that TAMUT (or other TAMUS member, as applicable) will only use this information for the purpose of this Agreement.

### **Section 13. Termination**

#### **13.1 Convenience.**

Performance under this Agreement may be terminated by either Party upon thirty (30) days written notice. Participant's Institution/Employer will remain liable for any fees/costs due and owing to TAMUT through the date of termination pursuant to Section 3 above.

#### **13.2 Default.**

In addition to the termination right set forth above, a Party may terminate this Agreement effective upon written notice to the other Parties, if another Party breaches any of the terms and conditions of this Agreement and fails to cure such breach within thirty (30) days after receiving written notice thereof. In the event of an incurable breach, the other Party may terminate this Agreement effective immediately upon written notice to the breaching Party.

#### **13.3 Obligations of Confidentiality and Intellectual Property Terms upon Termination.**

Obligations of confidentiality as stated in Section 7 and the intellectual property terms as stated in Section 9 shall survive the termination of this Agreement.

### **Section 14. Miscellaneous Provisions**

#### **14.1 Entire Agreement and Modification.**

This Agreement constitutes the entire agreement between the Parties relative to the subject matter, superseding and cancelling all previous, all prior and contemporaneous oral or written agreements, discussions or understandings related to the subject matter, and may be modified or amended only by a written amendment signed by all Parties.

#### **14.2 No Assignment.**

This Agreement will not be assigned, in whole or in part, by any Party without the prior written consent of the other Parties. Any attempt to do so shall be void.

#### **14.3 Binding Agreement.**

This Agreement is binding upon and will inure to the benefit of the Parties, their representatives, successors in interest, and permitted assigns.

#### **14.4 No Waiver.**

The failure of a Party at any time to require performance by another Party of any provision of this Agreement will in no way affect the right to require such performance at any time thereafter nor will the waiver by a Party of a breach of any provision be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of the provision itself.

#### **14.5 Severability.**

If any provision of this Agreement is held to be invalid, illegal or unenforceable, then such provision will be severed and will not affect the remainder of this Agreement.

#### **14.6 Force Majeure.**

If any Party fails to fulfill its obligations hereunder (other than an obligation for the payment of money), when such failure is due to a circumstance beyond its reasonable control, including but not limited to fire, flood, civil commotion, riot, acts of God, war (declared and undeclared), revolution, acts of foreign or domestic terrorism, or embargos, then said failure shall be excused for the duration of such event and for such a time thereafter as is reasonable to enable the Parties to resume performance under this Agreement, provided however, that in no event shall such time extend for period of more than thirty (30) days.

The Parties have executed this Agreement on the day and year last specified below:

**Participant's Institution/Employer**

By: \_\_\_\_\_  
(Signature)

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

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

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

**Participant**

By: \_\_\_\_\_  
(Signature)

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

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

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

**Nominator (Acknowledgment – Not a Party)**

By: \_\_\_\_\_  
(Signature)

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

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

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