

## GEORGIA TECH RESEARCH CORPORATION

### BASIC RESEARCH AGREEMENT - INTERNATIONAL

Effective Date: \_\_\_\_\_

Basic Research Agreement Number: \_\_\_\_\_

**THIS BASIC RESEARCH AGREEMENT** is made by and between **GEORGIA TECH RESEARCH CORPORATION**, a Georgia corporation, having its principal offices at 505 Tenth Street, Atlanta, Georgia, 30332-0420 USA (“GTRC”) and \_\_\_\_\_, a \_\_\_\_\_ corporation having an office and place of business at \_\_\_\_\_ (hereinafter known as “COMPANY”).

In consideration of the mutual promises and covenants herein contained and intending to be legally bound, we agree as follows:

#### **Section 0. Preamble.**

The purpose of this Agreement is to provide terms and conditions that GTRC and Company (individually “Party”, collectively “Parties”) agree to apply to the performance of research. It is intention of the Parties that the research contemplated herein, and more specifically described in the Statement of Work, is for the purpose of advancing scientific knowledge and to aid in the scientific education of graduate students through the opportunity to work on industry-relevant research.

Further, the Parties understand and agree that the terms and conditions of this Agreement are specific to this Agreement and the research described in the Statement of Work and will not necessarily be used as precedent for any other sponsored research agreement that the Parties may enter into in the future.

#### **Section 1. Definitions.**

1.1 “Research Project” means the performance of the Statement of Work entitled “\_\_\_\_\_” attached hereto as Attachment A and incorporated herein by reference to be performed by staff members of the Georgia Institute of Technology (GIT), a unit of the University System of Georgia, and/or by staff members of COMPANY as described in a Statement of Work. The Research Project is undertaken on a reasonable efforts basis in accordance with the research and educational mission of GIT and GTRC.

1.2 “GTRC” is tax-exempt under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (“Code”) and is a supporting organization of the GIT under Section 509(a)(3) of the Code. GTRC was formed for the purpose of entering into sponsored research contracts for GIT. GTRC owns and administers intellectual property developed at GIT.

1.3 “Staff Members of GTRC” means employees, independent contractors, subcontractors, consultants, student assistants, and students of GTRC and GIT.

1.4 “Staff Members of COMPANY” means employees, independent contractors, subcontractors, and consultants of COMPANY.

1.5 "Project Intellectual Property" means any intellectual property, including, without limitation, any inventions, improvements and discoveries, including all computer software, works, material and data, whether protectable by patent, or copyright, created and/or first reduced to practice in the course of performance of work under the Research Project.

1.6 "Background Intellectual Property" means all GTRC, COMPANY, and third party intellectual property, including but not limited to inventions, patents, trademarks, copyrights, computer software, and tangible analysis techniques created and/or first reduced to practice prior to or outside the scope of the Research Project.

1.7 "GTRC Sole Intellectual Property" means individually and collectively all Project Intellectual Property that is created and/or first reduced to practice solely by GTRC Staff Members.

1.8 "COMPANY Sole Intellectual Property" means individually and collectively all Project Intellectual Property that is created and/or first reduced to practice solely by COMPANY Staff Members.

1.9 "Joint Intellectual Property" means individually and collectively all Project Intellectual Property which is created and/or first reduced to practice jointly by Staff Members of GTRC and COMPANY.

1.10 "Field of Use" means \_\_\_\_\_.

1.11 "Proprietary Information" means any data or information having commercial value which may include but not be limited to data, data bases, product plans, strategies, forecasts, research procedures, marketing techniques and materials, customer names and other information related to customers, price-lists, pricing policies and financial information which the Parties consider sensitive and which is not generally known to the public.

## **Section 2. Term.**

2.1 GTRC shall undertake the Research Project during the term of this Agreement which shall commence upon \_\_\_\_\_ ("Effective Date") and shall continue through \_\_\_\_\_ unless sooner terminated or extended in accordance with the terms of this Agreement.

## **Section 3. Compensation and Expenses; Contract Cost Limitation.**

3.1 COMPANY agrees to reimburse GTRC for the actual and indirect costs incurred by GTRC in the performance of the Research Project, which shall not exceed \_\_\_\_\_ U.S. Dollars (\$\_\_\_\_\_) without first obtaining the written approval of COMPANY ("Contract Cost Limitation"). GTRC reserves the right to modify its direct and indirect rates effective July 1 each year.

3.2 COMPANY shall make all payments required to GTRC in United States Dollars (USD) in full and without any deductions of any kind, including but not limited to any withholding, transfer fees, duties or other such items. If any tax is imposed by any government or agency outside of the United States Government which must be paid by or for the account of GTRC with respect to, or deducted or withheld in any form from, any amount payable by COMPANY to GTRC, then the amount payable by the COMPANY to GTRC shall be increased such that the amount received by GTRC after such

deduction or withholding is equal to the amount invoiced by GTRC as if no such deduction or withholding was made from the gross amount.

3.3 COMPANY shall make an advance payment of \_\_\_\_ percent (\_\_\_%) of the Contract Cost Limitation. The advance payment shall be applied towards payment of the final invoice. On a monthly basis thereafter, GTRC will submit its invoices to COMPANY for the previous month's work, including direct and indirect costs. COMPANY agrees to pay each invoice within thirty (30) days of the invoice date. Any invoice not paid within thirty (30) days of the invoice date will be considered delinquent and subject to one and one-half percent (1.5%) per month fee for each month or fraction thereof, until payment is received.

**COMPANY**

**BILLING ADDRESS:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Attention:**

\_\_\_\_\_

**Title:**

\_\_\_\_\_

**Phone Number:**

\_\_\_\_\_

**FAX Number:**

\_\_\_\_\_

**Billing Reference Number:**

\_\_\_\_\_

3.4 COMPANY will make payments to:

GEORGIA TECH RESEARCH CORPORATION  
P. O. Box 100117  
Atlanta, Georgia 30384-0117

*For electronic payments:*  
Georgia Tech Research Corporation  
c/o Bank of America  
600 Peachtree Street, NE  
Atlanta, GA 30308 USA  
Account No. 0100825661  
SWIFT Code: BOFAUS3N  
ABA No. 061000052

3.5 GTRC may choose to discontinue performance of the Research Project if COMPANY fails to pay any GTRC invoice within the time specified above. GTRC will not be obligated to incur costs in excess of the Contract Cost Limitation.

**Section 4. Reports.**

4.1 GTRC will provide COMPANY a final report summarizing the results of the Research Project.

**Section 5. Publicity.**

5.1 Each Party agrees not to authorize or commission the publication of any promotional materials containing any reference to the other Party without the prior written approval of the other Party; provided however that, GTRC and GIT may include COMPANY'S name and Research Project title in listings of research sponsors. The provisions of this Section shall survive termination of this Agreement.

**Section 6. Proprietary Information and Confidentiality**

6.1 In the course of performing under this Agreement, COMPANY may disclose to GTRC COMPANY Proprietary Information, and GTRC may disclose to COMPANY GTRC Proprietary Information pursuant to proposing to or soliciting from the other Party research proposals and performing the Research Project (hereinafter referred to as "Purpose").

6.2 GTRC agrees to hold in confidence and not disclose any and all COMPANY Proprietary Information received from COMPANY hereunder. COMPANY agrees to hold in confidence and not disclose any and all GTRC Proprietary Information received from GTRC hereunder. The confidentiality obligations of each Party receiving Proprietary Information shall extend for three (3) years from the Effective Date of this Agreement. Unless otherwise permitted by this Agreement, each Party shall use the Proprietary Information only for and to the extent required to accomplish the Purpose under this Agreement. The Parties shall only disclose the Proprietary Information to those Staff Members that have a legitimate business need for such information and only for and to the extent required to accomplish the Purpose of this Agreement or to exercise the rights granted under this Agreement. Notwithstanding the foregoing, GTRC may disclose Proprietary Information to GIT provided that GIT is obligated to GTRC under terms at least as restrictive as those contained in this Agreement not to disclose Proprietary Information to any other third party. Either Party may disclose the other Party's Proprietary Information to its affiliates, contractors, and consultants that are under a written obligation of confidentiality no less restrictive than contained herein, to the extent necessary to accomplish the Purpose of this Agreement.

6.3 Written information exchanged hereunder shall be clearly marked with an appropriate stamp or legend "Proprietary Information." Markings such as "In Confidence", "Proprietary", "GTRC Use Only" or "COMPANY Use Only" shall be sufficient. Non-written information exchanged hereunder shall only be considered Proprietary Information if, at the time of such disclosure, the Proprietary Information being disclosed is identified as proprietary and the disclosing Party provides the receiving Party with a writing which clearly identifies the nature and content of the disclosed information within thirty (30) days after such disclosure.

6.4 Neither Party shall be liable to the other Party for the disclosure of Proprietary Information that:

- a. is published or otherwise in the public domain through no fault of the receiving Party; or

- b. can be demonstrated by the receiving Party to have been in its possession prior to receipt under this agreement; or
- c. is obtained by the receiving Party without restriction from a third party; or
- d. is independently developed by the receiving Party by individuals who have not had either direct or indirect access to such information; or
- e. is disclosed by the receiving Party to a third party with the written approval of the disclosing Party without any restriction.

6.5 The receiving Party shall, at the disclosing Party's written request or upon expiration or upon termination of this Agreement, promptly return or destroy all materials, and/or samples furnished under this Agreement, including all copies thereof. The receiving shall have the right to retain one copy of such written information in its files for record purposes only.

6.6 In furnishing any information hereunder, the disclosing Party makes no warranty, guarantee or representation; either expressed or implied, as to its adequacy, accuracy, sufficiency or freedom from defects or that the use or reproduction of any information shall be free from any patent, trade secret, trademark or copyright infringement. The disclosing Party shall not be liable for damages of whatever kind or for any costs, expenses, risks, or liabilities as a result of the other Party's receipt or use of, or reliance on, any such information furnished hereunder.

## **Section 7. Intellectual Property.**

### 7.1 Intellectual Property Rights.

- a. Background Intellectual Property Rights. All Background Intellectual Property is the separate intellectual property of COMPANY or GTRC, respectively, and is not affected by this Agreement. This Agreement shall not be construed as implying that either Party hereto shall have the right to use Background Intellectual Property of the other in connection with this Agreement, except as otherwise provided.
- b. GTRC Sole Intellectual Property Rights. All right, title and interest to all GTRC Sole Intellectual Property shall be owned solely and exclusively by and vest entirely in GTRC.
- c. Company Sole Intellectual Property Rights. All right, title and interest to all COMPANY Sole Intellectual Property shall be owned solely and exclusively by and vest entirely in COMPANY.
- d. Joint Intellectual Property Rights. All right, title and interest to all Joint Intellectual Property shall be jointly owned by GTRC and COMPANY.
- e. Upon GTRC's receipt of a written invention disclosure describing any GTRC Sole Intellectual Property or Joint Intellectual Property developed under this Agreement, it shall notify COMPANY in writing and provide all available, pertinent information for evaluation by COMPANY.

### 7.2 Licensing Rights of Intellectual Property.

- a. GTRC grants to COMPANY an option to negotiate an exclusive license, in the Field of Use and subject to any existing third party rights, to any GTRC Sole Intellectual Property and GTRC's rights in any Joint Intellectual Property. Any such license shall be negotiated in good faith on fair and reasonable terms by GTRC and COMPANY.
- b. The period of COMPANY's option shall commence upon disclosure of the Project Intellectual Property and terminate six (6) months after disclosure of such Project Intellectual Property. COMPANY shall exercise its right by written notice to GTRC, prior to the expiration of the six (6) month term, of its desire to license such Project Intellectual Property. If COMPANY and GTRC do not execute a licensing agreement within three (3) months of COMPANY's written exercise of its option, GTRC shall be under no obligation to license such Project Intellectual Property to COMPANY.
- c. Notwithstanding anything to the contrary contained herein, COMPANY hereby grants to GTRC and GTRC hereby reserves for itself and GIT and irrevocable, world-wide, fully-paid non-exclusive license in and to all GTRC Sole Intellectual Property and Joint Intellectual Property for educational and research and development purposes, whether alone or with a third party.
- d. Upon request, and via a separate confirmatory license, GTRC shall grant to COMPANY a non-exclusive, royalty-free license to any GTRC Sole Intellectual Property in accordance with the terms and conditions of said confirmatory license. The confirmatory license shall be substantially in the form the license attached hereto as Attachment B.
- e. COMPANY hereby grants to GTRC a fully paid-up, royalty-free license under COMPANY Sole Intellectual Property first conceived or reduce to practice under this Research Agreement, to use such COMPANY Sole Intellectual Property solely for its own internal academic and research purposes.
- f. Neither Party may invoke the Cooperative Research and Technology Enhancement (CREATE) Act of 2004, P.L. 108-453, with respect to any invention that is developed pursuant to this Agreement without the prior written consent of the other Party, such consent to include specific reference to the invention for which the benefits of the CREATE Act are claimed.
- g. Nothing in this Section 7.2 to the contrary withstanding, any grant of intellectual property rights by GTRC to COMPANY hereunder, is specifically conditioned upon the compliance of such grant of intellectual property rights to applicable U.S. export control laws and regulations.

## **Section 8. Publication.**

8.1 GTRC and GIT may catalog and place reports of the Research Project in the GIT Library as to ensure that such results are available to the interested public, and GTRC and GIT may use any results non-proprietary to COMPANY in their research and educational programs. COMPANY recognizes that the results of the Research Project must be publishable and agrees that Staff Members engaged in the Research 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, the

results of the Research Project. GTRC will give COMPANY an opportunity for thirty (30) days prior to the proposed submission of any publication or presentation to review such publication and, if necessary, request GTRC to delete any reference to COMPANY'S Proprietary Information included in the publication or presentation. Furthermore, COMPANY shall have the right to request a delay in publication for up to thirty (30) additional days, if necessary, to allow for filing of patents by the appropriate Party if such publication contains patentable subject matter. The right of review COMPANY has under this Section 8 shall terminate twelve (12) months from completion of the Research Project. In no event shall any of COMPANY'S Proprietary Information be included in any publication without written authorization from COMPANY.

**Section 9. Indemnity.**

9.1 COMPANY agrees to and does hereby indemnify, hold harmless and save from liability GTRC, Staff Members of GTRC, and the Board of Regents of the University System of Georgia, including their officers, and employees from and against any and all claims, demands and actions arising out of or relating to COMPANY'S commercial use of intellectual property which may be licensed to COMPANY under Section 7 of this Agreement.

**Section 10. Disclaimer.**

10.1 GTRC AND GIT DISCLAIM ANY AND ALL WARRANTIES BOTH EXPRESS AND IMPLIED WITH RESPECT TO THE RESEARCH TO BE PERFORMED HEREUNDER AND ANY DELIVERABLES RESULTING THEREFROM, INCLUDING THEIR CONDITION, CONFORMITY TO ANY REPRESENTATION OR DESCRIPTION, THE EXISTENCE OF ANY LATENT OR PATENT DEFECTS THEREIN, THEIR MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE, VALIDITY OF ANY INTELLECTUAL PROPERTY RIGHTS OR CLAIMS, OR NONINFRINGEMENT OF ANY THIRD PARTY INTELLECTUAL PROPERTY RIGHTS.

**Section 11. Limitation of Liability.**

11.1 The cumulative liability of GTRC to COMPANY for all claims, demands or actions arising out of or relating to this Agreement, the Research Project to be performed hereunder and any deliverables resulting therefrom, will not exceed the total amount paid to GTRC hereunder during the twelve (12) months immediately preceding such claim, demand or action. Without limiting the foregoing, in no event shall GTRC be liable for any business expense, machine down time, loss of profits, any incidental, special, exemplary or consequential damages, or any claims or demands brought against COMPANY or COMPANY'S customers even if GTRC has been advised of the possibility of such claims and demands. The foregoing limitation of liability will survive any termination of this Agreement and will apply without regard to any other provision of this Agreement that may have been breached or have been proven ineffective.

**Section 12. Termination.**

12.1 COMPANY may terminate this Agreement hereunder for any reason upon thirty (30) days written notice to GTRC. Notwithstanding the foregoing, this Agreement shall not terminate prior to the expiration of an academic semester if such written termination was for convenience.

12.2 GTRC may terminate this Agreement upon thirty (30) days prior written notice in the event (i) that GTRC determines that continued performance of this Agreement could jeopardize its continued tax-exempt status under the Code or result in a violation of any tax covenants made by GTRC in connection with the issuance of tax-exempt bonds, (ii) that GTRC's compliance with applicable policies, laws and regulations preclude performance under this Agreement, (iii) of a material breach by COMPANY of any term or provision hereof, provided such breach remains uncured at the end of said thirty (30) day period, or (iv) of a Force Majeure event (as defined below) precludes performance of the obligations set forth in this Agreement. A Force Majeure event shall mean fire, flood, explosion, lightning, windstorm, earthquake, discontinuity in the supply of power, governmental interference (beyond the control of the parties), civil commotion, riot, war, strikes, labor disturbance, transportation difficulties, labor shortage or any other cause beyond its reasonable control. Such notice of a breach shall include a reasonable description of the facts surrounding the alleged breach and a proposed course of action to cure said breach.

12.3 COMPANY shall pay GTRC any costs which have accrued or been encumbered up to the actual date of termination under this Section and shall not be relieved of the obligation to pay such costs because of termination under this Section.

### **Section 13. Export Control.**

13.1 GTRC is subject to United States laws and regulations controlling the export of goods, software and technology including technical data, laboratory prototypes and other commodities, including "deemed exports" and shall to comply with all applicable laws and regulations including the Arms Export Control Act, the International Traffic in Arms Regulations ("ITAR"), the Export Administration Regulations ("EAR") and the laws and regulations implemented by the Office of Foreign Assets Control, U.S. Department of the Treasury ("OFAC"). Deemed export means any release of technology to a foreign national within the United States. Technology is released for export when it is (i) made available to foreign nationals for visual inspection, (ii) exchanged orally or (iii) made available by practice or application under the guidance of persons with knowledge of the technology. Diversion contrary to U.S. law is prohibited. The transfer of certain technical data, services and commodities may require a license from the cognizant agency of the United States Government and/or written assurances by COMPANY that it will not re-export or retransfer the data or commodities, to certain foreign countries without prior approval of the cognizant U.S. government agency. While GTRC agrees to reasonably cooperate in securing any license that the cognizant agency deems necessary in connection with this Agreement, GTRC cannot guarantee that such licenses will be granted. Notwithstanding anything to the contrary, if such required export license cannot be responsibly obtained from the concerned government agency, GTRC shall be exempted, without further action or liability, from all its obligations herein to convey any rights in or to intellectual property or otherwise deliver such intellectual property including but not limited to technical data.

13.2 COMPANY agrees to obtain permission from the U.S. government for the retransfer or re-export of any goods, software and technology that requires such authorization, including to any affiliate or subsidiary of COMPANY. COMPANY will not allow any U.S. origin goods, software or technology to be used for any purposes prohibited by the United States law, including, without limitation, support for terrorism or for the development, design, manufacture or production of nuclear, chemical or biological weapons of mass destruction.

13.3 The Parties understand and agree that compliance with all applicable laws and regulations including the Arms Export Control Act, ITAR, EAR, and the laws and regulations implemented by



OFAC which adversely affect the Research Project and/or any deliverables or grant of intellectual property rights hereunder shall not constitute a breach of this Agreement.

13.4 The provisions of this Section shall survive termination or expiration of this Agreement.

**Section 14. Compliance.**

14.1 Each party represents to the best of its knowledge and belief that it has not made or offered and that it will not make or offer with respect to the matters which are subject of this Agreement any payment, gift, whether directly or through intermediaries, to or for the use of any public official (i.e. any person holding a legislative, administrative or judicial office, including any person exercising a public function for a public agency, a public enterprise or a public international organization), where such payment, gift, promise or advantage would violate the Foreign Corrupt Practices Act of 1977 of the United States, as amended by the Foreign Corrupt Practices Act Amendments of 1988 and as may be further amended and supplemented from time to time.

14.2 The parties shall comply with all requirements set forth in Title 15 C.F.R. Part 760 (Restrictive Trade Practices or Boycotts) and all related regulations pertaining to boycotts of specific countries.

14.3 The parties shall comply with all requirements set forth in 18 U.S.C. §§1581 et. seq. (Peonage, Slavery, and Trafficking in Persons) and all related regulations.

14.4 The parties agree that all research performed under this Agreement shall comply with the nondiscrimination policies and equal employment opportunity policies of GIT, which may be amended from time to time.

14.5 The parties agree that all research performed under this Agreement will comply with all applicable policies, laws and regulations. Further, the parties agree that compliance with any such laws and regulations which adversely affect a Research Project, any deliverables or grant of intellectual property rights hereunder shall not constitute a breach of this Agreement.

**Section 15. Equipment.**

15.1 COMPANY understands and agrees that GTRC shall hold title in any equipment and materials not expressly made part of a deliverable that GTRC purchases, acquires, or fabricates with funds provided by COMPANY as authorized under this Agreement.

**Section 16. Miscellaneous.**

16.1 All notices and other communication given under this Agreement will be effective five (5) days following deposit in the United States mail or commercial courier service, postage prepaid and addressed to the Parties at their respective addresses set forth below unless by such notice a different person or address has been designated.

**To GTRC for administrative matters:**  
Office of Industry Engagement  
Georgia Tech Research Corporation  
505 Tenth Street NW

**To COMPANY for administrative matters:**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Atlanta, Georgia 30332-0420 USA

Attention:

Title: Associate

Telephone:

Fax Number: 404-894-6992

E-mail:

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**To GTRC for technical matters:**

Georgia Institute of Technology

Atlanta, Georgia 30332-\_\_\_\_ USA

Attn:

Title: Project Director

Telephone:

Fax Number:

E-mail:

**To COMPANY for technical matters:**

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16.2 GTRC and COMPANY are and will remain independent contractors and nothing herein will be construed to create a partnership, agency or joint venture between the Parties for federal and state law purposes. Each Party will be responsible for wages, hours and conditions of employment of its respective personnel during the term of, and under, this Agreement.

16.3 All questions concerning the validity, operation, interpretation and construction of this Agreement will be governed by and determined in accordance with the laws of the State of Georgia, USA.

16.4 The Parties irrevocably and exclusively submit to the jurisdiction of the state and federal courts of or for the State of Georgia, USA, including the related appellate courts in any such action or proceeding and waive any rights to a jury trial. Personal jurisdiction over the Parties may be obtained by the mailing (postage prepaid) of a summons or similar legal document to the Party's address for notices under this Agreement.

16.5 No waiver by either Party of any breach of any provision hereof will constitute a waiver of any other breach of that provision or of any other provision hereof.

16.6 This Agreement sets forth the entire agreement and understanding between GTRC and COMPANY and merges all prior discussions between the Parties pertaining to the subject matter hereof; and neither Party will be bound by any conditions, definitions, warranties, understandings or representations with respect to the subject matter hereof except as expressly provided herein or in writing. This Agreement may not be modified or altered except by a written document executed by authorized representatives of both Parties. No provision contained in any standard form document issued by COMPANY, including but not limited to any purchase order or confirmation order, will be applicable, even if signed by the Parties, unless the Parties also execute a separate document expressly modifying this Agreement to include such provisions.

IN WITNESS WHEREOF, this Agreement has been duly executed by our duly authorized representatives on the day and year set forth below.

**GEORGIA TECH RESEARCH CORPORATION**

**[COMPANY NAME]**

By: \_\_\_\_\_

Typed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Typed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Typed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

SAMPLE

ATTACHMENT A- SOW

SAMPLE

ATTACHMENT B

CONFIRMATORY LICENSE  
Georgia Tech Research Corporation

Title of GTRC Sole Intellectual Property or Joint Intellectual Property:

“ \_\_\_\_\_ ”

GT Innovators(s): \_\_\_\_\_

GTRC ID: \_\_\_\_\_

WITNESSETH

WHEREAS, GTRC during the performance of research under the Basic Research Agreement between GTRC and \_\_\_\_\_ (“COMPANY”) dated \_\_\_\_\_, conceived or created GTRC Sole Intellectual Property or Joint Intellectual Property as described in the written description, attached hereto; and

WHEREAS, pursuant to Paragraph 7.2 (d) of the Basic Research Agreement (“Research Agreement”), upon written election, COMPANY is entitled to certain rights in and to GTRC Sole Intellectual Property, in accordance with the terms and conditions of the Agreement and as confirmed herein; and

NOW, THEREFORE, GTRC, in consideration of the foregoing and the promises contained herein and intending to be legally bound does hereby stipulate and confirm the following:

1. DEFINED TERMS

1.1 Any capitalized term or word used but not defined herein shall have the same meaning as it is defined in the Research Agreement.

2. GRANT OF LICENSE

2.1 With respect to the GTRC Sole Intellectual Property to which GTRC has certain rights and interest in, subject to any applicable export control laws and regulations GTRC hereby grants to COMPANY a non-exclusive, royalty-free, paid-up license, in the Field of Use (as defined in Research Agreement) to \_\_\_\_\_ (“Subject Invention”).

2.2 Without limiting the provisions of Section 13 of the Research Agreement and incorporating in full the terms and conditions of Section 13 of the Research Agreement, (i) COMPANY shall not export and/or re-export Subject Invention or any portion thereof, without fully and completely complying with any and all United States export or munitions control regulations and (ii) laws and any grant of intellectual property rights by GTRC to COMPANY hereunder, is specifically conditioned upon the compliance of such grant of intellectual property rights to applicable U.S. export control laws and regulations.

2.3 Notwithstanding anything to the contrary contained herein, GTRC hereby reserves for itself and GIT and irrevocable, world-wide, fully-paid non-exclusive license in and to Subject Invention for educational and research and development purposes, whether alone or with a third party.

3. CONSIDERATION

3.1 In consideration of the granting herein of the license as described above, COMPANY shall comply with the terms and conditions set forth in the Research Agreement and this Agreement including, but not limited to, making all payments due therein.

4. NOTICE OF INFRINGEMENT

4.1 COMPANY shall notify GTRC of any known infringement or other unauthorized use of the Subject Invention licensed hereunder.

5. INDEMNITY

5.1 COMPANY hereby indemnifies and holds harmless GTRC, GIT, and the Board of Regents of the University System of Georgia, and their employees, officers, board members and agents (hereinafter "Indemnitees") from and against all claims, suits, liabilities, damages, costs, fees, expenses or losses arising out of or resulting from COMPANY's performance under this Agreement, including but not limited to any third party claims against Indemnitees for patent, copyright, and/or trademark infringement and/or patent interference, and any damages, losses or liabilities whatsoever with respect to death or injury to any person and damage to any property arising from the possession, use or operation of products/services produced or sold by COMPANY or their customers in any manner whatsoever.

6. DISCLAIMER AND LIMITATION OF LIABILITY

6.1 GTRC DISCLAIMS ANY AND ALL PROMISES, REPRESENTATIONS AND WARRANTIES WITH RESPECT TO THE TECHNOLOGY, INCLUDING ITS CONDITION, CONFORMITY TO ANY REPRESENTATION OR DESCRIPTION, THE EXISTENCE OF ANY LATENT OR PATENT DEFECTS THEREIN, ITS MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE, VALIDITY OF ANY INTELLECTUAL PROPERTY RIGHTS OR CLAIMS, OR NONINFRINGEMENT OF ANY THIRD PARTY INTELLECTUAL PROPERTY RIGHTS.

6.2 In no event shall GTRC be liable for any use by COMPANY of the Subject Invention, or any loss, claim, damage or liability, of whatsoever kind or nature, which may arise from or in connection with COMPANY's performance under this Agreement.

7. TERM AND TERMINATION

7.1 This Agreement shall commence upon the acknowledging signature of a duly authorized representative of COMPANY ("Effective Date") and shall continue (i) until the expiration of the last expiring patent covering the Subject Invention hereunder or (ii) in the case in which no patent claims the Subject Invention, for a period of twenty (20) years.

7.2 In the event that GTRC discontinues performance under the Research Agreement for which Subject Invention was developed, this Agreement and the license granted herein shall concurrently terminate with no further action on the part of GTRC.

7.3 In the event of the breach of a material obligation hereunder by either party, the non-breaching party shall inform the alleged breaching party of said breach in writing. The alleged breaching party shall have thirty (30) days from the date of said notification during which time to cure the breach. In the event the alleged breaching party does not cure the breach within thirty (30) days, the non-breaching party may terminate this Agreement.

8. GOVERNING LAW

8.1 This License shall be governed by and construed in accordance with the laws of the State of Georgia, USA.

8.2 The Parties irrevocably and exclusively submit to the jurisdiction of the state and federal courts of or for the State of Georgia, USA, including the related appellate courts in any such action or proceeding and waive any rights to a jury trial. Personal jurisdiction over the Parties may be obtained by the mailing (postage prepaid) of a summons or similar legal document to the Party's address for notices under this Agreement.

9. COMPLETE AGREEMENT

9.1 Except as provided for herein, this Agreement constitutes the entire agreement of the parties with respect to the Subject Invention. No modification or amendment of this Agreement will be binding unless in writing and signed by a duly authorized representative of GTRC and COMPANY.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

GEORGIA TECH RESEARCH CORPORATION

By: \_\_\_\_\_

TITLE

Office of Industry Engagement

Georgia Tech Research Corporation

Atlanta, Georgia 30332-0415 USA

Acknowledgement:

\_\_\_\_\_

Name:

Date: