**Experimental/Technical Services Agreement**

**<<UNIVERSITY NAME>> (“University”)**

and

**Company: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Contact: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Phone: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ email: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**University PI: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Center: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Phone: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Fax:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **email:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Scope of Work**

1. **Tests (experiments/technical services) to be conducted:**
2. **Period of Agreement: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

1. **Cost: $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ per sample x \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ samples = $ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ total cost.**

Company agrees that all payments for these experimental/technical services will be made by Company to University net 30 days from date of invoice.

Any inventions that result from the services provided by University hereunder at the direction and request of Company that relate to Company’s samples shall be owned by Company, and at Company’s request University shall provide Company with information and documentation in support thereof.

**This agreement is subject to the terms and conditions set forth in the attached articles 1-10, to the University's consent to perform these experimental/technical services, and to Company's acceptance of the terms herein contained. Acceptance is limited to the terms stated herein. Any additional or different terms and conditions proposed by Company are rejected unless expressly agreed to in writing by an authorized representative of University.**

**This document comprises University’s offer to perform experimental/technical services and, upon acceptance, contains the complete and exclusive agreement between the parties, and supersedes all other prior, contemporaneous or subsequent written or oral communications, including terms and conditions of any purchase orders or other documents issued at any time by Company, between the parties and their employees and agents relating to the subject matter hereof.**

**Acceptance of this Agreement and all terms and conditions to be evidenced by authorized Company signature or e-mail acceptance, or by delivery of materials and/or payment by Company.**

**Company**:  **University**

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Its: Its:

Date: Date:

**ARTICLE 1 - Definitions**

"Services" shall mean experimental/technical services provided by University to industry through its University or College Centers concerning the compounding and testing of materials and any other experimental service University offers industry on a price-per-job basis.

**ARTICLE 2 - Order**

Any order for Services which Company places with University and University accepts shall be strictly in compliance with the terms and conditions of this Agreement. University shall provide reasonable efforts to perform Services within the projected costs and time period indicated in this Agreement. In the event University’s costs exceed the projected price or in the event the services cannot be performed within the time desired, University will notify Company as soon as reasonably possible. Company shall have the option of terminating this Agreement with reimbursement to University for its reasonable cost to the date of termination or continuing the Services for the additional cost or extension of time.

**ARTICLE 3 – Product Liability**

**3.1** The results of the Services under this Agreement are believed to be reliable, but no representations, guarantees or warranties of any kind are made as to the accuracy, suitability for particular applications or the results to be obtained therefrom. The results are based on laboratory work with small scale equipment, and such results do not necessarily indicate or reflect commercial or scale-up end product performance. The results obtained and data furnished are intended as guides and do not reflect product specifications for any particular property. Because of variations in methods, conditions and equipment used in processing these materials, no warranties or guarantees are made as to the suitability of the products for the application disclosed. Full-scale testing and end product performance are the responsibility of Company. University shall not be liable for any use or handling of any material beyond University's direct control. Further, University shall not be liable for any losses or damages, direct or indirect, incidental or consequential, arising out of or in any manner connected with its research results or its manner of research. Company expressly assumes all risk and liability for the foregoing.

**3.2 University does not make any warranties, express or implied, including, but not limited to, the implied warranties of merchantability and fitness for a particular purpose.**

**3.3** Nothing contained herein is to be construed as permission, a recommendation or an inducement to use or practice any product, process, equipment or formulation in conflict with any patent without the permission of the patent owner. University does not make any representation or warranty, express or implied, that the use thereof will not infringe any patent.

**3.4** Company agrees to defend, indemnify and hold University harmless with respect to all actions, causes of actions, claims, damages and losses, liabilities, and attorneys fees whatsoever arising out of the research and test results provided to Company or any other matter directly or indirectly arising out of or in connection with this Agreement.

**ARTICLE 4 – Non-use of Names**

In relation to Services, Company shall not use the name of University nor of any of its employees, nor any adaptation of either thereof, in any advertising, promotional or sales literature without prior written consent obtained from University in each case, except that Company may state that it obtained the service from University under an experimental services contract.

**ARTICLE 5 - Assignment**

This Agreement is not assignable or transferable and any attempt to do so shall be void, *ab initio* and of no legal effect.

**ARTICLE 6 - Confidentiality**

University shall, to the extent permitted by law and for a period of not more than three (3) years from date of University signature, hold in confidence all information disclosed to it by Company and identified at the time of disclosure as being confidential and relating to Services as defined in Article 1, except: information which at the time of disclosure is in the public domain, information which after disclosure is published or otherwise becomes part of the public domain through no fault of the University, or information which is disclosed to University by a third party not under terms of confidentiality. The results of the Services are confidential information.

**ARTICLE 7 - Disclosure**

Company shall notify University of any special precautions, toxicities, flammability, other hazardous propensities or requirements on any existing materials, chemical, new chemical or newly synthesized chemical or chemical compound or polymer or any other substances or minerals and including living substances and electronic data or media [e.g. computer viruses, etc.], submitted to University under this Agreement and shall indemnify University and/or its employees for any damages directly or indirectly attributable to any breach of this Article.

**ARTICLE 8 – Hazardous Materials**

All materials provided by Company must be accompanied by the appropriate environmental and safety information for those materials as required by law. The responsibility for and costs of disposal of all Company provided materials remaining at the termination of the Services will rest with the Company. Company shall arrange for disposal or removal of any remaining Company provided materials prior to receipt of any final report of the Services. University will observe all applicable safety precautions and governmental requirements concerning handling of test materials. Company and University acknowledge that the selection of procedures, sites, and equipment, and the assignment and supervision of personnel to be used in the conduct of Services hereunder rest under the sole and exclusive direction of University.

**ARTICLE 9 - Termination**

University may terminate this Agreement in the event it determines that it cannot perform the Services herein specified due to circumstances beyond its control. In such event, University shall so notify Company and equitably resolve any issues respecting return of monies paid by Company to University. Company may terminate this Agreement for any reason provided that it pays for all Services performed and all costs incurred by University up to the date of termination.

**ARTICLE 10 – Miscellaneous Provisions**

**10.1** This Agreement shall be construed, governed, interpreted and applied in accordance with the laws of the state of Ohio, U.S.A., except that questions affecting the construction and effect of any patent shall be determined by the law of the country in which the patent was granted.

**10.2** This Agreement is the entire agreement and understanding of the parties hereto as to the subject matter hereof, and it shall not be subject to any change or modification except by the execution of a written instrument signed by the parties hereto.

**10.3** The provisions of this Agreement are severable. If any Court finds any part of this Agreement to be invalid or unenforceable, such invalidity or unenforceability shall not in any way affect the remainder of the Agreement.

**10.4** The failure of either party to assert a right under this Agreement or to insist upon compliance with any term or condition of this Agreement shall not constitute a waiver of that right.

**10.5** Notice shall be made by certified mail or by other verifiable, written means to University and Company listed on the front of this Agreement.

**ARTICLE 11 – Export Administrative Regulations**

Company acknowledges the University, in the performance of services under this Agreement, may utilize the personal services of University employees, visiting professionals and students who may not be U.S. citizens or permanent resident aliens. Company assumes all responsibility for compliance with the provisions of the International Traffic In Arms Regulations (“ITAR”) under 22 CFR §§ 120-130 and Export Administration Regulations (15 C.F.R. 768 et seq) (“EAR”). Further, Company shall not disclose or provide to the University or any employee or agent of University any information subject to the licensing provisions of ITAR and/or EAR without the prior written notice to and advance approval by the University.