

University of Oregon Master Testing Services Agreement

Thank you _____ ("You" or "Your" or "Company") for your request for services from the Center for Advanced Materials Characterization in Oregon ("CAMCOR") at the University of Oregon (collectively "University"). All services are provided on the terms and conditions set forth in this Agreement.

1. Purpose. The University, through CAMCOR, will perform the services and deliverables described in Section 1 of an Exhibit A - Task Order to this Agreement executed by You. Deliverables shall be Your property and shall be deemed to be trade secrets to the extent permitted by law.
2. Term. This Agreement is effective on the date of last signature below ("Effective Date"). This agreement has a term of two hundred (200) days from the Effective Date and will automatically renew for consecutive two hundred (200) day terms until either party terminates this Agreement in accordance with Section 7 below.
3. Payment. You agree to pay upon receipt of an invoice the sum described in Section 2 of an Exhibit A - Task Order to this Agreement executed by You. Payment will be made in lawful money of the United States of America. Payments not made in full within 30 days of the date of the invoice will bear simple interest at a rate of 8 percent per annum.
4. Confidentiality.
 - a. "Confidential Information" shall mean any disclosed materials, written information, and data marked "Confidential" by You or non-written information and data disclosed by You that You identify at the time of Your disclosure to the University as confidential and You reduce to writing and transmit to the University within thirty (30) days of such non-written disclosure. Confidential Information must be disclosed for the purpose of determining if You wish to have CAMCOR provide testing services or while CAMCOR is providing testing services for You. Dissemination of your Confidential Information by University shall be limited to those CAMCOR employees of University whose duties justify their need to know such information, and who have agreed in to maintain the confidential status of Confidential Information and to restrict use of the Confidential Information as set forth in this Agreement. University agrees to use the same degree of care it uses to protect its own confidential information and, to the extent permitted by law, to maintain as confidential for a period of three (3) years the Confidential Information You disclose to University under this Agreement from the date of disclosure.
 - b. Nothing in this Agreement restricts University of the right to use or disclose any of the Confidential Information:
 - i. which is, at the time of disclosure, generally known to the trade or the public;
 - ii. which becomes at a later date generally known to the trade or to the public through no fault of University and then only after said later date;
 - iii. which is possessed by University before receipt thereof from You as demonstrated by written evidence, or is independently developed by University as demonstrated by written evidence;
 - iv. which is disclosed to University in good faith by a third party who has an independent right to such information; or
 - v. which is required by law, regulation or court order to be disclosed, including but not limited to Oregon Public Records Law. In the event that Confidential Information is required to be disclosed by University pursuant to this subsection of this Agreement, University shall notify Company prior to such disclosure to allow Company to use the exclusions or exemptions that are available under such law, regulation or court order. University shall furnish only that Confidential Information which is legally required and will exercise its best efforts to obtain reliable assurance that confidential treatment will be accorded Discloser's Confidential Information so disclosed.
 - c. Nothing in this Agreement shall be construed as granting either an implied or express license or any rights express or implied to obtain any license to the Confidential Information or any patents, trademarks, or domain names arising from or disclosed in the Confidential Information. Your Confidential Information remains your sole and exclusive property.
 - d. University designates _____ as the primary contact to receive Confidential Information from You.
 - e. YOU MAKE NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO THE ACCURACY, UTILITY, RELIABILITY AND/OR SUITABILITY FOR ANY PURPOSE OF CONFIDENTIAL INFORMATION. UNIVERSITY AGREES YOU SHALL HAVE NO LIABILITY TO UNIVERSITY AND/OR ITS OFFICERS,

DIRECTORS AND EMPLOYEES FOR ANY LOSS, COSTS, EXPENSES, DAMAGES AND/OR INJURIES (INCLUDING DEATH) ARISING OUT OF, RESULTING FROM AND/OR OCCURRING IN CONNECTION WITH RECIPIENT'S RECEIPT, USE OF AND/OR RELIANCE ON ANY SUCH INFORMATION INCLUDING, BUT NOT LIMITED TO, ANY LIABILITY FOR CONSEQUENTIAL, PUNITIVE, INCIDENTAL, EXEMPLARY AND/OR SPECIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOSS OF BUSINESS OPPORTUNITY AND/OR PROFIT).

- f. Export of Confidential Information. University agrees that it will comply with all export control laws and regulations with regards to the Confidential Information. You agree to identify any Confidential Information that is subject to export control laws or regulations before disclosing it to University and University may refuse to accept that information.
 - g. University may not assign its obligations of confidentiality under this Agreement.
5. Intellectual Property. University has no interest in the deliverables provided under this Agreement.
6. Publicity. Neither party will use the name, service mark, trademark, or abbreviation thereof of the other party in any publicity, advertising, or news release without the prior written approval of the authorized representative of the other party.
7. Termination. Either party may terminate this Agreement or an executed Exhibit A - Task Order upon written notice to the other at the address set forth in Section 3 of Exhibit A. All reasonable costs and non-cancelable obligations incurred by the University at the time of termination shall be reimbursed by You. At Your written request and expense, University will return to You or destroy all unused materials, samples or Confidential Information provided by You. The previous sentence is subject to the restrictions and requirements of Oregon Records Retention Law. University may discard all unused material or samples You do not specifically request in writing to be returned to You after services are completed.
8. Independent Contractor. The parties are independent contractors and not partners, joint venturers, or principal and agent.
9. LIABILITY. IN NO EVENT WILL THE UNIVERSITY BE RESPONSIBLE FOR ANY DAMAGES OR PENALTIES RESULTING FROM UNIVERSITY'S FAILURE TO PROVIDE OR DELAY IN PROVIDING THE SERVICES OR DELIVERABLES. IF A SERVICE OR DELIVERABLE IS FOUND, WITHIN SIX MONTHS OF INVOICE THEREFOR, TO BE DEFECTIVE OR INACCURATE, THE UNIVERSITY WILL PROVIDE THE SERVICE OR DELIVERABLE AGAIN AT NO COST TO YOU. THIS IS YOUR SOLE AND EXCLUSIVE REMEDY UNDER THIS AGREEMENT. THE SERVICES AND DELIVERABLES ARE PROVIDED "AS IS" AND UNIVERSITY EXPRESSLY DISCLAIMS ANY WARRANTIES EXISTING BY OPERATION OF LAW, INCLUDING BUT NOT LIMITED TO THOSE WHICH ARE EXPRESS OR IMPLIED. IN NO EVENT WILL UNIVERSITY BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES WHATSOEVER, NOR WILL THE UNIVERSITY'S AGGREGATE LIABILITY TO YOU EVER EXCEED THE AMOUNT PAID BY YOU UNDER THIS AGREEMENT. YOU AGREE TO INDEMNIFY AND HOLD HARMLESS UNIVERSITY AGAINST ANY CLAIMS ARISING OUT OF YOUR USE, COMMERCIAL SALE, OR DISTRIBUTION OF THE DELIVERABLES OR PRODUCTS OR PROCESSES RESULTING FROM OR YOUR RELIANCE UPON THE DELIVERABLES.
10. General. This Agreement is non-assignable and non-transferrable. Any legal proceeding instituted by You shall be in the courts of the state of Oregon. This Agreement shall be governed by the laws of the State of Oregon. You certify that You are duly authorized to enter into this Agreement and that this Agreement is binding upon You. This Agreement contains the entire expression of University's confidentiality obligations with respect to the Confidential Information. This Agreement may not be changed, modified, amended or supplemented, except by a written instrument signed by both parties. The unenforceability of any provision of this Agreement shall not affect the enforceability of any other provision of this Agreement. University will not be bound by any other terms and conditions contained in any purchase order, license, or any other document provided by You. Even if a University employee agrees to any additional terms or conditions, You acknowledge and agree that those terms and conditions are null and void and are not binding on the University. You acknowledge and agree that the terms and conditions of this Agreement represent the entire agreement of the Parties for the services provided under this Agreement.

COMPANY:

Signature: _____
Name and Title: _____
Company: _____
Date: _____

UNIVERSITY:

Signature: _____
Name and Title: _____
Date: _____

Exhibit A - Task Order No. ____
to University of Oregon Master Testing Services Agreement

1. Services and Deliverables:

Company seeks materials characterization services, and delivery of data in all forms (images, spectra, and text) from the services performed by CAMCOR. Primary services include, but are not limited to: XRD, XPS, ToF-SIMS, FIB-SEM , TEM, polymer characterization and sample preparation.

2. Amount Payable:

Company agrees to pay CAMCOR's standard commercial rates for all services and sample preparation.

3. Contacts:

Company

University

COMPANY:

Signature: _____
Name and Title: _____
Company: _____
Date: _____

CAMCOR (ACKNOWLEDGING RECEIPT & ACCEPTANCE):

Initial: _____
Name and Title: _____
Date: _____