



December 7, 2023

Subject: NC Innovation Reserve
Certification of NCInnovation, Inc. Compliance with Article 76B of Chapter 143 of the General Statutes
Authorized in Section 2.2(k)(1) of Session Law 2023-134

In accordance with Section 2.2(k)(1) of Session Law 2023-134, and based upon review of the information and attestations submitted by NCInnovation, Inc. (the “Corporation”), the Department of Commerce has determined that the Corporation is in compliance with Article 76B of Chapter 143 of the General Statutes, specifically the requirements to receive State funds set forth in G.S. § 143-728(d) and certifies such compliance to the State Controller. This certification is provided after review of information submitted by the Corporation, including the Corporation’s Articles of Incorporation, Amended and Restated Bylaws effective as of November 8, 2023, Conflicts of Interest and Gifts Policy and the Compliance Certificate dated December 7, 2023, attached here as Exhibit A. Based on the forgoing the Department requests the transfer of funds from the NCInnovation Reserve totaling two hundred fifty million dollars (\$250,000,000) for allocation by the Department to the Corporation.

Sincerely,

DocuSigned by:

Mary Elizabeth Wilson

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Mary Elizabeth Wilson
General Counsel

Note: This certification is based upon the Corporation’s representations to the Department of Commerce as part of its request for funds and pertains only to the first tranche of funds authorized under Section 2.2(k)(1) of Session Law 2023-134. A separate certification will be provided upon the Corporations compliance with the conditions set forth in Section 2.2(k)(2) of Session Law 2023-134.

Exhibit A



**COMPLIANCE CERTIFICATE
OF
NCINNOVATION, INC.**

December 7, 2023

Reference is made to Article 76B of Chapter 143 of the North Carolina General Statutes (the “Article”), as enacted by North Carolina Session Law 2023-134 / House Bill 259, which became law on October 3, 2023 (the “2023 Appropriations Act”), and the additional provisions of the 2023 Appropriations Act regarding NCInnovation, Inc., a North Carolina nonprofit corporation (the “Corporation”). Capitalized terms used but not defined herein have the respective definitions set forth in the 2023 Appropriations Act.

This certificate is delivered to the North Carolina Department of Commerce (the “Department”) in connection with the Article and the 2023 Appropriations Act. Pursuant to Section 2.2(k) of the 2023 Appropriations Act:

1. There was established in the General Fund an NCInnovation Reserve to make funds available for the Corporation for the purposes set out in the Article;
2. The State Controller of the State of North Carolina (the “State Controller”) shall reserve to the NCInnovation Reserve from funds available in the General Fund the sum of two hundred fifty million dollars (\$250,000,000) in nonrecurring funds for the 2023-2024 fiscal year (the “First Tranche”) and the sum of two hundred fifty million dollars (\$250,000,000) in nonrecurring funds for the 2024-2025 fiscal year (the “Second Tranche”);
3. The State Controller shall transfer the First Tranche to the Department upon the Department certifying to the State Controller that the Corporation has met the requirements set out in the Article in connection with the same (the “First Tranche Certification”), which are located in Section 143-728(d) of the Article (together with certain, additional requirements for the Corporation to retain the First Tranche and Second Tranche, in each case once received);
4. The State Controller shall transfer the Second Tranche to the Department upon the later of July 1, 2024, or the Department certifying to the State Controller that the Corporation has met certain requirements set out in Section 2.2(k) the 2023 Appropriations Act in connection with the same; and
5. Upon the transfer by the State Controller to the Department of funds from the NCInnovation Reserve, namely, the First Tranche and Second Tranche, such funds are appropriated to the Department for allocation to the Corporation for purposes consistent with the Article.

The undersigned, the duly appointed and authorized President and Chief Executive Officer of the Corporation, in his capacity as such and not in his individual capacity, hereby certifies, represents, and confirms on behalf of the Corporation to the Department that:

1. As of the date hereof, the Corporation has complied and remains in compliance with all of the requirements of the 2023 Appropriations Act for the Department to (a) provide the First Tranche Certification to the State Controller and, (b) upon the subsequent transfer by the State Controller to the Department of the First Tranche, allocate the First Tranche to the Corporation for purposes consistent with the Article.

2. Specifically, as of the date hereof:

- a. The Corporation has complied and remains in compliance with the governance provisions related to the Board of Directors of the Corporation (the “Board”) and otherwise, as set forth in Section 143-728(d)(1) of the Article. In order to implement certain of those provisions, the Board has approved and adopted Amended and Restated Bylaws of the Corporation, effective as of November 8, 2023, and provided a copy to the Department.

In Compliance with §143-728(d)(1): Yes X No

- b. The Board has approved and adopted Amended and Restated Articles of Incorporation of the Corporation, filed with the North Carolina Secretary of State and effective as of November 8, 2023, to carry out the purposes and requirements of and to include all of the provisions required to be included in the same by the Article, as set forth in Section 143-728(d)(2) of the Article and provided a copy to the Department.

In Compliance with §143-728(d)(2): Yes X No

- c. The Corporation has complied and remains in compliance with the requirement for it to act on behalf of, and perform its duties for the benefit of, the State of North Carolina as set forth in Section 143-728(d)(3) of the Article, and, in performance of such duties, has established and supported and continues to support a network of regional innovation hubs, as set forth in Section 143-728(d)(3)(a) of the Article, by:

- I. Establishing four university research hubs, each located in areas of the State of North Carolina where regional collaboration between academic, industrial, and capital formation networks are at or below average in comparison to the rest of the State of North Carolina, as set forth in Section 143-728(d)(3)(a)(1) of the Article, and such hubs are located at the following qualifying universities:

- East Carolina University
- North Carolina Agricultural & Technical State University
- University of North Carolina at Charlotte
- Western Carolina University

- II. Providing full-time, co-located educational liaisons in each university research hub established, for the purposes of, first, building new and strengthening existing relationships between senior educational and regional industry leaders to facilitate ongoing engagement within and among regional networks and, second, creating communication and information exchange between regional networks to identify areas of potential collaboration, filling needs, and otherwise maximizing complementary research, development, and commercialization, as set forth in Section 143-728(d)(3)(a)(2) of the Article.

In Compliance with §143-728(d)(3): Yes X No

- d. The Corporation has engaged Bank of America Private Bank, a division of Bank of America, N.A., to receive the First Tranche, in an interim capacity, which will be held in one or more money market accounts, without any payment by the Corporation of management fees; the Corporation has made all necessary and appropriate preparations to hold a competitive process to select and contract with an independent investment manager, as set forth in Section 143-728(d)(4) of the Article, overseen by the Board directly and through the Investment Committee of the Board, and the contract with such independent investment manager will comport with the compensation cap and disclosure requirements of Section 143-728(d)(4) of the Article; and the Corporation shall expend any investment income in compliance with Section 143-728(d)(5) of the Article.

In Compliance with §143-728(d)(4)-(5): Yes No

- e. The Corporation has engaged in fundraising efforts for the support of its operations and will take the appropriate actions to receive from private fundraising efforts and sources commitments to donate at least twenty-five million dollars (\$25,000,000) in private funds for support of its operations, and to receive the minimum commitment amount within five years of the receipt of the First Tranche, each as required by Section 143-728(d)(6) of the Article. The Corporation will have received written commitments for private contributions totaling at least twenty-five million dollars (\$25,000,000) to be received within four years of receipt of the First Tranche, as required by Section 2.2.(k)(2)(d) of the 2023 Appropriations Act, prior to requesting the Second Tranche.

In Compliance with §143-728(d)(6): Not Applicable to First Tranche

- f. The Corporation has adopted, published (on its website), and provided to the Joint Legislative Commission on Governmental Operations a Conflicts of Interest and Gifts Policy, and such policy includes all of the provisions required for the same, as set forth in Section 143-728(d)(7)-(8) of the Article.

In Compliance with §143-728(d)(7)-(8): Yes No

- g. The Corporation has made the necessary and appropriate preparations to (I) maintain separate accounting records for and separate accounts for “State funds” and “excluded amounts” (each as defined in the Article); (II) not commingle State funds and excluded amounts, in each case immediately upon the receipt by the Corporation of State funds; and (III) maintain records and accounts of the Corporation in accordance with generally accepted accounting principles, each as set forth in Section 143-728(d)(9) of the Article.

In Compliance with §143-728(d)(9): Yes No

- h. The Corporation maintains sufficient records of contributions of private funds received and will continue to maintain and track such records to ensure that the reporting requirements of Section 143-728(d)(10) of the Article are met.

In Compliance with §143-728(d)(10): Yes No

- i. The Corporation has made the necessary and appropriate preparations to ensure that any potential severance payments to any officers of the Corporation are subject to the limit on State funds as required by Section 143-728(d)(11) of the Article.

In Compliance with §143-728(d)(11): Yes X No _____

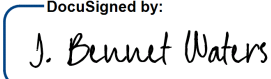
- j. The Corporation has made the necessary and appropriate preparations to ensure compliance with the limitations on State funds required by Section 143-728(d)(12) of the Article.

In Compliance with §143-728(d)(12): Yes X No _____

[signature page follows]

IN WITNESS WHEREOF, the undersigned has executed this certificate as of the date first above written.

NCINNOVATION, INC.

DocuSigned by:

By: CD9D73426E0A4BA
Name: J. Bennet Waters
Title: President and Chief Executive Officer