

COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENT

between

THE UNIVERSITY OF SOUTHERN MISSISSIPPI

and

AGENCY

AGREEMENT NUMBER:

WHEREAS, The University of Southern Mississippi has prepared a research program which will further the instructional and research objectives of The University of Southern Mississippi; and,

WHEREAS, The University of Southern Mississippi is qualified to perform this research and development; and,

WHEREAS, the AGENCY desires to support the research program proposed by The University of Southern Mississippi;

NOW THEREFORE, the parties agree as follows:

This is an agreement, hereinafter referred to as "Agreement", shall exist when this document has been signed by duly authorized representatives of the parties. This Agreement sets forth the terms of the performance and administration of work under the Agreement and consists of:

Appendix A - General Terms and Provisions

Appendix B - Statement of Work and Budget

PARTIES: The parties under this Agreement are listed and defined as follows:

The University of Southern Mississippi, Hattiesburg, Mississippi, hereinafter referred to as "University".

AGENCY, City, State, hereafter referred to as the "Agency".

PERIOD OF PERFORMANCE: The period of performance shall extend from the execution date of this Agreement for a period of one (1) year.

RESEARCH PROGRAM: "XXXXXXX", as specified in Appendix B.

TOTAL COST: The total reimbursement for this program shall not exceed the amount specified in Appendix B.

This Agreement contains all the terms and provisions of the Agreement between the parties hereto. No verbal understandings or negotiations leading up to the execution of this Agreement shall be treated or considered as part hereof unless they are fully set forth herein or specifically incorporated herein as an exhibit. This Agreement cannot be changed, modified, or supplemented except in writing signed by the authorized representatives of both of the parties hereto. None of the headings of the articles and sections herein shall be considered as terms of this Agreement, but are intended as identifying references only.

IN WITNESS WHEREOF, the undersigned, as authorized representatives of the respective parties, are agreed to all terms and provisions of this Agreement which is duly and fully executed as of the latest day and year written below.

THE UNIVERSITY OF SOUTHERN MISSISSIPPI

Date

AGENCY

Date

UNIVERSITY REPRESENTATIVES

PROGRAM DIRECTOR: The Program Director will be responsible for the technical and programmatic aspects of the agreement. The Program Director for University is Dr. Xxxxx Xxxxx, Department of Xxxxxx, Box #####, Hattiesburg, MS, 39406-####. Telephone number: (###) ###-####.

ADMINISTRATIVE OFFICER: The Administrative Officer shall be responsible for the management of the agreement and is empowered to execute agreements and modifications on behalf of University. University's Administrative Officer is Dr. Cecil D. Burge, Assistant Vice President for Research, Box 5116, Hattiesburg, MS 39406-5116. Telephone number: (601) 266-5116.

CONTRACT ADMINISTRATOR: The Contract Administrator shall be responsible for matters of contract administration including assistance in contract policies and provisions. The Contract Administrator for University is Ms. Connie Wyldmon, Interim Director, Research and Sponsored Programs, Box 5157, Hattiesburg, MS 39406-5157. Telephone number: (601) 266-4119 FAX: (601) 266-4312.

ACCOUNT FISCAL MANAGER: The Account Fiscal Manager shall be responsible for the financial related matters of the program. University's Account Fiscal Manager is Ms. Cheryl Mowdy, Assistant Director, Disbursements and Restricted Funds, Box 5143, Hattiesburg, MS 39406-5143. Telephone number: (601) 266-5086.

AGENCY'S REPRESENTATIVES

AGENCY REPRESENTATIVE: The Agency Representative shall be responsible for all programmatic aspects of the agreement. The Agency's representative is

ADMINISTRATIVE OFFICER: The Administrative Officer shall be responsible for the management of the agreement and is empowered to execute agreements and modifications on behalf of University. Agency's Administrative Officer is

APPENDIX A
GENERAL TERMS AND PROVISIONS

APPENDIX A - GENERAL TERMS AND PROVISIONS

The following general terms and provisions are incorporated into this document in full force.

- 1. GOVERNING LAWS:** The provision of this agreement shall be construed according to, and the performance thereof governed by the laws of the State of Mississippi.
- 2. PAYMENTS AND RECORDS:**
 - 2.1 PAYMENT:** Invoices are to be submitted no more frequently than quarterly and should reference the University or Agency Agreement number on all copies. Two (2) copies of all invoices, detailing current charges and total-to-date charges, should be sent to the Agency Fiscal Representative. The final invoice clearly marked final, must be submitted within 45 days after the expiration date of this Agreement.
 - 2.2 REIMBURSEMENT OF COSTS:** University reserves the right to transfer funds between budgetary categories in order to best meet the research objectives of the project. University reserves the right to discontinue work on this project if the Agency fails to pay invoices rendered by University within thirty (30) days of the invoice date, and in the event the project sum is expended prior to the expiration of this agreement, then this project shall terminate unless the Agency in writing, authorizes University to continue this project.
 - 2.3 REPORTS:** At the end of each six (6) month period during the term of the project, University agrees to render to the Agency a brief, condensed letter report of its findings and progress. University agrees to provide the Agency, no later than thirty (30) days prior to the renewal date, a projection of the research to be undertaken during the succeeding year of the Agreement, together with a proposed budget for said year.
- 3. INTELLECTUAL PROPERTY:**
 - 3.1 PATENTS:**
 - 3.1.1** In order to protect any patentable invention, improvement, discovery, or any patent, trade secret or other intellectual property right applicable thereto made, conceived, or resulting from the performance of work by University and/or Agency personnel on the project:
 - 3.1.1.a** University and/or Agency shall require all personnel connected with the research project to promptly disclose all such patent rights to University and/or Agency;
 - 3.1.1.b** University and/or Agency shall require all personnel connected with the research project to assign to University and/or Agency the entire right, title, and interest in all such patent rights;
 - 3.1.1.c** University and/or Agency shall require all personnel connected with the research project: to testify in any legal proceedings, sign all applications for letters patents as well as all division, continuing, reissue and foreign applications, to make all rightful oaths, and generally to do everything possible to aid University and/or Agency or an agent to obtain and enforce proper protection for such patent rights in all countries;
 - 3.1.1.d** Any disclosure or written information relating to the application for intellectual property protection by or for University shall not be subject to any terms or interpretations relating to or referencing the publication or recording of information.
 - 3.1.2** Agency Intellectual Property: All rights and title to any invention, improvement, discovery, or any patent, trade secret or other intellectual property right applicable thereto made, conceived, or resulting from the performance of work by Agency personnel on the project shall reside with Agency and are subject to the terms and conditions of this Agreement.
 - 3.1.3** University Intellectual Property: All rights and title to any invention, improvement, discovery, or any patent, trade secret or other intellectual property right applicable thereto made, conceived, or resulting from the performance of work by University personnel on the project shall reside with University and are subject to the terms and conditions of this Agreement.

3.1.4 Joint Intellectual Property: All rights and title to any invention, improvement, discovery, or any patent, trade secret or other intellectual property right applicable thereto made, conceived, or resulting from the performance of work jointly by University and/or Agency personnel on the project shall be considered joint intellectual property and shall reside with University and Agency as tenants in common and shall be subject to the terms and conditions of this Agreement.

3.2 CONFIDENTIALITY: In connection with the research program hereunder, University and the Agency shall be free to exchange such technical information and know-how as may be necessary to carry out the objective of the program. Neither party shall be required to disclose to the other party technical information and know-how which it received in confidence from a third party or which is developed for a third party under conditions giving rise to an obligation of confidentiality. Employees, staff and/or students of University performing research hereunder shall enter into confidentiality agreements should such exchange of information be needed to conduct the project. University shall have the appropriate individuals execute said agreements and provide copies to the Agency. The Agency shall have the appropriate individuals execute said agreements and provide copies to University.

Notwithstanding any provision to the contrary contained herein, it is recognized that University is a public agency of the State of Mississippi and is subject to the Mississippi Public Records Act, §§25-61-1, et seq., Miss. Code Ann. If a public records request is made for any information provided to University pursuant to this agreement, University shall promptly notify the disclosing party of such request. The disclosing party shall promptly institute appropriate legal proceedings to protect its information. No party to this agreement shall be liable to the other party for disclosures of Information required by Court order or required by law.

3.3 PATENT FILINGS AND COST:

3.3.1 University will promptly notify Agency of any University intellectual property and/or Joint intellectual property conceived and/or made during the term under the project. In the event University and/or Agency believes that such intellectual property involves a patentable invention, University shall have the first right to file the patent application(s) if the invention solely involves University intellectual property and the Agency shall have the first right to file the patent application(s) if the invention involves Agency intellectual property and/or Joint intellectual property. The Agency shall have the option to seek intellectual property protection in the name of University on any inventions or discoveries arising from this project that involves University intellectual property and/or Joint intellectual property. In order to apply for, prosecute, and maintain patents in the name of University.

3.3.2 If the party having the first right to file the patent application(s) elects to do so, that party shall promptly prepare the patent application in question and submit it to the other party for comments and input as to the scope and content of the application prior to filing. The party filing the first patent application shall also keep the other party informed as to the process of the prosecution of any patent application so filed by providing copies of all prosecution papers and soliciting input into patent office responses where appropriate. In the event the party having the first right to file the first patent application(s) elects not to do so, that party shall promptly inform the other party of its decision not to file and the other party, at its sole option, may proceed with the filing and prosecution of the patent application(s) in question. In such case, the party filing the application shall solicit the other party's comments and input on the scope and content of the application and keep the other party informed as to the significant prosecution events if the other party so requests.

3.3.3 In any case given above, the non-filing party shall cooperate with the filing party in the preparation and prosecution of any application filed including the timely review and execution of any papers or documents required in connection with the filing and prosecution of the patent application.

3.3.4 Agency shall bear all reasonable costs and expenses associated with filing and prosecution of any patent application which Agency files pursuant to the above. University shall retain mutually acceptable outside counsel to aid University in applying for, prosecuting, and maintaining United States and foreign patents. The Agency shall bear all reasonable costs and expenses associated with the filing, prosecuting, and maintaining of any patent application which University files, as set out above, provided the Agency agrees in advance with University's decision to file the patent application in question. In cases where University's patent filing and prosecution costs are paid by the Agency hereunder, University shall provide the Agency with itemized invoices of filing prosecution costs incurred (including detailed back-up information on outside counsel activities and costs where outside counsel is used) and the Agency shall pay such costs upon receipt of such invoices.

3.3.5 If during prosecution of any application filed hereunder the prosecuting party should decide to abandon an application, it shall first give the other party the option of assuming responsibility for and cost of prosecution. The prosecuting party hereunder shall have the first responsibility for maintaining any patents or other intellectual property which issue on applications it was prosecuting at issuance. If such prosecuting party elects not to pay any maintenance fee, it shall inform the other party in a timely manner and such other party may, at its option, elect to pay the maintenance fee.

If Agency evidences no interest and/or demonstrates a loss of interest in any patent application filed hereunder either by direct notification to University or by failing to pay patent filing, prosecution and maintenance costs, as set out above, or by express abandonment of any application so filed, Agency shall be considered to have waived its right of first refusal for an exclusive license for the patent application and/or patent in question as provided in this Agreement and University shall be free to dispose of the patent or patent application in accordance with University policies.

3.4 LICENSES: The Agency shall have an option during a period of up to one (1) year from the date of filing said patent applications to obtain a world-wide exclusive license with the right to make, use, sell, manufacture, or sublicense others under the patent. If the Agency exercises the option to obtain said license, University and the Agency agree to negotiate in good faith the terms and conditions of such license including appropriate royalty payments if patent(s) come to fruition.

3.5 PUBLICATION: University has the right, at its discretion, to publish in recognized scientific journals any results arising from the research project. University shall transmit to the Agency a copy of any submitted complete manuscript for a journal six months prior to publication and any revised manuscript sixty (60) days prior to publication; and any preprinted abstract of a presentation at a scientific meeting two months prior to the actual public dissemination date.

4. MODIFICATIONS AND AMENDMENTS:

4.1 CHANGE OF PRINCIPAL INVESTIGATORS: The Principal Investigators may not be changed, nor may their efforts be substantially redirected, without approval by the Agency. If the Principal Investigators should become unavailable to the project for a period exceeding three (3) months, University shall make good faith and best efforts to locate a replacement and upon receipt of the Agency's approval, appoint a replacement. In the event University is unable to locate an acceptable replacement this Agreement shall be terminated in accordance with Appendix A. of this Agreement.

4.2 AMENDMENTS: This Agreement constitutes the entire agreement between University and the Agency. Any changes or modifications shall be accomplished by written amendment to this Agreement executed by the duly authorized representatives of parties.

4.3 TERM AND TERMINATION: The period of performance shall extend from the execution date of this Agreement for a period of 12 months and shall be automatically renewed for one (1) year terms thereafter, provided that either party may terminate this Agreement with or without cause by providing written notice to the other party no later than sixty (60) days prior to the anniversary date of this Agreement. Except as otherwise specifically provided herein, this Agreement and all the rights and obligations hereunder shall terminate five (5) years following the completion of research under the Agreement. Upon termination, University will be reimbursed as specified in Appendix A., for all costs and non-cancelable commitments incurred in the performance of the research, such reimbursement not to exceed the total estimated project cost specified in this Agreement.

4.4 NOTICES: All notices to be sent hereunder, except as otherwise provided herein, shall be in writing and shall for purposes be deemed to be fully given and received when forwarded by prepaid first-class mail to the respective parties.

END APPENDIX A

APPENDIX B

STATEMENT OF WORK AND BUDGET