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|  | C:\Users\groebecm\AppData\Local\Microsoft\Windows\INetCache\Content.Outlook\K33VDXGV\UDRI_Logo_vertical_color.jpgUniversity of DaytonResearch InstituteContracts and Grants Administration300 College ParkDayton OH 45469-7756Phone: 937.229.2919Fax: 937.229.2291 | RESEARCH AGREEMENT |

 This Research Agreement, effective as of the date of execution by both parties, (hereinafter the "Effective Date"), is made and entered into between The University of Dayton, 300 College Park, Dayton, Ohio 45469-0101 (hereinafter referred to as the "University") and INSERT SPONSOR NAME (hereinafter referred to as the "Sponsor").

 WHEREAS, the Sponsor desires to have the University perform the research program
described in Proposal No. INSERT PROPOSAL NO. and the University desires to perform such a program;

 NOW, THEREFORE, the parties hereto agree as follows.

# 1. PERFORMANCE

 The University agrees to perform to the best of its ability the research program as described in Proposal No. INSERT PROPOSAL NO. (the "Program") which is incorporated into this Research Agreement as Exhibit 1. The University does not guarantee that the work will be successful or agree to obtain specific results.

# 2. PERIOD OF PERFORMANCE

 The research shall be performed during a INSERT PERIOD (months or years) period beginning upon receipt of the Sponsor's purchase order (the "Contract Period") and will be subject to renewal or extension for a specified term only by mutual written agreement of both parties. This Research Agreement shall terminate as specified in Section 12 below.

# 3. PRICE

 The Sponsor will pay the University a price of $INSERT PRICE.

# 4. PAYMENT

 Monthly invoices will be submitted for payment. Payment terms are net 30 days. Checks shall be made payable to THE UNIVERSITY OF DAYTON and mailed to:

THE UNIVERSITY OF DAYTON

Office of the Bursar

300 College Park

Dayton, Ohio 45469-1600

# 5. CONFIDENTIALITY

 The University and Sponsor anticipate that during the course of the Program it may be necessary for either to disclose to the other information of a confidential and proprietary nature, including, but not limited to, technical data, know-how, trade secrets, computer programs, and business practices ("Information"). The Information will be disclosed in writing and marked proprietary. Information disclosed verbally will be confirmed in writing, marked proprietary, and forwarded to the receiving party within thirty (30) days after such disclosure.

 Each party agrees that it will not disclose the Information to third parties and will maintain the Information in confidence, exercising at least the same degree of care used to protect its own confidential and proprietary information. The parties agree to use such Information only for the purposes contemplated under this Research Agreement. Disclosure of such Information shall be restricted to those employees and agents of a party who are directly participating in work involving the other party hereto. Both parties agree to obtain the agreement of those employees to protect the confidentiality of such Information.

 The limitations on disclosure or use of the Information by the receiving party shall not apply to, and neither party shall be liable for disclosure or use of Information which:

(a) is available to the public at the time of such disclosure or use through no fault of the receiving party;

(b) is available to the receiving party at the time of receipt of such Information by the receiving party, as can be shown by prior written records;

(c) prior to such disclosure or use has been disclosed to the receiving party by a third party entitled to disclose it; or

(d) is developed by or for the receiving party independently of the disclosure hereunder.

 The obligations of confidentiality and non-use set forth above in this Section 5 shall terminate five (5) years from the date Information is disclosed to the receiving party; such disclosure shall occur within five (5) years from the Effective Date.

 The parties agree that Information furnished hereunder shall not be disclosed contrary to the laws and regulations of the United States of America, including, but not limited to, the Export Administration Regulations of the U.S. Department of Commerce and the International Traffic in Arms Regulations of the U.S. Department of State.

# 6. RIGHTS TO INVENTIONS AND BACKGROUND TECHNOLOGY

 It is anticipated that inventions, discoveries, improvements, know-how, technology, and technical data and information, and computer software or other writings, whether or not patentable or copyrightable, may be conceived as a result of work performed under this Research Agreement ("Inventions") solely or jointly by the parties hereto. In addition, the University owns certain technology (“Background Technology”) as set forth in Exhibit 2. The respective rights of the parties to said Inventions and Background Technology shall be determined in accordance with the following Sections.

## 6.1 University Inventions

## a. Ownership

 The University shall retain title to all Inventions conceived or developed solely by the University, its employees, and agents in the performance of the Program ("University Inventions"). The University shall retain title to all patent applications, divisions, or continuations in whole or in part thereof, and any patents issuing thereon, and any reissues or extensions of any such patents, in any country of the world covering any such University Inventions.

## b. Patent Filing

 The University shall promptly notify the Sponsor of any University Inventions conceived or reduced to practice during the Contract Period under the Program. If the Sponsor directs that patent applications be filed, the University shall promptly prepare, file, and prosecute such U.S. and foreign applications as the Sponsor may direct and title to such applications shall reside in the University. All costs incurred in connection with the preparation, filing, prosecution, and maintenance of such U.S. and foreign applications directed to said University Inventions and any patents issuing thereon shall be paid by the Sponsor. The Sponsor shall cooperate with the University to ensure that such applications will cover, to the best of the Sponsor's knowledge, all items of commercial interest and importance. While the University shall be responsible for making decisions regarding the scope and content of the applications to be filed, and the prosecution thereof, the Sponsor shall be given an opportunity to review such applications and provide input relative thereto. The University shall keep the Sponsor advised as to all developments with respect to such applications, and shall promptly supply to the Sponsor copies of all official papers received and filed in the respective patent offices in connection with the prosecution thereof, in sufficient time for the Sponsor to comment thereon. If the Sponsor elects not to bear the cost of preparing and filing any patent application, or decides to discontinue the financial support of the prosecution or maintenance of any patent application or patent, the Sponsor shall give the University timely written notice thereof at least sixty (60) days prior to any patent bar date or payment due date, and the University shall then be free to file or to continue the prosecution or maintenance of any such application, and to maintain any patent issuing thereon in the U.S. and in any foreign country, at no further expense to the Sponsor, and the University shall have the right to dispose of such patent applications and patents as it chooses and without further obligation to the Sponsor with respect to such patent application or patent.

## 6.2 Sponsor Inventions

 Rights to Inventions made solely by the Sponsor ("Sponsor Inventions") shall belong to the Sponsor.

## 6.3 Joint Inventions

 In the event that Inventions are conceived or developed jointly by the University and the Sponsor in the performance of the Program ("Joint Inventions"), the University and the Sponsor shall establish their respective rights in such Joint Inventions through negotiation.

## 6.4 Background Technology

The University shall retain ownership of the Background Technology.

# 7. LICENSE OPTION

## 7.1 Option Grant

 The University hereby grants to the Sponsor, and the Sponsor hereby accepts from the University, an exclusive option to a license under the Background Technology and the University Inventions and any patents issuing thereon, the terms and conditions of said license to be negotiated by the parties, hereinafter "License Agreement." Said option shall commence as of the Effective Date and, unless exercised earlier by written notice from the Sponsor to the University, shall expire at the end of the Option Period, as hereinafter defined.

## 7.2 Option Period

 The option shall remain in effect during the period beginning with the Effective Date and ending one month after the completion of the research contemplated under this Research Agreement, and the Sponsor shall have the right to exercise its option by written notice to the University any time during that period. If the option has not been exercised during the specified period, the University shall be free to dispose of the University Inventions as it chooses.

# 8. PUBLICATION

 The University may wish to publish the results of research performed under this Research Agreement. An advance copy of any such publication will be submitted to the Sponsor to permit the Sponsor to identify any disclosure of proprietary data or information relating to potentially patentable inventions. At the time the advance copy is submitted to the Sponsor, the Sponsor will also be given the option of receiving acknowledgment of sponsorship in such publication. The Sponsor shall notify the University in writing within thirty (30) days after its receipt of the advance copy of the publication if it objects to the publication and its reasons for such objection. If exception is taken by the Sponsor, the Sponsor will designate the information it does not wish to be published, and this information will be deleted or publication of this information will be delayed for a period of up to one year to allow for the filing of patent applications or the taking of other steps to protect the designated information.

# 9. GOVERNMENT OBLIGATIONS

 In the event an Invention results from research and development work which is supported jointly by an agency of the U.S. Government and the Sponsor, the Invention shall be subject to the provisions of Part 401 of Chapter IV, Title 37, United States Code of Federal Regulations.

 Nothing in this Research Agreement shall be construed to restrict the right of the University to transfer to the U.S. Government such rights as the Government may be entitled to under any agreement the University may have or may hereafter enter into with the Government, whether or not consistent with the provisions of this Research Agreement.

# 10. ASSIGNMENT

 Neither party shall assign this Research Agreement to a third party without prior written consent of the other party; provided, however, that the Sponsor may assign this Research Agreement to a successor in ownership of all or substantially all its business assets. Such successor shall expressly assume in writing the obligation to perform in accordance with the terms and conditions of this Research Agreement. Any other purported assignment shall be void.

# 11. ARBITRATION

 Any disputes, controversies, or differences arising between the parties hereto in connection with this Research Agreement or a breach thereof which cannot be resolved by the mutual endeavors of the parties hereto shall be referred to and settled by arbitration in accordance with the Rules of the American Arbitration Association. Three arbitrators chosen according to the Rules shall be used. Arbitration shall be conducted in Dayton, Ohio and any award rendered shall be final and binding upon both parties and shall be enforceable by a court of competent jurisdiction.

# 12. TERMINATION

 This Research Agreement shall automatically terminate effectively upon the date of the occurrence of any of the following events or conditions, except for the conditions expressed in Section 5:

(a) Expiration of the option granted under Section 7.1;

(b) The inability of the University to complete the Program for any reason beyond its control; or

(c) Mutual written agreement of the parties.

 In the event of termination prior to completion of the Program the total cost of the Program will be adjusted to cover the portion of the effort completed.

# 13. INDEMNIFICATION

 The University makes no representation or warranty of any kind whatsoever, either express or implied, to the Sponsor as to the ability of the Sponsor to understand and utilize the Background Technology or the University Inventions, or that the practice of the Background Technology or the inventions covered by the University Inventions, does not or will not infringe existing or subsequently issuing patents owned by others. The University shall have no control over the manufacture, use, or sale of products or processes incorporating the Background Technology or the University Inventions and the Sponsor shall hold the University harmless from any and all claims of third parties for damages or injury of any nature whatsoever, including but not limited to claims arising in connection with the manufacture, use, sale, or marketing of such products or processes by the Sponsor or any sublicensee of the Sponsor or any representatives, agents, or vendors of the Sponsor or any sublicensee of the Sponsor.

# 14. NOTICES

 All notices, communications, and remittances shall be sent to the University at:

The University of Dayton Research Institute

300 College Park

Dayton, OH 45469-7756

Attention: Director – Contracts and Grants

 and to the Sponsor at:

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| Attention: |  |

by certified mail, postage prepaid, or by facsimile transmission, confirmed within three (3) days by certified mail, postage prepaid, addressed as set forth above, provided that either party may from time to time notify the other party of a different address to which all notices, communications, or remittances shall thereafter be sent. Notice shall be deemed to have been given as of the date of its deposit with the United States Postal Service or the date of its facsimile transmission, provided that confirmation is given as stipulated above.

# 15. GOVERNING LAW AND SEVERABILITY

 This Research Agreement shall be governed as to its formation, interpretation, and validity by the laws of the State of Ohio. If any provision of this Research Agreement is determined to be invalid or unenforceable for any reason whatsoever, the remainder of this Research Agreement shall be enforced to the extent possible, and the offending provisions shall be treated as though not a part of this Research Agreement.

# 16. ENTIRE AGREEMENT

 This Research Agreement sets forth the entire agreement and understanding between the parties hereto with respect to the subject matter hereof, and supersedes all previous agreements, negotiations, commitments, and writings, if any, between the parties hereto relating thereto. This Research Agreement may not be changed except by an amendment in writing subsequent to the Effective Date and signed by a duly authorized officer or representative of the parties hereto to be bound thereby.

# 17. NON-USE OF NAMES

 Neither party shall use the name of the other party or the name of any employee of the other party in any advertising or promotional literature or activities, without the prior written approval of the other party.

IN WITNESS WHEREOF, the parties hereto have executed this Research Agreement on the date(s) indicated below, to be effective as of the latest such date.

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| --- | --- |
| THE UNIVERSITY OF DAYTON | INSERT SPONSOR NAME |
| BY: |  | BY: |  |
|  | (Signature) |  | (Signature) |
| NAME: |  | NAME: |  |
| TITLE: |  | TITLE: |  |
| DATE: |  | DATE: |  |

Exhibit 1.

Proposal No.

Exhibit 2.

Background Technology