

RESEARCH AGREEMENT

Between

QUEEN’S UNIVERSITY AT KINGSTON

ONTARIO, CANADA

and

# <Insert name of Company>

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_ 200\_, is entered into by and between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, having a place of business at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ hereinafter designated the "Company", and Queen’s University, an educational institution at 99 University Avenue, Kingston, Ontario, K7L 3N6 hereinafter designated “Queen’s”

WHEREAS Queen’s and the Company wish to enter into this agreement (the “Agreement”) to have Queen’s perform the work in accordance with the terms of this Agreement;

NOW THEREFORE in consideration of the mutual covenants of the parties herein and other good and valuable consideration, Queen’s and the Company agree as follows:

**Article 1 – Project Description**

Queen's shall perform the work entitled “     ” (hereinafter referred to as the "Project") under the terms and conditions specified hereinafter. The scope of work for the Project is outlined in Appendix 1.

**Article 2 - Deliverables**

The deliverables under this Agreement and the schedule for their delivery are defined in Appendix 2.

**Article 3** - Principal Investigator(s)

The Principal Investigator(s) of the Project shall be:

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The Principal Investigator is responsible for the technical content of the Project. If for any reason the then designated Principal Investigator is unable to complete the Project, Queen’s shall be free to replace the Principal Investigator with an alternate acceptable to the Company. If the successor proposed by Queen’s is not accepted by the Company acting reasonably, the parties will take all reasonable steps to wind down the Project with a minimum of costs. In those circumstances, the Company will pay for the portion of the Project completed and Queen’s committed and uncancellable costs of the Project, the total of which in no event will exceed the total amount set forth in Article 5.

**Article 4 - Liaison**

The Company representative for the Project, who is responsible for technical liaison and management of the Project on behalf of the Company shall be:

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**Article 5 - Basis of Payment**

In consideration of Queen's carrying out the Project, Company shall pay Queen's a fixed sum of $      Canadian dollars, which includes 40% overhead, in accordance with the payment schedule in Appendix 3.

This total financial obligation of Company shall not be exceeded without the written authorization of Company, given by one of its duly authorized representatives. Queen's shall not be obliged to perform any work beyond the Scope of Work (Appendix 1) which would cause the financial obligation of Company to exceed such sum, unless Queen's receives written authorization to the contrary.

**Article 6 - Period of Agreement**

This Agreement shall be deemed to be effective as of the date first written above and, subject to Article 16, shall continue for       months or until acceptance of the deliverables by the Company, such acceptance not to be unreasonably withheld, whichever occurs first.

**Article 7 - Assignment**

No right or obligation related to this Agreement shall be assigned by either party without the prior written permission of the other, such permission not to be unreasonably withheld, provided that Company may assign this Agreement to a wholly-owned subsidiary or to a successor of all or substantially all of Company’s business without such permission.

**Article 8 - Equipment**

Any equipment or supplies identified in the budget for this Project as required by Queen's as part of the Project shall remain the property of Queen's unless otherwise specified in Article 15.

**Article 9 - Confidentiality**

The parties may wish to disclose information that is either non-public, confidential or proprietary in nature to each other in connection with work contemplated by this Agreement ("Confidential Information"). Such Confidential Information shall be safeguarded by the recipient party and not be disclosed to anyone without a "need to know" within recipient’s organization or, if to third parties, without appropriate Confidentiality Agreements on terms no less stringent than set out herein, being signed. Each party shall use its best efforts to protect such information from disclosure to third parties for a period of three (3) years from receipt, provided that the recipient party's obligation shall not apply to information that:

* + 1. is not disclosed in writing or reduced to writing and marked with an appropriate confidentiality legend within thirty (30) days after disclosure;
    2. is already in the recipient party's possession at the time of disclosure;
    3. is or later becomes part of the public domain through no fault of the recipient party;
    4. is received from a third party having no obligations of confidentiality to the disclosing party;
    5. is independently developed by the recipient party; or
    6. is required by law or regulation to be disclosed.

In the event that information is required to be disclosed pursuant to paragraph 9 (vi) above, the party required to make the disclosure shall notify the other to allow that party to assert whatever exclusions or exemptions may be available to it under such law or regulation.

**Article 10 - Publicity**

Company will not use the name of Queen's, nor of any member of Queen's staff or faculty, in any publicity without the prior written approval of the Director of Research Services or other authorized representative of Queen's. Queen's will not use the name of Company, nor any employee of Company, in any publicity without the prior written approval of Company, except that Queen’s may provide a brief listing of the research Project, including the title, the name of the Company, and the amount of funding, as part of any public or internal compendium of Queen’s or Principal Investigator’s research.

**Article 11 - Publication**

The parties agree that it is part of Queen's function and policies to disseminate information and to make it available for the purpose of scholarship. It is further recognized that the publication of certain technical information may compromise its commercial value.

Within the period of this Agreement, unless otherwise agreed to in writing, Company shall be advised in writing of the substance of any proposed disclosure related to this Project at least sixty (60) days in advance of submission for publication in a journal and at least thirty (30) days in advance of disclosure at a conference, seminar, meeting or thesis examination. In the event that written objection is made, the parties shall endeavour to negotiate an acceptable version of the proposed disclosure, including the release date, within the original notice period. If an acceptable version is not agreed upon, Queen's will be free to publish or present the original disclosure, subject to provisions of Confidentiality set out in Article 9 and, where applicable, to Queen’s policies regarding thesis defense, six months after the date on which it was submitted to Company. In the event a graduate student of Queen’s works on the Project and that student completes a thesis or academic report relating to the Project, the student will own the copyright in that thesis or report. Nothing in this Agreement shall require a student to delay a thesis examination or submission of an academic report beyond the thirty (30) day review period. However, at the request of the Company such thesis or report may be withheld from deposit in the library for a period of up to six months to allow for the statutory protection of Intellectual Property.

All publications and disclosures under this Article 11 shall acknowledge the support of the Company.

## Article 12 – Intellectual Property

"Intellectual Property" shall by way of example, include patents, technical information, know-how, copyrights, models, patterns, drawings, specifications, data, prototypes, inventions, and software.

All Intellectual Property solely conceived and/or developed by Queen's during the course of this Project shall be owned by Queen's. All Intellectual Property solely conceived and/or developed by Company during the course of this Project shall be owned by Company. Intellectual Property jointly conceived and/or developed by Queen's and Company will be jointly owned by Queen's and Company.

Any required reports of research results to be provided by Queen’s to the Company will identify, to the extent possible, the creation of any Intellectual Property.

Provided that Company is in compliance with the terms of this Agreement, Queen's shall grant to Company a six-month option to a license, to the Intellectual Property owned by Queen's under this Agreement, on terms to be negotiated in good faith. Any such license shall include the retention of Queen’s rights to use Queen’s Intellectual Property for research and educational purposes, subject to confidentiality requirements.

In order to ensure that Intellectual Property rights are available to Company, Queen’s shall require the Principal Investigator and Queen’s participants to assign their rights to Intellectual Property created by them under this Agreement to Queen’s.

**Article 13 - Liability and Indemnity**

Company shall indemnify and hold Queen’s harmless against all costs, suits, or claims resulting from the use by Company or its customers or licensees of any deliverable or Intellectual Property developed by Queen's under this Agreement. At Queen’s request, Company shall provide proof of insurance necessary which shall be sufficient for compliance under this section.

Queen's shall indemnify Company against all costs, suits, or claims on account of injuries (including death) to persons participating in the Project or damage to Queen's property during the performance of this Agreement arising out of the negligence of Queen's or resulting from any willful or negligent act, omission or delay on the part of Queen's, its directors, officers, employees, or students. Queen’s shall not be liable for any delays in the performance of its obligations under this Agreement resulting from circumstances or causes beyond Queen’s control, and in no case shall Queen’s be liable for loss of business or profit or other indirect or consequential damage

**Article 14 – No Intellectual Property Warranty**

ANY RESULTS OF THE PROJECT THAT MAY BE PROVIDED TO COMPANY BY QUEEN’S ARE PROVIDED AS IS. QUEEN’S DOES NOT WARRANT THAT THE RESULTS OF THE PROJECT OR ANY PART THEREOF OR ANY ASPECT OF THE SAME WILL BE CAPABLE OF RECEIVING ANY STATUTORY PROTECTION. QUEEN’S MAKES NO REPRESENTATIONS AS TO THE POTENTIAL FOR ANY PARTICULAR RESULT BASED ON THE USE OF THE RESULTS OF THE PROJECT OR THE INTELLECTUAL PROPERTY LICENSED AND/OR OPTIONED TO COMPANY HEREUNDER. QUEEN’S SHALL NOT BE RESPONSIBLE FOR PROCURING THE USE OF THE RESULTS OF THE PROJECT OR THE INTELLECTUAL PROPERTY FOR COMPANY IN THE EVENT THAT THE PROJECT, OR ANY PART THEREOF INCLUDING THE RESULTS THEREFROM, BECOME THE SUBJECT OF A CLAIM OF INFRINGEMENT.

**Article 15 - Special Conditions**

Any special conditions applicable to this Agreement are specified in Appendix 4.

**Article 16 - Termination**

Either party may terminate this Agreement, for cause, thirty (30) days after written notice. If termination is due to default, the defaulting party shall have said thirty (30) day period to correct the default. If the correction is deemed acceptable to the terminating party, then the notice of termination shall be of no effect. Queen’s advises that it is bound by its [Senate Policy on Integrity in Research](http://www.queensu.ca/secretariat/senate/policies/RsrchInteg.pdf). Any breach of this Statement will be seen as a default under this Agreement.

Upon termination and subject to Article 5, Company shall pay for all expenses up to the effective date of termination incurred in accordance with this Agreement, and for reasonable uncancellable commitments made by Queen's related to the Project, prior to date of notice, for which Queen's is financially responsible.

Termination shall not affect the rights of Company accrued prior to the date of termination.

**Article 17 - Notices**

Notices under this Agreement shall be sent to the following addresses of the parties, unless changed by written notice:

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| --- | --- |
| **Company** | **Queen's University at Kingston** |
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|  | Janice Mady |
|  | Director, Industry Partnerships and Innovation Park |
|  | Queen's University |
|  | Fleming Hall-Jemmett Wing, 3rd Floor |
|  | Kingston, Ontario, K7L 3N6 |
|  | TEL: 613-533-6081 FAX: 613-533-6806 |
|  | Email: ors@queensu.ca |

**Article 18 - Force Majeure**

Neither party to this Agreement shall be liable to the other for any failure or delay in performance caused by circumstances beyond its control, including but not limited to, acts of God, fire, labour difficulties or governmental action.

## Article 19 - Independent Parties

The Company and Queen’s are independent parties and nothing in this Agreement shall constitute either party as the employer, principal or partner of or joint venturer with the other party. Neither the Company nor Queen’s has any authority to assume or create any obligation or liability, either express or implied, on behalf of the other.

## Article 20 - Entire Agreement

This Agreement and the attached Appendices shall supersede all documents or agreements, whether written or verbal, in respect of the subject matter thereof. The terms herein stipulated may not be modified in any way without the mutual consent of the parties in writing.

**Article 21 - Governing Laws**

This Agreement shall be governed by the laws of the Province of Ontario, or where applicable, the laws of Canada.

**In witness whereof the parties hereto have signed:**

**FOR COMPANY**

|  |  |
| --- | --- |
|  | Date: |

Name/Title

**FOR QUEEN'S UNIVERSITY**

|  |  |
| --- | --- |
|  | Date: |

Janice Mady, Director, Industry Partnerships and Innovation Park

**APPENDIX 1**

**SCOPE OF WORK**

**APPENDIX 2**

**DELIVERABLES**

**APPENDIX 3**

**METHOD OF PAYMENT**

The sum stipulated in Article 5 shall be paid by Company, by cheque made payable to Queen's University at Kingston, according to the following payment schedule:

Any funds not used for the Project’s direct costs will be considered as a further payment toward indirect costs. Queen’s may use such funds at its discretion, following conclusion of the Project.

Payments to be sent to:

Associate Director – Research Accounting

Financial Services, Queen's University  
Rideau Building, 3rd Floor

Kingston, Ontario  
Canada K7L 3N6

**APPENDIX 4**

**SPECIAL CONDITIONS**

**APPENDIX 5**

**PARTICIPANT AGREEMENT**

|  |  |
| --- | --- |
| To be signed in duplicate; retain one fully-signed original for Participant’s records and forward one original to the Office of Research Services, 3rd Floor, Fleming Hall, attn: Research Contracts Coordinator, tel. 533-6081. |  |

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| --- | --- |
| **P****articipant:** |  |
|  |  |
| **Project:** |  |
|  |  |
| **Principal Investigator** |  |
|  |  |
| **Sponsor:** |  |

I, the undersigned Participant, of or affiliated with Queen’s University (or related institution), recognize that this Project is supported by the Sponsor and in consideration of participating in or working on the Project, hereby agree as follows:

1. I acknowledge I have read and will act in accordance with the Agreement signed between Queen's University and Sponsor. I am aware of any publication restraints and confidentiality requirements contained within this Agreement, including any which might affect presentation of results at an academic conference or meeting.
2. I agree to promptly disclose to the Principal Investigator(s) any intellectual property and its planned disclosure arising from the Project.
3. I have discussed any pre-existing intellectual property constraints, including those described in the Project proposal, with the Principal Investigator and agree to be bound by them.
4. I hereby agree to agree to assign all Intellectual Property generated by me in connection with this Agreement to Queen’s and hereby acknowledge that Queen’s will apply, in accordance with the relevant policies of Queen’s, all rules relating to distribution and commercialization rights of the Intellectual Property. I agree to sign and execute all documents necessary in this regard, and provide timely support in respect of any patent protection or filings made in respect of Intellectual Property created under this Agreement.
5. I agree to be bound by any commercialization plan outlined in the Agreement which specifies the exploitation of intellectual property arising from the Project.
6. I acknowledge that researchers at Queen’s University are bound by internal policies of the University, including the Senate Policy on Integrity in Research dated January 2009, located on the Queen’s University website at <http://www.queensu.ca/secretariat/senate/policies/RsrchInteg.pdf> and I will advise Queen's University of any perceived or actual breach of such policies.
7. I understand that the completion of degree requirements will not be delayed by signing this Agreement.

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| --- | --- | --- | --- | --- |
| **Date:** |  |  | | |
| **Witness**  **Signature:** |  | **Participant’s**  **Signature:** |  |
| **Name/Title:** |  | **Name:** |  |

This Agreement is a legal document which affects your rights. If you have any questions or concerns about this document or the attached Agreement, please ensure that these questions have been answered to your satisfaction prior to requesting a Witness signature.

The personal information collected on this form is collected under the authority of the Queen's Royal Charter of 1841, as amended.  The information collected will form part of the records held at the Office of Research Services at Queen's University. It will be used in the administration of your research program. A copy may be provided the project sponsor upon request.  
Information collected may also be used in customary internal reports of the university. Information used for external reports will be de-identified, or will be limited to information that is already in the public domain. If you have any questions or concerns about the information collected please contact the Office of Research Services, 3rd Floor Fleming Hall-Jemmett Wing, at 613-533-6081.

**APPENDIX 6**

AGREEMENT

Between:

Queen’s University at Kingston (“Queen’s”)

and

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(“Principal Investigator”)

I, the undersigned Principal Investigator, have read and understood the agreement attached hereto (the “Research Agreement”). In consideration of my participating in the project described in the Research Agreement (the “Project”) as Principal Investigator, I hereby agree to assign all Intellectual Property generated by me in connection with the Research Agreement to Queen’s [in exchange for a percentage of all net proceeds]. I agree to sign and execute all documents necessary in this regard, and provide timely support in respect of any patent protection or filings made in respect of Intellectual Property created under the Research Agreement.

I hereby undertake to inform all Queen’s participants involved in this Project of their obligations and to obtain their written acceptance of same, in the form of the Participant Agreement attached as Appendix 5 of the Research Agreement.

I further agree to abide by the terms and conditions of the Research Agreement for this Project and in particular I agree to:

* Be bound by internal policies of Queen’s, including the Senate Policy on Integrity in Research dated January 2009, located on the Queen’s University website at <http://www.queensu.ca/secretariat/senate/policies/RsrchInteg.pdf> , and I agree to advise Queen's University of any perceived or actual breach of such policies;
* Credit the Company and the collaborating investigators, students and participants, as appropriate, in publications and publicity arising out of the Project;
* Make a timely disclosure of Intellectual Property to Queen’s in accordance with the Collective Agreement and the Research Agreement for this Project;
* Abide by the terms and conditions of the Research Agreement for the Project;
* Abide by the Tri-Council Policy Statement on Integrity in Research and regulations governing the use of research funds and in the conduct of research, including obtaining from Queen’s or my employing institution appropriate certification and/or approval regarding the use of humans, animals and/or biohazards in the conduct of the Project;
* Inform Queen’s in a timely manner, prior to undertaking any research activity impinging upon or conflicting (including conflicts of interest) with the Research Agreement
* Endeavour to attain milestones and goals set out in the Research Agreement and
* Prepare timely research progress reports for submission to the Company;

AGREED TO AS OF THE EFFECTIVE DATE OF THE RESEARCH AGREEMENT

Principal Investigator Queen’s University at Kingston

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Name: Name:

Title:

The personal information collected on this form is collected under the authority of the Queen's Royal Charter of 1841, as amended.  The information collected will form part of the records held at the Office of Research Services at Queen's University. It will be used in the administration of your research program. A copy may be provided the project sponsor upon request.  
Information collected may also be used in customary internal reports of the university. Information used for external reports will be de-identified, or will be limited to information that is already in the public domain. If you have any questions or concerns about the information collected please contact the Office of Research Services, 3rd Floor, Fleming Hall-Jemmett Wing, at 613-533-6081.