

REGISTRO DE CONTRATOS

TOMO 24 PAGINA 94

CONTRATO NUM 2015-000 517

COOPERATIVE AGREEMENT

by and between

THE PUERTO RICO SCIENCE, TECHNOLOGY AND RESEARCH TRUST

and

**THE UNIVERSITY OF PUERTO RICO-MAYAGÜEZ CAMPUS
("UPR-RUM")**

PUERTO RICO SCIENCE, TECHNOLOGY AND RESEARCH TRUST

**COOPERATIVE AGREEMENT (the "Agreement")
AGREEMENT NUMBER - 2015-000__**

This Cooperative Agreement (this "**Agreement**"), by and between the Puerto Rico Science, Technology and Research Trust (the "**TRUST**"), which TRUST was mandated by Act No. 214-2004, as amended ("**Act 214**"), and constituted by the Trust Constitution Deed Number 23 executed on December 31, 2004 before Notary Public Jaime Arturo Riera-Seivane ("**Constitution Deed**"); represented in this act by its Chief Executive Officer, Luz Crespo authorized to appear in the present Agreement by virtue of the power conferred by the Board of Trustees pursuant to a resolution dated January 31st, 2013; and; the University of Puerto Rico - Mayagüez Campus (the "**UPR-RUM**" or "**GRANTEE**"), a public educational institution created under Act No.1-1966 ("Act of the University of Puerto Rico"), herein represented by its Chancellor, John Fernández Van Cleve, of legal age, executive and a resident of San Germán, Puerto Rico, duly authorized by Law Number 1, Article 7, approved on January 20, 1966, known as the Law of the University of Puerto Rico, to appear in representation of UPR-RUM; and Dr. Rodolfo Romañach, (Position) at the UPR-RUM, of legal age, a resident of Mayaguez, Puerto Rico, as Principal Investigator ("**PI**") in charge of the Research project described below.

WITNESSETH

WHEREAS, the TRUST is authorized to enter into this Agreement pursuant to the Constitution of Deed and Act No. 214, to pursue its delegated duties of advancing science, technology and research;

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WHEREAS, the TRUST launched the Science and Technology Grants Request for Proposal (RFP) Program and sent a total of 43 full proposals for peer-review evaluation by a group of experts.

WHEREAS, the TRUST by ratification of its Board of Trustees, approved the final list of 12 proposals recommended for funding and has agreed to provide the requested financial support for the proposal;

WHEREAS, the Grantee's proposal "A Scientifically Justified Interface and Sample Reduction System for Flowing Powders" as presented by the PI, Rodolfo Romañach was one of the projects recommended for funding.

WHEREAS, the TRUST believes that providing funds for the Research is consistent with the TRUST's stated mission and goals;

WHEREAS, without the TRUST's support, the Research could not take place, in detriment of science and research development to further Puerto Rico's competitiveness in the knowledge economy;

NOW THEREFORE, in consideration of the mutual covenants and promises herein contained and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the TRUST and the GRANTEE (together, the "**Parties**") agree as follows:

TERMS AND CONDITIONS

1. Term: (a) The term of this Agreement begins on the date hereof and ends on May 31st, 2016 (the "**Expiration Date**").

(b) Notwithstanding the above, the TRUST reserves the right to immediately cancel this Agreement, if (i) either the Grantee fails to comply with any of the terms, covenants, conditions or stipulations of this Agreement, including the specifications of uses of the Funding (as defined below) or (ii) any of the representations and warranties given to the TRUST are false or misleading. In such cases, the TRUST shall give the Grantee a Notice of Early Termination in which case the date stated in such notice shall be the Date of Early Termination. The TRUST may also immediately terminate this Agreement for lack of funds to disburse the Grantee under this Agreement, provided, however, that the cancellation right the TRUST has on the basis of lack of funds shall not grant the TRUST a right to request reimbursement of Funding already disbursed unless any of the other causes for termination and reimbursement of the Funding indicated in this Agreement are present.

2. Grantee Obligations: The Grantee will exclusively use the Funding for the uses itemized in the budget attached hereto as **Appendix B** ("Approved Uses"). Furthermore, the Grantee shall ensure compliance with, the following conditions:

By November 30th, 2015 and by May 31st, 2016, submit to the Trust a report addressing the following programmatic areas:

- o Cumulative breakdown of uses of the Funding and uses of other funding.
- o Scientific outputs/deliverables resulting from the use of the Funding. Number of these deliverables that can generate intellectual property, and how many have a potential for commercialization and job creation.
- o Describe the increase in visibility and prestige for the research institution and the TRUST resulting from the use of the Funding (provide examples).

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- o Other positive project outcomes of the Research.
3. Funding Commitment: The TRUST shall disburse to the Grantee ONE HUNDRED AND FIFTY THOUSAND DOLLARS (\$150,000.00) to be disbursed as follows:
- (a) **Initial Disbursement**: \$90,000 at the time of execution of this Agreement.
 - (b) **Final Disbursement**: \$60,000 payable on December 30th 2016 provided the Grantee (i) presents a progress report as of November 30th 2015, showing successful compliance with the project milestones as presented in the Proposal; (ii) presents all pending invoices due and payable for any of the Approved Uses incurred and not previously paid with the Initial Disbursement, and (iii) is in compliance with other terms and conditions of this Agreement.

Payments made as part of the Funding and those remaining to be made shall all be made solely against funds of the TRUST from Account Number **52230**. The Trustees shall not be personally liable for any payment or liability under this Agreement.

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4. Uses and Further Conditions for Granting the Funding: The Grantee agrees to expend the Funding exclusively to cover the Approved Uses and within the Term of this Agreement. During the Term of this Agreement, the Grantee will inform the TRUST, in writing, of any proposed material changes to Approved Uses for the Funding. The Grantee may not make any material changes in the purposes, activities or budget of the Research that may impact the Approved Uses without the prior consent of the TRUST and which the TRUST shall not withhold unreasonably. Should this clause be breached, the TRUST shall immediately terminate this Agreement and the Grantee shall return, at the TRUST request, all Funding disbursed under this Agreement.
5. Policies Terms and Conditions: Upon approval thereof by the Board of Trustees, the TRUST shall deliver to the Grantee any applicable policy, which the Grantee shall follow as recipient of TRUST funds. Thereupon, terms and conditions of such policies shall be deemed incorporated herein as an integral part of this Agreement and the Grantee shall comply with such policies.
6. Credit, Publicity and Participation by the Trust: In further consideration for the Funding, the Grantee agrees and consents that the TRUST may use the names and description of the Grantee and the results of the Research for information and promotion purposes without the prior approval of the Grantee, except with respect to confidential information previously identified as such by the Grantee. The Grantee shall give proper credit to the TRUST in any and all marketing, publication,

public or private communication in connection with the Research regardless of the medium used. All Grantee's publications must include the following statements: (1) Acknowledgement- *Research reported in this [press release/publication] was supported by The Puerto Rico Science, Technology and Research Trust under agreement number [specific PRSTRT agreement number(s)].* (2) Disclaimer- *"This content is only the responsibility of the authors and does not necessarily represent the official views of The Puerto Rico Science, Technology and Research Trust."* The Grantee agrees to provide the TRUST, with copies of materials, abstracts, reviews and other press materials, distribution brochures, notices of exhibition, activities and awards, and any other pertinent information that may be published in connection with the Research. GRANTEE 's recognition on initial web page is sufficient.

7. Recordkeeping and Reporting. (a) In addition to reports issuable under this Agreement and invoices to be submitted in connection with disbursement of the Funding, the Grantee further agree to provide the TRUST: (i) copy of key presentations and studies distributed, issued or published in connection with the Research; (ii) written reports describing the outcome of the Research and the benefits to the Grantee and Trust received from the Funding; and (vi) such other information or reports reasonable requested by the TRUST. In addition, the Grantee will promptly inform the TRUST, by telephone and email followed up in writing of any material or significant events that may change in activities, funding sources, or anything that may affect the outcome or management of the activities related to the Research and the undertaking regarding the Approved Uses under this Agreement. Activities includes: change of Principal(s) Investigator(s), a change of grantee institution, a change in key personnel listed, and a late no-cost extension request beyond the end of the agreement period.

5/6 (b) The Grantee agrees that all documents and records pertaining in whole or in part to this Agreement and related to the Funding under this Agreement not delivered to the TRUST by the Expiration Date under this Agreement shall be retained and properly maintained by the Grantee for a period of six (6) years after the Expiration Date.

8. Liability. The Grantee is liable for any and all debts and obligations incurred by it in connection with the Research or otherwise, and the TRUST commitment hereunder shall be limited to the Funding, provided the conditions to disbursement of the Funding and the other terms and conditions of this Agreement are complied with by the Grantee.
9. Insurance. The Grantee shall obtain adequate general liability insurance and any other commercially recommended insurance to cover risks in connection with the Research. The Grantee shall upon the TRUST's request cause any such policy of

insurance to name the TRUST as additional insured up to the amount disbursed herein, under the policies and submit copies thereof at the request of the TRUST.

10. Taxes. The Grantee, as applicable, shall be responsible for the payment of all taxes, fees, charges and duties that may be required by law to be paid in connection with the Funding received, as applicable. The Grantee holds the TRUST safe and harmless regarding any possible taxes, fees, charges and duties that may be imposed on the TRUST as a result of the Funding specified in this agreement. This Agreement does not constitute and shall not be construed as constituting a partnership, employer/employee or principal/agent relationship nor joint venture between the TRUST and the Grantee. All persons furnished, used, retained or hired by or on behalf of The Grantee shall be considered to be solely the employees or agents of the Grantee, as applicable, and the Grantee shall be responsible for the payment of any and all unemployment, social security and other payroll taxes for such persons, including any related assessments or contributions required by law.

11. Indemnification. Each appearing party hereby irrevocably and unconditionally agrees, to the fullest extent permitted by law, to defend, indemnify and hold harmless, the other party, its officers, trustees, employees and agents, from and against any and all claims, demands, liabilities, judgments, proceedings, damages, costs, losses and expenses and/or suits, including reasonable attorney's fees, directly, indirectly, wholly or partially arising from or in connection with any act or omission of the party, its employees or agents, in connection with the Research, or otherwise, and in connection with any act or omission in implementing the terms and conditions of this Agreement. This obligation shall extend beyond the termination or expiration of this Agreement.

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12. Conflicts of Interests.

(a) No Trustees or employees of the TRUST have participated in the peer-review evaluation process performed by the TRUST. The Grantee shall disclose promptly in writing to the TRUST any relationship, affiliation, interest (personal, economic or institutional) or agreement previously existing, arising or coming to its attention after the date of this Agreement which would represent a conflict of interest. The TRUST will acknowledge receipt of such disclosure, and will indicate if it believes that there is a conflict of interest or the appearance of a conflict of interest. Such determination of conflict of interest by the TRUST will be discussed by the Parties and an appropriate remedy or correction will be implemented. If the TRUST determines that the conflict was knowingly entered into or permitted in disregard of this contractual obligation, THE GRANTEE may be asked to return the Funding.

(b) No *ex officio* TRUSTEE has evaluated, considered, approved or executed this Agreement with the Grantee if Act No. 1-2012, as amended, or the Trust Conflict of Interest Policy prohibits it. The Grantee represents and warrants that no Trustee has or has had pecuniary, institutional or personal interest in this Agreement.

13. Representation and Warranties.

(a) The TRUST hereby represents and warrants that its sole motivation for entering into this Agreement is to advance its mission of promoting science, technology, research, and transfer and commercialization of products and ideas that result from local research performed in Puerto Rico, in order to develop Puerto Rico's competitiveness in the knowledge economy, and that its support is non-partisan and not for commercial purposes.

(b) The Grantee hereby certifies that it is duly authorized to execute, deliver and perform this Agreement, which is within its authorized powers and is not in contravention of law.

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(c) The Grantee represents and warrants that at the execution of this Agreement it has not been convicted of, nor has pleaded guilty to, any crimes related to the public treasury, the public trust, a public function, or that involves public funds or property in Puerto Rico, a state, a federal forum in any jurisdiction of the United States of America or any other jurisdiction. In addition, the Grantee represents and warrants that as of the execution to this Agreement it has no knowledge of being the subject of any investigation by a legislative, judicial or administrative body, in the United States of America, the Commonwealth of Puerto Rico or any other jurisdiction, of the crimes indicated above. The Grantee shall execute and submit the Sworn Statement included in **Appendix C** as confirmation of the previous representation. It is expressly acknowledged that although the Trust is not a government entity, because the TRUST receives public funds and it has been entrusted duties for the benefit of the People of Puerto Rico, this certification has been voluntarily determined by the TRUST to be an essential condition of this Agreement. If this representation is not correct in its entirety or in any of its parts, it shall constitute sufficient cause for the TRUST to terminate this Agreement immediately, without prior notice, and The Grantee shall have to reimburse the TRUST any amount of money received under this Agreement. This Agreement will be immediately terminated if the Grantee is convicted of or pleads guilty to any of the aforementioned offenses during the term of this Agreement. If the status of the Grantee with regards to the crimes previously mentioned changes at any time during the term of the Agreement, the Grantee shall notify the TRUST immediately. Failure to disclose to the TRUST within ten (10) days from the date when the

Grantee becomes aware that it is under investigation or that it has been charged with committing any crime referred above, constitutes a violation of this Article, and shall result in the immediate termination of this Agreement and the reimbursement of the Funding to the TRUST.

(f) It shall be an indispensable requirement for the Grantee to make a commitment to the ethical principles outlined in **Appendix D** of this Agreement. Therefore, by execution of this Agreement, the Grantee commits to comply with such principles.

14. Project Material:

(a) Project Materials, as defined in (b) below, shall not become the property of the Trust by virtue of the Funding under this Agreement. The TRUST specifically recognizes that in so far as these Project Materials constitute or contain Intellectual Property of GRANTEE the Intellectual Property rights remain the property of GRANTEE.

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(b) For purposes of this Agreement, the term "**Project Materials**" shall mean all products, programs, concepts, ideas, studies, text, reports, designs, processes, techniques or know-how, documents, writings, information, drawings, programs, campaigns, trademarks, service marks, slogans, artwork, written materials, drawings, photographs, graphic materials, audio-visual works, transcriptions, or other materials produced by the Grantee in connection with the Research and funded with the Funding committed hereunder, whether prepared by the Grantee alone or with others, and whether completed or in progress (each, a "**Work**"), and all drafts, notebooks, data, copies and other physical embodiments thereof, including, without limitation, all Project Materials supplied or produced in connection with any proposal submitted or work performed directly or indirectly by the Grantee with the Funding, whether or not patentable or registrable under copyright or similar statutes.

(c) The Grantee shall indemnify the TRUST against any claim or suit alleging that any of the Project Material infringes upon patents, copyrights, trademarks, trade secrets or other proprietary rights of others. The Grantee shall pay all costs and damages, including reasonable attorney's fees.

(d) TRUST recognizes that GRANTEE has developed and created a certain original product which has yet to be made public through distribution and publication, into which it has expended time, money and effort that is, at this moment impossible to ascertain; therefore, TRUST agrees that all such information and materials viewed, presented, or consulted by TRUST in determining the grant

are confidential and proprietary of GRANTEE and that it will protect and preserve the confidential, private and proprietary nature of the Confidential Information disclosed in the application, to the exclusion of all third parties. It agrees not to make available to any third party any Confidential Information or material presented to it without GRANTEE's prior approval. TRUST will not make any records or copies of the Project Materials, except as required by this Agreement, and shall return all Confidential Information, Project Materials and any copies thereof (in whatever form) immediately upon request by GRANTEE or termination of the term.

(e) GRANTEE shall provide an acceptable description of the Project to TRUST so that TRUST can comply with disclosure and publicity required or related to the grants hereunder.

15. Audit. The Grantee shall allow the TRUST, the Office of the Comptroller of Puerto Rico, or any of their duly authorized representatives, to inspect and audit all data and records pertaining to the use of the Funding and the compliance with the terms and conditions of this Agreement.
16. Entire Agreement. This Agreement and its Attachments constitute the entire agreement of the Parties and supersedes all prior agreements, negotiations, and understandings between the Parties with regard to the subject matter hereof. This Agreement may only be modified by a separate writing signed by the Parties.
17. No Assignment. This Agreement, and any right or obligations hereunder, is not assignable by the Parties. This Agreement is for the benefit of and is binding upon the parties hereto and their successors.
- JK 18. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Puerto Rico without regard to conflicts of law principles therein.
19. Headings. Headings have been inserted herein solely for convenience and reference and shall not be construed to affect the meanings, construction, or effect of this Agreement.
20. Severability. If and to the extent that any court of competent jurisdiction holds any provision or any part hereof to be invalid or unenforceable, such holding shall in no way affect the validity of the remainder of this Agreement, or said validity in any other jurisdiction.
21. Waiver. The failure by any Party to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement, or to exercise any right or remedy upon the breach thereof, shall not be construed as a waiver or

relinquishment of the rights to require performance thereof or obtain remedies under law or this Agreement.

22. Notices. Any notices, requests, demands and other communications to be given hereunder shall be deemed effective upon receipt or refusal thereof, and shall be (i) personally delivered, (ii) sent by certified or registered U.S. mail, return receipt requested, postage prepaid, (iii) by reputable courier service or (iv) by facsimile (transmission confirmed), or email confirmed the same or following day by one of the methods in (i), (ii) or (iii), to the address set forth below:

To the TRUST:

P.O. Box 363475
San Juan, Puerto Rico 00936-3475
Facsimile No.: (787) 523-1599
Telephone No.: (787) 523-1593
Attn: Luz Crespo, Chief Executive Officer
Email: lcrespo@prsciencetrust.org

To the UPR-RUM:

Call Box 9000, Mayaguez PR 00681-9000
University of Puerto Rico
Research and Development Center
Directors Office
Tel. No.: 787-831-2065
Attn: Dr. Marisol Vera Colón, Director

To the PI:

Call Box 9000, Mayaguez PR 00681-9000
University of Puerto Rico
Chemistry Department
Tel. No.: (787) 832-4040 Ext. 2604
Attn: Dr. Rodolfo Romañach, Principal Investigator

23. Agreement shall prevail. While any Appendixes and appendices attached hereto are incorporated as an integral part to this Agreement, in case of conflict, the text of the Agreement shall prevail.

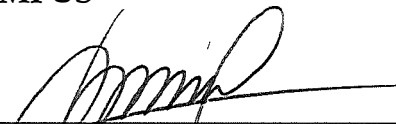
24. Acknowledgement. The Grantee expressly acknowledges that each and every statement made during the process of requesting the Funding and under this Agreement is an essential condition hereof, and if the required certifications, representations, warranties, guarantees and declarations are incorrect or misleading

in any material respect, the TRUST shall have just cause for terminating this Agreement immediately and asking the Grantee to reimburse any sums of money actually received by it under this Agreement after the date upon which any of the warranties or representations made by it became untrue.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS THEREOF, the parties hereof sign this Agreement, in San Juan,
Puerto Rico, this ____th day of May 2015.

**UNIVERSITY OF PUERTO RICO-MAYAGUEZ
CAMPUS**



By: ~~Dr.~~ John Fernández Van Cleve
Title: Chancellor *JMC*
EI

**PUERTO RICO SCIENCE TECHNOLOGY AND
RESEARCH TRUST**

By: Lucy Crespo.
Title: Chief Executive Officer
EIN#