**University of Oregon Center for Electrochemistry**

 **Masters Program Industry Collaboration Agreement**

This industry collaboration agreement ("Agreement") is between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ("Company") and the University of Oregon (“University" or “UO”). Company and University may be referred to individually as a “Party” or collectively as “Parties.”

**Background.**

UO is home to the Oregon Center for Electrochemistry (OCE) whose aim is to educate the next generation of diverse leaders in electrochemical science and technology through a world-class program of fundamental and applied research, unique immersive electrochemical science and engineering coursework, with a network of industry, national laboratory, and academic partners. The OCE offers a MS internship program in which students conduct 6 months of coursework and applied laboratory work in collaboration with industry and national laboratory partners and then 9-month internships as employees of the companies. Industry partners choose to participate in the student experiential research to train the next generations of scientists and technologist for their industries.

Company desires to support OCE, including student experiential research and the opportunity to assist OCE in training our nation’s future technologists.

The Parties will use reasonable efforts to support the Project (the "Project") described in the attached

**Exhibit A**.

The performance of the Project is of mutual interest to the Parties, and University’s participation is consistent with the instructional, scholarship, and research objectives of University as a tax-exempt educational institution and entity of the State of Oregon.

**Terms and Conditions**

In consideration of the foregoing and the promises contained in this Agreement, the Parties agree as follows:

1. **Scope of Project**

The Parties have available and will provide all the personnel, equipment, and materials (except as this Agreement otherwise provides) necessary and appropriate and will use reasonable efforts to perform the Project.

1. **Period of Performance**

This Agreement is effective on the date of last signature below ("Effective Date") and expires on \_\_\_\_\_\_\_\_\_\_\_, unless either Party exercises an option under this Agreement to terminate the Agreement earlier ("Termination Date").

1. **Compensation & Supplies**

The Parties agree that each party will be responsible for its costs related to the Project, including providing its own equipment and supplies, associated with performing its role in the Project.

1. **Key Personnel**
	1. **Company.** Company's Project Directors are \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Company's Project Director(s) will supervise and direct and supervise the Company’s execution of the Project. Company may not change its Project Director(s) without University’s prior written approval. Company will notify University promptly if its Project Director is unable or unwilling to continue the supervision and direction of the Project. Within 30 days after that notice, Company will propose a successor Project Director for University’s approval and University will not unreasonably withhold its approval.
	2. **University.** University's Project Director is Dr. Paul Kempler. University's Project Director may not amend or modify this Agreement. University's Project Director will outline the Project for the Company to collaborate on with the Center, but will not supervise or direct Company personnel.
2. **Reports**

Each party’s Project Director will keep the other updated on the status of their progress on the Project and with Project results, providing the other with informal oral or written progress updates at provider’s discretion and as the requestor’s Project Director reasonably requests.

1. **CONFIDENTIALITLY**
	1. Company has certain confidential and proprietary technical information with respect to chemical products and formulations (including without limitation chemicals, additives, stabilizers, emulsions, and polymers), whether in physical form or recorded in any medium, wafers, samples, and the like (hereinafter referred to as "Company Information").
	2. UO will not bring information considered confidential into the collaboration. Experimental data collected during the collaboration will hereinafter be referred to as “UO Information”.
	3. Company Information and UO Information are referred to individually and collectively as "Information”.
	4. Each party may be given access to certain of the other party's Information solely for the purpose of the Project;
	5. As determined by each Party individually, each Party will provide to and/or disclose to the other Party, Information, in writing or other tangible form, including samples conspicuously marked as "CONFIDENTIAL”. In the event Information is orally or visually disclosed, the Party disclosing the Information (the "Disclosing Party") shall at the time of such disclosure identify it as confidential and then reduce the oral or visual disclosure to writing and conspicuously designate it as "CONFIDENTIAL" within thirty (30) days of such disclosure, and promptly provide a copy of the writing to the Party receiving such Information (the "Receiving Party"). Company may only disclose its Confidential Information to UO’s staff who have signed this agreement below as Read and Understood.
	6. The Receiving Party agrees and acknowledges it shall use Information of the Disclosing Party only for the Project, and shall use at least the same level of care and protection of the Disclosing Party's Information as it uses to prevent unauthorized use and unauthorized disclosure of its own Information, but in no event less than a reasonable degree of care.
	7. Without the express, written prior consent of the Disclosing Party, the Receiving Party will not:
		1. Disclose Information to any third party;
		2. Make or permit to be made copies or other reproductions of Information, except as necessary for officers or employees of Receiving Party to perform their duties relative to any potential business relationship or contract between Disclosing Party and Receiving Party; or
		3. Make any commercial use of Information.
	8. Receiving Party will carefully restrict access to Information to those of its officers, directors, employees and students who clearly need such access to participate on Receiving Party’s behalf in the Project. Receiving Party will advise each officer, director, employee and student to whom it provides access to any Information that they are prohibited from using it outside the Project or disclosing it to others without Disclosing Party’s prior written consent.
	9. Categories of information specifically excluded from the obligations of confidentiality and non-use of this Agreement include:
		1. Information, which the Receiving Party can demonstrate by written evidence, was in the possession of the Receiving Party, without an obligation to keep it confidential, prior to disclosure by the Disclosing Party;
		2. Information which is or subsequently becomes part of the public domain through no action or inaction of the Receiving Party;
		3. Information which becomes known to the Receiving Party through a third party who is not under any obligation of confidentiality to the Disclosing Party;
		4. Information which is developed by the Receiving Party independent of any Information received from the Disclosing Party, prior to the time of the disclosure, as evidenced by written documentation; and
		5. Information required to be disclose by law or judicial order.
	10. Upon Disclosing Party’s request, Receiving Party shall within 30 days return all original materials provided by Disclosing Party, except to the extent that Receiving Party is required by applicable law, including but not limited to Oregon Public Records Law (“OPRL”) ORS 192.410 to ORS 192.505, or policy to retain a copy of the materials.
	11. Oregon Public Records Law. Nothing in this Agreement alters the obligations of the UO under OPRL. Company acknowledges and understands that under the OPRL, UO generally must complete its response to public records requests within 15 business days of the date of the request. Should UO receive a public records request for Information it shall notify Company in writing so that Company may seek to obtain a protective order from a court of competent jurisdiction or similar relief from the District Attorney’s Office of competent jurisdiction restricting or limiting disclosure of the Information. Should Company fail to seek a protective order or similar relief from a court of competent jurisdiction or District Attorney’s Office of competent jurisdiction within 7 days of receipt of the notice from UO or prior to the OPRL statutory deadline for providing records to the requesting party (whichever date is earlier), Company shall be deemed to have consented to the disclosure of the Information.
	12. This Agreement does not constitute a grant or an intention or commitment to grant any right, title or interest in Confidential Information to Receiving Party. Disclosing Party is under no obligation to disclose any Confidential Information.
	13. The obligations of confidentiality and non-use agreed to herein shall terminate three (3) years from the Effective Date.
	14. All Information of a Disclosing Party is provided “As Is.” The Disclosing Party makes no warranties, express, implied or otherwise, regarding its accuracy, fitness for use, completeness or performance, except that the Disclosing Party represents that it is has the authority to disclose the Information that it discloses to the Receiving Party
	15. The Parties agree that neither Party will remove or export from the United States or re-export any Information of the Disclosing Party or any direct product thereof, except in compliance with, and with all licenses and approvals required under, applicable export laws and regulations, including without limitation, those of the U.S. Department of Commerce. Disclosing Party will identify any Export Controlled Information before disclosing it to the Receiving Party, and Receiving Party may refuse to accept such Information.
2. **INDEMNITY, DISCLAIMER, AND LIMITATION OF LIABILITY**
	1. **Generally.** Each Party remains liable for all risks of personal or bodily injury and property damage caused by the negligent or willful acts or omissions of that Party but subject to and reserving all applicable immunities granted by law or constitution of either Party.
	2. **Company.** Section 7.1 notwithstanding, Company will protect, indemnify, and hold harmless University and its employees, officers, board members, students, and agents (together “Indemnitees”) from and against any damage, cost, loss, liability, fee or expense (including reasonable attorneys’ fees and expenses of litigation) incurred by or imposed upon University in connection with any claims, suits, actions, demands, or judgments arising out of Company's commercialization, or distribution of information, materials or products which result in whole or in part from the Project, any third Party claims against Indemnitees for patent, copyright, and/or trademark infringement and/or patent interference, and any damages, losses, or liabilities whatsoever with respect to death or injury to any person and damage to any property arising from the possession, use, or operation of products/services produced or sold by Company or their customers in any manner whatsoever, except to the extent that the liability is due to the gross negligence or willful misconduct of University. University will promptly notify Company of any claim and will cooperate with Company in the defense of the claim. Company will, at its own expense, provide attorneys reasonably acceptable to University to defend against any claim with respect to which Company has agreed to indemnify University. This indemnity is not excess coverage to any insurance or self-insurance University may have covering a claim. Company’s indemnity is not limited by the amount of Company’s insurance.
	3. **UNIVERSITY DISCLAIMER.** UNIVERSITY DISCLAIMS ANY AND ALL PROMISES, REPRESENTATIONS, AND WARRANTIES WITH RESPECT TO ANY RESULTS OF THE PROJECT, INCLUDING CONDITION, CONFORMITY TO ANY REPRESENTATION OR DESCRIPTION, THE EXISTENCE OF ANY LATENT OR PATENT DEFECTS THEREIN, MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE, VALIDITY OF ANY INTELLECTUAL PROPERTY RIGHTS OR CLAIMS, OR NONINFRINGEMENT OF ANY THIRD PARTY INTELLECTUAL PROPERTY RIGHTS.
	4. **Limitation of Liability.** In no event is University liable for Company’s use of any results of the Project provided hereunder, or any loss, claim, damage, or liability, of whatsoever kind or nature, which may arise from or in connection with Company’s performance under this Agreement or use of the results of the Project. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL OR INDIRECT DAMAGES WITH RESPECT TO THIS AGREEMENT.
3. **Insurance**
	1. **University.** University is self-insured with adequate levels of excess general liability and commercial auto liability insurance for liabilities arising out of acts, omissions or negligence of the University, its officers and employees, subject to the limitations and conditions of the Oregon Tort Claims Act and the Oregon Constitution Article XI Section 7. In addition, the University, maintains workers’ compensation insurance for its employees as required by law.
	2. **Company.** Company will procure and maintain during the term of this Agreement, comprehensive liability and product liability insurance of a type and in an amount which is customary in Company’s industry, with reputable and financially secure insurance carriers. Upon University’s request, Company will provide University with a certificate of insurance evidencing this coverage.
4. **Parties are Independent Contractors**

Company and University are independent contractors and nothing in this Agreement creates a partnership, agency, or joint venture between the Parties. Neither Party has the power to bind or obligate the other in any manner, other than as this Agreement expressly sets forth. Each Party is responsible for wages, hours and conditions of employment of its respective personnel under this Agreement.

1. **Termination**
	1. **Breach.** Either Party may terminate this Agreement upon written notice to the other Party if the other Party materially breaches this Agreement and that Party does not cure the breach within 14 calendar days of the notice of breach.
2. **Results**
	1. **Ownership of Data**. “Data” shall mean all data and information generated as a result of conducting the Project. University, and its students as appropriate, shall own and have the right to use the Data in accordance with applicable laws, and the terms of this Agreement. University grants to Company a royalty free, non-exclusive, worldwide, license to reproduce, publish or otherwise use, any data University produces in the course of performance of the Project so long as Company’s use of that data doesn’t imply any kind of endorsement of Company or a Company product by University, University employees or University students.
	2. **Ownership of other Results**. No other results other than Data are expected under this Agreement. However, title to inventions and works of authorship made solely by University personnel shall belong solely to University, title to inventions and works of authorship made solely by Company personnel shall belong solely to Company, and inventions made jointly by University and Company personnel shall be jointly owned by the Parties. The Parties will determine Inventorship in accordance with United States patent law and authorship in accordance with United States copyright law. Parties agree to notify each other prior to applying for any patents that list each other’s students or personnel.
	3. **No Implied Licenses***.* Nothing in this Agreement grants a Party, either directly or by implication, estoppel, or otherwise any license under any patents, patent applications or other proprietary interests of any other invention, discovery, software, data or other proprietary works of the other Party.
	4. **Research Collaboration Rights.** University and Company, under their respective intangible property rights, permit, to the extent they legally are able to do so, the use of information, works of authorship, inventions, materials, technology, and equipment as provided by one to the other for the performance of this Agreement, but for no other purposes except as specified in writing signed by an authorized official of University and Company.
	5. **Reservations and United States Government Rights***.* Company agrees and acknowledges that with respect to any license which may be granted to Company, (i) University will reserve the right to use and to permit others to use the subject of that license for research, education, and non-commercial use, and (ii) such license may be subject to the rights of the United States government under applicable law.
3. **Publication**

University will have the right, at its sole discretion, but subject to Section 6, to release information or to publish any results of the Project or analysis of the Data resulting from this Agreement. University will identify the Company for their role in the Project when publishing the results of the Project. University will provide a copy of any proposed presentation or manuscript ("Proposed Publication") to Company at least 30 days before University’s presentation or submission for publication. Company has those 30 days to review the Proposed Publication for any Company Information or to protect any intellectual property, and University agrees to delay presentation or submission for up to 30 additional days so that Company may protect any Company Information or up to 60 additional days so that Company may protect any intellectual property. University agrees to remove any Company Information Company finds in the Proposed Publication from the Proposed Publication. Notwithstanding the above, Company agrees to review the final University presentations by students within 7 calendar days.

1. **Publicity.**

Neither Party may use the name, trademark, logo, symbol, or other image or trade name of the other Party or its employees and agents in any advertisement, promotion, or other form of publicity or news release or that in any way implies endorsement without the prior written consent of an authorized representative of the Party whose name is being used, except as University may identify and list Company as a research partner.

1. **Certifications**
	1. Each Party certifies the following upon signing this Agreement:
		1. That it will comply with all applicable Federal, State and local regulations and policies governing the research activities performed under this Agreement.
		2. That it maintains a financial conflict of interest policy as required by and that complies with all applicable federal and state requirements.
2. **Sovereignty**

Nothing in this Agreement is a waiver of either University’s sovereign or governmental immunities.

1. **Notice**
	1. **Generally.** Except as this Agreement otherwise expressly provides, the Parties will provide any communications or notices in writing by personal delivery, facsimile, first-class mail (postage prepaid) or email to the other Party at its address below unless either Party has designated a different contact with a previous notice.
		1. **University.**

**Administrative:**

IPS Contact

Innovation Partnership Services

1238 University of Oregon

Eugene, OR 97403-1238

**Technical:**

University's Project Director

Name: Paul Kempler

Tel: 541-346-6982

Email pkempler@uoregon.edu

* + 1. **Company.**

**Administrative:**

Name: Lynsee Padilla

Tel: 509-762-5336

Email: lpadilla@mlindustries.com

**Technical:**

Name: \_\_\_\_\_\_\_

Tel: \_\_\_\_\_\_\_\_

Email \_\_\_\_\_\_\_\_\_\_\_\_

* 1. **Effective Date.** All notices a Party mails are effective 3 days after mailing. All notices a Party sends by facsimile or email are effective when the transmitting machine generates receipt of the transmission. All notices a Party delivers in person are effective when delivered.
1. **Non-Waiver**

If either Party fails to enforce any term or provision of this Agreement, it does not constitute that Party’s waiver of that or any other term or provision of this Agreement.

1. **Assignment**

Neither Party may assign its rights or delegate its obligations under this Agreement without the other Party's prior written consent.

1. **Severability**

If a court of competent jurisdiction determines any term or provision of this Agreement is invalid or unenforceable to any extent, it does not affect the remainder of this Agreement, and each remaining term and provision of this Agreement remains valid and enforceable to the fullest extent applicable law allows.

1. **Survival**

All terms of this Agreement that the Parties would reasonably expect to survive termination of the Agreement survive termination of the Agreement.

1. **Execution and Counterparts**

The Parties may execute this Agreement in counterparts, and via facsimile or electronically transmitted signature (i.e. emailed scanned true and correct copy of the signed Agreement), each of which the Parties consider an original and all of which together constitute one and the same agreement. At the request of a Party, the other Party will confirm facsimile or electronically transmitted signature page by delivering an original signature page to the requesting Party.

1. **Governing Law**

This Agreement is governed by and construed in accordance with the laws of the State of Oregon. The Parties irrevocably and exclusively submit to the jurisdiction of the state and federal courts of or for the State of Oregon, including the related appellate courts, in any such action or proceeding. A Party may obtain personal jurisdiction over the other Party by mailing (postage prepaid) a summons or similar legal document to the other Party’s address for notices under this Agreement.

1. **Entire Agreement; Modification**

This Agreement, including all exhibits and attachments, constitutes the sole agreement between the Parties with respect to its subject matter. The Parties may only change or modify this Agreement by written agreement signed by an authorized representative of each Party.

1. **Compliance**

Company agrees that any samples or information provided to University is in compliance with all applicable statutes and regulations, and that it will obtain written agreement from University’s authorized export control official prior to sharing any export controlled materials with University.

**COMPANY**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date

**UNIVERSITY**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Elizabeth Denecke, J.D.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Associate Director, Sponsored Project Services

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date

**Read, Acknowledged, & Understood**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**EXHIBIT A - PROJECT**

**Winter Quarter 2021 Project**:

This project will be conducted on UO campus as part of CH 610 Electrochemical Projects Lab

**Problem Statement:**

\_\_\_\_\_\_\_\_\_\_\_\_\_

**Project Scope:**

1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
2. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
3. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
4. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
5. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
6. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Statement of Work and Interactions:**

UO will supervise students conducting research for the collaboration, provide access to laboratory supplies, instruments, and meeting spaces.

“COMPANY” will provide \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Project Directors will advise students on the direction of the collaboration, provide feedback on preliminary results, and attend final presentations of students (in person or virtual).