

- Standard Contract -

Research and Development Contract

By and between

[Company ...]
represented by *[...]*
[Address]

- hereinafter referred to as "Client" -

and

Friedrich-Alexander-University Erlangen-Nuremberg
Schlossplatz 4
91054 Erlangen

for its
Lehrstuhl/Institut für *[...]*
[the Academic Group/the Institute of *[...]* (Prof. *[...]*)
[Address]

- hereinafter referred to as "University" -

the following Contract is entered into:

RECITALS

[optional]

Section 1 Commission and Performance

- (1) The University shall carry out research and development projects for the Client at the Academic Group/Institute of *[...]* of the Faculty of *[...]*.

Specifically, the following tasks shall be carried out in/from *[period of time]* under the scientific direction of Prof. Dr. *[...]* and other employees of the Institute/Academic Group:

(detailed description of the questions/procedures, etc. or reference to Appendix)

- (2) The University agrees to involve only such employees, members and/or other persons in the performance of the tasks who have undertaken to comply with the provisions of this Contract.

- (3) The research and development projects shall be carried out in close coordination with the Client. Within [...] after completion of a project, the Client shall receive a final report that conveys the result of the project in a comprehensible form and contains the documentation and calculator programs generated thereby.

Section 2 Remuneration

- (1) The Client shall contribute to the financing of the abovementioned research and development project in the amount of [...] € (in words [...]) plus the statutory sales tax pursuant to the budget plan enclosed as an Appendix/the budget plan contained in the commission dated [...]. The funds provided by the Client pursuant to this Contract are deemed funds provided for the performance of the University's research tasks.

- (2) The amount specified in Subsection 1 shall be provided by the Client as follows:

[...] € (in words [...]) plus the statutory sales tax after signature of the Contract;

[...] € (in words [...]) plus the statutory sales tax [...];

[...] € (in words [...]) plus the statutory sales tax [...].

Payment shall be effected in installments upon request of the University to an account to be determined by the University. Payment of the final installment shall not be dependent on the presentation of the final report to be issued pursuant to Section 1 Subsection 3.

- (3) In addition to the remuneration pursuant to Subsection 1, travel expenses incurred in connection with the research and development project shall be reimbursed by the Client only upon prior agreement according to the provisions of the Bayerisches Reisekostengesetz [Bavarian law governing travel expenses].
- (4) For any additional research and development projects of the University that are not stipulated in this Contract, but have arisen from the Client's express request, the Client shall pay a separate compensation for expenses.
- (5) This shall not affect the remuneration provisions set forth in Sections 4 et seq.

Section 3 Confidentiality, Publications

- (1) The University shall treat any and all knowledge, documentation, commissions and business transactions that have become known to the University and its employees on the occasion of and/or in connection with this Agreement as confidential to the extent that this lies in the Client's legitimate interest. The Client shall keep equally confidential any work product of University employees of which the Client has become aware in connection with the joint research work and which has been designated as confidential. This mutual obligation for confidentiality shall terminate after a period of [...] years from termination of the research project. The contracting parties shall ensure that any employees, members and/or other persons involved in the performance of the research projects keep this confidentiality obligation as set forth herein.
- (2) The confidentiality obligation does not apply, if and to the extent that the information in question

- is generally known or, without the receiving party's fault, becomes generally known, or
 - has been or will be legitimately obtained by a third party, or
 - is already known to the receiving party or is being developed independently of the research and development projects pursuant to Section 1, or
 - if the affected party waives the compliance with the confidentiality obligation in writing.
- (3) The Client acknowledges the general obligation of the University to publish the type, subject and results of any research project carried out within the University. Any publications during the project term shall be subject to prior agreement with the Client. The Client shall not withhold its consent to the publication without good reason. Unless the Client objects to a publication (original text) presented to the Client within four weeks of its receipt of the complete documentation, the Client's consent shall be deemed given.
- (4) To the extent that doctoral or *Habilitation* projects are affected by collaboration in the project, the Client shall appropriately take account of the doctoral or *Habilitation* candidates' legal obligations and justified interests.

Section 4 Existing Proprietary Rights

- (1) Each contracting party shall remain the owner of any inventions made prior to the beginning of the project and any proprietary rights applied or granted therefore (existing proprietary rights).
- (2) The contracting parties shall inform each other prior to the beginning and continually throughout the course of their collaboration, to the best of their knowledge and belief, about any existing proprietary rights to the extent that these are necessary for the performance of the project and/or the exploitation of the results of their work, including information about whether and to what extent third parties are entitled to exploit such existing proprietary rights, and if the respective contracting party is limited in exploiting such rights. Further, the parties shall inform each other to the best of their knowledge and belief about any third-party proprietary rights of which they have knowledge.
- (3) To the extent that the contracting parties' existing proprietary rights are necessary for the performance of the project and there are no adverse third party rights, the contracting parties shall grant each other the free and non-exclusive exploitation rights limited to the term and purpose of the project.
- (4) To the extent that existing proprietary rights of the contracting parties are necessary for the exploitation of the results of the project and there are no adverse third party rights, the contracting parties shall grant each other the option of entering into a license agreement subject to reasonable conditions.
- (5) To the extent that existing proprietary rights of third parties are necessary for the performance of the project and/or the exploitation of the results of the project, the contracting parties shall enter into a separate agreement.

Section 5
Rights in and to the Project Results

- (1) The rights in and to the project results, except for such results that are capable of being protected under the intellectual property laws, shall vest in the Client upon presentation of the final report, subject to the rights of the University pursuant to Section 8.
- (2) If the project results, to the extent that the University is entitled thereto, are protected by copyright, the Client, subject to the provisions contained in Section 8, shall have the non-exclusive, worldwide right in perpetuity, which right is transferable by the Client, to exploit such project results, in the original or in changed form, in any and all forms of use (in particular, to reproduce and/or commission the reproduction of and process said project results) and grant exploitation rights to third parties for any and all forms of use.

Section 6
Inventions, Proprietary Rights

- (1) Any inventions made by University employees in connection with the research according to Section 1 during the term of this Contract shall be used by the University unrestrictedly within the scope of legal possibilities and - if Client desires, with the assistance of Client's patent department – application for protection of any such inventions shall be filed in the name of the University. Client shall be notified of such application without delay. These proprietary rights shall vest in the University exclusively. The University shall bear any costs incurred.
- (2) Any inventions made jointly by University employees and Client's employees in connection with the research according to Section 1 during the term of this Contract will be used unrestrictedly by the contracting parties vis-à-vis their respective employees within the scope of legal possibilities, and application for protection shall be filed jointly in the name of the University and the Client. The contracting parties shall inform each other accordingly without delay. They shall also come to an agreement regarding the respective inventors' shares and shall determine the results of this agreement in writing. These proprietary rights shall vest in the contracting parties jointly. Any costs incurred shall be borne by the contracting parties in the ratio of their inventors' shares. The contracting parties shall come to an agreement no later than three months before the expiration of the period for claiming priority and shall determine in which countries corresponding foreign applications for protection should be filed.
- (3) If the University does not wish to file an application for protection for these inventions according to Subsections (1) or (2), or does not wish to continue or maintain a protective right applied for, the University shall inform the Client accordingly.

§ 7
Exploitation of Proprietary Rights

- (1) The University shall grant the Client an option for entering into an agreement for an exclusive license concerning the exploitation of the proprietary rights according to Section 6 against appropriate consideration. The exploitation rights shall be governed by a license agreement to be entered into.
- (2) The term of the option shall be limited to three months after completion of the research project. Any renewal of the option shall be subject to a fee.

- (3) The option shall be exercised by the Client by sending a registered letter to the University.
- (4) If the Client, in the case of jointly filed applications for protection, wishes to use the exploitation rights commercially, an agreement must be entered into with the University regarding the University's share in the proprietary rights subject to an appropriate fee. Any third-party exploitation shall be agreed upon by the Client and the University.

Section 8 Rights of the University

Notwithstanding the provisions in Sections 5 through 7, the University and its employees involved in the project will retain in any event, for their own purposes in research and teaching, non-exclusive, worldwide exploitation rights in perpetuity in and to the results and rights provided for in Sections 5 through 7. With regard to publications, Section 3 shall apply.

Section 9 Liability

- (1) The University shall carry out the agreed-upon research with their customary diligence and according to the state of science and technology known to the University. There will be no warranty; in particular there will be no warranty that the results of the research and development commission will be economically and technically exploitable and unencumbered by third-party proprietary rights. To the extent that any conflicting proprietary rights become known, the University shall inform the Client accordingly without delay.
- (2) The contracting parties
 - in the event of a breach of material contractual obligations, shall be liable for intent and for any negligence. In case of negligence liability shall be limited to the amount of the contract. In case of negligence any liability for consequential damage and financial loss (e.g. lost profit) shall be excluded;
 - for all other purposes, the contracting parties shall be liable only for material damage and financial loss caused by intent or gross negligence. In case of negligence liability shall be limited to the amount of the contract. In case of negligence any liability for consequential damage and financial loss (e.g. lost profit) shall be excluded.
- (3) The limitation of liability and/or exemption from liability provided for in Subsection 2 shall not apply to
 - claims under the Product Liability Act;
 - claims arising out of malicious conduct of a contracting party;
 - claims arising from liability for warranted characteristics;
 - damage arising out of injury to life, body, or health.

Section 10 Early Termination

Each contracting party is entitled to terminate this Contract, wholly or in part, for reasonable cause, with immediate effect. In the event of early termination of the research project no further research will be carried out by the University from the time of termination. The

University shall send the documentation accumulated thus far to the Client. The Client shall reimburse the University beyond the date of early termination of the project for those expenses which are incurred in connection with the research and development commission and for the fulfillment of legal obligations, unless the University, in breach of duty, fails to ensure that the legal obligations are terminated in time. The expenses to be reimbursed to the University beyond the date of termination in the event of early termination shall not exceed the total of the funds projected for the performance of the project.

**Section 11
Separability**

Any alterations, modifications, amendments and supplements must be in writing. This requirement may be waived only in writing. Should any provision of this Contract be or become invalid, this shall not affect the validity of the remaining provisions.

**Section 12
Entry into Force**

This Contract shall become effective upon signature by both parties.

**Section 13
Applicable Law/Venue**

This Contract shall be subject exclusively to the law of the Federal Republic of Germany. Exclusive venue shall be Erlangen.

....., this

....., this

.....
(Client)

.....
(University)

.....
(Academic Group/Institute)