

AUBURN UNIVERSITY
FIXED PRICE RESEARCH SERVICES AGREEMENT

This Agreement is made between _____, ("**Sponsor**") located at _____ and Auburn University ("**Auburn**") located at Office of Sponsored Programs, 540 Devall Drive, Suite 200, Auburn, AL 36832.

The Sponsor desires to provide financial support for research services ("**Project**"), which are of mutual interest to Auburn and to Sponsor. The Project will further the instructional, research and public service missions of Auburn in a manner consistent with its status as a non-profit, tax-exempt, educational institution and may derive benefits for both Sponsor and Auburn. The details of the services are attached as Appendix A and incorporated by reference.

1. PROJECT TITLE:

**Details and SOW are given in Appendix A*

2. PERSONNEL AND FACILITIES

Auburn has the personnel and facilities necessary to complete the Project. Auburn will undertake the Project through its Department of:

Auburn's Principal Investigator for the Project is:

3. AGREEMENT TERM

This Agreement begins on _____ and ends on _____ ("**Term**").

4. FINANCIAL SUPPORT

For support of the Project, Sponsor agrees to provide the sum of _____ U.S. Dollars under the payment terms indicated below.

- ___ Full payment upon execution of this Agreement.
- ___ Quarterly in advance, with first payment due upon execution of this Agreement.
- ___ 90% upon execution of this Agreement, 10% withheld until receipt of final report.

If no payment option is checked, full payment will be due within 30 days after execution of this Agreement.

Sponsor's Financial POC Name:
Address:

Email
Phone number

5. PAYMENT

Make checks payable to Auburn University and mail to Director, Contracts and Grants Accounting, 208 M. White Smith Hall, Auburn, AL 36849-5110.

6. TECHNICAL REPORTS

Auburn agrees to furnish through the Principal Investigator to the Sponsor: (i) technical reports and other research deliverables, as outlined in Appendix A, and (ii) a final report. All reports and research deliverables are the property of the Sponsor provided however that any deliverables protected under patent or copyright laws are subject to Article 9 (Intellectual Property). Auburn reserves the right to use such reports and deliverables for research and educational purposes subject to the confidentiality provisions of Article 10 (Confidential Information).

7. PROTOCOLS

The Project is for the analysis of a material, product, or device ("**Sponsor's Product**"). The Sponsor will provide the material, product or device to be analyzed along with the complete protocol ("**Protocol**") for the analysis. The Principal Investigator

will follow all aspects of the Protocol, which is incorporated herein as Appendix A.

8. PUBLICATION RIGHTS

The parties agree that Auburn may publish the results of the work in its own form. In all publications, Sponsor will remain anonymous and proper confidentiality will be maintained, unless otherwise specified by Sponsor.

At Sponsor's request, Auburn will provide a copy of any proposed publication sixty (**60**) days in advance of submission to review for confidential information and language which would affect any potential patent filings. Sponsor's review will be completed and any objections made within this period. Fair consideration shall be given to Sponsor's comments.

9. INTELLECTUAL PROPERTY

All inventions arising out of the performance of the services in Appendix A will be promptly disclosed to Sponsor. All inventions, patent applications, patents, or copyrights made during the term of this Agreement ("**Inventions**") shall be owned as follows:

- a) Inventions which involve the use of, composition of, modification to, or improvement to Sponsor's Product or information or a derivative analogue thereof and which are reasonably anticipated from the research protocol shall belong to Sponsor;
- b) Inventions which involve the use of, composition of, modification to, or improvement to Sponsor's Product or information or a derivative analogue thereof and which are unexpected and unique shall belong to Auburn, if made solely by an Auburn employee; shall belong to Sponsor if made solely by a Sponsor employee; and shall belong to both Sponsor and Auburn if made jointly or in collaboration; and
- c) Inventions which cover a scientific process, technique, procedure, medium device or other process which are not unique to or derived from Sponsor's Product shall be owned by Auburn if made solely by an Auburn employee; shall be owned by Sponsor if made solely by a Sponsor employee; and shall be owned by both Sponsor and Auburn if made jointly or in collaboration.
- d) Each party shall own its respective rights in any Inventions developed prior to the Term or outside the Protocol ("**Background Intellectual Property**" or "**Background IP**") it uses during the course of this Project. No license is granted by either party to the other to use its Background IP for any purpose other than for use on this Project.

In the case of 9b) or 9c) herein and to the extent Auburn is legally able to do so, Sponsor shall have the first option to negotiate an exclusive or non-exclusive, royalty-bearing license. Such option period shall last for six (6) months from the date the invention is first disclosed to the Sponsor, but in no case longer than one (1) year from the end date of this Agreement.

10. CONFIDENTIAL INFORMATION

Should it be necessary for either party to receive the other's confidential Information, the disclosing party agrees to disclose such information in writing and marked "confidential", or if given orally, reduced to writing and clearly marked as confidential within 30 days of the oral disclosure. The receiving party agrees to safeguard the disclosing party's confidential material to the same extent it safeguards its own for a period of three (3) years from the end date or termination of this Agreement. Confidential Information does not include (a) information which is now or hereafter becomes a part of the public domain; (b) information known to the receiving party before disclosure to it by the disclosing party hereunder as evidenced by its records; (c) information given to the receiving party by a third party having a right to disclose the same; or (d) information which the receiving party is compelled to disclose by judicial or administrative process, or by other mandatory requirements of law.

Each Party will retain all Project Invention disclosures submitted in confidence and will not disclose them to third parties. Either party will be relieved of this obligation only when this information becomes publicly available through no fault of the other party.

11. DISCLAIMER OF WARRANTY

THE SPONSOR WILL RECEIVE RESEARCH PROJECT RESULTS, REPORTS, DATA, AND DELIVERABLES "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. AUBURN IS NOT LIABLE FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, SPECIAL OR OTHER DAMAGES SUFFERED BY SPONSOR AS A RESULT OF SPONSOR'S USE OF PROJECT RESULTS, REPORTS, DATA, OR DELIVERABLES.

12. PUBLICITY

The parties will not use the name of the other or the other's Project staff in any publicity, advertising, or news release without the prior written consent of the other. Sponsor will not state or imply that Auburn endorses any Sponsor product or process. Auburn shall be free to announce receipt of funding in routine campus announcements.

13. COMPLETION

Auburn will complete the Project on time and in accordance with Appendix A. However, Sponsor acknowledges that research, by its nature is uncertain and understands there is no guarantee of certain results. Auburn agrees to perform the work with the highest professional standards, quality and within the Term. Auburn is under no obligation to spend more on the Project than the funds provided by the Sponsor for the Project.

14. TERMINATION

This Agreement may be terminated by either party for a breach of any of the terms herein. Upon written notification, the breaching party shall have 30 days to cure such breach. If such breach is not cured, the non-breaching party may deliver a Notice of Termination to the breaching party terminating the Agreement. For a breach of non-payment of support by Sponsor, Auburn is under no obligation to continue work on the Project. During such non-payment period and/or a termination of this Agreement for a non-payment breach, Auburn is under no obligation to conform to any of the Agreement terms herein, except Section 10 (Confidential Information) and Section 12 (Publicity).

Either party may terminate performance of the Project in whole or in part if it is in the best interest of either party. The terminating party shall deliver a Notice of Termination specifying the basis of the termination, extent of termination and effective date. Auburn will be paid for all services delivered and all non-cancelable commitments made prior to the date of termination. In the event that only a portion of effort is terminated, Auburn shall work diligently to continue all other efforts that remain active.

15. EQUIPMENT

Auburn retains title to the equipment purchased for this Project with funds provided by Sponsor.

16. GENERAL

This Agreement contains the entire agreement between the parties with respect to the subject matter hereof. If Sponsor issues a purchase order to initiate the Project, the terms of this Agreement supersede in their entirety the terms of the purchase order. No modification to the terms of this Agreement shall be valid unless made in writing and signed by authorized representatives of the parties. This Agreement is governed according to and under the jurisdiction of the laws of the State of Alabama.

AUBURN UNIVERSITY

SPONSOR

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Auburn EIN: 63-6000724

Sponsor EIN: