

## Marquette University Educational Research Agreement

<b>("MARQUETTE")</b>  Name: Marquette University Address: Office of Economic Engagement Zilber Hall, Suite 360 P.O. Box 1881 Milwaukee, WI 53201-1881	Sponsoring Organization (" <b>SPONSOR</b> ")  Name: Address:
Research Project Title (" <b>Research</b> ")  <div style="text-align: right;"><i>See Attachment 2 for Detailed Scope of Work</i></div>	
Principal Investigator Name/Department (" <b>Principal Investigator</b> ")	Performance Period (" <b>Performance Period</b> ")
Amount Paid to Marquette by Sponsor	Payment Terms <input type="checkbox"/> Fixed Price or <input type="checkbox"/> Cost Reimbursable  See Attachment 1

### Terms and Conditions

The primary value of the relationship set forth in this Educational Research Agreement ("**Agreement**") is the creation of new knowledge from the Research for the benefit of MARQUETTE, SPONSOR and the public. The Research may also benefit students by training them to understand industrial research and development problems. For those ends, MARQUETTE and SPONSOR agree to the following:

- (1) SPONSOR wishes to fund the Principal Investigator's work on the Research during the Performance Period, which may be extended by written agreement. SPONSOR has disclosed all other agreements, contracts or financial arrangements with the Principal Investigator or any other MARQUETTE employee.
- (2) If for any reason the Principal Investigator cannot continue the Research, and a mutually acceptable successor is not available, this Agreement will be terminated as provided in Section 6.
- (3) MARQUETTE will use reasonable efforts to conduct the Research and will utilize its own facilities as well as those provided by SPONSOR to carry out the Research. SPONSOR understands that MARQUETTE's primary mission is education and the advancement of knowledge; consequently, the Research will be designed to carry out that mission. MARQUETTE does not guarantee specific results, and the Research will be conducted on a reasonable efforts basis.
- (4) MARQUETTE will keep accurate financial and scientific records relating to the Research and will make those records available to SPONSOR or its authorized representative throughout the Performance Period upon reasonable notice.
- (5) MARQUETTE will hold SPONSOR harmless from liability resulting from MARQUETTE's negligent acts or omissions in performing its activities carried out under this Agreement; provided, however, MARQUETTE will not hold SPONSOR harmless from any claims, demands or causes of action to the extent the claims, demands or causes of action arise out of or result from the negligence or willful malfeasance of SPONSOR, its officers, agents, representatives, or employees, or any person or entity not subject to MARQUETTE's supervision or control.

SPONSOR will hold MARQUETTE harmless from liability resulting from SPONSOR's negligent acts or omissions in performing its activities carried out under this Agreement or its use of the Research results; provided, however, SPONSOR will not hold MARQUETTE harmless from any claims, demands or causes of action to the extent such claims, demands or causes of action arise out of or result from the negligence or willful malfeasance of MARQUETTE, its officers, agents, representatives, or employees, or any person or entity not subject to SPONSOR's supervision or control.

- (6) Either party may terminate this Agreement at any time by giving not less than thirty (30) days advance written notice to the other party. In case of termination, SPONSOR will be liable for all reasonable costs incurred or commitments made by MARQUETTE prior to termination, including all non-cancelable contracts, graduate assistantships, fellowships and postdoctoral associate appointments incurred before the effective date of termination. After termination, any SPONSOR obligation for fellowships, graduate assistantships and postdoctoral appointments will end no later than the end of MARQUETTE's academic year following termination. SPONSOR will immediately pay MARQUETTE for all amounts owed on receipt of a final invoice.

## Marquette University Educational Research Agreement

- (7) The parties may wish from time to time, in connection with the Research contemplated under this Agreement, to disclose confidential information to each other in written, oral or electronic format. The receiving party will use reasonable efforts to prevent disclosure of the other party's confidential information to third parties for a period of three (3) years from receipt thereof, provided that the receiving party's obligation hereunder will not apply to information that:
- (a) is already in the recipient party's possession at the time of disclosure thereof;
  - (b) is or later becomes part of the public domain through no fault of the receiving party;
  - (c) is received from a third party having no obligations of confidentiality to the disclosing party;
  - (d) is independently developed by the recipient party without the use of the confidential information; or
  - (e) is required by law or regulation to be disclosed.

The receiving party will protect the disclosing party's confidential information by using at least the degree of care that the receiving party uses to protect its own similar confidential information.

Each student working on the Research will be informed of, and be required to abide by, the confidentiality obligations described in this section before beginning work on the Research or receiving confidential information pertaining to the Research. Each student's understanding of, and agreement with, the obligations under this Section shall be documented with a standard, signed Student Participation Agreement, attached to this Agreement as Attachment 3. The signed student agreements will be kept on file at MARQUETTE.

- (8) The discovery and sharing of knowledge is central to MARQUETTE's mission. Accordingly, MARQUETTE retains full rights to publish and present results of the Research, consistent with its obligations of confidentiality under Section 7.

MARQUETTE will provide SPONSOR with a thirty (30) day period in which to review materials intended for publication or presentation in order to identify patentable subject matter and to identify any inadvertent disclosure of SPONSOR's confidential information.

If the publication or presentation contains confidential information, MARQUETTE will not publish or present the material until it is modified to eliminate SPONSOR's legitimate objections. If the proposed publication or presentation discloses any intellectual property that results from Research carried out during the Performance Period that SPONSOR may wish to evaluate for patenting, SPONSOR may notify MARQUETTE and MARQUETTE will defer publication or presentation for up to sixty (60) days from the date the material was first submitted to SPONSOR to allow for the preparation and filing of any patent applications. SPONSOR will attend to these matters in a timely manner and keep MARQUETTE informed to assure that planned publication or presentation is not unreasonably delayed.

- (9) Neither party may use the other party's name, logos or trademarks (collectively, "**Trademarks**") in promotional materials or otherwise without the consent of the other party. Each party shall have the right of prior review and approval of all publications, marketing letters, advertising and materials that contain any of its Trademarks. Approval to use Trademarks will not be unreasonably withheld or delayed. Each party acknowledges and agrees that it will not acquire or claim any rights in the other party's Trademarks adverse to the other party by virtue of any license granted hereunder or through the approved use of the other party's Trademarks.
- (10) (a) MARQUETTE will retain title to all equipment it purchases or fabricates with SPONSOR-provided funds under the Agreement. Each party will retain the entire right, title and interest in its own background intellectual property shared or used under this Agreement, as described in Attachment 2.
- (b) SPONSOR is granted a non-exclusive, perpetual royalty-free license to use the results of the Research for its internal business purposes.

- (11) Rights to inventions, improvements and discoveries, whether patentable or copyrightable, relating to the Research and made solely by employees of SPONSOR during the Performance Period without the use of MARQUETTE facilities will belong to SPONSOR ("**Sponsor Inventions**"). Sponsor Inventions will not be subject to the terms and conditions of this Agreement.

Rights to inventions, improvements and discoveries, whether patentable or copyrightable, related to the Research and made solely by employees of MARQUETTE during the Performance Period, will belong to MARQUETTE ("**Marquette Inventions**"). If

## Marquette University Educational Research Agreement

SPONSOR asks MARQUETTE to patent a Marquette Invention, MARQUETTE will make a reasonable effort to do so, and SPONSOR will pay reasonable out-of-pocket costs associated with filing, prosecution and maintenance of any associated patent application, including all attorney's fees and filing fees.

Rights to inventions, improvements and discoveries, whether patentable or copyrightable, relating to the Research made jointly by one or more SPONSOR employees and one or more employees or agents of MARQUETTE during the Performance Period, or which are made solely by employees of SPONSOR utilizing MARQUETTE facilities during the Performance Period, will belong jointly to SPONSOR and MARQUETTE ("**Joint Inventions**"). Both SPONSOR and MARQUETTE have the right to make, have made, modify, reproduce, use, sell, and offer to sell Joint Inventions without consultation with the other party. All out of pocket costs associated with filing, prosecution and maintenance of any patent applications relating to the Joint Inventions will be the responsibility and obligation solely of the party filing for protection, without diminishing the respective ownership rights of the parties in the Joint Inventions.

(12) To the extent that MARQUETTE has a legal right to do so, MARQUETTE grants SPONSOR the first option to enter into a royalty-bearing exclusive license agreement in the form agreed to and contained in Attachment 4 to Marquette Inventions or MARQUETTE'S interest in Joint Inventions. The royalty rate will be set at a fair market value rate between \_\_\_-\_\_\_percent (X%-Y%) ("**Range**") of net sales, which is based on the SPONSOR'S industry and reflects independent data as to royalty rates in the industry. If an Invention results from the Research that is unanticipated and has a fair market value greater than the Range, the parties will negotiate a fair market value royalty rate in good faith. MARQUETTE reserves for itself a royalty-free, irrevocable license to make and use all Marquette Inventions for its own publication, research and educational purposes. The exclusive license agreement terms will specify the field of use and will include: i) payment of royalties within the Range (unless it is an unanticipated Invention) to MARQUETTE on sales, services or use that employs the Invention; ii) reimbursement to the paying party of expenses incurred in seeking and maintaining patent protection for the invention; and iii) reasonable commercialization milestones and minimum royalties.

SPONSOR must indicate in writing its desire to negotiate an exclusive license agreement for any Invention made during the Research within forty-five (45) days of disclosure of the Invention to SPONSOR by MARQUETTE. SPONSOR and MARQUETTE will be obligated to negotiate the final royalty rate in good faith for a period not exceeding ninety (90) days from SPONSOR'S indication of interest to enter into the license agreement, unless the parties agree to a longer period. If SPONSOR and MARQUETTE fail to agree on the terms of the agreement during that period, the parties may follow the dispute resolution process described in Section 15.

To the extent that MARQUETTE has a legal right to do so, MARQUETTE also grants SPONSOR the first option to purchase Marquette Inventions arising from the Research for a price that reflects the Invention'S fair market value within ninety (90) days of disclosure of the Invention to SPONSOR by MARQUETTE. SPONSOR and MARQUETTE will be obligated to negotiate the purchase agreement terms in good faith for a period not exceeding ninety (90) days from SPONSOR'S indication of interest. If SPONSOR and MARQUETTE fail to agree on the terms of the agreement during that period, the parties may follow the dispute resolution process described in Section 15.

- (13) Notwithstanding any other provision of this Agreement, MARQUETTE makes no warranties, express or implied, as to any matter whatsoever, including without limitation, the condition, originality or accuracy of the Research or any invention(s) or products(s) whether tangible or intangible, conceived, discovered or developed under this Agreement; or the ownership, merchantability or fitness for a particular purpose of the Research or any invention or product. MARQUETTE will not be liable for any direct, indirect, punitive, special, consequential, or other damages suffered by SPONSOR, any licensee or any others resulting from SPONSOR'S use of the Research or any invention or product arising from the Research and SPONSOR will indemnify and hold harmless MARQUETTE from all such claims.
- (14) The parties are independent contractors. Nothing in this Agreement will be construed to create a joint venture, partnership, or employer/employee or principal/agent relationship. Neither party is authorized to represent itself or act as the agent, representative, partner or joint venturer of the other party unless agreed by both parties writing.
- (15) If a dispute or controversy arises out of this Agreement, or any modification or extension to this Agreement, including any claim for theft of trade secrets, unauthorized disclosure of confidential information, damages, restitution or specific performance rescission or reformation, the parties will meet and confer to try and resolve the dispute. If the dispute is not resolved, the parties may submit the dispute to an independent mediator and will share the mediation costs equally. If still not resolved, any action to resolve the dispute will be brought in a court of competent jurisdiction located in Milwaukee County, Wisconsin. The parties consent to the jurisdiction of the courts located in Milwaukee County, Wisconsin and the U.S. District Court for the Eastern District of Wisconsin for all purposes and expressly waive any objections as to venue. Nothing herein will limit a court from granting a



**Attachment 1  
Contacts and Payment Terms**

**For MARQUETTE:**

**CORPORATE ENGAGEMENT CONTACT**

Name / Title: Dr. Carmel Ruffolo,  
Associate Vice President  
Address: P.O. Box 1881  
Milwaukee, WI 53201-1881  
Telephone: (414) 288-6925  
Email: [Carmela.ruffolo@marquette.edu](mailto:Carmela.ruffolo@marquette.edu)

**PRINCIPAL INVESTIGATOR**

Name / Title:  
Address:  
Telephone:  
Email:

**CONTRACT ADMINISTRATOR**

Name / Title: Sherri Kirsch, Contract Administrator  
Address: P.O. Box 1881  
Milwaukee, WI 53201-1881  
Telephone: (414) 288-5329  
Email: [grantcontracting@marquette.edu](mailto:grantcontracting@marquette.edu)

**INVOICING CONTACT**

Name / Title: Sa Yang, Associate Manager  
Address: P.O. Box 1881  
Milwaukee, WI 53201-1881  
Telephone: (414) 288-5444  
Email: [sa.yang@marquette.edu](mailto:sa.yang@marquette.edu)

**For SPONSOR:**

**TECHNICAL CONTACT**

Name / Title:  
Address:  
Telephone:  
Email:

**FINANCIAL CONTACT**

Name / Title:  
Address:  
Telephone:  
Email:

**Payment Terms**

*[Insert payment terms]*

**Attachment 2  
Scope of Work**

**Attachment 3  
Student Participation Agreement**

**MARQUETTE UNIVERSITY  
STUDENT PARTICIPATION AGREEMENT**

As a student enrolled for academic credit in one or more courses that are part of Marquette University's           [Insert Name of Program]           ( the "Program"), I           [Insert Student Name]           understand that participating in the Program gives me the opportunity to be involved in research projects in partnership with or sponsored by commercial entities. As a condition of participation, the University requires signed agreements from participating students to protect the confidentiality and intellectual property interests of all concerned. In consideration of being permitted to participate in these valuable activities, I acknowledge and agree as follows:

1. This Agreement is a condition of my participation in the           [Insert Name of Specific Research Project]           project ("Research") sponsored by           [Insert Name of Project Sponsor]           ("Sponsor") and covers the entire term of my participation in the Research. The confidentiality obligations of Section 2 shall continue for the term stated in Section 2 above, even after termination of my status as a student at the University.
2. I shall not disclose, and shall use reasonable efforts to keep confidential, any confidential information of the University or of a Sponsor of which I may become aware as a result of my participation in the Research or Program, for a period of three (3) years following the date of disclosure. This obligation shall not apply to information that: (a) is already in my possession at the time of disclosure to me; (b) is or later becomes part of the public domain through no fault of mine; (c) is received by a third party having no duty of confidentiality with respect to the information disclosed; (d) is independently developed by me without using the confidential information; or (f) is required by law or regulation to be disclosed. I shall use the same degree of care in keeping University and Sponsor confidential information confidential as the University uses to keep its confidential information confidential.
3. As a student participating in Research , I am subject to the University's Intellectual Property Policy and, as a result, all Inventions that are reduced to practice in whole or in part by me during or as a result of my participation in the Research shall belong to the University, unless expressly waived in writing by a representative of the University authorized by the President to do so. I further agree to make timely disclosure of any inventions made by me and to execute whatever additional documents may be requested by the University to permit the University to secure these rights.
4. I have not entered into any prior contractual obligations that are, or could reasonably be construed to be, in conflict with this Agreement, and I will not enter into any conflicting contracts.
5. My right to publish theses, dissertations, or scholarly articles related to my activities in the Program may require advance review by the University or a Sponsor or both. Such review prior to publication is to insure only that no confidential information owned by a Sponsor or the University, or unprotected patentable material, is disclosed.

This Agreement replaces all previous agreements relating to the same or similar matters that I may have with the University with respect to its subject matter. It may not be modified or terminated, in whole or in part, except in writing, signed by the Director of the Program. Discharge of my responsibilities under this Agreement will be an obligation of my executors, administrators, or other legal representatives or assignees.

**STUDENT PARTICIPANT**

Signature: \_\_\_\_\_

\_\_\_\_\_ Date

Print Name: \_\_\_\_\_

**WITNESSED BY:**

Signature: \_\_\_\_\_

\_\_\_\_\_ Date

Print Name: \_\_\_\_\_