

THE UNIVERSITY OF ALABAMA SPONSORED RESEARCH AGREEMENT

This Sponsored Research Agreement (hereinafter "Agreement") is made between The Board of Trustees of the University of Alabama, for and on behalf of its constituent institution, The University of Alabama (hereinafter "University") and City of Orange Beach, Alabama a municipal Corporation organized under the laws of the State of Alabama, P.O. box 2432, 4101 Orange Beach Blvd., Orange, Beach, AL 36561 (hereinafter "Sponsor").

RECITALS

Whereas, University is pursuing research in the area of oil background levels and chemical fingerprinting studies of tar balls and chemical recovery (hereinafter referred to as "the Field").

Whereas, Sponsor is willing to sponsor such research.

Whereas, Sponsor desires to obtain certain rights to patents and technology resulting from the research.

Whereas, University is willing to grant certain rights to patents and technology that result from the research.

NOW THEREFORE, in consideration of the mutual covenants and promises herein made, the University and Sponsor agree as follows:

1 EFFECTIVE DATE/TERM

1.1 This Agreement shall be effective as of April 1, 2019 (the "Effective Date"). The Research shall be carried out from the Effective Date through and including December 31, 2019 (the "Term"). The parties may extend the Research under mutually agreeable terms.

2 RESEARCH

2.1 University will use its own facilities to conduct the research described in the attached Statement of Work, marked as **Attachment 1** and incorporated herein, under the direction of Dr. Prabhakar Clement (the "Principal Investigator" or "PI") If, for any reason, the named PI is unable to continue to serve and a successor reasonably acceptable to both Parties is not available, this Agreement may be terminated as provided in Section 11.

2.2 University will conduct the Research Program in good scientific manner and in compliance with all applicable governmental, regulatory and legal requirements. University will use its good faith scientific and business

judgment to allocate sufficient time, effort, equipment and facilities to the Research to achieve the desired objectives consistent with the terms of this Agreement.

- 2.3** Representatives of Sponsor may, upon reasonable notice and at a frequency reasonably acceptable to the University during normal business hours (a) visit the facilities where the Research is being carried out; and (b) consult informally, during such visits and by telephone, with personnel of University carrying out the Research. Sponsor shall bear its own expenses with regard to any such visits. If requested by the University, University and Sponsor shall cause appropriate individuals working on the Research to be available for meetings at the location of the facilities where such individuals are employed at times reasonably convenient to each party.
- 2.4** SPONSOR UNDERSTANDS THAT UNIVERSITY'S PRIMARY MISSION IS EDUCATION AND ADVANCEMENT OF KNOWLEDGE AND THE RESEARCH WILL BE DESIGNED TO CARRY OUT THAT MISSION. UNIVERSITY DOES NOT GUARANTEE SPECIFIC RESULTS, MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED WITH REGARD TO THE RESEARCH, RESEARCH RESULTS OR ANY INTELLECTUAL PROPERTY. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT SPONSOR'S USE OF THE RESEARCH DELIVERABLES OR INTELLECTUAL PROPERTY WILL NOT INFRINGE ANY THIRD PARTY PATENT, COPYRIGHT, TRADEMARK, OR OTHER THIRD PARTY RIGHTS. THE UNIVERSITY MAKES NO REPRESENTATION AS TO THE USEFULNESS OF RESEARCH DELIVERABLES OR INTELLECTUAL PROPERTY IN ANY MANNER WHATSOEVER, OR THE ABSENCE OF LATENT OR OTHER DEFECTS, WHETHER OR NOT DISCOVERABLE. SPONSOR DOES SO AT ITS OWN RISK.
- 2.5** Sponsor understands that University may be involved in similar research through other researchers on behalf of itself and others. University shall be free to continue such research provided that it is conducted separately. Sponsor shall not gain any rights via this Agreement to other research. Neither University nor any third party shall gain any rights via any means to the results of the Research herein except as explicitly provided hereunder.
- 2.6** University does not guarantee that any patent rights will result from the Research, that the scope of any patent rights will cover Sponsor's commercial interest, or that any patent rights will be free of dominance by other patents, including those based on inventions made by other inventors at the University.

3 COMPENSATION

- 3.1** As consideration for University's performance, Sponsor will pay the University, a fixed price, due upon full execution of this Agreement \$50,000.00 U.S. Dollars. Failure to pay within 45 days will result in immediate work stoppage.
- 3.2** Payment to University shall be made in U.S. dollars, excluding taxes or impost of any kind, by wire transfer instructions provided by University.
- 3.3** The Principal Investigator may transfer funds within the budget as needed without Sponsor's approval so long as the scope of work under the Research remains unchanged.
- 3.4** University shall retain title to all equipment purchased and/or fabricated by University with funds provided by Sponsor under this Agreement.
- 3.5** Payments shall be made payable to The University of Alabama and shall be sent to:

The University of Alabama
Office for Sponsored Programs, Contract and Grant Accounting
Attn: Tammy Hudson
318 Rose Administration
Box 870135
Tuscaloosa, AL 35487
Phone: 205-348-8117
Email: cgaccounting@research.ua.edu

4. COMMUNICATION AND REPORTS

- 4.1** Sponsor's designated representative for communications with the Principal Investigator shall be a person Sponsor shall designate in writing to University and the Principal Investigator ("Designated Representative").
- 4.2** The Principal Investigator will provide reports as set out in the Statement of Work, Attachment 1.

5 PUBLICITY/USE OF NAMES

- 5.1** Neither party will reference the other in a press release or any other oral or written statement in connection with the Research and its results intended for use in the public media, except as mutually agreed.
- 5.2** Sponsor and its affiliates shall not use the name "University of Alabama" or any variation, adaptation, or abbreviation thereof, or the name of any of

University's trustees, officers, faculty members, students, employees or agents, or any trademark owned by University in any promotional material or other publication, announcement or disclosure without the prior written consent of the University of Alabama's Office for Strategic Communications, which consent may be withheld at their sole discretion.

5.3 University may acknowledge Sponsor's support of the Research in scientific or academic publications or communications. Sponsor and University may make factual statements about the existence of this Agreement without prior approval, including the amount of the funding solely to comply with (i) governmental disclosure obligations, or (ii) Sponsor or University reporting policies.

6 PUBLICATION

The Parties recognize University's first right to publish the results of the Research. Principal Investigator has the right to publish or otherwise publicly disclose information generated in the course of the Research, provided it complies with the requirements herein. In order to avoid loss of patent rights as a result of premature public disclosure of patentable information, University will submit any prepublication materials to Sponsor for review and comment on at least sixty (60) days prior to planned submission for publication. Any further extension will require subsequent agreement between Sponsor and University. Sponsor shall notify University within thirty (30) days of receipt of such materials whether the publication describes any inventions or discoveries subject to the parties' rights under Section 8. University shall have the final authority to determine the scope and content of any publications.

7 CONFIDENTIAL INFORMATION

7.1 The parties may wish to disclose confidential information to each other in connection with work contemplated by this Agreement ("Confidential Information"). Each party will use reasonable efforts to prevent the disclosure of the other party's Confidential Information to third parties for a period of five (5) years after the termination of this Agreement, provided that the recipient party's obligation shall not apply to information that:

- i. is not disclosed in writing or reduced to writing and marked with an appropriate confidentiality legend within thirty (30) days after disclosure;
- ii. is already in the recipient party's possession at the time of disclosure;
- iii. is or later becomes part of the public domain through no fault of the recipient party;
- iv. is received from a third party having no obligations of confidentiality to the disclosing party;

- v. is independently developed by the recipient party without access to the disclosing party's Confidential Information; or
- vi. is required by law or regulation to be disclosed.

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

8 PATENTS, COPYRIGHTS, AND TECHNOLOGY RIGHTS

8.1 "Background IP" means any Intellectual Property developed by either Party prior to or outside of a Project, even if developed during the Term, and which is contributed to a Project by a Party. Each Party shall retain full ownership and control of its Background IP.

8.2 The University shall own all right, title and interest in and to (i) any and all inventions first conceived during the term of this Agreement, know-how first generated during the term of this Agreement or copyrighted subject matter first authored during the term of this Agreement solely by any employee or agent of the University in connection with the performance of any Research (the "University Inventions") and (ii) any invention conceived or first reduced to practice by Sponsor personnel with significant use of University administered facilities or resources, if the invention is conceived or reduced to practice other than in the performance of the Research. As promptly as practicable after any University Invention invented under this Agreement has been first conceived, generated or authored, as the case may be, the University shall disclose to Sponsor such University Invention.

8.3 Sponsor and the University shall jointly own all right, title and interest in and to any and all inventions first conceived during the term of this Agreement, know-how first generated during the term of this Agreement or copyrighted subject matter first authored during the term of this Agreement, jointly by any employee or agent of Sponsor and any employee or agent of the University resulting from the collaboration of such employees or agents in connection with the performance of any Research (the "Joint Inventions"). As promptly as practicable after any Joint Invention has been first conceived, generated or authored, as the case may be, each of Sponsor and the University shall disclose to the other such Joint Invention. Each of Sponsor and the University shall have the unrestricted right to use, manufacture and sell or license its interest in any and all Joint Inventions for any purpose whatsoever.

8.4 The University may, at its own expense, file and prosecute any patent or copyright application covering any University Invention. Either Sponsor or the University may, at its own expense, file and prosecute any patent or copyright application covering any Joint Invention.

- 8.5** Sponsor shall be granted an exclusive option to negotiate for a license for UA IP developed under this Agreement, said option shall expire 6 months after notification to company of any IP developed or created by UA. Notwithstanding any other provision of this Agreement to the contrary, nothing in this Agreement is intended or shall be construed to grant to Sponsor any right, title or interest in or to any intellectual property rights of the University, except for the rights granted to Sponsor pursuant to this Section 8.
- 8.6** Sponsor shall retain all invention disclosures provided by University, including any contained in Research results, in confidence and use its best efforts to prevent their disclosure to third parties. Sponsor shall be relieved of this obligation only when this information becomes publicly available through no fault of Sponsor.
- 8.7** Unless otherwise agreed by the Parties in writing, University shall own all rights in and to any tangible research property, including but not limited to biological materials, developed during the course of the Research.
- 8.8** The provisions of this Section 8 shall survive the expiration of the term, or the earlier termination, of this Agreement for an indefinite period after the date of such expiration or termination.

9 LIABILITY/INSURANCE

- 9.1** To the extent allowed by law, Sponsor agrees to indemnify and hold harmless the University, its trustees, officers, agents and employees from any liability, loss or damage they may suffer as a result of claims, demands, costs or judgments against them arising out of the activities to be carried out pursuant to the obligations of this Agreement, including but not limited to the use by Sponsor of the results obtained from activities performed by University under this Agreement.
- 9.2** Sponsor will maintain adequate insurance. Such general liability insurance will provide (i) product liability coverage, (ii) broad form contractual liability coverage for Sponsor's indemnification under this Agreement, (iii) personal injury coverage and (iv) coverage for litigation costs.

10. INDEPENDENT CONTRACTOR

For the purposes of this Agreement and all services to be provided hereunder, the parties are independent contractors and not agents or employees of the other party. Neither party shall have authority to make any statements, representations nor commitments of any kind, or to take any action which shall be binding on the other party, except as expressly provided herein or authorized in writing.

11 TERM AND TERMINATION

11.1 This Agreement may be terminated by either party upon 30 days written notice to the other party.

11.2 In the event that either party shall be in default of its material obligations under this Agreement and shall fail to remedy such default within sixty (60) days after receipt of written notice thereof, this Agreement shall terminate upon expiration of the sixty (60) day period.

11.3 Each party will have the right to terminate this Agreement in the event of insolvency or bankruptcy of the other party.

11.4 Termination or cancellation of this Agreement shall not affect the rights and obligations of the parties accrued prior to termination. Upon termination, Sponsor shall pay University for all reasonable expenses incurred up to and including the effective date of termination as well as any non-cancelable commitments incurred including salaries for appointees for the remainder of their appointment, up to the maximum set forth in Section 3.

11.5 Any provisions of this Agreement which by their nature extend beyond termination shall survive such termination.

12. EXPORT OF TECHNOLOGY

It is understood that University and Sponsor are subject to United States laws and regulations controlling the export of technical data, computer software, laboratory prototypes and other commodities, and that obligations hereunder are contingent on compliance with applicable U.S. export laws and regulations (including the Arms Export Control Act, as amended, and the Export Administration Act of 1979). The transfer of certain technical data and commodities may require a license from the cognizant agency of the United States Government and/or written assurances that such data or commodities will not be exported to certain foreign countries without prior approval of the cognizant government agency. Sponsor and University agree to cooperate in securing any license which the cognizant agency deems necessary in connection with this Agreement, the University cannot guarantee that such licenses will be granted. Sponsor shall notify University in writing if any data or materials to be supplied to University by Sponsor are subject to export control license requirements or are listed under export control regulations. Sponsor shall wait to receive express written concurrence prior to disclosure or transfer of export control-listed material. As part of its written concurrence, the University shall designate the individual(s) authorized to receive export control-listed material.

13. General

- 13.1** This Agreement may not be assigned by either party without the prior written consent of the other party; provided, however, that subject to the approval of University, which may not be unreasonably withheld, Sponsor may assign this Agreement to any purchaser or transferee of all or substantially all of Sponsor's assets or stock of the business to which this Agreement relates upon prior written notice to University, and University may assign its right to receive payments hereunder.
- 13.2** This Agreement constitutes the entire and only agreement between the parties relating to the Research Program, and all prior negotiations, representations, agreements and understandings are superseded hereby. No agreements altering or supplementing the terms hereof may be made except by means of a written document signed by the duly authorized representatives of the parties.
- 13.3** **The parties shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). THESE REGULATIONS PROHIBIT DISCRIMINATION AGAINST QUALIFIED INDIVIDUALS BASED ON THEIR STATUS AS PROTECTED VETERANS OR INDIVIDUALS WITH DISABILITIES, AND PROHIBIT DISCRIMINATION AGAINST ALL INDIVIDUALS BASED ON THEIR RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY OR NATIONAL ORIGIN. MOREOVER, THESE REGULATIONS REQUIRE THAT COVERED PRIME CONTRACTORS AND SUBCONTRACTORS TAKE AFFIRMATIVE ACTION TO EMPLOY AND ADVANCE IN EMPLOYMENT INDIVIDUALS WITHOUT REGARD TO RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, NATIONAL ORIGIN, DISABILITY OR VETERAN STATUS.**
- 13.4** Any notice required by this Agreement shall be given by prepaid, first class, certified mail, return receipt requested, addressed in the case of University to:

UNIVERSITY OF ALABAMA
152 ROSE ADMINISTRATION BUILDING
BOX 870104
TUSCALOOSA, ALABAMA 35487
ATTN: LAUREN WILSON
EMAIL: lawilson@research.ua.edu
PHONE: 205.348.5152

or in the case of Sponsor to:

SPONSOR: City of Orange Beach, Alabama
ADDRESS: 4101 Orange Beach Blvd., P.O. Box 2432
CITY, STATE ZIP: Orange Beach, AL 36561
ATTN: Phillip West, AICP
EMAIL: pweswt@orangebeachal.gov
PHONE: 251-747-6166

or at such other addresses as may be given from time to time in accordance with the terms of this notice provision.

Notices and other communications regarding the day-to-day administration and operation of this Agreement shall be mailed (or otherwise delivered), and addressed in the case of University to:

UNIVERSITY OF ALABAMA
ADDRESS: 1005 Bevill Building
TUSCALOOSA, ALABAMA 35487
ATTN: Dr. Prabhakar Clement
EMAIL: pclement@ua.edu
PHONE: 205-348-9033

or in the case of Sponsor to:

SPONSOR: City of Orange Beach, Alabama
ADDRESS: 4101 Orange Beach Blvd., P.O. Box 2432
CITY, STATE ZIP: Orange Beach, AL 36561
ATTN: Phillip West, AICP
EMAIL: pweswt@orangebeachal.gov
PHONE: 251-747-6166

- 13.5** For the convenience of the parties, this Agreement and any amendment hereto may be executed and transmitted physically or electronically in counterparts, each of which shall be deemed an original and all of which will constitute one and the same instrument. If this Agreement is executed in counterparts, no signatory hereto will be bound until all the Parties named below have duly executed a counterpart of this Agreement.
- 13.6** This Agreement shall be governed by and construed in accordance with the laws of the State of Alabama.

(signatures appear on the following page)

IN WITNESS WHEREOF, UNIVERSITY and SPONSOR have executed this Agreement, by their respective officer duly authorized, on the day and year hereinafter written.

University of Alabama
By:

Sponsor
By:

Name:

Name:

Title:

Title:

Date:

Date

Attachments:

Attachment 1 University Statement of Work

Attachment 1

STATEMENT OF WORK