

PARTNERSHIP INTERMEDIARY AGREEMENT (PIA)

BETWEEN

[NAVY ACTIVITY]

AND

[PARTNERSHIP INTERMEDIARY]

AGREEMENT NUMBER: PIA-**[Navy Org.]**-**[last two digits of CY]**-**[serial number]**

AGREEMENT ADMINISTRATORS:

[NAVY ACTIVITY]

Technology Transfer Office

Point of Contact:

[insert name, organizational code, telephone number, e-mail address]

Legal Counsel:

[insert name, organization code, telephone number, e-mail address]

[PARTNERSHIP INTERMEDIARY]

Preferred Contact:

[insert name, telephone number, e-mail address]

Legal Counsel:

[insert name, telephone number, e-mail address]

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PARTNERSHIP INTERMEDIARY AGREEMENT (PIA)

BETWEEN

[NAVY ACTIVITY]

AND

[PARTNERSHIP INTERMEDIARY]

PREAMBLE

Under authority of the U.S. Federal Technology Transfer Act of 1986 (Public Law 99-502, 20 October 1986, as amended), (hereinafter referred to Title 15 United States Code, (U.S.C.), Section 3715) **[NAVY ACTIVITY]**, located at **[supply appropriate address]**, and **[Partnership Intermediary]**, whose headquarters are located at **[supply appropriate address]**, (hereinafter referred to individually as a "Party" or collectively as the "Parties") enter into this Partnership Intermediary Agreement (PIA), which shall be binding upon the Parties according to the clauses and conditions hereof and for the term and duration set forth.

The Parties agree as follows:

Article 1. DEFINITIONS

1.1. The term "Agreement" as used herein shall mean a PIA as authorized by Title 15 U.S.C., Section 3715 for performance of partnership intermediary services. This Agreement is neither a procurement contract subject to the Federal Acquisition Regulation, nor a support agreement subject to the DoD Grant and Agreement Regulations.

1.2. The term "Data" means recorded information of any kind regardless of the form or method of recording.

1.3. The term "Federal Laboratory" means any organization defined in Title 15 U.S.C., Section 3703(6), as amended.

1.4. The term "Government" refers to the United States Government.

1.5. The term "Invention" means any discovery or invention that is or may be patentable or otherwise protected under Title 35, U.S.C., or any novel variety of plant that is or may be patentable under the Plant Variety Act (Title 15 U.S.C., 3703(9)).

1.6. The term "License Agreement" shall mean an agreement to license a Federally-owned invention under Title 35 U.S.C., Section 207-11 and 37 C.F.R. Part 404.

1.7. The term "Proprietary Information" shall mean information that embodies trade secrets developed at private expense or business, commercial, or financial information that is privileged and confidential provided that such information: is not known or available from other sources without obligations concerning its confidentiality; has not been made available by the owners to others without obligation concerning its confidentiality; is not already available to the Government without obligation concerning its confidentiality; or has not been developed independently by persons who have had no access to the information.

Article 2. PARTIES

2.1. The **[Navy Activity]** **[provide description]**.

2.2. The **[Partnership Intermediary]** **[provide a description that includes a citation to the legal authority establishing the Partnership Intermediary and its mission statement]**.

Article 3. BACKGROUND AND PURPOSE

3.1. Title 15 U.S.C., Section 3715 (Use of Partnership Intermediaries) specifically authorizes the Director of a Federal Laboratory to enter into memoranda of understanding and contracts with State and local governmental agencies and nonprofit entities owned, chartered, funded, or operated by or on behalf of a State or local government to perform partnership intermediary services that increase the likelihood of success in the conduct of cooperative or joint activities with small business firms and educational institutions that need or can make demonstrably productive use of technology-related assistance from a Federal Laboratory. These services include the promotion of cooperative or joint activities with small business firms and educational institutions that need or can make demonstrably productive use of technology-related assistance from Federal Laboratories.

3.2. The purpose of this Agreement is to promote cooperative activities between **[Navy Activity]** and small business firms and educational institutions served by **[Partnership Intermediary]**. The services to be provided by **[Partnership Intermediary]** as hereinafter described are intended to **[insert purpose as authorized under the Statute]**.

Article 4. DESIGNATED REPRESENTATIVES

4.1. The **[Navy Activity]** designated representative responsible for coordination of activities under this Agreement is **[insert name and position of representative]**. The **[Navy Activity]**'s representative will coordinate directly with the designated **[Partnership Intermediary]** representative.

4.2. The **[Partnership Intermediary]**'s designated representative responsible for coordination of activities under this Agreement is **[name and position of the representative]**. The **[Partnership Intermediary]** representative will coordinate directly with the designated **[Navy Activity]** representative.

Article 5. AGREEMENT ACTIVITIES

5.1. To accomplish the purposes of this Agreement, the Parties' representatives will engage in discussions and use their best efforts to identify activities under which small business firms and educational institutions can make demonstrably productive use of technology-related assistance from **[Navy Activity]**. The Parties will use their best efforts to accomplish the purpose of this Agreement.

5.2. [Optional] Licensing **[Navy Activity]** Inventions. **[Navy Activity]** will identify to **[Partnership Intermediary]** such of its Inventions that are available for licensing. **[Partnership Intermediary]** will attempt to locate and identify to **[Navy Activity]** small businesses and educational institutions within its area of responsibility that have an interest in licensing **[Navy Activity]** Inventions. **[Navy Activity]** will engage in discussions with such interested businesses and educational institutions as are identified to it with a view toward reaching a patent license agreement. Such discussions and any resulting license agreement will be accomplished in full accordance with all applicable Federal laws and regulations. **[Partnership Intermediary]** may choose to participate in the license discussions and provide such other assistance to interested small businesses or educational institutions as is consistent with its corporate charter.

5.3. [Optional] Submission of Research Proposals to **[Navy Activity]**. **[Navy Activity]** will identify to **[Partnership Intermediary]** areas of **[Navy Activity]** research and development activities where the submission of proposals are desired under the **[Navy Activity]** Broad Agency Announcement (BAA). The **[Navy Activity]** BAA is issued under the provisions of paragraphs 35.016 and 6.102(d)(2) of the Federal Acquisition Regulation (FAR). These provisions provide for the use of BAA's by agencies to fulfill requirements for scientific study and experimentation directed toward advancing the state-of-the-art or increasing knowledge or understanding rather than focusing on a specific system or hardware solution. **[Partnership Intermediary]** will attempt to locate small businesses and educational institutions interested in submitting proposals, advise those interested in proposal requirements, and provide such other assistance as is within its charter to perform. All proposals received will be considered by **[Navy Activity]** in accordance with applicable Federal laws and regulations.

5.4. [Optional] **[Navy Activity]** Support For Outside Activities. **[Navy Activity]** will identify to **[Partnership Intermediary]** research and development capabilities of **[Navy Activity]** that may be made available to small businesses and educational institutions that need or can make use of technology-related assistance from **[Navy Activity]**. **[Partnership Intermediary]** will attempt to locate and advise such small businesses and interested educational institutions of the availability of such capabilities and the related procedures and conditions. In the preparation and submission of proposals, **[Partnership Intermediary]** may choose to participate and provide such other assistance to interested small businesses or educational institutions as is consistent with its corporate charter. **[Navy Activity]** will fully consider all requests submitted for such support. All support will be provided as appropriate in accordance with applicable Federal laws and regulations.

5.5. [Optional] Technology Marketing Programs and Showcases. **[Navy Activity]** and **[Partnership Intermediary]** will cooperate in planning and presenting various programs that showcase **[Navy Activity]** technology and research and development areas of interest.

5.6. [Optional] Small Business and Educational Institution Technology and Capabilities. **[Partnership Intermediary]** will sponsor activities and programs that showcase the technology and capabilities of small businesses and educational institutions within its area of responsibility that may be of interest to **[Navy Activity]** in connection with its research and development mission.

5.7. [Optional] **[Navy Activity]** **[may describe other activities that are authorized within the scope of Title 15 U.S.C., Section 3715].**

Article 6. FUNDING

6.1. Other than as expressly provided herein, no funds of either Party are in any way committed or obligated for any purpose whatsoever by virtue of entering into this Agreement. This Agreement does not identify or require the transfer of funds between the Parties. This Agreement shall not be construed to authorize or guarantee funding for any proposals submitted in response to any solicitation, nor shall it be construed as a guarantee of future funding. Nor shall this Agreement be construed as an endorsement of any proposal submitted by any Party or non-Party.

6.2. Each Party shall be responsible for funding its own activities under this Agreement, except as expressly provided herein. Each Party is individually responsible for assuring that its funding commitments are fully in accordance with all fiscal requirements and restrictions applicable to it by law and regulation.

Article 7. INTELLECTUAL PROPERTY

7.1. In the event that employees of the Parties make an Invention or produces technical Data while performing the Agreement activities, each Party shall have title to the Data or Invention made or produced by its employees. Inventions made and Data produced jointly by those employees, shall be jointly owned by the Parties in the form of an equal and undivided interest in the title.

7.2. Rights in intellectual property created under a separate agreement resulting from this Agreement shall be determined in accordance with the terms of the separate agreement.

7.3. No rights in any intellectual property are conveyed or granted by or under this Agreement.

Article 8. PROPRIETARY OR PROTECTED INFORMATION

8.1. During performance of activities under this Agreement, the Parties may require access to Proprietary Information of each other and non-Party small businesses and educational institutions identified by **[Partnership Intermediary]**. Likewise, such non-Party small businesses and educational institutions may require access to information about patentable **[Navy Activity]** Inventions that are exempted from disclosure under Title 35 U.S.C., Section 205 (Confidentiality). The Parties agree to use their best efforts to enter into agreements with each other and any non-Party entities as may be necessary to protect such information from unauthorized use or disclosure and to refrain from using such information for any purpose other than that for which it was furnished.

8.2. No exchange of information under this Agreement is intended to convey to the receiving Party any license or other rights in such information unless otherwise expressly provided in writing by the disclosing Party.

Article 9. GENERAL PROVISIONS

9.1. Relationship of the Parties. The relationship of the Parties is that of independent parties and not as agents of each other, partners, or participants in a joint venture.

9.2. Security. Performance of work under agreements with small businesses and educational institutions established as the result of this Agreement may require access to classified information and secure facilities. Performers of such work may be required to qualify in accordance with applicable security regulations.

9.3. Export Control. Work on certain **[Navy Activity]** research projects may involve militarily critical technology or information the export of which is restricted by statute, executive order, or regulation (including, but not limited to, the Arms Export Control Act, the International Traffic in Arms Regulation, the Export Administration Act). The Party desiring to export shall ensure full compliance with all applicable requirements and restrictions before it makes any disclosure that may be deemed an export of such information. Nothing in this article is intended to waive any requirements imposed by any other U.S. Government agency with respect to disclosure of export controlled information or militarily critical technology to foreign nationals.

9.4. Liability.

9.4.1. Government Liability. **[Navy Activity]** is an activity of the U.S. Government. As such, the sovereign immunity of the United States applies to the activities of **[Navy Activity]**. The Government shall be liable for the negligent or wrongful acts of its officers and employees to the extent provided for in the Federal Tort Claims Act (Title 28 U.S.C., Section 2671 *et seq.*) and other applicable laws and regulations of the United States that specifically waive sovereign immunity. Nothing in this Agreement shall be construed as a waiver of the sovereign immunity of the United States.

9.4.2. **[Partnership Intermediary]** Liability. **[Partnership Intermediary]** is a state chartered corporation and public instrumentality of the **[indicate State or Commonwealth]**. **[Partnership Intermediary]** and the **[indicate State or Commonwealth]** shall be solely responsible for the actions of **[Partnership Intermediary]** employees and the actions of those acting for it in the performance of this Agreement to the extent provided for under the applicable provisions of the State law. Nothing in this Agreement shall be construed as a waiver of the sovereign immunity of the **[indicate State or Commonwealth]** in accordance with **[provide citation]**.

9.4.3. *Force Majeure*. Neither Party shall be liable for the consequences of a *force majeure* that (1) is beyond its reasonable control; (2) is not caused by the fault or negligence of such Party; (3) causes such Party to be unable to perform its obligations under this Agreement; and, (4) cannot be overcome by the exercise of due diligence. In the event of the occurrence of a *force majeure*, the Party unable to perform shall notify the other Party. The Parties shall suspend performance only for such period of time as is necessary to overcome the result(s) of the *force majeure* and shall use their best efforts to resume performance as quickly as possible.

9.5. Savings Provision. The illegality or invalidity of any provisions of this Agreement shall not impair, affect, or invalidate the other provisions of this Agreement.

9.6. Applicable Law. The Parties agree that the laws of the United States of America shall govern this Agreement for all purposes. In the absence of governing Federal law, the laws of the **[identify State or Commonwealth]** shall apply.

9.7. Termination of the Agreement.

9.7.1. Termination by Mutual Consent. The Parties jointly may elect to terminate this Agreement at any time by mutual consent.

9.7.2. Unilateral Termination. Either Party may elect to terminate this Agreement at any time by giving to the other Party not less than thirty (30) days advance written notice of the intent to terminate and the effective date of termination.

9.7.3. Survivability. Article I. DEFINITION, Article VI. FUNDING, Article VII. INTELLECTUAL PROPERTY, Article VIII. PROPRIETARY OR PROTECTED INFORMATION, Article IX. GENERAL PROVISIONS, Article X. PUBLICATIONS, shall survive the completion, termination or expiration of this Agreement. **[Other articles may be added to this list if deemed desirable].**

9.8. Duration of the Agreement. This Agreement shall remain in effect for **[insert number]** months from its effective date unless previously terminated or extended as provided by this Agreement. The Parties may by mutual written agreement extend the term of the Agreement.

9.9. Property. Each Party shall retain title to all tangible property that it has acquired by purchase or gift and used in performance of tasks under this Agreement.

9.10. Titles and Headings. Titles and headings of the sections and subsections of this Agreement are for convenience of reference only and do not form a part of this Agreement and shall in no way affect the interpretation thereof.

9.11. Agreement Not An Exclusive Agreement. The rights granted by **[Navy Activity]** to **[Partnership Intermediary]** under this Agreement to perform the services of this Agreement are not exclusive. The Government may grant permission to other entities to perform the same or similar services at any time.

9.12. Entire Agreement. This Agreement constitutes the entire Agreement between the Parties concerning the subject matter hereof and supersedes any prior understanding or written or oral agreement relative to said matter.

9.13. Reports.

9.13.1. Annual Report. **[Partnership Intermediary]** shall submit to **[Navy Activity]** an annual report summarizing its efforts in furtherance of this Agreement. The report should provide a concise and factual discussion of the results of its efforts to include: a listing of small businesses and educational institution contacts; agreements entered by **[Navy Activity]** with small businesses and academic institutions that it identified; significant accomplishments resulting from those agreements (publications, technological developments, inventions, patents, product development and sales, etc.); any measurable effect upon community business and employment; lessons learned and recommendations for improvement; and such other information deemed pertinent by **[Partnership Intermediary]**.

9.13.2. Final Report. **[Partnership Intermediary]** shall submit a final report summarizing the entire effort during the term of the Agreement in the same topic areas required for the annual report.

9.14. Disputes. The Parties agree to use reasonable efforts to reach a fair settlement of any dispute. If such efforts are unsuccessful, remaining issues in dispute will be referred to the signatories or their successors for resolution.

9.15. Waivers. No provision of this Agreement shall be considered waived by any Party hereto unless such waiver is given in writing to the other Party. The failure of any Party to insist upon strict performance of any of the terms and conditions hereof, or failure or delay to exercise any right provided herein or by law, shall not be deemed a waiver of any right of any Party hereto.

9.16. Amendments. The Parties shall, upon reasonable notice of the proposed modification by the Party desiring the change, confer in good faith to determine the desirability of such modification. Such modification shall be effective upon the date of the last signature of the authorized representatives of each of the Parties.

9.17 Use of Name or Endorsements. Neither Party shall use the name of the other Party on any product or service which is directly or indirectly related to this Agreement without the prior approval of the other Party. By entering into this Agreement, neither Party directly or indirectly endorses any product or service provided, or to be provided, by the other Party, its successors, assignees, or licensees. Neither Party shall imply in any way that this Agreement is an endorsement by the other Party of any product or service.

9.18 Notices. All notices are to be sent to the PIA administrators.

Article 10. PUBLICATIONS

10.1. Publication of Results. **[Partnership Intermediary]** is encouraged to publish results of the Agreement. Each article planned for publication shall be submitted to the **[Navy Activity]** designated representative for review and approval prior to submission for publication.

10.2. Governmental Use. Any publication based on or developed under this Agreement will reflect that the U.S. Government is licensed to reproduce and distribute the article for Governmental purposes notwithstanding any copyright or other restrictive legends.

10.3. Disclaimer. Published articles shall contain the statement that "the views and conclusions contained herein are those of the authors and should not be interpreted as necessarily representing the official policies or endorsements, either expressed or implied, of the Department of the Navy or the U.S. Government."

Article 11. EFFECTIVE DATE

11.1 This Agreement shall become effective upon the date of the last signature of the authorized representatives of each of the Parties.

Article 12. SIGNATURES

For **[Partnership Intermediary]**:

I, the undersigned, am duly authorized to bind **[Partnership Intermediary]** to this Agreement and do so by affixing my signature hereto.

Entered into this _____ day of _____ 200____.
(month)

By: _____
Name:

Title:

Address:

For **[Navy Activity]**:

I, the undersigned, am duly authorized to bind **[Navy Activity]** to this Agreement and do so by affixing my signature hereto.

Entered into this _____ day of _____ 200____.
(month)

By: _____
Name:

Title:

Address: