

**AGREEMENT OF MAINE TECHNOLOGY INSTITUTE  
AND  
[ ] COMPANY**

**DEVELOPMENT AWARD**

This Development Award Agreement (“Agreement”) is made as of \_\_\_\_\_ (“Effective Date”) by and between the Maine Technology Institute (“MTI”), a non-profit corporation organized under the laws of the State of Maine and \_\_\_\_\_, a [corporation, partnership, limited liability company, sole proprietorship or other business entity] organized under the laws of the State of \_\_\_\_\_, federal tax identification number \_\_\_\_\_ (“Recipient” or “Company”), collectively referred to in this Agreement as the Parties (“the Parties”).

**1.0 INTRODUCTION**

- 1.1 Recipient has an interest in developing and commercializing technology related to \_\_\_\_\_ (“Project”). The description of the Project is included in Appendix A. The technology described in the Project is referred to in this Agreement as the “Technology.”
- 1.2 MTI was established by the Maine Legislature to stimulate and support research and development activity leading to the commercialization of new products and services in order to enhance the competitive position of Maine’s technology-intensive industrial sectors, and thereby promote economic development and job creation.
- 1.3 MTI has an interest in assisting Recipient to commercialize new products and services through the development of the Technology.
- 1.4 Recipient has submitted its Project Summary, Project Description, Budget Commercialization Plan, Project Milestone Chart, Economic Impact Assessment and other written information required by MTI and applied for funding under MTI’s “Development Award Program” (hereinafter collectively referred to as the “Application”).
- 1.5 MTI, in reliance upon the representations contained in the Application and in this Agreement, has decided to award a development award to Recipient in order to promote these mutual interests.

**2.0 CONSIDERATION**

- 2.1 For valuable and sufficient consideration received and to be received, including, but not limited to, performance of the Parties’ respective obligations under this Agreement, the Parties hereby agree, as follows.

### 3.0 DEVELOPMENT AWARD AND SPENDING COMMITMENT

- 3.1 Relying upon Recipient's representations in its Application and Recipient's compliance with all terms and conditions of this Agreement. MTI will provide a "development award" of up to \$ \_\_\_\_\_ to Recipient to cost-share the Project.
- 3.2 The development award shall be dispersed to the Recipient by MTI in accordance with the payment schedule and project milestones set forth in Appendix B, subject to the terms and conditions of this Agreement. If development award funds are to be used for an equipment purchase, Recipient shall execute a Security Agreement with MTI prior to disbursement of any award funds. The Security Agreement shall grant MTI a purchase money security interest equal to the amount of development award funds used for equipment purchase and such other terms as required by MTI.
- 3.3 If any portion of the development award is to be used by Recipient to purchase equipment, machinery, fixtures, or other tangible personal property (collectively "Equipment"), then Recipient shall, at the request of MTI, execute a Security Agreement which grants MTI a first priority lien against equipment and contains such other terms and conditions as MTI may require (the "Security Agreement").
- 3.4 Unless otherwise agreed to by MTI, all award disbursements for Equipment shall be (a) made jointly payable by MTI to Recipient and Recipient's Equipment supplier, and (b) subject to satisfaction of such other conditions as MTI may require to ensure that the portion of the award set aside for the purchase of Equipment is in fact used by, and enables, Recipient to purchase the Equipment.
- 3.5 MTI shall not disburse any development award amounts following written notice by MTI to Recipient of Suspension or Termination of Development award for Project Failure under Section 7 or following written notice by MTI to Recipient of an Event of Default under Section 9.
- 3.6 Recipient shall expend all development award funds only for project purposes and only in accordance with its Application and this Agreement. Recipient shall expend development award funds only in proportion to the matching funds to be contributed by recipient under Appendix B. Recipient shall not expend development award funds for any purpose not expressly authorized in this Agreement or by subsequent written authorization from MTI.
- 3.7 Recipient may not obligate expenditure of development award funds or matching funds prior to the effective date of this contract without advance written approval of MTI.
- 3.8 MTI may review Recipient's expenditure of development award and matching funds regularly throughout the award period, and may curtail or require the return of development award funds if, in MTI's sole discretion, Recipient does not comply fully with Agreement terms and conditions on expenditure of development award and matching funds.

### 4.0 TERM OF AGREEMENT

- 4.1 The term of the Agreement shall commence on the Effective Date and terminate either five years following completion of the Project, as set forth in Appendix B, or upon payment in full of amounts due under this Agreement ("Termination Date"), whichever is later. The covenants set forth in Sections 6.5 (Technology Requirements), 6.6 (Document Retention and Review), and 6.7 (Reporting Requirements) shall survive any such termination.

- 4.2 The Termination Date may be accelerated by MTI or Recipient pursuant to the provisions of Section 9, provided however that the covenants set forth in Sections 6.5 (Technology Requirements), 6.6 (Document Retention and Review), and 6.7 (Reporting Requirements) shall survive any such termination.

## 5.0 REPRESENTATIONS AND WARRANTIES OF RECIPIENT

- 5.1 Recipient represents and warrants to MTI as follows, which representations and warranties shall be deemed to survive until the Termination Date:
- 5.2 The Recipient has all requisite power and authority to execute and deliver the Agreement and to consummate the transactions contemplated thereby. The execution and delivery by the Recipient of the Agreement and the performance by the Recipient of its obligations thereunder have been duly authorized by all necessary action of its Directors and Shareholders. Neither the execution and delivery of the Agreement by the Recipient, nor the performance of Recipient's obligations thereunder, will result in any violation or default under the Recipient's articles of incorporation, bylaws, or other organizational documents, or under any indenture, mortgage, deed to secure debt, security agreement, loan agreement or other contract or any judicial or administrative decree, judgment or order, to which the Recipient is a party or by which Recipient is bound.
- 5.3 The Recipient is a [corporation, partnership, sole proprietorship or other business entity] duly organized, validly existing and in good standing under the laws of the State of \_\_\_\_\_, and has all requisite power and authority to own, lease and operate its property and conduct its business.
- 5.4 There has been no material adverse change in the business, assets, operations or financial conditions of Recipient, or in the matters described in the Application pertaining to the Project since Recipient's submission of the Application.
- 5.5 Neither this Agreement or any other documents, certificates or agreements required by MTI to be executed in connection with this Agreement, nor the Recipient's Application to MTI for this development award contains any untrue statement of a material fact or any omission of a material fact.
- 5.6 Recipient, its Directors and Officers have not been convicted of a felony or debarred from participating in contracts with the State of Maine.
- 5.7 Recipient has filed all federal, state and local tax returns and reports as required by law. Recipient has paid all taxes, assessments and governmental charges due except those contested in good faith. Recipient has withheld or collected from its employees all required taxes, and has paid the same to the proper tax-receiving officers and authorized depositories. No deficiency assessment or tax lien by any federal, state, county or local authority is outstanding against Recipient's assets, property or business.
- 5.8 Recipient has set forth a description in Appendix C of all patents, copyrights, trademarks, trade secrets or any other intellectual property whose use is material to the Recipient's conduct of the Project described in Appendix A. The Recipient will provide MTI, at MTI's request, with true and accurate copies of all license agreements, assignments, and other contracts and agreements pertaining to such intellectual property rights. The Recipient is not aware that it has infringed any patent, copyright, trademark, trade secret or other intellectual property right of any third party. The Recipient is not aware of any material violation or infringement by a third party of any of the Recipient's intellectual property.

- 5.9 Recipient has disclosed any relationship, direct or indirect, between Recipient, its Officers, Directors or employees, and MTI and are in compliance with the conflict of interest provisions of 5 M.R.S.A. Chapter 407, Section 15307.

6.0 ADDITIONAL COVENANTS

- 6.1 Recipient will maintain a place of business in the State of Maine throughout the term of the Agreement and will maintain its good standing to do business in the State of Maine throughout the term of this Agreement.
- 6.2 Recipient shall locate all business and manufacturing operations and supporting product development or process improvement activities resulting from the Technology funded by this Agreement in the State of Maine throughout the term of this Agreement, except as expressly agreed by MTI, in its sole discretion, in the Appendix A Research Agreement or by written authorization during the term of the Agreement.
- 6.3 Recipient will contribute all payments and services designated as Matching Funds in Recipient's Application, consistent with the payment schedule outlined in Appendix B. Recipient shall notify MTI immediately of any event which reduces or is likely to reduce the Recipient's contribution of matching funds under Appendix A. Recipient agrees that any change in the scope of work outlined in Appendix B Project Milestones or in the Application Budget greater than 10% of any line item must be approved in writing by MTI prior to expenditure.
- 6.4 Recipient shall undertake all work described in the Appendix A Project in good faith and with due diligence. Recipient shall not assign, subgrant or subcontract the whole or any part of the Project unless specifically identified in the original Application, or unless subsequently authorized in writing by MTI. Recipient shall notify MTI immediately of any event which reduces or is likely to reduce the Recipient's ability to undertake all work described in Appendix A Project consistent with the Appendix B Project Milestones.
- 6.5 Recipient shall submit disclosures relating to the Technology resulting from the conduct of the Project in accordance with MTI policies and procedures, as set forth in the Research Agreement (Appendix A) and Reporting Form (Appendix D).
- 6.6 Recipient shall keep records containing all particulars which may be necessary for the purpose of documenting the financial and other information to be reported to MTI pursuant to this Agreement. These records shall be available at all reasonable times until the Termination Date of this Agreement for the purpose of verifying MTI's reports documenting Recipient's compliance with measures of performance under this Agreement.
- 6.7 Recipient shall submit semi-annual reports and a final report to MTI containing the information required by Appendix D.
- 6.8 Recipient shall attempt in good faith and with best efforts to commercialize any Intellectual Property created by Recipient under the Project, or any related Project, Service or Process, as required in Sections 10.0 and 11.0 below.
- 6.9 Recipient shall notify MTI of successful commercialization of the Intellectual Property created by Recipient under the Project of any revenues received by Recipient from commercialization or from any sale or transfer of rights to the Intellectual Property, or any related Product, Service or Process, as required in Section 11.0 below.

- 6.10 Recipient shall notify MTI of any material change in Recipient's legal status, financial status, or compliance status with federal and state laws, or of any material change in the status of intellectual property rights represented in Section 5.0 above.

7.0 SUSPENSION OR TERMINATION OF DEVELOPMENT AWARD FOR PROJECT FAILURE

- 7.1 MTI may, in its sole discretion, refuse to make additional development award disbursements anticipated by Appendix B to Recipient, and may terminate the development award for the following reasons:
- a) the failure of Recipient to achieve a Project Milestone within the anticipated timeframe described in Appendix B notwithstanding Recipient's good faith and diligent implementation of the Appendix A Research Agreement; or
  - b) a material change in Recipient's legal status, financial status, key personnel, or compliance status with federal and state laws, or a material change in the status of intellectual property rights as represented in Section 5 above notwithstanding Recipient's good faith and diligent implementation of the Appendix A Research Agreement.
- 7.2 MTI shall provide Recipient with written notice of its decision to suspend payments or to terminate the development award under this Section of the Agreement, providing Recipient with an explanation of the reasons therefore. In the event that MTI decides to suspend the development award, the written notice of suspension shall describe the specific actions which Recipient must complete successfully to secure reinstatement of the award, and the deadline for such remedial actions. MTI shall allow Recipient at least 30 days to cure the underlying cause of the suspension.
- 7.3 Upon issuance of a written notice of suspension to Recipient, MTI shall have no further obligations to the Recipient under the Agreement until Recipient cures the underlying cause of the suspension and MTI provides Recipient with written notice of reinstatement. Upon issuance of a written notice of termination to Recipient under Section 7 for failure of the project, MTI shall have no further obligations to the Recipient.
- 7.4 Recipient shall have no obligation to repay any development award from MTI following termination by MTI under Section 7 for project failure.

8.0 EVENTS OF DEFAULT BY RECIPIENT

- 8.1 A material breach of any obligation of the Recipient under the Agreement shall constitute an Event of Default, including, without limitation:
- a) the sale of all, or substantially all, of the assets, stock or other ownership interest of Recipient or a segment of Recipient's Company which is commercializing or using the Technology without written consent of MTI (which consent MTI may decline, in its sole discretion);

- b) the failure of Recipient to undertake the Project described in Appendix A in good faith and with due diligence, or the failure to meet project milestones set forth in Appendix B due to Recipient's failure to undertake the Project described in Appendix A in good faith and with due diligence;
- c) the failure of Recipient to contribute and document required Matching Funds prior to deadlines set forth in Appendix B;
- d) a failure by the Recipient to provide any periodic or final report or accounting to MTI when due;
- e) a failure by the Recipient to make any required repayment to MTI when due;
- f) the misuse or misapplication of any development award funds by the Recipient;
- g) the failure by Recipient to notify MTI promptly of any inaccuracy of any representations or any breach of any warranties by Recipient;
- h) the failure by Recipient to notify MTI promptly of any information required to be reported under Section 6 Covenants;
- i) the failure by Recipient to maintain a place of business in the State of Maine throughout the term of the Agreement without written consent of MTI (which consent MTI may decline, in its sole discretion);
- j) the failure by Recipient to locate all business and manufacturing operations, supporting product development on process improvement activities resulting from the Technology funded by this Agreement in the State of Maine throughout the term of this Agreement without written consent of MTI (which consent MTI may decline, in its sole discretion);
- k) the licensing of or authorization to a third party by Recipient to carry out the business and manufacturing operations, supporting product development, or process improvement activities resulting from the Technology funded by this Agreement during the term of the Agreement without written consent of MTI (which consent MTI may decline, in its sole discretion);
- l) the bankruptcy or insolvency of Recipient;
- m) any Event of Default identified elsewhere in the Agreement; and
- n) if any portion of the development award is used to purchase Equipment, then any Default under the Security Agreement (as the term "Default" is defined therein).

8.2 The Recipient shall notify MTI promptly in writing of the specifics of any Event of Default. Any failure by the Recipient to properly provide such notice to MTI shall be considered a separate Event of Default by the Recipient.

## 9.0 TERMINATION FOR EVENT OF DEFAULT

9.1 MTI may terminate this Agreement upon an Event of Default by providing a thirty (30) day written notice of MTI's intent to terminate to Recipient, stating the grounds for termination. Termination shall occur if an Event of Default remains fully or partially uncured for thirty (30) days after MTI has provided the Recipient with written notice that it intends to terminate the Agreement.

- 9.2 Upon the occurrence of any Event of Default, MTI shall have no further obligations to the Recipient under the Agreement until such Event of Default is cured. All MTI's unperformed obligations under the Agreement shall terminate upon Final Termination Date.
- 9.3 Despite a termination of the Agreement pursuant to an Event of Default, Recipient's remaining unperformed obligations and liabilities to MTI under the Agreement shall not be excused until Recipient fully repays any amounts due MTI under this Agreement.
- 9.4 Upon a termination by MTI for the failure of the Recipient to timely and fully cure an Event of Default, the Recipient shall be obligated to repay MTI a sum equivalent to two times all development award funds received by the Recipient, regardless of the damages that Recipient suffers as a result of such Event of Default. The Recipient shall either repay a sum equivalent to two times the Development award within 90 days written notice of default under Section 9.1 or request MTI to allow it to satisfy such obligation with installment payments. MTI shall have no obligation to agree to any such installment payment proposal. However, if MTI does agree to an installment payment proposal, MTI may, in its sole and absolute discretion, require the Recipient to provide adequate collateral to secure such payment to MTI. Interest shall accrue on all such repayment obligations of the Recipient at the annual rate of the prime rate, as published in the Wall Street Journal on the date of the written termination notice sent by MTI to Recipient, plus 2%, as calculated on the actual development award amount to be repaid from the date of disbursement until repayment.

## 10.0 INTELLECTUAL PROPERTY AND COMMERCIALIZATION

- 10.1 The Parties acknowledge that their mutual preferred outcome is for Recipient to commercialize, or cause a third party to commercialize, the Intellectual Property created by Recipient under the Project. It is not the intent of MTI to manage the Recipient's business or intellectual property, unless unique circumstances arise that require MTI to seek a commercialization partner in order to advance a product or service developed from the Intellectual Property toward the market, or implement the process developed from the Intellectual Property for commercialization purposes. The Parties agree that MTI will assume the role of licensor under this Section only as a last resort, and only where the goal of commercialization cannot be achieved by Recipient or Recipient's agent in a timely and effective matter.
- 10.2 All inventions, improvements, information, data, know-how, findings, recommendations, proposals, trade secrets, patents, by whatever name described and by whatever form therein, secured, developed, written or produced (collectively "Intellectual Property") created by the Recipient in implementation of the Project shall be the property of Recipient, subject to MTI's rights to require commercialization of any product, service or process related to such Intellectual Property and the development award repayment provisions of this Agreement.

10.3 Recipient shall use diligent efforts, and shall cause its sublicensees to use diligent efforts, to pursue the commercialization of any technology related to Intellectual Property created by Recipient during implementation of the Project, through the development and introduction into the commercial market of products, services or processes. Recipient recognizes that the commercialization of innovative technology is of fundamental importance to MTI and the State of Maine's economic development goal, and the prime objective of the Development Award Program underwriting this MTI development award to Recipient. Specifically, Recipient shall fulfill the following obligations to enable commercialization of technology related to such Intellectual Property:

- a) Recipient shall notify MTI whether Recipient believes that it has created Intellectual Property under the Project, and if so, whether Recipient plans to pursue commercialization of technology related to that Intellectual Property, within one year of the Project Completion Date established in the Project Milestones of Appendix B.
- b) In the event that Recipient notifies MTI that Recipient plans to commercialize the technology related to the Intellectual Property, Recipient shall provide a written report to MTI on each anniversary of the Project Completion Date established in the Project Milestones of Appendix B on the progress of its efforts during the prior year to develop and commercialize licensed projects and services, including without limitation research and development efforts, efforts to obtain regulatory approval, marketing efforts and sales figures. The report shall also contain a discussion of intended efforts and sales projections for the coming year.
- c) In the event that Recipient voluntarily notifies MTI in its semi-annual report required by Appendix D that it is unable or unwilling to commercialize technology related to the Intellectual Property, Recipient shall grant, at MTI's written request, an exclusive, worldwide license to MTI to file, prosecute and maintain all Intellectual Property protections (including patent, trademark or copyright applications) and to commercialize the Intellectual Property, subject to commercially reasonable terms and conditions, and subject to the dispute resolution procedures described below.
- d) If Recipient has not commercialized the technology related to the Intellectual Property created by Recipient during the Project within five years following the Project Completion Date, Recipient shall grant, at MTI's written request, an exclusive, worldwide license to MTI to file, prosecute and maintain all Intellectual Property protections (including patent, trademark or copyright applications) and to commercialize the technology related to the Intellectual Property, subject to commercially reasonable terms and conditions, and subject to the dispute resolution procedures described below. In the event that Recipient demonstrates that it has used diligent efforts to commercialize the technology related to the Intellectual Property during the prior five years, and will continue to use such diligent efforts in the future, Recipient and MTI shall negotiate an extension of the MTI right to require commercialization.

- e) Recipient, and any of its subgrantees or subcontractors, shall cooperate fully with MTI in the preparation, filing, prosecution, and maintenance of Intellectual Property rights, and in the commercialization of the Intellectual Property, including, but not limited to, maintaining and making available to MTI and its authorized representatives all documents, electronic records, notes, papers, accounting records, and other evidence pertaining to the creation of the Intellectual Property and its commercialization, and executing any documents appropriate to implement commercialization.
- f) In the event that Recipient and MTI are not able to agree upon the terms and conditions for an exclusive, worldwide license to MTI under the provisions of this section, the parties agree to the following dispute resolution mechanisms:
  - i) Negotiation. MTI and Recipient shall attempt to resolve the matter within ten days after MTI's request for exclusive license rights to commercialize the Intellectual Property under this section.
  - ii) Mediation. In the event that the parties cannot agree within ten days following MTI's request for an exclusive license rights under this section, either party may initiate mediation under the written notice to the other party, whereupon both parties shall be obligated to engage in a mediation proceeding under the then current CPR Institute for Dispute Resolution ("CPR") Model Procedure for Mediation of Business Disputes, except that the specific provisions of this section override any inconsistent provisions of the CPR Model Procedure. The mediator will be selected from the CPR Panels of Neutrals. If the parties cannot agree upon the selection of a mediator within ninety days after the Notice Date, then upon the request of either party, the CPR shall appoint the mediator. The Parties shall attempt to resolve the dispute through mediation until one of the following occurs: (a) The Parties reach a written settlement; (b) the mediator notifies the parties in writing that they have reached an impasse; (c) the Parties agree in writing that they have reached an impasse; or (d) the Parties have not reached a settlement within one hundred and twenty days after the Notice Date.
  - iii) Trial Without Jury. If the Parties fail to resolve the dispute through mediation, or if neither Party elects to initiate mediation, each party shall have the right to pursue any other remedies legally available to resolve the dispute, provided, however, that the parties expressly waive the right to a jury trial in the legal proceeding under this Section.

## 11.0 REIMBURSEMENT TO MTI

- 11.1 The Recipient shall notify MTI promptly following the successful commercialization of any product (“Product”), service (“Service”) or process (“Process) related to the Intellectual Property created by Recipient during the Project. This notification obligation shall continue for a period of five years following the completion of the Project set forth in Appendix B. Successful commercialization includes the introduction of any Product, Service or Process related to the Project into the commercial market. Development of a Product, Service or Process used exclusively by Recipient within Recipient’s business or affiliated companies (collectively referred to as “ Business Process”) shall be considered introduction into the commercial market for purposes of this Agreement.
- 11.2 If Recipient successfully commercializes, or causes a third party to commercialize a Product, Service or Process, Recipient shall reimburse MTI according to the schedule set forth in Exhibit E.
- 11.3 If Recipient and MTI agree that no Product, Service or Process can be commercialized from the Intellectual Property developed by Recipient under the Project, no repayment of the development award shall be required.
- 11.4 If Recipient successfully commercializes a Product, Service or Process and fails to notify MTI that revenues have been realized, or if Recipient licenses, sells, donates, or otherwise transfers the rights to manufacture the Product, Service or Process to any individual or company and fails to notify MTI of such transfer, Recipient shall be liable for an amount equivalent to two times the Development award within 90 days of the transfer.
- 11.5 Recipient shall cooperate fully with MTI and its authorized representatives in maintaining and making available for audit all documents, electronic records, and financial records pertaining to commercialization, transfer of rights or monies due to MTI under this Section.
- 11.6 In the event that an MTI audit reveals an underpayment of amounts due under this section, Recipient shall immediately pay the amounts due to MTI and interest calculated in accordance with Section 13.0 of this Agreement. If the audit reveals any overpayment of amounts, MTI will apply the amount to future payment obligations of Recipient. All audits shall be at MTI expense, unless the audit reveals underpayment of royalties by the Company in excess of two (2) percent of the original Agreement development award, in which case the audit expenses shall be borne by Recipient.
- 11.7 If any portion of the proceeds of this Agreement will be used by Recipient to purchase Equipment, then Recipient hereby agrees that upon Default under the Security Agreement (as the term “Default” is defined therein), MTI shall, at its sole discretion, be entitled to be reimbursed by Recipient for all award amounts paid to Recipient by MTI for the purpose of acquiring Equipment. All such amounts shall, once demanded by MTI, accrue interest at the rate set forth in Section 13.2 of this Agreement until paid in full.

## 12.0 PUBLIC ACKNOWLEDGEMENT OF MTI SUPPORT

- 12.1 Recipient’s press releases and other public descriptions or discussion of the Technology will acknowledge MTI’s participation in and support of the development and commercialization of the Technology.

13.0 MISCELLANEOUS

- 13.1 This Agreement shall be construed in accordance with the laws of the State of Maine without regard to its conflict of laws, provisions, except that questions affecting the validity, construction and effect of any patent shall be determined by the laws of the country in which the patent was granted.
- 13.2 Any unpaid amounts due hereunder shall bear interest at the annual rate of the prime rate as published in the Wall Street Journal plus 2% until paid. This provision does not excuse any failure to pay and does not limit any remedies for breach. In the event of Recipient's breach of this Agreement, Recipient shall pay to MTI all costs, including mandated court costs, of enforcing this Agreement.
- 13.3 Any notice required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given if delivered by hand or mailed by certified or registered mail, postage prepaid as follows:

If to \_\_\_\_\_ Company:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If to Maine Technology Institute:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 13.4 The Parties hereto acknowledge that this Agreement sets forth the entire agreement of the Parties as to the subject matter hereof and shall not be modified except by the execution of a written instrument signed by the Parties.
- 13.5 The provisions of this Agreement are severable, and in the event that any provision of this Agreement shall be determined to be invalid or unenforceable under any controlling and applicable body of law, such invalidity or unenforceability shall not in any way affect the validity of the enforceability of the remaining provisions hereof.
- 13.6 This Agreement is not assignable to any other party, without the express written consent of the other Parties to this Agreement.
- 13.7 Recipient shall indemnify, defend, save and hold harmless MTI and its Officers, Directors, employees, agents and representatives, from and against any and all actual and alleged demands, claims, lawsuits, obligations, liabilities, fees and costs, including, without limitation, actual attorney's fees and costs, in anyway arising out of:
  - a) any actions or omissions of the Recipient, its officers, directors, employees, representatives, independent contractors, subcontractors, licensees or consultants,
  - b) Recipient's performance or non-performance of its obligations under the Agreement;
  - c) the use by Recipient of the Technology, or any products, process improvements, concepts or other matters developed out of the Technology in this Agreement;

- d) the infringement of any patent, copyright or other form of intellectual property right owned by another person through any manufacture, use, sale, disclosure or reproduction involving the Technology, or
- e) any licensing or sublicensing of the Intellectual Property.

13.8 MTI does not make any representations as to the patentability or protectability, validity, enforceability, freedom from infringement of the rights of others, likelihood of successfully converting the Technology into commercial products or whether the Technology is satisfactory for the purposes intended.

- Exhibit A. Research Agreement
- Exhibit B Project Milestones and Award Payment Schedule
- Exhibit C Intellectual Property List
- Exhibit D Reporting Form
- Exhibit E Repayment Terms

ACCEPTED AND AGREED TO:  
MAINE TECHNOLOGY INSTITUTE

By: \_\_\_\_\_  
Name: Betsy Biemann  
Title: President  
Date: \_\_\_\_\_

\_\_\_\_\_ COMPANY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_