

MASTER SPONSORED AGREEMENT – TIER 3

This Master Sponsored Agreement (“Agreement”) made and effective as of _____ (“Effective Date”) is entered into by and between _____ (“Sponsor”) with a principal place of business at _____ and University of Cincinnati, a state institution of higher education organized under Section 3361 of the Ohio Revised Code with an office at 51 Goodman Drive, Suite 530, Cincinnati, Ohio 45221-0222 (“University”).

WHEREAS, the programs contemplated by this Agreement are of mutual interest and benefit to University and to Sponsor, will further the instructional and research objectives of University in a manner consistent with its status as a non-profit, tax-exempt, education institution, and may derive benefits for both Sponsor and University through inventions, improvements, and/or discoveries;

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, the parties hereto agree to the following:

Article 1 Definitions

1.01 “Sponsored Project” is a program to which the parties have mutually agreed in writing using the form which is attached hereto as Exhibit A.

1.02 “Principal Investigator” or “PI” is the person, designated by University, and accepted by Sponsor, who is directly responsible for executing, directing, overseeing and reporting a Sponsored Project under this Agreement.

1.03 “Intellectual Property” means any patentable inventions and/or copyrightable matter first conceived and/or reduced to practice in the performance of a Sponsored Project. Intellectual Property shall not include the Sponsor Background Intellectual Property, University Background Intellectual Property, nor University faculty scholarly publications.

1.04 “University Intellectual Property” shall mean individually and collectively all Intellectual Property that is conceived and/or made solely by one or more employees of University in performance of a Sponsored Project. It is understood and agreed by the parties that any person who is a University employee, faculty member or student as defined in Ohio R.C. 3345.14 shall be considered to be a University employee herein.

1.05 “Joint Intellectual Property” shall mean individually and collectively all Intellectual Property which is conceived and/or made jointly by one or more employees of University and by one or more employees of Sponsor in performance of a Sponsored Project.

1.06 “Sponsor Intellectual Property” shall mean individually and collectively all Intellectual Property conceived of and/or made solely by the employees of Sponsor without the use of University facilities or equipment in performance of a Sponsored Project.

1.07 University Background Intellectual Property means technology, materials, intellectual property, technical information and other assets that have been developed by University independently of a Sponsored Project.

1.08 Sponsor Background Intellectual Property means technology, materials, intellectual property, technical information and other assets that have been developed by Sponsor independently of a Sponsored Project.

Article 2 Term

This Agreement shall be effective as of the Effective Date and shall extend for a period of _____ year(s) or until the termination date of all the Sponsored Projects, whichever last expires (the “Term”), unless terminated earlier by either party pursuant to Article 8 of this Agreement.

Article 3 Sponsored Project

3.01 University shall commence each Sponsored Project promptly after the effective date of the Sponsored Project and upon payment by Sponsor of any funds owed, and shall use reasonable efforts to conduct such Sponsored Project in accordance with the terms and conditions of this Agreement. Sponsor acknowledges that University and the PI shall have the freedom to conduct and supervise a Sponsored Project in a manner consistent with the University’s research mission. This Agreement shall not be construed to limit the freedom of individuals participating in a Sponsored Project to engage in any other research.

3.02 During the Term of this Agreement, any changes in the direction or scope of a Sponsored Project must be in writing as an amendment to the relevant Sponsored Project and agreed to by mutual consent of the parties by their authorized representatives.

3.03 If the services of the PI of a Sponsored Project become unavailable to University for any reason, University shall be entitled to designate another member of its faculty, who is acceptable to both parties, to serve as the PI of such Sponsored Project. This acceptance is not to be unreasonably withheld. If a substitute PI is not designated within sixty (60) days after the original PI ceases his or her services under this Agreement, either party may terminate the relevant Sponsored Project.

Article 4 Costs

4.01 Sponsor will pay University the amounts described in each Sponsored Project (“Total Project Cost”).

4.02 As consideration for the assignment of Intellectual Property as set forth in Section 6.01, Sponsor shall pay, for each Sponsor Project, University a non-refundable upfront assignment fee equal to 75% of the Total Project Cost (“Project Assignment Fee”). The Project Assignment Fee is subject to increase in accordance with this formula if the total obligated budget cost for a Sponsored Project increases.

- (a) University shall invoice for the Project Assignment Fee at the time of full signature of Exhibit A associated with the Sponsored Project and the fee shall be due within thirty (30) days of receipt by Sponsor.

Article 5 Publications

5.01 Notwithstanding anything to the contrary, Sponsor recognizes that the results of a Sponsored Project must be publishable and agrees that researchers engaged in a Sponsored Project shall be permitted to present at symposia, national, or regional professional meetings, and to publish in journals, theses or dissertations, or otherwise of their own choosing, methods and results of a Sponsored Project, provided, however, that Sponsor shall have been furnished copies of any proposed publication or presentation in advance of the submission of such proposed publication or presentation to a journal, editor, or other third party. Sponsor shall have thirty (30) days after receipt of said copies to object to such proposed presentation or proposed publication because it contains patentable subject matter that needs protection. In the event that Sponsor makes such objection, University shall refrain from making such publication or presentation for a maximum of sixty (60) days from the date of receipt of such objection in order for University to file patent application(s) with the United States Patent and Trademark Office and/or foreign patent office(s) directed to the patentable subject matter contained in the proposed publication or presentation.

Article 6 Intellectual Property

6.01 Except as set forth below in Sections 6.04 and 6.05, and upon full payment under Section 4.02, all right, title, ownership and interest in Intellectual Property shall vest exclusively in Sponsor. University and its inventors and authors on the Sponsored Project hereby assign Intellectual Property to Sponsor and will promptly execute any documents and instruments as may be necessary to evidence, protect, perfect or otherwise confirm Sponsor's rights under this Agreement to the Intellectual Property. Sponsor shall be solely responsible for filing any patent applications relating to Intellectual Property, for all expenses associated with such applications, as well as any expenses associated with prosecuting or defending any resulting patents. If Sponsor needs the assistance of the University inventor in connection with the filing of any patent applications or in prosecuting or defending the patents in connection with the Project, University shall provide the University inventor reasonable time from his or her employment duties to do so. Sponsor is responsible for all out of pocket expenses related to such assistance.

- (a) In the even Sponsor fails to pay any of the fees under Section 4.0, no assignment occurs and no rights to Intellectual Property will be transferred to Sponsor.

6.02 Sponsor shall retain all right, title ownership and interest in Sponsor Background Intellectual Property. Sponsor grants to University the right to use, reproduce, and distribute Sponsor Background Intellectual Property solely in connection with University's performance of the Sponsored Project.

6.03 University shall retain all right, title ownership and interest in University Background Intellectual Property.

6.04 Sponsor grants to University a non-exclusive, royalty-free irrevocable license to use Intellectual Property for its own non-profit non-commercial research and educational purposes and in connection with other non-profit institutions.

6.05 University and/or University employees and students shall own any copyright to scientific and technical articles composed under this Agreement or based on or containing data first produced in the performance of this Agreement and published in academic, technical or professional journals, symposia proceedings or similar works. The foregoing subject to University' obligations set forth in Section 5.01.

Article 7 Human Subjects Research

7.01 The following provisions only apply if a Sponsored Project includes human subjects research.

7.02 As required by all applicable laws and regulations, Sponsor shall conduct an ongoing safety evaluation of each Sponsored Project and shall promptly notify University and its PI of any findings that could affect adversely the safety of subjects, impact the conduct of the Sponsored Project, or alter the applicable Institutional Review Board (IRB) approval to continue the Sponsored Project. University and/or the PI may communicate findings to subjects in any manner approved or directed by the IRB.

7.03 Sponsor shall promptly report to the IRB any findings that may reasonably be expected to affect the safety of subjects, influence the conduct of a Sponsored Project, or alter the IRB's approval of the ongoing conduct of the Sponsored Project.

7.04 Sponsor shall reimburse University and the subject for all reasonable and necessary costs incurred and associated with the treatment and diagnosis of an adverse event arising or resulting from the subject's participation in a Sponsored Project.

7.05 Nothing in this MSA shall prevent the disclosure of data and results to subjects and their healthcare providers when such disclosure is reasonably and medically necessary to ensure the safety and appropriate medical care for such subjects.

Article 8 Termination

8.01 Termination of a Sponsored Project with Cause. In the event that either party commits a material breach of its obligations under a specific Sponsored Project under this Agreement and fails to cure that breach within thirty (30) days after receiving written notice thereof, the other party may terminate that specific Sponsored Project immediately upon written notice to the party in breach.

8.02 Termination of a Sponsored Project without Cause. Either party may terminate a Sponsored Project under this Agreement without cause upon sixty (60) days prior written notice. In the event Sponsor terminates a project without cause, Sponsor shall pay University for all financial obligations which are non-cancelable and honor stipend and/or tuition obligations to Graduate Students and/or Post-Doctoral employees through the remainder of the current semester/quarter.

8.03 Termination of this Agreement. Either party may terminate this Agreement without cause upon sixty (60) days written notice. Termination of this Agreement shall not cause

termination of any active Sponsored Project unless such Sponsored Project is terminated pursuant to Section 8.01 or 8.02.

8.04 Termination of this Agreement by a party for any reason shall not affect the rights and obligations of the parties accrued prior to the effective date of termination of this Agreement. Notwithstanding the foregoing, Sponsor's rights under Article 7 shall terminate upon early termination of this Agreement at Sponsor's request or as a result of Sponsor's unremedied default or breach of this Agreement.

8.05 Anything herein to the contrary notwithstanding, in the event of early termination of this Agreement by Sponsor, Sponsor shall pay all costs accrued by University as of the date of termination, including non-cancelable obligations, which shall include all non-cancelable contracts and fellowships or post doctoral associate appointments issued pursuant to any Sponsored Project, incurred prior to the effective date of termination. After termination, any obligation of Sponsor for fellowships or postdoctoral associates shall end no later than the end of University's academic year following termination.

Article 9 Disclaimer of Warranties; Indemnification:

9.01 UNIVERSITY MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, WARRANTIES WITH RESPECT TO THE CONDUCT, COMPLETION, SUCCESS OR PARTICULAR RESULTS OF A SPONSORED PROJECT, OR THE CONDITION OF ANY INVENTION(S) OR PRODUCT(S), WHETHER TANGIBLE OR INTANGIBLE, CONCEIVED, DISCOVERED, OR DEVELOPED UNDER THIS AGREEMENT, OR THE OWNERSHIP, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF A SPONSORED PROJECT OR ANY SUCH INVENTION OR PRODUCT, OR ANY ACTIVITY PERFORMED OR DELIVERABLE PROVIDED HEREUNDER SHALL BE FREE OF INFRINGEMENT OF THIRD-PARTY INTELLECTUAL PROPERTY RIGHTS OR OTHER RIGHTS. UNIVERSITY SHALL NOT BE LIABLE FOR ANY DIRECT, CONSEQUENTIAL, PUNITIVE OR OTHER DAMAGES SUFFERED BY SPONSOR OR ANY OTHER PERSON RESULTING FROM A SPONSORED PROJECT OR THE USE OF ANY SUCH INVENTION OR PRODUCT.

9.02 Sponsor agrees to defend, indemnify and hold harmless University, the PI and any of University faculty, students, volunteers, employees, trustees, officers, affiliates and agents (herein referred to collectively as the "Indemnified Persons") from and against any and all liability, claims, lawsuits, losses, damages, costs or expenses (including documented attorney's fees), which the Indemnified Persons may hereafter incur, suffer or be required to pay as a result of Sponsor's use of the results of a Sponsored Project or any Intellectual Property or as a result of any breach of this Agreement or any wrongful act or omission of Sponsor, its employees, affiliates, contractors, licensees or agents. University shall notify Sponsor upon learning of the initiation or threatened initiation of any such liability, claims, lawsuits, losses, damages, costs and expenses and University shall cooperate with Sponsor in every proper way in the defense or settlement thereof at Sponsor's request and expense. For purposes of this Agreement, "Sponsor's use" includes Sponsor's sale, license or sublicense, or other permission or transfer to use a commercial product

or service based upon Intellectual Property granted to Sponsor under this Agreement, and the transfer of title to the Intellectual Property granted to Sponsor under this Agreement.

Article 10 General Provisions

10.01 The interpretation and validity of this Agreement and the rights of the parties shall be governed by the laws of the State of Ohio. Any action brought to enforce this Agreement shall be brought in Ohio.

10.02 In the event of any conflict in terms between documents relating to this Agreement, exhibits attached hereto, or grants hereunder, the terms of this Agreement will govern, except to the extent that such other document expressly contemplates superseding the terms of this Agreement and such other document is executed by authorized representatives of both parties.

10.03 It is understood that University is subject to United States laws and regulations controlling the export of technical data, computer software, laboratory prototypes, and other commodities, and that its obligations hereunder are contingent on compliance with applicable U.S. export laws and regulations, including the Arms Export Control Act, as amended, and the Export Administration Act of 1979. The transfer of certain technical data and commodities may require a license from the cognizant agency of the United States Government and/or written assurances by Sponsor that Sponsor will not re-export data or commodities to certain foreign countries without prior approval of the cognizant government agency. Sponsor will not disclose or provide to any employee or agent of University any information subject to the licensing provisions of the International Traffic In Arms Regulations (ITAR) under 22 CFR §§ 120-130, or the Export Administration Regulations (EAR) under 15 CFR §§ 730- 774, without the prior written notice to and advance approval by an authorized representative of University.

10.04 Sponsor will not use the name of University, nor of any member of University's staff, in any publicity, advertising, or news release without the prior written approval of an authorized representative of University. University will not use the name of Sponsor, nor any employee of Sponsor, in any publicity without the prior written approval of Sponsor; provided however, University may make available to the public, the title and description of the project, the name of the Principal Investigator, and the amount and source of funding provided for such project.

10.05 In the event that Sponsor is a party to any other agreement with University, a default by Sponsor of this or any other agreement shall be deemed a default under all other agreements with University.

10.06 University shall not be responsible to Sponsor for failure to perform any of the obligations imposed by this agreement, provided such failure shall be occasioned by fire, flood, explosion, lightning, windstorm, earthquake, subsidence of soil, failure or destruction, in whole or in part, of machinery or equipment or failure of supply of materials, discontinuity in the supply of power, governmental interference, civil commotion, riot, war, strikes, labor disturbance, transportation difficulties, labor shortage, or any cause beyond the reasonable control of University.

10.07 Neither party may assign this Agreement without the prior written consent of the other

party.

10.08 Any notices required to be given or which shall be given under this Agreement shall be in writing and delivered by first-class mail, facsimile transmission, or email addressed to the parties as follows:

Administrative for University:

David S. Gearing, Director
Sponsored Research Services
University Hall, Suite 530
51 Goodman Drive
University of Cincinnati
P.O. Box 210222
Cincinnati, Ohio 45221-0222

Administrative for Sponsor:

Phone: (513) 556-4358
Fax: (513) 556-4346
E-mail: gearridd@uc.edu

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IN WITNESS WHEREOF, the parties have caused these presents to be executed in duplicate as of the Effective Date.

University of Cincinnati

Sponsor

By: _____

By: _____

Name:

Name:

Title:

Title:

Date: _____

Date: _____

Tax ID No. 31-6000989

Tax ID No.:

DUNS No. 04106-4767

DUNS No.:

Exhibit A

Project Title: _____

Project Period: _____ to _____

Description of Project Including Deliverables:

[INSERT DESCRIPTION OF THE PROJECT HERE, (i.e. the Statement of Work)]

Total Project Cost: _____

25% due on signing, balance due upon termination

Invoices should be sent to:

Name: _____

Address: _____

Phone: _____

E-mail: _____

Payment to University:

<p>Checks should be sent to: University of Cincinnati SRS Accounting 51 Goodman Drive, Suite 530 P.O. Box 210222 Cincinnati, Ohio 45221-0222 Attn: Rhonda Bastian rhoonda.bastian@uc.edu / 513-556-4804</p> <p>RE: [Sponsor], [Project Title], [UC PI]</p>	<p>ACH/EFT Payments to: Account Name: University of Cincinnati Account #: 4260609865 ABA routing number: 041000124 (Domestic Transfers) SWIFT/BIC: PNCCUS33 (International Transfers)</p>
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Payment to University (with an invoice):

<p>Checks should be sent to: University of Cincinnati SRS Accounting P.O. Box 932641 Cleveland, OH 44193</p>	<p>ACH/EFT Payments to: Account Name: University of Cincinnati Account #: 4260606859 ABA routing number: 041000124 (Domestic Transfers) SWIFT/BIC: PNCCUS33 (International Transfers)</p>
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Technical Contacts

Principal Investigator:	Sponsor Technical Representative:
Name	Name
[Address]	[Address]
Phone:	Phone:
Fax:	Fax:

Email:	Email:
Name	Name

University

Sponsor

By: _____

By: _____

Name:

Name:

Title:

Title:

Date: _____

Date: _____