

RESEARCH SERVICES AGREEMENT

This Research Services Agreement (“Agreement”) is dated as of the 1st day of April, 2014, (“Effective Date”) by and between Children’s Hospital Corporation dba Boston Children’s Hospital, with an address at 300 Longwood Avenue, Boston, MA 02115 (“Children’s”) and Framingham State University, a state educational institution located at 100 State Street, Framingham, MA 01701, organized and existing under Chapter 73 of the Massachusetts General Laws (the “Institution”).

WITNESSETH

WHEREAS, Children’s has commenced a study entitled *Effects of Dietary Composition on Energy Expenditure during Weight-Loss Maintenance* (“Study”) funded by Nutrition Science Initiative (“Grantor”); and

WHEREAS, Children’s desires for and Institution agrees to provide certain services/equipment pursuant to the Scope of Work, which is incorporated by reference as Exhibit A, as such Scope of Work may be modified, supplemented, or amended from time to time (“Scope of Work”).

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Children’s and Institution agree as follows:

1. Research Services/Equipment.
During the Term of this Agreement, Institution shall provide the services/equipment (collectively the “Scope of Work”) to Children’s, in accordance with the attached Exhibit A.
2. Compensation.
 - 2.1. Compensation. In full consideration for the Scope of Work to be rendered by the Institution pursuant hereto and outlined in Exhibit B, Children’s shall pay Institution \$4,077, 835.00 (but no more than).
 - 2.2. Amendments to Compensation. In consideration of modifications, supplements or amendments to the Scope of Work outlined in Exhibit B, Compensation will be amended accordingly through a modification of this agreement.
 - 2.3. Terms of Compensation.
Children’s will make a a onetime pre-payment to Institution of \$600,000.00 upon: 1) receipt of a countersigned copy of this Agreement and 2) the Institution’s invoice.

All other payments will be cost reimbursable. The Institution will submit invoices for services on at least a quarterly basis rendered for payment by Children's that shall detail agreed-upon expenses incurred in support of the study and consistent with the Project Budget/Compensation. Invoices shall be sent to CHBsubinvoices@childrens.harvard.edu. Please reference PO number 0000574683 on all invoices. Invoices that do not reference this number shall be returned to the Institution.

The final invoice, clearly marked "final" must be submitted to Children's no later than sixty (60) days following the close of the project. The final invoice would be the reconciling invoice against the pre-payment. All unexpended funds from the pre-payment against the final invoice must be returned to Children's within 90 days following the end date of the service agreement. The Institution agrees that acceptance of the final invoice payment from Children's hereby releases Children's from all further financial claims for research services performed under this Agreement.

3. Term and Termination.

3.1. Term and Termination of Agreement. This Agreement shall commence as of the Effective Date and shall terminate upon the first to occur of any of the following events:

- a) Thirty six (36) months after the Effective Date of the Agreement;
- b) upon the completion of the Scope of Work;
- c) upon thirty (30) days prior written notice thereof to the other party; or
- d) upon either party's failure to cure any breach of any material term or condition of this Agreement within thirty (30) days after the breaching party receives notice of such breach.

3.2. Obligations upon Termination. Children's will reimburse Institution for any non-cancelable obligations and agreements properly incurred prior to the date of notice of termination and approved at the time of termination. Children's shall make payment for unpaid Scope of Work that Institution performed prior to the date of such termination and/or Institution will return any unused portion of compensation as of the date of termination.

4. Independent Contractor Status. The relationship of Institution to Children's hereunder shall be solely that of an independent contractor. Institution and Children's acknowledge and agree that neither Institution nor Children's is an employee, employer, agent, partner or joint venture of the other. Neither Institution nor Children's shall have or hold itself out as having the right or authority to assume or create any obligations or responsibility, whether express or implied, on behalf of or in the name of the other, except with the express written authority of the other.

5. Use of Name. Neither party shall, without the prior written consent of the other party in each instance, use in any manner whatsoever including, without limitations, in any external advertisement, the name, trademarks, logos, symbols, or other images of the other party or of any party affiliated therewith.
6. Confidential Information.
 - 6.1. **Definition.** For the purposes of this Agreement, “**Confidential Information**” means all information, data, files, systems, software, processes, documentation and other materials communicated to the Institution or to which the Institution has access relating to or arising in connection with the Scope of Work, whether oral, written or in any other form whatsoever. The Institution acknowledges and agrees that Confidential Information constitutes trade secrets and the proprietary and confidential information of Children’s and its customers, suppliers or other persons, and that Confidential Information is and will remain the property of Children’s or such customers, suppliers or other persons during the provision of Scope of Work by the Institution and at all times thereafter.
 - 6.2. **Exclusions.** Confidential Information shall not include information which is (i) publicly known or becomes publicly known through no unauthorized act of Institution, (ii) rightfully received from a third party, or (iii) independently developed by Institution without use of the Confidential Information so long as such independent development can be clearly documented and verified, or (iv) is required by law to be disclosed
 - 6.3. **Covenants.** Children’s and Institution covenant that it and its employees shall:
 - (a) protect and maintain the confidentiality of the Confidential Information in a manner no less stringent than it uses to protect similar confidential information which it owns, which in any event shall not be less than a reasonable degree of care;
 - (b) not disclose, or allow to be disclosed, the Confidential Information to any person other than to employees who have a need-to-know in order to perform the Scope of Work;
 - (c) not use the Confidential Information for any purpose other than to perform the Scope of Work;
 - (d) take all necessary precautions to restrict access to the Confidential Information; and

(e) comply with MGL c. 66A if it becomes a holder of personal data. Institution shall protect the physical security and restrict any access to personal or other data in its possession, or used in the performance of this agreement, which shall include but is not limited to its public records, documents, files, software, equipment or systems.

6.4. abide by all federal and state rules and regulations governing patient privacy, including without limitation, the Health Insurance Portability and Accountability Act and shall, if required execute a Business Associate Agreement.

7. Indemnification.

Unless otherwise exempted by law, Children's shall indemnify and hold harmless the Commonwealth, including the Department, its agents, including FSU's food service provider, officers and employees against any and all claims, liabilities and costs for any personal injury or property damages, patent or copyright infringement or other damages that the Commonwealth may sustain which arise out of or in connection with Children's performance of this agreement including but not limited to the negligence, reckless or intentional conduct of Children's, its agents, officers, employees or subcontractors. Children's shall at no time be considered an agent or representative of the Department or the Commonwealth. After prompt notification of a claim by the Commonwealth, Children's shall have an opportunity to participate in the defense of such claim and any negotiated settlement agreement or judgment. The Commonwealth shall not be liable for any costs incurred by Children's arising under this paragraph. Any indemnification of Children's shall be subject to appropriation and applicable law.

8. Miscellaneous.

8.1. Notices. All notices, requests, demands, and other communications required or permitted to be given hereunder shall be in writing, shall be deemed to have been duly given when delivered in person, or when sent by telex, or telecopy, or other facsimile transmission (with the receipt confirmed), or on the third business day after posting thereof by registered or certified mail, return receipt requested, prepaid and addressed as follows (or other such address as the parties may designate by written notice in the manner aforesaid):

If to Children's: Children's Hospital Boston
300 Longwood Avenue
Boston, MA 02115
Attn : Jarod Kohr

If to Institution: Framingham State University
100 State Street

Framingham, MA 01701
Attn: Dr. Linda Vaden-Goad
Vice President for Academic Affairs

- 8.2. Non-Assignment. This Agreement may not be assigned by either party without the prior written consent of the other party.
- 8.3. Entire Agreement. This Agreement sets forth the entire understanding of the parties with respect to the subject matter hereof. This Agreement supersedes all prior representations, agreements, and understanding among the parties with respect to such subject matter. No changes or amendments or alterations shall be effective unless in writing and signed by all parties hereto. In the event of any conflict between the Scope of Work and the provisions of this Agreement, the provisions of this Agreement shall govern.
- 8.4. Waiver. No waiver of any default in the performance of any of the duties or obligations arising out of this Agreement shall be valid unless in writing and signed by the waiving party. Waiver of any one default shall not constitute or be construed as creating waiver of any other default or defaults. No course of dealing between the parties shall operate as a waiver or preclude the exercise of any rights or remedies under this Agreement. Failure on the part of either party to object to any act, or failure to act by or on the part of the other party, or declare the other party in default, regardless of the extent of such default, shall not constitute a waiver by the party of its rights hereunder.
- 8.5. Severability. If any provision of this Agreement shall be held to be unenforceable in whole or in part, then the invalidity of such provision shall not be held to invalidate any other provision herein and all other provisions shall remain in full force and effect.
- 8.6. Governing Law. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts and shall be brought and maintained in a state or federal court in Massachusetts which shall have exclusive jurisdiction thereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

Children's Hospital Boston

Framingham State University

By: Tee Trac
Tee Trac
Name: _____
Senior Grant Officer, OSP
Title: _____
Date: 5/14/14

By: 
Name: Dale Hamel
Title: Executive Vice President
Date: 05/13/14

EXHIBIT A SCOPE OF WORK

The research study entitled *Effects of Dietary Composition on Energy Expenditure during Weight-Loss Maintenance* will be conducted on the campus of Framingham State University (FSU). This collaboration between FSU and Boston Children's Hospital (BCH) will allow utilization of the established infrastructure of a residential setting, where meals are prepared in an on-site commercial kitchen and space is available for assessing study outcomes. Administrators at FSU will stay in close communication with the Principal Investigators at BCH (David Ludwig, MD, PhD and Cara Ebbeling, PhD, MS) throughout implementation of the study protocol, with the FSU Project Director (Patricia Luoto, EdD, RD) facilitating communication with the BCH Study Director (Gloria Klein, MS, RD). The FSU scope of work is as follows.

- Convene workgroups (administration, recruitment, assessment, intervention) and focus groups to ensure that researchers have ample input on study implementation from the FSU community.
- Advertise and promote the study to students, faculty, and staff. The goal is to screen approximately 460 individuals (to account for screening failures) and enroll 230 individuals (to account for study drop-outs), thereby ensuring that the researcher team is able to obtain complete data on 150 study participants over two academic years.
- Conduct campus events to support recruitment and retention of study participants.
- Facilitate activities of the intervention and assessment phases of the project.
- Ensure adequate accounting and clerical support to administer payments to study participants.
- Provide sufficient space on campus for safely conducting study assessments and storing equipment.
- Offer shuttle service for study participants for off-site assessments.
- Collaborating with Sodexo, prepare and serve all food to study participants in the campus dining hall. Package and deliver food to study participants when necessary.
- Facilitate involvement of FSU faculty in the research study by soliciting responses to a Request for Applications (RFA).
- Facilitate involvement of FSU staff (e.g., health center personnel) and students as research assistants.
- Facilitate communication with resident assistants to ensure that any miscommunications about the study are addressed expeditiously and in a professional and sensitive manner.

Boston Children's Hospital - Framingham State University Nutrition Study
 "BCH/Framingham Nutrition Study"
 FSU Components Project Budget

27-Feb-14

	FY2014	FY2015	FY2016	Total		
Student Participation Awards						
Student Aid						
Number of Participants						
Run-in Phase (100 per year, \$850/Resident & \$420/Non-Resident)		\$79,310	\$79,310			
Test Phase (75 per year, \$6650/Resident & \$2860/Non-Resident)		\$395,538	\$395,538			
Meal Plan Costs for Non-Residents		\$93,863	\$93,863			
Student Recruitment/Participation/Conclusion Events	\$11,000	\$11,330	\$5,835	\$28,165		
Student Participation Costs	\$11,000	\$580,041	\$574,546	\$1,165,587		
FSU Study Coordinator						
Project Director: 15 hours per week, 40 weeks, \$82.5/hr	\$24,750	\$50,985	\$52,515	\$128,250		
Accounting/Clerical Support: 15 hours per week, 40 weeks, \$41.80/hr	\$12,540	\$25,832	\$26,607	\$64,980		
Operations Costs	\$37,290	\$76,817	\$79,122	\$193,229		
Assessment Support						
Space Allocation	\$82,500			\$82,500		
Space Accessibility/Fit-out/Equipment						
Graduate Student Assessment (histories, blood draws, monitoring)						
Assessment Support: 6 hrs/participant @ \$44/hr		\$19,800	\$20,394	\$40,194		
Assessment Support Costs	\$82,500	\$19,800	\$20,394	\$122,694		
Miscellaneous FSU Expenses						
Assessment Support Equipment Costs	\$51,700			\$51,700		
Shuttle Costs		\$2,750	\$2,833	\$5,583		
FSU Study Promotion Costs	\$5,500	\$5,665	\$5,835	\$17,000		
Pre-Semester Program (3 days; \$40/day, 75 participants)		\$9,900	\$10,197	\$20,097		
Health Center and Personal Training Support		\$8,250	\$8,498	\$16,748		
Faculty Research Projects (3 @ \$13K each/yr)		\$33,000	\$33,000	\$66,000		
Faculty Stipends (4 @ \$4,400 annually)	\$8,800	\$17,600	\$17,600	\$44,000		
Miscellaneous FSU Costs	\$66,000	\$77,165	\$77,962	\$221,127		
Sodexo Costs						
Program Costs	Weeks	Notes	FY2014	FY2015	FY2016	
Kitchen Equipment			\$178,200			\$178,200
Servery & Smallwares			\$178,200			\$178,200
Meal Delivery & Supplies		5 shipping, pkg, coolers, ice, etc. (\$60/day)		\$157,500	\$162,225	\$319,725
		Assumes no deliveries during run-in periods	\$356,400	\$157,500	\$162,225	\$676,125
Staffing						
Registered Dietitian/Program Supervisor			\$53,460	\$110,128	\$113,431	\$277,019
Chef			\$23,166	\$95,444	\$98,307	\$216,917
Cook				\$64,665	\$66,605	\$131,270
Cook				\$64,665	\$66,605	\$131,270
Student Platers				\$226,328	\$233,118	\$459,446
Dishwasher				\$64,665	\$66,605	\$131,270
			\$76,626	\$625,895	\$644,672	\$1,347,194
Food Expense						
3 meals per day run-in diet	14	\$0.89 differential over normal FCPM		\$26,166	\$26,951	\$53,117
2 snacks per day run-in diet	14	FY2015 = \$1.78 FY2016 = \$1.96		\$34,888	\$38,416	\$73,304
3 meals per day randomized diet	22	\$1.78 differential over normal FCPM		\$61,677	\$63,527	\$125,204
2 snacks per day randomized diet	22	FY2015 = \$2.08 FY2016 = \$2.26		\$48,048	\$52,206	\$100,254
			\$0	\$170,779	\$181,100	\$351,879
Sodexo Costs			\$433,026	\$954,174	\$987,998	\$2,375,198
Direct Costs			\$629,816	\$1,707,998	\$1,740,021	\$4,077,835

Note that all values are inclusive of expenses such as fringe benefits, tax and other related costs.