

COLLABORATIVE RESEARCH AGREEMENT

BETWEEN:

THE UNIVERSITY OF BRITISH COLUMBIA, a corporation continued under the *University Act* of British Columbia with offices at 103 – 6190 Agronomy Road, Vancouver, British Columbia, V6T 1Z3

("UBC")

AND:

<@>, a corporation incorporated under the laws of <@>, with a registered office at <@>

(the "Sponsor")

(both referred to as the "Parties")

WHEREAS:

It is UBC's objective to exploit its technology for the public benefit, in harmony with its Global Access Principles launched by UBC in November 2007 and as outlined at www.uilo.ubc.ca/global.asp, and to generate further research in a manner consistent with UBC's status as a non-profit, tax exempt educational institution; and

The research program contemplated by this Agreement is of mutual interest and benefit to UBC and to the Sponsor, will further the instructional and research objectives of UBC in a manner consistent with its status as a non-profit, tax-exempt, educational institution, and may derive benefits for both the Sponsor and UBC through inventions, improvements and discoveries.

THE PARTIES AGREE AS FOLLOWS:

1.0 DEFINITIONS.

1.1 In this Agreement:

- (a) "**Confidential Information**" means all information, regardless of its form:
- (i) disclosed by UBC to the Sponsor and which is clearly identified in writing as "Confidential" either at the time of disclosure or within 30 calendar days thereafter,
 - or
 - (ii) disclosed by the Sponsor to UBC and which is clearly identified in writing as "Confidential" either at the time of disclosure or within 30 calendar days thereafter,

except that "Confidential Information" does not include information:

- (iii) possessed by the recipient (the "**Recipient**") prior to receipt from the disclosing Party (the "**Discloser**"), other than through prior confidential disclosure by the Discloser, as evidenced by the Recipient's business records;
 - (iv) published or available to the general public otherwise than through a breach of this Agreement;
 - (v) obtained by the Recipient from a third party with a valid right to disclose it, provided that the third party is not under a confidentiality obligation to the Discloser in respect of the same; or
 - (vi) independently developed by employees, agents or consultants of the Recipient who had no knowledge of or access to the Discloser's information as evidenced by the Recipient's business records;
- (b) "**Contract Period**" means <@> through <@>.
 - (c) "**Effective Date**" means <@>.
 - (d) "**Investigator**" means Dr. <@> of the Department of <@> at UBC.
 - (e) "**Joint Intellectual Property**" means any and all knowledge, know-how, technique(s), technology or other intellectual property which are conceived, invented, developed, improved or acquired jointly by UBC and the Sponsor during the Contract Period in the performance of the Project.
 - (f) "**Project**" means the research project as described in Schedule "A".
 - (g) "**Sponsor Intellectual Property**" means, any and all knowledge, know-how, technique(s), technology or other intellectual property which are conceived, invented, developed, improved or acquired solely by the Sponsor during the Contract Period in the performance of the Project.
 - (h) "**UBC Intellectual Property**" means, any and all knowledge, know-how, technique(s), technology or other intellectual property which are conceived, invented, developed, improved or acquired solely by UBC during the Contract Period in the performance of the Project.

2.0 RESEARCH WORK.

2.1 UBC will commence the performance of the Project promptly after the Effective Date and will use reasonable efforts to perform the Project substantially in accordance with the terms and conditions of this Agreement. The Sponsor and UBC may at any time amend the Project by mutual written agreement.

2.2 If the Investigator becomes unable or unwilling to continue the Project, and a mutually acceptable substitute is not available, UBC and the Sponsor will each have the option to terminate the Project and this Agreement by providing the other Party with written notice of same.

3.0 REPORTS & CONFERENCES.

3.1 During the Contract Period, UBC will keep the Sponsor informed, orally or in writing, as to the progress of the Project. UBC will submit a final report to the Sponsor within 60 calendar days after the conclusion of the Contract Period or early termination of this Agreement, whichever is sooner.

3.2 Any funds that may remain after the conclusion of the Contract Period and the delivery of the final report will be retained by UBC.

3.3 During the term of this Agreement, representatives of UBC will meet with representatives of the Sponsor at times and places mutually agreed upon to discuss the progress and results, as well as ongoing plans, or changes to the Project.

4.0 COSTS, INVOICES & OTHER SUPPORT.

4.1 The Parties understand and agree that, subject to Article 4.3 the total costs to the Sponsor hereunder will be \$<@> (Canadian funds). The Parties acknowledge that any budget categories that may be described in the Project are estimates only and that changes from category to category may be made at UBC’s discretion. The Sponsor will pay to UBC the amounts on the following due dates:

- 1) 30 calendar days from signature of this Agreement..... \$<@>
- 2) mth/30/yr \$<@>
- 3) mth/30/yr \$<@>

The Sponsor may make payments by wire transfer to:

Pay Via: SWIFT MT100
 Pay to: HSBC Bank Canada, Main Branch, Vancouver, BC – SWIFT Address HKBCCATT
 Account number for Canadian dollars: 016-10020-437218-002
 Account number for US dollars: 016-10020-437218-070
 Beneficiary: The University of British Columbia
 Payment Details: RTA, FAS # <@>

UBC reserves the right to suspend work on the Project or to terminate the Project and this Agreement by delivering written notice of same to the Sponsor if the Sponsor fails to pay any invoiced amount within 30 calendar days from the due date.

The Sponsor will pay interest on all amounts owing to UBC but not paid on the due date, at the rate of 12.68% per annum, calculated annually not in advance. The interest accrues on the balance of unpaid amounts from time to time outstanding, from the date on which portions of the amounts become due and owing until payment in full.

4.2 UBC will retain title to any equipment purchased with funds provided by the Sponsor under this Agreement.

4.3 Notwithstanding anything contained in this Article 4, in the event of early termination of this Agreement, the Sponsor will pay all costs and liabilities relating to the Project which have been incurred by UBC as of the date of receipt of notice of such termination. Such costs and liabilities will include all non-cancellable obligations including payments in lieu of reasonable

notice for technicians, graduate students and other staff assigned to the Project, but will not, in the aggregate, exceed the total amount payable by the Sponsor set out in Article 4.1.

5.0 CONFIDENTIALITY.

5.1 Each Party will keep and use the other Party's Confidential Information in confidence and will not, without the other Party's prior written consent, disclose the other Party's Confidential Information to any person or entity, except to the Party's directors, officers, employees, faculty, students and professional advisors who require the Confidential Information to assist such Party in performing its obligations and exercising its rights under this Agreement.

5.2 Any Party required by judicial or administrative process to disclose the other Party's Confidential Information, will promptly notify the other Party and allow it reasonable time to oppose the process before disclosing the Confidential Information.

5.3 The Sponsor requires of UBC, and to the extent permitted by law UBC agrees, that this Agreement, and each part of it, is confidential and will not be disclosed to third parties. Notwithstanding anything contained in this Article 5, the Parties acknowledge and agree that either Party may identify the title of the Project, the Parties to this Agreement, the name of the Investigator, the Contract Period and the amount of funding provided by the Sponsor for the Project.

5.4 Notwithstanding any termination or expiration of this Agreement, the obligations set out in this Article 5 survive and continue to bind the Parties, their successors and assigns until 3 years after such termination or expiration.

6.0 PUBLICATION.

6.1 UBC is not restricted from presenting at symposia, national or regional professional meetings, or from publishing in journals or other publications, results from the Project, provided that the Sponsor is provided with copies of the proposed disclosure at least 60 calendar days before the presentation or publication date and does not, within 30 calendar days after delivery of the proposed disclosure, give notice to UBC indicating that it objects to the proposed disclosure.

6.2 The Sponsor may object to the proposed disclosure on the grounds that (i) it contains Confidential Information that was disclosed to UBC by the Sponsor; or (ii) that it discloses patentable subject matter which needs protection. If the Sponsor makes objection on the grounds of the inclusion of the Sponsor's Confidential Information, UBC will remove such Confidential Information immediately from the proposed disclosure, after which UBC is free to present and/or publish the proposed disclosure. If the Sponsor makes an objection on the grounds of protection of patentable subject matter:

- (i) it will be deemed to be a direction to UBC to file a patent application as set out in Article 7.5; and
- (ii) UBC will delay the proposed disclosure until UBC has filed one or more patent applications with one or more patent offices directed to such patentable subject matter (the "**Delay**"). A provisional patent application will be considered to be a patent application in the United States of America for the purposes of this Agreement. The Delay will be no longer

than six (6) months from the date UBC delivered the proposed disclosure to the Sponsor, after which UBC is free to present and/or publish the proposed disclosure.

6.3 Notwithstanding anything in this Agreement, the Parties acknowledge and agree that no delay is permitted for the defence of a student's thesis.

7.0 INTELLECTUAL PROPERTY.

7.1 The Sponsor acknowledges and agrees that UBC owns all right, title and interest in and to UBC Intellectual Property.

7.2 UBC acknowledges and agrees that the Sponsor owns all right, title and interest in and to Sponsor Intellectual Property.

7.3 The Parties acknowledge and agree that UBC and the Sponsor have joint right, title and interest in and to Joint Intellectual Property. Notwithstanding the applicable patent or other intellectual property laws in any jurisdiction, neither of the Parties may commercially exploit any Joint Intellectual Property, except as specifically provided for in Article 7.8 and 8.

7.4 UBC will promptly notify the Sponsor of any UBC Intellectual Property. The Parties will promptly notify one another of any Joint Intellectual Property.

7.5 The Sponsor may direct that UBC file one or more patent applications for UBC Intellectual Property and/or Joint Intellectual Property. UBC will then promptly prepare, file and prosecute patent applications in the name of UBC for UBC Intellectual Property and/or in joint names of UBC and the Sponsor for Joint Intellectual Property. UBC will be responsible for making final decisions regarding the scope and content of the patent applications and their prosecution. UBC will notify the Sponsor of any significant developments on all patent applications and will promptly supply the Sponsor with copies of papers received and filed in connection thereto in sufficient time for the Sponsor's review and input.

7.6 The Sponsor will bear all costs incurred in connection with the preparation, filing, prosecution and maintenance of the patent applications. Within 30 calendar days of UBC's written request, the Sponsor will pay to UBC a reasonable payment as an advance against expected patent expenses. The Sponsor will assist UBC in a timely manner to ensure that the patent applications cover, to the best of the Sponsor's knowledge, all items of commercial interest and importance.

7.7 If UBC wishes to obtain patent protection for UBC Intellectual Property and/or Joint Intellectual Property over and above that for which the Sponsor wishes to provide its financial support pursuant to Article 7.6, UBC will be free to file any patent applications, including new applications, at its own expense. If Sponsor discontinues its financial support for prosecution or maintenance of any patents or patent applications for UBC Intellectual Property and/or Joint Intellectual Property, UBC will be free to continue the prosecution or maintain such patents or patent applications at its own expense. In any event, UBC will not have any obligation to the Sponsor under Article 8 (Grant of Rights) relating to such patent protection.

7.8 In the event that the Sponsor wishes to discontinue the financial support for prosecution

or maintenance of any patents or patent applications for Joint Intellectual Property (the “**Event**”), the Sponsor will notify UBC in writing at least 30 calendar days prior to the Event (the “**Notice to Discontinue**”) and UBC will be free to continue the prosecution or maintenance of any such patents or patent applications for Joint Intellectual Property. The Sponsor will then promptly execute and deliver to UBC any assignment or documents UBC may deem necessary or desirable to vest in UBC all right, title and interest in the patents and patent applications. Sponsor will pay for all expenses incurred in connection with the patents and patent applications prior to the Event and for 30 calendar days from UBC’s receipt of the Notice to Discontinue.

8.0 GRANT OF RIGHTS.

8.1 Subject to Article 12.1 (Indemnity), UBC grants the Sponsor a non-exclusive, non-transferable, royalty-free licence to use and exploit UBC Intellectual Property and UBC’ rights in Joint Intellectual Property for any commercial purposes.

8.2 The Sponsor acknowledges and agrees that UBC may use Joint Intellectual Property without charge in any manner at all for research, scholarly publication, educational and all other non-commercial uses.

9.0 TERM.

9.1 This Agreement will be effective from the Effective Date for the full duration of the Contract Period unless terminated earlier under Article 10.

10.0 TERMINATION.

10.1 Either Party may terminate this Agreement upon 30 calendar days prior written notice to the other.

10.2 If either Party commits any breach or default of any terms or conditions of this Agreement and also fails to remedy such breach or default within 30 calendar days after receipt of a written notice from the other Party, the Party giving notice may terminate this Agreement by sending a notice of termination in writing to the Party in breach. This termination will be effective as of the date of the receipt of such notice. The termination may be in addition to any other remedies available at law or in equity.

10.3 This Agreement may be terminated by UBC if the Sponsor is in breach of any other agreement between the Sponsor and UBC, which breach has not been cured within the time provided for the curing of such breach under the terms of such other agreement.

10.4 No termination of this Agreement, however effectuated, will release the Parties from their rights and obligations under Articles 4.3 (non-cancelable costs), 5.0 (Confidentiality), 7.0 (Intellectual Property), 8.0 (Grant of Rights), 10.5 (cessation of use of Confidential Information) and 12 (Indemnity).

10.5 Upon the termination of this Agreement, the Recipient will cease to use the Discloser’s Confidential Information in any manner whatsoever and upon the written request of the Discloser, will deliver to the Discloser all of the Discloser’s Confidential Information in the Recipient’s possession or control.

10.6 The Parties may extend this Agreement in writing for additional periods under mutually agreeable terms and conditions. Said extension will be effective upon signature by both Parties.

11.0 DISCLAIMER OF WARRANTY.

11.1 UBC makes no representations or warranties, either express or implied, regarding data or other results arising from the Project or regarding Confidential Information UBC may disclose to the Sponsor. UBC specifically disclaims any implied warranty of non-infringement or merchantability or fitness for a particular purpose and UBC will, in no event, be liable for any loss, whether direct, consequential, incidental, or special or other similar damages arising from any defect, error or failure to perform, even if UBC has been advised of the possibility of such damages. The Sponsor acknowledges that the Project is of an experimental and exploratory nature, that no particular results can be guaranteed, and that the Sponsor has been advised by UBC to undertake its own due diligence with respect to all matters arising from this Agreement.

12.0 INDEMNITY.

12.1 The Sponsor indemnifies, holds harmless and defends UBC, its Board of Governors, directors, officers, employees, faculty, students, invitees and agents against any and all claims (including all reasonable legal fees and disbursements) arising out of the receipt or use by the Sponsor of any UBC's Confidential Information, UBC Intellectual Property, Joint Intellectual Property, or any data or other results arising from the Project including, without limitation, any damages or losses, consequential or otherwise, arising from or out of the Project, however they may arise.

13.0 INSURANCE.

13.1 UBC has liability insurance applicable to its directors, officers, employees, faculty, students and agents while acting within the scope of their employment by UBC. UBC has no liability insurance policy that can extend protection to any other person. Therefore, subject to Article 12.1 (Indemnity), each Party hereby assumes any risks of personal injury and property damage attributable to the negligent acts or omissions of that Party and its directors, officers, employees and agents, and where applicable faculty and students.

14.0 GOVERNING LAW.

14.1 This Agreement is governed by, and will be construed in accordance with, the laws of British Columbia and the laws of Canada in force in that province, without regard to its conflict of law rules. The Parties agree that by executing this Agreement, they have attorned to the exclusive jurisdiction of the Supreme Court of British Columbia.

15.0 ASSIGNMENT.

15.1 Neither Party may assign this Agreement without the prior written consent of the other Party, which consent will not be unreasonably withheld.

16.0 NOTICES.

16.1 All payments, reports and notices or other documents that a Party is required or may want to deliver to any other Party will be delivered:

- (a) in writing; and
- (b) either by personal delivery or by registered or certified mail (with all postage and other charges prepaid) at the address for the receiving Party as set out in Article 16.2 or as varied by any notice.

Any notice personally delivered is deemed to have been received at the time of delivery. Any notice mailed in accordance with this Article 16.1 is deemed to have been received at the end of the fifth business day after it is posted.

16.2 Addresses for delivery of notices:

Sponsor

<@>
<@>
<@>
<@>
<@>

Telephone: <@>
Fax: <@>
Email: <@>

UBC

Managing Director
University-Industry Liaison Office
#103 – 6190 Agronomy Road
The University of British Columbia
Vancouver, British Columbia
Canada V6T 1Z3
Telephone: (604) 822-8580
Fax: (604) 822-8589

16.3 The Sponsor may direct questions of a scientific nature or regarding financial matters to UBC through the following contacts:

Scientific Matters

Dr. <@>
Department of <@>
The University of British Columbia
<@>
<@>
Vancouver, British Columbia
Canada <@>
Telephone: <@>
Fax: <@>

Financial Matters

Manager, Research and Trust Accounting
Office of Financial Services
The University of British Columbia
General Services Administration Building
2075 Wesbrook Mall
Vancouver, British Columbia
Canada V6T 1Z1
Telephone: (604) 822-3275
Fax: (604) 822-2417

17.0 GENERAL.

17.1 Nothing contained in this Agreement is to be deemed or construed to create between the Parties a partnership or joint venture. No Party has the authority to act on behalf of any other Party, or to commit any other Party in any manner at all or cause any other Party's name to be used in any way not specifically authorized by this Agreement. No Party may use the other Party's name, trademarks or insignia for any advertising or any promotional purposes, including but not limited to media releases, without the other Party's prior written consent.

17.2 Subject to the limitations in this Agreement, this Agreement operates for the benefit of and is binding on the Parties and their respective successors and permitted assigns.

17.3 No condoning, excusing or overlooking by any Party of any default, breach or non-observance by any other Party at any time or times regarding any terms of this Agreement operates as a waiver of that Party's rights under this Agreement. A waiver of any term, or right under this Agreement will be in writing signed by the Party entitled to the benefit of that term or right, and is effective only to the extent set out in the written waiver.

17.4 No exercise of a specific right or remedy by any Party precludes it from or prejudices it in exercising another right or pursuing another remedy or maintaining an action to which it may otherwise be entitled either at law or in equity.

17.5 Headings in this Agreement are for reference only and do not form a part of this Agreement and are not to be used in the interpretation of this Agreement.

17.6 All terms in this Agreement which require performance by the Parties after the expiry or termination of this Agreement, will remain in force despite this Agreement's expiry or termination for any reason.

17.7 Part or all of any Article that is indefinite, invalid, illegal or otherwise voidable or unenforceable, may be severed from this Agreement and the balance of this Agreement will continue in full force and effect.

17.8 At the request of UBC or the Sponsor, the non-requesting Party will obtain the execution of any agreement or instrument (including from its employees, agents, contractors, consultants or representatives) that may be required to consummate the transactions contemplated in this Agreement, including assigning any rights, waiving any rights or perfecting any rights in such Party's name.

17.9 This Agreement and the Schedules set out the entire understanding between the Parties and no changes to this Agreement are binding unless in writing and signed by the Parties to this Agreement. The Parties will be bound by the Schedules, except to the extent that they may conflict with the terms and conditions contained in this Agreement, in which case the terms and conditions of this Agreement will govern.

17.10 In this Agreement, unless the contrary intention appears, the singular includes the plural and vice versa and words importing a gender include other genders.

17.11 This Agreement may be executed in counterpart by the Parties, either through original copies or by facsimile or electronically each of which will be deemed an original and all of which will constitute the same instrument.

SIGNED BY THE PARTIES AS AN AGREEMENT on the ____ day of _____, 20__ but effective as of the beginning of the Contract Period.

SIGNED FOR AND ON BEHALF of
THE UNIVERSITY OF BRITISH COLUMBIA
by its authorized signatories:

Authorized Signatory

Authorized Signatory

SIGNED FOR AND ON BEHALF of <@>
by its authorized signatories:

I have read and understood the foregoing Agreement and understand my responsibilities as the Investigator:

Dr. <@>
Department of <@>
Date:

**SCHEDULE "A"
RESEARCH PROPOSAL
AND BUDGET**

SAMPLE