

**University of Maine**  
**Agreement for Services**  
February 14, 2022

This agreement is made 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's Department of Industrial Cooperation (*hereinafter UMAINE*) and [REDACTED] (*hereinafter COMPANY*) concerning the contractual use of services, facilities and equipment at UMAINE under the following mutually agreed upon terms and conditions.

**1. Scope of Work**

UMAINE will provide services for COMPANY as described in Attachment A.

**2. Duration**

It is anticipated that the project will be completed during the period of [REDACTED] to [REDACTED].

**3. Project Personnel**

[REDACTED] from UMAINE, [REDACTED] (Dept).  
[REDACTED] from the COMPANY will serve as technical contact.

**4. Costs**

The total cost of the project is estimated to be \$ [REDACTED] as itemized in Attachment B. This figure includes all charges for labor, supplies, analytical tests, equipment and lab use and indirect charges. UMAINE will seek the approval of COMPANY for any additional work or tests. Any additional work or tests will be quoted as costs in addition to the base quote above.

**5. Billing**

COMPANY will be invoiced for the project costs as follows:  
50% - \$enter amount upon signing this agreement.  
25% - \$enter amount to be billed Enter date halfway through project  
25% - \$enter amount to be billed Enter End Billing Date

Payments should be sent to:  
Accounts Receivable, 5703 Alumni Hall, Room 100, Orono, ME 04469

**6. Other**

UMAINE shall retain title to any equipment/materials/supplies purchased with funds provided by COMPANY under this agreement except as specifically noted in Attachment B. "*Cost Estimate.*"

**7. Publicity**

COMPANY will not use the name of UMAINE, nor any member of UMAINE staff, in any publicity, advertising or news release without prior approval of UMAINE. UMAINE will not use the name of COMPANY in any publicity without prior approval of COMPANY.

**8. Data Rights and Work Product, Publication**

Data shall include information, statistics, readings, and numerical analyses generated under the scope of this Agreement ("Data"). Work Product is defined as project-specific deliverables developed under the scope of this Agreement and as an intended result of this Agreement ("Work Product"). For clarity, Data and Work Product shall not include patentable subject matter as defined under U.S. law, and shall not fall under the scope of Project Intellectual Property as defined in section 9 of this Agreement.

COMPANY shall retain ownership rights in Data and Work Products. UMAINE shall retain the right to use and COMPANY hereby grants to UMAINE a royalty-free, perpetual, worldwide, unlimited, non-exclusive, and irrevocable license in and to such Data and Work Product for not-for-profit, research, and academic purposes.

UMAINE anticipates and reserves the right to forthcoming publications including all or portions of the Data and Work Product, and agrees to provide COMPANY with copies of any proposed publications

including Data or Work Product no later than sixty (60) days prior to the publication thereof. COMPANY shall have the right to review such proposed publications and request redaction or removal of information relating to Data and/or Work Product from such publications as reasonably necessary to protect COMPANY's trade secrets or information affecting patentability of inventions.

#### **9. Intellectual Property**

There is no expectation of inventions arising from the services proposed under this agreement. However, in the event inventions are made, all rights to inventions, improvements and/or discoveries, whether patentable or copyrightable or not, made by the employees of UMAINE belong to the UMAINE. All rights to inventions, improvements and/or discoveries, whether patentable or copyrightable or not, made by the employees of COMPANY belong to the COMPANY. Joint inventions shall be jointly owned by the parties.

#### **10. Grant of Rights**

In the event that intellectual property is developed wholly or jointly by UMAINE with COMPANY as a result of this project, UMAINE grants COMPANY the first option, for consideration to obtain, an exclusive license to its rights under the IP, with right to sub-license on terms and conditions to be mutually agreed upon. The option shall extend for a time period of one year from the date of termination of this agreement.

#### **11. Export Control**

COMPANY acknowledges that UMAINE has many foreign national personnel, employees and students working on site, and that UMAINE intends to conduct activities defined as "fundamental research" without restrictions placed on foreign national participation and/or access to research results. Therefore, COMPANY agrees not to direct UMAINE staff to generate export-controlled data or create or develop any export controlled item pursuant to any research activity intended under this Agreement.

With respect to export controlled research or non-research work which the COMPANY intends to personally conduct at a UMAINE facility or in the case of non-research work to be conducted by UMAINE facility personnel on COMPANY's behalf, and, in the event that COMPANY intends to provide and/or bring export controlled items (data, tools, materials and/or other items) to the UMAINE Facility, COMPANY agrees to notify UMAINE Facility personnel at least thirty [30] days in advance of such intention to provide such controlled items so as to enable UMAINE facility staff to assess and address export control requirements accordingly.

In certain cases, UMAINE reserves the right to decline acceptance of such items where it is determined that UMAINE facility personnel would in fact be engaged in export control research and/or cannot accommodate the necessary export control requirements associated with the activity. Where export control requirements can be met, UMAINE facility staff will brief COMPANY on the facility's specific requirements and logistics for which COMPANY would be responsible while working at or with UMAINE facility personnel. In this case, COMPANY shall sign an Acknowledgement of Understanding setting forth the specific requirements that COMPANY will be responsible for.

#### **12. Warranty**

UMAINE MAKES NO WARRANTIES, EITHER EXPRESSED OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING WITHOUT LIMITATION, THE TESTING SERVICES AND DATA, ITS MERCHANTABILITY OR ITS FITNESS FOR ANY PARTICULAR PURPOSE.

#### **13. Limitation of Liability**

UMAINE shall not be liable for, and COMPANY hereby agrees to indemnify, defend, and hold harmless and will forever discharge UMAINE, its agents, officers, assistants and employees thereof either in their individual capacities or by reason of their relationship to UMAINE and its successors, in respect to any expense, claim, liability, loss or damage (including any incidental, special, or consequential damage) either direct or indirect, whether incurred, made or suffered by COMPANY or by third parties, in connection with or in any way arising out of the furnishing performance or use of testing services or data.

#### **14. Termination**

This Agreement may be terminated by either party upon thirty (30) days written notice to the other party. Upon receipt of such notice from COMPANY, UMAINE shall take the necessary action to cancel outstanding purchase orders and other commitments relating to the work under this Agreement. COMPANY is

responsible to pay for costs and non-cancelable commitments incurred prior to the specified date of termination.

**15. No Waiver or Assignment**

The failure of either party to exercise any of its rights under this Agreement for a breach thereof shall not be deemed to be a waiver of such rights, and no waiver by either party, whether written or oral, express or implied, of any rights under or arising from this Agreement shall be binding on any subsequent occasion; and no concession by either party shall be treated as an implied modification of the Agreement unless specifically agreed in writing. This Agreement, or any part thereof, may not be assigned or transferred without the prior written consent of the other party.

**16. Severability and Entire Agreement**

If any provision hereof is held unenforceable or void, the remaining provisions shall be enforced in accordance with their terms. This Agreement contains the entire and only agreement between the parties respecting the subject matter hereof and supersedes or cancels all previous negotiations, agreements, commitments and writings between the parties on the subject of this Agreement. Should processing of this agreement require issuance of a purchase order or other contractual document, all terms and conditions of said document are hereby deleted in entirety. This Agreement may not be amended in any manner except by an instrument in writing signed by the duly authorized representatives of each of the parties hereto.

**17. Independent Contractor**

UMAINE is an independent contractor of COMPANY, not a partner, agent or joint venture of COMPANY and neither party shall hold itself out contrary to these terms by advertising or otherwise, nor shall either party be bound by any representation, act or omission whatsoever of the other.

**18. Force Majeure**

Except for payment obligations, neither party to this Agreement shall be liable for non-performance of any obligation under this Agreement if such non-performance is caused by a Force Majeure. "Force Majeure" means an unforeseeable cause beyond the control of and without the negligence of the party claiming Force Majeure, including, but not limited to, fire, flood, other severe weather, acts of God, labor strikes, interruption of utility services, war, acts of terrorism, and other unforeseeable accidents.

**19. Governing Law**

This Agreement shall be governed and construed in accordance with laws of the State of Maine, without regard to its conflicts of laws provisions.

Agreed to and accepted by:

For COMPANY:

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Title \_\_\_\_\_

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

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

For UMAINE:

Signed: \_\_\_\_\_

Name: James S. Ward IV

Title: Vice President of Innovation and Economic Development

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

Address: 5717 Corbett Hall, Room 430

Orono, ME 04469-5717

Phone: 207-581-2201

Fax: 207-581-1479

Attachment A – Scope of Work

Attachment B- Budget

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