

## INVESTMENT AGREEMENT

**THIS INVESTMENT AGREEMENT** (the "Agreement") is effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_ (the "Effective Date") by and between the **Maryland Technology Development Corporation**, a body politic and corporate and a public instrumentality of the State of Maryland ("TEDCO"), and \_\_\_\_\_, a [name of state] [corporation, limited liability company, etc.] (the "Recipient").

### RECITALS

A. Under §10-402 of the Economic Development Article of the Maryland Annotated Code, TEDCO was established to: (1) assist in transferring to the private sector and commercializing the results and products of scientific research and development conducted by colleges and universities; and (2) assist in the commercialization of technology developed in the private sector to create and sustain businesses throughout the State of Maryland.

B. TEDCO, through its Maryland Technology Transfer & Commercialization Fund ("MTTCF") Program, makes royalty-bearing investments to assist companies that are collaborating with Maryland colleges and universities or federal laboratories located in Maryland, or are located in or affiliated with Maryland business technology incubators, to develop and commercialize new services and products.

C. Recipient has submitted its commercialization plan and any other written information required by TEDCO (collectively the "Application"), attached hereto as Exhibit A and incorporated herein to the extent that it is consistent herewith. TEDCO approved Recipient's Application, as evidenced by the award letter from TEDCO to Recipient under date of \_\_\_\_\_, 200\_\_ ("Award Date").

NOW, THEREFORE in consideration of the mutual promises and covenants contained in this Agreement, TEDCO and Recipient agree as follows:

1. Term. The term of this Agreement shall be from the Effective Date until all of Recipient's obligations under the Agreement have been satisfied, including but not limited to the reporting and payment provisions of Sections 5 and 8 ("Termination Date").
2. Investment of Funds; Disbursement.
  - a. Subject to the further terms and conditions hereof, and the continuing availability of funds for such purpose, as determined by TEDCO in its sole discretion, TEDCO shall invest a sum not to exceed \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) in the Recipient for approved expenses incurred during

the period beginning with the Effective Date and ending on or before [\_\_\_\_\_, 200\_] [\_\_ months after the Effective Date] (the "Funding Period"). The total aggregate amount paid by TEDCO to the Recipient shall hereinafter be referred to as the "Funds."

- b. Contemporaneously with the Monthly Reports specified in Section 5(a)(ii)(a) below, the Recipient may submit, at intervals no less than monthly, requests for payment of approved expenses incurred during the Funding Period using the format and enclosing the documentation specified in Exhibit B ("Payment Request"). The Recipient's final Payment Request shall be submitted no later than 90 days after the end of the Funding Period. Each Payment Request shall include certification of the Recipient's [2:1][1:1][1:2] matching investment of cash or approved in-kind goods or services ("Recipient's Match"). The Recipient shall submit such additional documentation of any Payment Request or Recipient's Match as TEDCO may reasonably require.
3. Closing. The closing in connection with this Agreement (the "Closing") shall take place on \_\_\_\_\_, 20\_\_, (the "Closing Date") in the offices of TEDCO located at 5565 Sterrett Place, Suite 214, Columbia, Maryland 21044 or at some other place and time mutually agreed upon. Alternatively, the parties may, by mutual consent, forego a formal closing.
4. Conditions Precedent to Closing. The obligations of TEDCO to complete the transaction contemplated by this Agreement are subject to the fulfillment prior to or at Closing of the following conditions (any of which may, at its sole option, be waived by TEDCO):
  - a. The representations and warranties contained in Paragraph 10 of this Agreement or in any certificate, financial statement or document delivered to TEDCO in connection with this transaction shall be true and correct when made and shall be true and correct as of the Closing Date with the same force and effect as if they had been made on and as of the Closing Date.
  - b. The Recipient shall execute and deliver to TEDCO the Application Affidavit attached hereto as Exhibit C.
  - c. The Recipient shall execute and deliver to TEDCO the certificate attached hereto as Exhibit D, dated as of the Closing Date.
  - d. The Recipient shall deliver to TEDCO the certificate attached hereto as Exhibit E, dated as of the Closing Date.

e. The Recipient shall deliver to TEDCO a good standing certificate from the Maryland Department of Assessments and Taxation dated no more than 30 days prior to the Closing Date.

[f. [IF RECIPIENT IS A FOREIGN CORPORATION OR OTHER ENTITY:]  
The Recipient shall deliver to TEDCO a good standing certificate from the state in which it was formed, dated no more than 30 days prior to the Closing Date.]

f.[g.] The Recipient shall deliver to TEDCO a copy of its most recent financial statements.

g.[h.] The Recipient shall demonstrate to TEDCO that it has, and shall upon request furnish a copy of, a legally sufficient and binding agreement with [\_\_\_\_\_ University/ \_\_\_\_\_ Federal Lab for the advancement of the goals contained in the Application] [\_\_\_\_\_ (“Incubator”) for tenancy in or affiliation with the Incubator].

h.[i.] The Recipient shall not have been declared by TEDCO to be in default under any other agreement with TEDCO.

5. Records and Reports; Confidentiality.

a. The Recipient shall submit to TEDCO:

(i) Financial Reports. (a) Beginning \_\_\_\_\_, 20\_\_ [one month after end of 1<sup>st</sup> quarter] for the period beginning on the Closing Date and ending on \_\_\_\_\_, 20\_\_ [end of 1<sup>st</sup> quarter], and continuing quarterly thereafter until any and all repayment due pursuant to the provisions of Section 8 has been tendered, its internally prepared statement of revenues for the previous quarter (“Quarterly Revenue Statement”). Beginning one year after Project completion, each Quarterly Revenue Statement shall be accompanied by full payment of any reimbursement due and owing pursuant to Section 8 of this Agreement.

(b) The Quarterly Revenue Statement for the first quarter in each calendar year shall also include the Recipient’s financial statements for the previous calendar year, including a balance sheet and income statement, signed by the Recipient’s Chief Executive Officer (“CEO”) and verifying under oath that such financial statements are true and accurate



maintain in confidence any information: (1) which was already known to TEDCO; or 2) which is or comes into the public domain through no fault of TEDCO; or 3) which is independently developed by TEDCO; or 4) which comes to TEDCO from a third party which is not in violation of any obligation of confidentiality to Recipient or TEDCO .

6. Inspection of Records. Recipient shall allow any authorized representative of TEDCO to inspect and audit, at reasonable times, its financial, business and State and federal tax records. The Recipient shall retain such records until three years after the Termination Date.
7. Visitation. Recipient shall allow any authorized representative of TEDCO to visit and inspect, with reasonable notice and at reasonable times, all property, offices and production facilities owned, leased or otherwise controlled by Recipient.
8. Repayment. Recipient shall repay TEDCO as follows:
  - a. For purposes of this Agreement, the term “Quarterly Revenues” shall have the following meaning:

“Quarterly Revenues” shall mean the Recipient’s gross sales or service revenues for each fiscal quarter excluding revenues which, in the sole determination of TEDCO, are from activities related to sponsored research or development not resulting in the sale or delivery of a product or service in what would be the Recipient’s commercial business activities. Examples of such exclusions include, but are not limited to, MTTCF or MIPS investments, SBIR grants, CRADA agreements, research and development grants from public or private agencies or foundations, or fees for services rendered directly in connection with corporate sponsored research and development contracts covering specific activities (“Research and Development Funding”).
  - b. Except as may be otherwise provided in Subsection (c) below, beginning with the start of the fifth fiscal quarter after the expiration of the Funding Period (the “First Payment Date”), and continuing quarterly thereafter until five (5) years after the First Payment Date, the Recipient shall tender a payment to TEDCO (the “Quarterly Revenue Payment”) in an amount equal to three percent (3%) of the Recipient’s Quarterly Revenues for the quarter immediately preceding the payment date (i.e. Revenue Payment = 3% x Quarterly Revenues for preceding quarter), and subject to the following:

- (i) The maximum amount of any Quarterly Revenue Payment shall not exceed a sum equal to forty per cent (40%) of the Funds.
  - (ii) The total amount of all Quarterly Revenue Payments in a calendar year shall not exceed a sum equal to forty per cent (40%) of the Funds.
  - (iii) The total amount of all Quarterly Revenue Payments shall not exceed a sum equal to two hundred per cent (200%) of the Funds.
- c. Notwithstanding the foregoing provisions of Subsection (b) above, the Recipient shall have the right to prepay its repayment obligation as follows:
  - (i) If repaid in full on or before one year after the First Payment Date, the total repayment amount due from the Recipient will be a sum equal to the Funds.
  - (ii) If not repaid in full by one year after the First Payment Date but on or before two years after the First Payment Date, the total repayment amount due from the Recipient will be a sum equal to one hundred twenty-five per cent (125%) of the Funds.
  - (iii) If not repaid in full by two years after the First Payment Date but on or before three years after the First Payment Date, the total repayment amount due from the Recipient will be a sum equal to one hundred fifty per cent (150%) of the Funds.
  - (iv) If not repaid in full by three years after the First Payment Date but on or before four years after the First Payment Date, the total repayment amount due from the Recipient will be a sum equal to one hundred seventy-five per cent (175%) of the Funds.
  - (v) If not repaid in full by four years after the First Payment Date but on or before five years after the First Payment

Date, the total repayment amount due from the Recipient will be a sum equal to two hundred per cent (200%) of the Funds.

9. Conversion to Equity. In the event that the Recipient receives an equity investment from any subsequent investor other than TEDCO (a "Subsequent Investor"), the Funds and any other monies owed TEDCO under this Agreement and/or any amendments hereto may, upon Recipient's request and upon the further approval of TEDCO in TEDCO's sole discretion, be exchanged for an equity investment by TEDCO in the Recipient. Any such equity investment by TEDCO shall be on the same terms and conditions as the equity investment by the Subsequent Investor, and the amount of the Funds to be converted to equity shall be calculated pursuant to the repayment provisions of Section 8(c). Concurrent with a conversion to equity pursuant to this paragraph, the Recipient and TEDCO shall enter into a termination and release agreement whereby this Agreement shall be terminated and the Recipient and TEDCO shall be released from all obligations hereunder.
  
10. Recipient's Representations and Warranties. The Recipient hereby represents and warrants to TEDCO that:
  - a. Recipient is duly organized and in good standing in the State of \_\_\_\_\_ [and is [registered][qualified] as a foreign corporation in the State of Maryland]. The Recipient has all requisite power and authority to own its properties and conduct its business as currently being conducted and as presently proposed to be conducted. The Recipient's principal place of business is located in the State of Maryland.
  
  - b. Recipient has all requisite power and authority to execute and deliver this Agreement and all other documents in connection with this Agreement, and to carry out the terms of this Agreement, and has taken all action required on its part required for the execution, delivery and performance of this Agreement. This Agreement is the legal, valid and binding obligation of the Recipient, enforceable in accordance with its terms, except as its enforceability may be limited by bankruptcy laws and general principles of equity.
  
  - c. Neither this Agreement nor the Application or any other written information provided to TEDCO by the Recipient in connection with the Agreement contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements therein or herein not misleading.

- d. Neither the Recipient nor any of its directors, officers, partners or members, as the case may be, has been convicted of a felony or debarred from participating in contracts with the State of Maryland.
- e. Recipient has filed all federal, State and local tax returns and reports as required by law. These returns and reports are true and correct in all material respects. The Recipient has paid all taxes, assessments and governmental charges due, except those contested in good faith. The Recipient has withheld or collected from its employees all required taxes, and has paid the same to the proper tax receiving officers or authorized depositories. No deficiency assessment with respect to or proposed adjustment of the Recipient's federal, state, county or local taxes is pending or, to the best of the Recipient's knowledge, threatened. There is no tax lien (other than for current taxes not yet due and payable), whether imposed by any Federal, state, county, local taxing authority, outstanding against the assets, properties or business of the Recipient.
- f. No third party has claimed or, to the best of the Recipient's knowledge has reason to claim, that any principal of the Recipient or other person employed by or affiliated with the Recipient has: (i) violated or, may be violating any of the terms of his employment, non-competition or non-disclosure agreement with such third party; (ii) disclosed or may be disclosing or utilized or may be utilizing any trade secret or proprietary information of such third party; or (iii) interfered or may be interfering in the employment relationship between such third party and any of its present or former employees.
- g. Recipient and its property are in compliance with all federal, state, and local environmental and health laws.
- h. There is no litigation or other governmental proceeding, including bankruptcy proceedings, currently pending or, to the best of the Recipient's knowledge threatened, against the Recipient.
- i. The execution, delivery and performance of this Agreement does not and will not conflict with or constitute a material default under any contract, promissory note, mortgage or other instrument.
- j. The Recipient owns, or has a license for, all patents, copyrights, trademarks, trade names, service marks, trade secrets and other intellectual and proprietary property (collectively, "Intellectual Property") which are necessary to conduct its business and commercially develop and market its services or products. Except as has been disclosed to

TEDCO, the Recipient has no obligation to compensate any party for the use of any such Intellectual Property and has not granted to any Party any license, assignment or other right to use such Intellectual Property in any manner (whether requiring the payment of royalties or not). The Recipient owns, or will upon development own, all Intellectual Property relating to its services or products. Each party that may have or assert rights in the any aspect of the services or products has delivered to the Recipient written agreements evidencing assignment to the Recipient of all such rights, and all employees of the Recipient involved with the services or products have delivered to the Recipient written agreements acknowledging and agreeing that all Intellectual Property conceived or developed by such employees and related in any manner to the services or products shall be the exclusive property of the Recipient.

- k. There is no liability or obligation of the Recipient of any nature, whether absolute, accrued, contingent, or otherwise, in the amount of \$2,500 or more individually, or \$20,000 or more in the aggregate, and the Recipient is not signatory to, and is not in any manner a guarantor, endorser, assumpor or otherwise primarily or secondarily liable for or responsible for the payment of any notes payable or other obligations other than those set forth in the financial statements submitted in connection with the Closing.

11. Covenants of the Recipient. Until either the Termination Date or the satisfaction of all of Recipient's repayment obligations as set forth in Section 8 above, whichever shall first occur, the Recipient:

- a. shall maintain its corporate or other existence, in good standing, in                      and in each other jurisdiction where the failure to so qualify would have a material effect on the Recipient's business or financial condition.
- b. shall maintain its principal place of business in Maryland until all of its duties hereunder, including but not limited to the repayment provisions of Section 8, have been fully satisfied.
- c. shall file all federal, State and local tax returns and reports as required by law. The returns and reports to be filed shall be true and correct in all material respects. The Recipient shall pay all taxes, assessments and governmental charges due, except those contested in good faith prior to the date penalties attach thereto. The Recipient shall withhold or collect from its employees all required taxes, and shall pay the same to the proper tax receiving officers or authorized depositories.

- d. shall, in the sole determination of TEDCO, use its best efforts to develop its business in accordance with the Application, and shall not change the nature of its business as described in the Application. The Recipient shall not license, sell or transfer any of the Intellectual Property, other than in the ordinary course of business, without the prior written consent of TEDCO.
- e. shall notify TEDCO within 10 days of: (i) any lawsuit or proceedings before a governmental agency which, if successful, would materially affect the Recipient's financial condition or operations; and (ii) any agreement by the Recipient to merge, consolidate, or sell its assets (other than in the normal course of business) to a third party.
- f. shall not, without prior written consent of TEDCO:
  - i) sell or otherwise transfer all or substantially all of its assets or sell or otherwise transfer a controlling interest in the Recipient;
  - ii) transfer any interest in its services or products, other than in the ordinary course of business, provided that the Recipient may license another party to manufacture components thereof for the exclusive benefit of the Recipient;
  - iii) enter into any merger or consolidation;
  - iv) declare or pay any dividend, or other distribution on its stock, if a corporation;
  - v) permit any issuance or transfer of a controlling equity interest in the Recipient;
  - vi) redeem or repurchase any of its equity interest;
  - vii) materially change the nature of its business;
  - viii) guarantee, or in any way become liable for, a debt or obligation of any other party;
  - ix) make any loan or advance to any officer, shareholder, director, member, partner, employee, or affiliate of the Recipient except for temporary, commercially reasonable advances in the ordinary course of business;

- x) prepay any debt or obligation owed to any party other than TEDCO;
- xi) pledge or grant a security interest in the Intellectual Property resulting from the Project;
- xii) take any action having the effect of diminishing or circumventing TEDCO's rights under this Agreement.

12. Default.

- a. The Recipient shall be in default under this Agreement upon the occurrence of any of the following; provided, however, that TEDCO shall first provide Recipient with written notice of default and an opportunity to cure such default within thirty (30) days after notice, unless such default is not, in the sole determination of TEDCO, curable:
  - (i) The Recipient fails to submit any report to TEDCO due pursuant to Section 5 or any other provision of this Agreement;
  - (ii) The Recipient fails to make any payment to TEDCO due pursuant to Section 8 or any other provision of this Agreement;
  - (iii) The Recipient relocates its principal place of business to a location outside of Maryland before the Termination Date;
  - (iv) Any representation or warranty under Section 10 of this Agreement shall not be true;
  - (v) The Recipient fails to perform, comply with or observe any of the conditions, terms or covenants contained under this Agreement;
  - (vi) Any document submitted or to be submitted in connection with this Agreement contains any untrue statement of material fact or omits to state a material fact necessary to make the statements therein not misleading;
  - (vii) The Recipient fails to satisfactorily document the Recipient's Match with each Payment Request;
  - (viii) The Recipient or any of its directors, officers, partners or members, as the case may be, are convicted of a felony;

- (ix) The Recipient has been declared by TEDCO to be in default under any other agreement with TEDCO.
- b. Upon the occurrence of a default, TEDCO may:
  - (i) Require full repayment of the Funds to TEDCO in cash or by certified check within 30 days of written notice to Recipient of a default; and
  - (ii) Require full payment of all monies owed TEDCO pursuant to this Agreement in cash or by certified check within 30 days of written notice to Recipient of a default; and
  - (iii) Charge ten percent (10%) interest on all past due Quarterly Revenue Payments owed to TEDCO for the period starting the date after such payment(s) becomes due until full payment is made; and charge ten percent (10%) interest on the Funds for the period starting 30 days after TEDCO's written notice of default described in Section 12(b)(ii) until full payment is made.
  - (iv) At any time or from time to time proceed to protect and enforce all rights and remedies available to TEDCO under this Agreement by suit or by any other appropriate proceedings, whether for specific performance of any covenant or agreement contained in the Agreement, or damages permitted under applicable law or regulations.
- c. All remedies provided for in this Agreement are cumulative and shall be in addition to any and all other rights and remedies available to TEDCO at law or in equity. The exercise of any right or remedy by TEDCO shall not in any way constitute a cure or waiver of any default, nor invalidate any act done pursuant to any notice of default, nor prejudice TEDCO in the exercise of those rights.
- d. The failure of TEDCO to insist upon performance of any term of this Agreement at any time and from time to time shall not be deemed to be a waiver of any term of this Agreement.
- e. If TEDCO suspends or terminates this Agreement, the rights and remedies available to TEDCO shall survive such suspension or termination.

- f. The Recipient shall notify TEDCO of an event of default within 5 days of its occurrence. The notice shall set forth the nature of the default and the Recipient's proposed action(s) to cure such default.
13. Indemnification. Recipient shall indemnify, save harmless and defend TEDCO, the State and their employees and agents from any loss, damage, claim or other expense suffered or incurred by them or any of them by reason of Recipient's negligence or failure to perform any of the obligations required herein (including any reasonable costs, fees, and expenses in connection with TEDCO's efforts to collect any monies owed pursuant to, or enforce a provision of, this Agreement).
14. Compliance with Applicable Law.
- (a) Recipient agrees to comply with all applicable federal, state and local law, including all such laws that prohibit discrimination. Recipient covenants that it will not discriminate on the basis of race, color, sex, sexual orientation, religion or national or ethnic origin in its hiring of contractors, and shall prohibit its contractors from engaging in such discrimination in the hiring of subcontractors.
- (b) Recipient certifies and covenants that it shall make a good faith effort to eliminate illegal drug use and alcohol and drug abuse from its workplace during the term of this Agreement. Specifically, Recipient shall: (i) prohibit the unlawful manufacture, distribution, dispensation, possession, or use of drugs in its workplace; (ii) prohibit its employees from working under the influence of alcohol or drugs; (iii) not hire or assign to work on an activity funded in whole or part with State Funds, anyone whom it knows, or in the exercise of due diligence should know, currently abuses alcohol or drugs and is not actively engaged in a bona fide rehabilitation program; (iv) Promptly inform the appropriate law enforcement agency of every drug related crime that occurs in its workplace if the Recipient or any of its employees has observed the violation or otherwise has reliable information that a violation has occurred; and (v) Notify employees that drugs and alcohol abuse are banned in the workplace, impose sanctions on employees who abuse drugs and alcohol in the workplace, and institute steps to maintain a drug and alcohol free workplace.
15. Insurance. The Recipient has, and will maintain insurance covering property damage and liability sufficient in an amount and type to fully protect its assets, operations and business.
16. Entire Agreement and Amendment. This Agreement represents the entire Agreement between TEDCO and Recipient and supersedes any and all prior

understandings or oral or written agreements regarding the investment of the Funds by TEDCO in Recipient. This Agreement may be amended from time to time at the direction of, or with the concurrence of TEDCO, and only in writing executed by Recipient and TEDCO.

17. Assignment. No right, benefit or advantage inuring to Recipient under this Agreement may be assigned, and no burden imposed on Recipient hereunder may be delegated, without the prior written approval of TEDCO.
18. Notices. All communications concerning this Agreement shall be addressed as follows:

To TEDCO: Maryland Technology Development Corporation  
5565 Sterrett Place, Suite 214  
Columbia, Maryland 21044  
ATTN: Henry Ahn

To RECIPIENT:

ATTN:

19. Successors and Assigns. This Agreement shall be binding upon the Recipient and its successors and assigns, and shall inure to the benefit of TEDCO and its successors and assigns.
20. Maryland Law. This Agreement shall be governed by and construed in accordance with Maryland law. The Recipient and TEDCO hereby agree and consent that any lawsuit, action or proceeding arising out of or brought to enforce the provisions of this Agreement shall be brought in any appropriate court of the State of Maryland or the United States District Court for the District of Maryland. The Recipient hereby waives any right it may have to pray a trial by jury in any such lawsuit, action or proceeding.
21. Severability. The invalidity of any provision of this Agreement shall not affect the validity of the remaining provisions hereof, except that any invalidity of the repayment obligations of the Recipient under this Agreement shall constitute an Event of Default hereunder.
22. Press Releases. TEDCO may issue press releases or other promotional materials describing in general terms the investment of the Funds and the specific purposes for which the Funds were invested.

23. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one Agreement.

**IN WITNESS WHEREOF**, the Recipient and TEDCO have caused this Agreement to be executed, delivered, and witnessed by their duly authorized officers effective the date first above written.

**RECIPIENT**

WITNESS: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**MARYLAND TECHNOLOGY  
DEVELOPMENT CORPORATION**

WITNESS: \_\_\_\_\_

By: \_\_\_\_\_  
John M. Wasilisin  
Acting President and Executive Director

Approved for Form and Legal Sufficiency:

\_\_\_\_\_  
Ira Schwartz, Assistant Attorney General

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**EXHIBIT A**

**INVESTMENT AGREEMENT APPLICATION**

**[INSERT APPLICATION AND SUPPORTING DOCUMENTS HERE]**



TEDCO MTTCF INVESTMENT AGREEMENT

- 5) What implications do your results to date have for your plans to commercialize this technology?

**I hereby certify that the information contained in this Request is true and accurate.**

\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

EXHIBIT C

APPLICATION AFFIDAVIT

A. **AUTHORIZED REPRESENTATIVE:** I HEREBY AFFIRM THAT I am the [redacted] and the duly authorized representative of [redacted], and that I possess the legal authority to make this Affidavit on behalf of myself and the business for which I am acting.

B. **CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT:** I FURTHER AFFIRM THAT:

(1) The business named above is a [redacted] formed in [redacted] and registered in accordance with the Corporations and Associations Article, Annotated Code of Maryland, and that it is in good standing and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation, and that the name and address of its resident agent filed with the State Department of Assessments and Taxation is: [redacted]

(2) Except as validly contested, the business has paid, or has arranged for payment of, all taxes due all government entities including the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, the State Department of Assessments and Taxation, the Department of Labor, Licensing and Regulation (DLLR) and all other taxing authorities, as applicable, and will have paid all withholding taxes due to the State of Maryland and all other government entities prior to final settlement.

C. **AFFIRMATION REGARDING BRIBERY CONVICTIONS:** I FURTHER AFFIRM THAT neither I, nor to the best of my knowledge, information, and belief, the above business, (as is defined in §16-101(b) of the State Finance and Procurement Article of the Annotated Code of Maryland), nor any of its officers, directors, or partners, nor any of its employees directly involved in obtaining or performing contracts with the public bodies (as is defined in §16-101(f) of the State Finance and Procurement Article of the Annotated Code of Maryland), has been convicted of, or has had probation before judgment imposed pursuant to Article 27, §641 of the Annotated Code of Maryland, or has pleaded nolo contendere to a charge of, bribery, attempted bribery, or conspiracy to bribe in violation of Maryland law, or of the law of any other state or federal law, except as follows [indicate the reasons why the affirmation cannot be given and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved, and their current

positions and responsibilities with the business]:

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D. **AFFIRMATION REGARDING OTHER CONVICTIONS:** I FURTHER AFFIRM THAT neither I, nor to the best of my knowledge, information, and belief, the above business, nor any of its officers, directors, or partners, nor any of its employees directly involved in obtaining or performing contracts with public bodies, has:

(a) been convicted under the state or federal statute of a criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract, fraud, embezzlement, theft, forgery, falsification or destruction of records, or receiving stolen property;

(b) been convicted of any criminal violation of a state or federal antitrust statute;

(c) been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. §§1341, et seq., or Mail Fraud Act, 18 U.S.C. §§1341, et seq., for acts arising out of the submission of bids or proposals for a public or private contract;

(d) been convicted of a violation of the State Minority Business Enterprise Law, Section 14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;

(e) been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsection (a), (b), (c), or (d) above;

(f) been found civilly liable under a state or federal antitrust statute for acts or omissions in connection with the submission of bids or proposals for a public or private contract;

(g) admitted in writing or under oath, during the course of an official investigation or other proceeding, acts or omissions that would constitute grounds for conviction or liability under any law or statute described above, **except as follows** [indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment]:

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E. **AFFIRMATION REGARDING DEBARMENT:** I FURTHER AFFIRM THAT neither I, nor to the best of my knowledge, information, and belief, the above business, nor any of its officers, directors, or partners, nor any of its employees directly involved in obtaining or performing contracts with public bodies, has ever been suspended or debarred (including being issued a limited denial of participation) by any public entity, **except as follows** [list each debarment or suspension providing the date of the suspension or debarment, the name of the public entity and the status of the proceedings, the name(s) of the person(s) involved and their current positions and responsibilities with the business, the grounds for the debarment or suspension, and the details of each person's involvement in any activity that formed the grounds for the debarment or suspension]:

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F. **AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES:** I FURTHER AFFIRM THAT:

(1) The business was not established to, nor does it operate in a manner designed to, evade the application of or defeat the purpose of debarment pursuant to §§16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland; and

(2) The business is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred business, except as follows [indicate the reasons(s) why the affirmations cannot be given without qualification]:

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G. **SUB-CONTRACT AFFIRMATION:** I FURTHER AFFIRM THAT neither I, nor to the best of my knowledge, information, and belief, the above business, has knowingly entered into a contract with a public body under which a person debarred or suspended under Title 16 of the State Finance and Procurement Article of the Annotated Code of Maryland will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

H. **ACKNOWLEDGMENT:** I ACKNOWLEDGE THAT this Affidavit is to be furnished to the Maryland Technology Development Corporation and may be distributed to units and agents of (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states and their subdivisions; and (4) the federal government. I further acknowledge that this Affidavit is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that nothing in this Affidavit or any agreement resulting from the submission of this application shall be construed to supersede, amend, modify, or waive, on behalf of the State of Maryland, or any unit or agent of the State of Maryland having

TEDCO MTTCF INVESTMENT AGREEMENT

jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland with respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the above business with respect to (1) this Affidavit, (2) the proposed contract, and (3) other Affidavits comprising part of the proposed contract.

**I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.**

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature

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

Authorized Representative and Affiant

EXHIBIT D

**CERTIFICATE OF OFFICER/AUTHORIZED MEMBER/GENERAL PARTNER**

I, \_\_\_\_\_, am the [President] [Authorized Member] [General Partner] of \_\_\_\_\_ (the "Company") and do hereby certify to the Maryland Technology Development Corporation ("TEDCO") that:

1. The representations and warranties contained in the Investment Agreement dated \_\_\_\_\_, 20\_\_\_\_ between the Company and TEDCO (the "Agreement") and in any other document submitted by the Company in connection with the Agreement are true and correct as of the date hereof.
2. The Company has performed and complied with all agreements, obligations, and conditions contained in the Agreement that are required to be performed or complied with by it on or before the closing.
3. The Company has provided TEDCO with all information the Company believes is reasonably necessary to enable TEDCO to make its investment decision. Neither the Agreement nor any other written certificates, documents, including the Application and attachments thereto submitted to TEDCO, and any financial statements delivered to TEDCO in connection with the investment, contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein not misleading.
4. The Company has timely filed all tax returns and reports (federal, state and local) as required by law. These returns and reports are true and correct in all material respects. The Company has paid all taxes and other assessments due, except those contested in good faith.

IN WITNESS WHEREOF, the undersigned has caused this certificate to be executed as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

---

[Name, Title]

EXHIBIT E

**CERTIFICATE OF SECRETARY/AUTHORIZED MEMBER/GENERAL PARTNER**

I, \_\_\_\_\_, am the [Secretary] [Authorized Member] [General Partner] of \_\_\_\_\_, (the "Company") and do hereby certify to the Maryland Technology Development Corporation ("TEDCO") that:

1. Attached hereto as Exhibit E-1 is a true and correct copy of the Company's [Articles of Incorporation] [Articles of Organization] [Certificate of Limited Partnership] as in effect on the date hereof.

2. Attached hereto as Exhibit E-2 is a true and correct copy of the Company's [Bylaws] [Operating Agreement] [Limited Partnership Agreement] as amended, in effect on the date hereof.

3. [Corporate Recipients Only] Attached hereto as Exhibit E-3 is a true and correct copy of the resolutions duly adopted by the Company's Board of Directors (and stockholders if necessary) authorizing the Company to enter into the Agreement and to execute all documents and certificates in connection therewith, and such resolutions are in full force and effect on the date hereof.

4. Each person who, as a director, officer, member or partner of the Company, signed the Agreement or any other document submitted in connection with the Agreement, was at the respective times of such signing and delivery, and is now, duly elected or appointed, qualified and acting as such, and the signatures of such persons on such documents are true and correct.

5. The following persons are the duly elected, qualified and acting directors, officers, members, or partners of the Company, who are authorized to execute, deliver and perform the Agreement and all other documents in connection with the TEDCO MTTCF Program investment: [name(s), title(s)]

6. The address of the Company's principal place of business is \_\_\_\_\_.

7. The name and address of the Company's resident agent in the State of Maryland is: \_\_\_\_\_.

8. The Company's fiscal year is \_\_\_\_\_.

IN WITNESS WHEREOF, the undersigned has caused this certificate to be executed as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

TEDCO MTTCF INVESTMENT AGREEMENT

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[Name, Title]



Economic Impact Baseline Data

- 1) Annual Revenues during Recipient's previous fiscal year: \$\_\_\_\_\_ (gross sales or service revenue less discounts and allowance for doubtful accounts)
- 2) Aggregate Equity Financing Amount Since Award Date: \$\_\_\_\_\_ (amount of capital raised through sale, transfer or exchange of stock, options, warrants or securities convertible to stock, option or warrants)
- 3) Aggregate Research and Development Funding Since Award Date: \$\_\_\_\_\_ (see definition in Section 8(a))
- 4) Aggregate Debt Financing Amount Since Award Date: \$\_\_\_\_\_ (amount of capital raised through borrowing or sale of bonds)
- 5) Stage of Commercialization (see TEDCO Stages of Commercialization, 1-8): \_\_\_\_

Employment Data:

- 1) Current Number of Full-Time Equivalent Employees: \_\_\_\_\_
- 2) Current Payroll (Annual Basis): \$\_\_\_\_\_

**I hereby certify that the information contained in this Final Report is true and accurate.**

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

Title: \_\_\_\_\_

**EXHIBIT G**

**INVESTMENT AGREEMENT  
ANNUAL ECONOMIC IMPACT STATEMENT**

Company Name: \_\_\_\_\_

Proposal Name: \_\_\_\_\_

Principal Investigator: \_\_\_\_\_

University/Lab: \_\_\_\_\_ Date: \_\_\_\_\_

Current number of full-time equivalent employees: \_\_\_\_\_

Number of employees who are Maryland residents: \_\_\_\_\_

Current payroll (annual basis): \$ \_\_\_\_\_

Annual Revenues: \$ \_\_\_\_\_

(gross sales or service revenue less discounts and allowance for doubtful accounts)

Aggregate Equity Financing Amount: \$ \_\_\_\_\_

(amount of capital raised in current reporting year through sale, transfer or exchange of stock, options, warrants or securities convertible to stock, option or warrants)

Aggregate Research and Development Funding in Current Reporting Year:

\$ \_\_\_\_\_

(see definition in Section 8(a))

Aggregate Debt Financing Amount Since Award Date: \$ \_\_\_\_\_

(amount of capital raised through borrowing or sale of bonds)

Stage of Commercialization (see TEDCO Stages of Commercialization, 1-8): \_\_\_\_

**Revenue Payment due:** \$ \_\_\_\_\_

(see the "Repayment" paragraph in your Investment Agreement)

Please attach brief narrative describing the Company's operational and financing activities, results from operations, material changes or events, progress vis a vis the Application.

**I hereby certify that the information contained herein is true and accurate.**

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

Title: \_\_\_\_\_