

EXECUTION

UNIVERSAL SEPARATION AGREEMENT
AND GENERAL RELEASE

THIS UNIVERSAL SEPARATION AGREEMENT AND GENERAL RELEASE ("Agreement") is made and entered into on the last date written below by and between Scott McClure, DVM ("Dr. McClure") and Iowa State University, its current and former successors, assigns, subsidiaries, divisions, affiliates, officers, directors, employees, agents, and representatives (collectively "the University"), on behalf of itself and the Board of Regents, State of Iowa ("the Board of Regents") (collectively referred to herein as "the Parties").

RECITALS

WHEREAS, faculty conduct complaints were filed against Dr. McClure alleging Dr. McClure engaged in conduct prohibited by the Faculty Handbook;

WHEREAS, Dr. McClure fully disputed the charges filed against him and believes the University violated his rights as a tenured faculty member;

WHEREAS, the Parties have a mutual interest in amicably resolving any and all disputes between them and in facilitating Dr. McClure's voluntary resignation from the University;

WHEREAS, the Parties have negotiated this Agreement in good faith to fully settle all differences between them;

WHEREAS, the Parties acknowledge and agree that this Agreement does not constitute any admission of wrong-doing or any admission of violations of applicable law, rule, or policy by either Party; and

WHEREAS, the Parties agree that the terms and conditions contained herein are fair, reasonable, and equitable and are the result of an arm's length negotiation between the Parties.

NOW, THEREFORE, in exchange for their mutual promises and for other good and valuable consideration and intending to be legally bound herein, the Parties agree as follows:

AGREEMENT

1. **Resignation and No Reemployment.** Dr. McClure tenders his resignation from employment with the University to be effective at midnight on Saturday, December 31, 2016. Any accrued vacation and sick leave will be paid to Dr. McClure pursuant to University policy following the effective date of resignation. The Parties agree said accrued vacation and sick leave payout equals \$27,033.60 and shall be paid to Dr. McClure at the end of the pay period immediately following his last day of employment. ISU makes no commitment to Dr. McClure

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regarding medical benefits after his employment ends, beyond what is required by COBRA. Dr. McClure agrees not to seek or accept employment with the University at any time in the future.

2. **Return of University Property and Vacation of Office Space.** To assure the off-boarding process is complete by December 31, Dr. McClure agrees to return any and all property belonging to the University (including any electronic equipment or devices, documents, records, keys, access cards, credit cards, etc.) no later than the end of the business day on Thursday, December 22, 2016. Any such items should be directly returned to the Dean of the College of Veterinary Medicine (the Dean). Dr. McClure agrees to coordinate with the Dean to have his office and lab space cleared of all personal items as soon as possible, but no later than the end of the business day on Friday, October 28, 2016. The University agrees to provide assistance, oversight, equipment, boxes, and other moving items necessary to assist in packing Dr. McClure's personal items, and it will coordinate with Dr. McClure to schedule a time to complete this task that is discrete and convenient to Dr. McClure and allows Dr. McClure sufficient time to transfer his personal items within the time frames stated herein.

3. **Updated Contact Information Automated from ISU Email Account.** Dr. McClure may set up an "out of office" message in his University issued email account to provide updated contact information for anyone who emails him (*e.g.*, providing another email address, mailing address, personal phone number(s), etc.). Per the University's customary practices, such a message will remain active for six (6) months after the date of Dr. McClure's resignation.

4. **Client Information.** Dr. McClure understands that nonpublic client data and client contact information is considered University property. He is expressly prohibited from accessing, taking, using, or disclosing client contact information, that is not publically available and cannot be otherwise obtained through proper methods, for personal use or for disclosure to any third parties. Dr. McClure understands and agrees that such acts would constitute a material breach of this agreement.

5. **Separation Pay.** As consideration for the terms and conditions set forth in this Agreement, the Board of Regents and the University agree, that within fifteen (15) days after the effective date of Dr. McClure's resignation, the University shall pay Dr. McClure the separation pay outlined in paragraph 2 of Attachment A.

6. **Tax Liability.** All payments made hereunder shall be taxed as wages and subject to standard federal and state withholdings. Should any tax liability, interest, or penalties occur under federal or state law or regulations as a result of the separation payment made pursuant to this Agreement, Dr. McClure agrees to be solely responsible for, and to timely pay, his share of any and all such obligations and to indemnify, defend, and hold the University and the Board of Regents harmless against any subsequent claims pertain to said tax obligation, if it is determined that such taxes should have been withheld from the payment made herein.

7. **Modified Job Duties.** The Parties mutually agree that Dr. McClure shall immediately assume modified job duties, superseding his Position Responsibility Statement (PRS), to remain in effect until the effective date of his resignation. Effective on the date the

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Parties execute this Agreement, Dr. McClure will focus all of his full-time job duties on off-site, non-animal research efforts, as described in greater detail below in Attachment B.

8. **Continuation of Select Interim Measures**. Dr. McClure shall continue to honor the certain interim measures, which were put into place by the Office of the Senior Vice President and Provost earlier this year. These are reiterated and, as appropriate, modified, and described in greater detail below in Attachment B. Said interim measures shall remain in effect through the remaining term of Dr. McClure's employment, ending on December 31, 2016.

9. **Covenant Not to Sue**. Dr. McClure agrees, promises and covenants that neither he, nor any person, organization or any other entity acting on his behalf will file, charge, claim, sue, cause or permit to be filed, charged, or claimed, any action for damages or other relief (including injunctive, declaratory, monetary relief, or other) against the Board of Regents or the University, including their respective affiliates, successors, officers, directors, employees, agents, students, and representatives, involving any matter which occurred in the past up to the date of this Agreement, including any continuing effects thereof, or otherwise involving any claims, demands, causes of action, obligations, damages, or liabilities which are the subject of this Agreement.

10. **Dr. McClure's Full and Comprehensive Release of Claims**. Dr. McClure agrees, on behalf of his spouse, heirs, executors, administrators, attorneys, and assigns, to hereby waive, release, and forever discharge the Board of Regents and/or the University, including their respective affiliates, successors, officers, directors, employees, agents, students, and representatives, from any and all known or unknown actions causes of action, claims, or liabilities of any kind that have or could be asserted against the Board of Regents and/or the University arising out of or related to his employment with the University, including but not limited to:

(a) any claims arising from any alleged violation by the Board of Regents and/or the University of any federal, state or local statutes, ordinances or common laws, including, but not limited to, the Rehabilitation Act of 1973, 29 U.S.C. § 701 et seq.; Title VII of the Civil Rights Act of 1964; 42 U.S.C. § 2000e et seq.; the Age Discrimination in Employment Act ("ADEA"), 29 U.S.C. § 621 et seq.; the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq.; the Equal Pay Act, 29 U.S.C. § 206(d) et seq.; and the Iowa Civil Rights Act of 1965, Iowa Code Chapter 216. Dr. McClure further waives his right to monetary or other recovery should any federal, state, or local administrative agency pursue any claims on his behalf arising out of or related to his employment with the University. Dr. McClure further agrees to waive all rights to use any internal grievance or appeal procedure offered by the University with respect to any matter arising out of or related to his employment with the University.

(b) claims, actions, causes of action or liabilities arising under any other federal, state, municipal, or local statute, law, ordinance, or regulation; and/or

(c) any other claim whatsoever including, but not limited to: claims for severance pay, sick pay, unpaid wages, unpaid bonuses, unpaid paid time off, claims based upon breach of contract, breach of the covenant of good faith and fair dealing, wrongful

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termination, defamation, interference with contract, intentional, and/or negligent infliction of emotional distress, fraud, tort, personal injury, invasion of privacy, violation of public policy, negligence, and/or any other common law, statutory, or other claim whatsoever arising out of or relating to his employment with the University. Notwithstanding the above, it is agreed and understood that the releases contained in this paragraph 10 and the covenants not to sue stated in paragraph 9 do not cover any claims which by law Dr. McClure cannot waive, and any claims to enforce the terms of this Universal Separation Agreement and General Release, or that the remaining Parties have failed to make any payments to or provide any benefits to Dr. McClure.

11. **Waiver of Rights under the ADEA.** In consideration of the actions described herein of the Board of Regents and the University, Dr. McClure voluntarily and knowingly waives any and all rights and claims under the ADEA that may exist before the signing of this Agreement. Dr. McClure is hereby advised that he has the right under the ADEA to consult an attorney prior to signing this Agreement (which Dr. McClure has been encouraged to do) that he has a period of at least twenty-one (21) calendar days to consider this Agreement and to the extent that he has signed the Agreement prior to the expiration of that period, he has done so knowingly and voluntarily, and that he is permitted to revoke this Agreement for a period of at least seven (7) calendar days following the signing of this Agreement.

12. **Full and Comprehensive Release of Potential Claims against Dr. McClure; Covenant Not To Sue.** The Board of Regents and the University hereby covenant and agree that in consideration of the terms of this Agreement, it waives, fully releases, and forever discharges Dr. McClure of and from any and every claim, demand, and cause of action of whatsoever nature which they now have, or may in the past have had, including, but not limited to, any and every claim, demand, and cause of action arising out of Dr. McClure's duties and obligations related to his employment with the University and promises and covenants not file, charge, claim, sue, cause or permit to be filed, charged, or claimed, any action for damages or other relief (including injunctive, declaratory, monetary relief, or other) against Dr. McClure. Notwithstanding the above, it is agreed and understood that the releases contained in this paragraph 11 do not cover any claims which by law the University cannot waive, and any claims to enforce the terms of this Universal Separation Agreement and General Release.

13. **Full Satisfaction of Obligations and Liabilities.** Dr. McClure agrees that the payments of the amounts specified in above Paragraph 3, Separation Pay, and detailed in Attachment A, shall be deemed to fully comply and satisfy any of the obligations or liabilities to him from the Board of Regents and/or the University, including their respective affiliates, successors, officers, directors, employees, agents, students, and representatives. Dr. McClure further agrees he will not assert any claim to any payment or any other benefit to him or on his behalf from the same.

14. **Existing and Future Tort Claims – Veterinary Malpractice.** Dr. McClure agrees to fully cooperate in any tort claims filed against the College of Veterinary Medicine (and its operating divisions), whether identified as a party or a witness thereto. Similarly, the University agrees to defend and indemnify Dr. McClure in any such claims, per its usual and customary practices.

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15. **Non-Interference and Refrainment Disparaging Remarks; Neutral Reference Letter.** The Parties mutually agree not to engage in any conduct or communications (including verbal, written, or digital) that could reasonably be interpreted as disparaging any other Party or any of the Parties' respective agents, including family members, employees, students, and/or representatives. Dr. McClure agrees he will not interfere with the operations, recruiting, activities, planned events, or management practices of the College of Veterinary Medicine, including LVMC, and of Iowa State University. The University will have to provide limited information to faculty, staff, and clients regarding Dr. McClure's current unavailability and resignation. The Parties agree to work on succinct language that can be consistently used to provide the minimum information necessary to facilitate said communication. Upon request from Dr. McClure, the University will provide a neutral letter to third parties in the form of the letter attached hereto as Attachment C. For six (6) months after the date of Dr. McClure's resignation, the University also agrees to provide Dr. McClure's current cellular telephone number to all persons who call the Medical Center asking to speak with Dr. McClure. If Dr. McClure's cellular telephone number changes, Dr. McClure will inform the College's human resources department of the new number and the University will give the new number thereafter.

16. **No Admission of Liability.** This Agreement is not, and shall not in any way be, construed as an admission of any of the Parties that any of the Parties violated any federal, state, or local laws. The Parties have entered into this Agreement for the sole purpose of resolving the employment concerns so as to avoid the burden, expense, delay, and uncertainties of proceeding through a formal legal process.

17. **Governing Law and Venue.** This Agreement is made and entered into in Story County in the State of Iowa, and shall in all respects be interpreted, enforced and governed by Iowa law. Any disputes arising out of this Agreement shall be subject to the jurisdiction of the federal or state courts of Iowa with Story County, Iowa as the venue.

18. **Severability.** Should a court declare or determine any provision of this Agreement to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected thereby. It is the Parties' intent that the part, term or provision declared or determined to be illegal or invalid shall be deemed not to be a part of this Agreement.

19. **Public Record and Executive Order 85.** The Parties agree that this Agreement is a public record under Iowa Code Ch. 22. The Parties acknowledge that this Agreement is subject to Executive Order 85 and, as such, must be approved by the Executive Director of the Board of Regents and the President of the University, and be reviewed by the Iowa Attorney General, or his designee. This Agreement is not effective until it has received all necessary review and approvals. This Agreement will be posted on the Board of Regents' web page.

20. **Dr. McClure Review.** Dr. McClure acknowledges he was given at least twenty-one (21) days to review and consider this Agreement in its entirety. Dr. McClure understands that he may voluntarily waive this review period by signing and returning the Agreement prior to the expiration of twenty-one (21) days. The Release waives no rights or claims that may arise after its execution.

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21. Amendments. None of the terms or conditions contained herein shall be altered, amended, waived, or abandoned, except by prior written agreement of the Parties.

22. Voluntary and Binding Agreement. The Board of Regents and the University hereby advise Dr. McClure, in writing, of his right to consult an attorney before signing the Agreement. By signing below, Dr. McClure represents and certifies that he freely and voluntarily entered into this Agreement and with the full intent to be bound thereby.

23. Entire Agreement. This Agreement, including the Attachments incorporated herein, sets forth the entire agreement between the Parties hereto, and fully supersedes any and all prior agreements, discussions, or understanding between the Parties pertaining to the subject matter hereof.

CAREFULLY READ THIS AGREEMENT: BY SIGNING BELOW YOU ARE RELEASING ALL KNOWN CLAIMS. YOU HAVE A PERIOD OF TWENTY-ONE (21) CALENDAR DAYS TO CONSIDER THIS RELEASE. IF YOU SIGN THIS AGREEMENT, YOU WILL HAVE UP TO SEVEN (7) CALENDAR DAYS FOLLOWING THE DATE YOU SIGN IT TO REVOKE YOUR SIGNATURE. THE RELEASE SHALL NOT BECOME EFFECTIVE OR ENFORCEABLE UNTIL THIS SEVEN (7) CALENDAR DAY PERIOD HAS EXPIRED.

IN WITNESS WHEREOF, and intending to be legally bound hereby, Dr. McClure, Iowa State University, on its own behalf and the behalf of the Board of Regents, have executed the foregoing Universal Separation Agreement and General Release.

DR. SCOTT MCCLURE



Scott McClure, DVM

IOWA STATE UNIVERSITY



Steven Leath, President
Iowa State University

10-12-16

Date

October 13, 2016

Date

EXECUTION

Attachment A
Additional Consideration

1. **Continuation of Regular Pay and ISU Plan Credit.** Dr. McClure shall continue to earn his regular/base salary through the effective date of his resignation, December 31, 2016. Dr. McClure will continue to receive the same value/non-monetary credit for his participation in the ISU Plan.
2. **Additional Consideration.** Upon the effective date of his resignation, Dr. McClure will receive separation pay equivalent to six (6) months of his regular salary.

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Attachment B Modified Job Duties

1. **Modified Job Duties.** Effective on the date the Parties sign this Agreement, Dr. McClure will be assigned to work on off-site, non-animal related research on a full-time basis, superseding his existing Position Responsibility Statement (PRS). The Dean shall remain Dr. McClure's point-of-contact for communications with the College through the effective date of his resignation. Additional details, deadlines, and limitations of said modified job duties include the following:
 - a. This research will be limited to analysis of data previously collected by his direct research efforts prior to the effective date of the establishment of the interim actions (initiated on February 12, 2016). Dr. McClure is expressly prohibited from accessing client information/client lists/ mailing information or other hospital operational data/information.
 - b. For the sole purpose of performing research on behalf of the University, Dr. McClure will be given access to medical records and will maintain confidentiality in review of said records. Dr. McClure agrees he shall not otherwise access, use, copy, or disclose any medical records.
 - c. Dr. McClure will perform research remotely (i.e., from home). Dr. McClure shall provide the Dean with a written progress report of his research efforts (via email is acceptable) no later than the end of the business day on Monday, October 31, 2016.
 - d. Dr. McClure will provide a written summary of his final research efforts no later than the end of the business day on Thursday, December 22, 2016.
 - e. Dr. McClure may continue to use his University-issued laptop, which will be returned when all other University equipment must be returned, which is by the end of the business day on Thursday, December 22, 2016.
 - f. Dr. McClure will not contact any client of Lloyd Veterinary Medical Center (LVMC) between now and his resignation for any matters relating to veterinary care or future veterinary care.
 - g. Dr. McClure agrees to provide appropriate recognition of contributions, co-authorship, etc. for any current departmental or college research collaborators in future submissions and publications associated with his university research.
2. **Transfer of Active Grants; Funded Research.** Any active grants will be relinquished to the Department for reassignment of primary investigator upon agreement of this settlement. Dr. McClure will have no intellectual rights to any discovery from said research activities following this settlement (or from the time of the interim actions if appropriate). Dr. McClure will complete any reports or sponsors or other required deliverables from any of his currently funded research activities prior to December 31, 2016. The University shall pay all fees for publication of research work Dr. McClure completes and submits for publication prior to December 31, 2016. This payment requirement shall apply to publication fees for subsequently accepted works that are assessed before and after December 31, 2016 for up to one (1) year (i.e., on or prior to December 31, 2017).
3. **Attendance at AAEP's 62nd Annual Convention.** Dr. McClure is given permission to attend this convention, as he has in prior years. Dr. McClure may use up to \$3,000.00 USD

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from his research discretionary account to support travel, lodging, and registration fees incurred from this meeting. All other research or discretionary accounts will revert to the Department and College upon agreement of this settlement. Dr. McClure should follow all policies and procedures of Iowa State University for travel expense reimbursement.

4. **Prior Approval for Use/Access to Discretionary Spending Accounts; P-Card.** Dr. McClure shall not use or access any discretionary spending accounts or his p-card without prior written approval from the Dean. Any such requests must be directly related to research needs. Said accounts are property of the University and any monies remaining therein revert to the College upon Dr. McClure's resignation.
5. **Outside Work Permitted; Referrals to LVMC.** Presuming such activities do not adversely affect Dr. McClure's full-time research efforts, Dr. McClure is not prohibited from engaging in freelance clinical or consulting work during the term of this Agreement. However, Dr. McClure understands that any such outside work would not be considered University work and the University would not provide him with tort immunity under the Iowa Tort Immunity Act. As a consequence, Dr. McClure understands and acknowledges that the University would not defend or indemnify him for any such non-University activities. Should Dr. McClure's independent clinical activities require the services of LVMC, he should do so following all policies and procedures for standard referral of a client/patient to the LVMC. Dr. McClure will not be permitted to be physically present in hospital facilities or on College of Veterinary Medicine property when performing any professional or private activities. Dr. McClure will have no contact with any College of Veterinary Medicine employee outside of the current policies and procedures for referring veterinarian communication with the hospital or college.
6. **Personal Property/Office and Lab Space.** The Parties agree to coordinate a time for Dr. McClure to retrieve any personal property still remaining at the College of Veterinary Medicine, including, without limitation, any personally owned surgical tools, an exercise endoscope, personally owned books, research materials (that have been determined, as described below, to belong to Dr. McClure). Dr. McClure will collate and present any and all research data collected during his employment at Iowa State to the Department of Veterinary Clinical Sciences for review of intellectual property and confidentiality. Dr. McClure will present to the department an inventory list of research or clinical-related items, materials (including specimen samples), or equipment that he will take in his possession prior to removal of said items from the facilities. The Parties agree to work together to expedite a timely and amicable retrieval of said items, so the office and lab space currently assigned to Dr. McClure can be repurposed as quickly as possible, but no later than the end of the business day on Friday, October 28, 2016.
7. **Continuation of Select Interim Measures.** For the Term of this Agreement, the following interim measures (as modified) shall remain in effect: (a) Dr. McClure will not be present at any facility of the College of Veterinary Medicine, including LVMC, Performance Evaluation Facility, and parking lots, for any reason, without prior approval from the Dean; (b) Dr. McClure's access to CIVIS will be restored for the sole purpose of performing research (see above, Attachment B, para. 1); (c) Dr. McClure will continue to report directly

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to the Dean; and (d) Dr. McClure will continue to remain uninvolved in any prior Service duties, including involvement in student organizations, including ISU Rodeo Club and ISU Cyclone Stampede. Further, Dr. McClure understands and agrees that any future interactions he may have with faculty, house-officers, staff, students, or clients shall be conducted in a collegial and professional manner.

8. **Normal Off-Boarding Process Otherwise to be Followed.** Subject to the terms of this Agreement, the University will follow its ordinary off-boarding process for faculty. As such, Dr. McClure will receive a letter outlining additional important information about his resignation sometime in early December. Said off-boarding letter will include, *inter alia*, information and directions relating to: return of keys, parking permit, return of University property/library books, expiration of benefits, COBRA information, etc.

EXÉCUTION

Attachment C
Reference Letter
(to be printed on College Letterhead)

To whom it may concern:

Dr. McClure joined the Iowa State University Department of Veterinary Clinical Sciences as an Assistant Professor of Equine Surgery in August of 2000 and was promoted to tenured Associate Professor in 2006. Dr. McClure served as Equine Surgery Section Chief from 2006 to 2012.

Dr. McClure's activities listed on his CV include efforts in professional practice (client clinical services), research, and teaching). His teaching responsibilities primarily included instruction of students while on clinical rotations with 4th year professional students and didactic instruction of the Equine Lameness class. Dr. McClure is listed as serving on Masters of Science committees for 4 graduate students. He similarly served as the American College of Veterinary Surgeons Resident Advisor for 8 residents, 3 who are currently Board Certified Surgeons on faculty at Iowa State University.

Based on information from Dr. McClure's CV he generated over \$40,000 Intramural research funds, \$500,000 Extramural research funds, and \$234,000 Contract research funds with an additional \$32,000 in unrestricted gift funds. While at Iowa State there are 37 first author or resident co-authored papers listed, 8 additional peer coauthor publications in peer reviewed journals, and 4 additional manuscripts pending publication. He is listed as authoring three book chapters and 30 scientific abstracts. Dr. McClure delivered 22 international invited lectures in 12 countries with another 34 invited papers delivered to national peer audiences. There are 16 hours of continuing education internationally provided and another 86 hours of continuing education at national meetings. Dr. McClure reports consulting efforts with multiple companies in the development of pharmaceuticals and devices for the equine veterinary medicine.

Dr. McClure's service to the profession included multiple American Association of Equine Practitioners committees, The North American Racetrack Veterinarians Research Advisory Board, International Society of Medical Shock Wave Therapy Advisory Board and many other efforts as needed. Dr. McClure served on multiple departmental, college and university committees during his tenure.

Dr. McClure served as advisor to the Iowa State University Rodeo Club and Cyclone Stampede for 15 years. He was named the Sports Club Council Advisor of the year for the Rodeo Club in 2001. Dr. McClure met with a large number of 4-H and FFA and school groups to discuss science, veterinary medicine, and their careers.

Sincerely,

RECEIVED

OCT 17 2016

Governing Iowa's public universities and special schools

- University of Iowa
- Iowa State University
- University of Northern Iowa
- Iowa School for the Deaf
- Iowa Braille and Sight Saving School
- Lakeside Laboratory Regents Resource Center
- Northwest Iowa Regents Resource Center
- Quad-Cities Graduate Center
- Southwest Iowa Regents Resource Center



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Executive Order Number Eighty-Five
Routing/Review Approval of Personnel Settlement Agreement

Please sign/date where indicated below noting the approval or denial of the attached proposed Personnel Settlement Agreement. ****After signing, please return to the attention of BOR – General Counsel.**** *If "denied," please return to BOR – General Counsel.*

In the matter of: **Dr. Scott McClure, FCP## 055-056-059**

Institutional Staff: **Dr. Scott R. McClure, Associate Professor, Veterinary Clinical Services, College of Veterinary Medicine**

Office of the Attorney General

Reviewed by (Print Name): JEFF THOMPSON
 Reviewer's Signature: [Signature]
 Date: 10/14/16 Reviewed: Redacted:

Institution: **Iowa State University of Science and Technology**
 Institutional Head's Printed Name: **Dr. Steven Leath, President**
 Institutional Head's Signature: [Signature]
 Date: October 13, 2016 Approve: Deny:

Board of Regents

Executive Director's Printed Name: Robert Donley
 Executive Director's Signature: [Signature]
 Date: 10.18.16 Approve: Deny: