

GRANT AGREEMENT FOR UNIVERSITY PROJECTS

This Grant Agreement (the "Agreement") is entered between the Ohio Air Quality Development Authority, Ohio Coal Development Office ("Grantor"), located at 50 West Broad Street, Suite 1718, Columbus, Ohio 43215-5910 and _____ University ("Grantee"), located at _____, telephone _____; FTI number _____. This Agreement shall be referred to as Agreement No. _____.

RECITALS

WHEREAS, the Ohio General Assembly has authorized Grantor to develop and promote plans and programs designed to assure that State of Ohio (the "State") resources are efficiently used; to prepare and activate plans for the retention, development, expansion, and use of resources and commerce of this State; to encourage and foster research and development activities to conduct studies (Ohio Revised Code; and to assist in the development of facilities and technologies that will lead to increased, environmentally sound use of Ohio coal; and

WHEREAS, the Ohio General Assembly has declared that the public policy of the State, through the operations of the Ohio Coal Development Office, is to contribute toward one or more of the following: to provide for the comfort, health, safety, and general welfare of the inhabitants of the State through research and development in support of the discovery of new technologies or the demonstration or application of existing technologies to enable the conversion or use of Ohio coal as a fuel or chemical feedstock in an environmentally acceptable manner, thereby enhancing the marketability and fostering the use of this State's vast reserves of coal; to assist in the financing of coal research and development and coal research and developments projects or facilities for persons doing business in this State and educational and scientific institutions located in this State; to create or preserve jobs and employment opportunities or improve the economic welfare of the people of the State; or to assist and cooperate with such persons and educational and scientific institutions in conducting coal research and development (ORC 1555.02); and

WHEREAS, the State of Ohio periodically issues Full Faith and Credit Coal Research and Development Bonds ("Bonds") for the purpose of making grants for research and development of coal technology that will encourage the use of Ohio coal to any individual, association, or corporation doing business in Ohio, or to any educational or scientific institution located in Ohio; and

WHEREAS, the Grantor upon the advice of the Technical Advisory Committee and the approval of the Ohio Air Quality Development Authority may make grants from the proceeds of the bonds issued or to be issued and any income earned thereon, to persons doing business in the State or to scientific institutions located in this State for coal research and development projects qualifying under ORC 1555.02; and

WHEREAS, the Ohio Air Quality Development Authority approved this project via Resolution _____ adopted _____; and

WHEREAS, the Director of the Ohio Coal Development Office hereby determines that the subject work of this Agreement is a coal research and development project under Chapter 1555 of the ORC and is consistent with the purposes of Section 15 of Article VIII of the Ohio Constitution (ORC 1555.02); and

WHEREAS, Sections 1551.31 and 1551.33 of the Ohio Revised Code require the Ohio Coal Development Office to encourage, promote, and support the market acceptance and increased market use of Ohio coal through technology and market development (ORC 1551.32); to assist and cooperate with governmental agencies, universities and colleges, coal producers, coal miners, electric utilities and other coal users, public and private sector coal development interests, and others (ORC 1551.32); to initiate, undertake and support projects to carry out the Office's purposes and ensure that the projects are consistent with the Ohio Coal Development Agenda (ORC 1551.33); that the increased use of Ohio coal in this State could enable the State to be more energy self-sufficient (ORC 1551.31); and that it is therefore imperative for this State to have a strong, viable coal industry in order to create and preserve jobs and improve the economy of this State (ORC 1551.31); and

NOW, THEREFORE, in consideration of the mutual promises and covenants hereinafter set forth, the Grantor and Grantee mutually agree that:

SECTION I. GRANT OF FUNDS AND COST SHARE

1) The State of Ohio, Ohio Air Quality Development Authority, Ohio Coal Development Office (OCDO) hereby grants funds to _____ University in an amount up to but not exceeding _____ and No/100 Dollars (\$_____) for the sole and express purpose of _____, henceforth referred to as "the Project."

(a) Grantee shall not use any of the Grantor's funds to purchase or test non-Ohio coals. However, coal blends where the predominate coals in the blends are Ohio coals are allowable. Testing of any other coals may be done with other project funds.

2) This grant of funds shall be contingent upon the continued financial participation in the Project by the United States government or its agencies, by private corporations, by local governmental agencies, or by other organizations involved in the Project as represented by the Grantee in its proposal and subsequent documents to the Grantor. Such financial participation may be in the form of cash, services in furtherance of the Project or other monetary and nonmonetary contributions, or a combination thereof. Upon execution of this Agreement, but prior to any disbursement of funds by Grantor, Grantee must submit to Grantor letters of commitment from all project co-sponsors on the co-sponsors' official letterhead. Such commitments must be signed by an authorized authority of the co-sponsor.

3) Grantor's obligation in the Project will not exceed _____ percent (___ %) of the total cost of the Project. However, in no event shall the dollar award in this Agreement exceed that stated in Section I, Paragraph 1, above.

4) Any changes to this Agreement or its Project that may be administratively approved, as set forth below, will not be effective without the written approval of the Director of the Ohio Coal Development Office. Any administrative changes that do not have the written approval of the OCDO Director will not be binding upon the Grantor.

SECTION II. TERM OF THE AGREEMENT

1) The term of this Agreement will be from _____ (the "Project Start Date") to _____ (the "Project Completion Date"). All work and activities described herein must begin within thirty (30) days following the execution of this Agreement and must be completed on or before the Project Completion Date.

2) If the Grantee determines an extension of the Project Completion Date or any other delivery date of any item due under this Agreement is necessary, Grantee must notify Grantor in writing as soon as it becomes aware of the need. The request for a time extension shall set forth the reason(s) for the Project's delay and the requested new Project Completion Date. The Grantee must identify whether the delay is due to: force majeure or acts of God; unanticipated research results which constitute a new project direction; or issues or problems not under the control of the Grantee. Grantor's Ohio Coal Development Office Director may administratively extend the Project once for a period no longer than twelve (12) months. Requests for additional time must be presented to the Ohio Air Quality Development Authority in a regularly scheduled meeting for its consideration. Failure to adequately budget time for the various components of the Project or other matters deemed within the Grantee's control is not a legitimate reason for project extension and may result in a penalty loss of a portion of the Grant Funds. Grantor may or may not grant a request for a time extension to the Project Completion Date. Should Grantor and Grantee agree to changes in the Project Timeline or Gantt chart, then the Grantee will also be required to update the Statement of Work, the Project's Projected Monthly OCDO Cash Draw and cost projections, as referenced in Section III, Paragraphs 2 and 3, and its Form C, as referenced in Section IV, Paragraph 4.

SECTION III. PROJECT WORK TASKS AND DELIVERABLES

1) Grantor's funds shall be used to test only Ohio coals and the products remaining from their use or to otherwise advantage Ohio coal. Any testing of non-Ohio coals for comparison purposes may be done with project cost share funds.

2) Grantee must perform all work tasks and submit all Deliverables for this Project as described in the Statement of Work ("SOW"), which is attached hereto as **Exhibit A**, as described below.

3) A Budget and a Timeline or Gantt chart shall be included as a part of the Statement of Work. As a part of the Project's Budget, the Grantee must include the Project's Projected Monthly OCDO Cash Draw from the Grantor, based upon its Project cost projections. The Projected Monthly OCDO Cash Draw must also separately distinguish and disclose the Project's estimated cost share draw during the course of the Project. If the actual OCDO Monthly cash draw varies by greater than ten (10) percent in any Month, it may cause a financial review of the Project's cost and cash draw projections. The Grantee acknowledges that failure to achieve the draw down of OCDO cash as projected for reasons other than those listed in Section II, Paragraph 2 may result in a penalty.

4) The parties acknowledge that it is Grantee's sole responsibility to conspicuously mark those passages, diagrams, formulas, and other intellectual property, that it deems to be trade secret as defined in ORC Section 1333.61 on any and all materials it submits to Grantor. Grantee understands that all documents, records or writing not specifically excluded as trade secrets are subject to Ohio Public Records Law, ORC 149.43. All parties to this Agreement acknowledge that Grantor has no responsibility express or implied for any trade secrets sent to it via electronic mail. Such information, which may be

necessary to adequately review the Projects, should be sent to the Grantor either on disc or paper photocopy.

5) All written materials, including all reports, papers, published articles, promotional pieces, newsletters, press releases and other printed materials referencing this Project and its work shall credit Grantor's participation in the Project by name as "Ohio Coal Development Office of the Ohio Air Quality Development Authority."

6) Grantee agrees that, using its best efforts to the fullest extent possible, it will procure and use Ohio-based services, equipment and supplies and will report on same in its Monthly Status Reports.

7) Grantor will be included in any project review or project management meetings and will be given reasonable notice thereof. To the extent possible, such meetings will be held in Ohio.

8) It is Grantee's responsibility to ensure that all written Deliverables are produced in grammatically correct standard American English.

9) Monthly Status Reports must be submitted by Grantee to Grantor by the tenth day of each succeeding month. Such Status Reports must be prepared pursuant to Grantor's "Monthly Status Report Format," which is attached hereto as **Exhibit B**. Status Reports must be accompanied by color photographs of the project, as appropriate.

10) As noted on the Gantt chart in the Statement of Work, Exhibit A, Grantee shall submit to Grantor Milestone Reports at the conclusion of discrete sections of work tasks. Milestone Reports shall be prepared pursuant to the Grantor's "Milestone Report Format," which is attached hereto as **Exhibit C**.

11) Grantee must submit to Grantor a comprehensive draft of the Final Project Report no less than sixty (60) days prior to the Project Completion Date. The Final Report shall be prepared pursuant to Grantor's "Final Report Format Guidelines," which are attached as **Exhibit D**. Upon review, Grantor may accept the draft as submitted or may return comments to the Grantee within thirty (30) days in order to correct any errors, modify the report for greater clarification, or provide greater description of the project and its results. Should the Final Report need modification, supplementation or further explanation after Grantor has reviewed it, Grantee must modify, correct, supplement or explain such questioned portions of the Final Report and submit it to the Grantor on or before the Project Completion Date. Grantee shall submit to Grantor copies of the comprehensive Final Report as follows: two bound copies, one loose-leaf single-sided copy; one copy on CD-ROM disc in Adobe, portable document format (pdf).

12) Notwithstanding the above, for agreements whereby the Grantee receives financial participation from multiple sources, only one mutually agreed upon reporting format will be required of the Grantee for Status, Milestone and Final Reports. However, both parties agree that all of the information requested in Grantor's reporting formats as attached hereto shall be included in whatever reports are generated, regardless of the final format.

13) The Grantee shall be required to explore and report on existing, planned, or possible relationships with other research and development programs sponsored by the State of Ohio and listed in **Exhibit E**, "Ohio Research & Development Alignment Programs." If any additional funding may be obtained from any of these other programs, the Grantee must pursue funding, technical and/or other

assistance from these programs. The Grantee must submit to the Grantor a letter within ninety (90) days of execution of this Agreement stating that the Grantee has reviewed these programs and has determined whether or not the Grantee is eligible for additional assistance from any of these programs. If any additional assistance is available, Grantee will inform Grantor in writing of such assistance through its Monthly Status Reports to the Grantor. If such assistance is not available, the letter should state no additional assistance is available from the Ohio Research and Development Programs. Further, the letter must also state if the Grantee has found and is working with other State of Ohio programs that are not listed in **Exhibit E**.

14) Upon execution of this Agreement and each succeeding December 31 under this Agreement, Grantee will complete a brief Annual Project Abstract of the Project for inclusion on Grantor's internet web page and for general public distribution. The Annual Project Abstract shall be prepared in the manner displayed in the Annual Project Abstract Format, which is identified as **Exhibit F**. It is expressly understood that the Annual Project Abstract will not replace or supplant any other required report. This reporting requirement shall survive the Project Completion Date for a period of ten (10) years and must include a discussion on Grantee's commercialization efforts for the year. This provision may be waived by the Grantor if the Grantee or a Subcontractor informs the Grantor in writing that the research topic in question has been abandoned as nonproductive research. In the event Grantee Licenses (sells, assigns, leases or otherwise transfers the rights to the technology or process resulting from the Project) to a third party, Grantee will be responsible for insuring that this reporting requirement becomes a part of the subsequent agreement between it and the Licensee. Grantee may assign this specific reporting requirement to any Licensee (buyer, assignee or leasee) for the remaining reporting period.

15) Upon the execution of this Agreement and every August 1 and February 1 thereafter, and submitted with the Final Project Report, Grantee shall make a good faith effort to accurately complete the "Project Employment Data Sheet," which is attached hereto as **Exhibit G**.

16) For all projects, Grantee agrees to make presentations in various technical forums sponsored by the Grantor or similar entities, such as federal agencies or credible conference organizers. For those larger projects involving construction of a significant apparatus, Grantee and Grantor shall conduct a technology transfer open house to help promote the awareness and adoption of the technology, unless it is mutually determined that such an open house will not meet the intended goal.

17) Grantee must use its good faith best efforts to commercialize and market its clean coal technology systems or process to increase the environmentally sound, cost-effective use of Ohio coals. Grantee may use an affiliate to meet this obligation. The technology system or process shall be deemed to be commercially viable upon the installation, or manufacture and sale, lease or licensing by Grantee, its successors, assignees, lessees, or licensees, anywhere in the world, of a system or process, or generation of any revenue, which is substantially based upon information developed in the course of the work performed under this Agreement.

18) This Agreement incorporates by reference the representations, certifications, and other statements of the Grantee as set forth in its Proposal _____, dated _____, that were subsequently combined into this one Project, to the Grantor with the same force and effect as if rewritten herein. Where there may be deviations between this Grant Agreement and the Proposal, the order of precedence shall be: this Agreement and its exhibits and attachments, then the Proposal.

SECTION IV. INVOICING AND PAYMENT

1) Grantee acknowledges that Grantor cannot approve Grantee's invoices unless and until all of its required reports have been timely submitted. Failure to submit timely reports, an activity within the control of the Grantee, may result in the withholding of Grant Funds or may otherwise be cause for penalty. To determine timeliness of invoices, Grantee agrees to routinely and regularly deliver to Grantor an invoice with all appropriate documentation by the thirtieth (30th) of each month succeeding the Month.

2) Grantee must submit Monthly invoices to Grantor. Grantor shall release funds to Grantee in the following manner and contingent upon the following conditions:

(a) Grantee will invoice Grantor by fully completing and submitting to Grantor **Forms A** and **B**, which are attached hereto. Each invoice must have attached to it documentation of expenditures which together total the amount requested by the invoice. Each invoice will also set forth Grantee's cost share expended to date and must have documentation verifying Grantee's expended cost share attached to the invoice.

(b) Grantee also shall generate and attach to the invoice a **Form C**, Estimated vs. Actual OCDO Monthly Cash Draw. Form C must show in graph form, annotated with numbers, the estimated Monthly cash draw from the Grantor projected over the life of the project and the actual cash draw through the date of the current invoice.

3) In no event shall payment be made for work and activities performed by Grantee prior to the Project Start Date specified in Section II, Paragraph 1 of this Agreement, nor after termination or expiration hereof, whichever occurs first.

4) A final payment in the amount of _____ No/100 Dollars (\$_____), representing ten (10) percent of the total amount of this Grant, will be contingent upon approval by Grantor of an acceptable Final Report and all other Project Work Tasks and Deliverables set forth in Section III as performed or submitted by Grantee.

5) Grant Funds paid by Grantor to Grantee, including interest income from the deposit of the Grant Funds, are to be used solely for the stated purposes set forth in this Agreement. In no event may Grant Funds be used for any purposes other than as set forth in this Agreement. Grantee may not pledge the Grant Funds received or to be received under this Agreement as security for any loan or debt of any kind for purposes other than those expressly permitted herein. If said moneys including interest income are not so used, they will be returned to Grantor within sixty (60) days. In the event that the total amount of the grant and the interest income there from paid to Grantee under this Agreement exceeds Grantor's obligations hereunder, the excess shall be returned to Grantor within sixty (60) days.

6) All moneys paid to Grantee under the terms of this Agreement and any interest earned by Grantee thereon must be deposited in a separate account upon the books and records of Grantee. Grantee must keep all records in a manner that is consistent with generally accepted accounting principles. The documentation in support of each action in the accounting records shall be filed in such a manner that it can be made readily available. All disbursements from the account established pursuant to this paragraph 6 shall be for obligations incurred in the performance of this Agreement after the Project Starting Date, and shall be supported by contracts, invoices, vouchers, and other data, as appropriate,

evidencing such disbursements. Grantor will review and consider accepting federal audits in lieu of requiring a state audit where applicable.

7) Grantee will provide Grantor access to and the right to examine any books, documents and records, including electronic media, necessary to insure or review compliance with the terms and conditions of this Agreement. In the event that Grantor elects to examine any books, documents or records, including electronic media, such items will be made available upon twenty-four (24) hours notice., Grantee must also provide access to the Project site for Grantor during reasonable hours and upon reasonable notice. Grantee acknowledges that it may be subject to an audit of this Project by the State of Ohio or its agent. Therefore, Grantee agrees to maintain all records and source documents pertaining to this project and this Agreement available for inspection for at least five (5) years after the Project Completion Date, or date of Project termination, whichever occurs first, or until any disputed items which arise during those five years are resolved to a final determination.

8) All items purchased by Grantee are and will remain the property of Grantee, except in the event that Grantee does not faithfully perform all the terms and conditions of this Agreement. In the event Grantee does not faithfully perform all the terms and conditions of this Agreement, Grantee will reimburse Grantor a sum of money in the same proportion as Grantor's actual cost-share in the project, computed on the value of the items kept by Grantee, or, if such items are disposed of, the sum of money due to Grantor shall be computed on the basis of revenues derived from the disposition of any items (such as but not limited to property and equipment) acquired after the Project Start Date.

9) Grantee may request changes in the line items of the Grantor's portion of the Budget. Grantor may administratively approve changes that do not exceed ten (10) percent of any line item of the Budget for Grantor's funds. For such alterations to the Budget, Grantee must first request in writing and must receive Grantor's written approval. If Grantee wishes to make changes to any line item of the Agreement's Budget for Grantor's funds that exceed ten (10) percent of a line item, a written request with justification must be submitted to Grantor and approved by the Ohio Air Quality Development Authority.

10) In the event any travel associated with the work under this Agreement becomes necessary, such travel must be integral and necessary to the successful completion of the Project. In no event, however, may any international travel be eligible for reimbursement under this Agreement. In no event will travel reimbursement exceed the monies committed to travel in the OCDO budget for the project in Attachment 1 of Exhibit A.

SECTION V. PENALTIES

1) Grantee acknowledges that the Project's Projected OCDO Cash Draw, based upon its Project cost projections, contain important targets for the Grantor as the failure of its project portfolio to draw Grant Funds which are authorized in a given year may result in penalties to the overall program, harming Grantor's ability to support coal research and development. Grantor will not authorize payment unless and until the various Work Tasks are performed and properly reported in the Deliverables as previously set forth in Section III. Accordingly, the Grantor will assess the following penalties for late reports or other Deliverables.

(a) For any report, Deliverable, or invoice not submitted in a timely manner, the OCDO Director shall notify the Grantee and the appropriate Principal Investigator in writing that the infraction has occurred and warning of possible penalty. The penalty letter may be waived by the Grantor if the

Grantee, Subcontractor and its appropriate Principal Investigator can show good cause, as defined in Section II, Paragraph 2, for the delay. Two Grantor notices of infractions shall result in the barring of the specific Principal Investigator from applying to the Grantor for future funds for the following year.

SECTION VI. PROJECT MANAGERS AND CONTACTS

1) Grantee must designate a Project Manager, who must be an employee of Grantee or an employee of its affiliate, and who will oversee the conduct of the Project activities at Grantee's offices or the Project site, and will be the primary person responsible for reporting in a timely manner to Grantor. At Grantee's election, Grantee may also designate an Administration Manager, who will be an employee of Grantee, and who will oversee administrative matters such as invoicing. The Grantor shall also designate a Project Manager and a Fiscal Manager, who shall be the persons to whom the Grantee's Project Manager submits reports and shall be responsible for monitoring the Project's progress.

2) Any reporting, invoicing or communication required under this Agreement by either party to the other shall be sent by postage prepaid mail, electronic mail or delivered personally:

In the case of Grantor, to:

Bob Brown
OCDO Project Manager
Phone: 614/466-6538
Email: bbrown@aqda.state.oh.us

Jan Wigley
OCDO Fiscal Manager
Phone: 614/644-8372
Email: janice.wigley@aqda.state.oh.us

Mailing address:

Ohio Coal Development Office
Ohio Air Quality Development Authority
50 West Broad Street, Suite 1718
Columbus, Ohio 43215

In the case of Grantee, to:

Dr. L. S. Fan
Project Manager
Department of Chemical Engineering
121 Koffolt Lab; 140 W. 19th Ave.
Columbus, OH 43210
P: (614) 688-3262
E: fan.1@osu.edu

Administration Manager

SECTION VII. ROYALTY

1) Subject to Grantor's satisfaction that the agreement and payments referred to in this Section VII, Paragraph 1, will not cause the interest on the Coal Research and Development Bonds to become subject to federal income taxation, Grantor shall require Grantee or its Licensee as appropriate, to pay a reasonable royalty or portion of the income or profits arising out of the developments, discoveries, inventions, or improvements, including patents or copyrights which result in whole or in part from coal

research and development projects conducted under this Agreement (ORC 1555.03(D). Any such royalties or payments will be pursuant to the "Royalty/Payment Agreement" between Grantor and Grantee which is attached hereto as **Exhibit H**.

SECTION VIII. SUSPENSION OR TERMINATION

1) Either party hereto may terminate this Agreement for just cause upon thirty (30) days written notice.

2) Grantor may immediately suspend this Agreement if Grantor determines that Grantee has failed to perform any requirements of this Agreement satisfactorily, or if Grantee is in violation of a specific provision of this Agreement. Grantor shall notify Grantee in writing of any suspension and shall identify remedial steps that may be taken to lift a suspension. Grantee shall have thirty (30) days to comply. If Grantee does not comply, Grantor may terminate this Agreement for cause.

3) Grantee, upon receipt of notice of termination, shall cease work on the Project, take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a Final Report of the status of all work or activities to date under this Agreement, including the work, funding, results accomplished, conclusions resulting therefrom, and such other matters as Grantor may require.

4) The termination, withdrawal, or non-performance of other participants in the Project pursuant to Section I, Paragraph 2, as determined by Grantor to be integral to the Project, may be grounds for Grantor's termination of this Agreement.

5) In the event of termination, Grantee may be entitled to compensation, upon submission of an invoice and proper proof of claim, for the work performed prior to receipt of notice of termination, provided that Grantee has, in the judgment of Grantor, made satisfactory efforts in good faith towards the objectives stated in Section I, Paragraph 2 of this Agreement.

6) Payments to Grantee made pursuant to Paragraph 5 above shall be considered final and shall be calculated by Grantor on a *pro rata* basis according to the percentage of the total activities satisfactorily performed under this Agreement. Grantor shall not be liable for any further claims. In any event the claims submitted by Grantee shall not exceed the amount of consideration stated in this Agreement.

7) In the event of termination, any payments made by Grantor for services which have not yet been rendered by Grantee must be returned to Grantor. Nothing in this Section VIII shall be construed to vary or limit the express provisions of Sections IV or V, which in any event shall remain binding on the parties hereto.

SECTION IX. GENERAL TERMS AND CONDITIONS

1) Section headings and the Grant Exhibits Checklist are included for clarification and use of reference only.

2) All Exhibits and Forms referred to in this Agreement are incorporated by reference into this Agreement as if fully rewritten herein.

3) All days referenced in this Agreement shall mean calendar days. For report due dates that fall on weekends or holidays, the report shall be due the next business day.

4) This Agreement shall be construed, interpreted, and the rights of the parties determined in accordance with the laws of the State of Ohio.

5) Grantee shall provide for the security and safekeeping of all items obtained through this grant, and shall insure that the facility or project be maintained and kept in good condition and repair and in accordance with Ohio law and local ordinances where applicable.

6) None of the rights, duties, and obligations described in this Agreement shall be binding upon either party until all statutory provisions of the ORC, including but not limited to Section 126.07, have been complied with and until such time as provisions for all necessary funds are actually made available from the appropriate State agencies. Further, no contract, agreement, or obligation involving the expenditure of money chargeable to an appropriation, nor any resolution or order for the expenditure of money chargeable to an appropriation, shall be valid and enforceable unless the Director of Budget and Management first certifies that there is a balance in the appropriation not already obligated to pay existing obligations.

7) Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned by Grantee without the prior express written consent of Grantor. Nothing expressed or implied in this Agreement is intended, or shall be construed, to confer upon or give any person, other than the parties hereto and their permitted assigns and successors, any rights or remedies under this Agreement.

8) Nothing stated in this Agreement shall be construed to create a joint venture, partnership, or agency between the parties hereto; nor constitute a commitment or guarantee on the part of either party to discharge, assume or bear any responsibility, guarantee or liability for acts or omissions of any other person or entity, except where expressly set forth under the Ohio Revised Code or Federal Law; nor its officers, employees or agents of any party hereto. Neither is any party hereto authorized to transact any business or undertake any agreement, contract, representation or warranty in the name of or on behalf of the other.

9) In carrying out this Agreement, Grantee will not discriminate against any employee or applicant for employment or other person because of race, religion, color, sex, national origin, handicap, or age. Grantee shall incorporate the foregoing requirements of this paragraph in all of its contracts for any of the work prescribed herein (other than subcontracts for standard commercial supplies or raw materials), and will require all of its subcontractors for any part of such work to incorporate such requirements in all subcontracts for such work. Further, Grantee shall complete and execute **Exhibit I** as good faith evidence of its commitment to the principles of equal opportunity employment.

10) At Grantee's election, Grantee may subcontract portions of work or activities described herein. However, Grantee shall provide photocopies of any executed subcontracts of Grantee which pertain to this Project. All subcontracts of Grantee shall be bound by the terms of this Agreement and the Grantee shall cause the terms of this Agreement to be incorporated by reference into all subcontracts.

However, in any event, Grantee will be solely responsible for performance of work and activities set forth herein.

11) Pursuant to ORC, Sections 1551.33(C) and 1551.13, all wages paid to laborers and mechanics employed in Ohio for construction, reconstruction, improvement, enlargement, alteration, repair, painting, decorating, or rehabilitation on the project with the funds granted herein shall be paid at the prevailing rates of wages of laborers and mechanics for the class of work called for by the Project, which wages shall be determined in accordance with the requirements of ORC, Chapter 4115 for determination of prevailing wage rates; provided that:

(a) The requirements of this paragraph do not apply where the federal government or any of its agencies furnishes by loan or grant all or any part of the funds used in connection with this project and prescribes predetermined minimum wages to be paid to such laborers and mechanics, and provided further that,

(b) Should the user-beneficiary, other than a public authority, of the project undertake as part of the project construction to be performed by its regular bargaining unit employees who are covered under a collective bargaining agreement which was in existence prior to the date of the commitment instrument setting forth Grantor's participation, then, and in that event, the rate of pay under the collective bargaining agreement may be paid to such employees.

12) Grantee agrees to comply with all applicable federal, state, and local laws and regulations in the conduct of the work hereunder, including but not limited to ORC, Chapter 153, where it is applicable to the construction components of this Project. The Grantee's duty to comply also includes the application for and procurement of any and all permits necessary to conduct the Project, its testing, and operation. Further, Grantee accepts full responsibility for payment of all unemployment compensation insurance premiums, workers' compensation premiums, income tax deductions required for all employees engaged by Grantee in the performance of the work authorized by the Agreement, and shall require the same of all its subcontractors.

13) Grantor acknowledges that by executing this Agreement with an Ohio-based state institution of higher education, it is entering an agreement with the State of Ohio, and is therefore subject to the limitations of the State as they pertain to indemnification and holding harmless a party to this Agreement. The State of Ohio's liability for damages, whether in Agreement or in tort, shall not exceed the total amount of compensation payable to Grantee as set forth in Section I, Paragraph 1, or the direct damages incurred by the Grantor, whichever is less. In no event shall the State of Ohio or Grantor be liable for any indirect or consequential damages, including loss of profits, even if either party knew or should have known of the possibility of such damages, as is set forth in Ohio Revised Code, Section 3345.40.

14) All press statements and other publicity proposed to be given by one party mentioning the other or referring to this Agreement or any materials, ideas or performance data developed under this Agreement shall be first reviewed by the other party before release. Such materials will be provided, reviews performed and comments made in a timely manner.

15) Failure of Grantor to insist upon strict performance of any term or condition of this Agreement in any instance shall not be deemed to be a waiver thereof or of any right of Grantor. Any

waiver of such provision of this Agreement shall be in writing signed by Grantor, and no waiver given with respect to any provision of this Agreement shall be deemed to be a waiver of any other provision.

16) This Agreement supersedes any and all other agreements between the parties hereto and constitutes the entire Agreement between the parties with respect to this Project and may not be modified except by an agreement in writing executed by the parties hereto.

17) A determination by a court of competent jurisdiction that any part of this Agreement is invalid shall not invalidate or impair the force or effect of any other part thereof, except to the extent that such other part is wholly dependent for its operation on the part so declared invalid. This Agreement shall not be deemed to include section or article titles, which are inserted for convenience only.

18) Grantee affirmatively covenants that it does not owe: (1) any delinquent taxes to the State of Ohio (the "State") or a political subdivision of the State; (2) any moneys to the State or a state agency for the administration or enforcement of any environmental laws of the State; and (3) any other moneys to the State, a state agency or a political subdivision of the State that are past due, whether the amounts owed are being contested in a court of law or not.

19) Grantee affirmatively covenants that it has made no false statements to Grantor in the process of obtaining this grant of funds. If Grantee has knowingly made a false statement to Grantor to obtain this grant of funds, Grantee shall be required to return all funds immediately pursuant to ORC Section 9.66 (C)(2) and shall be ineligible for any future economic development assistance from the State, any state agency or a political subdivision pursuant to ORC Section 9.66 (C)(1). Any person who provides a false statement to secure economic development assistance may be guilty of falsification, a misdemeanor of the first degree, pursuant to ORC 2921.13(D)(1), which is punishable by a fine of not more than One Thousand and No/100 Dollars (\$1,000.00) and/or a term of imprisonment of not more than six (6) months.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by officials thereunto duly authorized as of the last date set forth below.

**THE OHIO STATE UNIVERSITY
RESEARCH FOUNDATION**

**STATE OF OHIO
OHIO AIR QUALITY DEVELOPMENT AUTHORITY**

By _____
Name:
Title:

By _____
Mark R. Shanahan
Executive Director

Date: _____

Date: _____

Grantee Principal Investigator

Name:
Read and Understood

GRANT EXHIBITS CHECKLIST

Exhibit A	Statement of Work
Exhibit B	Monthly Status Report Format
Exhibit C	Milestone Report Format
Exhibit D	Final Report Format
Exhibit E	Ohio Research & Development Alignment Programs
Exhibit F	Annual Project Abstract
Exhibit G	Project Employment Data
Form A	Request for Payment
Form B	Financial Statement
Form C	<i>[Created by Grantee]</i>
Exhibit H	Royalty/Payment Agreement
Exhibit I	Equal Employment Opportunity Statement

This sheet is not a part of the legal document, but is provided for ease of reference only.