

SPONSORED RESEARCH AGREEMENT
(Version 10/07)

This Agreement, effective this _____ day of _____, 20____ is between the University of Massachusetts (“Institution”), a public institution of higher education of the Commonwealth of Massachusetts, as represented by its Amherst campus and [name of sponsor] (“Sponsor”), [corporate identity of sponsor -- e.g., a Delaware corporation].

R E C I T A L S

Sponsor would like to engage the Institution to conduct research that has potential to create or enhance technologies to assist in Sponsor’s development and commercialization of new products or processes. The research contemplated by this Agreement is designed to produce results of mutual interest to the Institution and Sponsor and will advance the instruction, research, and public service missions of the Institution in a manner consistent with its status as a non-profit, tax-exempt, educational institution. The research will benefit the Sponsor, the Institution, and society through the advancement of science, knowledge, and new discovery.

The intellectual property provisions of this Agreement are designed to balance Sponsor’s ability to exploit the commercial advantage presented by technologies, products, or processes derived from the research with the University’s responsibilities to ensure the broadest public benefit and to maintain its tax exempt, non-profit status. The University recognizes the commercial aspirations of the Sponsor, and the Sponsor understands the obligation of the University to utilize research in a manner that maximizes public benefit in the expansion of knowledge and the enhancement of education of graduate and undergraduate students.

The Institution’s research capabilities reflect a substantial public investment, which the Institution, as a part of its mission as a public institution of higher education and a land-grant Institution, wishes to utilize in a cooperative and collaborative research effort with Sponsor.

Therefore, in consideration of the premises and terms of this Agreement, Institution and Sponsor agree as follows:

1. Definitions.

1.1. “Confidential Information” means any confidential or proprietary information as described in Section 4.1.

1.2. “Field” means [field within Sponsor’s area of commercial capabilities for license Option Right].

1.3. “Invention” means any potentially patentable discovery based on the Research Results which is conceived and reduced to practice during the term of this Agreement by employees of Institution or Sponsor, or both.

1.4. “Materials” means any tangible biological, chemical, or physical materials. In the case of biological materials, the term “Materials” also means tangible materials that are routinely produced through use of original materials, including, for example, any progeny derived from a cell line, monoclonal antibodies produced by hybridoma cells, DNA or RNA replicated from isolated DNA or RNA, recombinant proteins produced through use of isolated DNA or RNA, and recombinant proteins isolated from a cell extract or supernatant by non-proprietary affinity purification methods.

1.5. “Patent Rights” means all United States and foreign patent applications claiming an Invention, including any divisional, continuation, continuation-in-part (to the extent that the claims are directed to an Invention), and foreign equivalents of those patent applications, as well as any patents that issue on those applications or reissues or reexaminations of them. “Institution Patent Rights” means Patent Rights claiming Inventions that are conceived solely by employees of Institution, as determined under the patent laws of the United States. “Joint Patent Rights” means Patent Rights claiming Inventions that are conceived jointly by employees of Institution and employees or contractors of Sponsor, as determined under the patent laws of the United States.

1.6. “Principal Investigator” means the employee of Institution who has primary responsibility for performance of the Research Project. The Principal Investigator is identified in Section 2.1. below.

1.7. “Project Materials” means Materials that are discovered or developed in performance of the Research Project.

1.8. “Proprietary Materials” means any proprietary Materials as described in Section 4.2.

1.9. “Research Project” means the research project described in Exhibit A.

1.10. “Research Results” means all data, test results, laboratory notes, techniques, know-how, and any other research results that are obtained in performance of the Research Project. The term Research Results does not include any Project Materials, patentable inventions, copyrighted or copyrightable works, trademarks or service marks, or other intellectual property based on the Research Results. As a matter of policy, Institution ordinarily does not assert trade secret protection for Research Results.

1.11. “Technical Representative” means the individual designated by Sponsor as its principal representative for consultation and communications with Institution and the Principal Investigator regarding technical matters. The Technical Representative is identified in Section 2.2. below.

1.12. Terminology. As used in this Agreement, “shall” means is or are obligated to, and “may” means is or are permitted to.

2. Research Project.

2.1. Performance of Research Project. Institution shall use reasonable efforts to complete the Research Project.

2.2. Principal Investigator. The Principal Investigator is [name of PI]. If [name of PI] ceases to serve as Principal Investigator for any reason, Institution shall promptly notify Sponsor, and Institution and Sponsor shall use good faith efforts to identify a mutually acceptable replacement within sixty (60) days.

2.3. Technical Representative. The Technical Representative is [name of TR]. Sponsor may change its Technical Representative upon thirty (30) days written notice to Institution.

2.4. Consultation. The Technical Representative may consult informally with the Principal Investigator in person, by telephone, or by electronic means regarding the performance of the Research Project. The Technical Representative shall have reasonable access to Institution facilities where the Research Project is being conducted, but the Principal Investigator determines the exact time and manner of access.

2.5. Records and Reports. The Principal Investigator shall prepare and maintain records containing all Research Results, including laboratory notebooks maintained in accordance with customary Institution practice. During the term of this Agreement at the convenience of the Principal Investigator, the Technical Representative shall have reasonable access to research records. Within ninety (90) days after the expiration or termination of this Agreement, the Principal Investigator shall deliver to Sponsor a final report describing all significant Research Results in reasonable detail. However, the Principal Investigator may extend this ninety-day deadline with the consent of Sponsor, which consent Sponsor may not unreasonably withhold.

3. Research Project Support.

3.1. Contributions to Research Project. Sponsor shall provide to the Institution the amount of _____ (\$x) for performance of the Research Project. Additional support consisting of equipment, personnel, technology, and other resources are listed on Exhibit B (“Sponsor Contributions”).

3.2. Payments to Institution. Payments shall be made upon receipt of advance quarterly invoices in accordance with the following schedule:

[dates \$ amounts]

Sponsor payments should reference _____, be made payable to the University of Massachusetts and sent to Controller’s Office, 405 Goodell Building, University of Massachusetts, Amherst 01003.

Institution shall direct invoices to: [Sponsor financial contact]

3.3. Use of Funds. Institution shall monitor expenditures in accordance with its institutional policies to ensure that the funds provided by Sponsor are spent for the Research Project.

3.4. Ownership of Equipment. Upon termination or expiration of this Agreement, Institution retains title to all equipment purchased or fabricated by Institution with funds provided by Sponsor.

4. Confidential Information; Proprietary Materials; Publications.

4.1. Confidential Information.

(a) Definition. Confidential Information means any confidential or proprietary information furnished by one party to the other in connection with the Research Project that is specifically designated as confidential.

(b) Designation. The disclosing party shall mark Confidential Information that is disclosed in writing with a legend indicating its confidential status (such as, “Confidential” or “Proprietary”). The disclosing party shall note the confidential nature of Confidential Information that is disclosed orally or visually at the time of disclosure and document the Confidential Information in a written notice (that summarizes the Confidential Information and references the time and place of disclosure) to the receiving party within fifteen (15) days after the date of disclosure.

(c) Obligations. For three (3) years after disclosure of Confidential Information, the receiving party may only disclose or permit the disclosure of Confidential Information to its directors, officers, employees, consultants, and contractors who are obligated to maintain the confidential nature of Confidential Information and who need to know Confidential Information for the performance of the Research Project. Institution and the Principal Investigator reserve the right to refuse to accept any Confidential Information offered by Sponsor.

(d) Exceptions. The obligations of Section 4.1.(c) do not apply to the extent that the receiving party can demonstrate that Confidential Information (i) is generally available to the public through no act of the receiving party; (ii) is independently known, developed, or discovered without use of Confidential Information; (iii) is made available as a matter of lawful right by a third party; (iv) is required to be disclosed to comply with laws, regulations, or a court or administrative order provided that the disclosing party receives reasonable prior written notice of the disclosure.

(e) Ownership and Return. The disclosing party (or a third party entrusting its information to the disclosing party) owns its Confidential Information in the possession of the receiving party. Upon the expiration or termination of this Agreement or at the request of the disclosing party, the receiving party shall return all originals, copies, and summaries of Confidential Information in the possession or control of the receiving party, except that legal counsel of the receiving party may retain one (1) copy of the Confidential Information solely for the purpose of monitoring its obligations under this Agreement.

4.2. Proprietary Materials.

(a) Definition. Proprietary Materials means any proprietary Materials other than Project Materials that are furnished by one party to the other party in connection with performance of the Research Project.

(b) Limited Use and Transfer. The recipient may use Proprietary Materials only for performance of the research project and only in compliance with applicable federal, state, and local laws and regulations. The recipient may not use the Proprietary Materials in any in vivo experiments on human subjects. The recipient may not transfer any Proprietary Materials to any third party without the prior written consent of the supplier. Institution and the Principal Investigator reserve the right to refuse to accept any Proprietary Materials offered by Sponsor.

(c) Warranty Disclaimer. Proprietary Materials that are furnished pursuant to this Agreement are provided for experimental purposes and may have hazardous properties. THE SUPPLIER MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO ANY PROPRIETARY MATERIALS. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NEITHER PARTY MAKES ANY ASSURANCES THAT THE USE OF PROPRIETARY MATERIALS WILL NOT INFRINGE ANY PATENT RIGHTS OR OTHER PROPRIETARY RIGHTS OF A THIRD PARTY.

(d) Ownership and Return. The supplier (or any third party entrusting its Materials to the Supplier) owns its Proprietary Materials in possession of the recipient. Upon the expiration or termination of this Agreement, the recipient shall, at the instruction of supplier, either destroy or return any unused Proprietary Materials.

4.3. Publications. Institution and its employees may disclose publicly (through journals, lectures, or otherwise) Research Results, provided that the Principal Investigator provides a copy of the proposed disclosure to Sponsor at least sixty (60) days prior to the submission of any written publication and at least thirty (30) days prior to any oral public disclosure (the "Review Period") to allow Sponsor to determine whether any Invention or Sponsor's Confidential Information would be disclosed. The parties expressly agree that research grant proposals submitted to federal, state, or local agencies or non-profit organizations are not subject to review under this Section. If Sponsor reasonably determines that the proposed disclosure would reveal an Invention or Sponsor Confidential Information, then Sponsor shall notify Institution and the Principal Investigator of the determination and its basis prior to the expiration of the Review Period. With respect to disclosure of an Invention, upon receipt of timely notice by Sponsor, the Principal Investigator agrees to delay submission of the written publication or oral disclosure to allow time to file a patent application. With respect to disclosure of Sponsor Confidential Information, upon receipt of timely notice by Sponsor, the Principal Investigator agrees to delete Sponsor Confidential Information from any proposed disclosure.

5. Intellectual Property.

5.1. Assignment of Rights in Inventions and Project Materials. The Principal Investigator agrees to assign to Institution all rights in Inventions and commercial rights in Project Materials. The Principal Investigator shall certify that every person who is involved in the Research Project agrees to assign to Institution all rights in Inventions and commercial rights in Project Materials. Sponsor represents and warrants that all of its employees and contractors who are involved in the Research Project have agreed to assign to Sponsor all rights in Inventions and all commercial rights in Project Materials.

5.2. Ownership of Patent Rights and Project Materials. In accordance with United States patent law, Institution owns Institution Patent Rights. Institution and Sponsor jointly, own Joint Patent Rights. Institution owns commercial rights in all Project Materials not claimed in the Patent Rights. However, if a Project Material incorporates one or more Sponsor Proprietary Materials, Institution may not exploit commercial rights in that Project Material without the written consent of Sponsor.

5.3. Notice of Inventions and Project Materials. The Principal Investigator shall promptly disclose to Institution the conception of any Invention and the development or discovery of any commercially valuable Project Material that is not otherwise disclosed as an Invention. Institution and Sponsor shall provide prompt written notice to the other of the internal disclosure by its employees of any Invention or Project Material. Institution and Sponsor shall discuss whether to obtain Patent Rights for the Invention.

5.4. Patent Rights.

(a) Responsibility with Institution. Institution, at the expense of Sponsor (subject to Subsection 5.4(c)), shall prepare, file, prosecute, and maintain all Institution Patent Rights and Joint Patent Rights, using patent counsel reasonably acceptable to Sponsor. Institution shall consult with Sponsor as to the preparation, filing, prosecution, and maintenance of all Patent Rights reasonably prior to any deadline or action with the United States Patent & Trademark Office or any foreign patent office and shall furnish Sponsor with copies of all relevant documents reasonably in advance of consultation. Sponsor's comments shall be taken into consideration.

(b) Cooperation. Institution and Sponsor shall cooperate in the preparation, filing, prosecution, and maintenance of all Institution Patent Rights and Joint Patent Rights. Cooperation includes, without limitation, (i) promptly executing or requiring employees to execute all papers and instruments as reasonable and appropriate; and (ii) promptly informing the other party of matters that may affect the preparation, filing, prosecution, or maintenance of any Patent Rights.

(c) Payment of Expenses. Within thirty (30) days after Institution invoices Sponsor, Sponsor shall reimburse Institution for all reasonable patent-related expenses incurred by Institution pursuant to Subsection 5.4.(a). Sponsor may elect, upon sixty (60) days' written notice to Institution, to cease payment of the expenses associated with obtaining or maintaining patent protection for one or more Patent Rights in one or more countries. In that event, Sponsor loses all rights under this Agreement with respect to Patent Rights in those countries.

5.5. Option for Exclusive License. Institution grants Sponsor a first option to obtain a worldwide, royalty-bearing, exclusive license (with the right to sublicense) under its commercial rights in any Institution Patent Rights, Joint Patent Rights, and Project Materials in the Field (the “Option Right”). Sponsor may exercise the Option Right with respect to a particular Patent Right by written notice to Institution which is received by Institution not later than sixty (60) days after the disclosure to Sponsor of the relevant Invention (the “Option Period”). If Sponsor does not exercise the Option Right, during the Option Period, Institution may license its commercial rights under the relevant Patent Right to any third party. If Sponsor exercises the Option Right, Institution and Sponsor shall negotiate in good faith a license agreement containing commercially reasonable terms. If Institution and Sponsor are unable to reach agreement within six (6) months after Sponsor exercises the Option Right (the “Negotiation Period”), Institution may offer its commercial rights in the relevant Patent Right to any third parties. However, for one (1) year after the Negotiation Period expires, Institution may only offer those rights to third parties on terms that are not more favorable than the last offer made by Institution to Sponsor, unless Institution first provides Sponsor with written notice of the more favorable offer and Sponsor either (i) declines in writing to accept the offer or (ii) fails to respond to the offer within thirty (30) days after receiving notice.

5.6. Use of Research Results and Project Materials. Each party may use Research Results for any purpose and use Project Materials for internal research (but not in a commercial product or in connection with a commercial service). However, in the case of Sponsor, the use may not infringe any claim of a patent application or an issued patent included in the Institution Patent Rights for which Sponsor has failed to obtain a license as provided in Section 5.5. above.

5.7. Copyrightable Works. Institution or its employees own any copyrighted or copyrightable works (including reports and publications) that are created by Institution employees in the performance of the Research Project. Institution and the Principal Investigator grant Sponsor an irrevocable, royalty-free, nontransferable, non-exclusive right to copy and distribute any research reports furnished to Sponsor under this Agreement.

6. Term and Termination.

6.1. Term. The Research Project period of performance shall be _____ through _____ unless earlier terminated in accordance with the provisions of this Agreement.

6.2. Loss of Principal Investigator. If the Principal Investigator leaves Institution or otherwise terminates his or her involvement in the Research Project, and if Institution and Sponsor fail to identify a mutually acceptable substitute as provided in Section 2.2., Sponsor may terminate this Agreement upon sixty (60) days’ prior written notice to Institution.

6.3. Termination for Default. If either party commits a material breach of its obligations under this Agreement and fails to cure that breach within sixty (60) days after receiving written notice of the breach, the other party may terminate this Agreement immediately upon written notice to the party in breach. If the alleged breach involves nonpayment of any amounts due Institution under this Agreement, Sponsor has only one (1) opportunity to cure a material breach for which it receives notice as described above; any subsequent material breach by Sponsor entitles Institution to terminate this Agreement immediately upon written notice to Sponsor, without the sixty-day cure period.

6.4. Force Majeure. Neither party is responsible for delays resulting from causes beyond reasonable control, including without limitation fire, explosion, flood, war, strike, or riot, provided that

the nonperforming party uses commercially reasonable efforts to avoid or remove causes of nonperformance and continues performance under this Agreement with reasonable dispatch after the causes are removed.

6.5. Effect of Expiration or Termination.

(a) Survival. The following provisions survive the expiration or termination of this Agreement: Articles 1, 4, and 7; Sections 2.5. (obligation to deliver final report), 6.5., 8.2., 8.3., 8.4., 8.14., and 8.15. In addition, the provisions of Article 5 survive termination of this Agreement, as necessary to allow Sponsor to exercise its Option Right within the Option Period and to negotiate a license within the Negotiation Period, unless Institution has terminated this Agreement because of a material breach by Sponsor pursuant to Section 6.3.

(b) Required Payments after Termination. If this Agreement is terminated prior to its expiration for any reason other than a material breach by Institution pursuant to Section 6.3., then on the effective date of termination, Sponsor shall pay Institution the entire amount of any uncancellable financial commitments that Institution intended to pay through Sponsor Contributions, including without limitation (i) salaries for appointed employees for the remainder of their term of appointment (e.g., postdoctoral fellows) and stipends for graduate students and (ii) Institution expenses previously incurred for equipment, travel, and associated indirect costs.

(c) Final Accounting. Upon the request of Sponsor made within thirty (30) days after the expiration or termination of this Agreement, Institution shall furnish Sponsor with a final accounting of all expenses incurred in connection with the Research Project and all funds received from Sponsor pursuant to this Section 3.2., together with a check payable to Sponsor in the amount of any unexpended and uncommitted funds, failing which Institution retains any unexpended funds.

7. Dispute Resolution.

7.1. Procedures Mandatory. The parties shall resolve any dispute arising out of or relating to this Agreement solely through the procedures of this Article 7. These procedures constitute legally binding obligations that are an essential provision of this Agreement. If either party fails to observe the procedures of this Article, as modified by their written agreement, the other party may bring an action for specific performance in any court of competent jurisdiction.

7.2. Dispute Resolution Procedures.

(a) Negotiation. In the event of any dispute arising out of or relating to this Agreement, the affected party shall notify the other party, and the parties shall attempt in good faith to resolve the matter within ten (10) days after the date notice is received by the other party (the "Notice Date"). Any disputes not resolved by good faith discussions shall be referred to senior executives of each party, who shall meet at a mutually acceptable time and location within thirty (30) days after the Notice Date and attempt to negotiate a settlement.

(b) Mediation. If the matter remains unresolved within sixty (60) days after the Notice Date, or if the senior executives fail to meet within thirty (30) days after the Notice Date, either party may initiate mediation upon written notice to the other party. After notice that a party has initiated mediation, the parties shall engage in a mediation proceeding under the then current CPR International Institute for Dispute Resolution ("CPR") Mediation Procedure, except that specific

provisions of this Section override inconsistent provisions of the CPR Mediation Procedure. The mediator will be selected from the CPR Panels of Neutrals. If the parties cannot agree upon the selection of a mediator within ninety (90) days after the Notice Date, then upon the request of either party, CPR shall appoint the mediator. The parties shall attempt to resolve the dispute through mediation until one of the following occurs: (i) the parties reach a written settlement; (ii) the mediator notifies the parties in writing that they have reached an impasse; (iii) the parties agree in writing that they have reached an impasse; or (iv) the parties have not reached a settlement within one hundred twenty (120) days after the Notice Date.

(c) Trial Without Jury. If the parties fail to resolve the dispute through mediation, or if neither party elects to initiate mediation, each party may pursue any other remedies legally available to resolve the dispute. However, the parties expressly waive any right to a jury trial in any legal proceeding under this Section.

7.3. Preservation of Rights Pending Resolution.

(a) Performance to Continue. Each party shall continue to perform its obligations under this Agreement pending final resolution of any dispute arising out of this Agreement. However, a party may suspend performance of its obligations during any period in which the other party fails or refuses to perform its obligations.

(b) Provisional Remedies. Although the procedures specified in this Article are the exclusive procedures for the resolution of disputes arising out of this Agreement, either party may seek a preliminary injunction or other provisional equitable relief if, in its reasonable judgment, that action is necessary to avoid irreparable harm to itself or to preserve its rights under this Agreement.

(c) Statute of Limitations. The parties agree that all applicable statutes of limitation and time-based defenses (such as, estoppel and laches) are tolled while the procedures set forth in Subsections 7.2.(a) and 7.2(b) are pending. The parties shall take any actions necessary to effectuate this result.

8. Miscellaneous.

8.1. Compliance with Law and Policies. Sponsor agrees to comply with applicable law and to notify Institution promptly of any violation of the University's technology transfer policies that Sponsor knows or has reason to believe has occurred or is likely to occur. The technology transfer policies in effect at the [campus] campus are the Intellectual Property Policy, Policy on Conflicts of Interest Relating to Intellectual Property and Commercial Ventures, and Policy on Faculty Consulting and Outside Activities.

8.2. Indemnification.

(a) Indemnity. Sponsor shall indemnify, defend, and hold harmless Institution and its trustees, officers, faculty, students, employees, and agents and their respective successors, heirs and assigns (the "Indemnitees"), against any liability, damage, loss, or expense (including reasonable attorneys fees and expenses of litigation) that are incurred by or imposed on any of the Indemnitees in connection with any claims, suits, actions, demands, or judgments arising out of any theory of liability (including without limitation actions in the form of tort, warranty, or strict liability and regardless of whether the action has any factual basis) relating to this Agreement or concerning any product,

process, or service that is made, used, or sold pursuant to any right or license granted under this Agreement. However, indemnification does not apply to any liability, damage, loss, or expense to the extent directly attributable to (i) the gross negligence or intentional misconduct of the Indemnitees or (ii) the settlement of a claim, suit, action, or demand by Indemnitees without the prior written approval of Sponsor.

(b) Procedures. The Indemnitees agree to provide Sponsor with prompt written notice of any claim, suit, action, demand, or judgement for which indemnification is sought under this Agreement. Sponsor agrees, at its own expense, to provide attorneys reasonably acceptable to Institution to defend against any claim, suit, action, demand, or judgement. The Indemnitees shall cooperate with Sponsor in the defense and permit Sponsor to conduct and control the defense and the disposition of the claim, suit, action, demand, or judgement (including all decisions relative to litigation, appeal, and settlement). However, any Indemnitee may retain its own counsel, at the expense of Sponsor, if representation of that Indemnitee by the counsel retained by Sponsor would be inappropriate because of an actual or potential conflict between the interests of the Indemnitee and any other party represented by that counsel. Sponsor agrees to keep Institution informed of the progress in the defense and disposition of the claim and to consult with Institution with regard to any proposed settlement.

8.3. Publicity Restrictions. Sponsor may not use the name of Institution or any of its trustees, officers, faculty, students, employees, or agents, or any adaptation of those names, or any terms of this Agreement in any promotional material or other public announcement or disclosure without the prior written consent of Institution.

8.4. Warranty Disclaimer. Institution makes no express warranties and disclaims any implied warranties as to any matter relating to this Agreement, including without limitation the performance or results of the Research Project; the availability of legal protection for any Research Results, Project Materials, Inventions, or any other work product of the Research Project; or the validity or enforceability of any Patent Right that may be obtained pursuant to this Agreement. THE INSTITUTION PROVIDES NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE FOR ANY PROJECT MATERIALS OR RESEARCH RESULTS. THE INSTITUTION MAKES NO ASSURANCES THAT THE USE OF PROJECT MATERIALS OR RESEARCH RESULTS WILL NOT INFRINGE ANY PATENT RIGHTS OR OTHER PROPRIETARY RIGHTS OF A THIRD PARTY.

8.5. Notice to Other Investigators. The Principal Investigator shall furnish all investigators involved in the Research Project, including faculty, staff, students, and post-doctoral fellows, with written notice of their obligations under Articles 4 and 5 of this Agreement.

8.6. Research Partially Funded by Grants. To the extent that any Invention has been funded by the federal government, this Agreement and the grant of any rights in that Invention is subject to and governed by federal law as set forth in 35 U.S.C. §§ 201-211, and the regulations promulgated thereunder, as amended, or any successor statutes or regulations. To the extent that any Invention has been funded by a non-profit organization or state or local agency, this Agreement and the grant of any rights in that Invention is subject to and governed by the terms of the applicable research grant. If any term of this Agreement fails to conform with those laws, regulations, or grants, the relevant term is invalid and the parties shall modify the term pursuant to Section 8.16. Institution shall make available to Sponsor the terms of any research grants that partially fund the Research Project upon the request of Sponsor.

8.7. Tax-Exempt Status. Sponsor acknowledges that Institution, as a public institution of the Commonwealth of Massachusetts, holds the status of an exempt organization under the United States Internal Revenue Code of 1986, as amended. Sponsor also acknowledges that certain facilities in which the Research Project may be performed were financed through offerings of tax-exempt bonds. If the Internal Revenue Service determines, or if counsel to Institution reasonably determines, that any term of this Agreement jeopardizes the tax-exempt status of Institution or the bonds used to finance Institution facilities, the relevant term is invalid and the parties shall modify the term pursuant to Section 8.16.

8.8. Relationship of Parties. Each party is an independent contractor and not an agent or employee of the other party. Neither party may make any statements, representations, or commitments of any kind, nor take any action which is binding on the other party, except as may be explicitly provided for in this Agreement or authorized in writing by the other party.

8.9. Counterparts. This Agreement may be executed in one or more counterparts, each of which is an original, and all of which together are the same instrument.

8.10. Headings. All headings are for convenience only and do not affect the meaning of any provision of this Agreement.

8.11. Binding Effect. This Agreement is binding upon and inures to the benefit of the parties and their respective permitted successors and assigns.

8.12. Assignment. This Agreement may not be assigned by either party without the prior written consent of the other party.

8.13. Amendment and Waiver. This Agreement may only be modified by a written instrument signed by both parties. Any waiver of rights or failure to act in a specific instance relates only to that instance and is not an agreement to waive any rights or fail to act in any other instance.

8.14. Governing Law. This Agreement is governed by and construed in accordance with the laws of the Commonwealth of Massachusetts irrespective of any conflicts of law principles. The parties may only bring legal action that arises out of or in connection with this Agreement in the Massachusetts Superior Court in Suffolk County.

8.15. Notice. The parties shall provide notices for this Agreement in writing by recognized national overnight courier or registered or certified mail, postage prepaid, return receipt requested, to the following addresses:

If to Institution:
Office of Grant and Contract Administration
Research Administration Building
70 Butterfield Terrace
University of Massachusetts
Amherst, MA 01003
Attention: Director

If to Sponsor:
[Sponsor name and mailing address]
Attention: **[business contact]**

All notices under this Agreement are effective upon receipt. A party may change its contact information immediately upon written notice to the other party in the manner provided in this Section.

8.16. Severability. If any provision of this Agreement is held invalid or unenforceable for any reason, the invalidity or unenforceability does not affect any other provision of this Agreement, and the parties shall negotiate in good faith to modify the Agreement to preserve (to the extent possible) their original intent. If the parties fail to reach a modified agreement within sixty (60) days after the relevant provision is held invalid or unenforceable, then the parties shall resolve the dispute in accordance with the procedures set forth in Article 7. While the dispute is pending resolution, this Agreement shall be construed as if the provision were deleted by agreement of the parties.

8.17. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to its subject matter and supersedes all prior agreements or understandings between the parties relating to its subject matter.

The parties have caused this Agreement to be executed by their duly authorized representatives as of the dates written below.

UNIVERSITY OF MASSACHUSETTS

[LEGAL NAME OF SPONSOR]

By: _____
Name and Title:

By: _____
Name and Title:

Date: _____

Date: _____

I acknowledge and agree to the terms of Articles 4 and 5 and Sections 2.1., 2.4., 2.5., and 8.5. of this Agreement, and I reaffirm that I will assign to Institution all of my right, title, and interest in any Inventions and commercial rights in Project Materials.

[name of principal investigator]
Principal Investigator

EXHIBIT A

Description of Research Project

1. Research Goals

[general description of research]
[specific goals]

2. Budget

[list budget items as necessary]
[apply overhead rate]
[total direct and indirect costs]

EXHIBIT B

Sponsor In-Kind Contributions

In-Kind Contributions

[equipment]

[supplies]

[personnel]

[technology]

(Version 10/07)