

THIS DRAFT RESEARCH AGREEMENT IS PROVIDED FOR INFORMATION ONLY. THE REGENTS OF THE UNIVERSITY OF CALIFORNIA ARE NOT OBLIGATED IN ANY MANNER BY VIRTUE OF YOUR RECEIPT OF THIS INFORMATION. ALL TERMS AND CONDITIONS OF ANY ACTUAL AGREEMENT REMAIN NEGOTIABLE UNTIL THE EXECUTION OF A WRITTEN AGREEMENT BY THE PARTIES.

RESEARCH AGREEMENT

THIS RESEARCH AGREEMENT (hereinafter "Agreement"), is made and entered into by and between The Regents of the University of California, a California corporation, having its principal offices at 1111 Franklin Street, 12th Floor, Oakland, California 94607, on behalf of the University of California Riverside, having offices at 200 University Office Building, Riverside, CA 92521 (hereinafter "University"), and /*sponsor*/, a _____ corporation, having its principal place of business at _____ (hereinafter "Sponsor").

WHEREAS, University is a constitutional public corporation that enters into agreements with industrial sponsors to provide University's faculty the opportunity to gain experience and knowledge of value to their teaching and research, to make noteworthy contributions to knowledge and as an appropriate public service;

WHEREAS, Dr. _____ (hereinafter "Principal Investigator") conducts research in the area of _____ (hereinafter "Field"), and sponsor has an interest in the University conducting further research in the Field; and

WHEREAS, Sponsor desires to financially support such research; and, University desires to conduct such research on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the terms and conditions set forth below, the parties agree as follows:

Section 1

RESEARCH

1.1 Scope of Research. Subject to the terms and conditions of this Agreement, University will use reasonable efforts to perform research in accordance with its proposal entitled "/*TITLE*/", (hereinafter "Research") which is attached as Exhibit A, and incorporated herein solely for the purpose of describing the Research.

1.2 Implementation of Research. University's relationship to Sponsor in the performance of Research is that of an independent contractor. University shall have the right to identify and implement the method, details, and means of performing the Research for Sponsor.

1.3 Principal Investigator. University's performance of the Research shall be under the direction of Principal Investigator, who shall be responsible for the administration, direction, and content of the Research. In the event that the Principal Investigator becomes unable or unwilling to continue work under the Research, University shall name an alternate Principal Investigator to perform the Research, subject to Sponsor's consent. If Sponsor does not provide such consent, Sponsor may terminate this Agreement in accordance with Section 7 below.

1.4 Technical Contact of Sponsor. The Sponsor shall designate an individual who shall coordinate with the University's Principal Investigator and each shall have the responsibility in respect to the Research to (i) serve as the interface between the parties regarding the conduct of the Research; (ii) obtain and provide technical information, data, decisions or approvals; and (iii) resolve deviations and assist in escalating issues within each party.

Section 2

RESEARCH FUNDS

2.1 Research Funds. This Agreement is a cost-reimbursement contract with a fixed payment schedule. In accordance with Section 2, Paragraph 2.2 of this Agreement, Sponsor shall pay University the applicable funds and expenses for performing the Research set forth in Exhibit B "Budget", which funds shall include without limitation, the direct and indirect costs of the Research, supplies, equipment, and a proportionate share of the Principal Investigator's salary, (hereinafter, "Funds"). Principal Investigator shall have the sole discretion to reallocate any portion of the Funds, in furtherance of the Research. During the term of the Research, if University discovers that the expenditures are expected to exceed the amount of Funds, University may request additional Funds from Sponsor which Sponsor may elect to provide in its reasonable discretion. Should Sponsor elect not to provide such additional Funds, University shall not be obligated to continue performance under the Research beyond the agreed upon amount of Funds, and University shall provide Sponsor with the results of the Research performed up to such point.

2.2 Payment Method.

Upon execution of this Agreement and within thirty (30) days receipt of University's invoice, Sponsor shall pay University an amount equivalent to one half of the first year's requirements of Funds, as set forth in Exhibit B. Upon receipt of University's invoice, Sponsor shall make subsequent semi-annual advance payments to University at the beginning of each semi-annual period thereafter. Payment must be made to "The Regents of the University of California", reference the name of the Principal Investigator, and be forwarded to:

University of California, Riverside
Main Cashier's Office
900 University Avenue
Student Services Bldg., Room 1111
Riverside, CA 92521

Payments may also be made by wire transfer in the following manner, exclusive of any bank charges or fees, provided that a notice is provided to the above address of such wire transfer:

Bank of America NA
100 West 33rd Street
New York, NY 10001

Routing Number: 0260-0959-3
Depositor Account Title: The Regents of the University of California of Riverside
Depositor Account Number: 1499850107
Type of Account: Checking
Tax Payer ID: 956006142
Duns: 627797426

For payments from foreign banks, please include either:

SWIFT CODE: BOFAUS3N or CHIPS Address: 0959

2.3 Accounting. Within ninety (90) days of the end of each year, University will submit its customary statement of actual expenditures by major cost categories incurred during the preceding year. Notwithstanding the foregoing, the Principal Investigator shall have the right to rebudget expenses and carry forward unexpended Funds to the following year. In addition, upon the expiration or termination of this Agreement, University shall submit to Sponsor a statement of actual expenditures for any Funds accrued under this Agreement prior to the effective date of termination. Sponsor shall pay any such Funds due within sixty (60) days from receipt of such statement, or if in the case of a balance of Funds, University shall refund any such amounts.

2.4 Supplies and Equipment. In the event that University purchases supplies and equipment under this Agreement, title to such supplies and equipment shall vest in University.

Section 3

RIGHTS IN DATA

3.1 Data. University shall, in accordance with established University policies and practice, keep notes and records of data and information generated in the performance of the Research under this Agreement (hereinafter "Data"). University shall provide Sponsor with an annual report within ninety (90) days of the end of each budget year during the term of this Agreement setting forth a summary and analysis of Data developed hereunder.

3.2 University Rights to Data. University shall own all right, title and interest in and to any and all Data developed from and arising out of the Research. Subject to Sections 4

and 5 below, University shall have the unrestricted right to copyright, publish, disclose, disseminate and use, in whole or in part, all such Data.

3.3 Sponsor Rights to Data. Subject to the provisions of Sections 4 and 6 below, Sponsor shall have the right to use all written annual reports provided to Sponsor for its internal-research purposes.

Section 4

PUBLICATION

4.1 University Rights to Publish. Sponsor acknowledges and agrees that University's fundamental consideration in performing the Research under this Agreement shall be University's right to first publish the results of such Research for academic and scientific purposes. University shall submit any proposed manuscript for publication to Sponsor thirty (30) days prior to the submission for publication, and any proposed abstract to Sponsor seven (7) days prior to submission for publication. In the event Sponsor identifies any Confidential Information (as defined in Section 5 below) contained in such proposed publication or abstract, Sponsor shall notify University and specifically identify the Confidential Information. University shall delete such Confidential Information from the proposed publication or abstract. In the event Sponsor identifies any patentable subject matter contained in the proposed publication, Sponsor shall notify University of such matter and University shall either (i) delay the proposed publication for a period of up to sixty (60) days from the date of receipt of Sponsor's notification in order to obtain appropriate patent protection thereon, or (ii) delete the enabling portion from the proposed publication and proceed with publication. University shall have the right to acknowledge Sponsor's support of the Research performed under this Agreement in scientific publications and other scientific communications.

4.2 Sponsor Obligations. Should University delay any proposed publication at the request of Sponsor for obtaining appropriate patent protection on the subject matter disclosed in such proposed publication, Sponsor shall reimburse University for all expenses incurred by University in seeking such patent protection pursuant to the provisions of Section 6 below.

Section 5

CONFIDENTIAL INFORMATION

5.1 Confidentiality. Sponsor acknowledges that University as a public, non-profit educational institution would prefer not to accept any confidential information of Sponsor. However, should Sponsor find it necessary to disclose to University any proprietary or confidential information of Sponsor in order to accomplish the objectives of the Research, Sponsor shall do so in accordance with the requirements of this Section 5.

5.2 Definition of Confidential Information. Any information considered proprietary or confidential by Sponsor shall be provided to University (i) in writing and clearly

identified as such, or if orally disclosed, identified as proprietary or confidential at the time of disclosure and reduced to writing within thirty (30) days by Sponsor; and, (ii) solely to the Principal Investigator, (hereinafter, "Confidential Information").

5.3 Exclusions. Notwithstanding the foregoing, Confidential Information shall not include any information which is, a) published or otherwise available to the public other than by breach of this Agreement by University; b) rightfully received by University from a third party without confidential limitations; c) independently developed by University; d) known to University prior to its first receipt from Sponsor; e) hereinafter disclosed by Sponsor to a third party without restriction on disclosure; f) approved for release by written authorization of Sponsor; or (g) required to be disclosed to the extent mandated by legal, accounting or regulatory requirements.

5.4 Standard of Care. University shall use reasonable efforts, in accordance with University's treatment of its own confidential information to maintain its confidentiality, to prevent the disclosure of Confidential Information to third parties for a period of three (3) years from the date of disclosure of such Confidential Information.

Section 6

INTELLECTUAL PROPERTY RIGHTS

6.1 Background Intellectual Property

It is possible that one or both parties may possess rights in background intellectual property, that is, intellectual property not otherwise subject to this Agreement that would be useful or essential to the practice or commercialization of results from the Agreement. For example, either Sponsor or University might own a patent that would be infringed by the other party when it attempted to commercialize the results of the Agreement unless a license was obtained from the other party. Where the parties determine that background technology may exist, in accordance with the terms of Paragraph B of this Article, consideration will be given to negotiating license rights which will allow the practice and commercialization of the results from the Agreement. No rights to any background intellectual property of either party are granted under this Agreement.

6.2 Patentable Inventions

(i) All rights and title to discoveries or inventions conceived and first actually reduced to practice solely by employees of University in the performance of Research conducted under this Agreement ("University Invention") shall belong to University and shall be disposed of in accordance with University policy.

(ii) All rights and title to discoveries or inventions conceived and first actually reduced to practice solely by employees of Sponsor in the performance of Research conducted under this Agreement ("Sponsor Invention") shall belong to Sponsor and shall be disposed of at Sponsor's sole discretion as Sponsor deems appropriate.

(iii) For any discoveries or inventions conceived and first actually reduced to practice jointly by at least one employee of University and at least one employee of Sponsor in the performance of Research conducted under this Agreement (“Joint Invention”), each party shall, in accordance with the patent laws of inventorship, own an undivided interest in such Joint Invention. Any and all patentable Joint Inventions shall be fully and promptly disclosed in writing and in confidence to the other party. The parties agree to consult with one another prior to taking any action to obtain patent protection of such Joint Invention and shall attempt to agree on patent applications to be filed and administration of such invention.

(iv) Inventorship shall be determined in accordance with U.S. patent laws.

6.3 License To Patentable Inventions

To the extent the University is legally able to do so and to the extent the Sponsor pays a proportionate share of the Principal Investigator’s salary in the performance of the Research, the University shall offer to Sponsor, a time-limited first right to negotiate an exclusive, royalty-bearing license to make, have made, use, sell, offer to sell, and import any service, product or method covered by University Inventions or University’s interest in any Joint Invention. University shall promptly and confidentially disclose to Sponsor any patentable University Invention. Sponsor shall hold such disclosure on a confidential basis and shall not disclose the information to any third party or use the information except in accordance with this Section, without the prior written consent of University. Sponsor shall advise University in writing within sixty (60) days following University’s disclosure to Sponsor whether or not Sponsor elects to secure a commercial license. Upon such election to University Inventions or University’s interest in any Joint Invention, Sponsor shall assume all reasonable costs associated with the filing and maintaining patent protection for such invention(s) in those countries requested by Sponsor, whether or not Letters Patent issue. Sponsor shall have ninety (90) days from the date of election to conclude a license agreement with University (“Negotiation Period”). The Negotiation Period may be extended upon written mutual agreement of both parties. Said license agreement shall contain reasonable terms, shall require diligent performance by Sponsor for the timely commercial development and early marketing of such invention(s), and shall include Sponsor’s continuing obligation to pay for patent costs. If such license agreement is not concluded within the Negotiation Period, University shall have no further obligations to Sponsor, and Sponsor’s obligation to pay for costs associated with patent protection shall cease. If Sponsor elects not to secure a license, the right to any such invention(s) hereunder shall be disposed of in accordance with University policies, with no further obligation to Sponsor.

6.4 No Implied Licenses

Nothing contained in this Agreement shall be deemed to grant either directly or by implication, estoppel, or otherwise any rights under any patents, patent applications or other proprietary interests, whether dominant or subordinate, of any other invention, discovery or improvement of either party, other than the specific patent rights covering inventions arising under this Agreement.

6.5 Publication

Notwithstanding any other provision of this Agreement, the right of publication on the part of University personnel shall not be affected by any license to any patentable or non-patentable inventions or discoveries except as provided for in Section 4 above.

Section 7

TERM AND TERMINATION

7.1 Term. The term of this Agreement shall commence on _____ ("Effective Date") and shall continue through _____. At the end of such term, this Agreement may be renewed upon mutual agreement of the parties.

7.2 Termination for Cause. This Agreement may be terminated by either party, if the other party breaches any material obligation provided hereunder and the breaching party fails to cure such breach within thirty (30) days from receipt of notice outlining the nature of the breach. In the event such material breach is not cured within the applicable period of time noted above, then the non-breaching party may immediately terminate this Agreement by providing written notice to the other party. Reconciliation of Research expenditures and Sponsor's payments shall be in accordance with Section 2, Paragraph 2.3 of this Agreement. University shall make good faith efforts to avoid incurring additional costs following either party's notice of termination.

Notwithstanding the above, this Agreement may be terminated by University immediately, upon written notice to the Sponsor, if Sponsor fails to remit timely payment in accordance with Section 2.2 above.

7.3 Termination for Convenience. This Agreement may be terminated by either party with sixty (60) days written notice to the other party for any reason. Reconciliation of Research expenditures and Sponsor's payments shall be in accordance with Section 2, Paragraph 2.3 of this Agreement. Such reconciliation shall also take into account University's uncancellable obligations incurred prior to the effective date of termination of the Agreement, including without limitation, any support for any student of University for the duration of the then current academic quarter.

7.4 Survival. The following provisions shall survive any expiration or termination of this Agreement: Sections 3, 4, 5, 6, 8, 9, 10 and 11.

Section 8

NOTICES

8.1 Notices. All notices or reports permitted or required under this Agreement shall be in writing and shall be delivered by personal delivery or by certified or registered mail,

return receipt requested, and shall be deemed given upon actual receipt Notices shall be sent to the parties at the addresses described below or such other address as either party may designate for itself in writing.

For Scientific/Technical Matters:

University _____	Sponsor _____
Attn: _____	Attn: _____
_____	_____
_____	_____

For Agreement Matters:

University UCR Office of Research	Sponsor _____
Attn: _____	Attn: _____
200 University Office Building	_____
Riverside, CA 92521-0217	_____

Section 9

LIMITATION OF LIABILITY

9.1 Consequential Damages. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY LOSS OF USE, INTERRUPTION OF BUSINESS, OR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING LOST PROFITS) REGARDLESS OF THE FORM OF ACTION WHETHER IN CONTRACT, TORT, (INCLUDING NEGLIGENCE), STRICT PRODUCT LIABILITY, OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9.2 Limit on Direct Damages. EXCLUDING EACH PARTY'S INDEMNITY OBLIGATIONS UNDER SECTION 10 BELOW, IN NO EVENT SHALL EACH PARTY'S LIABILITY TO THE OTHER PARTY UNDER THIS AGREEMENT EXCEED THE AMOUNT OF FUNDS HEREUNDER.

9.3 No Warranties. ANY AND ALL DATA, MATERIALS, TECHNOLOGY, INVENTIONS, DISCOVERIES, AND TANGIBLE RESEARCH PRODUCTS DEVELOPED BY UNIVERSITY UNDER THE RESEARCH ARE PROVIDED "AS IS" AND UNIVERSITY MAKES NO WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, AND EXPRESSLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NONINFRINGEMENT.

Section 10

INDEMNIFICATION

10.1 University Indemnification. University shall defend and indemnify Sponsor, its officers, employees and agents from and against any suit brought against Sponsor, its officers, employees and agents insofar as such suit is based upon any employee of Sponsor sustaining any injury while on the premises of University that is due to the negligence or willful misconduct of University in the performance of Research; provided that, (i) Sponsor notify University promptly in writing of such suit; (ii) University shall have full and complete authority (including settlement authority) in the defense of such suit; and (iii) Sponsor shall cooperate in good faith with University in the defense of such suit, including without limitation, providing all relevant and necessary information and assistance for such defense.

10.2 Sponsor Indemnification. Sponsor shall defend and indemnify University, its officers, employees and agents from and against any suit brought against University, its officers, employees and agents insofar as such suit is based upon the use of the results of the Research by Sponsor; provided that, (i) University notify Sponsor promptly in writing of such suit; (ii) Sponsor shall have full and complete authority (including settlement authority) in the defense of such suit; and (iii) University shall cooperate in good faith with Sponsor in the defense of such suit, including without limitation, providing all relevant and necessary information and assistance for such defense.

Section 11

MISCELLANEOUS

11.1 Governing Law and Forum. This Agreement shall be governed in all respects by the laws of the State of California without regard to conflicts of law principles. All disputes arising under this Agreement shall be brought, as permitted by law, in the state courts in the State of California. Such courts shall have exclusive jurisdiction over disputes under this Agreement. Each party consents to the personal jurisdiction of the above courts.

11.2 Force Majeure. University shall be excused from performance required under this Agreement if such performance is rendered impossible or unfeasible due to any events beyond its reasonable control, including without limitation, war, riot, natural disasters, weather, labor disputes or strike, acts of governmental officials or agencies, or any other cause beyond the reasonable control of University. The excusable delay is allowed for the period of time affected by the delay, and the parties will revise the Research performance or other provisions hereunder as appropriate.

11.3 Severability. In the event that any provision of this Agreement becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole.

11.4 Use of Name. Neither party will use the name of the other party or its employees in any advertisement or press release without the prior written consent of the other party. Sponsor acknowledges that the California Education Code section 92000 provides that the name "University of California" is the property of the State of California and that Sponsor's use of the name "University of California" must also comply with such section. Sponsor acknowledges that University maintains a list of all Research projects, which list shall contain the name of Sponsor and the title of the Research, and that University may make use of such list consistent with its obligations as an academic institution.

11.5 Headings. The section headings appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope or extent of such section or in any way affect this Agreement.

11.6 Assignment. Sponsor may not delegate, assign or transfer this Agreement, the rights or duties hereunder without University's express prior written consent. Notwithstanding the foregoing, Sponsor may assign this Agreement without University's prior written consent in the event of a merger, reorganization or acquisition of Sponsor in which Sponsor is the surviving entity.

11.7 Entire Agreement and Modification. This Agreement constitutes the entire agreement between Sponsor and University and supersedes in their entirety any and all oral or written agreements previously existing between Sponsor and University with respect to the subject matter. The terms and conditions of any purchase order or other instrument issued by Sponsor in connection with this Agreement which add to or differ from the terms and conditions of this Agreement shall be of no force or effect. This Agreement may only be amended or supplemented by a writing that refers explicitly to this Agreement and that is signed by duly authorized representatives of Sponsor and University. In the event of any conflict between the terms and conditions set forth in this Agreement and the Exhibits, the parties agree that the terms and conditions of the Agreement shall take precedence.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives.

University

By:

Name:

Title:

Date:

Sponsor

By:

Name:

Title:

Date: