



This Agreement for Sponsored Research (Agreement) is entered into by Michigan Technological University, Houghton, Michigan 49931, (Michigan Tech) and _____ (Sponsor).

The research program to be conducted under this Agreement is of mutual interest and benefit to Michigan Tech and Sponsor, will further the multiple missions of Michigan Tech (instruction, research, and public service) in a manner consistent with its status as a non-profit, tax exempt, educational institution, and may derive benefits for the Sponsor, Michigan Tech, and society by the advancement of science and engineering through discovery;

Sponsor has expressed a desire to engage Michigan Tech to create or enhance technologies that may assist in Sponsor's development and commercialization of new products and/or processes;

Michigan Tech's research capabilities and infrastructure reflect a substantial public investment which Michigan Tech, as a part of its mission as a publicly funded Michigan University, wishes to utilize in a cooperative and collaborative research effort with Sponsor in order to meet the above stated needs;

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

1. Scope of Work and Price Michigan Tech shall, for a fixed price of \$_____, undertake a sponsored project titled "_____" as described in Attachment A (Project). It is agreed that Attachment A will govern the direction of the Project until amended by authorized representatives of the Sponsor and Michigan Tech as provided in this Agreement.

2. Project Duration The Project shall start on _____ and end on _____, unless earlier terminated pursuant to Section 3. Michigan Tech will exert good faith efforts to complete the Project by the end date but makes no warranty or representation that it will be completed by that time. The parties may agree to extend the Project duration by written, signed amendment to this Agreement.

3. Termination

3.1 Sponsor may terminate the Project and this Agreement upon written notice to Michigan Tech and termination shall be effective as of thirty (30) days from the date of receipt of such notice. As of the effective date of termination by Sponsor all licenses and rights under the Intellectual Property shall terminate. Termination of this Agreement by Sponsor shall not relieve Sponsor of its obligation (a) to reimburse Michigan Tech for all fees and costs incurred by Michigan Tech under Section 11.4 for the pursuit and

maintenance of patents or (b) for payment to Michigan Tech for all non-cancelable commitments incurred under the Project prior to such termination.

3.2 Michigan Tech may terminate the Project and this Agreement if circumstances beyond its control preclude continuation of the Project or in the event Sponsor fails to promptly make payments according to the schedule set forth in Section 5. Such termination will not relieve Sponsor of its obligation to reimburse Michigan Tech for fees and costs incurred in carrying out, in good faith, Michigan Tech's obligations under the Project and this Agreement prior to such termination.

3.3 Except to the extent of Sponsor's failure to pay amounts due under Section 5, which is addressed in Section 3.2, in the event either party hereto shall commit any material breach of or default in any terms or conditions of this Agreement, and also shall fail to reasonably remedy such default or breach within sixty (60) days after receipt of written notice thereof, the non-breaching party may, at its option, and in addition to any other remedies which it may have at law or in equity, terminate this Agreement by sending notice of termination in writing to the other party to such effect. Termination shall be effective as of the date of receipt of such notice.

4. Equipment Michigan Tech shall retain title to any equipment purchased from the fixed fee under this Agreement.

5. Payment Schedule Sponsor shall pay according to the following schedule. Payment is due within thirty (30) days of the date of the invoice.

\$ _____ due and payable upon execution of this Agreement

\$ _____ due on or before

\$ _____ due on or before

\$ _____ due on or before

Payment Address:

Cashier's Office
Michigan Technological University
1400 Townsend Drive
Houghton, MI 49931
Phone: (906) 487-2247
Fax: (906) 487-2245

6. Reporting Requirements Michigan Tech will provide written technical progress reports as reasonably requested by Sponsor but no more frequently than quarterly.

7. Disclaimer of Warranty In view of the experimental nature of this Project, Michigan Tech makes no warranty or guarantee of any kind in connection with anything delivered or provided by Michigan Tech under this Agreement, and Michigan Tech **DISCLAIMS ANY AND ALL WARRANTIES, INCLUDING THOSE OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE**, with respect to any information, results, design, specification, prototype, or any other item furnished to Sponsor, or to others at Sponsor's request, in connection with the Project, this Agreement, or the subject thereof.

8. Name Use Except that either party may reference the existence of the Project and the relationship of the parties in the Project, neither party will use the name of the other party, nor of any member of the other party's employees in any publicity, advertising, news release, or other materials without the prior written approval of an authorized representative of that party.

9. Confidentiality

9.1 Confidential Information shall mean any information disclosed by a party (the Disclosing Party) to the other party (the Receiving Party), and identified prior to disclosure with an appropriate marking or identification such as CONFIDENTIAL or any other similar legend. If such Confidential Information is disclosed orally or visually, then the parties shall use reasonable effort to reduce such oral or visual Confidential Information to tangible form and furnish a copy (marked CONFIDENTIAL) to the Receiving Party within thirty (30) days of the original oral or visual disclosure. Confidential Information shall not include information that (a) is now available or becomes available to the public without breach of this Agreement; (b) is explicitly approved for release by written authorization of the Disclosing Party; (c) is lawfully obtained from a third party or parties without a duty of confidentiality; (d) is known to the Receiving Party prior to disclosure as evidenced by prior written records; or (e) is at any time developed by or for the Receiving Party independently of any such disclosure(s) from the Disclosing Party.

9.2 Neither party shall disclose, reproduce, use, distribute, reverse engineer or transfer, directly or indirectly, in any form, by any means or for any purpose, the Confidential Information of the other party, except in the performance of the Project or as expressly permitted in writing by the Disclosing Party. Disclosure of Confidential Information does not confer upon the Receiving Party any license, interest or rights in any Confidential Information except as provided under this Agreement. Subject to the terms set forth herein, each party shall protect the other party's Confidential Information with the same degree of protection and care it uses to protect its own Confidential Information, but in no event less than reasonable care. The obligations of the parties under this Section 9 shall survive the term of this Agreement by two (2) years.

9.3 Nothing in this Section 9 shall prohibit or limit the Receiving Party's disclosure of Confidential Information pursuant to a requirement of a governmental agency or by operation of law so long as the Receiving Party notifies the Disclosing Party prior to disclosure in order to give the Disclosing Party an opportunity to seek an appropriate protective order and/or waive compliance with the terms of this Agreement. In this case disclosure shall include only that part of the Confidential Information that the Receiving Party is required to disclose.

9.4 The Receiving Party acquires no intellectual property rights from the Disclosing Party under this Agreement, except for the restricted right to use Disclosing Party's Confidential Information for the express, limited purposes permitted by this Agreement.

10. Publication

10.1 Sponsor recognizes that the scientific results of Michigan Tech research must be publishable and may be presented at symposia or professional meetings; published in journals, theses, or dissertations; and/or otherwise disclosed for scholarly or academic purposes.

10.2 Except as provided in Section 9.2, Michigan Tech agrees not to publish or otherwise disclose Confidential Information. Sponsor agrees that Michigan Tech, subject to review by Sponsor, shall have the right to publish results of the Project. Sponsor shall be furnished copies of any proposed publication or presentation at least thirty (30) days before submission. Sponsor shall have such thirty (30) days as a review period to identify Confidential Information provided by the Sponsor and to assess the patentability of any invention described in the proposed publication or presentation. During the thirty (30) day review period and upon receipt of written notice from Sponsor, Michigan Tech shall (a) remove Sponsor Confidential Information identified in such notice and/or; (b) delay the presentation or publication for an additional ninety (90) days or until a patent application is filed, whichever is sooner. Should Sponsor fail to provide written notice within thirty (30) days after receipt of any proposed publication or presentation, Sponsor shall be deemed to have approved publication of the entire content, and Michigan Tech shall be free to publish or present material included in the proposed publication or presentation.

11. Intellectual Property Protection

11.1 Intellectual Property shall mean, individually and collectively, all know-how, inventions, discoveries, and works of authorship which are discovered or conceived directly pursuant to the Project, and any registration or protection (including but not limited to patents, trademarks, and copyrights) on any of the foregoing. Michigan Tech Intellectual Property means any Intellectual Property discovered or conceived solely by Michigan Tech. Joint Intellectual Property means any Intellectual Property discovered or conceived jointly by Michigan Tech and Sponsor.

11.2 Sponsor recognizes that Michigan Tech has an obligation to utilize the knowledge and technology generated by Michigan Tech research under the Project in a manner which maximizes societal benefit and economic development and which provides for the education of graduate and undergraduate students.

11.3 Each party shall notify the other party of any Intellectual Property disclosed to it within thirty (30) days of its receipt of disclosure and such disclosure shall be considered Confidential Information.

11.4 Michigan Tech will, through patent counsel of its choosing, prepare, file, and prosecute applications for patents on any potentially patentable aspects of the Intellectual Property that the parties agree to pursue. Michigan Tech will pay maintenance and annuity fees on any patent applications and patents the parties agree to maintain in force. Sponsor will reimburse Michigan Tech for all fees and costs associated with the pursuit and maintenance of patents on such potentially patentable aspects of the Intellectual Property. Michigan Tech will have ultimate decision-making authority on any patent applications on the Intellectual Property, but will provide Sponsor with information on the status of all such patent applications.

12. Intellectual Property Licenses

12.1 Michigan Tech Intellectual Property will be owned by Michigan Tech, and Joint Intellectual Property will be owned by the parties jointly.

12.2 Michigan Tech hereby grants to Sponsor a non-exclusive, royalty-free license under the Michigan Tech Intellectual Property to make, use, sell, and import the Michigan Tech Intellectual Property. Such non-exclusive license is subject to termination by Michigan Tech with respect to any patent in the event Sponsor fails to reimburse Michigan Tech for any fees and costs incurred in securing and maintaining such patent.

12.3 Exclusive Negotiation Period shall mean the six (6) month period following the end-date of the Project. If Sponsor desires an exclusive license under the Intellectual Property, Sponsor will notify Michigan Tech of same. In such event, Michigan Tech will not negotiate with any third party any license under the Intellectual Property during the Exclusive Negotiation Period. During the Exclusive Negotiation Period, the parties will negotiate an exclusive license for Sponsor under Michigan Tech's rights to the Intellectual Property. Such exclusive license will be subject to termination by Michigan Tech with respect to any patent in the event Sponsor fails to reimburse Michigan Tech for any fees and costs incurred in securing and maintaining such patent.

12.4 In the event Sponsor declines or ceases to reimburse Michigan Tech for its costs in the securing and maintaining of any patent on any aspect of the Intellectual Property, Michigan Tech may continue to secure and maintain the patent at its own cost and without any obligation or license to Sponsor for that patent.

12.5 Any other terms of this Agreement or any exclusive license negotiated under this agreement notwithstanding, Michigan Tech retains the right to perform research even if such research activities overlap the Project and whether or not such research is supported either by Michigan Tech or by any third party.

13. Independent Parties

13.1 In the performance of all services hereunder, Michigan Tech shall be deemed to be and shall be an independent contractor.

13.2 Neither party is authorized or empowered to act as agent for the other for any purpose and shall not on behalf of the other enter into any contract, warranty, or representation as to any matter. Neither shall be bound by the acts or conduct of the other.

14. Indemnity Each party remains liable for all risks of personal or bodily injury and property damage caused by the negligent or willful acts or omissions of that party but subject to and reserving all applicable immunities granted by law or constitution to either party. Except as provided above, Sponsor shall fully indemnify and hold harmless Michigan Tech against all claims, costs or judgments (including expenses of defense) arising out of Sponsor's use, commercialization, or distribution of information, materials or products which result in whole or in part from the research performed pursuant to this Agreement; and from and against any and all claims, costs or judgments (including expenses of defense) arising out of claimed copyright, patent, or other confidentiality or proprietary rights violations with respect to any product or information provided by Sponsor to Michigan Tech. This clause is solely for the benefit of the parties to this Agreement and is not intended to create any rights in any third party.

15. Export Control Sponsor shall comply with all applicable export control regulations of the United States of America. Sponsor shall be responsible for obtaining all information regarding such regulations that is necessary for Sponsor to comply with such regulations.

16. Modifications to Agreement Any agreement to modify the terms of this Agreement shall be valid only if the modification is made in writing and approved by authorized representatives of both parties.

17. Notices All notices, communications and reports given under this Agreement shall be in writing delivered by certified mail, common courier, facsimile or electronic mail, with receipt acknowledged, addressed to the parties as follows or such other address as may hereafter be designated by notice in writing. Notice given pursuant to this Section shall be effective as of the date of receipt of notice.

If to Michigan Tech:

Contractual Issues:

Technology and Economic Development
Michigan Technological University
1400 Townsend Drive
Houghton, MI 49931
Phone: (906) 487-2228
Fax: (906) 487-1979
Email: _____

Technical Issues:

Michigan Technological University
1400 Townsend Drive
Houghton, MI 49931
Phone: (906) 487-
Fax: (906) 487-
Email: _____

If to Sponsor:

Contractual Issues:

Technical Issues:

Sponsor's Billing Address:

18. Waiver Except as specifically provided for herein, any waiver by either of the parties of any of their rights or their failure to exercise any remedy shall not operate or be construed as a continuing waiver of same or of any other of such party's rights or remedies provided in this Agreement.

19. Governing Law This Agreement shall be governed and construed in accordance with laws of the State of Michigan.

20. 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 this Agreement to be duly executed.

Michigan Technological
University

Sponsor

By _____
Print Name _____
Title _____
Date _____

By _____
(To be signed by a company official authorized to obligate the Sponsor)
Print Name _____
Title _____
Date _____