

AUBURN UNIVERSITY
FIXED PRICE RESEARCH AGREEMENT

This Agreement is made between _____ (“Sponsor”), located at _____ and Auburn University (“Auburn”), located at the Office of Sponsored Programs, 540 Devall Drive, Suite 200, Auburn University, AL 36832.

The Sponsor desires to provide financial support for a research project (“Project”), which is of mutual interest to Auburn and to Sponsor. The Project will further the instructional, research and public service missions of Auburn in a manner consistent with its status as a non-profit, tax exempt, educational institution and may derive benefits for both Sponsor and Auburn. The details of the Project are attached as Appendix A and incorporated by reference.

<p>1. PROJECT TITLE</p> <p><i>Scope of Work incorporated as Appendix A</i></p> <p>2. PERSONNEL AND FACILITIES</p> <p>Auburn has the personnel and facilities necessary to complete the Project. Auburn will undertake the Project through its Department of: _____ Auburn's Principal Investigator for the Project is: _____</p> <p>3. AGREEMENT TERM</p> <p>This Agreement begins on _____ and ends on _____ (“Term”).</p> <p>4. FINANCIAL SUPPORT</p> <p>For support of this Project, Sponsor agrees to provide the sum of _____ U.S. Dollars under the payment terms indicated below.</p> <p>____ Full payment upon execution of this Agreement</p> <p>____ Quarterly in advance with the first payment due upon execution of this Agreement</p> <p>____ 90% upon execution of this Agreement, 10% withheld until receipt of final report.</p> <p>If no payment option is checked, full payment will be due within 30 days after execution of this Agreement.</p> <p>Sponsor's Financial POC Name: _____ Address: _____</p> <p>Email _____ Phone number _____</p> <p>5. PAYMENT</p> <p>Make checks payable to Auburn University and mail to Director, Contracts and Grants Accounting, 208 M. White Smith Hall, Auburn University, Alabama 36849-5110.</p> <p>6. TECHNICAL REPORTS</p> <p>Auburn agrees to furnish through the Principal Investigator to the Sponsor: (i) technical reports and other research deliverables, as outlined in Appendix A, and (ii) a final report. All reports and research deliverables are the property of the Sponsor, provided however that any deliverables protected under patent or registered under copyright laws are subject to Article 8 (Intellectual Property). Auburn reserves the right to use such reports and deliverables for research and educational purposes subject to the confidentiality provisions of Article 9 (Confidential Information).</p> <p>7. PUBLICATION RIGHTS</p> <p>The parties agree that Auburn may publish the results of the Project in its own form. Such publications will include credit to the Sponsor for its support of the Project.</p> <p>At Sponsor's request, Auburn will provide a copy of any proposed publication sixty (60) days in advance of submission to</p>	<p>review for confidential information and language, which would affect any potential patent filings. Sponsor's review will be completed and any objections made within this period. Fair consideration shall be given to Sponsor's comments.</p> <p>8. INTELLECTUAL PROPERTY</p> <p>The parties agree that during the period of this Agreement and as a result of the Project certain intellectual property may be developed. Such intellectual property shall include, but not be limited to, patentable and un-patentable inventions, discoveries, technologies, enhancements, copyrights and copyrightable material, trademarks, trade secrets, data and results, and tangible research property, including but not limited to biological materials, cell lines, and monoclonal and polyclonal antibodies (“Intellectual Property”). In that event the following applies: All rights and title to Intellectual Property developed solely by Auburn employees under this Agreement shall belong to Auburn. All rights and title to Intellectual Property developed solely by Sponsor employees under this Agreement shall belong to Sponsor.</p> <p>All rights and title to Intellectual Property developed jointly by one or more Auburn employees and one or more Sponsor employees under this Agreement shall be jointly owned. It is understood by the parties that jointly developed Intellectual Property as contemplated in this Agreement includes any and all such Intellectual Property for which creation, conception and/or reduction to practice have been accomplished by joint efforts of employees of both Sponsor and Auburn in the course of performance under this Agreement.</p> <p>To the extent not prohibited by other obligations, Auburn hereby grants Sponsor an option to negotiate an exclusive or non-exclusive, worldwide, royalty-bearing license for a specific field(s) of use under Auburn's Intellectual Property rights arising from this Project which were made solely by Auburn or jointly by Auburn and Sponsor. Sponsor's option shall extend for a period not to exceed six (6) months after the expiration or termination of this Agreement. Patent preparation, filing, and prosecution during the option period, if any, shall be at Sponsor's expense. If Sponsor wishes to exercise its option hereunder, it shall so notify Auburn within the option period, and both parties shall negotiate in good faith the terms of the license within sixty (60) days following Sponsor's exercise of its option, such period to be extended upon mutual written agreement of the parties. If Auburn and Sponsor cannot agree upon the terms of the license within ninety (90) days thereafter, Auburn shall be free to license the Intellectual Property to any third party without further obligation to Sponsor.</p> <p>Auburn grants Sponsor an irrevocable, royalty-free, non-transferable, non-exclusive license to use, display, distribute, and perform all copyrights and copyrightable material, including software, first produced or composed in the performance of this research for Sponsor's non-commercial purposes.</p> <p>9. CONFIDENTIAL INFORMATION</p> <p>Should it be necessary for either party to receive the other's confidential information, the disclosing party agrees to disclose such information in writing and marked “confidential”, or if given orally, reduced to writing and clearly marked as confidential</p>
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within 30 days of the oral disclosure. The receiving party agrees to safeguard the disclosing party's confidential material to the same extent it safeguards its own for a period of three (3) years from the end date or termination of this Agreement. Confidential Information does not include (a) information which is now or hereafter becomes a part of the public domain; (b) information known to the receiving party before disclosure to it by the disclosing party hereunder as evidenced by its records; (c) information given to the receiving party by a third party having a right to disclose the same; or (d) information which the receiving party is compelled to disclose by judicial or administrative process, or by other mandatory requirements of law.

Each party will retain all Project Intellectual Property disclosures submitted in confidence and will not disclosure them to third parties. Either party will be relieved of this obligation only when this information becomes publicly available through no fault of the other party.

10. DISCLAIMER OF WARRANTY

THE SPONSOR WILL RECEIVE RESEARCH PROJECT RESULTS, REPORTS, DATA, AND DELIVERABLES "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. AUBURN IS NOT LIABLE FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, SPECIAL OR OTHER DAMAGES SUFFERED BY SPONSOR AS A RESULT OF SPONSOR'S USE OF PROJECT RESULTS, REPORTS, DATA, OR DELIVERABLES.

11. PUBLICITY

The parties will not use the name of the other or the other's Project staff in any publicity, advertising, or news release without prior consent of the other. Sponsor will not state or imply that Auburn endorses any Sponsor product or process. Auburn shall be free to announce receipt of funding in routine campus announcements.

12. COMPLETION

Auburn will complete the Project on time and in accordance with Appendix A. However, Sponsor acknowledges that research, by its nature is uncertain and understands there is no guarantee of certain results. Auburn agrees to perform the work with the highest professional standards, quality and within the Term. Auburn is under no obligation to spend more on the Project than the funds provided by the Sponsor for the Project.

13. Breach and Termination

This Agreement may be terminated by either party for a breach of any of the terms herein. Upon written notification, the breaching party shall have 30 days to cure such breach. If such breach is not cured, the non-breaching party may deliver a Notice of Termination to the breaching party terminating the Agreement. For a breach of non-payment of support by Sponsor, Auburn is under no obligation to continue work on the Project. During such non-payment period and/or a termination of this Agreement for a non-payment breach, Auburn is under no obligation to conform to any of the Agreement terms herein, except Section 9 (Confidential Information) and Section 11 (Publicity).

Either party may terminate performance of the Project in whole or in part for any reason. The terminating party shall deliver a Notice of Termination specifying the basis of the termination, extent of termination and effective date. Auburn will be paid for all services delivered and all non-cancelable commitments made prior to the date of termination. In the event that only a portion of the Project is terminated, Auburn shall work diligently to continue all other efforts that remain active.

14. EQUIPMENT

Auburn retains title to the equipment purchased for this Project with funds provided by Sponsor.

15. GENERAL

This Agreement contains the entire agreement between the parties with respect to the subject matter hereof. If Sponsor issues a purchase order to initiate the Project, the terms of this Agreement supersede in their entirety the Terms of the purchase order. No modification to the terms of this Agreement shall be valid unless made in writing and signed by authorized representatives of the parties. Notwithstanding the foregoing, No-Cost Extensions may be effectuated unilaterally by the written approval of Sponsor. This Agreement is governed according to and under the jurisdiction of the laws of the State of Alabama.

AUBURN UNIVERSITY

SPONSOR

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Auburn EIN: 63-6000724

Sponsor EIN: