

GEORGIA TECH RESEARCH CORPORATION
APPLIED RESEACH MASTER AGREEMENT

Effective Date: _____

Applied Research Master Agreement Number: _____

THIS APPLIED RESEARCH MASTER AGREEMENT (this “Agreement”) is made by and between GEORGIA TECH RESEARCH CORPORATION, a Georgia corporation having its principal offices at 926 Dalney Street NW, Atlanta, Georgia 30318 (“GTRC”), and _____, having an office and place of business at _____ (“COMPANY”). GTRC and COMPANY may each be hereinafter referred to as a “Party” and collectively as the “Parties.”

In consideration of the mutual promises and covenants contained herein and intending to be legally bound, the Parties agree as follows:

Section 0. Purpose; Parties; Scope.

- 0.1 The purpose of this Agreement is to provide terms and conditions that the Parties agree to apply to the performance of sponsored research projects under Task Orders.
- 0.2 It is the intention of the Parties that the activities contemplated herein, as more specifically described in each Statement of Work, are for the purposes of advancing scientific knowledge and supporting the education of graduate students through opportunities to participate in industry-relevant research.
- 0.3 The Parties understand and acknowledge that performance of research under this agreement will be limited to certain facilities of the Georgia Institute of Technology (“GIT”) based on the operating guidelines provided by the Internal Revenue Service of the United States.
- 0.4 The Parties understand and agree that (i) GTRC is tax-exempt under Section 501(c)(3) of the Internal Revenue Code (the “IRC”); (ii) GTRC is a supporting organization of GIT under Section 509(a)(3) of the IRC; (iii) GTRC was formed for the purpose of entering into sponsored research agreements for GIT; (iv) GTRC owns and administers intellectual property conceived, created, and/or developed at GIT; and (v) all research and related work under this Agreement will be performed by GIT via a subcontract between GTRC and GIT, provided, however, that GTRC shall remain fully responsible for such performance under the terms and conditions of this Agreement.
- 0.5 The terms and conditions of this Agreement are specific to this Agreement and the research described in the Statement of Work and will not necessarily be used as

precedent for any other sponsored research agreement that the Parties may enter into in the future.

Section 1. Definitions.

- 1.1 “Background Intellectual Property” means all GTRC, COMPANY, and third party Intellectual Property conceived, created, and/or first reduced to practice prior to or outside the scope of this Agreement or any Task Order.
- 1.2 “COMPANY Intellectual Property” means, individually and collectively, all Intellectual Property that is conceived or created solely by Staff Members of COMPANY in the performance of a Research Project.
- 1.3 “Confidential Information” means any data or information of a Party that (i) has commercial value, (ii) is considered sensitive by such Party, and (iii) is not generally known to the public, including, but not limited to, data, databases, product plans, strategies, forecasts, research procedures, marketing techniques and materials, customer names and other information related to customers, price-lists, pricing policies, and financial information. Confidential Information expressly excludes (i) information that is subject to classification under 32 C.F.R. 2001 (Classified National Security Information) and (ii) trade secrets.
- 1.4 “Field of Use” means the application for which COMPANY may exercise commercial rights to GTRC Intellectual Property under any license entered into pursuant to the terms of this Agreement. Each application shall constitute a separate field of use. The Field(s) of Use shall be specific to each Research Project and shall be described with particularity in each Task Order.
- 1.5 “GTRC Intellectual Property” means, individually and collectively, all Intellectual Property that is conceived or created solely by Staff Members of GTRC in the performance of a Research Project.
- 1.6 “Intellectual Property” means any and all intellectual property, including, without limitation, inventions and/or improvements thereto, computer software and software documentation, and discoveries or other information not generally known or readily ascertainable by others, including, but not limited to, documented scientific or technical knowledge, formulas, designs, instruments, patterns, methods, techniques, models, specifications, materials, prototypes, drawings, mask works, practices, processes, algorithms, modules, tools, utilities, analysis frameworks, and compilations of information, whether or not protectable by patent or copyright.
- 1.7 “Intellectual Property Fee” means a one-time, non-refundable fee of ___ percent (_%) of the Contract Cost Limitation, per Field of Use, payable by COMPANY to GTRC as specified in Section 4 (Compensation and Expenses; Contract Cost Limitation) and Section 9 of this Agreement.
- 1.8 “Joint Intellectual Property” means, individually and collectively, all Intellectual

Property that is conceived or created jointly by Staff Members of GTRC and Staff Members of COMPANY in the performance of the Research Project.

- 1.9 “Licensable Intellectual Property Rights” means all rights of GTRC in and to GTRC Intellectual Property under any and all United States (“U.S.”) and/or foreign patents and U.S. copyrights, including, without limitation, all applications and registrations relating to the same.
- 1.10 “Research Project” means a particularized research program to be performed under a Task Order by Staff Members of GTRC, alone or in collaboration with Staff Members of COMPANY, as described in a Statement of Work.
- 1.11 “Staff Members of COMPANY” means employees, independent contractors, subcontractors, and consultants of COMPANY who participate in the performance of a Research Project.
- 1.12 “Staff Members of GTRC” means (i) employees, student employees, and Visiting Scholars of GIT who perform a Research Project and (ii) independent contractors, subcontractors, and consultants of GTRC who perform a Research Project.
- 1.13 “Statement of Work” means the technical document describing the scope and performance of a Research Project, as prepared by Staff Members of GTRC, alone or in collaboration with Staff members of COMPANY.
- 1.14 “Task Order” means the document that authorizes the performance of a Research Project under this Agreement.
- 1.15 “Visiting Scholars” means researchers from other universities or entities who have signed a Visiting Scholar Agreement with GIT that permits such persons to participate in research in GIT facilities under this Agreement.

Section 2. Term.

- 2.1 The term of this Agreement is _____ () years from _____, 20__ (the “Effective Date”) and may be renewed by the written agreement of the Parties. Each Task Order under this Agreement shall indicate the term of the corresponding Research Project. To the extent that a particular Task Order continues beyond the expiration date of this Agreement, this Agreement shall be automatically extended to be coterminous with respect to such Task Order only.

Section 3. Standard of Performance

- 3.1 Each Research Project shall be undertaken on a reasonable efforts basis in accordance with the research and educational missions of GTRC and GIT.

Section 4. Compensation and Expenses; Contract Cost Limitation.

- 4.1 The cost limitation for each Task Order shall be specified therein (each, a “Contract

Cost Limitation”). GTRC reserves the right to modify its direct and indirect rates effective July 1 of each year.

- 4.2 For the term of this Agreement as specified in Section 2.1 hereof, COMPANY shall reimburse GTRC for the actual direct and indirect costs incurred by GTRC in the performance of all Research Projects up to the Contract Cost Limitations specified in each Task Order.
- 4.3 For each Task Order, COMPANY shall be obligated to make an advance payment (each, an “Advance Payment”) of twenty-five percent (25%) of the Contract Cost Limitation, (i) at as of the execution of the Task Order, (ii) pursuant to an Advance Payment invoice to be issued simultaneously contemporaneously therewith. The Advance Payment shall be applied toward payment of the final invoice under each Task Order. Any outstanding balance will be refunded to COMPANY at completion of each Task Order.
- 4.4 For each Task Order, COMPANY shall be obligated to pay the Intellectual Property Fee (i) at the execution of the Task Order (ii) pursuant to an Intellectual Property Fee invoice to be issued contemporaneously therewith.
- 4.5 On a monthly basis following the Advance Payment, GTRC will submit its invoices to COMPANY for the previous month’s work, including direct and indirect costs. COMPANY agrees to pay each invoice, including the Advance Invoice and the Intellectual Property Fee invoice, within thirty (30) days of the invoice date. Any invoice not paid within thirty (30) days of the invoice date will be considered delinquent and subject to a one and one-half percent (1.5%) per month fee of the outstanding amount for each month, or fraction thereof, until payment is received.
- 4.6 GTRC will not invoice COMPANY for any amount in excess of the Contract Cost Limitation for each Task Order without first obtaining COMPANY’S approval.
- 4.7 GTRC may choose to discontinue performance under any Task Order if COMPANY fails to pay any GTRC invoice toward the Contract Cost Limitation, including the Advance Invoice, within the time specified in Section 4.5 above. GTRC will not be obligated to incur costs in excess of the Contract Cost Limitation for any Task Order.

Section 5. Reports.

- 5.1 For each Task Order, GTRC will provide COMPANY a final report summarizing the results of the Research Project.

Section 6. Task Order Authorization.

- 6.1 Each Task Order for the performance of a Research Project conducted under this Agreement shall be substantially in the form of the template Task Order attached hereto as Exhibit A.

- 6.2 Upon receipt of a fully executed Task Order, GTRC shall allocate the appropriate funds and proceed with the associated Research Project. Authorization by COMPANY of a Task Order shall constitute authorization of the entire research scope and funding allocation for such Task Order.
- 6.3 Any changes to a Research Project that significantly (i) alter the research scope, (ii) alter the deliverables, or (iii) affect the yearly budget of such Research Project shall require a mutually agreed and executed amendment to the Task Order.

Section 7. Publicity.

- 7.1 Each Party agrees not to release, authorize, or commission the publication of any promotional materials containing any reference to the other Party without the prior written approval of the other Party. Notwithstanding the foregoing sentence, and for the avoidance of doubt, COMPANY acknowledges and agrees that GTRC and GIT may provide and/or release information concerning this Agreement solely as necessary to comply with federal and state disclosure, reporting, and audit requirements, as applicable. The provisions of this Section 7 (Publicity) shall survive any expiration or termination of this Agreement.

Section 8. Confidentiality

- 8.1 Either Party may disclose to the other Party Confidential Information under this Agreement pursuant to (i) the performance of Research Projects as set forth in each approved Task Order, (ii) the exercise of rights or the discharge of duties under this Agreement and/or any Task Order, or (iii) the discussion of additional research in connection with an ongoing Research Project under an approved Task Order (collectively, the "Purpose").
- 8.2 Subject to the terms and conditions of this Section 8 (Confidentiality), the receiving Party agrees to hold in confidence and not disclose any Confidential Information received from the disclosing Party hereunder. The confidentiality obligations of each Party receiving Confidential Information shall extend for three (3) years from the effective date of each Task Order. Unless otherwise permitted by this Agreement, each Party shall use the Confidential Information of the other Party only for and to the extent required to accomplish the Purpose. The receiving Party shall disclose the Confidential Information of the disclosing Party only to those Staff Members of the receiving Party that have a legitimate business need for such information, provided that all such disclosures are made only for and to the extent required to accomplish the Purpose. Notwithstanding the foregoing sentence, either Party may disclose the other Party's Confidential Information to its contractors, including, without limitation, GIT, affiliates, and consultants to the extent necessary to accomplish the Purpose or to exercise the rights granted under this Agreement, provided that all such persons or entities are under a written obligation of confidentiality at least as restrictive as those contained in this Agreement not to disclose Confidential Information to any other third party. Notwithstanding anything to the contrary herein, and for the avoidance of doubt, neither Party shall

disclose (i) any information that is subject to classification under 32 C.F.R. 2001 (Classified National Security Information) or (ii) any trade secret information to the other Party unless expressly agreed to in a separate, mutually executed writing.

- 8.3. Written information exchanged hereunder shall only be considered Confidential Information if it is clearly marked with an appropriate stamp or legend such as “Confidential Information,” “In Confidence,” “Confidential,” “GTRC Use Only,” or “COMPANY Use Only.” Non-written information exchanged hereunder shall only be considered Confidential Information if, at the time of such disclosure, (i) the information being disclosed is identified as Confidential Information and (ii) the disclosing Party provides the receiving Party with a writing that clearly identifies such information as Confidential Information within thirty (30) days after such disclosure.
- 8.4. Neither Party shall be liable to the other Party for the disclosure of Confidential Information that:
- a. is published or is otherwise in the public domain through no fault of the receiving Party;
 - b. can be demonstrated by the receiving Party to have been in its possession without restriction prior to receipt under this Agreement;
 - c. is obtained by the receiving Party without restriction from a third party;
 - d. is independently developed by the receiving Party by individuals who have had neither direct nor indirect access to such information;
 - e. is disclosed by the receiving Party to a third party with the written approval of the disclosing Party without any restriction; or
 - f. is required to be disclosed by the order of a court of competent jurisdiction.
- 8.5. The receiving Party shall, at the disclosing Party’s written request, promptly return or destroy all information and/or materials constituting Confidential Information under this Agreement and all issued Task Orders, including all copies thereof. Notwithstanding the foregoing sentence, the receiving Party shall have the right to retain one (1) copy of Confidential Information in its files for record-keeping purposes only.
- 8.6. In furnishing any information hereunder, the disclosing Party makes no warranty, guarantee, or representation, either expressed or implied, (i) as to the adequacy, accuracy, sufficiency, or freedom from defects of such information, or (ii) that the use or reproduction of any such information shall be free from any patent, trade secret, trademark, or copyright infringement. The disclosing Party shall not be liable for damages of whatever kind or for any costs, expenses, risks, or liabilities as a result of the other Party’s receipt, use of, or reliance on any such information

furnished hereunder.

- 8.7 The terms and conditions of this Section 8 (Confidentiality) set forth the entire understanding and agreement by, of, and between the Parties concerning the obligations of confidentiality and nondisclosure arising out of or relating to this Agreement and/or the subject matter of each Task Order issued hereunder and shall extinguish, supersede, and replace any and all prior obligations of confidentiality and nondisclosure (whether written or oral) between the Parties arising out of or relating to this Agreement, including, without limitation, any prior non-disclosure agreement(s) (whether written or oral) intended to protect the confidentiality of the subject matter of any and all Research Projects performed under the terms and conditions of this Agreement.

Section 9. Intellectual Property.

9.1 Intellectual Property Rights.

- a. Background Intellectual Property Rights. All Background Intellectual Property is the separate intellectual property of COMPANY or GTRC, respectively, and is not affected by this Agreement. This Agreement shall not be construed as implying that either Party hereto shall have the right to use Background Intellectual Property of the other in connection with this Agreement, or any Task Order issued under this Agreement, except as otherwise specified in this Agreement or any Task Order
- b. GTRC Intellectual Property Rights.
- i. All right, title, and interest in and to all GTRC Intellectual Property, including, without limitation, the right to obtain and/or enforce Licensable Intellectual Property Rights, shall be owned solely and exclusively by, and vest entirely in, GTRC.
 - ii. Upon receipt of a written intellectual property disclosure from Staff Members of GTRC describing any GTRC Intellectual Property or Joint Intellectual Property, GTRC shall notify COMPANY in writing and provide, on a confidential basis, all available pertinent information to COMPANY for evaluation.
 - iii. After consultation with COMPANY, GTRC will:
 - (1) elect to prosecute and/or register Licensable Intellectual Property Rights in GTRC Intellectual Property (each, an “Intellectual Property Rights Election”), **provided that** COMPANY agrees in writing to reimburse GTRC for out-of-pocket fees, costs, and expenses paid or incurred by GTRC to prosecute and/or register such Licensable Intellectual Property Rights in GTRC Intellectual Property; or

- (2) in the event that COMPANY declines to agree in writing to reimburse GTRC for out-of-pocket fees, costs and expenses paid or incurred by GTRC to prosecute and/or register Licensable Intellectual Property Rights in GTRC Intellectual Property, determine, in GTRC's own discretion, whether or not make an Intellectual Property Rights Election and bear all costs associated therewith on GTRC's own account.

Subject to Section 9.2.a. hereof, if GTRC declines to make an Intellectual Property Rights Election under this Section 9.1.b.iii.(2) for any GTRC Intellectual Property, GTRC may use such GTRC Intellectual Property for its own educational, research, and development purposes without further obligation to COMPANY.

- c. COMPANY Intellectual Property Rights. All right, title, and interest in and to all COMPANY Intellectual Property shall be owned solely and exclusively by, and vest entirely in, COMPANY.
- d. Joint Intellectual Property Rights. All right, title, and interest in and to all Joint Intellectual Property shall be jointly owned by GTRC and COMPANY. GTRC and COMPANY shall negotiate in good faith, on fair and reasonable terms, an agreement detailing the terms and conditions related to such Joint Intellectual Property, which may include, without limitation, provisions related to patent prosecution and associated costs, management, and defense. Prior to the submission of any patent application covering any Joint Intellectual Property, the filing Party shall provide written notice of such filing to the non-filing Party. COMPANY hereby acknowledges and agrees that any assignment documents required from Staff Members of GTRC who are inventors of Joint Intellectual Property shall be requested and coordinated solely through GTRC's Office of Industry Engagement.
- e. Joint Research Agreement. COMPANY shall not (i) rely on this Agreement as a "joint research agreement" as contemplated by 35 U.S.C., Section 102(c) or (ii) invoke the rights and protections conferred by the Cooperative Research and Enforcement Act of 2004 (the CREATE Act), P.L. 108-453 in connection with the prosecution of any patent application without the prior written consent of GTRC. Any such written consent shall include the specific reference to the invention for which the benefits of 35 U.S.C., Section 102(c) and/or the CREATE Act are claimed.

9.2. Licensing Rights of Intellectual Property.

- a. GTRC shall grant to COMPANY a non-exclusive, royalty-free license to any GTRC Intellectual Property for internal research and development use only.

- b. COMPANY shall grant to GTRC a non-exclusive, royalty-free license to any COMPANY Intellectual Property for internal educational, research and development use only.
- c. In the event of any Intellectual Property Rights Election, GTRC will, upon request and on a confidential basis, provide COMPANY a copy of any application or registration filed for any patent or copyright and any documents received or filed during the prosecution thereof, with the right of COMPANY to comment thereon.
- d. Subject to third party rights and Paragraph 9.1.b.iii hereof, GTRC shall grant to COMPANY, via a separate confirmatory license substantially in the form attached hereto in Exhibit B (the “Confirmatory License”), an exclusive commercial right to practice, in the Field(s) of Use, any GTRC Intellectual Property and/or GTRC’s commercial rights to practice Joint Intellectual Property (collectively, the “Exclusive Commercial Rights”); **provided that**, COMPANY has paid the Intellectual Property Fee in accordance with the timing requirements specified in Section 4.4 and Section 4.5 hereof. For the avoidance of doubt, timely payment of the Intellectual Property Fee is a condition precedent to the attachment of Exclusive Commercial Rights, and GTRC may (i) refuse to accept any delinquent Intellectual Property Fee and (ii) withhold any and all Exclusive commercial Rights associated therewith.
- e. The Exclusive Commercial Rights, if any, will take effect upon the execution of the Confirmatory License and will expire, subject to Section 9.2.d:
 - (i) in the event that the GTRC Intellectual Property constitutes patentable intellectual property, either:
 - (a) upon the fifth (5th) anniversary of the issuance of the earliest patent; **provided that**, COMPANY elects to and does in fact reimburse GTRC for all out-of-pocket fees, costs and expenses paid or incurred by GTRC in filing for patent protection; or
 - (b) upon the fifth (5th) anniversary of the filing date of the earliest patent application, if COMPANY elects **not** to reimburse GTRC for all out-of-pocket fees, costs and expenses paid or incurred by GTRC in filing for patent protection; **provided that** in such an instance, GTRC, in its sole discretion, shall decide whether or not to seek and/or maintain patent protection; or
 - (ii) in the event that the GTRC Intellectual Property constitutes copyrightable intellectual property, upon the fifth (5th) anniversary of the effective date of the Confirmatory License.
- f. Upon the expiration of the Exclusive Commercial Rights, and at

COMPANY's written request, GTRC shall grant to COMPANY an option to negotiate a new exclusive license, in the Field(s) of Use, to any GTRC Intellectual Property and/or GTRC's commercial rights to practice Joint Intellectual Property (the "Extended License"). The Extended License shall be negotiated in good faith on fair and reasonable terms by GTRC and COMPANY. The period of COMPANY'S option shall commence upon the expiration of the Exclusive Commercial Rights and terminate three (3) months thereafter (the "Extended License Option Period"). COMPANY shall exercise its right by written notice to GTRC, prior to the expiration of the Extended License Option Period, of its desire to obtain an Extended License. If the Parties are unable to reach agreement on the terms and conditions for the Extended License within the Extended License Option Period, GTRC shall be under no obligation to license such GTRC Intellectual Property or GTRC's rights in Joint Intellectual Property to COMPANY.

- g. GTRC hereby grants to COMPANY an option to negotiate a non-exclusive license in the Field(s) of Use and subject to any existing third party rights, to any GTRC Background Intellectual Property required to practice GTRC Intellectual Property or Joint Intellectual Property pursuant to any Exclusive Commercial Rights or any Extended License. Any such license shall be negotiated in good faith on fair and reasonable terms by GTRC and COMPANY and shall be limited to the term of the Exclusive Commercial Rights or Extended License, whichever is longer. COMPANY's option to GTRC Background Intellectual Property shall commence upon the execution of the confirmatory license for the Exclusive Commercial Rights and expire upon the earlier of the expiration of the Exclusive Commercial Rights or the Extended License.
- h. Subject to the existence of any third party rights and the payment of the Intellectual Property Fee, GTRC hereby grants to COMPANY an option to negotiate a license to any GTRC Intellectual Property and/or GTRC's commercial rights in and to Joint Intellectual Property, in any field other than the Field(s) of Use ("Other Fields Option"). Any such license shall be negotiated in good faith on fair and reasonable terms by GTRC and COMPANY. The Other Fields Option shall commence upon the receipt of written notice from GTRC of an Intellectual Property Rights Election and terminate six (6) months thereafter.
- i. Notwithstanding anything to the contrary contained herein, COMPANY hereby grants to GTRC and GTRC hereby reserves for itself and GIT an irrevocable, world-wide, fully-paid non-exclusive license in and to all GTRC Intellectual Property and Joint Intellectual Property for use in educational and/or research and development activities, whether alone or with a third party.

Section 10. Publication.

10.1 COMPANY recognizes that the results of each Research Project must be publishable for the purpose of advancing scientific knowledge and furthering the education of students in accordance with the institutional objectives of GTRC and GIT. COMPANY therefore agrees that (i) GTRC and GIT may catalog and place reports of each Research Project in the GIT Library and (ii) GTRC and GIT may use any results that are non-confidential to COMPANY in their research and educational programs. COMPANY further agrees that Staff Members of GTRC engaged in a Research Project shall be permitted to (i) present at symposia, national or regional professional meetings and (ii) publish in journals, theses, dissertations, or otherwise of their own choosing, on the results of the Research Project (each, a "Publication"). Thirty (30) days prior to the release of any proposed Publication, GTRC will give COMPANY an opportunity to review such Publication and, if necessary, require GTRC to delete any reference to COMPANY's Confidential Information included in the Publication. Furthermore, COMPANY shall have the right to request a delay of publication for up to thirty (30) additional days, if necessary, to allow for the filing of patents (in each case, a "Patent Delay") if such Publication contains patentable subject matter. GTRC agrees to cooperate to allow the appropriate Party to file patent applications on any patentable subject matter contained in the proposed Publication during the applicable Patent Delay. COMPANY's right of review under this Section 10 (Publication) shall terminate twelve (12) months after completion of the Research Project. In no event shall any of COMPANY's Confidential Information be included in any Publication without written authorization from COMPANY.

Section 11. Indemnity.

11.1 COMPANY agrees to and hereby does indemnify, hold harmless and save from liability GTRC, Staff Members of GTRC, GIT, and the Board of Regents of the University System of Georgia, including their respective employees, officers, board members, and agents from and against any and all claims, demands and actions arising out of or relating to COMPANY's commercial use of GTRC Intellectual Property.

Section 12. Disclaimer.

12.1 GTRC AND GIT DISCLAIM ANY AND ALL WARRANTIES, BOTH EXPRESS AND IMPLIED, WITH RESPECT TO THE RESEARCH TO BE PERFORMED HEREUNDER AND ANY DELIVERABLES RESULTING THEREFROM, INCLUDING, WITHOUT LIMITATION, THEIR CONDITION, CONFORMITY TO ANY REPRESENTATION OR DESCRIPTION, THE EXISTENCE OF ANY LATENT OR PATENT DEFECTS THEREIN, THEIR MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE, THE VALIDITY OF ANY INTELLECTUAL PROPERTY RIGHTS OR CLAIMS, AND/OR NONINFRINGEMENT OF ANY THIRD PARTY INTELLECTUAL PROPERTY RIGHTS.

Section 13. Limitation of Liability.

- 13.1 The cumulative liability of GTRC to COMPANY for all claims, demands, or actions arising out of or relating to this Agreement, any Task Order, any Research Project to be performed thereunder, and/or any deliverables resulting therefrom, will not exceed the total amount paid to GTRC (i) under the Task Order for which such claims, demands, or actions are made (ii) during the twelve (12) months immediately preceding such claims, demands, or actions. Without limiting the foregoing, in no event shall GTRC be liable for any (i) business expense, machine down time, or loss of profits, (ii) incidental, special, exemplary, consequential, or punitive damages, or (iii) third party claims or demands brought against COMPANY or COMPANY's customers, even if GTRC has been advised of the possibility of such expenses, losses, damages, claims, or demands. The foregoing limitation of liability shall survive any expiration or termination of this Agreement and shall apply without regard to any other provision of this Agreement that may have been breached or proven ineffective.

Section 14. Termination.

- 14.1 COMPANY may terminate this Agreement or any Task Order hereunder for any reason upon thirty (30) days' written notice to GTRC, provided that no Task Order shall terminate prior to the expiration of an academic semester if such termination is for convenience.
- 14.2 GTRC may terminate this Agreement and/or any Task Order hereunder upon thirty (30) days' prior written notice in the event that:
- a. GTRC determines that continued performance of this Agreement or any Task Order issued hereunder could jeopardize GTRC's continued tax-exempt status under the IRC or result in a violation of any tax covenants made by GTRC in connection with the issuance of tax-exempt bonds;
 - b. GTRC's compliance with applicable policies, laws, or regulations preclude performance under this Agreement;
 - c. COMPANY breaches any material term or provision of this Agreement or any Task Order, provided that (i) GTRC includes, within the notice of intent to terminate, a reasonable description of the facts surrounding the alleged breach and a proposed course of action to cure said breach, and (ii) such breach remains uncured at the end of the thirty (30) day period following the notice if intent to terminate;
 - d. a *force majeure* event precludes the performance of the obligations of either Party as set forth in this Agreement or any Task Order, such *force majeure* event to be constituted, in any case, by any one or more instances of fire, flood, explosion, lightning, windstorm, earthquake, discontinuity in the supply of power, governmental interference, civil commotion, riot, war, strikes, labor

disturbance, transportation difficulties or impairment, labor shortage, public health emergencies, including but not limited to, chemical, biological, and environmental disasters, flu or other serious illnesses, plagues, diseases, medical epidemics, medical pandemics, or medical outbreaks, travel restrictions, Act(s) of God, or any other external cause/unforeseen occurrence beyond the reasonable control of the Parties.

- 14.3 COMPANY shall pay GTRC any costs which have accrued or been encumbered under any Task Order up to the actual date of termination under this Section 14 (Termination) and shall not be relieved of the obligation to pay such costs because of termination under this Section 14 (Termination).

Section 15. Export Control

- 15.1. GTRC is subject to U.S. laws and regulations controlling the export of goods, software, and technology, including technical data, laboratory prototypes, and other commodities, inclusive of both the cross-border transport of the foregoing items and “deemed exports” of the same. GTRC shall comply with all applicable laws and regulations, including the Arms Export Control Act (“AECA”), the International Traffic in Arms Regulations (“ITAR”), the Export Administration Regulations (“EAR”), and the laws and regulations implemented by the Office of Foreign Assets Control, U.S. Department of the Treasury (“OFAC”). Diversion contrary to U.S. law is prohibited. The transfer of certain technical data, services, and commodities may require a license from the cognizant agency of the U.S. and/or written assurances by COMPANY that it will not re-export or retransfer the data or commodities to certain foreign countries without prior approval of the cognizant U.S. government agency. While GTRC agrees to reasonably cooperate in securing any license that the cognizant agency deems necessary in connection with this Agreement, GTRC cannot guarantee that such licenses will be granted. Notwithstanding anything to the contrary herein, if any such required export license cannot be reasonably obtained from the concerned U.S. government agency, GTRC shall be exempted, without further action or liability, from all of its obligations herein including, without limitation, the conveyance and/or delivery of any rights in or to Intellectual Property or any other materials, reports, or data, including, without limitation, technical data.
- 15.2 COMPANY agrees to obtain permission from the U.S. government for the retransfer or re-export of any goods, software, and technology that requires such authorization, including to any affiliate or subsidiary of COMPANY. COMPANY will not allow any U.S. origin goods, software or technology to be used for any purposes prohibited by the U.S. law, including, without limitation, support for terrorism or the development, design, manufacture, or production of nuclear, chemical, or biological weapons of mass destruction.
- 15.3 The Parties understand and agree that compliance with all applicable laws and regulations, including the AECA, ITAR, EAR, and the laws and regulations implemented by OFAC which adversely affect the performance of a Research

Project, the creation or submission of any deliverables under any Task Order, or the grant of rights in or to intellectual property hereunder shall not constitute a breach of this Agreement.

15.4 The provisions of this Section 15 (Export Control) shall survive any expiration or termination of this Agreement.

Section 16. Equipment.

16.1 COMPANY understands and agrees that GTRC shall hold title to any equipment and materials not expressly made part of a deliverable that GTRC purchases, acquires, or fabricates for the performance of a Research Project with funds provided by COMPANY under a Task Order.

Section 17. Miscellaneous.

17.1 Notices

All notices and other communications required or permitted to be given under this Agreement (collectively, "Notices") shall be in writing and shall be deemed effective (a) upon personal delivery, (b) upon confirmed transmission of electronic mail or facsimile, with receipt acknowledged, (c) five (5) days after deposit with the United States Postal Service, by registered or certified mail, postage prepaid, or (d) one (1) day after deposit with any reputable express courier for overnight delivery.

All Notices shall be addressed to the Parties at their respective addresses as set forth below unless by such Notice a different person or address has been designated.

To GTRC for contractual matters:

Georgia Tech Research Corporation
926 Dalney Street NW
Atlanta, Georgia 30332-0415
Attn: _____
Phone: _____
Email: _____
Fax: _____

To COMPANY for contractual matters:

Attn: _____
Phone: _____
Email: _____
Fax: _____

To GTRC for technical matters:

Attn: _____

To COMPANY for technical matters:

Attn: _____

Phone: _____
Email: _____
Fax: _____

Phone: _____
Email: _____
Fax: _____

To GTRC for payment:

Georgia Tech Research Corporation
P. O. Box 100117
Atlanta, Georgia GA 30384-0117

For electronic payments:

Georgia Tech Research Corporation
c/o Bank of America
600 Peachtree Street, NE
Atlanta, GA 30308
Account No. 0100825661

To COMPANY for billing:

Email: _____
Fax: _____
E-commerce Platform: _____

- 17.2 GTRC and COMPANY are and shall remain independent contractors for purposes of this Agreement, and nothing herein may be construed to create a partnership, agency, or joint venture between the Parties for federal or state law purposes. Each Party shall be responsible for wages, hours, and conditions of employment of its respective personnel during the term of, and under, this Agreement and all Task Orders.
- 17.3 All questions concerning the validity, operation, interpretation, and construction of this Agreement shall be governed by and determined in accordance with the laws of the state of Georgia without regard to its conflict of laws, principles, or rules.
- 17.4 The Parties irrevocably and exclusively submit to the jurisdiction of the state and federal courts of and/or for the state of Georgia, including the related appellate courts in any action or proceeding. Personal jurisdiction over the Parties may be obtained by the mailing (postage prepaid) of a summons or similar legal document to the Party's address for Notices under this Agreement.
- 17.5 No waiver by either Party of any breach of any term of this Agreement will constitute a waiver of any other breach of that same term or of any other term hereof.
- 17.6 This Agreement, including all exhibits and attachments hereto, sets forth the entire agreement and understanding between GTRC and COMPANY and merges all prior discussions between the Parties pertaining to the subject matter hereof. Neither Party will be bound by any conditions, definitions, warranties, understandings, or representations with respect to the subject matter hereof except as expressly provided herein. This Agreement may not be modified or altered except by a written amendment executed by authorized representatives of both Parties. For the

avoidance of doubt, no terms, conditions, or other provisions contained in any standard form document issued by COMPANY, including, but not limited to, any purchase order or confirmation order, will be applicable, even if signed by the Parties, unless the Parties also execute a separate amendment expressly modifying this Agreement to include such terms, conditions, or other pro.

- 17.7 This Agreement may be executed in separate counterparts, each of which when so executed shall be deemed to be an original, and all of which taken together shall constitute one and the same agreement.

[Signatures appear on the following page.]

SAMPLE

IN WITNESS WHEREOF, this Agreement has been duly executed by our duly authorized representatives on the day and year set forth below.

GEORGIA TECH RESEARCH CORPORATION

[_____]

By: _____
Typed Name: _____
Title: _____
Date: _____

By: _____
Typed Name: _____
Title: _____
Date: _____

By: _____
Typed Name: _____
Title: _____
Date: _____

SAMPLE

AND

GEORGIA TECH RESEARCH CORPORATION

BASIC RESEARCH TASK ORDER NO. _____

Pursuant to the APPLIED RESEARCH MASTER AGREEMENT NO. _____ (the “Master Agreement”) by and between _____ (“COMPANY”) and GEORGIA TECH RESEARCH CORPORATION (“GTRC”) dated _____ and effective until _____, GTRC will undertake this Task Order as set forth below. GTRC and COMPANY may each be hereinafter referred to as a “Party” and collectively as the “Parties.” Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Master Agreement.

1. Work to be performed shall be in accordance with the attached Statement of Work.
2. The Contract Cost Limitation for this Task Order is _____ Dollars (\$_____).
3. Background Intellectual Property: _____.
4. Field(s) of Use: _____.
5. Period of performance is _____ through and including _____.
6. Terms and conditions of the Master Agreement apply. In the event of any conflict between the terms and conditions of this Task Order and the terms and conditions of the Master Agreement, the terms and conditions of this Task Order shall control.
7. The Master Agreement and this Task Order, including all attachments hereto, set forth the entire agreement and understanding between GTRC and COMPANY and merge all prior discussions between the Parties pertaining to the subject matter hereof. Neither Party will be bound by any conditions, definitions, warranties, understandings, or representations with respect to the subject matter hereof except as expressly provided herein. This Task Order may not be modified or altered except by a written amendment executed by authorized representatives of both Parties. For the avoidance of doubt, no terms, conditions, or other provisions contained in any standard form document issued by COMPANY, including, but not limited to, any purchase order or confirmation order, will be applicable, even if signed by the Parties, unless the Parties also execute a separate amendment expressly modifying this Task Order to include such terms, conditions, or other provisions.

8. This Task Order may be executed in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

ACKNOWLEDGED AND AGREED:

GEORGIA TECH RESEARCH

CORPORATION

By: _____
Typed Name: _____
Title: _____
Date: _____

By: _____
Typed Name: _____
Title: _____
Date: _____

By: _____
Typed Name: _____
Title: _____
Date: _____

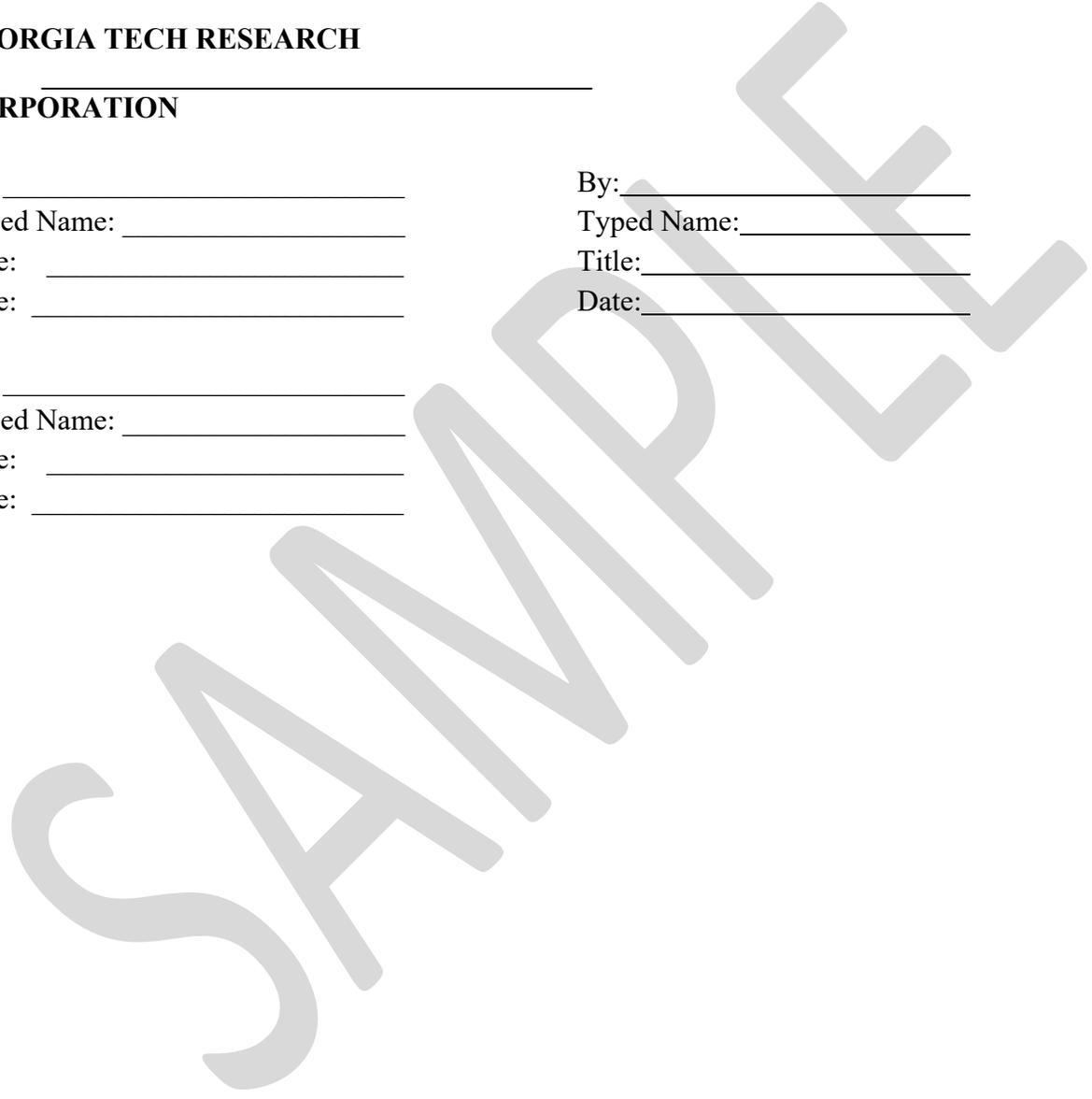


EXHIBIT B

CONFIRMATORY LICENSE
Georgia Tech Research Corporation

Title of GTRC Intellectual Property: “ _____ ”
GIT Inventor(s)/Author(s): _____
GTRC DISCLOSURE ID: _____

Reference is hereby made to (i) that certain Applied Research Master Agreement No. _____ by and between Georgia Tech Research Corporation (“GTRC”) and _____ (“COMPANY”) effective as of _____ (the “Master Agreement”), and (ii) that certain Task Order No. ___ by and between GTRC and COMPANY under the terms of the Master Agreement effective as of _____ (the “Task Order”). GTRC and COMPANY may each be hereinafter referred to as a “Party” and collectively as the “Parties.” Capitalized terms used but not defined herein shall have the same meanings ascribed to them in the Master Agreement or Task Order, as applicable.

WITNESSETH

WHEREAS, during the performance of research under the Task Order, Staff Members of GTRC conceived or created GTRC Intellectual Property or Joint Intellectual Property titled and catalogued by GTRC as _____ (the “Subject Intellectual Property”); and

WHEREAS, pursuant to Section 9.2.d. of the Master Agreement, COMPANY is entitled to certain rights in and to GTRC’s interest in the Subject Intellectual Property, in accordance with the terms and conditions of the Master Agreement and as confirmed herein.

NOW, THEREFORE, in consideration of the foregoing and the promises contained herein and intending to be legally bound, GTRC and COMPANY hereby agree as follows:

1. GRANT OF LICENSE

1.1 In accordance with Section 9.2.d. the Master Agreement and subject to the terms and conditions herein, GTRC hereby grants to COMPANY, with the right to sub-grant to COMPANY’s affiliates, in the Field(s) of Use, an exclusive, royalty-free, paid-up world-wide commercial right to (a) make, have made, sell, offer for sale, use, and import the Subject Intellectual Property in the event that the Subject Intellectual Property constitutes patentable intellectual property, and/or (b) reproduce, prepare derivative works from, distribute, and perform or display publicly the Subject Intellectual Property in the event that the Subject Intellectual Property constitutes a copyrightable work,. For the purpose of this Paragraph 2.1, “Affiliates” means (i) any corporation, company or other entity in which COMPANY directly or indirectly owns or controls at least fifty-one percent (51%) of the stock entitled to vote in election of the

board of directors; (ii) any corporation, company or other entity which directly or indirectly owns or controls at least fifty-one percent (51%) of the stock of COMPANY entitled to vote in the election of directors.

1.2 Without limiting the provisions of Section 15 (Export Control) of the Master Agreement, and subject to the terms and conditions therein, COMPANY shall not export and/or re-export the Subject Intellectual Property or any portion thereof, without fully and completely complying with any and all United States export and/or munitions control regulations and laws.

1.3 Notwithstanding anything to the contrary contained herein, GTRC hereby reserves for itself and GIT an irrevocable, world-wide, fully-paid, non-exclusive license in and to the Subject Intellectual Property for educational, research, and development purposes, whether alone or with a third party.

2. CONSIDERATION

2.1 COMPANY has paid to GTRC the Intellectual Property Fee in accordance with Section 4.4, Section 4.5, and Section 9.2.d. of the Master Agreement.

2.2 In consideration of the granting herein of the license described in Section 1 (Grant of License) hereof, COMPANY shall comply with the terms and conditions set forth in the Master Agreement, the Task Order, and this Confirmatory License, including, but not limited to, making all payments due under the Master Agreement and each Task Order entered into thereunder.

3. NOTICE OF INFRINGEMENT

3.1 COMPANY shall notify GTRC of any known infringement or other unauthorized use of the Subject Intellectual Property licensed hereunder.

4. INDEMNITY

4.1 COMPANY agrees to and does hereby indemnify, hold harmless, and save from liability GTRC, Staff Members of GTRC, GIT, and the Board of Regents of the University System of Georgia, including each of their respective employees, officers, board members, and agents (collectively, the "Indemnities") from and against all claims, suits, liabilities, damages, costs, fees, expenses or losses arising out of or resulting from COMPANY's and/or COMPANY's Affiliates' use of the Subject Intellectual Property, including, but not limited to, any third party claims against any and all Indemnites for (i) patent, copyright, or trademark infringement, and/or patent interference and (ii) any damages, losses, or liabilities whatsoever with respect to death or injury to any person and damage to any property arising from the possession, use, or operation of products/services produced or sold by COMPANY and/or COMPANY's customers in any manner whatsoever.

5. DISCLAIMER AND LIMITATION OF LIABILITY

5.1 GTRC AND GIT DISCLAIM ANY AND ALL WARRANTIES, BOTH EXPRESS AND IMPLIED, WITH RESPECT TO THE SUBJECT INTELLECTUAL PROPERTY, INCLUDING, WITHOUT LIMITATION, ITS CONDITION, CONFORMITY TO ANY REPRESENTATION OR DESCRIPTION, THE EXISTENCE OF ANY LATENT OR PATENT DEFECTS THEREIN, ITS MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE, THE VALIDITY OF ANY INTELLECTUAL PROPERTY RIGHTS OR CLAIMS, AND/OR NONINFRINGEMENT OF ANY THIRD PARTY INTELLECTUAL PROPERTY RIGHTS.

5.2 In no event shall GTRC be liable for any use by COMPANY of the Subject Intellectual Property, or any loss, claim, damage or liability, of whatsoever kind or nature, which may arise from or in connection with COMPANY's actions or omissions under this Confirmatory License.

6. TERM AND TERMINATION

6.1 This Confirmatory License shall commence upon the acknowledging signature of a duly authorized representative of the Company ("Effective Date") and shall continue until (i) in the event that the Subject Intellectual Property constitutes patentable intellectual property, either (a) upon the fifth (5th) anniversary of the issuance of the earliest patent; provided that, COMPANY elects to reimburse GTRC for all out-of-pocket fees, costs and expenses paid or incurred by GTRC in filing for and maintaining patent protection, or (b) upon the fifth (5th) anniversary of the filing date of the earliest patent application, if COMPANY elects not to reimburse GTRC for all out-of-pocket fees, costs and expenses paid or incurred by GTRC in filing for patent protection, *provided that*, in such an instance, GTRC, in its sole discretion, shall decide whether or not to prosecute and/or maintain patent protection; or (ii) in the event that the Subject Intellectual Property constitutes copyrightable intellectual property, upon the fifth (5th) anniversary of the effective date of this Confirmatory License.

6.2 In the event of a breach of a material obligation of COMPANY under this Confirmatory License, the Master Agreement, or the Task Order, GTRC shall inform COMPANY of said breach in writing. COMPANY shall have thirty (30) days from the date of said notification during which time to cure the breach (the "Cure Period"). In the event that COMPANY does not cure the breach within the Cure Period, GTRC may terminate this Confirmatory License with no further obligation to COMPANY. Notwithstanding anything to the contrary herein, in the event that GTRC discontinues performance under the Task Order in accordance with Section 4 of the Master Agreement (Compensation and Expenses; Contract Cost Limitation), this Confirmatory License and the license granted herein shall concurrently terminate with no further action on the part of GTRC.

7. GOVERNING LAW AND VENUE

7.1 This Confirmatory License shall be governed by and construed in accordance with the laws of the state of Georgia.

7.2 The Parties irrevocably and exclusively submit to the jurisdiction of the state and federal courts for the state of Georgia, including the related appellate courts in any action or proceeding. Personal jurisdiction over the Parties may be obtained by the service of a summons or similar legal document by (a) delivery in person, (b) delivery by certified U.S. mail (postage prepaid), or (c) delivery by a reputable express courier to the following addresses, unless by prior written notice a different person or address has been designated:

To GTRC:

Georgia Tech Research Corporation
926 Dalney Street Street NW
Atlanta, Georgia 30318
Attn: _____
Phone: _____
Email: _____
Fax: _____

To COMPANY:

Attn: _____
Phone: _____
Email: _____
Fax: _____

8. NON-WAIVER; COMPLETE AGREEMENT

8.1 No waiver by either Party of any breach of any term of this Confirmatory License will constitute a waiver of any other breach of that same term or of any other term hereof.

8.2 The Master Agreement, the Task Order, and this Confirmatory License set forth the entire agreement and understanding between GTRC and COMPANY and merge all prior discussions between the Parties pertaining to the subject matter hereof. Neither Party will be bound by any conditions, definitions, warranties, understandings, or representations with respect to the subject matter hereof, except as expressly provided herein. This Confirmatory License may not be modified or altered, except by a written amendment executed by authorized representatives of both Parties.

9. EXECUTION

9.1 This Confirmatory License may be executed in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Confirmatory License to be duly executed by their duly authorized representatives the day and year set forth below.

GEORGIA TECH RESEARCH CORPORATION

COMPANY

By: _____
Typed Name: _____
Title: _____
Date: _____

By: _____
Typed Name: _____
Title: _____
Date: _____

By: _____
Typed Name: _____
Title: _____
Date: _____

SAMPLE