

**Model University-Industry
Research Agreement**

between

University of New Brunswick

hereinafter referred to as "University" and

<Name of Company>

hereinafter referred to as "Company".

Company and University hereby agree as follows:

Article 1 - Objective

University shall perform the work described in Article 2 (referred to as "Project") upon the terms and conditions hereinafter set forth.

Article 2 - Scope of Work

The scope of work is described as follows: (or see Appendix A).

Article 3 - Deliverables

Deliverable(s) are defined as follows:

They shall be submitted to Company by the following dates:

Unless University is notified to the contrary by Company in writing within twenty-five (25) working days following receipt of the deliverable(s), these will be deemed to have been accepted by Company according to the terms and conditions of this Agreement.

Article 4 - Principal Investigator

The Principal Investigator of the Project shall be _____ of University's Department of _____, who is responsible for the technical content of the Project.

Article 5 - Basis of Payment

In consideration of University carrying out the Project, Company shall pay University the cost of the work in accordance with the attached budget (Appendix B), or a firm sum of \$_____ Canadian Dollars.

Article 6 - Method of Payment

The sum stipulated in Article 5 hereof shall be paid by Company by cheque made payable to the University of New Brunswick within thirty (30) days of receipt of invoice(s) according to the following schedule:

Invoices shall be sent to:

Interest on overdue accounts will be charged at current bank rates on amounts not paid within thirty (30) days of submission of invoice.

Article 7 - Limitation

The total financial obligation of Company is limited to \$_____, which said amount shall not be exceeded without the written authorization of Company, given by one of its duly authorized representatives. University shall not be obliged to perform any work beyond the Scope of Work (see Article 2), which would cause this obligation of Company to exceed such sum, unless University receives written authorization to the contrary.

Article 8 - Period of Agreement

The present Agreement shall have an effective date of _____ and shall terminate on _____.

Article 9 - Amendments to Agreement

The terms herein stipulated may not be modified in any way without the mutual consent of the parties in writing.

Article 10 - Assignment

No right or obligation related to this Agreement shall be assigned by either party without the prior written permission of the other. University shall not subcontract any work to be performed except as specifically set forth in this Agreement.

Article 11 - Equipment

Any equipment or materials purchased by University as part of the Project shall remain the property of University unless otherwise specified in Article 17.

Article 12 - Confidentiality

Company and University may disclose confidential information one to the other to facilitate work under this Agreement.

Such information received from the other party shall be safeguarded and not disclosed to anyone without a "need to know" within the Company or the University. Each party shall also strictly protect such information from disclosure to third parties.

Unless otherwise agreed to in writing, the terms and conditions of this Agreement are confidential.

The obligation to keep confidential however shall not apply to information which:

- (a) is already known to the party to which it is disclosed;
- (b) becomes part of the public domain without breach of this agreement;
- (c) is obtained from third parties which have no obligation to keep confidential to the contracting parties;
- (d) is developed by a party receiving confidential information independently from the confidential information;
- (e) is disclosed under operation of law.

Article 13 - Publicity

Company will not use the name of University, nor of any member of University's staff, in any publicity without the prior written approval of an authorized representative of University. University will not use the name of Company, nor any employee of Company, in any publicity without the prior written approval of Company.

The University may at its own discretion provide a brief listing of this research Project, including the title and the name of the sponsor, as part of any public compendium of University research.

Article 14 - Publication

The parties agree that it is part of University's function to disseminate information and to make it available for the purpose of scholarship. They further recognize that the publication of certain technical information may destroy its commercial value.

Company shall be furnished with copies of any proposed disclosure relating to the Agreement at least ninety (90) days in advance of presentation or publication. Dissemination of such copies shall conform to Article 12. If Company does not object in writing to such disclosure within thirty (30) days of receipt, University shall be free to proceed. In the event written objection is made, the parties shall negotiate an acceptable version of the proposed disclosure, including release date, within the original ninety (90) day notice period.

Disclosure includes theses, articles, seminars, and other oral and written presentations.

The University shall be free to publish its Project results _____ months after termination of this Agreement, subject to confidentiality requirements.

Article 15 - Ownership and Commercial Exploitation of Intellectual Property

Intellectual property may include but is not limited to: technical information, know-how, copyrights, models, patterns, drawings, specifications, prototypes, inventions, etcetera.

OPTION I - Subject to the terms and conditions of this Agreement and payment by Company to University of the full amount due in accordance with this Agreement, all intellectual property in the deliverables specified in Article 3 and conceived and/or made during the term of this Agreement in the performance of the Project (the "Foreground Intellectual Property") shall be owned by Company, including assignment of any rights to inventions. University shall have the following rights:

- (a) A royalty-free, non-exclusive, perpetual license to use the Foreground Intellectual Property for research and educational purposes only, subject to confidentiality requirements;
- (b) In the event the deliverables or project results contain patentable inventions, copyrighted software, or know-how which is commercially exploited, a reasonable royalty or other financial recognition shall be negotiated in keeping with industry norms.
- (c) In the event Company does not exploit certain deliverables or project results within a specified time to be agreed upon, the right to commercially exploit them shall be reassigned to University, subject to a royalty-free, non-exclusive license to Company.

Where a graduate student is employed in the performance of work under the Project, the graduate student will own the copyright to the thesis report developed in conjunction with this Project. The graduate student will not be delayed in any way by the requirements of this Agreement in writing, presenting, defending, and publishing his or her thesis to meet the usual academic requirements for graduation.

OPTION II - All intellectual property in the deliverables specified in Article 3 and conceived and/or made during the term of this Agreement in the performance of the Project (the "Foreground Intellectual Property") shall, where solely developed by an employee or employees of one party, be owned by the employing party, including assignment of any rights to inventions. Where Foreground Intellectual Property is jointly developed by employees of the parties, it shall be jointly owned by the employing parties, including assignment of any rights to inventions.

Subject to full and complete payment by Company to the University of the amount due in accordance with this Agreement, University will offer Company the option of a license to make, have made, use and sell the products embodying or produced through the use of the Foreground Intellectual Property owned by University. The license shall contain reasonable terms and conditions for such agreements between universities and companies. Company shall have ninety (90) days after the expiration of the Agreement to exercise this option. If Company decides to

forgo the option, University shall be free to offer commercial license rights to any third party or to dispose of its inventions or other rights resulting therefrom in any other way they deem appropriate.

Company may direct that one or more patent applications be filed in respect of Foreground Intellectual Property. In this case the University shall promptly prepare, file, and prosecute such patent applications in such jurisdictions as Company directs. Company shall bear all costs incurred in connection with the preparation, filing, prosecution, and maintenance of such patent applications and shall cooperate with University to assure that such patent applications cover, to the best of Company's knowledge, all items of commercial interest and importance. Payments for such incurred costs shall be received within thirty (30) days of delivery of invoices. While University shall be responsible for making final decisions regarding the scope and content of such patent applications and the prosecution thereof, Company shall be given an opportunity to review and provide input thereto. University shall keep Company advised as to all developments with respect to such applications and shall promptly supply Company with copies of all papers received and filed in connection with the prosecution thereof in sufficient time for Company to comment thereon. If Company does not reimburse University for costs incurred in connection with the preparation, filing, prosecution, and maintenance of patent applications for any Foreground Intellectual Property in accordance with the terms of this Agreement, then the option granted herein to Company by University shall lapse in respect to such Foreground Intellectual Property.

In the event that Company obtains a license to use or otherwise exploit Foreground Intellectual Property owned by and reasonably requires the ability to use or otherwise exploit intellectual property owned by the University and developed prior to the effective date of this Agreement (the "Background Intellectual Property") in order to do so, the University shall grant a non-exclusive license to use or otherwise exploit such Background Intellectual Property to the extent required for Company to use or otherwise exploit said Foreground Intellectual Property, and such license shall require the payment of consideration over and above financial charges for the Foreground Intellectual Property. Except as provided herein and except with respect to the amount of royalties and other financial charges, such license in respect of Background Intellectual Property shall be on the same terms and conditions as the corresponding license in respect of the Foreground Intellectual Property.

In the event that Company obtains a license to use or otherwise exploit Foreground Intellectual Property owned by University, University shall have a royalty-free, non-exclusive, perpetual license to use the Foreground Intellectual Property for research and educational purposes, subject to confidentiality requirements.

Where a graduate student is employed in the performance of work under the Project, the graduate student will own the copyright to the thesis report developed in conjunction with this Project. The graduate student will not be delayed in any way by the requirements of this Agreement in writing, presenting, defending, and publishing his or her thesis to meet the usual academic requirements for graduation.

Article 16 - Liability and Indemnity

Unless otherwise stipulated in Article 17:

- (a) Company shall indemnify University against all costs, suits, or claims resulting from the use by Company or its customers or licensees of any deliverable or intellectual property developed by University under this Agreement.
- (b) University shall indemnify Company against all costs, suits, or claims on account of injuries (including death) to persons participating in the Project or damage to University property during the performance of this Agreement.

Article 17 - Special Conditions

The University makes no representations, conditions, or warranties, either express or implied, with respect to the performance of the Project or the intellectual property. Without limiting the generality of the foregoing, the University specifically disclaims any implied warranty, condition, or representation that the intellectual property: shall correspond with a particular description; is of merchantable quality; is fit for a particular purpose; or is durable for a reasonable period of time. Nothing in this Agreement shall be construed as a warranty or representation by the University as to title to the Foreground Intellectual Property or that it will be free from infringement intellectual property rights. The University shall not be liable for any loss, whether direct, consequential, incidental, or special which the Company suffers arising from any defect, error, fault, or failure to perform with respect to the intellectual property, even if the University has been advised of the possibility of such defect, error, fault, or failure. The Company acknowledges that it has been advised by the University to undertake its own due diligence with respect to the intellectual property.

Article 18 - Termination for Default

Either party may terminate this Agreement thirty (30) days after written notice of default is given to the defaulting party and if the defaulting party does not take immediate action to correct such default within such period. Default on part of the University may include the death or departure of the Principal Investigator. Company shall pay for all expenses up to termination and for reasonable commitments made by the University related to the Project, prior to the date of notice of default, for which the University is financially responsible.

Article 19 - Notices

Notices under this Agreement shall be sent by registered mail, return receipt requested or delivered by hand, return receipt requested to the following address of either party unless changed by written notice.

University:
University of New Brunswick
Office of Research Services
P.O. Box 4400
3 Bailey Drive
Fredericton, NB E2B 5A3
Phone: 506 453 4674
Fax: 506 453 3522

Company:

Article 20 - Force Majeure

Neither party to this Agreement shall be liable to the other for any failure or delay in performance by circumstances beyond its control, including but not limited to, acts of God, fire, labour difficulties, or governmental action.

Article 21 - Entire Agreement

This Agreement shall supersede all documents or agreements, whether written or verbal, in respect of the subject matter thereof.

Article 22 - Survival of Articles

Articles 12 (Confidentiality), 13 (Publicity), 14 (Publication), 15 (Ownership and Commercial Exploitation of Intellectual Property) and 16 (Liability & Indemnity), shall survive the termination of this Agreement for any reason in addition to those articles surviving by operation of law.

Article 23 - Legal Jurisdiction

This contract shall be governed by and construed in accordance with the laws in force in the Province of New Brunswick.

In witness whereof the parties hereto have signed as of the effective date shown in Article 8 above.

For University:

Name and Title

Witness

For Company:

Name and Title

Witness

Acknowledgment

I, the Principal Investigator, having read this Agreement, hereby agree to act in accordance with all the terms and conditions herein and further agree to ensure that all University participants are informed of their obligations under such terms and conditions.

Principal Investigator

Appendix “A”

Scope of Work

Appendix “B”

Budget