

## RESEARCH FUNDING AGREEMENT

Agreement made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2015 (“Effective Date”), by and between \_\_\_\_\_, having offices at \_\_\_\_\_ (“Sponsor”), and the National Association of State Fire Marshals Fire Research and Education Foundation, an Illinois not for profit corporation (“Foundation”).

NOW, THEREFORE, in consideration of the mutual agreements and covenants contained herein, the receipt and sufficiency of which is hereby acknowledged by the parties, the parties hereby agree as follows:

1. *Scope of Research.* Research is described in the NASFM Foundation Project FAIL-SAFE Research Plan attached as Exhibit A. Foundation shall commence the Research promptly after the necessary funding from sponsors is secured.

2. *Foundation Status.* Foundation is a not for profit tax exempt research organization that is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code.

3. *Contribution.* In consideration for the Research conducted hereunder and other valuable consideration, Sponsor will pay Foundation \$\_\_\_\_\_ per year, for each of 2 years, by January 1, 2016 and by January 1, 2017 in order to provide funding for the Research. Sponsor’s participation in the Research shall be on a non-exclusive basis. In the event the necessary funding to proceed with the Research is not secured from sponsors, Sponsor’s contribution shall be refunded. In the event that total contributions received from all sponsors exceed the amount needed to fund the Research, each sponsor shall receive a refund of part of the excess in proportion to each sponsor’s contribution divided by the total contributions from all sponsors. The estimated total cost of the Research is \$900,000.

4. *Research Development.* Foundation shall provide Sponsor with periodic written progress report on the Research. A full contributing project sponsor may appoint one representative to sit on a Foundation’s Project FAIL-SAFE Research Council. and provide input to the development and production of the Research. At the conclusion of each Phase of the Research project, a deliverable will be provided as outlined and described in the research plan attached as Exhibit A. Deliverables from each Phase of the Research shall be subject to approval by the Foundation board of directors. If requested by Sponsor, Foundation shall make periodic oral reports at times convenient to Foundation. .

5. *Confidentiality.* Foundation and Sponsor agree that all information contained in documents marked “Confidential” which are forwarded to one party by the other party (“Confidential Information”) shall be received by the recipient party in strict confidence and not disclosed by the recipient

party (except as required by law, governmental regulation or court order), its agents or employees without the prior written consent of the other party, unless such information: was in the public domain at the time of disclosure; later become part of the public domain through no act or omission of the recipient party, its employees, agents, successors or assigns; was lawfully disclosed to the recipient party by a third party having the right to disclose it; or was already known by the recipient party at the time of disclosure. Each party shall be permitted to seek equitable relief from a court having jurisdiction to prevent the unauthorized use or disclosure of its Confidential Information.

6. *Publication.* Foundation will be free to publish the Research and use any results for any purpose, including but not limited to research, teaching, and other commercial and educationally-related matters. Foundation shall be the owner of the copyright and other intellectual property rights in the Research and other Research materials. Foundation may publicize Sponsor’s status as a sponsor of the Research.

### 7. *Term and Termination.*

7.1 The term of this Agreement shall be two years from the Effective Date unless otherwise terminated earlier in accordance with this Agreement.

7.2 This Agreement may be terminated at the option of either party, if the other party:

a) Is in breach of any material provision of this agreement and fails to cure such breach within thirty (30) days following receipt of written notice specifying the breach;

b) Admits in writing that it is unable to pay its debts as they become due;

c) Applies for or agrees to the appointment of a receiver or trustee in liquidation of such party or any of its properties or makes a general assignment for the benefit of its creditors, or files a voluntary petition in bankruptcy or a petition seeking reorganization or an arrangement with creditors under any bankruptcy law, or is a party against whom a petition under any bankruptcy law is filed and such party admits the material allegations in such petition filed against it;

d) Is adjudicated a bankrupt under any bankruptcy law; or

e) Dissolves or ceases to conduct business.

7.3 Should Sponsor fail to make any payment as provided herein, or otherwise breach or fail to perform any of the terms or conditions of the Agreement, and such default shall continue for a period of thirty (30) days after written notice by the Foundation specifying such default, then unless such default is remedied in said thirty (30) day period, Foundation

may at its option terminate this Agreement. Following termination under this section 7.3 or under section 7.2 due to Sponsor's default, Sponsor shall continue to be responsible for payment of all commitments made in section 4 of this Agreement and will make said payment or payments within ten (10) days of termination.

8. *Assignment.* Neither party may assign its rights or obligations under this Agreement without the express written consent of the other party.

9. *Warranties.* FOUNDATION MAKES NO WARRANTIES CONCERNING THE RESEARCH CONDUCTED UNDER THIS AGREEMENT. FOUNDATION MAKES NO WARRANTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AS TO THE RESEARCH CONDUCTED UNDER THIS AGREEMENT.

10. *Indemnity.* Each party agrees to and does hereby indemnify, defend, and hold the other party (and its directors, officers, members, employees, managing agent) free and harmless from and against any and all damages, claims, demands, expenses, costs, actions, causes of action, lawsuits, judgments, obligations, and losses, including reasonable attorneys' fees and costs, incurred in connection with or arising directly or indirectly out of the negligence or willful misconduct of the indemnifying party (including its officers, directors, managing agent, and employees), or breach of this Agreement by the indemnifying party.

11. *General.*

11.1 This Agreement constitutes the complete agreement between the parties with regard to the subject matter hereof. No agreements altering or supplementing the terms of this Agreement shall be made except by means of a written document signed by the duly authorized representatives of the parties.

11.2 Any permitted successor to or assignee of this Agreement must reaffirm the entire Agreement in writing.

11.3 Sponsor agrees not to use the names of Foundation or any member of its staff without the prior written permission of Foundation.

11.4 This Agreement shall be construed and enforced in accordance with the laws of the United States of America and of the State of Illinois without regard to Illinois internal conflict of law principles. The parties agree that the sole and exclusive jurisdiction and venue for any litigation arising from or relating to this Agreement or the subject matter hereof shall be federal or state court in the State of Illinois.

11.5 If any provision of this Agreement shall be found by a court to be void, invalid or unenforceable, the same shall be reformed to comply with applicable law or stricken if not so conformable, so as not to affect the validity of enforceability of this Agreement.

11.6 The parties to this Agreement are independent contractors. This Agreement is for the purposes expressly set forth herein and does not constitute a partnership, agency, or joint venture, and nothing herein contained is intended to constitute, nor shall it be construed to constitute or create, a partnership, agency, or joint venture relationship between the parties. No party hereto shall have any power or authority to act in the name or on behalf of the other party or incur or accept any liability or obligation binding upon the other party without the express prior written consent of the party to be bound.

IN WITNESS WHEREOF, this Agreement has been executed as of the Effective Date by a duly authorized representative of each party.

NATIONAL ASSOCIATION OF STATE FIRE  
MARSHALS FIRE RESEARCH AND EDUCATION  
FOUNDATION

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

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

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

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

[SPONSOR'S NAME]

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

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

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

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