

※ このサンプルは現在も修正作業中でありますので、実際の契約に使う場合には電気通信大学知的財産本部までご連絡ください。

## 電気通信大学英文受託研究契約書サンプル

### SPONSORED RESEARCH AGREEMENT (sample)

THIS AGREEMENT, made and entered into the [DAY] day of [MONTH], [YEAR] by and between  
National University Corporation , The University of Electro-Communications (“UEC”)  
and  
[ ] ,a [state of incorporation] corporation having its principal place of business  
at [ ] (“Sponsor”).

WHEREAS, Sponsor wishes UEC to conduct certain research work for Sponsor;

WHEREAS, UEC is interested in conducting certain research work as requested  
by Sponsor;

WHEREAS, the performance of the research requested by Sponsored is  
consistent with the instructional, scholarship and research objectives of UEC;

NOW, THEREFORE, in consideration of the premises and mutual covenants  
herein contained, UEC and Sponsor agree as follows:

### **1.DEFINITIONS**

1. 1. “Research Program” means the research program set forth in Section 2.1.
- 1.2. “Research Materials” means those experimental materials one party may provide the other in connection with and as stated in the Research Program.
- 1.3. “Inventions” means any invention, discovery, work of authorship, software, information or data, that is conceived, discovered and reduced to practice in performance of the Research Program.

1.4. “Intellectual Property Rights” means the rights directly associated with and appurtenant to the ownership of intellectual property in Inventions in any form, including rights granted with the ownership of, patents, utility patents, design patents, trademarks, mask works, protectable plant varieties and plant materials and their equivalents in all other jurisdictions. Intellectual Property Rights also includes copyrights for copyrightable computer program works and database works and their equivalents in all other jurisdictions, and the rights to use Know-How.

1.5. “Know-How” means the technical information those especially designated by UEC in accordance with Section 6.4, including a formula, pattern, compilation, program device, method, technique, or process, that derives independent economic value, actual or potential, from no being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.

1.6. “Results” means all results arising out of or relating to the Sponsored Research, including, but not limited to, any Inventions and Know-How, materials, computer programs and databases, processes, and anything else otherwise protectable with Intellectual Property Rights.

1.7. “Researchers” means person who are affiliated with UEC and are engaged in the Sponsored Research, and persons as indicated in the Schedule 1 attached to this Agreement, and to which Section 2.3 hereof is applicable.

1.8. “Research Adjuncts” means person who cooperate in the Sponsored Research, and to which Section 2.4 hereof is applicable.

## **2. CONDUCT OF SPONSORED RESEARCH**

2.1. Research Program. UEC shall perform the following research for Sponsor (the “Sponsored Research”):

- (a) Title of research [ ]
- (b) Purpose of research and contents as described in Schedule I
- (c) Research Materials as described in Schedule II

2.2. Period of Research. Period of research for the Sponsored Research shall be from [MONTH][DAY],[YEAR] to [MONTH][DAY],[YEAR].

2.3. Principle Investigator. The Principle Investigator for the performance and supervision of the Sponsored Research shall be set forth in Schedule I attached hereto.

2.3.1. If for any reason the Principle Investigator cannot conduct or complete the Sponsored Research, UEC will appoint a successor, subject to the approval of the Sponsor. If the parties cannot agree on a successor, either party may terminate this Agreement by written notification to the other party of such, and neither party shall be liable for delay or default on performance of obligations to perform the Sponsored Research, provided, however, that the parties shall discuss and decide in good faith handling of unused Research Cost, if any.

2.4. Participation and Cooperation by Research Adjuncts. When UEC judges it necessary to obtain participation or cooperation from Research Adjuncts for execution of the Sponsored Research, upon obtaining consent of Sponsor, Research Adjuncts may participate in the Sponsored Research.

2.5. Restriction of Consignment to a Third Party. Neither party shall consign all or part of the duties of which it is in charge to any third party other than a Research Adjunct without prior written consent of the other party.

2.6. Payment of Research Cost. The Sponsor shall bear the Research Cost as described in Schedule III.

2.6.1. Sponsor shall pay to UEC the Research Cost in Japanese yen by wire transfer to the bank account of UEC as described in Schedule III by the date(s) set forth in Schedule III.

2.6.2. If Sponsor fails to pay the Research Cost as in the preceding paragraph by the due date(s) set forth in Schedule III, Sponsor shall pay to UEC the outstanding amount plus the delay damage of 14.6% per year to the amount in accordance with the number of days from the day following the payment due date to the day actual payment is made.

2.7. Expendables and Equipment. UEC will own all expendables and equipment purchased or fabricated utilizing Research Cost to perform the Sponsored Research.

2.8. Suspension of Research or Extension of Period. Due to leave or transfer, etc. of Researchers, or due to Force Majeure such as act of God, impossibility of acquisition of materials, disorder of device, order by government, etc., if the continuation of research is impossible or suspension of the research temporarily is unavoidable, UEC shall notify Sponsor in writing immediately of the occurrence of the relevant events, and the fact that continuation of the research has become impossible or temporary suspension of the research is unavoidable due to such. In such circumstances, UEC may suspend the Sponsored Research or extend the period of research upon mutual agreement.

2.8.1. In the event there is no mutual agreement as referred to in the preceding paragraph, if the events causing disturbance in the research are not remedied even after the elapse of ninety (90) days after the notification as in the preceding paragraph, either party may terminate this Agreement by written notification to the other party of such.

2.8.2 In case this Agreement is terminated in accordance with Paragraph 2.8.1 above, if any Research Cost paid by Sponsor remains unused, the parties shall discuss and decide in good faith on the handling thereof.

2.8.3 In the cases as referred to in Paragraphs 2.8. and 2.8.1, neither party shall be liable for delay or default on performance of obligations to perform the Sponsored Research.

2.9. UEC Purposes; No Guarantee of Results. Sponsor acknowledges that the primary mission of UEC is education and the advancement of knowledge; and, consequently, the Sponsored Research will be performed in a manner best suited to carry out that mission. Specifically, UEC's Researchers will determine the manner of performance of UEC's part in the Research Program and UEC does not represent or warrant that the Sponsored Research will be successful in any way or that any specific results will be obtained.

2.10. Similar Research. Nothing in this Agreement will be construed to limit the freedom of UEC or its Researchers who are participants under this Agreement, from engaging in similar research made under other grants, contracts, or research agreements with parties other than Sponsor.

### **3. CONFIDENTIAL INFORMATION**

3.1. Both parties shall handle the following information (“Confidential Information”) as confidential and, without prior written consent of the other party, shall not provide, disclose or divulge such to any third party, nor use such for purposes other than Sponsored Research:

(a) Technical or trade information provided or disclosed from the other party relevant to the Sponsored Research in any form, whether as documentation, photographs or machine readable format(including information processed by computers or information that can be transferred through computers), materials, samples, provided that such is marked “Confidential”, or information orally disclosed and specified as being confidential at the time of disclosure, after which the other party is notified of such in writing within twenty (20) days after disclosure (“Provided Confidential Information”); and

(b) Results.

3.2. Notwithstanding the preceding paragraph, any information which falls within one of the following shall not be Confidential Information:

- (a) Information that had been already in the public domain when obtained from the other, or information that has come into the public domain after being obtained from the other party due to reason not attributable to the receiving party;
- (b) Information properly obtained from a third party without bearing confidentiality obligations;
- (c) Information that had already been obtained at the time when the information was obtained from the other party;
- (d) Information that was developed independently not from information obtained from the other, and which fact can be proved in writing; and
- (e) Information the disclosure of which is obligatory under the laws or court orders.

#### **4. THE FINAL REPORT**

4.1. The Principle Investigator shall submit a final report to Sponsor concerning a summary of Results within thirty (30) days from the day following the day of completion of the Sponsored Research.

#### **5. PUBLICATION**

5.1. The basic objective of research activities at UEC is the generation of new knowledge and its expeditious dissemination for the public's benefit. Sponsor will provide all reasonable cooperation with UEC in meeting this objective.

5.2. As a matter of basic academic policy, UEC retains the right at its discretion to publish freely any Results. Researchers of UEC agree to provide Sponsor a copy of any manuscript at the time it is submitted for publication. Sponsor may review the manuscript:

- (a) To ascertain whether Sponsor's Provided Confidential Information would be disclosed by the publication;
- (b) To ascertain whether Know-How would be disclosed by the publication;
- (c) To identify any potentially patentable Inventions so that appropriate steps may be

taken by UEC and/or Sponsor to protect such Invention.

Sponsor will provide comments, if any, within twenty (20) days of receipt of manuscript.

5.3. UEC will give Sponsor the option of receiving an acknowledgment in such publication. UEC shall specify that, upon publication, the contents of such were obtained as a result of the Sponsored Research. However, this shall not apply to cases where Sponsor does not desire such.

## **6. INTELLECTUAL PROPERTY RIGHTS, ETC.**

6.1. Ownership of Inventions. Ownership of Inventions shall remain with UEC.

6.2. Report of Inventions. UEC shall promptly report and disclose all Inventions to Sponsor in writing.

6.2.1 Sponsor shall retain all Invention disclosures submitted to Sponsor by UEC in confidence and shall treat them in accordance with Article 3 hereof.

6.3 Patent Application. UEC (i) may file patent application at its own discretion and expense, including expenses to be paid to registration organs such as the Patent Office, and external patent attorneys who are not affiliated with either party, etc., for acquisition of the patent right in any country, or (ii) shall do so at the request of the Sponsor at the Sponsor's expense at a country or countries requested by Sponsor. When UEC has filed patent application in any country in accordance with (i) and/or (ii) above, UEC shall promptly notify to the Sponsor in writing and deliver copies of the relevant documents. In case of (ii) above, the Sponsor shall also bear expenses to maintain the registration.

6.4 Designation of Know-How. UEC may designate portions of Results as Know-How. In such designation of Know-How, UEC may also decide and inform Sponsor of the period of confidentiality.

6.5. Rights in TRP. In the event that the parties elect to establish property rights other than patents to any tangible research property (TRP), including but not limited to biological materials, created by UEC during the course of the Sponsored Research, UEC and Sponsor will determine the disposition of rights to such property by separate agreement. UEC will, at a minimum, reserve the right to use and distribute TRP for non-commercial research purposes.

## **7. GRANTING OF LICENSES**

7.1. License to Sponsor. UEC hereby grants the Sponsor a non-exclusive, non-transferable, royalty-free license to use the Intellectual Property Rights for internal research purposes. The sponsor shall further be entitled to elect one of the license options set forth in Sections 7.1.1 and 7.1.2 by notice in writing to UEC within six (6) months after disclosure to the Sponsor of the Invention in accordance with Section 6.2.

7.1.1 a non-exclusive, non-transferable, world-wide, royalty-free license without the right of sublicense (in a designated field of use, where appropriate) to the Sponsor to make, have made, use lease, sell and import products embodying or produced through the use of the Intellectual Property Rights, on terms to be negotiated and agreed by UEC within three (3) months after the selection of this option; or

7.1.2 a royalty-bearing, limited term, exclusive license (subject to Section 7.5, if any) to the Sponsor, including the right to sublicense to make, have made, lease, sell and import (in a designated field of use, if appropriate) products embodying or produced through the use of the Intellectual Property Rights, on the terms to be negotiated and agreed by UEC within three (3) months after the selection of this option.

7.2 License terms and conditions. All licenses of this Section 7 elected by Sponsor are effective as of the date the parties negotiate and sign subsequent license agreement, which will contain indemnity, insurance and no-warranty provisions, in addition to other customary terms and conditions.

7.3 Non-election. If Sponsor does not provide a written notice to UEC within six (6) months of a written disclosure under Section 6.2, UEC does not owe further obligations to the Sponsor and may license the Intellectual Property Rights to third parties.

7.5. Reserve the Right to Grant License to Practice Non-commercial Research. To the extent that Research Program has been partially funded by the Japanese government, UEC will reserve the right to grant Nonexclusive License of Intellectual Property Rights only to practice non-commercial research to universities, colleges, institutes, and other public research institutes in Japan.

## **8. REPRESENTATIONS AND WARRANTIES**

8.1. NO WARRANTIES. SPONSOR ACKNOWLEDGES AND AGREES THAT UEC IS AN ACADEMIC RESEARCH INSTITUTION AND THAT THE RESEARCH

PROGRAM IS OF AN EXPERIMENTAL NATURE. AS A RESULT, ANY RESULTS OF THE SPONSORED RESEARCH AND ANY RESEARCH MATERIALS ARE PROVIDED AS IS AND WITH ALL FAULTS.UEC 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. Specifically, and not to limit the foregoing, UEC makes no warranty or representation (i) regarding the validity or scope of any Intellectual Property Rights and (ii) that the exploitation of the Sponsored Research or any Intellectual Property Rights will not infringe any patents or other intellectual property rights of UEC or of a third party.

8.2. NO DAMAGES. UEC, ITS DIRECTORS, OFFICERS, EMPLOYEES, STUDENTS AND AFFILIATES, SHALL NOT BE LIABLE FOR ANY DIRECT, CONSEQUENTIAL, OR OTHER DAMAGES SUFFERED BY SPONSOR, ANY LICENSEE, OR ANY OTHERS INCLUDING, BUT NOT LIMITED TO, DAMAGES ARISING FROM LOSS OF DATA OR DELAY OR TERMINATION OF THE SPONSORED RESEARCH, OR FROM THE USE OF THE RESULTS OF THE SPONSORED RESEARCH, THE USE OF ANY RESEARCH MATERIALS OR ANY INVENTIONS OR PRODUCT. SPONSOR ACKNOWLEDGES AND AGREES THAT THIS EXCLUSION AND LIMITATION IS REASONABLE CONSIDERING THE EXPERIMENTAL NATURE OF THE RESEARCH PROGRAM AND THE NATURE AND TERMS OF THE PARTIES' RELATIONSHIP. THIS ARTICLE 8 SHALL SURVIVE THE EXPIRATION OR ANY EARLIER TERMINATION OF THIS AGREEMENT.

## **9. INDEMNIFICATION**

Sponsor shall indemnify and hold UEC and its directors, employees, agents or students ("Indemnified Party") harmless against all actions, claims, damages, costs, and expenses arising out of or connected with this Agreement or work done under this Agreement, except to the extent such actions, claims, damages, costs and expenses are due to



Indemnified Party's negligence.

## **10. TERM AND TERMINATION**

10.1 Term. Effective term hereof shall be during the period of research as described in Section 2.2. When it is necessary to extend the research period at the time of expiration of the term, the parties may agree to renew this Agreement.

10.2. Termination. When Sponsor fails to pay the Research Cost as stipulated in Section 2.6.1, UEC may terminate this Agreement immediately.

10.3. When either party falls under any one of the subsequent items, the other party may immediately terminate this Agreement:

(a) When breaching this Agreement and then although there is a demand for performance of such with a deadline set of longer than thirty (30) days, such is not performed within the relevant period;

(b) When subjected to petition for bankruptcy;

(c) When performing resolution for dissolution.

10.4. Survival Provisions. The provisions of Article 5, Articles 6 through Section 7.1, and Articles 8 and 9 shall remain effective after termination hereof; and the provisions of Article 3 and Section 6.2.1 shall remain effective for two (2) years after the termination hereof.

## **10. GENERAL PROVISIONS**

10.1. No Assignment. Neither party may assign all or part of the rights and obligations hereunder to any third party without prior written consent of the other party (including the cases where such is incidental to the assignment of business or operations).

10.2. Notices. Any notice or communication required or permitted to be given hereunder will be in writing and, except as otherwise expressly provided in this agreement, will be deemed given and effective (i) when delivered personally or by fax or (ii) when received if sent by email, overnight courier, or mail:

To UEC:

To Sponsor:

[NAME OF CONTRACT PERSON]

[TITLE]

[DIVISION/DEPARTMENT]

[ADDRESS]

[PHONE NUMBER]

[FACSIMILE NUMBER]

[E-MAIL ADDRESS]

10.3. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of Japan, with conflicting laws excluded.

10.4. Jurisdiction. If any dispute arises upon execution hereof or in relation to this Agreement, the parties shall make the utmost efforts to settle such by amicable consultations. Amongst disputes arising out of this Agreement, including the effectiveness of this Agreement, all disputes relevant to the Intellectual Property Rights shall be subject to the exclusive jurisdiction of Tokyo [Osaka] District Court as court of first instance, and other disputes in connection with this Agreement shall be subject to the exclusive jurisdiction of the court that has jurisdiction over the place of address of UEC as court of first instance.

10.5. Export Controls. In transferring goods and technologies, each of the parties shall observe the export control laws and regulations of Japan and the country where Sponsor is located. If required by export control laws and regulations of Japan and the country where Sponsor is located, each party shall obtain approval for export of goods and technologies which are to be transferred for the purposes of cooperative activities under this Agreement.

10.5.1. Neither party shall use goods and technologies, and duplications thereof, which have been obtained under this Agreement, for the purposes of developing and manufacturing nuclear weapons, chemical weapons, biological weapons, or missiles to transport such weapons. Nor shall either party permit any third party to use them for the aforementioned purposes.

10.6. Force Majeure. Neither party shall be responsible to the other for failure to perform any of the obligations imposed by this Agreement, provided such failure shall be occasioned by fire, flood, explosion, lightning, windstorm, earthquake, subsidence of soil, failure or destruction, in whole or in part, of machinery or equipment, or failure of supply of materials, discontinuity in the supply of power, governmental interference, civil commotion, riot, war, strikes, labor disturbance, transportation difficulties, labor shortage or any cause beyond its reasonable control.

10.7. No Waiver. Even if a party fails to request performance hereof by the other party as stipulated in the provisions hereof or delays in requesting such, such provisions shall not be affected whatsoever by such. Waiver of rights by a party for breach of any provision hereof shall not be deemed as waiver of rights to the continuous breach of said provisions.

10.8. Entire Agreement. This Agreement contains a final and complete agreement between the parties, replaces and supersedes all prior agreements or determinations between the parties in relation to the matters as set forth herein. This Agreement may be amended solely when the parties hereto truly agree in writing.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate counterpart original by their duly authorized representatives to be effective as of the day and year first hereinabove written.

[UEC]

[SPONSOR]

\_\_\_\_\_  
By:

Title:

Date:

\_\_\_\_\_  
By:

Title:

Date:

## Schedule I

### Researchers

Division	Name	Affiliated Organ and Post	Roles in Research
UEC	※(name)  (name)	Graduate school [ ] [ ]Professor Graduate school [ ] [ ]Associate Professor	[ ]summarization  [ ] development

(note) ※mark shall be attached to the name of the representative of the research.

### Principle Investigator

### Purposes of research and content

Schedule II

Research Materials

### Schedule III Research Cost

Cost: \_\_\_\_\_ Yen  
(including consumption tax and local consumption tax)

Payment date(s)

#### Bank Account information

Name of Bank:

Type of Bank Account:

Account Number:

This Agreement is designated as:

- ☐ Cost-reimbursable Agreement, or
- ☐ Fixed Price Agreement

If this Agreement is designated as “Cost-Reimbursable,” the Sponsor will reimburse UEC for the cost of conducting the Sponsored Research. The parties estimate that the Cost stated above is sufficient to support the Sponsored Research, but UEC may submit to the Sponsor a revised budget requesting additional funds if costs are reasonably projected to exceed the Cost. The Sponsor is not liable for any payment in excess of the Cost except on Sponsor’s written agreement. UEC has the authority to rebudget Costs from time to time, at the discretion of the Principle Investigator, as long as the rebudgeting is consistent with the goal of the Sponsored Research. At the end of the Sponsored Research, UEC will refund the Sponsor the balance, if any together with financial accounting of all costs incurred.

If this Agreement is designated as “Fixed Price,” the Sponsor will pay UEC the Cost. The parties estimated that the Cost is sufficient to support the Sponsored Research. UEC may submit to the Sponsor a revised budget requesting the additional funds if the Sponsor requests a change in the Sponsored Research. The Sponsor will not be liable for any payment in excess of the Cost except on Sponsor’s written agreement. UEC shall not be obligated to refund the balance, if any.