SPONSORED RESEARCH AGREEMENT

THIS SPONSORED RESEARCH AGREEMENT (the “Agreement”), effective as of July 1, 2010, is between the University of Massachusetts (“University”), as represented by its _______ campus, and ______________________________ (“Sponsor”), a ________ corporation.

WHEREAS, Sponsor wishes to engage University to conduct research that will advance the educational, research and public service missions of the University in a manner consistent with its status as a tax-exempt, educational institution;

NOW, THEREFORE, the parties hereto agree as follows:

1. Research Project. University agrees to use reasonable efforts to perform the research described on Exhibit A (the “Research”). No later than ninety (90) days following the completion of the Research, the Principal Investigator shall deliver to Sponsor a final report describing all significant results of the Research in reasonable detail. Sponsor may use the Research Results for any purpose. “Research Results” means all raw data, analyses, tangible research materials, technical information and any other significant results that are obtained in the performance of the Research, but excluding any intellectual property based on these results.

2. Principal Investigator. The Research will be supervised by ___________, the “Principal Investigator.” Principal Investigator shall direct the Research and shall control the manner of its performance. If, for any reason, he/she becomes unable to continue to serve as Principal Investigator, and a replacement acceptable to both University and the Sponsor is not available, Sponsor may terminate this Agreement upon sixty (60) days prior written notice to University. During the term of this Agreement, Principal Investigator shall meet with representatives of Sponsor at times and places mutually agreed upon by the parties to discuss the progress of the Research. During the term of this Agreement, and at the convenience of the Principal Investigator, a representative of Sponsor shall have reasonable access to the Research records.

3. Term. The term of this Agreement shall be through December 31, 2011, unless earlier terminated as provided in Article 6.

4. Grant. Sponsor shall support the Research by a grant of $_____________. Sponsor shall make quarterly advance payments of $___________ to University. University retains title to all supplies and equipment purchased by University with funds provided by Sponsor. University shall monitor expenditures in accordance with its institutional policies to ensure that the funds provided by Sponsor are spent in connection with the performance of the Research.

5. Payments. Sponsor shall make payments to “University of Massachusetts” and sent to _______________. Payments shall be made in U.S. Dollars and shall be net of taxes, duties or imposts of any kind.

6. Termination. If either party commits a material breach of this Agreement and fails to cure that breach within sixty (60) days after receiving written notice, the other party may terminate this Agreement immediately upon written notice to the breaching party. Upon early termination of this Agreement, University will be reimbursed for all costs incurred through the effective date of termination and for all outstanding non-cancelable commitments (such as salary and fringe benefits for postdoctoral fellows and other appointed employees and stipends for graduate students, and special order, non-returnable equipment). Within ninety (90) days
following early termination, University shall furnish Sponsor with a final accounting of all such costs and commitments.

7. Publications. University will be free to publish the results of the Research conducted by University after providing the Sponsor with a thirty (30) day period in which to review each proposed publication to identify patentable subject matter and to identify any inadvertent disclosure of any Sponsor proprietary information. If necessary to permit the preparation and filing of U.S. patent applications, the Principal Investigator may agree to an additional review period not to exceed sixty (60) days. To comply with scientific publication standards, Sponsor may be identified as the source of funding for the Research.

8. Proprietary Information. Subject to Sections 10.2 and 11.4, neither party intends to disclose confidential or proprietary information or materials to the other in connection with this Agreement. Should the parties deem it necessary to disclose confidential or proprietary information to each other in connection with the Research, it will be clearly marked in writing, as "Confidential Information." Except as required by law, each party will use reasonable efforts to avoid disclosure of the other party’s Confidential Information to third parties for a period of three (3) years from the date of disclosure. This obligation does not apply to Confidential Information that was already known to the receiving party, is independently developed by the receiving party, or becomes publicly available at any time to third parties through no fault of the receiving party. No commodities, software or technology that are subject to control under the International Traffic in Arms Regulations or which are classified by the Commerce Control List as having a classification other than EAR99 will be supplied by Sponsor to University. Should the status of any such items change, Sponsor shall notify University immediately and Sponsor shall be responsible for obtaining any necessary license.

9. Sponsor Intellectual Property. Title to any invention made solely by employees of the Sponsor (“Sponsor Invention”) shall remain with the Sponsor. Title to any copyrighted or copyrightable works first developed in the performance of the Research solely by employees of the Sponsor (“Sponsor Copyrighted Works”) shall remain with the Sponsor. Neither Sponsor Inventions nor Sponsor Copyrighted Works shall be subject to the terms and conditions of this Agreement.


10.1 Title to Joint Inventions. Inventions made jointly by employees of University and employees of the Sponsor in the performance of the Research (“Joint Inventions”) shall be jointly owned by both parties. University and Sponsor shall provide prompt written notice to the other of the internal disclosure by its employees of any Joint Invention. University shall have the first right to file a patent application on a Joint Invention in the names of both parties. All expenses incurred in obtaining and maintaining any patent on such Joint Invention shall be equally shared except that if one party declines to share in such expenses, the other party may take over the prosecution and maintenance thereof, at its own expense, provided that title to the patent remains in the names of both parties. No request for execution of any patent assignment or other legal document shall be made by one party to an employee of the other party except if addressed and delivered in accordance with the notice provisions of this Agreement.

10.2 Confidentiality of Invention Disclosures. Each party shall retain all invention
disclosures submitted to it by the other party in confidence and use its best efforts to prevent their disclosure to third parties. The receiving party shall be relieved of this obligation only when this information becomes publicly available through no fault of the receiving party.

10.3 Licensing Options. Each party shall have the independent, unrestricted right to license to third parties any such Joint Invention without accounting to the other party, except that the Sponsor shall be entitled to elect an exclusive license to University’s interest in a Joint Invention as provided under Section 11.2.2 below.

10.4 Jointly Developed Copyrightable Works. Copyrighted or copyrightable works, including software, which the parties agree have been developed jointly in the performance of the Research by employees of University and employees of the Sponsor shall be jointly owned by both parties, who shall each have the independent, unrestricted right to dispose of such copyrightable materials as they deem appropriate, without any obligation of accounting to the other party.


11.1 Title to Inventions. Title to any invention conceived or first reduced to practice solely by employees of University in the performance of the Research shall remain with University (“University Invention”). The Sponsor shall be notified of any University Invention promptly after an invention disclosure is received by University. University (i) may file a patent application at its own discretion or (ii) shall do so at the request of the Sponsor and at the Sponsor’s expense.

11.2 Licensing Options. In the event that a patent application on a University Invention described in an invention disclosure is filed by University, for each University Invention, University hereby grants Sponsor a non-exclusive, non-transferable, royalty-free license for internal research purposes. The Sponsor shall further be entitled to elect one of the following license options by providing notice in writing to University within six (6) months after University’s notification to the Sponsor of the relevant invention disclosure:

11.2.1 a non-exclusive, non-transferable, world-wide, royalty-free license without the right to sublicense (in a specified field in which Sponsor has shown its ability to commercialize products) to the Sponsor to make, have made, use, lease, sell and import products embodying or produced through the use of such invention, provided that the Sponsor agrees to (a) demonstrate reasonable efforts to commercialize the technology in the public interest and (b) pay all patent prosecution and maintenance costs in all countries, including the United States, in which the Sponsor is granted a non-exclusive license right under this paragraph; or

11.2.2 a royalty-bearing, world-wide, exclusive license to Sponsor, with the right to sublicense, under University’s commercial rights and subject to any third party rights (in a specified field in which Sponsor has shown its ability to commercialize products) to make, have made, use, lease, sell and import products embodying or produced through the use of such invention, provided that the Sponsor agrees to reimburse University for
the costs of patent prosecution and maintenance in the United States and any elected foreign country. This license option is subject to University concurrence and the negotiation of commercially reasonable terms and conditions within three (3) months after selection of this option.

11.3 Foreign Filing Election. If the Sponsor elects the license option under Section 11.2.2 above, the Sponsor shall notify University of those foreign countries in which it desires a license in sufficient time for University to satisfy the patent law requirements of those countries. The Sponsor will reimburse University for the costs of patent prosecution and maintenance in those foreign countries.

11.4 Confidentiality of Invention Disclosures. The Sponsor shall retain all invention disclosures submitted to the Sponsor by University in confidence and use its best efforts to prevent their disclosure to third parties. The Sponsor shall be relieved of this obligation only when this information becomes publicly available through no fault of the Sponsor.

11.5 Copyright Ownership and Licenses. Title to any copyrighted or copyrightable works first developed in the performance of the Research shall remain with University. For any copyrighted or copyrightable works other than software and its documentation and/or informational databases specified to be delivered to Sponsor in accordance with Exhibit A, University hereby grants Sponsor a royalty-free, non-transferable, non-exclusive right and license to use, reproduce, make derivative works, display, distribute and perform all such works for internal research purposes.

For software and its documentation and/or informational databases specified to be delivered in Exhibit A, Sponsor shall be entitled to elect one of the following license options by providing written notice to University within six (6) months after its delivery to Sponsor:

11.5.1 a royalty-free, non-transferable, non-exclusive right and license to use, reproduce, make derivative works, display and perform the software and its documentation and/or informational databases for the Sponsor's internal research purposes; or

11.5.2 a royalty-bearing license to use, reproduce, display, distribute and perform such software and its documentation and/or informational databases for commercial purposes. Software for which a patent application is filed shall be subject to Section 11.2 above.

11.6 Execution of Licenses. All licenses elected by the Sponsor pursuant to Sections 11.2 and 11.5 above become effective as of the date the parties sign the respective license agreement.

12. Use of Names. Neither party shall use the name, logo or trademarks of the other party, or the names of any of University’s trustees, officers, faculty, students, employees, or agents, in any promotional materials, press release or publicity, without the written consent of the other party, except that University may disclose Sponsor’s support of the Research to comply with
applicable financial and other reporting requirements.

13. Warranty Disclaimer; Indemnification.

13.1 Warranty Disclaimer. UNIVERSITY MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, CONCERNING THE RESEARCH OR ANY INTELLECTUAL PROPERTY RIGHTS, INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, VALIDITY OF ANY INTELLECTUAL PROPERTY RIGHTS OR CLAIMS, WHETHER ISSUED OR PENDING, AND THE ABSENCE OF LATENT OR OTHER DEFECTS, WHETHER OR NOT DISCOVERABLE.

13.2 Indemnification. Sponsor shall indemnify, defend, and hold harmless University and its trustees, officers, faculty, students, employees, and agents (the "Indemnitees"), against any liability, damage, loss, or expense (including reasonable attorneys fees) incurred by or imposed on any of the Indemnitees in connection with any claims, suits, actions, demands, or judgments arising out of any theory of liability relating to this Agreement or concerning any product, process, or service that is made, used, or sold pursuant to any right or license granted under this Agreement. However, indemnification does not apply to any liability, damage, loss, or expense to the extent directly attributable to (i) the negligence or intentional misconduct of the Indemnitees or (ii) the settlement of a claim, suit, action, or demand by Indemnitees without the prior written approval of Sponsor.

14. Notices. Any notices required to be given or which shall be given under this Agreement shall be in writing and be addressed to the parties as shown below. Notices shall be delivered by certified or registered first class mail (air mail if not domestic) or by commercial courier service, and shall be deemed to have been given or made as of the date received.

[INSERT]

15. Assignment. This Agreement shall be binding upon and inure to the benefit of the parties hereto and the successors to substantially the entire business and assets of the respective parties hereto. This Agreement shall not be assignable by either party without the prior written consent of the other party. Any attempted assignment is void.

16. Governing Law. This Agreement is governed by and construed in accordance with the laws of the Commonwealth of Massachusetts irrespective of any conflicts of law principles. The parties will bring any legal action that arises out of or in connection with this Agreement only in the Massachusetts Superior Court in Suffolk County.

17. Excusable Delays. Neither party shall be responsible to the other for failure to perform any of the obligations imposed by this Agreement when such failure results from fire, flood, explosion, war, strike, riot, failure or destruction of equipment, failure of supply of materials, discontinuity in the supply of power, governmental interference, labor shortage or any cause beyond its reasonable control.
18. Export Controls. University is subject to United States laws and regulations controlling the export of commodities, software, technology and services, including the Export Administration Regulations and the International Traffic in Arms Regulations. University’s obligations hereunder are contingent on compliance with these laws and regulations. The transfer of certain items may require a license from the respective agency of the United States Government and/or written assurances by the Sponsor that it will not re-export controlled items. While University will endeavor to secure any necessary license, University cannot guarantee that such licenses will be granted.

19. Entire Agreement. This Agreement, together with its exhibits and attachments, constitutes the entire agreement between the parties with respect to the Research, and no amendments shall be effective unless made in writing and signed by authorized representatives of both parties. In the event of a conflict between the terms of this Agreement and any exhibit or attachment, the terms of this Agreement control.

IN WITNESS WHEREOF, the parties have executed this Agreement by their respective duly authorized representatives.

UNIVERSITY OF MASSACHUSETTS [NAME OF SPONSOR]

By: ____________________________  By: ____________________________
Name: __________________________ Name: __________________________
Title: __________________________  Title: __________________________
Date: __________________________  Date: __________________________
Exhibit A

Description of Research

TASKS PERFORMED BY SPONSOR:

TASKS PERFORMED BY UNIVERSITY: