

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY EQUIPMENT LOAN CRADA

This Equipment Loan Cooperative Research and Development Agreement (“CRADA”) is by and between the National Institute of Standards and Technology (NIST) and [Name of collaborator] (“Collaborator”) for specific research and development activities (“Research Project”) of mutual interest to NIST and Collaborator. NIST and Collaborator may be referred to herein as collectively as the “Parties,” and individually as a “Party.” In consideration of the benefits to each Party, the Parties agree as follows:

1. The Parties enter into this CRADA pursuant to the authorities granted to NIST under Title 15, United States Code section 3710a and Title 15, United States Code section 272 *et seq.* The Research Project, as described in Appendix A, shall be performed on a reasonable efforts basis. NIST does not evaluate commercial products under this CRADA, and will not endorse any product or service used pursuant to this CRADA.
2. Collaborator agrees to loan to NIST its equipment, instrumentation, devices and/or software, as identified in Appendix A (referred to collectively as “Equipment”) solely for the purpose of the Research Project. Except for the right granted to NIST under this CRADA to use the Equipment for the Research Project, no other rights or licenses are granted herein by Collaborator. Collaborator’s Equipment loaned to NIST is and shall remain at all times the property of Collaborator. NIST shall keep the equipment in safe and secure conditions clearly marked as belonging to Collaborator. NIST shall return or Collaborator shall retrieve the Equipment at Collaborator’s expense and risk as soon as practical upon expiration or termination of the CRADA or upon modification of this CRADA to remove such Equipment from the list of Equipment loaned to NIST.
3. NIST may publish or otherwise publicly disclose the results of the Research Project. To the extent permitted by law, NIST agrees to treat in confidence, for a period of three (3) years from the date of its disclosure to NIST, any of Collaborator’s privileged or confidential information about the Equipment that is marked as confidential (“Proprietary Information”) prior to disclosure to NIST, except if the information was previously in NIST’s possession prior to receipt from Collaborator, is or becomes publicly available through no fault of NIST, is disclosed to NIST by a third party under no obligation of confidentiality, is disclosed by Collaborator to a third party without a duty of confidentiality, or is independently developed by NIST without reference to the information disclosed by Collaborator.
4. NIST’s obligations under this CRADA are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this CRADA and are controlling.
5. Given the nature of the Research Project, the Parties do not intend to conceive of any invention while working under this CRADA (“CRADA Invention”). Collaborator acknowledges that NIST, pursuant to the requirements of Title 15, United States Code section 3710a(b), has offered the Collaborator the option for an exclusive or non-exclusive license to NIST’s ownership in CRADA Inventions, and Collaborator hereby declines the offer for the option.
6. Pursuant to the Federal Technology Transfer Act of 1986, the United States Government shall normally retain a nonexclusive, nontransferable, irrevocable, paid up license to practice or have practiced, for Government research or other Government purposes, any CRADA Inventions solely conceived by Collaborator in the course of performing the research described in the Research Project.
7. The U.S. Government shall not be responsible for damage to any Equipment or other property of the Collaborator that is loaned to NIST or is acquired by NIST pursuant to this CRADA.
8. **NO WARRANTY.** THE PARTIES MAKE NO EXPRESS OR IMPLIED WARRANTY AS TO ANY MATTER WHATSOEVER, INCLUDING THE CONDITION OF THE RESEARCH OR PRODUCT, WHETHER TANGIBLE OR INTANGIBLE, NON-INFRINGEMENT, MADE OR DEVELOPED UNDER THIS CRADA, OR AS TO THE OWNERSHIP, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE RESEARCH OR PRODUCT.

- 9. Collaborator shall not use the name, seal or logo of NIST or the Department of Commerce on any advertisement, product or service, which is directly or indirectly, related to this CRADA.
- 10. This CRADA becomes effective on the date of the last signature of the Parties hereto (“Effective Date”) and shall expire one (1) year from Effective Date. Any modification to this CRADA shall not be effective until a written amendment is signed by all Parties. Each Party has the right to terminate this CRADA upon thirty (30) days written notice to the other Party. NIST may terminate this CRADA immediately if direct or indirect control of Collaborator is transferred to a foreign company or government; or, if upon the Effective Date, Collaborator is controlled by a foreign company or government, and that control is thereafter transferred to another foreign company or government.
- 11. Sections 3, 4, 6, 8, 9, 11 and 12 shall survive the expiration or early termination of this CRADA.
- 12. This CRADA is governed by the Federal laws of the United States.

IN WITNESS WHEREOF, the Parties have caused this CRADA to be executed by their duly authorized representatives as follows:

Signatory for the Collaborator:

Signature
Name: _____
Title: _____

Date

Mailing Address for Notices:

Signatories for National Institute of Standards and Technology:

Henry Wixon
Chief Counsel for NIST

Date

[Director Name]
Director, [Name of OU]

Date

Paul Zielinski
Director, Technology Partnerships Office

Date

Mailing Address for Notices and Informational Copies:
National Institute of Standards and Technology
Technology Partnerships Office, Attn: Director
100 Bureau Drive, Stop 2200
Gaithersburg, MD 20899-2200

Appendix A Research Project

Research Project Title: Title

NIST's Principal Investigator: Name, Contact

Collaborator's Principal Investigator: Name, Contact

Collaborator's Equipment: Equipment Description

Research Project:

1. Objectives
2. Benefits to each party
3. Research description

Collaborator Certification: Please select all that apply:

- Collaborator certifies that it is incorporated or organized under the laws of one of the states or territories of the United States.
- Collaborator certifies that it is not subject to the control of any foreign government or foreign company.
- Collaborator certifies that it is partially or wholly owned by the following foreign government:

- Collaborator certifies that it is not owned by any government, but organized under the laws the following foreign country: _____
- Collaborator certifies that it is subject to the control of the following foreign company (please also specify country):
