



MEMORANDUM OF AGREEMENT **Measurement, Composition, Fabrication, or Analysis** **Academic Research Services**

Agreement Number _____

THIS AGREEMENT, effective this _____ day of _____, 20____, by and between The Pennsylvania State University (hereinafter referred to as "University") and _____, having a principal place of business at _____ (hereinafter referred to as "Sponsor").

RECITALS:

1. University has developed a measurement, composition, fabrication, or analysis expertise and related technologies, equipment, or facilities (hereinafter referred to as "Academic Research Services"), in the area of _____ which Academic Research Services it intends to utilize in fulfillment of its role as a Land Grant University by providing special Academic Research Services to its various constituencies, including private companies, for the benefit of the Commonwealth;
2. Sponsor desires specialized academic research assistance requiring these Academic Research Services;
3. Such Academic Research Services are currently available on a limited basis from University;
4. Academic Research Services contemplated by this Agreement are of mutual interest and benefit to University and Sponsor, will further the Instructional, Research, and Public Service missions of University, and may derive benefits for both Sponsor and University through the advancement of knowledge;

NOW, THEREFORE, in consideration of the premises and mutual covenants set forth below, the parties hereto agree to the following:

Article 1 - Academic Research Services

Academic Research Services are described in the scope of work described in Appendix A hereof, under the direction of _____ (hereinafter referred to as "Principal Investigator").

Article 2 - Period of Performance

The period of performance shall be _____ to _____.

Article 3 - Funds

This is a cost reimbursable agreement. Payments shall be made by Sponsor within thirty (30) days of receipt of monthly invoices. Total cost to Sponsor shall not exceed _____ dollars (\$_____).

Article 4 - Reports and Publications

University shall provide Sponsor with a written report regarding the data obtained in the course of said Academic Research Services to the extent required in Appendix A. Said report shall be maintained as confidential pursuant to Article 5 of Agreement. Sponsor recognizes that the results of Academic Research Services which do not disclose Confidential Information provided hereunder may be deemed publishable by University, and that the researchers engaged in project shall be free to publish these results, consistent with the obligations imposed in Article 5 of this Agreement.

Article 5 - Confidentiality

"Confidential Information" shall mean any Sponsor-provided materials, written information, and data marked "Confidential" or non-written information and data disclosed which is identified at the time of disclosure as confidential and is reduced to writing and transmitted to the other party within sixty (60) days of such non-written disclosure. University hereby agrees to use the same degree of care it uses to protect its own confidential information to: 1) maintain for a period of five (5) years the Confidential Information obtained from Sponsor pursuant to this Agreement and sent to Principal Investigator referred to above; and 2) maintain as confidential any data and interpretation of said Confidential Information arising out of said Academic Research Services until Sponsor has had the opportunity to review same. Publications will be limited to new scientific information regarding Academic Research Services performed, and University will use reasonable efforts not to disclose proprietary processes or methods of Sponsor, or the nature or composition of materials provided by Sponsor. University will provide Sponsor with thirty (30) days to review any manuscripts or proposed publications arising out of Academic Research Services. University's obligations hereunder do not apply to information in the public domain, or independently known or obtained by University.

Article 6 - Intellectual Property

All inventions arising out of Academic Research Services will be promptly disclosed to Sponsor. University shall not obtain or attempt to obtain patent coverage on Sponsor-provided materials or information, without the express written consent of Sponsor. All inventions, patent applications, or patents made during Academic Research Services which name as an inventor at least one employee of University shall be owned as follows:

- a) Inventions which involve the use of, composition of, or improvement to Sponsor-provided materials or information, or a derivative, analogue thereof shall belong to Sponsor; and
- b) Inventions which cover a scientific process, technique, procedure, medium, device or other process which is not unique to processing Sponsor's proprietary materials or does not derive from Sponsor-provided materials or information shall be owned by University. Sponsor shall be given an option to negotiate a license thereto.

Article 7 - Publicity

Neither party will use the name of the other party in any publicity, advertising, or news release without the prior written approval of the authorized representative of the other party.

Article 8 - Termination

Either party may terminate this Agreement upon fifteen (15) days prior written notice to the other. All reasonable costs and non-cancelable obligations incurred by University at the time of said termination shall be reimbursed by Sponsor. At the request of Sponsor, all unused Sponsor-provided materials at the time of termination shall either be destroyed by University or returned to Sponsor.

Article 9 - University Status

In the performance of all Academic Research Services, hereunder, University shall be deemed to be and shall be an independent contractor.

Article 10 - Warranties and Indemnity

University in no way guarantees Academic Research Services performed pursuant to this Agreement and makes no warranties, express or implied, regarding the quality of product produced under this Agreement. Sponsor agrees to indemnify and hold harmless University against any claims and costs (including counsel fees) arising out of Sponsor's commercial sale or distribution of products or processes developed under this Agreement, or its reliance upon the reports set forth in Article 4.

Article 11 – Export Control

The University will not accept export-controlled materials or technical information under this Agreement. Sponsor warrants that materials and technical information provided to University are not subject to U.S. Export Control laws.

Article 12 – Governing Law

This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Pennsylvania.

Article 13 – Entire Agreement

This Agreement contains the entire and only agreement between the parties respecting the subject matter hereof and supersedes or cancels all previous negotiations, agreements, commitments and writings between the parties on the subject of this Agreement. Should processing of this Agreement require issuance of a purchase order or other contractual document, all terms and conditions of said document are hereby deleted in entirety. This Agreement may not be amended in any manner except by an instrument in writing signed by the duly authorized representatives of each of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed in duplicate as of the day and year first above written.

By An Authorized Official of University

By An Authorized Official of Sponsor

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Approved by Legal Counsel 02/04

Last Updated 03/04