BOILERPLATE STTR FUNDING AGREEMENT

PLEASE CONTACT LINDA CONCINO,
UMASS LOWELL OFFICE OF RESEARCH ADMINISTRATION

Linda_Concino@uml.edu
SMALL BUSINESS TECHNOLOGY TRANSFER (STTR) PROGRAM

FUNDING AGREEMENT

This Agreement between [award recipient], a small business concern organized as a corporation under the laws of the State of _______ and having a principal place of business at ___________ (hereinafter referred to as "COMPANY") and the University of Massachusetts, as represented by its Lowell campus, with offices at 600 Suffolk Street, 2nd Floor South, Lowell, MA 01854, an educational nonprofit research institution of the Commonwealth of Massachusetts (hereinafter referred to as “UNIVERSITY”), is entered into for the purpose of consummating terms under which the parties agree to collaborate together to work on an STTR project to be carried out by COMPANY and UNIVERSITY (hereinafter referred to as the "PARTIES") under an STTR funding agreement awarded by _________ (Federal Agency) to COMPANY to fund a proposal entitled "_________________” submitted to the Federal Agency by COMPANY on or about __________.

Article 1 - Applicability of this Agreement

A. This Agreement shall be applicable only to matters relating to the STTR project referred to above. All intellectual property matters relating to this STTR Project shall be governed by the Allocation of Rights Agreement entered into by the Parties on _______________. UNIVERSITY agrees to use all reasonable efforts to perform that portion of the STTR project allocated to UNIVERSITY as described on Attachment A hereto.

B. The Federal prime award flow down contract clauses set forth in Attachment B hereto are hereby made a part of this Agreement.

C. The provisions of this Agreement shall apply to any and all consultants, subcontractors, independent contractors, or other individuals employed by COMPANY or UNIVERSITY for the purposes of this STTR project.

Article 2 - Staffing

A. To carry out the research program, UNIVERSITY will supply and use its own personnel, who will be considered employees of UNIVERSITY. All salary and wage payments to such personnel will be at rates consistent with their UNIVERSITY salaries as determined by UNIVERSITY.

B. The UNIVERSITY principal investigator will be _________ of the Department of ______________________. If for any reason the UNIVERSITY investigator is unable
to continue to serve in this capacity and a successor acceptable to both Parties is not available, this Agreement may be terminated by COMPANY as provided hereinbelow.

C. The COMPANY principal investigator will be ________________

Article 3 - Term and Termination

A. This agreement will become effective, __________ through _________________ unless terminated earlier as hereinafter provided. During or at the end of that time, it may be extended as mutually agreed upon.

B. Performance under this Agreement may be terminated by COMPANY upon sixty (60) days written notice. Performance may be terminated by UNIVERSITY if circumstances beyond its control preclude continuation of the research.

C. Upon termination, UNIVERSITY will be reimbursed for all costs and noncancellable commitments incurred in the conduct of the research program. If the prior payments made by COMPANY to UNIVERSITY exceed costs and noncancellable commitments incurred by UNIVERSITY before termination, the excess will be refunded to COMPANY. The confidentiality, use, and/or non-disclosure obligations of this Agreement shall survive any termination of this Agreement.

Article 4 - Supporting Payments

As payment for the costs incurred hereunder by UNIVERSITY, COMPANY will pay the UNIVERSITY an amount not to exceed ________________ ($_______) through monthly invoicing by UNIVERSITY. COMPANY will have no obligation to reimburse UNIVERSITY for any costs beyond this amount. Invoices shall be sent to: ____________________________.

Article 5 - Confidentiality/Publication

A. The free dissemination of information is an essential and long-standing policy of UNIVERSITY. However, under exceptional circumstances, UNIVERSITY recognizes that it may properly hold in confidence proprietary information supplied by a sponsor. Accordingly, UNIVERSITY's acceptance and use of any proprietary information which may be supplied by COMPANY in the course of this research project shall be subject to the following: the information must be marked or
designated in writing as proprietary to COMPANY. UNIVERSITY retains the right to refuse to accept any such proprietary information which it does not consider to be essential to the completion of the project or which it believes to be improperly designated, or for any other reason. Where UNIVERSITY does accept such information as proprietary, it agrees to exercise all reasonable efforts not to publish or otherwise reveal the information to others outside UNIVERSITY without the permission of COMPANY, unless the information has already been published or disclosed publicly by third parties or is required to be disclosed by order of a court of law. It is agreed that such reasonable efforts by UNIVERSITY will be in lieu of all other obligations or liabilities of UNIVERSITY relative to proprietary information. Access to proprietary information shall not be a condition precedent to meaningful participation by students at UNIVERSITY.

B. Subject to the terms of paragraph (A) above, either party may publish its results from this STTR Project. However, the publishing party shall provide the other party a thirty-day period in which to review proposed publications, identify proprietary or confidential information, and submit comments. The publishing party shall not publish or otherwise disclose proprietary or confidential information identified by the other party and the publishing party will give full consideration to all comments before publication. Furthermore, upon request of the reviewing party, publication will be deferred for up to thirty (30) additional days for preparation and filing of a patent application.

Article 6 - Liability

A. Each party disclaims all warranties running to the other or through the other to third parties, whether express or implied, including without limitation warranties of merchantability, fitness for a particular purpose, and freedom from infringement, as to any information, result, design, prototype, product or process deriving directly or indirectly and in whole or part from such party in connection with this STTR project.

B. COMPANY will indemnify and hold harmless UNIVERSITY with regard to any claims arising in connection with commercialization of the results of this STTR project by or under the authority of COMPANY. The Parties will indemnify and hold harmless the Government with regard to any claims arising in connection with commercialization of the results of this STTR project. COMPANY and UNIVERSITY agrees to maintain in effect for the duration of this Agreement comprehensive general liability insurance and/or self-insurance, with a combined single limit of at least $3,000,000 per occurrence.

Article 7 - Advertising
The name of either party to this Agreement will not be used by the other in any advertising publicity or news media related to the research program without the prior written consent of the other party. However, UNIVERSITY may identify COMPANY as a sponsor of the UNIVERSITY.

Article 8 - Notices

All notices, requests, or demands to be given by either party to the other under the provisions of this Agreement will be forwarded by certified mail properly addressed to the respective Parties as follows:

UNIVERSITY:

Linda Concino
UMass Lowell Office of Research Administration
600 Suffolk Street, 2nd Floor South
Lowell, MA 01854

COMPANY:


Article 9 – Government Law

This STTR Agreement will be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts

Article 10 - Interpretation

The Parties acknowledge that each party has reviewed and revised, and has been given the opportunity to have counsel review and revise, this agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this agreement or any amendments or exhibits thereto.

Article 11 - Entire Agreement

This Agreement, together with the Allocation of Rights Agreement between the Parties relating to this STTR Project, and Attachments as identified herein are incorporated by reference and represent the entire Agreement between the Parties. No modification of this Agreement will be effective unless written and signed by authorized representatives of both Parties.
IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the day, month, and year as of the last signature below and is effective in accordance with Article 3A above.

UNIVERSITY OF MASSACHUSETTS

By____________________________

Name____ Linda Concino___________

Title Director, Grants & Contracts Administration

Date___________________________

[COMPANY]

By____________________________

Name____________________________

Title____________________________

Date____________________________