

PARTICIPATION AGREEMENT
between
THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
acting through
THE MERCED CAMPUS OF THE UNIVERSITY OF CALIFORNIA
on behalf of
THE UC MERCED ENERGY RESEARCH INSTITUTE (UCMERI)
and
INSERT PARTNER'S CORPORATE NAME

THIS AGREEMENT is made by and between THE REGENTS OF THE UNIVERSITY OF CALIFORNIA (“UC Regents”) acting through the MERCED CAMPUS OF THE UNIVERSITY OF CALIFORNIA and (INSERT PARTNER'S CORPORATE NAME) (“Industry Partner”) as follows:

WHEREAS, UC Regents has established at the University of California, Merced, an industry-university cooperative research center called the UC Merced Energy Research Institute (UCMERI); and

WHEREAS, UCMERI requires additional financial support to sustain its operations; and

WHEREAS, a primary goal of UCMERI is a broad and timely scientific dissemination of all worthy scientific results produced by UCMERI researchers for the advancement of science; with venues for such dissemination anticipated to include scientific conferences and other technical meetings, refereed scientific and technical journals, magazines and workshops; and

WHEREAS it is expected that industry sources, to be designated “Industry Partners”, will provide said financial support in order to secure member (sponsor) status including certain preferential benefits derived from the work of UCMERI (this member status will include subsidiaries of Industry Partner who are at least 50% owned by the Industry Partners); and

WHEREAS, (Insert Partner's Corporate Name) is desirous of becoming an Industry Partner;

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties hereto agree as follows:

1. RESEARCH AREAS

UCMERI conducts cross-disciplinary research that:

- a. Leads to new and improved renewable and sustainable energy generation technologies.
- b. Sets the standard for institutional energy efficiency and sustainable energy futures.

- c. Educates the energy industry and the next generation of energy scholars and practitioners.
- d. Examines domestic and global energy policy.

Areas of UCMERI research will vary as the field develops and as suggested by the Industry Advisory Board, hereinafter defined. Initial research areas include:

- a. Solar Concentration. This area conducts research in thermodynamically efficient (nonimaging) solar concentration for photovoltaic, solar thermal, and solar daylighting. Applications include electric power, cooling and process heat, and distributed lighting.
- b. Energy Efficiency and Intelligent Infrastructure. This area includes research in smart energy infrastructures, and use of the LEED-certified UC Merced campus as a living laboratory.
- c. Solar Forecasting Initiative (SFI). This initiative combines satellite and radar data with data gathered from ground-based solar irradiance measurement stations. Applications include predicting solar energy intensity and availability for electricity grid management purposes.
- d. Thermal Science. This research area investigates improved efficiency and reduced emissions of internal combustion engines and novel cooling and refrigeration cycles.
- e. Nanotechnology. Research in this area involves carbon nanotube solar cells and quantum dot semiconductors for solar energy conversion.

2. TERM OF AGREEMENT

The Effective Date (Effective Date) of this Agreement is INSERT MEMBER'S EFFECTIVE DATE. This Agreement will remain in effect for three (3) years from Effective Date or until terminated by either party, whichever occurs first. Either party may terminate the Agreement for convenience by providing written notice of such termination (Notice of Termination). Termination will be effective thirty (30) days from receipt of Notice of Termination. Industry Partner shall pay Membership Fees up to but not beyond Effective Date of Termination. If the Agreement is terminated, UC Regents will refund to the Industry Partner any remaining portion of its paid membership fee, pro-rated from the Effective Date of Termination. The provisions of Article 9, Confidentiality, will continue to be binding following termination.

3. MEMBERSHIP YEAR

A UCMERI Membership Year (Membership Year) extends from July 1 to June 30 of a contract year.

4. COST OF MEMBERSHIP

The annual level of support for this membership will be \$XX,XXX. For Industry Partners with Effective Dates after July 1, the annual fee for the first partial year shall be prorated.

Annual payments are due each year on or before July 1. Checks should be made payable to UC Regents, labeled "UCMERI Membership," and forwarded to:

University of California, Merced
Attn: Campus Cashier
P.O. Box 2039
Merced, CA 95344

5. MEMBERSHIP ELIGIBILITY AND BENEFITS

All corporations with demonstrated development expertise in UCMERI research areas and with legal standing in the U.S. are eligible for membership as Industry Partners. The UCMERI Management Committee may, subject to U.S. and State of California law and University of California policy, change or make exceptions to the eligibility criteria.

An Industry Partner will receive numerous benefits in consideration of its support. These benefits will extend, upon approval of the UCMERI Director, to related companies of the Industry Partner who agree to be bound by the terms of this Participation Agreement and who relate through at least 50% ownership-in-common with the Industry Partner. These benefits are as follows:

- a. The opportunity to influence the research topics of UCMERI through representation on the UCMERI Industry Advisory Board (IAB). Representation on the UCMERI IAB is limited to two employees of each Industry Partner.
- b. The right to use, subject to copyright and patent rights, all reports, data, and information made available by UCMERI, so long as UCMERI is acknowledged as the source of this information, and Prepublication Data is protected according to Article 8.
- c. Advance access to UCMERI reports and draft publications for gaining early knowledge of new developments prior to their wide dissemination. The right to use internally all data contained therein for research and evaluation purposes, as long as Prepublication Data is protected according to Article 9.
- d. Enhanced interactions with UCMERI faculty, students, and post-graduate researchers.
- e. The opportunity to attend one or more research review meetings scheduled during each membership year. These meetings are held at the UC Merced campus to review, assess, critique, and advise on recent, not yet published or publishable, research results. Attendance at these meetings is limited to five (5) employees of each Industry Partner and is subject to a confidentiality requirement.
- f. The opportunity to send, with separate agreement and fees, a Visiting Industry Fellow to UCMERI for in-residence research, sponsored and advised by a specific UCMERI researcher. All Visiting Industry Fellows are subject to the intellectual property policies of the University of California, as are all formal employees of the University of California.
- g. The opportunity to sponsor and fund separate projects with UCMERI-affiliated researchers. Any joint or collaborative research conducted between the parties shall be defined and

governed by such separate Sponsored Project Agreements. Intellectual property rights to inventions made in the performance of such sponsorship will be defined by such separate agreements.

- h. Recognition as a valued Industry Partner by the inclusion of the Industry Partner's name and, where appropriate, corporate logo on the UCMERI web page, in announcements, and other appropriate outreach activities, in accordance with Article 11.
- i. Industry Partner may indicate, through their public relations activities or other appropriate means, that they are a UCMERI Industry Partner.

6. PROGRAM MANAGEMENT

The Merced Energy Research Institute's Director is Professor Roland Winston. He shall be advised by the Industry Advisory Board. A succeeding Director may be appointed pursuant to agreement by the Industry Advisory Board and UC Regents. If, for any reason, Professor Roland Winston is unable to serve as Director, and no successor acceptable to both UC Regents and to a majority of UCMERI's Industry Partners is available, this Agreement shall be terminated.

7. RESULTS OF RESEARCH

UC Regents reserves the right to publish, disseminate, and use, in whatever manner it sees fit, all data and results of the research conducted by UC Regents in the performance of this Agreement. Nothing contained herein shall prohibit use of materials, disclosing or describing inventions in publications, theses and dissertations, although reasonable efforts will be made to avoid compromising the patentability of an invention.

8. CONFIDENTIALITY

- a. During the period of Industry Partners' participation in UCMERI under the terms of this Agreement, UC Regents may provide Industry Partner certain Prepublication Data and Invention Disclosures (collectively "UCMERI Data") related to the research activities of UCMERI. As used herein, Prepublication Data means results of research including but not limited to that presented by UCMERI to Industrial Partners at UCMERI meetings and that has not yet been published by the researchers at the time of such presentation. Prepublication Data may be oral, visual, or written, and may also include information provided or delivered by electronic means. If written, it shall be clearly marked "Confidential Prepublication Data." If disclosed orally or visually, the material considered Prepublication Data shall be identified at the time of presentation and shall be so designated in writing to Industry Partners within thirty (30) days of its original disclosure.
- b. The Industry Partner will maintain UCMERI Data in confidence for three (3) years from the date such UCMERI Data is disclosed, even if Industry Partner is no longer a member of UCMERI.
- c. Industry Partner agrees not to disclose UCMERI Data to others (except to its employees, agents, or consultants who are bound to Industrial Partner by a like obligation of

confidentiality) without express written permission of UC Regents except that Industry Partner shall not be prevented from using or disclosing any UCMERI Data which:

1. Industry Partner can demonstrate by written record was in its possession prior to receipt from UC Regents , exclusive of information obtained by a Visiting Industry Fellow or postdoc while in residence at UC Merced;
 2. is now, or becomes in the future, public knowledge other than through acts or omissions of Industry Partner;
 3. is lawfully obtained by Industry Partner from sources independent of UC Regents;
 4. is required to be disclosed by operation of law, provided that UC Regents has received advanced written notice of the proposed disclosure by the Industry Partner; or
 5. is disclosed by UC Regents to a third party without a nondisclosure obligation.
- d. To the extent such does not infringe UC Regents' valid copyright and patent rights, and subject to Industry Partner's obligation of nondisclosure, Industry Partner shall be free to use for any purpose any intangible residual ideas, concepts, know-how or techniques (as distinguished from the tangible implementation of such know-how, ideas, concepts and techniques) contained in UC Regents UCMERI Data (the "Residual Information") retained in the unaided memories of Industry Partner's employees. The marketing of products or services which inherently disclose Residual Information shall not be deemed a publication or disclosure of Confidential Information.
- e. It is further agreed that the furnishing of UCMERI Data to Industrial Partner will not constitute any grant or license to Industry Partner under any legal rights now or hereinafter held by UC Regents.

9. RIGHTS TO COPYRIGHTABLE MATERIALS

Title to and the right to determine disposition of all copyrightable works first created in the performance of this Agreement shall remain with UC Regents, provided, however, that UC Regents shall grant to the Industry Partner a royalty-free, nontransferable, nonexclusive right and license to, reproduce, display, distribute and perform all such copyrightable materials published by UC Regents subject to the copyright requirements of academic publishers. Industry Partner is authorized to disseminate all such copyrightable works, as well as summaries of research findings or other research results prepared by UC Regents or Industry Partner, with the exception of UCMERI Data distributed for Industry Partner's review, advice and comment, for the purpose of transferring information to interested parties.

This right and license shall not apply to computer software and its programming documentation developed in the performance of the research program.

10. RIGHTS TO SOFTWARE

UC Regents shall grant to the Industry Partner a royalty-free, nontransferable, nonexclusive right and license to reproduce, display, perform, and prepare derivative works, for internal non-commercial purposes, computer software and its programming documentation which is specified to be created and delivered under the Statement of Work of a UCMERI research project. All other license rights, of whatever scope, to computer software developed in the performance of the research program, shall be made available to Industry Partners by UC Regents as UC Regents, in its sole discretion, deems appropriate.

11. USE OF NAME

Except as required by law, Industry Partner agrees not to use the name "The Regents of the University of California," the name of any campus of the University of California, or any abbreviation or derivative thereof in any advertisement, publicity, or other release, with reference to this Agreement or any product or service resulting from this Agreement, without the prior written consent of the UC Regents. Except as required by law, UC Regents agrees not to use the name of Industry Partner or any abbreviation or derivative thereof in any advertisement, publicity or other release, with reference to this Agreement or any product or service resulting from this Agreement, without the prior written consent of Industry Partner.

12. NOTICES

Official notices under this Agreement shall be sent to:

For UC Regents:

University of California, Merced
Attn: Rich Miller
Associate Vice Chancellor for Research
P.O. Box 2039
Merced, CA 95344

For Industry Partner: (INSERT PARTNER'S SIGNATORY INFORMATION)

13. ENTIRE AGREEMENT

This Agreement states the entire contract between the parties in respect to the subject matter of this Agreement and supersedes any previous, contemporaneous, or subsequent written or oral representations, statements, negotiations or agreements. Industry Partner acknowledges that it has not been induced to enter into this Agreement by any oral or written statements or representations not expressly provided in this Agreement. This Agreement may be modified only by written agreement executed by both parties hereto.

14. GOVERNING LAW

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to its conflict of laws provisions. The parties expressly waive the right to trial by jury in any matter which arises under this Agreement.

IN WITNESS WHEREOF, the parties hereto caused this Agreement to be executed by their duly authorized representatives as of the day and year first above written.

INDUSTRY PARTNER

(PARTNER'S CORPORATE NAME/ADDRESS)

By: _____ Date: _____

THE REGENTS OF THE UNIVERSITY
OF CALIFORNIA ("UC Regents")

Rich Miller
Associate Vice Chancellor for Research
University of California, Merced

By: _____ Date: _____