

First Amendment To Memorandum Of Understanding

This First Amendment To Memorandum Of Understanding ("Amendment"), made effective as of the date of the last signatory hereto ("Effective Date"), is by and between **Rutgers, The State University Of New Jersey, University of Puerto Rico at Mayaguez, Purdue University and New Jersey Institute of Technology** (each herein called a "Partner University" and collectively called the "Partner Universities").

1. Purpose Of Amendment. The purpose of this Amendment is to modify certain terms and conditions of the May 24, 2005, Memorandum Of Understanding ("MOU") between the Partner Universities with respect to the joint establishment of an Engineering Research Center in Organic Structured Composites ("Center") funded under a grant by the National Science Foundation ("NSF"), Award EEC-0540855.

2. Construction Of Documents. Except as specifically amended by and/or inconsistent with this Amendment, all of the terms and provisions the MOU shall remain unchanged; shall continue in full force and effect and are hereby ratified, adopted and confirmed in all respects. In the event of any inconsistency between the terms of this Amendment and the terms of the MOU, the terms of this Amendment shall prevail.

3. Intellectual Property Policy. The "Intellectual Property Policy" set forth in the MOU is hereby amended as follows:

(a) Proposed publications will be vetted by the "Center Internal Publication Review Process", outlined as section 4 of this Amendment below, to determine if they contain IP which should be protected by patent.

(b) If the Publication Review Process indicates there is potentially patentable material, the inventing investigator will file an invention disclosure with his/her institution.

(c) The invention disclosure is then processed by the respective Technology Transfer office of the applicable Partner University according to the inventing institution's normal invention policies, e.g., triage, search for potential licensee. Industrial Center members have the first right to negotiate a commercial license pursuant to section 3 (e) in this Amendment below under reasonable commercial terms. Center members will be notified of the invention disclosure and of the intent to file for patent protection after the Center Industrial Liaison Officer files his written opinion as described in section 4e of this Amendment below and the respective Partner University Technology Transfer office has made the final decision as described in section 4(f) of this Amendment below. The industrial Center members will then have 60 days to indicate their interest in negotiating the commercial license. After that time period, the Partner University will be free to negotiate a commercial license with non-member companies.

(d) Non-Exclusive Royalty Free In-House License – Upon the filing of any Center IP patent application (and prompt written notification of the same to the industrial Center members by the inventing Partner University), all then industrial Center members may obtain a non-exclusive, royalty-free, non-transferable and non-sublicensable (“NERF”) patent license for their own internal use only, which shall include the industrial Center member’s use in its own equipment and/or processes for its own manufacturing of goods and products. Only industrial Center members in good standing (e.g., no outstanding membership fees) shall be permitted to obtain NERF licenses. NERF licenses obtained by industrial Center members shall continue only for so long as the industrial Center member remains a member of the Center. Industrial Center members shall only have the opportunity to obtain NERF licenses to Center IP created after their membership in the Center. All industrial Center members will negotiate the final form of their NERF license with the inventing Center Partner University directly and such licenses shall include other terms and conditions as common in the industry, including indemnification of the inventing Partner University for product liability claims and adequate insurance to cover the same.

(e) Sublicensable And Transferable Commercial License - Upon the filing of any Center IP patent application, all then industrial Center members shall have an exclusive option to expand their NERF licenses to include the right to transfer and/or sublicense the same to third parties, including having products and equipment made by suppliers, by paying a commercially reasonable royalty to the inventing Partner University. Industrial Center members shall have sixty (60) days from receipt of notification of the filing of a patent on Center IP to exercise their option in writing to the inventing Partner University. The inventing Partner University will negotiate the final form of any commercial license with interested industrial Center members directly. Such parties shall negotiate in good faith for a period not to exceed three (3) months from the inventing Partner University’s notification or a longer period of time if the parties mutually agree to extend negotiations.

(f) Failure To Negotiate Commercial License - If any industrial Center member and the inventing Partner University fail to enter into a license agreement within the aforementioned three (3) months, the option to negotiate a commercial license with such industrial Center member shall terminate and all rights to such Center IP shall be disposed of in accordance with the inventing University’s policies, including the offering of commercial licenses to non-Center members (if no commercial license is entered into with any industrial Center member in accordance with this paragraph). In the event that such parties do agree to a commercial license, such license shall include other terms and conditions as common in the industry, including indemnification of the inventing Partner University for product liability claims, adequate insurance to cover the same and reimbursement of patent prosecution costs.

(g) Miscellaneous - All rights and interests of all Partner Universities in Center IP, including any licensing rights granted to industrial Center members under this Amendment and/or the MOU, are subject to any ownership and/or licensing rights to the same belonging to any government Center sponsors, including but not limited to the NSF. The Partner Universities shall each assume responsibility for reporting their own Center IP to the NSF and other government sponsors as may be required.

4. **Center Internal Publication Review Process.** The Proposed publications will be vetted by the following internal Center process, hereby called "Center Internal Publication Review Process", to determine if they contain IP which should be protected by patent, is as follows:

(a) If faculty member (PI) identifies IP which should be protected by patent, the PI files an invention disclosure with his / her institution; and has the option of consulting with the project mentors before or after doing so.

(b) PI prepares abstract, speech/lecture, or draft of paper and shares with project mentors

(c) If neither the PI nor any mentor identify any potential invention, the PI is free to proceed with publication.


(d1) If either PI or mentor (based on his knowledge of state of the art) identifies a potential invention, the PI will prepare a detailed description of the proposed invention, and submit the invention disclosure through his/her normal university procedure.

(d2) The invention disclosure is made available to members of the Center Executive Committee under confidentiality who further assess novelty and commercial value. Members of the Executive Committee must respond to the Center within thirty (30) days of receipt.

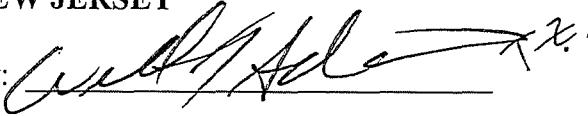
(e) Upon receiving the Center Executive Committee input, the Center Industrial Liaison Officer, working with the Executive Committee, will within 30 days file a brief written opinion to the inventing Partner University Technology Transfer office advising whether to file patent.

(f) The inventing Partner University Technology Transfer office is then responsible for making a final decision regarding patent filing, identifying licensees, and other related issues.

5. **Counterparts.** This Amendment may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

 **IN WITNESS WHEREOF,** the parties hereto have executed and delivered this Amendment to the MOU Agreement as of the day and year below written.

**RUTGERS, THE STATE UNIVERSITY
NEW JERSEY**

By: 

Name William T. Adams

Title: Director – Office of
Technology Commercialization

Date: February 23, 2009

**NEW JERSEY INSTITUTE OF
TECHNOLOGY**

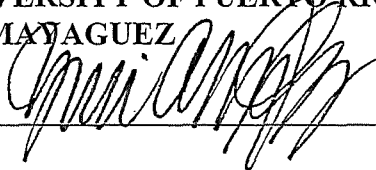
By: 

By: Dr. Donald H. Sebastian

Title: Provost (Interim) and Senior V.P
Research & Development

Date: 8/3/09

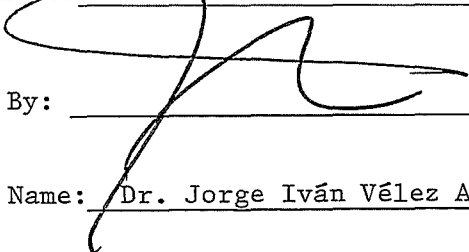
**UNIVERSITY OF PUERTO RICO
AT MAYAGUEZ**

By:  *note*

Name: Yuri Rojas

Title: Director, UPRM R&D Center

Date: May 5, 2009

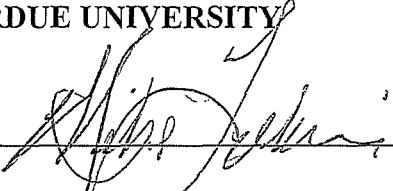
By:  *note*

Name: Dr. Jorge Iván Vélez Arocho

Title: Chancellor, UPRM

Date: May 6, 2009

PURDUE UNIVERSITY

By: 

Name: Michael R. Ludwig, Director
Sponsored Program Services

Title: _____

Date: 3/10/09