

TEMPLE UNIVERSITY - OFFICE OF TECHNOLOGY TRANSFER

RESEARCH AND OPTION AGREEMENT

This Agreement is made effective _____, 200__ by and between Temple University - Of The Commonwealth System of Higher Education, having a principal place of business at Broad Street and Montgomery Avenue, Philadelphia, Pennsylvania (hereinafter referred to as "Temple") and _____, having a principal place of business at _____ (hereinafter referred to as "Company").

WHEREAS, Temple is the owner of confidential information pertaining to _____ (hereinafter referred to as "Temple Information");

WHEREAS, Company wishes to fund research pertaining to Temple Information and wishes to obtain an option to license intellectual property contained in Temple Information and in the results of said research;

WHEREAS, Temple wishes to receive the aforementioned research funding from Company and wishes to disclose to Company the results of said research and other Temple Information; and

WHEREAS, Company wishes to receive the results of the aforementioned research and other Temple Information without jeopardizing the patentability of inventions contained therein or Temple's proprietary rights thereto, in order to evaluate Company's possible interest in obtaining a license thereto;

NOW, THEREFORE, in consideration of the premises and of the covenants and obligations hereinafter set forth, the parties, intending to be legally bound, agree as follows:

ARTICLE I - DEFINITIONS

1.1 "Project" shall mean the research project pertaining to Temple Information that is described in Exhibit A, which is attached hereto and is incorporated herein by reference.

1.2 "Project Period" shall mean the period beginning with the above written effective date and ending twelve (12) months thereafter.

1.3 "Project Results" shall mean discoveries, inventions, know-how, testing data, methods, techniques and other information, patentable or unpatentable, resulting from Company's funding of the Project during the Project Period.

1.4 "Principal Investigator" shall mean _____, designated by Temple to direct the Project and to serve as the contact person for Company on all technical matters relating to the Project.

1.5 "Confidential Information" shall mean any Temple Information and tangible property pertaining thereto that is supplied by Temple to Company. Any Temple Information disclosed in writing shall be deemed Confidential Information only if marked "Confidential". Any Temple Information disclosed orally shall be deemed Confidential Information only if reduced to writing and a copy marked "Confidential" is provided to Company within thirty (30) days of the date of oral disclosure. However, Confidential Information shall not include information that: (i) was known to Company prior to the date of disclosure by Temple; or (ii) is lawfully received in good faith at any time by Company from a third party lawfully in possession of the same and having the right to disclose the same; or (iii) is, as of the date of receipt, in the public domain or subsequently enters the public domain other than by reason of acts or omissions of Company; or (iv) Company is required to disclose by law, rule of court or regulation; or (v) is independently developed by Company, as evidenced by written records.

1.6 "Option Period" shall mean the period beginning with the above written effective date and ending six (6) months after the end of the Project Period.

ARTICLE II - SCOPE

2.1 The work to be carried out under the Project pertains to Temple Information and is described in Exhibit A, which is attached hereto and is incorporated herein by reference. The Principal Investigator shall direct the Project and control the manner of its performance.

2.2 Temple shall make reasonable efforts to complete the Project. However, Temple makes no warranties as to the completion of the Project or the achievement of any particular goal.

ARTICLE III - FUNDING

3.1 Company shall pay _____ to Temple to fund the Project during the Project Period, as outlined in the budget incorporated in Exhibit A.

3.2 Company shall provide its funding pursuant to Paragraph 3.1 in four (4) equal, non-refundable payments, with the first payment due on the effective date of this Agreement and the remaining payments due on the first day of the third, sixth, and ninth months thereafter. Checks shall be made to "Temple University" (with the name of the Principal Investigator shown for reference purposes) and shall be sent to the attention of Business Manager at the address shown in Paragraph 7.6.

ARTICLE IV - TRANSFER OF INFORMATION

4.1 Temple Information is and shall remain the sole property of Temple.

4.2 For a period of five (5) years from the date of disclosure of any Confidential Information, Company shall hold such Confidential Information in strict confidence; shall not use such Confidential Information except as permitted herein; and shall not disclose, directly or indirectly, such Confidential Information to any third party without the prior written consent of Temple. Company shall, to maintain the secrecy of Confidential Information, use at least the same degree of care it uses in maintaining the secrecy of its own confidential information, but always at least a reasonable degree of care. Company shall restrict disclosure of Confidential Information solely to those employees of Company having a need to know such Confidential Information in order to accomplish the purpose set forth above. Company shall also advise its employees before they have access to Confidential Information, of the obligations of Company under this Agreement, and require such employees to maintain those obligations.

4.3 Upon written request by Temple, Company shall promptly return all written materials and samples of tangible property received hereunder, with the exception that one copy of written materials may be retained by Company solely for archival purposes. In the alternative, Company may destroy all materials and confirm their destruction in writing.

4.4 Nothing herein shall prejudice the right of Temple to publish or otherwise disclose Project Results. However, Temple shall provide to Company a copy of any proposed publication or other disclosure, written or oral, containing Project Results, at least thirty (30) days before the date of submission of such proposed publication or other disclosure, for comment by Company. During the aforementioned thirty (30) day period, Company may request in writing that its Confidential Information be removed from the proposed publication or other disclosure, and Temple agrees to comply.

ARTICLE V - OWNERSHIP RIGHTS

5.1 Title to all Project Results shall belong exclusively to Temple.

5.2 Temple shall have the right to procure and maintain, in its sole discretion, U.S. and foreign patents for Project Results. During the Option Period, however, Company may require in writing that Temple prepare and file, in consultation with Company and at Company's sole expense, U.S. patent applications for Project Results.

ARTICLE VI - LICENSING OPTION

6.1 **6.1** In consideration of the funding provided by Company to the Project, Temple hereby grants to Company an option to obtain an exclusive worldwide license to commercialize Project Results and Temple Information. The terms of such license shall be negotiated in good faith by the parties.

6.2 The option granted pursuant to Paragraph 6.1 must be exercised in writing during the Option Period. If within six (6) months from the date the option is exercised the parties are unable to reach a mutually acceptable agreement after negotiating in good faith, Temple shall be free to license Project Results and Temple Information to others.

ARTICLE VII - MISCELLANEOUS

7.1 This Agreement constitutes the entire understanding of the parties with respect to the matters herein contained and each acknowledges and agrees that there are no warranties, representations or understandings between them other than those expressly set forth herein. Each party warrants and represents that the terms of this Agreement are not inconsistent with any other contractual or legal obligations it may have. This Agreement may be modified only by written consent signed by both parties.

7.2 The rights and duties of the parties shall be governed by the laws of the Commonwealth of Pennsylvania. The parties agree that any dispute arising out of this Agreement may be resolved by recourse to the courts of the Commonwealth of Pennsylvania or the United States District Court for the Eastern District of Pennsylvania.

7.3 If any litigation or other legal proceeding relating to this Agreement occurs, the prevailing party shall be entitled to recover from the other party (in addition to any other relief awarded or granted) its reasonable costs and expenses, including attorney's fees, incurred in the proceedings.

7.4 This Agreement is binding upon the parties, and upon the directors, officers, employees and agents of each. The terms and conditions of Articles IV, V and VI herein shall survive the termination or expiration of this Agreement.

7.5 Neither party shall use the other party's name publicly without the other party's prior written consent.

7.6 Any notice, report, or other communication required hereunder shall be sent to the parties at the addresses below:

To Temple: Director
Office of Technology Transfer
Temple University
406 University Services Building (083-45)
1601 North Broad Street
Philadelphia, PA 19122-6099

To Company: _____

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives the day and year written below.

Temple University – Of The Commonwealth System Of Higher Education:

By: _____ Date: _____
Anthony E. Wagner
Vice President, Chief Financial Officer and Treasurer

By: _____ Date: _____
Principal Investigator

_____:

By: _____ Date: _____
Name:
Title: