

PRIVATE SECTOR / EDUCATIONAL RESEARCH AGREEMENT

THIS AGREEMENT is made and entered into on this [date] day of [month], [yr], by and between [Sponsor Name] with its principal administrative offices at [Sponsor Address] (hereinafter called SPONSOR) and the Florida State University Research Foundation, Inc. (hereinafter called FSURF), a direct support organization for the Florida State University, a non-profit public university located in Tallahassee, Florida (hereinafter called FSU).

RECITALS

FSU has valuable experience, skill, and ability in the area of Research described in Attachment A, Research Proposal ("Research"), which is incorporated and made part of this Agreement. The performance of the Research is of mutual interest to SPONSOR and FSU, and is consistent with the instructional, scholarship, and Research objectives of FSU as a nonprofit, tax-exempt, educational institution. SPONSOR desires that FSU perform the Research. FSU has agreed to do so under the terms and conditions hereinafter set forth.

NOW THEREFORE, the parties hereto mutually covenant and agree as follows:

1. PERIOD OF PERFORMANCE

The period of performance under this AGREEMENT is specified as [Start Date] through [End Date] unless sooner terminated (TERM). Either party to this AGREEMENT may terminate the AGREEMENT by giving not less than sixty (60) days advance written notice in accordance with the terms herein.

2. KEY PERSONNEL

The Research will be under the direction of [PRINCIPAL INVESTIGATOR] or his/her successor as mutually agreed to by the parties hereto (hereinafter referred to as the PRINCIPAL INVESTIGATOR) and will be conducted by the [Research unit] at FSU.

3. RESEARCH

3.1 FSU will use reasonable efforts to conduct the Research described in Attachment A, and incorporated herein, and will utilize its own facilities as well as any provided by SPONSOR to carry out said Research.

3.2 SPONSOR understands that FSU's primary mission is education and advancement of knowledge, and, consequently, the Research will be designed to carry out that mission. The manner of performance of the Research shall be determined solely by the PRINCIPAL INVESTIGATOR. FSU does not guarantee specific results, and the Research will be conducted only on a reasonable effort basis.

3.3 SPONSOR understands that FSU may be involved in similar Research through the same or other Researchers on behalf of itself and others. FSU shall be free to continue such Research, and SPONSOR shall not gain any rights via this AGREEMENT to such other Research.

4. COMPENSATION

4.1 As consideration for the performance by FSU of its obligations under this AGREEMENT, SPONSOR will reimburse FSU for all direct and indirect costs incurred by FSU in connection with the Research up to [AMOUNT], the Cost

4.2 The parties estimate that the Amount is sufficient to support the Research, but FSU may submit to SPONSOR a revised budget requesting additional funds at such time as costs may reasonably be projected to exceed the Cost. SPONSOR will not be liable for any payment in excess of the Cost except upon SPONSOR's written agreement.

4.3 SPONSOR shall pay the Amount to FSURF on the following Payment Schedule:

4.4 SPONSOR agrees that FSU has the authority to rebudget Costs from time to time, at the discretion of the Principal Investigator. Any rebudgeting done by FSU shall be consistent with the goals of the Project.

4.5 FSU shall retain title to all equipment purchased and/or fabricated by it with funds provided by SPONSOR under this AGREEMENT.

5 CONFIDENTIAL INFORMATION

The parties may wish, from time to time, in connection with work contemplated under this AGREEMENT, to disclose confidential information to each other. Each party will use reasonable efforts to prevent the disclosure of any of the other party's confidential information to third parties for a period of three (3) years from receipt thereof, provided that the recipient party's obligation hereunder shall not apply to information that:

- a . is not disclosed in writing or reduced to writing and so marked with an appropriate confidentiality legend within thirty (30) days of disclosure;
- b . is already in the recipient party's possession at the time of disclosure thereof;
- c . is or later becomes part of the public domain through no fault of the recipient.
- d . is received from a third party having no obligations of confidentiality to the disclosing party;
- e . is independently developed by the recipient party; or
- f . is required by law or regulation to be disclosed.

6 PUBLICATION

6.2 The basic objective of Research activities at FSU is the generation of new knowledge and its expeditious dissemination for the public's benefit. SPONSOR will provide all reasonable cooperation with FSU in meeting this objective.

6.3 As a matter of basic academic policy, FSU retains the right at its discretion to publish freely any results of the Research. FSU agrees to provide SPONSOR a copy of any manuscript at the time it is submitted for publication. SPONSOR may review the manuscript:

- (a) To ascertain whether SPONSOR's confidential information would be disclosed by the publication;
- (b) To identify potentially patentable Inventions so that appropriate steps may be taken to protect such Inventions; and
- (c) To confirm that the privacy rights of the individuals are adequately protected.

SPONSOR will provide comments, if any, within 30 days of receipt of manuscript. If patentable Invention is disclosed in the manuscript, SPONSOR will promptly advise FSU whether it requests FSU to file and prosecute a patent application.

6.4 FSU will give SPONSOR the option of receiving an acknowledgment in such publication for its sponsorship of the Research.

7 INVENTIONS AND PATENTS

7.2 Any Invention made during the RESEARCH by FSU shall belong to FSURF , subject to the option specified herein. "Invention" shall mean any discovery, concept, or idea, whether or not patentable or copyrightable, including but not limited to processes, methods, computer software, formulas and techniques, improvements thereof, experimental results, and know-how relating thereto.

7.3 An Invention is "made during the RESEARCH" if it arises from work performed pursuant to the RESEARCH conducted under this AGREEMENT and is conceived and reduced to practice, actively or constructively, during the term of the AGREEMENT, or is conceived during the term of the AGREEMENT and reduced to practice within six (6) months after termination of the work performed hereunder.

7.4 FSU will provide SPONSOR a complete written confidential disclosure of any FSU Invention after such disclosure is received by the FSU Office of Research.

10. GRANT OF RIGHTS

To the extent that FSURF has the legal right to do so:

FSURF hereby grants to SPONSOR a non-exclusive, non-transferable, royalty –free license to FSU Inventions made during the Research, for internal Research purposes.

FSURF also hereby grants to SPONSOR a first option to negotiate a royalty-bearing license agreement to license any Invention made during the RESEARCH by FSU. Such license will include terms normal to university / company licenses i.e. royalty bearing, limited-term, exclusive field of use, the right to sublicense, etc. SPONSOR shall indicate in writing its desire to negotiate a license agreement for any Invention made during the RESEARCH within forty-five (45) days of disclosure of the Invention to SPONSOR by FSURF. SPONSOR and FSURF shall be obligated to negotiate in good faith for a period that shall not exceed ninety (90) days from SPONSOR's indication of interest to negotiate the license agreement, or such period of time as to which the parties may mutually agree. In the event that SPONSOR and FSURF fail to enter into an agreement during that period of time, the rights to such Invention shall be disposed of in accordance with FSU policies, with no further obligation to SPONSOR.

1. REPORTS

The Principal Investigator will submit a final report to SPONSOR within 90 days of the End Date of the Agreement. The report will summarize the Research accomplishments and significant Research findings.

12. NOTICES

Any notices given under this AGREEMENT shall be in writing and delivered by first-class mail postage prepaid, addressed to the parties as follows:

TO FSURF

Florida State University Research Foundation, Inc.
2305 E. Paul Dirac Drive, Box 15
Tallahassee, FL 32310
Attn: Dr. Raymond E. Bye, Jr.
Vice-President for Research

TO SPONSOR:

13. LIABILITY

SPONSOR shall, to the extent authorized by law, hold FSU harmless from liability resulting from SPONSOR's negligent acts or omissions pertaining to its activities carried out by reason of its obligations under this AGREEMENT; provided, however,

SPONSOR shall not hold FSU harmless from any claims, demands or causes of action arising in favor of any person or entity, and growing out of incident to, or resulting from the negligence or willful malfeasance of FSU, its officers, agents, representatives, or employees.

14. TERMINATION

Either party hereto may terminate this AGREEMENT at any time by giving not less than sixty (60) days advance written notice to the other party. In case of termination, SPONSOR shall be liable for all reasonable costs incurred or committed by FSU pursuant to the RESEARCH prior to said termination and shall pay FSU for same on receipt of a final invoice.

15. PUBLICITY

SPONSOR shall not identify FSU in any products, publicity, promotion, promotional advertising, or other promotional materials to be disseminated to the public, or use any trademark, service mark, trade name, logo, or symbol that is representative of FSU University or its entities, whether registered or not, or use the name, title, likeness, or statement of any FSU faculty member, employee, or student, without FSU's prior written consent. Any use of FSU's name shall be limited to statements of fact and shall not imply endorsement by FSU of SPONSOR's products or services.

Any use of SPONSOR's name shall be limited to statements of fact and shall not imply endorsement by SPONSOR of FSU's Research or services.

16. NO WARRANTIES

FSU MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE RESULTS OF THE RESEARCH OR ANY INVENTION, PROCESS OR PRODUCT, WHETHER TANGIBLE OR INTANGIBLE, CONCEIVED, DISCOVERED, OR DEVELOPED UNDER THIS AGREEMENT; OR THE OWNERSHIP, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE RESEARCH OR ANY SUCH INVENTION OR PRODUCT. FSU SHALL NOT BE LIABLE FOR ANY DIRECT, CONSEQUENTIAL, OR OTHER DAMAGES SUFFERED BY SPONSOR, ANY LICENSEE, OR ANY OTHERS INCLUDING, BUT NOT LIMITED TO, DAMAGES ARISING FROM LOSS OF DATA OR DELAY OR TERMINATION OF THE RESEARCH, OR FROM THE USE OF THE RESULTS OF THE RESEARCH, OR ANY SUCH INVENTION OR PRODUCT. THE PROVISIONS OF THIS CLAUSE SHALL SURVIVE TERMINATION OF THIS AGREEMENT.

17. FORCE MAJEURE

FSU will not be liable for any failure to perform as required by this Agreement, if the failure to perform is caused by circumstances reasonably beyond FSU's control, such as labor disturbances or labor disputes of any kind, accidents, failure of any governmental approval required for full performance, civil disorders or commotions, acts of aggression,

acts of God, energy or other conservation measures, explosions, failure of utilities, mechanical breakdowns, material shortages, disease, thefts, or other such occurrences.

18. LAWS AND REGULATIONS

This Agreement is subject to all local, state and federal laws and regulations. The laws governing this Agreement shall be the laws of the State of Florida.

19. MISCELLANEOUS

This AGREEMENT

(a) SPONSOR acknowledges that the Research is a scientific undertaking and, consequently, FSU does not guarantee that the Research will yield any particular outcome.

(b) together with Attachment A sets forth the entire agreement with respect to the subject matter hereof;

(c) may not be modified except by a written instrument signed by FSU and SPONSOR.

IN WITNESS WHEREOF, these duly authorized representatives of the parties hereby execute this AGREEMENT.

SPONSOR

By: _____
Name: _____
Title: _____
Date: _____

Florida State University Research Foundation

By: _____
Name: _____
Title: _____
Date: _____

READ AND UNDERSTOOD

By: _____

Principal Investigator

ATTACHMENT A: RESEARCH PROPOSAL (Scope of Work and Budget)