JOHNS HOPKINS
UNIVERSITY

WHITING SCHOOL OF ENGINEERING

MODEL CONSULTING AGREEMENT FOR PRIVATE CONSULTING ACTIVITIES OF JOHNS HOPKINS UNIVERSITY WHITING SCHOOL OF ENGINEERING FACULTY

[COMPANY NAME] (hereinafter "COMPANY") and Dr. [NAME] (hereinafter "CONSULTANT") [of HOME ADDRESS, *if address is listed for CONSULTANT*] agree that CONSULTANT will advise COMPANY on matters relating to the field of [S*pecify the field of research for the consulting services you will provide under the agreement*.] (hereinafter "Field") under the following terms and conditions ("this Agreement"):

1. **Consulting Services**. CONSULTANT's responsibilities shall include, without limitation, the following activities (hereinafter collectively referred to as "Services"):

   [*Describe consulting services in detail*.]

   The Services shall be performed via telephone and correspondence, and may include meetings with personnel and other consultants at times and locations to be mutually agreed upon. In each instance, CONSULTANT shall perform the Services only upon COMPANY's request and after the scope of the Services has been approved by COMPANY. In the event that CONSULTANT believes that consulting services provided to other parties may be inconsistent with the terms of this Agreement, CONSULTANT shall promptly notify COMPANY, to the extent that such notification does not breach confidentiality provisions or understandings between the CONSULTANT and any third party. COMPANY and CONSULTANT will jointly determine whether or not to terminate this Agreement as a result of aforementioned notification.

   The parties acknowledge that the Johns Hopkins University is not a party to this Agreement, which is a private contract between CONSULTANT and COMPANY. CONSULTANT and COMPANY also agree that the Johns Hopkins University and its Schools and Divisions (hereinafter individually and collectively "JHU") have no liability or responsibility to either party under this Agreement.

   COMPANY and CONSULTANT recognize that CONSULTANT's primary duty as a full-time JHU faculty member is to JHU. COMPANY and CONSULTANT also agree that JHU policies and CONSULTANT's obligations to JHU shall govern and be afforded primacy in the event a conflict arises with this Agreement.

CONSULTANT shall not use the facilities, equipment, materials, funds, or resources owned or administered by JHU, or located on any of the premises thereof; or engage or employ students, post-doctoral fellows, or other employees thereof, to provide services under this Agreement. Further, any unpublished research or data generated at or by JHU or unpublished results of research conducted at or by JHU that CONSULTANT may disclose in the course of providing services under this Agreement shall remain the intellectual property of JHU, and shall not be presented or published by COMPANY in any way or form without the prior written consent of JHU and CONSULTANT.

2. **Compensation**. In consideration for CONSULTANT's services hereunder, COMPANY shall pay CONSULTANT as follows: [Complete only the applicable sections.]

   a) [$_____] per year.

   [$_____] per day, up to a maximum of [ ] days per year of service.

   b) [ ] company stock options, with an exercise price of [$_____] and vesting as follows:
   COMPANY will ask CONSULTANT to sign a separate stock option agreement [if applicable].

   c) [ ] shares of company stock. COMPANY will ask CONSULTANT to sign a separate stock purchase agreement. [if applicable]

   d) Reasonable out-of-pocket expenses (upon presentation of appropriate receipts) incurred by CONSULTANT, including all travel, food and lodging, in connection with the Services provided hereunder.

   Payment shall be made within forty five (45) days of receipt of an invoice of itemized services and submission of appropriate vouchers and receipts as may be reasonably necessary to substantiate CONSULTANT's out-of-pocket expenses.

   CONSULTANT shall not be paid vacation, holiday or sick time during the term of Agreement. In the event of premature termination of the Agreement COMPANY shall pay CONSULTANT for the Services performed and expenses incurred through the date of termination. In the event of any overpayment by COMPANY, CONSULTANT shall, upon submission by COMPANY of documents evidencing such overpayment, remit the same to COMPANY within forty-five (45) days after termination. CONSULTANT shall also cooperate with COMPANY in producing documents as evidence of overpayment of either party.

3. **Term and Termination**. This Agreement shall be effective upon full execution of this Agreement and continue for a period of (complete applicable box):

   [ ] years

   [ ] months

   The Agreement may be extended by written agreement signed by the parties. Either party may terminate this Agreement with or without cause upon giving thirty (30) days prior written notice to the other party. Termination or expiration of this Agreement shall not affect any rights or obligations which have accrued prior thereto or in connection therewith. Any written agreements altering the term and/or conditions of this agreement must be reviewed

and approved in advance by the Johns Hopkins University Whiting School of Engineering's Associate Dean for Research.

4. **Confidential Information and Inventions**.

4a. With respect to any technical or business information of a proprietary or confidential nature which CONSULTANT may obtain from COMPANY under this Agreement or which is developed by CONSULTANT as a direct result of CONSULTANT's Services hereunder (all of such technical and business information being referred to hereinafter as "Company Information"), it is understood that until the Company Information in question has been disclosed by COMPANY to the public generally or until COMPANY grants CONSULTANT specific written approval to deal otherwise with Company Information, CONSULTANT will:

i) treat Company Information as confidential;

ii) not use any Company Information except as and to the extent necessary for the aforesaid consulting tasks; and

iii) not disclose any Company Information to any third party without prior written approval from COMPANY.

4b. Consultant's obligations set forth in this Section 4 shall not apply with respect to any portion of the Company Information that:

i) was in the public domain at the time it was communicated to CONSULTANT by COMPANY;

ii) entered the public domain through no fault of CONSULTANT, subsequent to the time it was communicated to CONSULTANT by COMPANY;

iii) was in CONSULTANT's possession free of any obligation of confidence at the time it was communicated to CONSULTANT by COMPANY;

iv) was rightfully communicated to CONSULTANT free of any obligation of confidence subsequent to the time it was communicated to CONSULTANT by COMPANY;

v) was developed by CONSULTANT independently of and without reference to any information communicated to CONSULTANT by COMPANY;

vi) is required to be disclosed in response to a valid order by a court or other governmental body, or as otherwise required by law.

4c. Notwithstanding the above, prior to any subcontracting to third parties, such third party must be bound to the same obligations as under this Agreement regarding any Confidential Information prior to disclosure.

4d. COMPANY agrees to provide the Johns Hopkins University Whiting School of Engineering's Associate Dean for Research with a copy of any patent application on which CONSULTANT is listed as an inventor as a result of the services provided under this Agreement. COMPANY and Johns Hopkins will enter into a confidentiality agreement to

govern the transmission of the patent application to Johns Hopkins, with transmission to occur within 120 days of filing of the application with the patent office(s).

5. **Publications**. CONSULTANT shall not publish, nor submit for publication, any work resulting from the Services provided hereunder without prior written approval from COMPANY. Nothing in this agreement shall be construed as prohibiting or otherwise limiting CONSULTANT's ability to publish, or submit for publication, academic or scholarly works or works resulting from CONSULTANT's activities as a faculty member of JHU, during or at any time after the term of this Agreement.

6. **Publicity**. With the limited exception of citing CONSULTANT's faculty title (subject to the conditions outlined below), COMPANY and its affiliates will not use the names, likenesses, or logos of the JHU in any of their fund-raising or investment documents, general publications, advertisements, press releases, or marketing and promotional materials (hereinafter "Materials"). If COMPANY cites Consultant's title and affiliation with JHU in its Materials, it agrees to include the following statement in such Materials as a parenthetical comment next to the consultant's name, title, and affiliation: 'Participation by Dr. [Faculty name] [in the development of this product/as an advisor/as a member of the Scientific Advisory Board] does not constitute or imply endorsement by the Johns Hopkins University.'

7. **Compliance**. In the performance of the Services hereunder, CONSULTANT shall comply with all applicable federal, state and local laws, regulations and guidelines. CONSULTANT shall also comply with COMPANY's polices when on COMPANY premises.

8. **No Restrictions**. CONSULTANT represents and warrants that the terms of this Agreement are not inconsistent with any other contractual or legal obligations CONSULTANT may have or with the policies of any institution or company with which CONSULTANT is associated.

9. **Independent Contractor**. CONSULTANT's status under this Agreement is that of an independent contractor. CONSULTANT shall not be deemed an employee, agent, partner or joint venturer of COMPANY for any purpose whatsoever, and CONSULTANT shall have no authority to bind or act on behalf of COMPANY. This Agreement shall not entitle CONSULTANT to participate in any benefit plan or program of COMPANY. CONSULTANT shall be responsible for, and agrees to comply with, obligations under federal and state tax laws for payment of income and, if applicable, self-employment tax.

10. **Assignment**. CONSULTANT may not assign this Agreement or any interest herein, or delegate any of its duties hereunder, to any third party without COMPANY's prior written consent, which consent is within COMPANY's sole discretion to grant or withhold. Any attempted assignment or delegation without such consent shall be null and void.

11. **Debarment**. CONSULTANT warrants and represents that CONSULTANT has never been, is not currently, and, during the term of this Agreement, will not become:

a) an individual who has been debarred by the U.S. Food and Drug Administration ("FDA") pursuant to 21 U.S.C. 335a (a) or (b) ("Debarred Individual") from providing services in any capacity to a person that has an approved or pending drug product application, or an employer, employee or partner of a Debarred Individual or

b) a corporation, partnership or association that has been debarred by the FDA pursuant to 21 U.S.C. 335a (a) or (b) ("Debarred Entity") from submitting or assisting in the submission of

any abbreviated drug application, or an employee, partner, shareholder, member, subsidiary or affiliate of a Debarred Entity.

CONSULTANT further warrants and represents that no Debarred Individual or Debarred Entity has performed or rendered, or will perform or render, any services or assistance relating to activities taken pursuant to this Agreement. CONSULTANT further warrants and represents that CONSULTANT has no knowledge of any circumstances which may affect the accuracy of the foregoing warranties and representations, including, but not limited to, FDA investigation of, or debarment proceedings against CONSULTANT or any person or entity performing services or rendering assistance relating to activities taken pursuant to this Agreement, and CONSULTANT will immediately notify COMPANY if CONSULTANT becomes aware of any such circumstances during the term of this Agreement.

12. **Entire Agreement.** This Agreement contains the entire understanding of the parties with respect to the matters herein contained and supersedes all previous agreements and undertakings with respect thereto. This agreement may be modified only by written agreement signed by the parties.

    This Agreement shall be governed by and construed in accordance with the laws of the State of _____ without regard to its conflicts of laws rules.

COMPANY
(Address)

By: _____

Date: _____

CONSULTANT
(HOME Address)

By: _____

Date: _____