**MASTER RESEARCH AND COLLABORATION AGREEMENT**

This Master Research and Collaboration Agreement ("**Agreement**"), effective as [DATE] ("**Effective Date**") is made by and between The University of Maine System, a body politic and corporate and an instrumentality and agency of the State of Maine acting through the University of Maine ("**UMaine**") and [Company] ("**Company**").

WHEREAS, Company has expressed a desire to engage UMaine in activities to create or enhance technologies that will assist in Company's development and commercialization of new products or processes ; and

WHEREAS, the activities UMaine desires to engage in the activities contemplated by this Agreement, which further the mission of UMaine in a manner consistent with its status as a non-profit, tax-exempt educational institution;

THEREFORE, the Parties agree as follows:

1. **DEFINITIONS**

In the Agreement,

"**Development Program**" shall mean, collectively, all Projects included herein as Appendix 1 at any time during the course of this Agreement.

"**Project**" shall mean a written description, statement of work, budget, payment terms, schedule, responsible parties and expected outcomes for research and development activities under this Agreement.

"**Background IP**" shall mean all intellectual property rights and information, including but not limited to any ideas, reports, techniques, methods, solutions, devices and material, discoveries, inventions, know-how, irrespective of whether they are or can be protected by intellectual property rights, patents, models, designs, copyrights, know-how etc., owned or controlled by either Party when entering into this Agreement or developed by either Party outside the scope of the Development Program. Background IP (or any part thereof) shall not be considered to be Project IP.

"**Project IP**" shall mean all intellectual property rights and information, including but not limited to any ideas, reports, techniques, methods, solutions, devices and material, discoveries, inventions, know-how, irrespective of whether they are or can be protected by intellectual property rights, patents, models, designs, copyrights, know-how etc., generated by either Party during the term of this Agreement and as a result of work performed under the Development Program.

"**Joint IP**" shall mean Project IP generated by at least one UMaine employee and at least one Company employee jointly; patents and patent applications which have at least one UMaine employee and at least one Company employee included as inventors according to the US Patent and Trademark Office requirements for inventorship shall be Joint IP.

"**Principal Investigator**" shall mean the employee responsible for completion of the respective Party's Project objectives.

"**Confidential Information**" shall mean information defined as confidential in Article 9 herein.

1. **WORKING GROUP**

UMaine and Company shall each appoint a Principal Investigator and name within the Project documentation all persons who will assign or complete work under the Project, and who will have access to Confidential Information and Project results. Collectively, these persons form the "**Working Group**".

1. **PROJECTS**
   1. Each Project shall be authorized by the Principal Investigators and be included herein as Appendix 1.
   2. UMaine shall commence the performance of work according to terms of each Project and shall use reasonable efforts to conduct the work within the timeframe and cost specified. UMaine and Company may at any time amend a Project by mutual agreement.
   3. If it is determined that UMaine's work cannot be completed in the manner contemplated and/or with the funds provided under the Project, the UMaine Principal Investigator shall immediately submit a report to the Company Principal Investigator describing in detail UMaine's accomplishments to date, the reasons the Project cannot be completed and, if applicable, an estimate of further funding required to complete the Project. Company may terminate the Project or continue performance under modified terms at its sole discretion.
2. **INDEPENDENT CONTRACTOR**

UMaine is an independent contractor, and subject to the terms and conditions of this Agreement and the Projects, shall be free to exercise its discretion and independent judgment as to the method and means of performing each Project. UMaine and its personnel shall not, by virtue of this Agreement, be employees of Company and, accordingly, shall not be entitled to any benefits or privileges provided by Company to its employees.

1. **FINANCIAL CONSIDERATION**
   1. Company agrees to pay UMaine according to the rates and schedule provided in each Project.
   2. Payment shall be made by Company to the address specified in Section 11 herein within thirty (30) days of receipt of invoice.
   3. UMaine shall retain title to any equipment purchased with funds provided by Company under this Agreement.
   4. In the event of early termination of a Project or this Agreement, Company shall pay all expenses and non-cancellable obligations incurred by UMaine as of the date of termination.
2. **REPORTS**

UMaine Principal Investigator shall furnish to Company Principal Investigator written reports at least quarterly, within thirty (30) days of the end of each calendar quarter, summarizing progress on each Project, and a final written report within thirty (30) days of the conclusion of each Project. The final report shall be in a format acceptable to Company and contain an account of all work performed under the objectives and deliverables of the Project.

1. **INTELLECTUAL PROPERTY** 
   1. **Purpose**: UMaine recognizes that Company has entered this Agreement as an effort to secure, through the creation or enhancement of technologies, a competitive position with regard to its products or processes. Company recognizes that UMaine has an obligation to utilize the knowledge and technology generated by UMaine research in a manner which maximizes societal benefit, economic development, education and sustainability of university programs.
   2. **Ownership of Background IP**: All Background IP shall remain the exclusive property of the Party which first generated it. Each Party during the term of this Agreement shall be entitled to use the Background IP provided by the other Party only for the purpose of completing the associated Project, and only to the extent required by that Project. Neither Party grants to the other any right whatsoever in Background IP except as specified in this Agreement.
   3. **Ownership of Project IP**: All rights and title to Project IP shall be owned by the generating Party. Joint IP shall be jointly and equally owned, with each Party having the unrestricted right to exploit the benefits of ownership without obligation to the other Party.
   4. **Disclosure**: All Project IP that may be patentable, copyrightable or otherwise protectable which is generated by UMaine either solely or jointly with Company shall be disclosed in writing (a "**Disclosure**") by the UMaine Principal Investigator to the UMaine patent office within thirty days of discovery. Disclosures of Joint IP shall be delivered to the Company Principle Investigator by the UMaine patent office upon receipt; all other Disclosures shall be delivered within thirty (30) days of receipt. Disclosures shall be complete and sufficiently detailed, to the extent information is available, to allow UMaine and Company to assess the technical and commercial viability of the subject IP.
   5. **License Option**: UMaine hereby grants to Company a time-limited first option to negotiate a license to UMaine's rights in Project IP in the territory and field of use commercially exploitable by Company. In the case of Project IP owned solely by UMaine, Company may elect an exclusive or non-exclusive license. In the case of Joint IP, no license is required by Company to practice the IP non-exclusively, but an exclusive license may be elected. UMaine also hereby grants to Company the option to negotiate a license in UMaine Background IP to the extent it is necessary to practice licensed Project IP.
   6. **License Election**: Company may exercise the license option by providing written notice of intent to UMaine within six months from the date of receipt of a disclosure . Parties shall negotiate the license in good faith for a period of up to ninety (90) days from the date of option election ("Negotiation Period"). The Negotiation Period may be extended by mutual consent of the Parties.
   7. **Non-election**: If Parties fail to execute a license within the Negotiation Period, each Party shall be free to practice, license or otherwise exploit its rights in Project IP to others without the consent of the other Party. [OPTIONAL: In the case of jointly owned Project IP, each Party shall pay to the other fifty percent (50%), less reimbursement of incurred patent expenses, of any and all license revenue received under third party licenses. AND/OR - language about third parties not getting better terms for a period of one year.]
   8. **Patents**:

a) UMaine may file, prosecute and maintain patents for UMaine solely owned Project IP at its own discretion and expense. If Company elects to license UMaine Project IP, Company shall pay the expense for filing, prosecuting and maintaining patents in the U.S. and in any other country in which Company elects to file.

b) Company shall have the first option to file, prosecute and maintain patents for Joint IP at its own discretion and expense. If Company declines filing, UMaine shall have the option to do so at its own discretion and expense. UMaine shall pay to Company 50% of any license revenue received from third party licenses in Joint IP for which Company has paid all patent expenses.

c) Company shall inform UMaine within sixty (60) days prior to any filing, prosecution or maintenance deadline of a decision not to file, to abandon or to allow patents or patent applications in Joint IP to lapse in any country. UMaine shall have the opportunity to file, prosecute or maintain patents in non-elected countries at its own expense, and shall have no further obligations to Company in regard to such patents or patent applications.

d) Parties shall cooperate and participate to a reasonable degree in the preparation and prosecution of patents for Project IP, whether or not that Party has elected to file, license or maintain such patent.

e) UMaine shall take into consideration any request by Company to maintain Project IP as undisclosed know-how or trade secrets rather than filing patent applications when UMaine's rights in the same are licensed by Company, if such an arrangement provides an advantage to Company and UMaine.

* 1. **Bayh-Dole Act**: Company acknowledges that UMaine must comply with the provisions of the 1980 Bayh-Dole Act. The U.S. government may retain certain rights under Background IP or Project IP, and to the extent that U.S. government approval is necessary to transfer license rights to Company under this Agreement, Company shall provide reasonable assistance and shall reimburse UMaine for all prior-approved external costs, if any, associated therewith.

1. **PUBLICATION:** Company acknowledges that UMaine, as a public land grant university, has an obligation to disseminate knowledge for the public good. UMaine shall have the right to publish results of the Development Program in compliance with Article 9. UMaine shall not publish: a) Company Confidential Information, or b) any potentially patentable material without first allowing Company an opportunity to file patents.
2. **CONFIDENTIALITY:** 
   1. "**Confidential Information**" shall mean all material or information relating to either Party's research, development, trade secrets or business operations and affairs that such Party first possesses as an "**Owning Party**", marks as confidential, or within thirty (30) days of disclosure summarizes in writing and marks as confidential, and provides to the other Party as the "**Receiving Party**". Confidential Information does not include, and the obligation of confidentiality by Receiving Party will not apply, to information which:

a) was known or in its possession without the obligation of confidentiality at the time of disclosure; or

b) was disclosed to the Receiving Party by a third party under no legal obligation to maintain the confidentiality of such information; or

c) was or became a part of the public domain prior to or after the time of disclosure without the act or omission of the Receiving Party; or

d) was independently developed by personnel having no access to Owning Party's Confidential Information as substantiated by written records of the Receiving Party; or

e) was approved for publication under Article 8 of this Agreement; or

e) was required to be disclosed by law.

* 1. Parties shall disclose Confidential Information only to the members of the Working Group and to the extent it is required for the completion of a Project.
  2. Receiving Party agrees to practice the same degree of secrecy practiced with its own Confidential Information and shall not, without written permission of the Owning Party, disclose such Confidential Information to a third party or to any employee who is not a member of the Working Group.

* 1. Parties agree that at any time during the term of this Agreement, or upon expiration or termination of this Agreement, the Receiving Party shall, at Owning Party's option, destroy or return received Confidential Information.
  2. The obligations of confidentiality imposed upon each Party by this Article 9 shall survive the termination or expiration of this Agreement until the fifth (5th) anniversary of the termination or expiration date.

1. **PUBLICITY:** Neither Party shall use the name of the other Party nor its employees for any purpose, including, but not limited to, publicity, advertising or news release, whether internal or external to the Party, without the prior written approval of an authorized representative of that Party.
2. **TERMINATION:** 
   1. This Agreement shall expire [number] from the Effective Date.
   2. Either Party may terminate this Agreement upon ninety (90) days prior written notice to the other.
   3. In the event that either Party shall commit any material breach or default in any terms of conditions of this Agreement, and also shall fail to remedy such default or breach within sixty (60) days after receipt of written notice thereof, the non-breaching Party may terminate this Agreement by sending written notice to the breaching Party. Termination shall be in effect on the date of receipt of such notice.
   4. Termination of this Agreement for any reason by either Party shall not affect the rights and obligations of Parties accrued prior to the effective date of termination, except insofar as Company's breach for failure to make payments under Article 5 shall cause Company to forfeit its rights under Article 7.

1. **DISCLAIMER AND LIMITATION OF LIABILITY:** 
   1. Each Party assumes all risks of personal injury and property damage caused by the negligent acts or omissions of that Party. Company shall fully indemnify and hold harmless UMaine against all claims arising out of Company's use, commercialization, or distribution of information, materials or products which result in whole or in part from the work performed pursuant to this Agreement. Company will hold UMaine harmless from any claims arising from third party claims that the work performed hereunder infringes third party intellectual property rights.
   2. UMaine warrants that it will use its best efforts to perform the Projects; however, UMaine makes no guarantees or warranties, either express or implied, as to any matter whatsoever, including without limitation, the testing services, data and Project results, its sufficiency, accuracy, merchantability or fitness for any particular purpose.
2. **NOTICES:** Notices, invoices, communications, and payments hereunder shall be deemed made as of date received if given by overnight courier or by registered or certified envelope, post prepaid, and addressed to the party to receive such notice, invoice or communication at the address given below or such other address as may hereafter be designated by notice in writing:

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| --- | --- |
| To Company: | To UMaine: |
| *Regarding this Agreement*  **Name:**  **Title:**  **Address:**  **Phone:**  **Email:** | *Regarding this Agreement*  **Name:** Kris A. Burton  **Title:** Director, Technology Commercialization  **Address:**  5717 Corbett Hall Room 432  Orono, Maine, USA  04469-5717  **Phone:** 207-581-1488  **Email:** kris.burton@maine.edu |
| *Payment and Invoices*  **Name:**  **Title:**  **Address:**  **Phone:**  **Email:** | *Payment and Invoices*  **Name:**  **Title:**  **Address:**  **Phone:**  **Email:** |

1. **GOVERNING LAW**: This Agreement shall be governed and construed in accordance with the laws of the State of Maine, U.S.A.
2. **ARBITRATION:** The Parties shall make all reasonable attempts to amicably resolve disagreements arising out of this Agreement or from a breach thereof. When a written exchange between the Parties indicates an inability to so resolve such a disagreement, the matter shall be submitted to final and binding arbitration, and the judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. There shall be three independent arbitrators, one named in writing by each Party to this agreement within fifteen (15) days after notice of arbitration is served by either Party upon the other, and a third arbitrator selected by these two arbitrators within ten (10) days thereafter. All arbitration procedures shall be conducted pursuant to the standard form of the rules of the American Arbitration Association and the language used in the arbitration proceedings shall be English. An arbitration hearing shall be conducted within one hundred and twenty (120) days of the date the final arbitrator is selected hereunder, and the location of the arbitration shall be determined by the arbitration panel. The arbitration panel shall assess the costs of said arbitration, including necessary travel, against the non‑prevailing Party.
3. **REPRESENTATIONS AND WARRANTIES:** UMaine warrants that it will use its best efforts to perform the Project. However, UMaine makes no warranties, either expressed or implied, as to any matter whatsoever, including without limitation, the results, the testing services and data, its merchantability or its fitness for any particular purpose.
4. **General:**
   1. Neither Party shall assign its rights or obligations under this Agreement to a third party without the prior written consent of the other Party.
   2. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement.

- Signature Page Follows-

IN WITNESS THEREOF, each Party has caused this Contract to be executed in duplicate by its duly authorized representative.

For University of Maine System For [COMPANY]

by: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ by: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

James S. Ward IV [Name]

Vice President, Innovation and [Title]

Economic Development

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

APPENDIX A

Projects