GEORGIA TECH RESEARCH CORPORATION

EXCLUSIVE OPTION AND RESEARCH AGREEMENT

THIS AGREEMENT is made effective this ____ day of _____, 19___, between and among the GEORGIA TECH RESEARCH CORPORATION, a non-profit corporation organized under the laws of the State of Georgia (hereinafter called "GTRC"), having its principal offices at the Centennial Research Building, Atlanta, Georgia 30332-0420, UNIVERSITY TECHNOLOGY CORPORATION, a corporation organized under the laws of the State of North Carolina, having its principal office at South Square Corporate Centre, Suite 210, 3710 University Drive, Durham, North Carolina 27707 (hereinafter called "UTC") and _____, a corporation organized under the laws of the State of ____, having its principal office at _____, ____ _____, (hereinafter called "COMPANY").

WITNESSETH THAT

WHEREAS, GTRC has the right to grant licenses and options to acquire licenses authorizing the use of certain Invention(s) and/or Subject Invention(s) (as hereinafter defined), and wishes to have the Invention(s) and/or Subject Invention(s) utilized in the public interest; and

WHEREAS, UTC is acting on GTRC's behalf as its exclusive agent with respect to the marketing of such Invention(s) and/or Subject Invention(s) to prospective licensees; and

WHEREAS, the COMPANY wishes to obtain an option to acquire a license to use, make and practice the Invention(s) and/or Subject Invention(s) upon the terms and conditions hereinafter set forth; and

WHEREAS GTRC represents that it is the sole owner of the entire right, title and interest in and to said Invention(s) and/or Subject Invention(s) including all rights subsisting therein;

WHEREAS, GTRC has or may have certain proprietary data, prototypes and other information relating to said Invention(s) and/or Subject Invention(s) and the practice, manufacture and use thereof which it is willing to make available to COMPANY subject to the terms of this Agreement; and

WHEREAS, GTRC desires financial assistance in order to undertake Research Work (as hereinafter defined), directed to such Invention(s) and/or Subject Invention(s) and

WHEREAS, COMPANY is willing to provide to GTRC such financial assistance as partial consideration for the aforementioned option and for an option to license such Invention(s) and/or Subject Invention(s); and

WHEREAS, the COMPANY is interested in considering the development of commercial products using the teaching of the Invention(s) and/or Subject Invention(s);

NOW THEREFORE, in consideration of the premises and the faithful performance of the covenants herein contained IT IS AGREED:

ARTICLE I - DEFINITIONS

1.01 - For the purposes of this Agreement, the terms when capitalized as set forth hereinafter shall be defined as follows:

a) "Invention(s) shall mean that certain process, machine, manufacture, composition of matter, or improvement disclosed in Georgia Institute of Technology (GIT) Record of Invention File No. ___, UIC File No. _____ and assigned to GTRC, including all Trade Secrets and Know-How subsisting therein.

b) "Know-How" shall mean GTRC's proprietary and unpublished designs, drawings, calculations, data and processing techniques other than Trade Secrets.

c) "Trade Secrets" shall mean any scientific or technical information, design, process, formula, procedure or improvement that is commercially valuable and not generally known in the industry of its principal use.

d) "Subject Invention(s)" shall mean all processes, methods of manufacture, composition of matter or improvements developed during the course of the Research Work, including all Trade Secrets and Know-How subsisting therein.

e) "Issued Patents" shall mean all letters patent which issue relating to the Invention(s) and/or Subject Invention(s).

f) "Patent Applications" shall mean any patent applications filed by or on behalf of GTRC, which relate to the Invention(s) and/or Subject Invention(s).

g) "Field" shall mean the application of the Invention(s) and/or Subject Invention(s) for the purpose of inclusion in paint.

h) "Licensed Products" shall mean any process, apparatus, service, embodiment or product based on the Invention(s) and/or Subject Invention(s) in the Field.

i) "Gross Revenues" shall mean any consideration whatsoever received by COMPANY or credited to the account of COMPANY or to the account of any sister, parent, subsidiary, or other entity affiliated in any way with COMPANY which is so received or credited in connection with the sale, lease, use, distribution, provision of a service, or other transfer of any interest whatsoever in one or more Licensed Products.

j) "Research Work" shall mean the Research Work to be undertaken by GTRC as described in Appendix A hereof.

ARTICLE II - OPTION

2.01 - GTRC hereby grants to the COMPANY an option to acquire an exclusive license in accordance with the terms of Article III of this Agreement to make, have made, use, sell and lease Licensed Products in the Field.

2.02 - The option granted in Paragraph 2.01 shall endure for _____ or ninety (90) days after delivery of the final report of the Research Work, whichever period is longer. At COMPANY's election, said option may be renewed for an additional period of _____ on written notice to UIC given fifteen (15) days in advance of the expiration of the option period or any further extension agreed upon by the parties.

2.03 - During the option period, or any extension thereof, GIRC shall retain all right, title and interest in and to said Invention(s) and/or Subject Invention(s) and shall not license, sell, transfer or in any manner encumber said rights as they may relate to the Field.

2.04 - COMPANY agrees to pay to GIRC the sum of _____ ($_____) Dollars for said option, and an additional _____ (_____) Dollars for the extension of the option as elected by COMPANY in Article II, Paragraph 2.02. Payment for the option period is due upon the execution of this Agreement. Payment for the extension of the Option shall be due upon exercising the extension. All sums paid pursuant to this paragraph shall be nonrefundable.

2.05 - Promptly upon the execution of this Agreement and thereafter during the period of this Agreement and subject to the terms hereof, GIRC agrees to disclose to COMPANY all Invention(s) and/or Subject Invention(s) it may possess or obtain during the course of this Agreement pertaining to the Field. GIRC further agrees to provide to COMPANY copies of all such documentation and copies of any and all patent or patent applications pertaining to the Invention(s) and/or Subject Invention(s).

2.06 - During the term of this Agreement, representatives of UIC and GIRC will meet with representatives of COMPANY at times mutually agreed upon at the Georgia Institute of Technology to discuss the progress and results of the Research Work undertaken by GIRC, as well as ongoing plans with respect to the evaluation of the Invention(s) and/or Subject Invention(s) undertaken by COMPANY. Should GIRC's or UIC's personnel be required to consult with COMPANY outside of Atlanta, Georgia, or Washington, D.C., respectively, COMPANY will reimburse GIRC and/or UIC reasonable travel expenses incident thereto.

2.07 - UIC will pay or cause to be paid expenses incurred in connection with the filing and prosecution of any United States Patent Applications based on the Invention(s) and/or Subject Invention(s). COMPANY agrees to cooperate with GIRC and UIC to assure that any such applications filed based on the Invention(s) and/or Subject Invention(s) will reflect, to the best of COMPANY's knowledge, all items of commercial interest and importance. Within six (6) months from the date of GIRC's filing of the United States Patent Applications or, if already filed, not later than sixty (60) days prior to foreign statutory bars, COMPANY will notify GIRC and UIC of which foreign countries COMPANY desires to have Patent Applications filed ("designated countries"). COMPANY agrees that the specification of which foreign patent applications are to be made will be in accordance with COMPANY's normal filing procedure and will at least include France, West Germany, England and Japan.

The option granted to COMPANY pursuant to Paragraph 2.01 shall extend only to the designated countries. COMPANY agrees to reimburse UIC for expenses incurred in connection with the filing, prosecution and maintenance of foreign Patent Applications in the designated countries, and any continuation-in-part, divisional,

reissue or substituted applications thereof within thirty (30) days of receipt of statement from UIC. GIRC reserves the right to file and license in additional countries at its own expense.

GIRC shall keep COMPANY advised as to all developments with respect to the designated Patent Applications (United States and foreign) and shall supply to COMPANY copies of all papers received and filed in connection with the prosecution thereof. COMPANY shall have the right, through its patent attorneys and/or agents, to advise and cooperate with GIRC and UIC in the prosecution of such applications. However, all final decisions with respect to the prosecution of such applications are reserved to GIRC, except that GIRC shall undertake all reasonable actions for which COMPANY agrees to pay.

2.08 - If COMPANY shall not exercise its option hereunder prior to the expiration of said option period or extension thereof or, if prior to the expiration of said option period or extension thereof, COMPANY shall advise UIC that it does not desire to exercise said option, COMPANY shall immediately return to GIRC all materials forwarded hereunder relating to the Invention(s) and/or Subject Invention(s).

ARTICLE III - LICENSE TO BE NEGOTIATED

3.01 - Should COMPANY decide to exercise its option hereunder, then upon so notifying UIC at any time during the option period or extension thereof, COMPANY and UIC will negotiate in good faith to conclude one or more License Agreements, which will contain (without limiting either party's right to negotiate such additional terms as it deems appropriate) the following basic terms:

a. COMPANY shall receive in the United States and in the designated countries an exclusive license to make, have made, use and sell Licensed Products in the Field. COMPANY shall have the right to grant sublicenses to companies in the U. S. and designated countries to make, have made, use and sell the Licensed Product's upon the prior written approval of GIRC, which approval shall not be unreasonably withheld.

b. COMPANY shall pay to GIRC on a quarterly basis a reasonable royalty based upon an applicable percentage of Gross Revenues and consistent with industry standards.

c. In the event one or more patents have issued or issue based on the Invention(s) and/or Subject Invention(s), COMPANY's obligations to pay royalties pursuant to Section 3.01 Subpart b of this Agreement shall terminate upon the earlier of (i) the expiration, abandonment, or invalidation of all patents which have issued based on the Invention(s) and/or Subject Invention(s) or (ii) twenty-five (25) years from the effective date of this Agreement. In the event no patents have issued or issue based on the Invention(s) and/or Subject Invention(s) within five (5) years of the effective date of this Agreement, COMPANY's royalty obligations shall be reduced to one-half (1/2) of the rate specified in b. above and shall continue for twenty-five (25) years provided that material elements of the Invention(s) and/or Subject Invention(s) continue to embody Trade Secrets or Know-How as defined herein.

d. COMPANY shall pay GIRC a minimum annual royalty at a mutually agreed upon rate commencing with the first commercial sale, lease, use, or distribution of any Licensed Product. Such minimum annual royalty will be generally based upon one-half (1/2) of an agreed to projection of COMPANY'S Gross Revenues. Such minimum annual

royalties will be paid quarterly for a period of five (5) years beginning with the second quarter following the effective date of the License Agreement with COMPANY, after which time COMPANY shall have no obligation to pay minimum royalties to GTRC. Should the license be cancelled by COMPANY in the first three (3) years, the annual minimum royalty for the year during which cancellation is made by COMPANY shall be paid in full to GTRC at the time of such cancellation. If cancelled in the fourth or fifth year from the date of the License, the annual minimum royalty shall be prorated to the cancellation date.

e. COMPANY shall pay to GTRC, annual payments in an amount to be negotiated commencing on the effective date of the License Agreement and terminating upon COMPANY's first commercial sale, lease, use or distribution of a Licensed Product.

f. The License Agreement shall include terms which will provide for enforcement of COMPANY's and GTRC's rights in the Invention(s) and/or Subject Invention(s).

g. The License Agreement will include terms which will require COMPANY to indemnify GTRC, the Georgia Institute of Technology and UTC against product liability, infringement and other claims arising out of COMPANY's sale, lease, use, or distribution of Licensed Products.

ARTICLE IV - DISCOVERIES MADE DURING RESEARCH WORK

4.01 Rights to inventions, improvements or discoveries, whether patentable or not, relating to the Research Work made solely by employees of COMPANY shall belong to COMPANY only to the extent such inventions, improvements and discoveries are independently developed without use or access to proprietary information of GTRC.

4.02 - Rights to Subject Inventions whether patentable or not, made or conceived solely by employees of GTRC or made or conceived jointly by GTRC and employees of COMPANY in the course of the performance of Research Work or solely by employees of the COMPANY utilizing proprietary information of GTRC, shall belong to GTRC and shall be subject to the terms and conditions of this Agreement.

4.03 - Rights to inventions, improvements and discoveries other than Subject Invention(s) whether patentable or not, shall belong to GTRC, but will not be subject to this Agreement. The rights of COMPANY in such inventions, improvements or discoveries are specified in Paragraph 4.07 herein.

4.04 - If the parties hereto mutually agree that any Subject Inventions under Article V, Paragraph 4.02 above is patentable under the patent laws of the United States, or if GTRC in its sole discretion deems that any Subject Invention(s) is patentable, then GTRC shall prepare, file and prosecute a Patent Application(s) in the United States based on such Subject Invention(s). UTC shall pay or cause to be paid all expenses incurred in connection with such preparation, filing and prosecution of such U. S. Patent Application(s). COMPANY shall reimburse UTC for such expenses within thirty (30) days of UTC's statements respecting such expenses. COMPANY shall cooperate with GTRC and UTC to assure that such Patent Application(s) will cover, to the best of COMPANY's knowledge, all items of commercial interest and importance. GTRC shall keep COMPANY advised as to all developments with respect to such Patent Application(s) and shall promptly supply to COMPANY copies of all papers received and filed in connection with the prosecution thereof in sufficient time for COMPANY to comment thereon. COMPANY shall have the right to advise and cooperate

with GTRC in such prosecution, and such advise shall not be rejected unreasonably. However, all final decisions with respect to prosecution of said Patent Applications is reserved to GTRC.

4.05 - In the event that GTRC declines to prepare, file and prosecute any Patent Application in the United States based on any Subject Invention(s) according to Paragraph 4.02, GTRC shall promptly notify COMPANY of such fact, then COMPANY at its sole discretion and at its own expense may elect to prepare, file and prosecute such Patent Application(s). If COMPANY does so elect, then the full title and right in to the Subject Invention(s) included in such Patent Application(s) and any patent issuing thereon shall reside in COMPANY. GTRC is expressly granted a royalty-free, perpetual, irrevocable, non-exclusive, non-assignable and non-transferable right and license to use and practice the subject matter of any such Patent Applications or Issued Patents for research purposes only. GTRC agrees, upon request by COMPANY, to execute and deliver any and all proper papers prepared by COMPANY, and give all reasonable assistance, at COMPANY's sole expense, that may be necessary or desirable to perfect title to such Subject Invention(s) and reissue patents pertaining thereto in COMPANY and to enable COMPANY to issue and maintain such patents.

4.06 - Foreign patent applications directed to any Subject Invention(s) arising under Paragraph 4.02 shall be handled in accordance with Paragraph 2.07.

4.07 - COMPANY shall have a right-of-first refusal to an exclusive option and/or license to any invention(s), improvements or discoveries arising under Paragraph 4.03 above. Upon receipt from GTRC, UTC shall notify COMPANY of such invention(s), improvements or discoveries, and COMPANY shall then have ninety (90) days to decide whether or not to exercise said right. If COMPANY exercises said right, UTC and COMPANY will negotiate the specific option and/or license terms in good faith. If COMPANY elects not to exercise said right or fails to notify UTC of its desire to exercise said right prior to the expiration of ninety (90) days, GTRC shall be free to option and/or license such invention(s), improvements or discoveries as it sees fit with no further obligation to COMPANY.

ARTICLE V - DISCLAIMER

5.01 GTRC, GIT AND UTC DISCLAIM ANY AND ALL PROMISES, REPRESENTATIONS AND WARRANTIES BOTH EXPRESS AND IMPLIED WITH RESPECT TO THIS AGREEMENT, INCLUDING INVENTION(S) AND/OR SUBJECT INVENTION(S), RESEARCH WORK, SERVICES TO BE PERFORMED HEREUNDER AND ANY REPRESENTATION OR DESCRIPTION, THE EXISTENCE OF ANY LATENT OR PATENT DEFECTS THEREIN, AND THEIR MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE.

ARTICLE VI - LIMITATION OF LIABILITY

6.01 The cumulative liability of GTRC and GIT to COMPANY for all claims, demands or actions arising out of or relating to this Agreement, the services to be performed hereunder and any deliverables resulting therefrom, shall not exceed the total amount paid to GTRC hereunder during the twelve months immediately preceding such claim, demand or action. Without limiting the foregoing, in no event shall GTRC or GIT be liable for any business expense, machine down time, loss of profits, any incidental, special, exemplary or consequential damages, or any claims or demands brought against COMPANY or COMPANY's customers, even if GTRC or GIT have been advised of the possibility of such claims or demands. The foregoing limitations of liability,

damages and claims is intended to apply without regard to which other provisions of this Agreement have been breached or proven ineffective.

ARTICLE VII - DURATION AND TERMINATION

7.01 - This Agreement shall become effective upon the date hereinabove written, and, unless sooner terminated in accordance with any of the provisions herein, shall remain in full force and effect for the option period or any extension thereof as specified in Paragraph 2.02.

7.02 - Either party shall have the right to terminate this Agreement in the event the other party commits a material breach of its obligations hereunder. Intention to terminate shall be made by written notice, sent by certified mail, return receipt requested, to the alleged breaching party. Such notice shall contain a full description of the event(s) or occurrence(s) constituting the alleged material breach of the Agreement. The party receiving notice of the alleged material breach will have the opportunity to cure such alleged breach within thirty (30) days of receipt of notice. If the breach is not cured within that time, the termination will become effective as of the thirtieth day after receipt of the notice.

7.03 If during the term of this Agreement, COMPANY shall become bankrupt or insolvent or if the business of COMPANY shall be placed in the hands of a receiver or trustee, whether by the voluntary act of COMPANY or otherwise, this Agreement shall immediately terminate.

7.04 - Termination of this Agreement for any cause shall not release either party from any obligations theretofore accrued.

ARTICLE VIII - PUBLICATION

8.01 - COMPANY agrees that the rights of first publication of the Invention(s) and/or Subject Invention(s) subject to this Agreement and of the subject matter of the Research Work shall belong to GTRC or GIT. GTRC shall provide a copy of the manuscript to COMPANY at the same time it is submitted for publication (but in no event less than sixty (60) days prior to publication) for review by COMPANY, but such review will in no way be construed as a right to restrict the contents of such publication. Prior to publication by GTRC, COMPANY may only publish information which has not been transmitted in confidence concerning the Invention(s) and/or Subject Invention(s) in trade and advertising publications with the prior consent of GTRC, which shall not be unreasonably withheld or delayed. After publication by GTRC, COMPANY shall have the right to publish such information concerning the Invention(s) and/or Subject Invention(s) or the Research Work in its sole discretion. Nothing herein shall be construed to grant COMPANY any right to use the names of UTC, GTRC or GIT in any releases or publications absent such party's prior written consent.

ARTICLE IX - MARKETING CLEARANCE

9.01 - COMPANY shall have the Licensed Product(s) cleared for marketing by the responsible government agencies (both domestic and foreign) requiring such clearance in the various countries at the earliest possible date, but shall have no obligation to undertake any such clearance until a definitive License Agreement is executed. To

accomplish said clearance, COMPANY agrees to file according with the usual practice of COMPANY any necessary data with said government agencies. Should COMPANY not exercise its option hereunder, COMPANY agrees to assign its full interest and title in such market clearance application, including all data not proprietary to COMPANY relating thereto, to GTRC at no cost to GTRC.

ARTICLE X - LAW TO GOVERN

10.01 This Agreement shall be interpreted and enforced according to the laws of the State of Georgia, U.S.A.

ARTICLE XI - NOTICES

11.01 All notices, requests and consents hereunder shall be given in writing and shall be deemed sufficient if given in person or by registered mail, return receipt requested, postage prepaid, and addressed to the party to receive such notice at the address given below, or such other address as may hereafter be designated by notice in writing.

GTRC

Georgia Tech Research Corporation
Centennial Research Building
Georgia Institute of Technology
Atlanta, Georgia 30332-0420
Attention: Dr. M. P. Stombler

COMPANY

_____
_____
_____
_____
Attention:

UTC

University Technology Corporation
South Square Corporate Centre
Suite 210, 3710 University Drive
Durham, North Carolina 27707

COMPANY shall copy GTRC on all notices to UTC in the manner set forth above.

ARTICLE XII - ASSIGNMENT

12.01 - This Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto. However, neither GTRC, UTC nor COMPANY may assign its rights in this Agreement without approval by the other, such approval not to be unreasonably withheld.

ARTICLE XIII - FORCE MAJEURE

13.01 - No party shall be in default if failure to perform any obligation hereunder is caused solely by supervening conditions beyond that party's control, including acts of God, civil commotion, strikes, labor disputes, or governmental demands or requirements.

ARTICLE XIV - ENTIRE UNDERSTANDING

14.01 - This Agreement and that certain Nondisclosure Agreement signed by COMPANY and UTC on June 10, 1987 represents the entire understanding of the parties and supersedes all other Agreements expressed or implied between the parties concerning the subject matter of this Agreement.

ARTICLE XV - ACCEPTANCE

IN WITNESS WHEREOF, the parties have duly executed this Agreement.

COMPANY

By:_____

Typed Name:_____

Title:_____

Date:_____

GEORGIA TECH RESEARCH CORPORATION

By:_____

Typed Name:_____

Title:_____

Date:_____

By:_____

Typed Name:_____

Title:_____

Date:_____

AGENT FOR GTRC
UNIVERSITY TECHNOLOGY CORPORATION

By:_____
Carl B. Wootten
President

Date:_____