

TESTING AGREEMENT

This Testing Agreement (this “**Agreement**”), dated as of December 28, 2020 (the “**Effective Date**”), is by and between Rowan University, located at 201 Mullica Hill Road, Glassboro, NJ 08028 (“**Customer**”) and Ginkgo Bioworks, Inc., a Delaware corporation, located at 27 Drydock Avenue, 8th Floor, Boston, MA 02210 (“**Ginkgo**”). Ginkgo and Customer may each be referred to individually in this Agreement as a “**Party**,” and jointly, as the “**Parties**.”

Recitals

- A.** Ginkgo offers a testing service for Coronavirus Disease 2019 (“**COVID-19**”) designed for organizations to make available COVID-19 testing to their communities (the “**Testing Program**”). Under the Testing Program, organizations engage Ginkgo to arrange COVID-19 testing for their Members, to be ordered through a web-based portal (the “**Portal**”) with the appropriate authorization from a healthcare provider.
- B.** Customer desires for Ginkgo to make the Testing Program available to Customer, pursuant to which Customer’s members and personnel of its organization (collectively, “**Members**”) will provide samples (“**Samples**”) to be tested for COVID-19 pursuant to an FDA-authorized test described on Schedule 1 to the Terms and Conditions (defined below) (the “**COVID-19 Tests**” or “**COVID-19 Testing**”), and Ginkgo desires to make the Testing Program available to Customer, including to arrange COVID-19 Testing for Customer’s Members.

THEREFORE, in consideration of the premises and the mutual promises set forth in this Agreement, and other good and valuable consideration, the exchange, receipt and sufficiency of which are acknowledged, the Parties agree as follows:

- I. Terms and Conditions.** Customer acknowledges and agrees that all COVID-19 Testing conducted pursuant to this Agreement shall be subject to the terms and conditions attached hereto as Exhibit A and incorporated herein by reference (the “**Terms and Conditions**”). This Agreement is further subject to the Terms and Conditions of Rowan University as attached (Addendum A), New Jersey Executive Order #166, Notice of Executive Order 166 Requirements for Posting of Winning Proposal and Contract Documents (Addendum A, Paragraph IX) and all relevant regulations and conditions.
- II. Entire Agreement** This Agreement constitutes the entire understanding between the parties hereto concerning the subject matter herein and is a complete statement of the terms thereof and shall supersede all previous understandings between the parties, whether oral or written with respect to the subject matter herein. The parties shall not be bound by any representation made by either party or agent of either party that is not set forth in this Agreement. Any applicable provisions required by federal, state, or local law are hereby incorporated by reference.
- III. Test Capacity Requested (the “Plan”).**
- a. Testing Services. Ginkgo or its Laboratory (as defined in the Terms and Conditions) shall provide Sample collection kits and related materials (“**Collection Kits**”) to Customer CPT (Incoterms 2020) at the time(s) and location(s) identified below (each a “**Location**”) or otherwise agreed by the Parties, subject to Section 1.9 of the Terms and Conditions and the payment of the Fees (as set forth below).

- b. **Testing Term.** Ginkgo shall provide 10 weeks of testing, plus 1 week of launch prep (the “**Testing Term**”). The first test date shall be January 25, 2021, and the end date of testing shall be April 5, 2021.
- c. **Testing Capacity.** The daily maximum Capacity Allocation of COVID-19 Tests across all Customer Locations shall be 275.
- d. **Testing Schedule.** The testing schedule (the “**Testing Schedule**”) as of the Effective Date is set forth below:

Week	Planned Number of COVID-19 Tests
1	250
2	250
3	250
4	250
5	250
6	250
7	250
8	250
9	250
10	250
Total Fees: \$212,500	Aggregate Testing Volume: 2,500

- e. **Amendments to Testing Schedule.** Customer may request Ginkgo to perform additional COVID-19 Testing and the Parties shall discuss in good faith an amendment to the Testing Schedule to accommodate such request pursuant to Section 1.11 of the Terms and Conditions.
- f. **Fees.** The price per COVID-19 Test shall be \$85 (the “**Fees**”). The Fee shall include payment for the components of the Testing Program set forth in Section III below.
- g. **Payment & Invoicing.** Subject to Section 3.3 of the Terms and Conditions, Customer shall pay to Ginkgo the Fees consisting of (i) \$106,250, representing 50% of the Fees for the number of COVID-19 Tests requested pursuant to the Testing Schedule, upon execution of the Agreement, (ii) \$106,250, representing the remainder of such Fees payable, on or prior to the start date of such COVID-19 Testing.

Subject to Section 3.3 of the Terms and Conditions, with respect to any Fees due and payable after the Effective Date not set forth in the Testing Schedule, Customer shall pay to Ginkgo (a) such amounts consisting of 50% of the Fees payable on or prior to the corresponding Testing Schedule amendment date and (b) such amounts consisting of the remainder of such Fees on or prior to the corresponding COVID-19 Testing start date.

If at any time during the Term the costs for the total number of COVID-19 Tests requested by Customer exceeds the Fees paid to Ginkgo, then Ginkgo shall notify Customer thereof

and thereafter invoice Customer for such excess based on the estimated costs for the COVID-19 Tests that Ginkgo will be expected to perform.

IV. Testing Workflow; Responsibilities of Customer.

The COVID-19 Testing service offered by Ginkgo comprises of 10 elements, components of which may be performed by Customer.

Responsible Party	Customer	Ginkgo
1. Organization Sign-up		✓
2. Test Scheduling / Setup	✓	
3. Member Registration / Consents		✓
4. COVID-19 Test Ordering / Healthcare Authorizations		✓
5. Collection Kit Supply		✓
6. Sample Collection (<i>including coordination of return shipping</i>)	✓	
7. Laboratory COVID-19 Testing		✓
8. Results Reporting to Organization		✓
9a. Results Reporting to Participating Member		✓
9b. Patient Results Consultations (for positive Test Results)		✓
10. Positive Test Results Reporting to Public Health Authorities		✓

[Signature Page Follows]

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

GINKGO BIOWORKS, INC.

By: Reshma Shetty
Name: Reshma Shetty
Title: President

CUSTOMER

By: Joseph F. Scully
Name: Joseph F. Scully
Title: SR VP Finance and

Notices shall be provided to the following addresses:

If to Ginkgo:

27 Drydock Ave., Floor 8
Boston, MA 02210
Attention: General Counsel
Email: legal@ginkgobioworks.com

If to Customer:

201 Mullica Hill Rd
Glassboro, NJ 08028
Attention: Scott Woodside
Email: [REDACTED]

EXHIBIT A Terms and Conditions

- 1.0 Testing Program Activities.**
- 1.1 Plan.** Each Party will perform the activities and provide the material and information set forth in this Agreement, including the Plan. If any terms of the Plan conflict with the terms of this Exhibit A, the terms of this Exhibit A will govern unless the Plan expressly states that the terms of the Plan will govern with respect to a particular term. The Parties may amend any part of the Plan pursuant to an agreement set forth in writing (which may be approved by email), including, but not limited to the purposes set forth in Section 1.11 herein.
- 1.2 Portal.** The Testing Program will be administered through the Portal made available by a third party hosting provider. Customer and its Participating Members will be required to agree to separate terms of service and a privacy policy (together, the "**Portal Terms**") as a condition of using the Portal, and such use shall be subject to the Portal Terms in all respects. Customer agrees to comply (and agrees to cause Participating Members to comply) with the Portal Terms when using the Portal. Notwithstanding anything to the contrary herein, Ginkgo shall not be liable for any problems, failures, defects or errors with the Portal to the extent caused by its hosting provider.
- 1.3 Members; Informed Consent.** Customer shall require each Member who participates in the Testing Program to register on the Portal and (a) execute, via the Portal, (i) an informed consent and (ii) an authorization for release of health information, each in the form provided by Ginkgo ((i) and (ii), an "**Informed Consent**") and (b) agree to be bound by the Portal Terms (any Member who completes (a) and (b), a "**Participating Member**"); provided that, if a Member is under eighteen (18) years of age, such Member's parent or guardian shall execute the Informed Consent and agree to the Portal Terms on such Member's behalf and all references hereunder to such Member shall mean such Member's parent or guardian. Customer shall not permit anyone other than Participating Member who have executed an Informed Consent to participate in the Testing Program. Participating Member shall access and use the Portal to (A) provide Informed Consent, (B) sign up for Sample collection and testing, (C) provide supporting information to a physician or other healthcare professional authorized to order COVID-19 Testing ("**Ordering HCP**"), to the extent such authorization is required by applicable state law, and (D) such other purposes set forth in this Agreement. All acts and omissions of Members will be deemed to be those of Customer, and Customer shall be responsible therefor. Customer acknowledges and agrees that all decisions related to the order of COVID-19 Testing are required to be made by a healthcare provider and that Ginkgo has no role in such decision-making.
- 1.4 Testing Limitations.**
- a) Customer acknowledges and agrees that, as of the Effective Date, the COVID-19 Tests provided hereunder are authorized under a U.S. Food and Drug Administration emergency use authorization (as described on Schedule 1) limiting testing of saliva specimens thereunder to patients with symptoms of COVID-19, and that all such COVID-19 Tests may only be performed pursuant to the order of a healthcare provider authorized under state law.
- b) As of the Effective Date, Ginkgo shall arrange for PWNHealth, LLC, or another entity contracted by Ginkgo, to provide Ordering HCPs to consult with Members through the Portal in making decisions related to the order of COVID-19 Testing and to order such testing when deemed appropriate in the clinical judgment of the Ordering HCP.
- 1.5 Sample Collection Activities.**
- a) Each Participating Member shall provide Samples at the time(s) and location(s) identified in the Plan or otherwise agreed by the Parties (each, a "**Location**"). Ginkgo or its Laboratory shall provide Sample collection kits and related materials ("**Collection Kits**") to Customer CPT (Incoterms 2020) on the date(s) and Location(s) identified in the Plan or otherwise agreed by the Parties, subject to Sections 1.9-1.11 below and the payment of the Fees set forth in the Plan. Collection Kits will be identified by a code in place of direct identifiers such that Ginkgo is not able to identify the Participating Member who provided any Sample. Customer shall, and shall ensure that each Participating Member follows written instructions for use of the Collection Kit provided by Ginkgo or a third party contractor engaged by Ginkgo as a part of the Testing Program (a "**Contractor**").
- b) Customer shall be solely responsible for distributing Collection Kits to Participating Members and shall advise each Participating Member to follow the instructions provided by Ginkgo concerning self-collection of Samples. Customer shall be responsible for the (i) registration of Collection Kits containing Samples and shipment of such Collection Kits to the Laboratory pursuant to the instructions provided by Ginkgo, (ii) distribution of Collection Kits to Participating Members, and if applicable, any management, supervision or oversight of, or assistance with, such Sample collection, and (iii) any other activities related to the handling, storing, packaging, labeling or shipment of Collection Kits or Samples (the "**Sample Collection Activities**"). Customer shall only provide Collection Kits to Participating Members who have executed an Informed Consent. Ginkgo shall have no responsibility or liability (including for damages of any kind) with respect to any Sample Collection Activities performed. Customer shall, and shall ensure that its independent contractors, employees, agents, and each Participating Member shall, follow the written instructions provided by Ginkgo for use of the Collection Kit provided by Ginkgo or Laboratory, and shall not include any information in connection with the Sample collection that would enable Ginkgo to identify any Participating Member.
- 1.6 Treatment of Collection Kits and Samples.** Customer shall be responsible for coordinating with Participating Members and ensuring that Customer or each Participating Member, as applicable, handles, stores and ships CPT (Incoterms 2020) to the Laboratory the Collection Kits and Samples in accordance with the Plan and written instructions provided by Ginkgo. Customer agrees that it shall not, and shall cause Participating Member not to, use Collection Kits for any purpose except for the collection of Samples in accordance with this Agreement. Each Party shall be responsible and liable for the activities assigned to such Party pursuant to the terms of this Agreement relating to the handling, storing and shipment of Collection Kits and Samples. Ginkgo agrees that it will use the Samples only to perform the COVID-19 Testing and its other activities set forth in this Agreement.
- 1.7 Sample Analysis; Reporting of Test Results.** Ginkgo shall arrange for COVID-19 Testing on the Samples collected from Participating Member with an FDA-authorized test, which test will have the characteristics set forth on Schedule 1 (as amended from time to time). Customer acknowledges that the COVID-19 Testing shall be provided by a Contractor (such Contractor, the "**Laboratory**") as set forth on Schedule 1. The Parties may choose to engage alternative or additional FDA-authorized COVID-19 Testing methodologies during the Term, subject to the Parties agreeing upon and executing an amendment to this Agreement, including to Schedule 1 (in each Party's discretion), to account for such methodologies; provided, however, that Customer acknowledges that such alternative FDA-authorized COVID-19 Testing may not be offered during the Term. Ginkgo shall arrange for provision to Customer (as authorized in the Informed Consent) and Participating Member or their respective parents or guardians, as applicable (to the extent permitted by applicable law), in each case through the Portal, reporting as to whether the Participating Member's Sample tested positive or negative or, if the results cannot be determined, that the result is equivocal or inconclusive ("**Test Results**"). Ginkgo endeavors to provide Test Results through the Portal within three (3) business days of Laboratory's receipt of the applicable Sample. Test Results and return timing may be modified by mutual written agreement if further testing modalities are added to the Testing Program.
- 1.8 Ginkgo Errors.** In the event that (i) a Collection Kit is defective or (ii) a Collection Kit is lost or damaged by Ginkgo prior to receipt thereof by Customer, then Ginkgo shall replace the defective, lost or damaged Collection Kit, at Ginkgo's own expense. In the event that a Sample or a Collection Kit associated therewith is lost or damaged by Ginkgo after Customer or a Participating Member has shipped such collected Sample pursuant to Section 1.6, then Ginkgo shall replace the lost or damaged Collection Kit or re-perform the COVID-19 Testing on the affected Sample (or on a new Sample provided by the applicable Participating Member), at Ginkgo's own expense. Notwithstanding the foregoing, Customer (or the applicable Participating Member) shall be solely responsible for the Collection Kits (against, for example, loss or damage) after receipt thereof from Ginkgo and prior to shipping such Collection Kits and Samples therein to the Laboratory. Ginkgo's obligation to replace the Collection Kit or to re-perform the COVID-19 Testing in accordance with the preceding sentence shall be Customer's sole remedy, and Ginkgo's sole obligation, for any failure by Ginkgo (or any applicable Contractor) to perform the COVID-19 Testing in accordance with the terms hereof. Ginkgo shall not be required to (a) repair or replace any Collection Kit that is lost or damaged other than by Ginkgo or the Laboratory or (b) correct or re-perform any COVID-19 Testing for any reason other than as set forth above.

1.9 Volume of Testing.

- a) Ginkgo agrees to perform up to the number of COVID-19 Tests identified in the Plan (such quantity, subject to adjustment in accordance with Section 1.11 and Plan amendments, the "Aggregate Testing Volume") for Participating Member during the period commencing on the "First Test Date" and ending on the "End Date" (each as specified in the Plan), subject to the daily Capacity Allocation (as defined below). The COVID-19 Testing shall also be subject to any applicable timing, scheduling, Location or other conditions or requirements set forth in the Plan. Ginkgo may reasonably adjust the number of COVID-19 Tests to be delivered to or from a particular Customer Location during such week, including to account for reasonable Ginkgo or Contractor scheduling or capacity constraints.
- b) The Parties agree that during the Term, the Laboratory shall have capacity to perform for Customer up to the maximum number COVID-19 Tests per business day set forth in the Plan (the "Capacity Allocation"). Subject to Section 1.11, in no event shall Laboratory or Ginkgo be required to perform COVID-19 Testing in excess of the Capacity Allocation; provided that, Ginkgo will endeavor to accommodate Customer's reasonable requests to perform additional COVID-19 Tests, if and to the extent excess capacity is available.
- c) As used herein, to "perform" a COVID-19 Test or "performance" of a COVID-19 Test means that (a) Ginkgo provides a Collection Kit to Customer in accordance with the Plan, and (b) after Customer or Participating Member ships such Collection Kit containing the Sample collected from the applicable Participating Member in accordance with Section 1.6, Laboratory conducts COVID-19 testing on such Sample and makes available the Test Results via the Portal in accordance with Section 1.7.

1.10 Unused Collection Kits. Ginkgo or Laboratory will ship to Customer sufficient quantities of Collection Kits to enable the COVID-19 Testing to occur in accordance with the Plan. Any unused Collection Kits provided to Customer prior to the payment of Fees therefor shall remain the property of Ginkgo.

1.11 Volume Adjustments. The Parties agree that Customer retains control over the volume of COVID-19 Tests requested, subject to the terms of this Agreement. If the Customer wishes for Ginkgo to increase (i) the Aggregate Testing Volume or (ii) the Capacity Allocation, Customer shall provide Ginkgo with written notice of its desire to make such increase at least fourteen (14) days prior to the date on which Customer wishes such increase to take effect. Ginkgo shall consider in good faith its ability to accommodate such request to perform additional COVID-19 Testing (provided the requested increase is reasonable) subject to available capacity at Ginkgo, its Contractors or the Laboratory. Except as otherwise set forth in the Plan, any such increase shall be subject to the Parties agreeing upon and entering into an amendment to the Plan (in each Party's discretion), which may be approved by email, to (a) reflect such increase in Aggregate Testing Volume or Capacity Allocation (as applicable) and (b) payment by Customer to Ginkgo of additional Fees therefor (which Fees will be determined and paid in accordance with the Plan).

1.12 HIPAA Inapplicable. The Parties acknowledge and agree that (i) Ginkgo is not a "Covered Entity", as such term is defined in the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health Act and the regulations promulgated thereunder (collectively, "HIPAA") and (ii) Customer is neither entering into this Agreement as a Covered Entity nor acting as a Business Associate (as defined in HIPAA) of Ginkgo via this Agreement, (iii) no contractor engaged by Ginkgo is acting on Ginkgo's behalf as a Business Associate, and (iv) neither Ginkgo, nor Customer on Ginkgo's behalf, shall submit any "standard transactions" (as defined in HIPAA) related to the COVID-19 Testing or other services provided hereunder.

1.13 Fair Market Value; No Incentive for Referrals. The Parties agree that the Fees represent the fair market value for the services provided and will not be given in exchange for, as an inducement to, or in any way in consideration for, any explicit or implicit agreement for the generation of business between the Parties or in a manner that takes into account the volume or value of any referrals of clinical laboratory or other health care services between the Parties.

2.0 Use of Results.

2.1 Test Results; Ginkgo Data. As between the Parties, (i) the Test Results will be deemed the Confidential Information of Customer and (ii) the Ginkgo Data (as defined below) will be deemed the Confidential Information of Ginkgo, and in each case, subject to the obligations of confidentiality set forth in Article 5.0. As used herein, "Ginkgo Data" means (a) all operational data and information observed, collected or generated under the Plan or this Agreement, (b) any survey results or Feedback provided to Ginkgo, and (c) all other observations, data and residuals of or from Ginkgo (or its Contractors if applicable) performing the Plan or this Agreement (including uses set forth in the Informed Consent); provided that, the Ginkgo Data shall not include the Test Results.

2.2 Ginkgo Use of Test Results. Notwithstanding Section 2.1 above, Ginkgo and its contractors shall be permitted to use and disclose the Test Results (i) as reasonably necessary to perform its activities under this Agreement (including reporting the Test Results to Customer or the applicable Participating Member (or their respective

parents or guardians, as applicable)), (ii) as reasonably necessary to research, develop, test or improve the Testing Program or any other Ginkgo or contractor technologies, foundries, databases or platforms, (iii) to the extent required under applicable law, or (iv) to aid any governmental authority (including without limitation any federal, state or local public health agency, the U.S. Department of Health and Human Services or the Centers for Disease Control and Prevention) or its contractors or representatives in connection with its COVID-19 response.

2.3 Ginkgo Use of Ginkgo Data. Ginkgo may freely use and exploit in any manner the Ginkgo Data, including for the purposes set forth in Section 2.2 above.

3.0 Payments.

3.1 Testing Fees. As consideration for the COVID-19 Testing and other services to be rendered by Ginkgo hereunder, Customer shall pay to Ginkgo the non-refundable fees and other amounts set forth in this Agreement (including the Plan as amended from time to time) (the "Fees").

3.2 Proper Cost Reporting. Customer acknowledges and agrees that it shall properly and accurately account for and report the Fees in accordance with all federal and state laws and regulations, including the Federal Anti-Kickback statute "Discount Safe Harbor," 42 U.S.C. § 1320a-7b(b)(3)(A) and 42 C.F.R. § 1001.952(h).

3.3 Payment Terms. Unless otherwise expressly specified in the Plan, Ginkgo shall invoice Customer for Fees and Customer shall pay such invoices within fourteen (14) days after receipt thereof. Unless otherwise expressly specified in the Plan, all payments to be made by Customer to Ginkgo hereunder shall be paid by electronic transfer in immediately available funds to such bank account in the United States as is designated in an invoice by Ginkgo. Without limiting any other rights or remedies available to Ginkgo, Customer shall pay Ginkgo interest on any payments that are not paid on or before the date such payments are due under this Agreement at a rate of one percent (1%) per month, accruing daily and compounding monthly, or the maximum applicable legal rate, if less. It is understood and agreed between the Parties that any payments made under this Agreement are exclusive of any value added tax (VAT), sales or use tax, consumption tax, transfer or other similar indirect tax, which shall be added thereon, as applicable.

4.0 Term and Termination.

4.1 The term of this Agreement will commence on the Effective Date and, unless earlier terminated in accordance with this Article 4.0, will remain in effect for a period of twelve (12) months (the "Term"), unless extended by mutual written agreement.

4.2 Either Party may terminate this Agreement on thirty (30) days' prior written notice to the other Party if the other Party materially breaches this Agreement and does not cure such breach within thirty (30) days after written notice thereof. The Parties may terminate this Agreement in its entirety by mutual consent through a writing executed by a duly authorized representative of each Party and shall discuss in good faith the consequences of such termination.

4.3 In the event that Ginkgo is unable to supply the Sample Collection Kits or that the cost of supplying the Sample Collection Kits increases substantially due to an order of a governmental agency, governmental commandeering of necessary supplies or equipment, or other severe unanticipated changes in supply chains for necessary supplies or equipment, this Agreement shall be terminated upon the delivery of a written notice from Ginkgo to Customer.

4.4 Articles 2.0, 5.0, 6.0, 8.0, 9.0 and 10.0, Section 3.2 and this Section 4.4 will survive expiration or termination of this Agreement.

5.0 Confidentiality.

5.1 Subject to the limitations set forth in Section 5.2, "Confidential Information" means any non-public information provided by one Party or its affiliates or subcontractors to the other Party under this Agreement.

5.2 Confidential Information will not be deemed to include information that: (a) is in the public domain or comes into the public domain through no fault of the recipient Party; (b) is furnished to recipient Party without any obligation of confidentiality by a third party rightfully in possession of such information; (c) is already known by the recipient Party at the time of receiving such information from discloser Party as evidenced by recipient Party's written records; or (d) is independently developed by the recipient Party without reference to or use of Confidential Information of discloser Party.

5.3 Except as expressly allowed herein, the recipient Party agrees (a) to hold discloser Party's Confidential Information in confidence and to take all reasonable precautions to protect discloser Party's Confidential Information, (b) not disclose discloser Party's Confidential Information to third parties, and (c) not to use discloser Party's Confidential Information other than to perform its obligations or exercise its rights pursuant to the terms of this Agreement.

- 5.4 Notwithstanding the foregoing, the recipient Party may use and/or disclose Confidential Information of the discloser Party in the following instances: (a) to prosecute or defend litigation, to respond to inquiries from a court or governmental agency or as otherwise required by law; provided, however, that the recipient Party shall notify the discloser Party promptly upon receipt thereof, giving (where practicable) the discloser Party sufficient advance notice to permit it to oppose, limit or seek confidential treatment for such disclosure; (b) to comply with applicable laws, rules, regulations and guidance of a securities agency, commission, regulatory body or exchange, if in the reasonable opinion of the recipient Party's counsel, such disclosure is necessary for such compliance; and (c) to disclose, in connection with the performance of this Agreement, to affiliates; Contractors; permitted subcontractors; or their respective employees, directors, consultants or agents, or their respective professional advisors, each of whom prior to disclosure must be bound by obligations of confidentiality consistent with the obligations set forth in this Article 5.0. If any Confidential Information is disclosed in accordance with this Section 5.4, such disclosure shall not cause any such information to cease to be Confidential Information except to the extent that such permitted disclosure results in a public disclosure of such information (other than by breach of this Agreement).
- 5.5 Ginkgo may use and include the name and logo of Customer, and reference and provide a summary of this Agreement (which shall not include any Confidential Information of Customer) in its marketing materials.
- 5.6 Notwithstanding the above or anything to the contrary herein, to the extent that Customer at any time provides Ginkgo with any feedback or suggestions regarding the Testing Program or Ginkgo's activities under this Agreement, including potential improvements or changes thereto (collectively, "**Feedback**"), the Feedback shall not be considered Confidential Information of Customer, and Ginkgo shall be free to use, disclose and otherwise exploit in any manner, the Feedback for any purpose and without compensation to Customer.
- 5.7 The Parties each stipulate and agree that (a) the other Party's Confidential Information includes highly sensitive trade secret information, (b) a breach of this Article 5.0 will cause irrevocable harm for which monetary damages would not provide a sufficient remedy, and (c) in such case of an actual or threatened breach of this Article 5.0, in addition to any other remedy available under this Agreement or under applicable laws or equity, the non-breaching Party shall be entitled to seek and obtain equitable relief (including temporary or permanent restraining orders, specific performance or other injunctive relief) from any court of competent jurisdiction, without the necessity of posting any bond or of any undertaking, and without any requirement to submit to any dispute resolution procedures contained herein.
- 6.0 Intellectual Property.
- 6.1 Each Party shall expressly retain all rights, title and interests in and to all intellectual property and other technology of such Party, including any intellectual property invented or reduced to practice by such Party prior to or independently of the performance of this Agreement. Ginkgo shall solely own all rights, title and interests in and to the (a) the Ginkgo Data, (b) all material and technology used or generated by Ginkgo in performance of its obligations or other activities under this Agreement, other than the Samples (and any material accompanying the Samples provided by Customer or a Participating Member to Ginkgo), and (c) the Testing Program (including any modifications, improvements or derivatives thereto) (collectively, "**Ginkgo IP**"); and all intellectual property rights in and to the foregoing. To the extent Customer owns any Ginkgo IP, it hereby assigns and agrees to assign to Ginkgo all of its rights, title and interests in, to and under such Ginkgo IP. Customer shall take all further actions and execute all documents reasonably requested by Ginkgo, at Ginkgo's cost and expense, to effect and perfect such assignments. Ginkgo shall be solely responsible for the prosecution of all Ginkgo IP owned by or assigned to it hereunder.
- 6.2 No right or license in, to or under any intellectual property or other proprietary rights of either Party is granted, conveyed or transferred or shall be deemed granted, conveyed or transferred by implication or estoppel.
- 7.0 Representations, Warranties and Covenants of Customer.
- 7.1 Customer represents, warrants and covenants that: (a) Customer shall comply with all laws, rules, regulations, guidances and orders applicable to (i) its exercise of rights and performance of obligations and other activities under this Agreement and (ii) its actions or decisions made based on the Test Results, including in each case applicable employment, education and privacy laws; (b) before shipping a Sample, Customer will ensure that the applicable Member executed the Informed Consent and all other required forms through the Portal; (c) Customer will not bill or charge, or seek reimbursement from, any third party payor (including any insurer or Medicare, Medicaid or other health plan) for or in connection with the COVID-19 Testing or any services rendered or other activities conducted by either Party under this Agreement; and (d) Customer will consult with its own legal counsel prior to obtaining any information from Members and making any decisions or determinations (including with respect to return to work, return to school, or any enrollment, membership, employment, education or personnel matters) based on the Test Results.
- 7.2 As between the Parties, Customer is solely responsible for its own legal compliance matters, including any decisions relating to enrollment, employment, education or personnel matters.
- 8.0 Disclaimers; Limitation of Liability.
- 8.1 EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, THE TESTING PROGRAM, THE COVID-19 TESTING AND THE TEST RESULTS ARE PROVIDED "AS-IS". GINKGO HEREBY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES WITH RESPECT TO THE TESTING PROGRAM, THE COVID-19 TESTING AND THE TEST RESULTS, WHETHER EXPRESS OR IMPLIED, WRITTEN OR ORAL, STATUTORY OR OTHERWISE, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR USE, NON-INFRINGEMENT OF ANY THIRD PARTY RIGHTS, AND ANY WARRANTY ARISING THROUGH COURSE OF PERFORMANCE OR USAGE OF TRADE.
- 8.2 IN NO EVENT WILL GINKGO BE LIABLE TO CUSTOMER OR ANY MEMBER, REGARDLESS OF THE FORM OF ACTION, INCLUDING CONTRACT, INDEMNITY, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES (WHICH MAY INCLUDE LOST PROFITS, REVENUE OR BUSINESS) ARISING UNDER OR RELATED TO THIS AGREEMENT, THE TESTING PROGRAM, THE COVID-19 TESTING, THE TEST RESULTS OR THE GINKGO DATA, EVEN IF GINKGO HAS BEEN ADVISED OF OR COULD HAVE REASONABLY FORESEEN THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL GINKGO'S AGGREGATE LIABILITY ARISING UNDER OR RELATED TO THIS AGREEMENT, THE TESTING PROGRAM, THE COVID-19 TESTING OR THE TEST RESULTS EXCEED THE LESSER OF (A) \$1,000,000 OR (B) THE TOTAL FEES PAID BY CUSTOMER TO GINKGO HEREUNDER DURING THE SIX (6) MONTHS PRIOR TO SUCH LIABILITY.
- 8.3 NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, THE PARTIES AGREE AND ACKNOWLEDGE THAT THEY INTEND FOR THE COVID-19 TESTS DESCRIBED HEREIN TO BE "COVERED COUNTERMEASURES" AND FOR GINKGO TO BE A "COVERED PERSON," AS BOTH TERMS ARE DEFINED WITHIN THE PUBLIC READINESS AND EMERGENCY PREPAREDNESS ("PREP") ACT, 42 U.S.C. 247D-6D, AND INTEND FOR THE SERVICES TO BE PERFORMED HEREUNDER BY GINKGO TO BE ACTIVITIES AUTHORIZED IN ACCORDANCE WITH THE PUBLIC HEALTH AND MEDICAL RESPONSE OF THE AUTHORITY HAVING JURISDICTION (WITHIN THE MEANING OF THE PREP ACT) TO PRESCRIBE, ADMINISTER, DELIVER, DISTRIBUTE OR DISPENSE THE COVERED COUNTERMEASURES. CUSTOMER ACKNOWLEDGES AND AGREES THAT THE PERFORMANCE OF THE SERVICES, INCLUDING THE TESTING CONTEMPLATED THEREBY, SHALL BE COVERED BY THE PREP ACT.
- 9.0 Indemnification.
- 9.1 To the extent allowed by law, Ginkgo will indemnify, defend and hold harmless Customer, and its employees, officers, directors, agents, successors and assigns (each, a "**Customer Indemnitee**") against any losses, liabilities, demands or costs ("**Losses**") arising from one or more claims, actions, suits or proceedings ("**Claims**") by a third party that arise out of: (a) a Ginkgo Indemnitee's (i) gross negligence or willful misconduct, (ii) unauthorized use or disclosure of Test Results or other Participating Member protected health information by a Ginkgo Indemnitee in violation of this Agreement or the applicable Participating Member's Informed Consent, or (iii) acts or omissions with respect to Collection Kits or Samples, including any product liability claims thereof; or (b) breach of any of Ginkgo's representations or warranties hereunder; in each case, except to the extent Customer indemnifies Ginkgo Indemnitees pursuant to Section 9.2.
- 9.2 To the extent allowed by law, Customer will indemnify, defend and hold harmless Ginkgo, and its employees, officers, directors, agents, successors and assigns, or any other person performing this Agreement on its and their behalf (each, a "**Ginkgo Indemnitee**") against any Losses arising from one or more Claims (including any Claims by Members) that arise out of: (a) a Customer Indemnitee's (i) gross negligence or willful misconduct, (ii) unauthorized use or disclosure of Test Results or other Member protected health information by a Customer Indemnitee in violation of this Agreement or the applicable Member's Informed Consent, or (iii) reliance on or use of the Testing Program, (b) Customer's failure to comply with applicable law (including employment or education law) in connection with activities hereunder; (c) a Customer Indemnitee's use, handling, storage, disposition or any other exploitation of COVID-19 Tests, the Collection Kits, Samples or the Testing Program, including any product liability claims thereof; (d) any Customer Indemnitee's actions or omissions in connection with a healthcare provider's decision regarding whether to prescribe a COVID-19 Test or any Sample Collection Activities rendered; or (e) breach of any of Customer's or the Participating Member's representations, warranties or covenants hereunder; in each case, except to the extent Ginkgo indemnifies Customer Indemnitees pursuant to Section 9.1.
- 9.3 The indemnified Party will provide prompt written notice of any Claim for which it seeks defense hereunder. An indemnifying Party shall not take any action to settle or

defend any such Claim that would in any manner impose obligations (monetary or otherwise) on an indemnified Party without the indemnified Party's written consent, not to be unreasonably withheld. In connection with any such Claim, the indemnified Party may, at its own expense, have its own counsel in attendance at all public interactions and substantive negotiations at its own cost and expense.

10.0 Miscellaneous. The Parties hereto are independent contractors and not in the relationship of partners, principal and agent, employer/employee or joint venturer. Neither Party will have power or right to bind or obligate the other, nor will either hold itself out as having such authority. Any notice required or permitted to be given hereunder by either Party will be in writing and will be deemed given on the date received if delivered personally or by email, and in any event, with a copy delivered by email, to the address set forth in the preamble and the signature page. This Agreement and the rights and obligations of the Parties hereunder will be governed by the laws of the State of New Jersey without regard to the conflict of laws provisions thereof. The Parties agree that any dispute regarding the interpretation or validity of this Agreement will be subject to the exclusive jurisdiction of the state and federal courts in and for the State of New Jersey, and each Party hereby agrees to submit to the personal and exclusive jurisdiction and venue of such courts. If any one or more provisions of this Agreement is found to be illegal or unenforceable in any respect, the remaining provisions will not in any way be affected or impaired thereby; provided, however, that the surviving agreement materially comports with the Parties' original intent. Waiver by either Party or the failure by either Party to claim a breach of any provision of this Agreement or exercise any right or remedy provided by this Agreement will not be deemed to constitute a waiver with respect to any subsequent breach or exercise of any provision or right hereof. No changes or modifications to this Agreement (including the Plan) will be deemed effective unless in writing and executed by the Parties hereto. This Agreement may not be assigned by Ginkgo or Customer without the prior written consent of the other, such consent not to be unreasonably withheld, except that Ginkgo may assign this Agreement in connection with a sale or merger of all or substantially all of the assets to which this Agreement pertains. For avoidance of doubt, Ginkgo may delegate or subcontract any or all of its obligations under this Agreement to one or more of its affiliates or third parties. Neither Party shall be charged with any liability for delay or failure in performance of an obligation under this Agreement to the extent such delay or failure is due to a cause beyond the reasonable control of the affected Party, such as war, riots, labor disturbances, fire, explosion, supply shortages, disruptions in essential commodities, utilities, transportation, services (including those of third parties or subcontractors), software, websites, applications or infrastructure, internet outages, acts of government (including (a) those of a nature described in Section 4.3 or (b) (i) the failure to renew any executive orders waiving or (ii) changes to, in either case, certain legal or regulatory requirements that, if in effect, would prevent performance of the services hereunder), or actions or inactions taken to comply (in the reasonable discretion of a Party) with any governmental law, regulation, guidance or order. The Party affected shall promptly inform the other Party in writing of any material delay or failure to perform due to such causes. This Agreement represents the complete and entire understanding between the Parties regarding the subject matter hereof and supersedes all prior negotiations, representations or agreements, either written or oral, regarding this subject matter. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The Parties acknowledge and agree that the exchange of electronic signatures shall have the same legal validity as the Parties' signatures would have if signed in hard-copy form.

Schedule 1
Test Information

- This test has not been FDA cleared or approved.
- This test has been authorized by the FDA under an EUA for use by Infinity BiologiX.
- This test has been authorized only for the detection of nucleic acid from SARS-CoV-2, not for any other viruses or pathogens.
- This test is only authorized for the duration of the declaration that circumstances exist justifying the authorization of emergency use of in vitro diagnostic tests for detection and/or diagnosis of COVID-19 under Section 564(b)(1) of the Food, Drug, and Cosmetic Act, 21 U.S.C. § 360bbb-3(b)(1), unless the authorization is terminated or revoked sooner.

[See attached Infinity BiologiX EUA]

**EMERGENCY USE AUTHORIZATION (EUA) SUMMARY
SARS-CoV-2 ASSAY
(Infinity BiologiX Clinical Genomics Laboratory)**

For in vitro diagnostic use
Rx only
For use under Emergency Use Authorization (EUA) Only

(The Infinity BiologiX TaqPath SARS-CoV-2 Assay will be performed in the Infinity BiologiX LLC Clinical Genomics Laboratory, a Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. §263a, certified high-complexity laboratory, per the laboratory procedures that were reviewed by the FDA under this EUA).

INTENDED USE

The Infinity BiologiX TaqPath SARS-CoV-2 Assay is a real-time reverse transcription polymerase chain reaction (rRT-PCR) test intended for the qualitative detection of nucleic acid from SARS-CoV-2 in oropharyngeal (throat) swab, nasopharyngeal swab, anterior nasal swab, mid-turbinate nasal swab, and bronchoalveolar lavage (BAL) fluid from individuals suspected of COVID-19 by their healthcare provider.

When determined to be appropriate by a healthcare provider, this test is also for use with saliva specimens that are self-collected at home using the IBX Saliva Collection Kit or that are collected in a healthcare setting by individuals using the Spectrum Solutions SDNA-1000 Saliva Collection Device.

Testing is limited to Infinity BiologiX LLC, Nelson Biological Sciences, C-Wing, 604 Allison Road, Piscataway, NJ 08854, which is certified under Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. §263a, and meets requirements to perform high-complexity tests.

Results are for the detection and identification of SARS-CoV-2 RNA. The SARS-CoV-2 RNA is generally detectable in respiratory specimens during the acute phase of infection. Positive results are indicative of the presence of SARS-CoV-2 RNA; clinical correlation with patient history and other diagnostic information is necessary to determine patient infection status. Positive results do not rule out bacterial infection or co-infection with other viruses. The agent detected may not be the definite cause of disease. Laboratories within the United States and its territories are required to report all results to the appropriate public health authorities.

Negative results do not preclude SARS-CoV-2 infection and should not be used as the sole basis for patient management decisions. Negative results must be combined with clinical observations, patient history, and epidemiological information. Negative results for SARS-CoV-2 RNA from saliva should be confirmed by testing of an alternative specimen type if clinically indicated.

Testing with the Infinity BiologiX TaqPath SARS-CoV-2 Assay is intended for use by qualified clinical laboratory personnel specifically instructed and trained in the techniques of real-time PCR and in vitro diagnostic procedures. The assay is intended for use under the Food and Drug Administration's Emergency Use Authorization.

DEVICE DESCRIPTION AND TEST PRINCIPLE

The Infinity BiologiX TaqPath SARS-CoV-2 Assay is a real-time reverse transcription polymerase chain reaction (rRT-PCR) test. The assay uses primers and probes that were developed and validated under the Emergency Use Authorization (EUA) for the TaqPath COVID-19 Combo Kit and are designed to detect RNA from SARS-CoV-2 in respiratory specimens from patients as recommended for testing by public health authority guidelines. This EUA authorizes testing of additional specimen types, including saliva, and use of alternative nucleic acid extraction and amplification systems available to Infinity BiologiX.

Anterior nasal swabs, mid-turbinate nasal swabs, oropharyngeal (throat) swabs and nasopharyngeal swabs and bronchoalveolar lavage fluid should be collected, transported and stored according to standard procedures. Saliva specimens may be collected in a healthcare setting using the Spectrum Solutions SDNA-1000 Saliva Collection Device or be self-collected at home using the IBX Saliva Collection Kit (comprised of the Spectrum Solutions SDNA-1000 Saliva Collection Device and instructions for sample collection and shipment to the testing laboratory). Saliva specimens must be transported and stored at ambient temperature and tested within 56 hours of collection when stored at ambient temperature.

RNA extraction for all specimen types is performed using the PerkinElmer Chemagic 360 automated specimen processing system with the Chemagic Viral DNA/RNA 300 Kit H96. The input sample volume is 300 μ L, the elution volume is 50 μ L.

Reverse transcriptase-PCR (RT-PCR) is performed using the Applied Biosystems TaqPath COVID-19 Combo Kit with 5 μ L of the extracted sample.

INSTRUMENTS USED WITH THE TEST

The Infinity BiologiX TaqPath SARS-CoV-2 Assay is for use with the ThermoFisher Applied Biosystems QuantStudio 5 Real-Time PCR System equipped with software v1.3, or the Applied Biosystems ViiA7 Real-Time PCR System with the Applied Biosystems QuantStudio 5 software v1.3 for data analysis, and Perkin Elmer Chemagic 360 extraction instrument (software v6.3.0.3).

REAGENTS AND MATERIALS

Table 1. Reagents and materials required for use of the Infinity BiologiX TaqPath SARS-CoV-2 Assay

Reagent	Manufacturer	Catalogue #
Chemagic Viral DNA/RNA 300 Kit H96	PerkinElmer	CMG-1033-S
96 well Deep Well Plates	PerkinElmer	43001-0120
TaqPath COVID-19 Combo Kit	ThermoFisher Scientific	A147814
384 well PCR plate	ThermoFisher Scientific	4483273
Optical adhesive PCR plate cover	ThermoFisher Scientific	4311971
Nuclease-free water	--	--
Ethanol (96-100%)	--	--

CONTROLS

The controls supplied with the ThermoFisher - Applied Biosystems TaqPath COVID-19 Combo Kit are described in **Table 2**.

Table 2. Controls supplied with the Applied Biosystems TaqPath COVID-19 Combo Kit

Control Type	Purpose	Frequency of Testing
Negative	To monitor for cross-contamination during RNA extraction and RT-PCR	Once per batch of specimens
Positive	To monitor the integrity of the RT-PCR reagents and process	Once per run of RT-PCR
Internal (MS2 Phage)	To monitor the integrity of nucleic acid extraction and RT-PCR for each specimen	Added to each specimen and the Negative Control prior to extraction

In addition to these controls, a No Template Control containing none of the SARS-CoV-2 targets or the Internal Control is included in every PCR run. The results from the controls are interpreted according to the criteria shown in **Table 3**. If the results obtained with the Positive, Negative and No Template Controls do not meet the criteria shown, the results from the entire batch of samples are considered invalid and repeat testing must be performed.

Table 3. Ct values for controls that must be observed to obtain valid results

Control	Ct Value (Optical Channel)			
	N Gene (VIC)	S Gene (ABY)	ORF1ab (FAM)	MS2 Phage (JUN)
Negative	>40	>40	>40	≤37
Positive	<37	<37	<37	Undetermined ¹
No Template	Undetermined	Undetermined	Undetermined	Undetermined ¹
Internal	Any	Any	Any	<37

¹ The MS2 Phage Internal Control is not added to the Positive Control or No Template Control and no signal should be obtained

INTERPRETATION OF RESULTS

The results from testing of patient samples are interpreted according to the criteria described in **Table 4**.

Table 4. Result interpretation for patient samples

Ct Value (Optical Channel)				Result Interpretation
N Gene (VIC)	S Gene (ABY)	ORF1ab (FAM)	MS2 Phage (JUN)	
Undetermined	Undetermined	Undetermined	<37	Negative
Two of three <37			<37	Positive
One of three <37			<37	Re-test ¹
Undetermined	Undetermined	Undetermined	Undetermined	Re-test ¹

¹ Re-test required from the residual extracted sample and by processing a new aliquot of the original sample if volume permits; if the re-test result is the same as the original then report result as “inconclusive”

PERFORMANCE EVALUATION

1) Analytical Sensitivity

The LoD was determined using *in vitro* transcripts from Exact Diagnostics (SARS-CoV-2 Standard) that were diluted in SARS-CoV-2 negative nasopharyngeal swab matrix. An initial estimate of the LoD with the Applied Biosystems QuantStudio 5 Real-Time PCR System was obtained by testing three replicates at each of four different target levels: 1000, 500, 200 and 100 copies/mL. The lowest level at which all three replicates were positive for all three SARS-CoV-2 targets was 200 copies/mL. The estimated LoD was confirmed by testing an additional 20 replicates at the same target level. All 20 replicates produced the expected results for each SARS-CoV-2 target, and the LoD was therefore confirmed to be 200 copies/mL.

To validate use of the Applied Biosystems ViiA7 Real-Time PCR System for PCR amplification, an additional study was performed by testing 20 nasopharyngeal and 10 saliva samples that were each spiked with 400 copies/mL of the Exact Diagnostics SARS-CoV-2 transcripts. Positive results were obtained for each of the samples for all three target genes and the MS2 internal control, demonstrating that the ViiA7 Real-Time PCR system performed similarly to the QuantStudio 5. These results are acceptable.

2) Analytical Specificity

Inclusivity

The Infinity BiologiX TaqPath SARS-CoV-2 Assay is a modification of the previously authorized ThermoFisher Applied Biosystems TaqPath COVID-19 Combo Kit. The assay targets specific genomic regions of the SARS-CoV-2 nucleocapsid (N) gene, spike (S) gene, and ORF1ab region. Inclusivity was demonstrated under the original EUA by mapping the primers and probes to 185 complete SARS-CoV-2 genomes that were available in the GenBank and GISAID (Global Initiative on Sharing All Influenza Data) databases as of March 5, 2020. For all primers and probes, there was 100% homology to each of the SARS-CoV-2 sequences analyzed, with one exception; a single base mismatch (95.6% homology) with the reverse primer for ORF1ab in sequence EPI_ISL_407084

(BetaCoronavirus/Japan/AI/I-004/2020). The mismatch is located at the 5' end of the primer and is not expected to affect test performance

Cross-reactivity

The analytical specificity of the Infinity BiologiX TaqPath SARS-CoV-2 Assay was demonstrated *in silico* under the original EUA for the ThermoFisher Applied Biosystems TaqPath COVID-19 Combo Kit. The analysis included evaluation of the primer and probe homology with the 43 organisms and viruses listed in **Table 5**. Based on this analysis, significant amplification of non-target sequences that could result in cross-reaction (false-positive results) or interference (false-negative results) was considered unlikely to occur.

Table 5. Organisms and viruses evaluated for potential cross-reaction and/or interference with the Applied Biosystems TaqPath COVID-19 Combo Kit

Viruses	Bacteria
Adenovirus	<i>Bacillus anthracis</i>
Enterovirus	<i>Bordetella pertussis</i>
Human coronavirus 229E	<i>Chlamydophila pneumoniae</i>
Human coronavirus HKU1	<i>Chlamydophila psittaci</i>
Human coronavirus NL63	<i>Corynebacterium diphtheriae</i>
Human coronavirus OC43	<i>Coxiella burnetii</i>
Human Metapneumovirus (hMPV)	<i>Haemophilus influenzae</i>
Influenza A, B and C	<i>Legionella</i> (non-pneumophila)
MERS-coronavirus	<i>Legionella pneumophila</i>
Parainfluenza 1-4	<i>Leptospira</i> sp.
Parechovirus	<i>Moraxella catarrhalis</i>
Respiratory Syncytial Virus A and B	<i>Mycobacterium tuberculosis</i>
Rhinovirus/Enterovirus	<i>Mycoplasma pneumoniae</i>
SARS-coronavirus	<i>Neisseria elongata</i> and <i>Neisseria meningitidis</i>
Yeast/Fungus	<i>Pseudomonas aeruginosa</i>
<i>Candida albicans</i>	<i>Staphylococcus aureus</i>
<i>Pneumocystis jirovecii</i>	<i>Staphylococcus epidermidis</i>
	<i>Streptococcus pneumoniae</i>
	<i>Streptococcus pyogenes</i>
	<i>Streptococcus salivarius</i>

3) Clinical Evaluation

Nasopharyngeal Swabs

The performance of the Infinity BiologiX TaqPath SARS-CoV-2 Assay with nasopharyngeal swabs was evaluated using contrived specimens composed of leftover nasopharyngeal swab samples that were spiked with SARS-CoV-2 *in vitro* transcripts or human DNA (both Exact Diagnostics). A total of 30 contrived positive and contrived negative samples were tested. A summary of the results of the study is provided in **Tables 6 and 7**. All 30 (100%) contrived negative samples produced the expected results. Of the 30 contrived positive samples, all 30 (100%) produced positive results for the N

and S genes, whereas the ORF1ab target was positive for 25/30 samples (83.3%). No amplification of the ORF1ab target was observed with 1/10 samples (10.0%) at 200 copies/mL and 4/10 samples (40.0%) at 400 copies/mL. According to the result algorithm described in **Table 4**, above, a sample is considered positive for SARS-CoV-2 RNA if amplification is detected with at least two of the three SARS-CoV-2-specific target sequences. The results of the Clinical Evaluation with contrived nasopharyngeal swabs were therefore considered acceptable.

Table 6. Summary of results from the contrived specimen study with nasopharyngeal swabs, stratified by target level and measurand

Transcript Copies/mL	Number Tested	Analysis	Target (Optical Channel)			
			N Gene (VIC)	S Gene (ABY)	ORF1ab (FAM)	MS2 (JUN)
0	30	Positive (%)	0 (0)	0 (0)	0 (0)	0 (0)
		Mean Ct (SD)	N/A	N/A	N/A	24.4 (0.4)
200	10	Positive (%)	10 (100)	10 (100)	9 (100)	10 (100)
		Mean Ct (SD)	21.7 (4.3)	22.1 (6.0)	19.7 (1.6)	27.1 (1.2)
400	10	Positive (%)	10 (100)	10 (100)	6 (60.0)	10 (100)
		Mean Ct (SD)	27.0 (6.7)	26.6 (6.8)	21.1 (2.3)	26.1 (1.2)
600	4	Positive (%)	4 (100)	4 (100)	4 (100)	4 (100)
		Mean Ct (SD)	28.5 (5.2)	27.2 (4.5)	27.4 (6.2)	25.7 (0.9)
800	3	Positive (%)	3 (100)	3 (100)	3 (100)	3 (100)
		Mean Ct (SD)	33.0 (1.6)	30.5 (0.4)	35.0 (3.9)	25.0 (0.9)
1000	3	Positive (%)	3 (100)	3 (100)	3 (100)	3 (100)
		Mean Ct (SD)	28.8 (6.6)	27.7 (5.6)	29.0 (7.3)	25.8 (1.2)
All Positives	30	Positive (%)	30 (100)	30 (100)	25 (83.3)	30 (100)
		Mean Ct (SD)	26.2 (6.3)	25.7 (5.1)	24.2 (6.4)	26.2 (1.3)

N/A: Not applicable; SD: Standard Deviation

Table 7. Summary of positive and negative agreement with contrived nasopharyngeal swab specimens

		Contrived Specimen Type		
		Positive	Negative	Total
TaqPath SARS-CoV-2 Assay	Positive	30	0	30
	Negative	0	30	30
	Total	30	30	60
Positive Agreement		100% (30/30); 88.7-100% ¹		
Negative Agreement		100% (30/30); 88.7-100%		

¹ Two-sided 95% score confidence intervals

Saliva

A study was performed to evaluate the use of saliva as a specimen type for detection of SARS-CoV-2 in patients who are suspected of COVID-19. The study was conducted with symptomatic patients from three ambulatory care centers who were each provided with instructions for self-collection of saliva using the Spectrum Solutions SDNA-1000 Saliva Collection Device. Self-collection of saliva samples was performed under the observation of a healthcare provider who subsequently (within 10 minutes) also collected either a nasopharyngeal or oropharyngeal swab from each patient for parallel testing for

SARS-CoV-2. The swabs were placed in viral transport medium for shipment to the testing laboratory. Both the saliva and swabs were transported at ambient temperature and tested using the Infinity BiologiX Clinical Genomics Laboratory TaqPath SARS-CoV-2 Assay within 48 hours of collection. A summary of the results of the study is presented in **Tables 8** and **9**.

There was 100% positive and negative agreement between the results obtained from testing of saliva and those obtained from nasopharyngeal and oropharyngeal swabs. Overall mean Ct values were similar for saliva and either nasopharyngeal or oropharyngeal swabs, there was no correlation between Ct values from different samples from the same patient. Nevertheless, the results support the use of saliva as a specimen type for use with the Infinity BiologiX TaqPath SARS-CoV-2 Assay.

Table 8. Summary of qualitative results obtained from parallel testing of nasopharyngeal and oropharyngeal swab samples and saliva from patients suspected of COVID-19

		Nasopharyngeal Swab		
		Positive	Negative	Total
Saliva	Positive	26	0	26
	Negative	0	27	27
	Total	26	27	53
Positive Agreement		100% (26/26); 87.1-100% ¹		
Negative Agreement		100% (27/27); 87.5-100%		
		Oropharyngeal Swab		
		Positive	Negative	Total
Saliva	Positive	4	0	4
	Negative	0	3	3
	Total	4	3	7
Positive Agreement		100% (4/4); 51.0-100% ¹		
Negative Agreement		100% (3/3); 43.9-100%		
		Nasopharyngeal or Oropharyngeal Swab		
		Positive	Negative	Total
Saliva	Positive	30	0	30
	Negative	0	30	30
	Total	30	30	60
Positive Agreement		100% (30/30); 88.7-100% ¹		
Negative Agreement		100% (30/30); 88.7-100%		

¹ Two-sided 95% score confidence intervals

Table 9. Summary of results obtained from parallel testing of nasopharyngeal and oropharyngeal swab samples and saliva from patients suspected of COVID-19, stratified by measurand

Number of Patients	Sample Type	Analysis	Target (Optical Channel)			
			N Gene (VIC)	S Gene (ABY)	ORF1ab (FAM)	MS2 (JUN)
26 NP positive	NP swab	Positive (%)	26 (100)	26 (100)	26 (100)	26 (100)
		Mean Ct (SD)	24.4 (4.0)	24.5 (3.9)	23.6 (3.7)	24.3(2.6)
	Saliva	Positive (%)	26 (100)	26 (100)	26 (100)	26 (100)
		Mean Ct (SD)	23.5 (6.2)	24.6 (6.0)	23.6 (5.7)	26.0 (4.1)
27 NP negative	NP swab	Positive (%)	0 (0)	0 (0)	0 (0)	27 (100)
		Mean Ct (SD)	N/A	N/A	N/A	24.4 (1.2)
	Saliva	Positive (%)	0 (0)	0 (0)	0 (0)	27 (100)
		Mean Ct (SD)	N/A	N/A	N/A	25.0 (1.9)
4 OP positive	OP swab	Positive (%)	4 (100)	4 (100)	4 (100)	4 (100)
		Mean Ct (SD)	24.7 (4.0)	24.3 (3.9)	23.5 (4.4)	25.4 (1.8)
	Saliva	Positive (%)	4 (100)	4 (100)	4 (100)	4 (100)
		Mean Ct (SD)	22.0 (7.1)	22.3 (7.2)	21.4 (7.1)	29.6 (5.6)
3 OP negative	OP Swab	Positive (%)	0 (0)	0 (0)	0 (0)	23.5 (1.5)
		Mean Ct (SD)	N/A	N/A	N/A	3 (100)
	Saliva	Positive (%)	0 (0)	0 (0)	0 (0)	3 (100)
		Mean Ct (SD)	N/A	N/A	N/A	23.1 (1.4)

NP: Nasopharyngeal; OP: Oropharyngeal; N/A: Not applicable; SD: Standard Deviation

Clinical Confirmation

The first 5 positive and first 5 negative nasopharyngeal specimens as using the Infinity BiologiX TaqPath SARS-CoV-2 Assay were also tested by the New Jersey State Health Department using the previously authorized CDC 2019-Novel Coronavirus (2019-nCoV) Real-Time RT-PCR Diagnostic Panel. There was 100% (5/5) positive and negative agreement for the specimens tested. These results are acceptable and support use of the Infinity BiologiX TaqPath SARS-CoV-2 Assay for testing clinical specimens.

4) Simulated Shipping Study with the SDNA-1000 Saliva Collection Device

To support home use of the Spectrum Solutions SDNA-1000 Saliva Collection Device, used as part of the IBX Saliva Collection Kit, a Simulated Shipping Study was performed that was designed to evaluate the effect of temperature variation on the stability of SARS-CoV-2 RNA during transport of saliva specimens. The study was conducted using residual clinical specimens that had previously been reported as SARS-CoV-2 positive or negative using the Infinity BiologiX TaqPath SARS-CoV-2 Assay, and which were stored at -80°C until the start of the study. The SARS-CoV-2 positive specimens were selected based on the Ct values obtained upon initial testing and covered the spectrum of Ct values observed with the assay.

To perform the study, the specimens were thawed and then subjected to the thermal profiles outlined in **Tables 10** and **11** which were intended to simulate the extreme temperature conditions that may be experienced in shipment of specimens during the summer and winter, respectively. At the conclusion of each thermal profile, the samples were retested with the Infinity BiologiX TaqPath SARS-CoV-2 Assay and the results

obtained were compared to those reported upon initial testing at the time the specimens were received. A summary of the mean Ct values observed for each SARS-CoV-2 specific target gene is provided in **Table 12**. The Ct values for each individual sample are presented graphically in **Figure 1**.

Nineteen out of 20 Low Positive samples (95%) and 10/10 High Positive samples were reported as positive after exposure to the summer and winter temperature excursions. The mean and standard deviation of the Ct values for each gene target were similar before and after simulated shipping, with no evidence of significant degradation of the SARS-CoV-2 RNA. All SARS-CoV-2 negative specimens were reported as “negative.”

These results demonstrate that SARS-CoV-2 RNA positive saliva specimens are stable in the SDNA-1000 Saliva Collection Device when exposed to a broad range of temperature conditions. These data support the use of the SDNA-1000 Saliva Collection Device for transport and storage of specimens following home collection of saliva.

Table 10. Summer temperature excursion

Temperature (°C)	Cycle Period	Time (hours)	
		Cycle Period	Total Time ¹
40	1	8	8
22	2	4	12
30	3	2	14
22	4	36	50
40	5	6	56

¹ Sum of Cycle Periods

Table 11. Winter temperature excursion

Temperature (°C)	Cycle Period	Time (hours)	
		Cycle Period	Total Time ¹
-80	1	8	8
18	2	4	12
-10	3	4	16
4	4	38	56

¹ Sum of Cycle Periods

Table 12. Summary of results from the Simulated Shipping Study with the SDNA-1000 Saliva Collection Device

Sample Group	Test Point	N	Mean Ct (Standard Deviation)			Positive (%)
			N Gene	ORF1ab	S Gene	
Negative	T = 0	10	N/A	N/A	N/A	0 (0)
	Summer ¹	10	N/A	N/A	N/A	0 (0)
	Winter ²	10	N/A	38.6 (--) ³	N/A	0 (0)
Low Positive	T = 0	20	29.0 (1.9)	29.3 (2.1)	29.4 (3.1)	20 (100)
	Summer	20	29.9 (2.4)	29.3 (2.9)	29.0 (2.5)	19 (95)
	Winter	20	30.0 (2.4)	29.1 (2.7)	28.8 (2.0)	19 (95)
High Positive	T = 0	10	20.8 (2.2)	21.3 (1.9)	20.7 (2.7)	10 (100)
	Summer	10	23.5 (3.5)	22.3 (3.8)	22.5 (4.0)	10 (100)
	Winter	10	23.4 (3.3)	22.2 (3.4)	22.1 (3.2)	10 (100)

N/A: Not Applicable

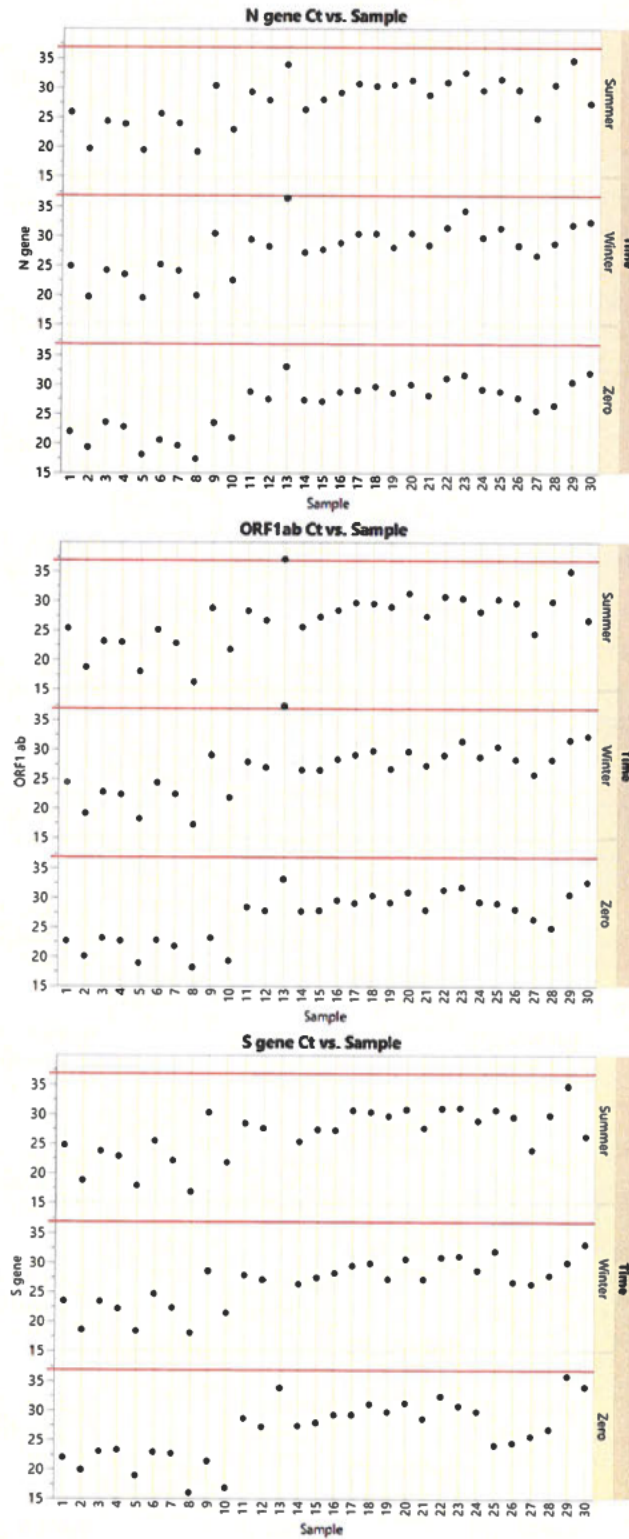
¹ Testing performed at the conclusion of the thermal excursions described in **Table 10**

² Testing performed at the conclusion of the thermal excursions described in **Table 11**

³ 1 sample gave a Ct value for ORF1ab but no amplification was observed for the other two SARS-CoV-2 targets. Based on the algorithm used for the Infinity BiologiX TaqPath SARS CoV-2 Assay (**Table 4**), at least two targets must have Ct values <37 for a specimen to be called positive for SARS-CoV-2 RNA. Therefore, this sample was recorded as “SARS-CoV-2 RNA Negative.”

⁴ Low Positive: Ct >25 at T= 0 for all targets; High Positive: Ct <25 at T = 0 for all targets

Figure 1. Ct values for each SARS-CoV-2 target gene by sample



Samples 1-10: High Positive (Ct value <25 for each target at T = 0)
 Samples 11-30: Low Positive (Ct value >25 for each target at T = 0)

LIMITATIONS

- Testing of saliva specimens is limited to patients with symptoms of COVID-19.

WARNINGS

- This test has not been FDA cleared or approved.
- This test has been authorized by FDA under an EUA for use by the Infinity BiologiX, Nelson Biological Sciences, C-Wing, 604 Allison Road, Piscataway, NJ 08854.
- This test has been authorized only for the detection of nucleic acid from SARS-CoV-2, not for any other viruses or pathogens.
- This test is only authorized for the duration of the declaration that circumstances exist justifying the authorization of emergency use of in vitro diagnostics for detection and/or diagnosis of COVID-19 under Section 564(b)(1) of the Federal Food, Drug and Cosmetics Act, 21 U.S.C. § 360bbb-3(b)(1), unless the authorization is terminated or revoked sooner.

Addendum A

ROWAN UNIVERSITY TERMS AND CONDITIONS

The following terms and conditions apply to all contracts or purchase agreements made with Rowan University unless specifically deleted on the University's proposal form. Vendors submitting offers to the University must cross out any paragraphs with terms they do not agree to meet. Any cross-out or change in the University's terms and conditions will be a determining factor in the award of a contract or purchase agreement. Bidders are notified by this statement that all terms and conditions will become a part of any contract(s) or order(s) awarded, as a result of the request for proposal, whether stated in part, in summary or by reference. In the event of a conflict between the vendor and the University's terms and conditions, the University's terms and conditions shall prevail.

I. STATE LAW REQUIRING MANDATORY COMPLIANCE BY ALL VENDORS

- A. CORPORATE AUTHORITY** It is required that all corporations be authorized to do business in the State of New Jersey. Corporations incorporated out of the State must file a Certificate of Authority with the Secretary of State, Department of State, State House, Trenton, New Jersey. Refer to N.J.S.A. Title 14A, Chapter 13.3.
- B. ANTI-DISCRIMINATION** All parties to any contract with Rowan University agree not to discriminate in employment and agree to abide by all anti-discrimination laws including those contained with N.J.S.A 10:2.1 through 10:2-4, N.J.S.A. 10:5-31 through 10:5.38, and all rules and regulations issued including any amendments to these laws.
- C. PREVAILING WAGE ACT** The New Jersey Prevailing Wage Act P.L. 1963, Chapter 150 is hereby made a part of every contract entered into on behalf of Rowan University, except those contracts which are not within the contemplation of the Act. The Bidder's signature on this proposal is his guarantee that neither he nor any subcontractors he might employ to perform the work covered by this proposal are listed or are on record in the Office of the Commissioner of the Department of Labor and Industry as one who has failed to pay prevailing wages in accordance with the provisions of this Act.
- D. THE WORKER AND COMMUNITY RIGHT TO KNOW ACT** (P.L. 1983, c.315; N.J.S.A 34:a-1 et seq.) required employers to label all containers of hazardous substances by March 29, 1985. By August 29, 1986, employers must have labeled all containers on their premises. **OWNERSHIP DISCLOSURE** Contracts for any work, goods, or services cannot be issued to any firm unless prior to or at the time of bid submission the firm has disclosed the names and addresses of all its owners holding 10 percent or more of the firm's stock or interest. Refer to N.J.P.L 1977, Chapter 33.
- E. COMPLIANCE-STATE LAWS** It is agreed and understood that any contracts and/or orders placed as a result of this proposal shall be governed and construed and rights and obligations of the parties hereto shall be determined in accordance with the laws of the STATE OF NEW JERSEY.
- F. COMPLIANCE LAWS** The vendor must comply with all local, state, and federal rules and regulations applicable to this contract and to the work to be done hereunder.

II. LIABILITIES

- A.** The Contractor shall assume all risk of and responsibility for, and agrees to indemnify, defend, and save harmless Rowan University, its officers, agents, students, servants, and employees from and against any and all claims, demands, suits, actions, recoveries, judgments and costs and expenses in connection therewith on account of the loss of life, property, injury or damage to the person, body or property of any person or persons whatsoever, which shall arise from Contractor's gross negligence or willful misconduct. This indemnification obligation is not limited by, but is an addition to, the insurance obligations contained in this agreement.
- B. INSURANCE** The successful bidder shall secure and maintain in force for the term of the contract liability insurance as provided herein. The successful bidder shall provide Rowan University with current certificates of insurance for all coverage and renewals thereof.

The insurance to be provided by the successful bidder shall be as follows:

1. Current standard comprehensive General Liability policy, not to be circumscribed by any endorsements limiting the breadth of coverage. The policy shall include an endorsement (broad form) for contractual liability and products liability (completed operations). Limits of liability shall not be less than \$1,000,000 per occurrence for bodily injury and \$1,000,000 per occurrence for property damage liability.
 2. Comprehensive General Automobile Liability policy covering owned, non-owned, and hired vehicles with minimum limits of \$1,000,000 combined single limits.
 3. Worker's Compensation Insurance as required by law.
- Upon request, the successful contractor will provide certificates of such insurance to the Purchasing Department of Rowan University, prior to the start of the contract and periodically during the course of a multi-year contract.

III. TERMS GOVERNING ALL PROPOSALS TO ROWAN UNIVERSITY PURCHASING DEPARTMENT (Unless Otherwise Specified in Bid Specifications)

- A. CONTRACT AMOUNT** The estimated amount of the contract(s), as stated in Rowan University's Advertised Bid Proposal Form, shall not be construed as either the maximum or the minimum amount which the University shall be obligated to order as the result of this proposal or any contract entered into as a result of this proposal.
- B. CONTRACT PERIOD AND EXTENSION OPTION** If, in the opinion of the University's Purchasing Director, it is in the best interest of the University to extend any contracts entered into as a result of this proposal for a period of all or any part of a year, the contractor will be so notified of the University's Purchasing Director intent at least 30 days prior to the expiration date of the existing contract. If the extension is acceptable to the contractor, at the original prices and on the original terms, notice will be given the contractor by the University's Purchasing Director in writing.
- C. UNIVERSITY RIGHT TO REJECT ALL BIDS** The University reserves the right to reject any or all bids, or to award in whole or in part if deemed to be in the interest of the University. In the case of tie bids orders shall be awarded to the vendor or vendors best meeting all specifications and conditions.
- D. VENDOR RIGHT TO PROTEST-INTENT TO AWARD** Except in cases of emergency, bidders have the right to protest the University's proposed award of the contractor as announced in the notice of intent to award. Unless otherwise stated, a bidder's protest must be received no later than 48 hours after the date on the notice of intent to award. In cases of emergency, the University may eliminate the right to protest. Bidder's protest must be in writing and delivered to the University's Purchasing Director. The protests must include the specific grounds for challenging the award. Within one week of receipt of the written protest, the University's Purchasing Director shall give written notification of the University's acceptance or rejection of the protest. In cases of rejection, the Bidder has the right to request a hearing. Such request must be made within 48 hours of the date of notice of rejection. If a hearing is requested, the University's Purchasing Director will schedule it and send written notice to the Bidder no later than one week prior to the date scheduled for the hearing. The University's approved hearing officer will preside at the hearing and may call any person he/she deems necessary to testify. Should the Bidder fail to attend, it shall be considered a retraction of his protest. The University's hearing officer shall render the University's decision within one week of the end of the hearing and give a written copy to the Bidder.
- E. TERMINATION OF CONTRACT**
1. For cause:
 - a. Where a vendor fails to perform or comply with a contract, and fails to respond or comply with the written complaint of the University Purchasing Director, the University Purchasing Director may terminate the contract upon 10 days notice to the vendor with an opportunity to respond.
 - b. Where a vendor continues to perform a contract poorly as demonstrated by formal complaints, late delivery, poor performance of service, short-shipping, etc. so that the University Purchasing Director is repeatedly required to issue written complaints, the University Purchasing Director may terminate the contract upon 10 days notice to the vendor with an opportunity to respond. In cases of emergency the University Purchasing Director may shorten the time periods of notification and may dispense with an opportunity to respond.
- F. SUBCONTRACTING OR ASSIGNMENT** A subcontract of this Agreement shall not relieve the contractor of any of his responsibilities under the contract. Nothing contained in the specifications shall be construed as creating any contractual relationship between any subcontractor and the University.
- G. MAINTENANCE OF RECORDS** The contractor shall maintain records for products and/or services delivered against the contract for a period of one (1) year from the date of final payment. Such records shall be made available to the University upon the University's reasonable request.

IV. TERMS RELATING TO PRICE QUOTATION

- A. PRICE FLUCTUATIONS DURING CONTRACT** All prices quoted shall be firm and not subject to increase during the period of the contract unless agreed to in writing by the University.
- B. DELIVERY COSTS** Unless noted otherwise in the specification, all prices for items in bid proposals are to be submitted F.O.B. Destination. Proposals submitted other than F.O.B. Destination may not be considered. Regardless of the method of quoting shipments, the vendors shall assume all liability and responsibility for the delivery of merchandise in good condition to the University unless otherwise specified. Unless otherwise specified, F.O.B. Destination does not cover "spotting" but does include delivery on the receiving platform of the University or the designated receiving points indicated on the Purchase Order. No additional charges will be allowed for any transportation costs resulting from partial shipments made for a vendor's convenience when a single shipment is ordered. The weights and measures of the University shall govern.
- C. C.O.D. TERMS** Unless otherwise stated in the Request for Proposal, C.O.D. Terms are not acceptable as part of a bid proposal and are cause for automatic rejection of a bid.

D. TAX CHARGES The University is exempt from State sales or use taxes and Federal excise taxes. They must not be included in the vendor's price quotations.

E. PAYMENT TO VENDORS Payments for goods and/or services purchased by the University will be made only against the Contractor's Invoice. The contractor's Invoice in duplicate together with original Bill of Lading, express receipt and other related papers must be sent to the University on the date of each delivery.

V. CASH DISCOUNTS Cash discounts for periods of less than 10 days will not be considered as factors in the award of contracts for purposes of determining the University's compliance with any discount offered.

A. A discount period shall commence on the day the University receives a properly executed Contractor's Invoice for products and services that have been duly accepted by the University in accordance with the terms, conditions, and specifications of the Contract/Purchase Order. If the invoice is received prior to delivery of the goods and services, the discount period begins with the acceptance of the goods or services.

B. The date on the check issued by the University in payment of that invoice shall be deemed the date of the University's payment of that invoice.

VI. HAZARDOUS MATERIALS [Does not apply to Contractor and Customer Purchase Agreement]

REFERENCES: 29 CFR 1910, SUBPART H AND PART .1200 NJAC TITLE 9, Chapter 59 et. al.

A. All hazardous materials used on the campus by any contractor are required to have a Material Safety Data Sheet (MSDA) filed with the Safety Office. University shall be responsible for such filing.

B. All hazardous materials left on-site and not consumed or used by the end of the daily work shift by a contractor's crew must be labeled and marked in accordance with the appropriate sections of the New Jersey Worker and Community Right-to-Know Act. University shall be responsible for such labeling and marking.

C. In summary, this act required labels identifying the top five constituents of a product, hazardous or non-hazardous, by common chemical name and Chemical Abstract Service (CAS) Number.

D. Most products manufactured or packaged outside of New Jersey do not meet this requirement without additional action on the part of the end item user or consumer.

E. All requirements of the United States Environmental Protection Agency (US EPA) as outlined in 40 CFR must also be complied with. **STORAGE ON SITE/CAMPUS:** All hazardous materials stored on site or on campus must be secured to prevent unauthorized use or contact with campus affiliates or the general public. In addition, all stoppage must meet the technical requirements of the NJ DEP or DCA, or the University; whichever is more stringent.

F. DISPOSAL: All contractor owned or furnished residue or surplus hazardous material must be

G. removed from the campus immediately after being classified as "waste", or when they are no longer usable for the project they were brought on to the campus to support. The University will not accept any hazardous materials for disposal or storage for any reason at any time from any contractor. The University will be responsible for compliance with this paragraph. For additional information contact the University Safety Office.

VII. RIGHT TO AUDIT

Pursuant to N.J.A.C. 17:44-2.2, Rowan University and the State, including the Office of the Comptroller, has the authority to audit or review contract records that are relevant records of private vendors or other persons entering into contracts with covered entities are subject to audit or review by OSC pursuant to N.J.S.A. 52:15C-14(d).

VIII. MAINTENANCE OF RECORDS

The vendor shall maintain records for products and/or services delivered against the contract for a period of one (1) year from the date of final payment. At University's reasonable request, such records shall be made available to the University.

IX. NOTICE OF EXECUTIVE ORDER 166 REQUIREMENT FOR POSTING OF WINNING PROPOSAL AND CONTRACT DOCUMENTS

Principal State departments, agencies and independent State authorities must include the following notice in any solicitation:

Pursuant to Executive Order No. 166, signed by Governor Murphy on July 17, 2020, the Office of the State Comptroller ("OSC") is required to make all approved State contracts for the allocation and expenditure of COVID-19 Recovery Funds available to the public by posting such contracts on an appropriate State website. Such contracts will be posted on the New Jersey transparency website developed by the Governor's Disaster Recovery Office (GDRO Transparency Website).

The contract resulting from this [RFP/RFQ] is subject to the requirements of Executive Order No. 166. Accordingly, the OSC will post a copy of the contract, including the [RFP/RFQ], the winning bidder's proposal and other related contract documents for the above contract on the GDRO Transparency website.

In submitting its proposal, a bidder/proposer may designate specific information as not subject to disclosure. However, such bidder must have a good faith legal or factual basis to assert that such designated portions of its proposal: (i) are proprietary and confidential financial or commercial information or trade secrets; or (ii) must not be disclosed to protect the personal privacy of an identified individual. The location in the proposal of any such designation should be clearly stated in a cover letter, and a redacted copy of the proposal should be provided. A Bidder's/Proposer's failure to designate such information as confidential in submitting a bid/proposal shall result in waiver of such claim.

The State reserves the right to make the determination regarding what is proprietary or confidential and will advise the winning bidder/proposer accordingly. The State will not honor any attempt by a winning bidder/proposer to designate its entire proposal as proprietary or confidential and will not honor a claim of copyright protection for an entire proposal. In the event of any challenge to the winning bidder's/proposer's assertion of confidentiality with which the State does not concur, the bidder /proposer shall be solely responsible for defending its designation.

PURCHASES FUNDED, IN WHOLE OR IN PART, BY FEDERAL FUNDS

The provisions set forth below apply to all purchases funded, in whole or in part, by Federal funds as required by 2 CFR 200.317.

I. CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS.

Pursuant to 2 CFR 200.321, the State must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Accordingly, if subawards are to be made the Contractor shall:

- (1) Include qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assure that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establish delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and,
- (5) Use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

II. DOMESTIC PREFERENCE FOR PROCUREMENTS

Pursuant to 2 CFR 200.322, where appropriate, the State has a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). If subawards are to be made the Contractor shall include a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). For purposes of this section:

- (1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- (2) "Manufactured products" means items and construction materials composed in whole or in part of nonferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

III. PROCUREMENT OF RECOVERED MATERIALS

Where applicable, in the performance of contract, pursuant to 2 CFR 200.323, the contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$ 10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

To the extent that the scope of work or specifications in the contract requires the contractor to provide recovered materials the scope of work or specifications are modified to require that as follows.

i. In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—

1. Competitively within a timeframe providing for compliance with the contract performance schedule;
2. Meeting contract performance requirements; or
3. At a reasonable price.

ii. Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

iii. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act."

IV. EQUAL EMPLOYMENT OPPORTUNITY

Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." See 2 CFR Part 200, Appendix II, para. C.

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his/her books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any

subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

V. DAVIS-BACON ACT, 40 U.S.C. 3141-3148, AS AMENDED

When required by Federal program legislation, all prime construction contracts in excess of \$ 2,000 shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable. Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. Additionally, contractors are required to pay wages not less than once a week.

VI. COPELAND ANTI_KICK-BACK ACT

Where applicable, the Contractor must comply with Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States").

- a. Contractor. The Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into the OGS centralized contract.
- b. Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- c. Breach. A breach of the clauses above may be grounds for termination of the OGS centralized contract, and for debarment as a Contractor and subcontractor as provided in 29 C.F.R. § 5.12.

VII. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT, 40 U.S.C. 3701-3708

Where applicable, all contracts awarded by the non-Federal entity in excess of \$ 100,000 that involve the employment of mechanics or laborers must comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5).

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The unauthorized user shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

VIII. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

IX. CLEAN AIR ACT, 42 U.S.C. 7401-7671Q, AND THE FEDERAL WATER POLLUTION CONTROL ACT, 33 U.S.C. 1251-1387, AS AMENDED

Where applicable, Contract and subgrants of amounts in excess of \$150,000, must comply with the following:

Clean Air Act

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The contractor agrees to report each violation to the Division of Purchase and Property and understands and agrees that the Division of Purchase and Property will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act

1. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. The contractor agrees to report each violation to the Division of Purchase and Property and understands and agrees that the Division of Purchase and Property will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

X. DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689)

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification is a material representation of fact relied upon by the State or authorized user. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State or authorized user, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

XI. BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. 1352

Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

XII. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPEMENT

(a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

(1) Procure or obtain;

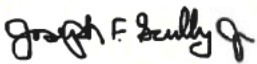
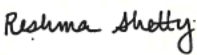
(2) Extend or renew a contract to procure or obtain; or

(3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115–232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Signature:		Signature:	
Name:	Joseph Scully	Name:	Reshma Shetty
Title:	Senior Vice President for Finance	Title:	President
Company:	Rowan University	Company:	Ginkgo Bioworks, Inc.
Date:	Date 12 / 29 / 2020	Date:	12 / 29 / 2020

TITLE	Ginkgo - Rowan University Testing Agreement
FILE NAME	2020.12.28 - Gink...ement (Final).pdf
DOCUMENT ID	9413bbe64a329a803fd3266f1362b2685702da43
AUDIT TRAIL DATE FORMAT	MM / DD / YYYY
STATUS	● Completed

Document History







 SENT	12 / 29 / 2020 08:04:04 UTC-5	Sent for signature to Joseph F. Scully (scullyj@rowan.edu) and Reshma Shetty (reshma@ginkgobioworks.com) from klundh@ginkgobioworks.com IP: 38.32.22.214
 VIEWED	12 / 29 / 2020 08:43:38 UTC-5	Viewed by Joseph F. Scully (scullyj@rowan.edu) IP: 150.250.225.150
 SIGNED	12 / 29 / 2020 09:53:05 UTC-5	Signed by Joseph F. Scully (scullyj@rowan.edu) IP: 150.250.225.150
 VIEWED	12 / 29 / 2020 10:46:01 UTC-5	Viewed by Reshma Shetty (reshma@ginkgobioworks.com) IP: 73.119.51.151
 SIGNED	12 / 29 / 2020 10:46:09 UTC-5	Signed by Reshma Shetty (reshma@ginkgobioworks.com) IP: 73.119.51.151
 COMPLETED	12 / 29 / 2020 10:46:09 UTC-5	The document has been completed.

EXHIBIT A
Purchase Order

Product: AccessBio CareStart™ COVID-19 Antigen Rapid Diagnostic Test for the Detection of SARS-CoV-2 Antigen (RCHM-02071), as further described in <https://www.fda.gov/media/142919/download>

Product Quantity	Unit Price	Total Purchase Price
51,200	\$15	\$768,000
<i>Shipping Charges: \$0</i>		
<i>Taxes: In accordance with Section 4</i>		TOTAL: \$768,000

Date of Delivery: To be picked up at Launchworks on 12/30/2020.

Billing Contact & Address:

Rowan University
Attn: Scott Woodside
201 Mullica Hill Road
Glassboro, NJ 08028

Delivery Contact & Address:

Launchworks
123 Brimbal Ave
Beverly, MA 01915

Scott Woodside
[REDACTED]
[REDACTED]

CUSTOMER

By: Joseph F. Scully

Printed Name: Joseph F. Scully

Title: Sr VP Finance and

CUSTOMER PURCHASE AGREEMENT

This Customer Purchase Agreement (this “**Agreement**”) is entered into effective December 28, 2020 (the “**Effective Date**”) by and between Ginkgo Bioworks, Inc., with offices at 27 Drydock Avenue, 8th floor, Boston, MA 02210 (“**Ginkgo**”) and Rowan University, with offices at 201 Mullica Hill Road, Glassboro, NJ 08028 (“**Customer**”).

1. **Definitions.** Unless otherwise defined herein, all capitalized terms in this Agreement will be defined as provided below.

“**Product**” means the AccessBio *CareStart*[™] COVID-19 Antigen Rapid Diagnostic Test for the Detection of SARS-CoV-2 Antigen (RCHM-02071), as further described in Exhibit B.

“**Purchase Order**” means the written order for Products attached hereto as Exhibit A signed by an authorized Customer representative.

2. **Delivery Commitment and Refunds.** Customer understands and agrees to assume the risks associated with (i) Ginkgo, as of the Effective Date, not having the quantity of Products ordered on hand for delivery or (ii) Ginkgo’s access being shut off or denied by the manufacturer or supplier of the Products. Should the foregoing occur or should Ginkgo otherwise be unable to deliver any amount of Products ordered within thirty (30) days of the “Date of Delivery” set forth in the Purchase Order, Ginkgo will refund Customer all amounts already paid to Ginkgo by Customer for such undelivered quantities of Products under Section 4. Customer acknowledges and agrees that Ginkgo may accept Purchase Orders prior to having Products on hand. Customer also acknowledges and agrees that Ginkgo’s failure to deliver Products under circumstances set forth in this Section 2 shall not be deemed a breach of this Agreement by Ginkgo, and that Customer’s sole and exclusive remedy for such failure to deliver shall be as set forth in the second sentence of this Section 2.

3. **Order Procedure; Delivery.**

3.1 Order Procedure.

3.1.1 All orders of the Products shall be made through the Purchase Order submitted by Customer to Ginkgo as a part of this Agreement. Orders made by Customer in a Purchase Order are non-cancellable and may not be rescheduled except in accordance with Section 2.

3.1.2 Together with its Purchase Order, and as a condition to Ginkgo’s approval of the same and shipment of the Products ordered thereunder, Customer shall provide to Ginkgo a copy of Customer’s CLIA Certificate of Waiver. If Customer does not submit a copy of its CLIA Certificate of Waiver to Ginkgo, (a) Customer’s Purchase Order shall be *de facto* rejected, (b) this Agreement shall thereafter automatically terminate in ninety (90) days unless such copy is provided, and (c) at the time of such termination, Ginkgo shall refund to Customer any amounts paid to Ginkgo by Customer under Section 4 *minus* a restocking fee equal to ten percent (10%) of such amounts originally paid, which restocking fee will not exceed \$250,000.

3.2 Delivery. Ginkgo will use commercially reasonable efforts to deliver Products by the delivery date set forth in the Purchase Order. Ginkgo may make partial shipments and Customer may not reject partial shipments. Any delay in delivery of any installment will not relieve Customer of its obligation to accept the remaining deliveries. Ginkgo will not be liable for any failure to ship complete orders or for any shipment delay. All Products will be delivered to Customer F.O.B. Ginkgo’s shipment point. Unless specified in the Purchase Order, Ginkgo will select the mode of delivery and the carrier. Title and all risk of loss of, or damage to Products, will pass to Customer upon delivery by Ginkgo to the carrier, freight forwarder or Customer, whichever occurs first. Customer will be responsible for and pay all packing, delivery, freight and insurance charges, which charges Ginkgo may require Customer to pay in advance. All Products will be deemed accepted upon delivery. Notwithstanding the foregoing, if at any time Ginkgo receives notice that continued sale of the Products would require modification, testing, approval, clearance, exemption, licensure, registration, listing or other recording or recognition of the Product as a medical device with the United States Food and Drug Administration or any other governmental authority or organization (collectively, “**Approval**”), or if Ginkgo determines that there is a reasonable basis for requiring any such Approval, Ginkgo may suspend shipment of Products and require that Customer cease all use of the Products until Ginkgo receives such Approval or otherwise determines that such Approval is no longer required.

3.3 *HIPAA Inapplicable*. The parties acknowledge and agree that (a) Ginkgo is not a “Covered Entity”, as such term is defined in the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health Act and the regulations promulgated thereunder (collectively, “HIPAA”), (b) Customer is neither entering into this Agreement as a Covered Entity nor acting as a Business Associate (as defined in HIPAA) of Ginkgo via this Agreement, (c) no contractor engaged by Ginkgo is acting on Ginkgo’s behalf as a Business Associate, and (d) neither Ginkgo, nor Customer on Ginkgo’s behalf, shall submit any “standard transactions” (as defined in HIPAA) related to the Products provided hereunder.

4. **Payment Terms.**

4.1 Unless otherwise agreed by the parties in writing, the payment of fees by Customer shall be made as follows: (a) one hundred percent (100%) of the total purchase price will be due upon execution of the Purchase Order by Customer; and (b) any remaining amounts (e.g., taxes, shipping charges) will be due upon shipment of the Products by Ginkgo to Customer.

4.2 Ginkgo’s prices do not include any foreign, federal, state or local sales, use or other similar taxes or duties or other fees (including any import or export fees), however designated or levied against the sale, licensing, delivery or use of the Products. Customer is solely responsible for and shall pay all such taxes, duties and fees, provided, however, that Customer shall not be liable for any taxes based on Ginkgo’s net income. If Customer is required to withhold or deduct any taxes from any payment to Ginkgo hereunder, Customer shall furnish to Ginkgo, without delay, a tax certificate showing the payment of such tax.

4.3 All payments shall be made by Customer in U.S. dollars, net7, to Ginkgo’s account set forth in Ginkgo’s invoice for the Purchase Order.

4.4 Any invoiced amount which is not paid when due will bear interest at the rate of one and one-half percent (1½%) per month, or the maximum allowable rate by law, whichever is less.

5. **Restrictions.** Customer shall not: (a) modify any element of the Products; (b) rent, lease, distribute, sell, resell, sublicense, assign or otherwise transfer Customer’s rights to use the Products to any third party; (c) disrupt the integrity of the Products; (d) remove, circumvent, disable, damage or otherwise interfere with safety-related features of the Products, or features that enforce limitations on use of the Products; or (e) remove or delete any proprietary or safety notices in or on any Products.

6. **Disclaimer of Warranties.**

6.1 THE PRODUCTS ARE SUPPLIED TO CUSTOMER “AS IS” AND “WHERE IS”. GINKGO AND ITS LICENSORS AND SUPPLIERS MAKE NO OTHER WARRANTIES, WHETHER EXPRESS IMPLIED OR STATUTORY, AND TO THE EXTENT PERMITTED BY LAW, GINKGO AND ITS LICENSORS AND SUPPLIERS SPECIFICALLY DISCLAIM AND EXCLUDE ALL WARRANTIES, WHETHER STATUTORY, EXPRESS, OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF NON-INFRINGEMENT OF THIRD PARTY RIGHTS, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTIES ARISING DUE TO COURSE OF CONDUCT OR USAGE OF TRADE. GINKGO DOES NOT REPRESENT OR WARRANT THAT THE USE OF THE PRODUCTS WILL BE COMPLETELY SAFE OR ERROR-FREE OR THAT ANY ERRORS WILL BE CORRECTED. GINKGO DOES NOT MAKE ANY WARRANTY AS TO THE ACCURACY (OF PERFORMANCE OR ANY OTHER INFORMATION OR CONTENT) OF THE PRODUCTS OR THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE PRODUCTS, OR THAT THE PRODUCTS WILL MEET CUSTOMER’S NEEDS OR REQUIREMENTS.

6.2 CUSTOMER ACCEPTS FULL RESPONSIBILITY FOR ANY AND ALL DECISIONS (INCLUDING, WITHOUT LIMITATION, ANY DECISIONS TO PROVIDE SERVICES TO ANY THIRD PARTY) MADE BY CUSTOMER AND ITS AUTHORIZED USERS IN USING THE PRODUCTS. CUSTOMER ACKNOWLEDGES AND AGREES THAT (A) USE OF THE PRODUCTS IS AT THE SOLE RISK OF CUSTOMER AND ITS AUTHORIZED USERS; AND (B) GINKGO SHALL NOT BE RESPONSIBLE OR LIABLE FOR ANY USE OF PRODUCTS, OR ERRORS CAUSED BY ANY THIRD PARTY, OR BY CUSTOMER’S USE OF THE PRODUCTS, OR ANY PART THEREOF, OR FOR ANY RESULTS, INCLUDING, WITHOUT LIMITATION, ANY INACCURACY OF THE RESULTS, PRODUCED BY THE PRODUCTS.

6.3 CUSTOMER UNDERSTANDS AND AGREES THAT THE PRODUCTS ARE AVAILABLE FOR DISTRIBUTION AND USE IN THE UNITED STATES, SUBJECT TO THE REQUIREMENTS OF AN EMERGENCY USE AUTHORIZATION, WHICH WAS AUTHORIZED BY THE U.S. FOOD AND DRUG ADMINISTRATION ("FDA") ON OCTOBER 8, 2020 ("EUA"), ATTACHED HERETO AS EXHIBIT B. CUSTOMER'S USE OF THE PRODUCT MUST BE CONSISTENT WITH, AND MAY NOT EXCEED, THE TERMS OF THE EUA, INCLUDING ANY SUBSEQUENT AMENDMENTS TO THE EUA. CUSTOMER MUST BE CERTIFIED UNDER THE CLINICAL LABORATORY IMPROVEMENT AMENDMENTS OF 1988 ("CLIA") TO MEET THE REQUIREMENTS TO PERFORM HIGH, MODERATE, OR WAIVED COMPLEXITY TESTS. THE PRODUCT IS AUTHORIZED FOR USE IN POINT-OF-CARE SETTINGS OPERATING UNDER A CLIA CERTIFICATE OF WAIVER, CERTIFICATE OF COMPLIANCE, OR CERTIFICATE OF ACCREDITATION. CUSTOMER MUST USE THE PRODUCT SOLELY FOR THE DIAGNOSTIC USE STATED IN THE EUA AND MUST COLLECT THE DIAGNOSTIC SPECIMENS BY NASOPHARYNGEAL SWAB. THE EUA, INCLUDING ANY SUBSEQUENT AMENDMENTS TO THE EUA, WILL BE IN EFFECT UNTIL THERE IS A DECLARATION THAT THE CIRCUMSTANCES JUSTIFYING THE EUA HAVE TERMINATED OR THE EUA IS REVOKED UNDER SECTION 564 OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT. AFTER THE TERMINATION OR REVOCATION OF THE EUA, THE PRODUCTS MAY NOT BE DISTRIBUTED OR USED WITHOUT FURTHER AUTHORIZATION, APPROVAL, OR PERMISSION FROM THE FDA.

7. **Indemnification.** Customer shall defend Ginkgo and its affiliates, licensors, suppliers and their respective officers, directors and employees from and against any and all liabilities, damages, costs, fees and expenses (including reasonable attorneys' fees and litigation expenses) incurred in connection with any claim or suit brought by a third party arising out of or resulting from, directly or indirectly: (a) any Customer use or alleged use of the Products, including in breach of or other than as permitted under this Agreement or the Emergency Use Authorization thereof attached as Exhibit B hereto; (b) Customer's failure to comply with any laws applicable to its use of the Products (including but not limited to any data privacy, data security or any other laws or regulations governing the collection or use of personal data, biometric data or health-related data); or (c) bodily injury or death, damage to personal or real property resulting from Customer's use of the Products. Customer shall pay all costs and expenses, including attorneys' fees, whether by settlement or award by a final judicial judgment, paid to the third party bringing any such claim, provided that Ginkgo (i) gives Customer prompt written notice of any such claim, (ii) allows Customer to solely direct the defense and settlement of the claim, and (iii) provides Customer, at Customer's expense, with information and assistance as may be reasonably necessary for the defense and settlement of the claim. In no event shall Ginkgo settle any claim without Customer's prior written approval. Ginkgo may, at its own expense, engage separate counsel to advise Ginkgo regarding any such claim and to participate in the defense of any such claim, subject to Customer's right to control the defense and settlement thereof.

8. **Limitation of Liability.**

8.1 **No Indirect Damages.** NEITHER GINKGO NOR ITS LICENSOR OR SUPPLIERS SHALL BE LIABLE TO CUSTOMER OR ANY OTHER THIRD PARTY FOR ANY (A) SPECIAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR INDIRECT DAMAGES, (B) LOST PROFITS, LOST BUSINESS OR LOST OR CORRUPTED DATA, OR (C) COST OF PROCUREMENT OF SUBSTITUTE PRODUCTS, TECHNOLOGY, GOODS OR SERVICES, HOWEVER CAUSED, ON ANY THEORY OF LIABILITY, AND WHETHER OR NOT GINKGO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

8.2 **Limits on Liability.** IN NO EVENT SHALL GINKGO'S, ITS SUPPLIERS' OR ITS LICENSORS' LIABILITY TO CUSTOMER EXCEED THE AGGREGATE AMOUNTS PAID BY CUSTOMER TO GINKGO FOR THE PRODUCTS THAT ARE THE SUBJECT OF THE PURCHASE ORDER.

8.3 **Essential Purpose.** THE LIMITATIONS IN SECTION 2 AND THIS SECTION 8 SHALL APPLY (A) NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY, (B) TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, AND (C) REGARDLESS OF THE FORM OF ACTION, WHETHER BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), WHETHER SUCH CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), INDEMNITY, PRODUCT LIABILITY OR OTHER THEORY.

9. **Term.** This Agreement shall terminate upon the later of (a) Customer's receipt of the full quantity of Products ordered under the Purchase Order, (b) Ginkgo's receipt of the total amounts owed by Customer to Ginkgo under the Purchase Order, and (c) Ginkgo's refund of any amounts due to Customer for undelivered quantities of Products pursuant to Section 2. All Sections of this Agreement will survive expiration or termination of this Agreement, except for Section 3.

10. **General.**

10.1 **Governing Law, Dispute Resolution.** This Agreement will be construed and the respective rights and obligations of the parties will be determined in accordance with the laws of State of New Jersey, without giving effect to conflicts of laws rules or principles. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods is specifically excluded from application to this Agreement.

10.2 **Publicity.** Ginkgo will have the right to reference and use Customer's name and trademarks and disclose the Products provided hereunder, in each case, in Ginkgo's business development and marketing efforts, including, without limitation, on Ginkgo's website.

10.3 **Waiver.** No term or provision of this Agreement shall be considered waived by either party, and no breach excused by either party, unless such waiver or consent is in writing signed on behalf of the party against whom the waiver is asserted. No consent by either party to, or waiver of, a breach by either party, whether express or implied, shall constitute consent to, waiver of, or excuse of any other, different, or subsequent breach by either party.

10.4 **Severability.** If any provision of this Agreement is held invalid or unenforceable for any reason, the remainder of the provision shall be amended to achieve as closely as possible the economic effect of the original term and all other provisions shall continue in full force and effect.

10.5 **Assignment.** Customer may not assign its rights or delegate its obligations under this Agreement to any third party, whether voluntarily or by operation of law or otherwise (including in connection with any merger or acquisition involving Customer), without the prior written consent of Ginkgo, such consent not to be unreasonably withheld. Any purported assignment or transfer in violation of this section shall be void. Subject to the foregoing restrictions, this Agreement will bind and benefit the parties and their successors and permitted assigns. There are no third party beneficiaries to this Agreement.

10.6 **Relationship of the Parties.** Ginkgo is an independent contractor to Customer. There is no relationship of agency, partnership, joint venture, employment, or franchise between the parties. Neither party has the authority to bind the other or to incur any obligation on its behalf.

10.7 **Force Majeure.** Except for Customer's payment obligations, neither party shall be liable for any failure or delay in performance under this Agreement due to fire, explosion, earthquake, storm, flood or other weather; unavailability of necessary utilities or raw materials; Internet service provider failures or delays, or denial of service attacks; war, civil unrest, acts of terror, insurrection, riot, acts of God or the public enemy; strikes or other labor problems; diseases, epidemics, pandemics, or public health emergency whether or not a pandemic or public health emergency has actually been declared by any governmental body or pseudo governmental body; government mandated quarantines, shelter-in-place orders, bans on public gatherings, travel restrictions, lock-downs, or shut downs of public services; any law, act, order, proclamation, decree, regulation, ordinance, or instructions of government or other public authorities, or judgment or decree of a court of competent jurisdiction (not arising out of breach by such party of this Agreement); or any other event beyond the reasonable control of the party whose performance is to be excused.

10.8 **Entire Agreement.** This Agreement, together with Customer's Purchase Order, contains the entire understanding of the parties with respect to the subject matter hereof, and supersedes all previous arrangements with respect to the subject matter hereof, whether written or oral.

10.9 **Counterparts.** This Agreement may be executed in two or more counterparts, including by facsimile or PDF signature pages, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

11. **Terms & Conditions**

11.1 **Terms & Conditions:** This Agreement is subject to the Terms and Conditions of Rowan University as attached (Addendum A), New Jersey Executive Order #166, Notice of Executive Order 166 Requirements for Posting of Winning Proposal and Contract Documents (Addendum A, Paragraph IX) and all relevant regulations and conditions.

11.2 **Entire Agreement:** This Agreement constitutes the entire understanding between the parties hereto concerning the subject matter herein and is a complete statement of the terms thereof and shall supersede all previous understandings between the parties, whether oral or written with respect to the subject matter herein. The parties shall not be bound by any representation made by either party or agent of either party that is not set forth in this Agreement. Any applicable provisions required by federal, state, or local law are hereby incorporated by reference.

[Signature Page Follows]

IN WITNESS WHEREOF, authorized representatives of the parties have executed this Customer Purchase Agreement effective as of the Effective Date.

GINKGO BIOWORKS, INC.

CUSTOMER

By: Reshma Shetty

By: Joseph F. Scully

Printed Name: Reshma Shetty

Printed Name: Joseph F. Scully

Title: President

Title: Sr VP Finance and

EXHIBIT B

EUA & Associated Documentation

<https://www.fda.gov/media/142916/download>

<https://www.fda.gov/media/142917/download>

<https://www.fda.gov/media/142918/download>

<https://www.fda.gov/media/142919/download>

Addendum A

ROWAN UNIVERSITY TERMS AND CONDITIONS

The following terms and conditions apply to all contracts or purchase agreements made with Rowan University unless specifically deleted on the University's proposal form. Vendors submitting offers to the University must cross out any paragraphs with terms they do not agree to meet. Any cross-out or change in the University's terms and conditions will be a determining factor in the award of a contract or purchase agreement. Bidders are notified by this statement that all terms and conditions will become a part of any contract(s) or order(s) awarded, as a result of the request for proposal, whether stated in part, in summary or by reference. In the event of a conflict between the vendor and the University's terms and conditions, the University's terms and conditions shall prevail.

I. STATE LAW REQUIRING MANDATORY COMPLIANCE BY ALL VENDORS

- A. CORPORATE AUTHORITY** It is required that all corporations be authorized to do business in the State of New Jersey. Corporations incorporated out of the State must file a Certificate of Authority with the Secretary of State, Department of State, State House, Trenton, New Jersey. Refer to N.J.S.A. Title 14A, Chapter 13.3.
- B. ANTI-DISCRIMINATION** All parties to any contract with Rowan University agree not to discriminate in employment and agree to abide by all anti-discrimination laws including those contained with N.J.S.A. 10:2.1 through 10:2-4, N.J.S.A. 10:5-31 through 10:5.38, and all rules and regulations issued including any amendments to these laws.

- C. PREVAILING WAGE ACT** The New Jersey Prevailing Wage Act P.L. 1963, Chapter 150 is hereby made a part of every contract entered into on behalf of Rowan University, except those contracts which are not within the contemplation of the Act. The Bidder's signature on this proposal is his guarantee that neither he nor any subcontractors he might employ to perform the work covered by this proposal are listed or are on record in the Office of the Commissioner of the Department of Labor and Industry as one who has failed to pay prevailing wages in accordance with the provisions of this Act.

- D. THE WORKER AND COMMUNITY RIGHT TO KNOW ACT** (P.L. 1983, c.315; N.J.S.A 34:a-1 et seq.) required employers to label all containers of hazardous substances by March 29, 1985. By August 29, 1986, employers must have labeled all containers on their premises. **OWNERSHIP DISCLOSURE** Contracts for any work, goods, or services cannot be issued to any firm unless prior to or at the time of bid submission the firm has disclosed the names and addresses of all its owners holding 10 percent or more of the firm's stock or interest. Refer to N.J.P.L 1977, Chapter 33.

- E. COMPLIANCE-STATE LAWS** It is agreed and understood that any contracts and/or orders placed as a result of this proposal shall be governed and construed and rights and obligations of the parties hereto shall be determined in accordance with the laws of the STATE OF NEW JERSEY.

- F. COMPLIANCE LAWS** The vendor must comply with all local, state, and federal rules and regulations applicable to this contract and to the work to be done hereunder.

II. LIABILITIES

- A.** The Contractor shall assume all risk of and responsibility for, and agrees to indemnify, defend, and save harmless Rowan University, its officers, agents, students, servants, and employees from and against any and all claims, demands, suits, actions, recoveries, judgments and costs and expenses in connection therewith on account of the loss of life, property, injury or damage to the person, body or property of any person or persons whatsoever, which shall arise from Contractor's gross negligence or willful misconduct. This indemnification obligation is not limited by, but is an addition to, the insurance obligations contained in this agreement.

- B. INSURANCE** The successful bidder shall secure and maintain in force for the term of the contract liability insurance as provided herein. The successful bidder shall provide Rowan University with current certificates of insurance for all coverage and renewals thereof.

The insurance to be provided by the successful bidder shall be as follows:

- liability.
1. Current standard comprehensive General Liability policy, not to be circumscribed by any endorsements limiting the breadth of coverage. The policy shall include an endorsement (broad form) for contractual liability and products liability (completed operations). Limits of liability shall not be less than \$1,000,000 per occurrence for bodily injury and \$1,000,000 per occurrence for property damage
 2. Comprehensive General Automobile Liability policy covering owned, non-owned, and hired vehicles with minimum limits of \$1,000,000 combined single limits.
 3. Worker's Compensation Insurance as required by law.
Upon request, the successful contractor will provide certificates of such insurance to the Purchasing Department of Rowan University, prior to the start of the contract and periodically during the course of a multi-year contract.

III. TERMS GOVERNING ALL PROPOSALS TO ROWAN UNIVERSITY PURCHASING DEPARTMENT (Unless Otherwise Specified in Bid Specifications)

- A. **CONTRACT AMOUNT** The estimated amount of the contract(s), as stated in Rowan University's Advertised Bid Proposal Form, shall not be construed as either the maximum or the minimum amount which the University shall be obligated to order as the result of this proposal or any contract entered into as a result of this proposal.
- B. **CONTRACT PERIOD AND EXTENSION OPTION** If, in the opinion of the University's Purchasing Director, it is in the best interest of the University to extend any contracts entered into as a result of this proposal for a period of all or any part of a year, the contractor will be so notified of the University's Purchasing Director intent at least 30 days prior to the expiration date of the existing contract. If the extension is acceptable to the contractor, at the original prices and on the original terms, notice will be given the contractor by the University's Purchasing Director in writing.
- C. **UNIVERSITY RIGHT TO REJECT ALL BIDS** The University reserves the right to reject any or all bids, or to award in whole or in part if deemed to be in the interest of the University. In the case of tie bids orders shall be awarded to the vendor or vendors best meeting all specifications and conditions.
- D. **VENDOR RIGHT TO PROTEST-INTENT TO AWARD** Except in cases of emergency, bidders have the right to protest the University's proposed award of the contractor as announced in the notice of intent to award. Unless otherwise stated, a bidder's protest must be received no later than 48 hours after the date on the notice of intent to award. In cases of emergency, the University may eliminate the right to protest. Bidder's protest must be in writing and delivered to the University's Purchasing Director. The protests must include the specific grounds for challenging the award. Within one week of receipt of the written protest, the University's Purchasing Director shall give written notification of the University's acceptance or rejection of the protest. In cases of rejection, the Bidder has the right to request a hearing. Such request must be made within 48 hours of the date of notice of rejection. If a hearing is requested, the University's Purchasing Director will schedule it and send written notice to the Bidder no later than one week prior to the date scheduled for the hearing. The University's approved hearing officer will preside at the hearing and may call any person he/she deems necessary to testify. Should the Bidder fail to attend, it shall be considered a retraction of his protest. The University's hearing officer shall render the University's decision within one week of the end of the hearing and give a written copy to the Bidder.
- E. **TERMINATION OF CONTRACT**
 1. For cause:
 - a. Where a vendor fails to perform or comply with a contract, and fails to respond or comply with the written complaint of the University Purchasing Director, the University Purchasing Director may terminate the contract upon 10 days notice to the vendor with an opportunity to respond.
 - b. Where a vendor continues to perform a contract poorly as demonstrated by formal complaints, late delivery, poor performance of service, short-shipping, etc. so that the University Purchasing Director is repeatedly required to issue written complaints, the University Purchasing Director may terminate the contract upon 10 days notice to the vendor with an opportunity to respond. In cases of emergency the University Purchasing Director may shorten the time periods of notification and may dispense with an opportunity to respond.
- F. **SUBCONTRACTING OR ASSIGNMENT** A subcontract of this Agreement shall not relieve the contractor

of any of his responsibilities under the contract. Nothing contained in the specifications shall be construed as creating any contractual relationship between any subcontractor and the University.

- G. MAINTENANCE OF RECORDS** The contractor shall maintain records for products and/or services delivered against the contract for a period of one (1) year from the date of final payment. Such records shall be made available to the University upon the University's reasonable request.

IV. TERMS RELATING TO PRICE QUOTATION

- A. PRICE FLUCTUATIONS DURING CONTRACT** All prices quoted shall be firm and not subject to increase during the period of the contract unless agreed to in writing by the University.
- B. DELIVERY COSTS** Unless noted otherwise in the specification, all prices for items in bid proposals are to be submitted F.O.B. Destination. Proposals submitted other than F.O.B. Destination may not be considered. Regardless of the method of quoting shipments, the vendors shall assume all liability and responsibility for the delivery of merchandise in good condition to the University unless otherwise specified. Unless otherwise specified, F.O.B. Destination does not cover "spotting" but does include delivery on the receiving platform of the University or the designated receiving points indicated on the Purchase Order. No additional charges will be allowed for any transportation costs resulting from partial shipments made for a vendor's convenience when a single shipment is ordered. The weights and measures of the University shall govern.
- C. C.O.D. TERMS** Unless otherwise stated in the Request for Proposal, C.O.D. Terms are not acceptable as part of a bid proposal and are cause for automatic rejection of a bid.
- D. TAX CHARGES** The University is exempt from State sales or use taxes and Federal excise taxes. They must not be included in the vendor's price quotations.
- E. PAYMENT TO VENDORS** Payments for goods and/or services purchased by the University will be made only against the Contractor's Invoice. The contractor's Invoice in duplicate together with original Bill of Lading, express receipt and other related papers must be sent to the University on the date of each delivery.

V. CASH DISCOUNTS Cash discounts for periods of less than 10 days will not be considered as factors in the award of contracts for purposes of determining the University's compliance with any discount offered.

- A.** A discount period shall commence on the day the University receives a properly executed Contractor's Invoice for products and services that have been duly accepted by the University in accordance with the terms, conditions, and specifications of the Contract/Purchase Order. If the invoice is received prior to delivery of the goods and services, the discount period begins with the acceptance of the goods or services.
- B.** The date on the check issued by the University in payment of that invoice shall be deemed the date of the University's payment of that invoice.

VI. HAZARDOUS MATERIALS [Does not apply to Contractor and Customer Purchase Agreement]

REFERENCES: 29 CFR 1910, SUBPART H AND PART .1200 NJAC TITLE 9, Chapter 59 et. al.

- A.** All hazardous materials used on the campus by any contractor are required to have a Material Safety Data Sheet (MSDA) filed with the Safety Office. University shall be responsible for such filing.
- B.** All hazardous materials left on-site and not consumed or used by the end of the daily work shift by a contractor's crew must be labeled and marked in accordance with the appropriate sections of the New Jersey Worker and Community Right-to-Know Act. University shall be responsible for such labeling and marking.
- C.** In summary, this act required labels identifying the top five constituents of a product, hazardous or non-hazardous, by common chemical name and Chemical Abstract Service (CAS) Number.
- D.** Most products manufactured or packaged outside of New Jersey do not meet this requirement without additional action on the part of the end item user or consumer.
- E.** All requirements of the United States Environmental Protection Agency (US EPA) as outlined in 40 CFR must also be complied with. **STORAGE ON SITE/CAMPUS:** All hazardous materials stored on site or on campus must be secured to prevent unauthorized use or contact with campus affiliates or the general public. In addition, all stoppage must meet the technical requirements of the NJ DEP or DCA, or the University; whichever is more stringent.
- F. DISPOSAL:** All contractor owned or furnished residue or surplus hazardous material must be

- G. removed from the campus immediately after being classified as “waste”, or when they are no longer usable for the project they were brought on to the campus to support. The University will not accept any hazardous materials for disposal or storage for any reason at any time from any contractor. The University will be responsible for compliance with this paragraph. For additional information contact the University Safety Office.

VII. RIGHT TO AUDIT

Pursuant to N.J.A.C. 17:44-2.2, Rowan University and the State, including the Office of the Comptroller, has the authority to audit or review contract records that are relevant records of private vendors or other persons entering into contracts with covered entities are subject to audit or review by OSC pursuant to N.J.S.A. 52:15C-14(d).

VIII. MAINTENANCE OF RECORDS

The vendor shall maintain records for products and/or services delivered against the contract for a period of one (1) year from the date of final payment. At University’s reasonable request, such records shall be made available to the University.

IX. NOTICE OF EXECUTIVE ORDER 166 REQUIREMENT FOR POSTING OF WINNING PROPOSAL AND CONTRACT DOCUMENTS

Principal State departments, agencies and independent State authorities must include the following notice in any solicitation:

Pursuant to Executive Order No. 166, signed by Governor Murphy on July 17, 2020, the Office of the State Comptroller (“OSC”) is required to make all approved State contracts for the allocation and expenditure of COVID-19 Recovery Funds available to the public by posting such contracts on an appropriate State website. Such contracts will be posted on the New Jersey transparency website developed by the Governor’s Disaster Recovery Office (GDRO Transparency Website).

The contract resulting from this [RFP/RFQ] is subject to the requirements of Executive Order No. 166. Accordingly, the OSC will post a copy of the contract, including the [RFP/RFQ], the winning bidder’s proposal and other related contract documents for the above contract on the GDRO Transparency website.

In submitting its proposal, a bidder/proposer may designate specific information as not subject to disclosure. However, such bidder must have a good faith legal or factual basis to assert that such designated portions of its proposal: (i) are proprietary and confidential financial or commercial information or trade secrets; or (ii) must not be disclosed to protect the personal privacy of an identified individual. The location in the proposal of any such designation should be clearly stated in a cover letter, and a redacted copy of the proposal should be provided. A Bidder’s/Proposer’s failure to designate such information as confidential in submitting a bid/proposal shall result in waiver of such claim.

The State reserves the right to make the determination regarding what is proprietary or confidential and will advise the winning bidder/proposer accordingly. The State will not honor any attempt by a winning bidder/proposer to designate its entire proposal as proprietary or confidential and will not honor a claim of copyright protection for an entire proposal. In the event of any challenge to the winning bidder’s/proposer’s assertion of confidentiality with which the State does not concur, the bidder /proposer shall be solely responsible for defending its designation.

PURCHASES FUNDED, IN WHOLE OR IN PART, BY FEDERAL FUNDS

The provisions set forth below apply to all purchases funded, in whole or in part, by Federal funds as required by 2 CFR 200.317.

I. CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN’S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS.

Pursuant to 2 CFR 200.321, the State must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Accordingly, if subawards are to be made the Contractor shall:

- (1) Include qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assure that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establish delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and,
- (5) Use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

II. DOMESTIC PREFERENCE FOR PROCUREMENTS

Pursuant to 2 CFR 200.322, where appropriate, the State has a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). If subawards are to be made the Contractor shall include a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). For purposes of this section:

- (1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- (2) "Manufactured products" means items and construction materials composed in whole or in part of nonferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

III. PROCUREMENT OF RECOVERED MATERIALS

Where applicable, in the performance of contract, pursuant to 2 CFR 200.323, the contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$ 10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

To the extent that the scope of work or specifications in the contract requires the contractor to provide recovered materials the scope of work or specifications are modified to require that as follows.

- i. In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—
 1. Competitively within a timeframe providing for compliance with the contract performance schedule;
 2. Meeting contract performance requirements; or
 3. At a reasonable price.
- ii. Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- iii. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act."

IV. EQUAL EMPLOYMENT OPPORTUNITY

Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60,

"Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
See 2 CFR Part 200, Appendix II, para. C.

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his/her books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

V. DAVIS-BACON ACT, 40 U.S.C. 3141-3148, AS AMENDED

When required by Federal program legislation, all prime construction contracts in excess of \$ 2,000 shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable. Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. Additionally, contractors are required to pay wages not less than once a week.

VI. COPELAND ANTI_KICK-BACK ACT

Where applicable, the Contractor must comply with Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States").

- a. Contractor. The Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into the OGS centralized contract.
- b. Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- c. Breach. A breach of the clauses above may be grounds for termination of the OGS centralized contract, and for debarment as a Contractor and subcontractor as provided in 29 C.F.R. § 5.12.

VII. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT, 40 U.S.C. 3701-3708

Where applicable, all contracts awarded by the non-Federal entity in excess of \$ 100,000 that involve the employment of mechanics or laborers must comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5).

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1)

of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3)Withholding for unpaid wages and liquidated damages. The unauthorized user shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4)Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

VIII. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

IX. CLEAN AIR ACT, 42 U.S.C. 7401-7671Q, AND THE FEDERAL WATER POLLUTION CONTROL ACT, 33 U.S.C. 1251-1387, AS AMENDED

Where applicable, Contract and subgrants of amounts in excess of \$150,000, must comply with the following:
Clean Air Act

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The contractor agrees to report each violation to the Division of Purchase and Property and understands and agrees that the Division of Purchase and Property will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act

1. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. The contractor agrees to report each violation to the Division of Purchase and Property and understands and agrees that the Division of Purchase and Property will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

X. DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689)

(1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(3) This certification is a material representation of fact relied upon by the State or authorized user. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State or authorized user, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

XI. BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. 1352

Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

XII. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPEMENT

(a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

(1) Procure or obtain;

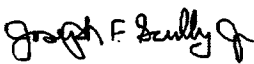
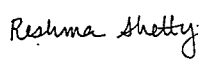
(2) Extend or renew a contract to procure or obtain; or

(3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115–232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).







(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Signature:		Signature:	
Name:	Joseph Scully	Name:	Reshma Shetty
Title:	Senior Vice President for Finance	Title:	President
Company:	Rowan University	Company:	Ginkgo Bioworks, Inc.
Date:	Date 12 / 29 / 2020	Date:	12 / 29 / 2020

TITLE	Ginkgo - Rowan LFA Purchase Agreement
FILE NAME	2020.12.28 - Gink... (GBW Draft).docx
DOCUMENT ID	6977135ab6696a6c6cf40fe60d07645c6ba78896
AUDIT TRAIL DATE FORMAT	MM / DD / YYYY
STATUS	✳ Completed

Document History

 SENT	12 / 29 / 2020 08:03:35 UTC-5	Sent for signature to Joseph F. Scully (scullyj@rowan.edu) and Reshma Shetty (reshma@ginkgobioworks.com) from klundh@ginkgobioworks.com IP: 38.32.22.214
 VIEWED	12 / 29 / 2020 08:42:31 UTC-5	Viewed by Joseph F. Scully (scullyj@rowan.edu) IP: 150.250.225.150
 SIGNED	12 / 29 / 2020 09:55:20 UTC-5	Signed by Joseph F. Scully (scullyj@rowan.edu) IP: 150.250.225.150
 VIEWED	12 / 29 / 2020 11:05:15 UTC-5	Viewed by Reshma Shetty (reshma@ginkgobioworks.com) IP: 73.119.51.151
 SIGNED	12 / 29 / 2020 11:05:26 UTC-5	Signed by Reshma Shetty (reshma@ginkgobioworks.com) IP: 73.119.51.151
 COMPLETED	12 / 29 / 2020 11:05:26 UTC-5	The document has been completed.



PURCHASE ORDER NO. P2105506

This purchase order number must appear on all invoices, packages, lading and correspondence.

CONDITIONS OF PURCHASE:

1. In accepting this order, Seller acknowledges and agrees to abide by the Conditions of Purchase set forth here and as set forth in further detail on the University's website go.rowan.edu/RTC. All of the Conditions of Purchase cited both here and on the website constitute important parts of Seller's Agreement with the University and may materially affect Seller's rights and obligations with respect to Seller's transaction with the University. Seller should review the Conditions of Purchase and be sure Seller understands its rights and obligations before accepting this purchase order. Additionally, acceptance and conversion of this purchase order does not legally bind the University to Seller's terms and conditions unless a separate contract is executed prior to purchase order conversion. Consult with Seller's attorney if Seller has any questions. If Seller does not have web access, contact the Purchasing Office for a printed copy of the information.
 2. Invoices must be sent via email to invoices@rowan.edu on day of shipment or mailed to Rowan University, Accounts Payable, 201 Mullica Hill Rd, Glassboro, New Jersey 08028. Please direct inquiries concerning invoices to 856-256-4115 or via email to invoices@rowan.edu. The University's preferred method of payment is Direct Deposit. Please submit your banking and remittance information to invoices@rowan.edu
 3. FOB Destination. Prices shall include all packing, handling and shipping charges FOB destination, freight prepaid and allowed unless otherwise specified herein.
- Account Codes:
Covid 19 Facilities EO 103 77816-65500-7011

Invoice to: Rowan University
Accounts Payable
201 Mullica Hill Rd.
Glassboro, New Jersey 08028

Date: 12/29/20

Seller: 916379900
Ginkgo Bioworks Inc
27 Drydock Avenue
Boston MA 02210

Ship To: [Redacted]
The Wellness Center
Wellness Center 1
201 Mullica Hill Road
Glassboro NJ 08028

DELIVERY: 8 a.m. - 3 p.m. Mon.-Fri. 24-hour notice for large deliveries is requested.

Regular Purchase Order

Item	Description	Quantity	Unit Price	Total
	<p>Per Purchase Agreement & Testing Agreement both dated 12/28/2020 Exc: BTR 2014.02.02 2/19/14 Emergency</p> <hr/> <p>This purchase was a result of the Governor's Executive Order #103 on 3/9/20 which declared a New Jersey State of Emergency and Rowan University Board of Trustees Emergency Declaration made on 3/20/20. Per OMB Guidance #200.321(2): The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation. NOTE: ALL ITEMS/SERVICES ON THIS REQUEST MUST BE</p>			
			PO Total	

NOTE TO SELLER: The University is a tax-exempt public educational institution. Tax Exempt # [Redacted]

For information about this PO, please contact:
Purchasing Department
201 Mullica Hill Rd., Glassboro, NJ 08028
856-256-4171
Fax [Redacted]
BUYER: [Redacted]

This PO was electronically approved by Christina Haley

Authorized Signature (s)
Rowan University



PURCHASE ORDER NO. P2105506

This purchase order number must appear on all invoices, packages, lading and correspondence.

CONDITIONS OF PURCHASE:

1. In accepting this order, Seller acknowledges and agrees to abide by the Conditions of Purchase set forth here and as set forth in further detail on the University's website go.rowan.edu/RTC. All of the Conditions of Purchase cited both here and on the website constitute important parts of Seller's Agreement with the University and may materially affect Seller's rights and obligations with respect to Seller's transaction with the University. Seller should review the Conditions of Purchase and be sure Seller understands its rights and obligations before accepting this purchase order. Additionally, acceptance and conversion of this purchase order does not legally bind the University to Seller's terms and conditions unless a separate contract is executed prior to purchase order conversion. Consult with Seller's attorney if Seller has any questions. If Seller does not have web access, contact the Purchasing Office for a printed copy of the information.
 2. Invoices must be sent via email to invoices@rowan.edu on day of shipment or mailed to Rowan University, Accounts Payable, 201 Mullica Hill Rd, Glassboro, New Jersey 08028. Please direct inquiries concerning invoices to 856-256-4115 or via email to invoices@rowan.edu. The University's preferred method of payment is Direct Deposit. Please submit your banking and remittance information to invoices@rowan.edu
 3. FOB Destination. Prices shall include all packing, handling and shipping charges FOB destination, freight prepaid and allowed unless otherwise specified herein.
- Account Codes:
Covid 19 Facilities EO 103 77816-65500-7011

Invoice to: Rowan University
Accounts Payable
201 Mullica Hill Rd.
Glassboro, New Jersey 08028

Date: 12/29/20

Seller: 916379900
Ginkgo Bioworks Inc
27 Drydock Avenue
Boston MA 02210

Ship To: [Redacted]
The Wellness Center
Wellness Center 1
201 Mullica Hill Road
Glassboro NJ 08028

DELIVERY: 8 a.m. - 3 p.m. Mon.-Fri. 24-hour notice for large deliveries is requested.

Regular Purchase Order

Item	Description	Quantity	Unit Price	Total
1	RECEIVED BY 12/30/2020. CD209-000 COVID Tests-Antigen Rapid Diagnostic Tests	51,200.00 EA	15.0000	768,000.00
			DISCOUNT:	.00
			ADDL CHARGES:	.00
			TOTAL TAXES:	.00
			PO Total	768,000.00

NOTE TO SELLER: The University is a tax-exempt public educational institution. Tax Exempt [Redacted]

For information about this PO, please contact:
Purchasing Department
201 Mullica Hill Rd., Glassboro, NJ 08028
856-256-4171
Fax [Redacted]

BUYER: [Redacted]

This PO was electronically approved by Christina Haley

Authorized Signature (s)
Rowan University