

RESEARCH AGREEMENT

BETWEEN

THE RESEARCH FOUNDATION OF STATE UNIVERSITY OF NEW YORK

AND

SPONSOR.

Made by and between THE RESEARCH FOUNDATION OF STATE UNIVERSITY OF NEW YORK, a nonprofit, educational corporation organized and existing under the laws of the State of New York, with an office located at Office of Sponsored Programs, Stony Brook, New York 11794-3362 at Stony Brook University, hereinafter referred to as the "FOUNDATION," and _____, a corporation organized and existing under the laws of the State of _____, with its principal office located at _____, hereinafter referred to as "SPONSOR", hereinafter referred to as the "RESEARCH AGREEMENT".

WITNESSETH:

WHEREAS, SPONSOR and FOUNDATION have a mutual interest in promoting research related to _____, hereinafter referred to as the "FIELD;" and

WHEREAS, Dr. _____ of FOUNDATION has developed expertise relating to the FIELD; and

WHEREAS, SPONSOR has approved funding to support a research project entitled "_____", hereinafter referred to as the "PROJECT" which will be carried out by Dr. _____; hereinafter referred to as the "FOUNDATION PROJECT DIRECTOR".

NOW, THEREFORE in consideration of the premises and the mutual covenants hereinafter contained, the parties agree as follows:

1. **Scope of Research**

The FOUNDATION agrees to use its best efforts to conduct and carry out the PROJECT described in the SCOPE OF WORK, Exhibit A, which is attached to and made an integral part of this RESEARCH AGREEMENT.

2. **Reports**

During the term of this RESEARCH AGREEMENT, FOUNDATION shall provide written reports to SPONSOR as specified in Exhibit A.

3. **Compensation**

a) In consideration of research services to be performed pursuant to this RESEARCH AGREEMENT, SPONSOR shall make fixed payments in the total amount of _____ (\$). This amount shall be paid to FOUNDATION according to the following schedule:

b) An interest penalty of 1.5% per month will be added to the total invoice amount of payment if not received within forty-five (45) days of the invoice date.

4. **Term**

This RESEARCH AGREEMENT shall commence on _____ and shall continue through _____, unless terminated sooner or extended by mutual consent of the parties hereto in accordance with provisions set forth elsewhere in this RESEARCH AGREEMENT.

5. **Termination**

Either SPONSOR or FOUNDATION may terminate this RESEARCH AGREEMENT at any time by giving thirty (30) days written notice of termination to the other contracting party. In the event of termination, SPONSOR shall reimburse FOUNDATION for contractual commitments and financial obligations incurred by FOUNDATION in performance of this RESEARCH AGREEMENT prior to such termination, if such financial obligations or contractual commitments cannot be canceled by the FOUNDATION.

6. **Change in Project Director**

If for any reason the FOUNDATION PROJECT DIRECTOR is unable to fulfill the responsibilities required to carry out this RESEARCH AGREEMENT, the parties shall negotiate in good faith the continuance of this research PROJECT. However, if another principal investigator satisfactory to SPONSOR cannot be agreed upon, SPONSOR may terminate this RESEARCH AGREEMENT. In the event of termination FOUNDATION shall be reimbursed for all costs it incurs in connection with this RESEARCH AGREEMENT which arise from commitments made by FOUNDATION prior to receipt of notice of termination, provided the commitments cannot be terminated by the FOUNDATION.

7. **Protected Information**

a) The parties acknowledge that they may possess certain proprietary or confidential information which may be utilized in performance of the PROJECT. "PROTECTED INFORMATION" shall mean all such proprietary or confidential information provided by the disclosing party in writing and marked "confidential", or disclosed orally, summarized in writing and marked "confidential" and transmitted to the non-disclosing party within 30 days of oral disclosure. PROTECTED INFORMATION will only be disclosed to the employees, consultants and students (if applicable) who require the same to fulfill the purposes of the research. The receiving party shall protect the disclosing party's PROTECTED INFORMATION with the same standard of care with which the receiving party treats its own PROTECTED INFORMATION. PROTECTED INFORMATION shall be used by the receiving party only within the scope of this RESEARCH AGREEMENT. Each party shall, for a period of three (3) years after the termination or expiration of this RESEARCH AGREEMENT, maintain the same level of

care to prevent the disclosure of a party's PROTECTED INFORMATION, unless otherwise required by law.

b) Neither party shall be liable for disclosure or use of the information of the other party if said information was:

1. known by the receiving party at the time it was acquired from the disclosing party;
2. already generally available to the public, or subsequently becomes so available without default of the receiving party;
3. received by a party to this RESEARCH AGREEMENT from a third party who did not acquire it directly or independently from a party to this RESEARCH AGREEMENT in confidence;
4. independently developed by the receiving party without the use or reliance on PROTECTED INFORMATION, or;
5. required to be disclosed by law provided that the disclosing party shall give advance, written notice to the other party of the compelled disclosure.

Other provisions of this RESEARCH AGREEMENT notwithstanding, this Article shall remain in effect for a period of three (3) years from the effective date of this RESEARCH AGREEMENT.

8. **Publications**

The FOUNDATION PROJECT DIRECTOR and/or FOUNDATION'S project staff shall have the right to publish the results of any research conducted under this RESEARCH AGREEMENT. No less than thirty (30) days prior to dissemination or publication, FOUNDATION shall provide the SPONSOR with a copy of any proposed manuscript or oral presentation for identification and protection of SPONSOR'S PROTECTED INFORMATION. If FOUNDATION does not receive a written response from SPONSOR within thirty (30) days, FOUNDATION may proceed with publication and/or release of information as proposed. SPONSOR may require an additional thirty (30) day delay in publication in order to coordinate the filing of any invention disclosure. In no event shall this delay exceed a total of sixty (60) days without mutual written agreement by both parties.

9. **Inventions and Licenses**

"Invention" as determined by U.S. patent law means any patentable idea, copyright and/or trademark including design, concept, technique, discovery or improvement made, conceived or first actually reduced to practice, in the period of performance of work under this RESEARCH AGREEMENT.

a). SPONSOR shall hold title to all inventions (including know-how) developed solely by SPONSOR personnel at SPONSOR facilities who are legally obligated to assign rights in inventions to SPONSOR and who are not otherwise legally obligated to assign rights in inventions to FOUNDATION. Said inventions are hereinafter referred to as "SPONSOR inventions."

b). FOUNDATION shall hold title to all inventions (including know-how) developed solely by personnel who are legally obligated to assign rights in inventions to the FOUNDATION. Said inventions are hereinafter referred to as "FOUNDATION inventions."

- c). No license or other rights in FOUNDATION inventions are given to or received by SPONSOR except as specifically provided for herein.
- d). FOUNDATION hereby grants to SPONSOR a 90 day option to acquire an exclusive license to FOUNDATION inventions. The 90-day period of the option shall commence on the date of disclosure of FOUNDATION inventions to SPONSOR by FOUNDATION. Should SPONSOR exercise its option under this paragraph, the parties shall negotiate a mutually acceptable license agreement.
- e). SPONSOR agrees to reimburse FOUNDATION for all direct costs of patenting new technology developed under this RESEARCH AGREEMENT if SPONSOR acquires rights in said technology.
- f). If both SPONSOR and FOUNDATION personnel with the legal obligation to assign rights in inventions to their individual employers develop a joint invention under this RESEARCH AGREEMENT, the SPONSOR and FOUNDATION shall hold joint title to said invention. SPONSOR shall be entitled to exercise the option and licensing rights set forth above with respect to FOUNDATION'S interest in said joint invention. SPONSOR and FOUNDATION shall share equally all reasonable direct costs of patenting new technology developed under this RESEARCH AGREEMENT pursuant to this paragraph.

10. **Assignment**

Neither party may assign or otherwise transfer this RESEARCH AGREEMENT and the rights acquired hereunder without the written consent of the other party; this consent shall not be unreasonably withheld. However, SPONSOR may assign or transfer its interest in this RESEARCH AGREEMENT as long as such assignment or transfer is accompanied by a sale or other transfer of SPONSOR'S entire business or other business to which this RESEARCH AGREEMENT relates. A party desiring to assign or transfer this RESEARCH AGREEMENT shall give the other party thirty (30) days prior notice of such assignment or transfer. If no reasonable objections are raised, then the assignment or transfer shall be deemed to have been approved. However, an assignment or transfer shall not be deemed to be approved unless the party to which this RESEARCH AGREEMENT is assigned agrees in writing to be bound by the terms and conditions of this RESEARCH AGREEMENT.

11. **Notice**

All notices, demands, and other communications hereunder, with the exception of technical information, shall be delivered personally to the party to which it is addressed, or mailed to such party by registered or certified mail, return receipt requested, with postage thereon fully prepaid.

Said notices shall be delivered to the appropriate financial, administrative and/or technical party(ies) as identified in Exhibit B, unless notice of change of address is provided in writing to the other.

Exchanges of export controlled information as per Article 14 shall be delivered to:

Ivar Strand

Assistant Vice-President for Sponsored Programs
Office of Sponsored Programs
The Research Foundation of State University of New York
Stony Brook University
Stony Brook, New York 11794-3362

Any notices, demands, and other communications so mailed shall be deemed to have been received by the addressee seven (7) days after the time and date of its being so mailed.

12. **Governing Law**

This RESEARCH AGREEMENT shall be construed, governed, interpreted, and applied in accordance with the laws of the State of New York, U.S.A., except that questions affecting the construction and effect of any patent shall be determined by the law of the country in which the patent was granted.

13. **Modifications**

The parties hereto acknowledge that this instrument sets forth the entire agreement and understanding of the parties hereto as to the subject matter hereof, and shall not be subject to any change or modification except by the execution of a written instrument subscribed to by the parties hereto. Neither this RESEARCH AGREEMENT nor any of the terms hereof may be changed, waived, or discharged except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, or discharge is sought.

14. **Export Controls**

This RESEARCH AGREEMENT shall be subject to all applicable government export and import laws and regulations. The parties agree to comply and reasonably assist the other party, upon request by that party, in complying with all applicable government export and import laws and regulations. The parties acknowledge that they may not directly or indirectly export, re-export, distribute or transfer any technology, information or materials of any value to any nation, individual or entity that is prohibited or restricted by the International Traffic in Arms Regulation (ITAR), the Export Administration Regulations (EAR), the Office of Foreign Assets Controls (OFAC), the United States Department of State's State Sponsors of Terrorism, or by any other United States government agency without first obtaining the appropriate license.

SPONSOR confirms that the PROTECTED INFORMATION it discloses does not contain export controlled technology or technical data identified on any US export control list, including but not limited to the Commerce Control List (CCL) at 15 CFR 774 and the US Munitions List (USML) at 22 CFR 121. In the event SPONSOR intends to provide FOUNDATION PROJECT DIRECTOR with export controlled information, SPONSOR will inform FOUNDATION'S Assistant Vice-President for Sponsored Programs, as identified in Article 11, in writing thirty (30) days prior to the release of export controlled technology or technical data. SPONSOR agrees not to provide any export controlled information to FOUNDATION'S PROJECT DIRECTOR, or others at FOUNDATION without the written agreement of FOUNDATION'S Assistant Vice-President for Sponsored Programs.

15. **Severability**

The provisions of this RESEARCH AGREEMENT are separable, and in the event any provisions of this RESEARCH AGREEMENT are determined to be invalid or unenforceable under any controlling body of law, such invalidity or unenforceability shall not in any way affect the validity or enforceability of the remaining provisions hereof.

16. **Indemnification**

a). SPONSOR agrees to indemnify and hold harmless FOUNDATION, its officers, agents and employees from any liability, loss or damage they may suffer as a result of claims, demands, costs or judgments against them arising out of the activities to be carried out pursuant to the obligations of this RESEARCH AGREEMENT, including but not limited to the use by SPONSOR of the results obtained from the activities performed by FOUNDATION under this RESEARCH AGREEMENT; provided, however, that the following is excluded from SPONSOR'S obligation to indemnify and hold harmless:

1. The negligent failure of FOUNDATION to substantially comply with any applicable governmental requirements; or
2. The negligence or willful malfeasance of any officer, agent or employee of FOUNDATION.

b). Both parties agree that upon receipt of a notice of claim or action arising out of the (Scope of Work), the party receiving such notice will notify the other party promptly. SPONSOR agrees, at its own expense, to provide attorneys to defend against any actions brought or filed against FOUNDATION, its officers, agents and/or employees with respect to the subject of the indemnity contained herein, whether such claims or actions are rightfully brought or filed.

17. **Order of Precedence**

In the event of any inconsistency between clauses 1-17 of this RESEARCH AGREEMENT, and the attached Exhibit A, the inconsistency should be resolved by giving precedence to clauses 1-17.

IN WITNESS WHEREOF, the parties hereto have caused this RESEARCH AGREEMENT to be executed by their duly authorized representatives, all intending to be legally bound hereby.

**THE RESEARCH FOUNDATION OF
STATE UNIVERSITY OF NEW YORK**

SPONSOR.

By: _____

By: _____

Date: _____

Date: _____