FAU
BOARD OF TRUSTEES
Florida Atlantic University

Item: SP: A-4

STRATEGIC PLANNING COMMITTEE

Wednesday, June 17, 2009

SUBJECT: **SUBLEASE WITH MAX PLANCK FLORIDA CORPORATION**

PROPOSED COMMITTEE ACTION

Recommend approval by the Board of Trustees of a long-term Sublease and related documents with Max Planck Florida Corporation ("MPFC").

BACKGROUND INFORMATION

On July 30, 2008, the Board of Trustees approved a Cooperative Agreement between the University and MPFC. Specifically, the Cooperative Agreement: (i) established a research and academic affiliation between the University and MPFC in the areas of biomedical sciences and related fields; (ii) established the framework for the negotiation of a short-term facilities use agreement for the T-2 research building and for a portion of the T-1 research building, both located on the MacArthur (Jupiter) Campus and currently occupied on a temporary basis by The Scripps Research Institute; and (iii) established the framework for the negotiation of a long-term ground sublease for the construction of a permanent 100,000 gross square foot facility for MPFC on six (6) acres of property at the MacArthur Campus, which facility shall include 10,000 gross square feet to be jointly used by FAU and MPFC in support of the anticipated collaborative research and educational efforts. On March 18, 2009, the Board approved the short-term facilities use agreement and MPFC will commence temporary occupancy of the T-buildings as of June 22, 2009.

The Administration has now completed negotiations with MPFC on the long-term ground sublease, as well as a related easement agreement for MPFC access and a Sublease Consent and Agreement, with the cooperation of Palm Beach County and the State of Florida. The ground sublease is for a term of fifty (50) years. The 100,000 gross square foot facility to be constructed by MPFC shall be used exclusively for the establishment, construction, operation and maintenance of a not-for-profit biomedical research institution for biomedical and other scientific research, training and education, together with related office uses and with ancillary uses such as classrooms, lecture halls, conference rooms, cafeterias and libraries. The facility shall include approximately 10,000 gross square feet for conference facilities with capacity for approximately 100 seats to be jointly used by the University and MPFC for the enhancement of the collaborative relationship set forth in the Cooperative Agreement, as well as classrooms, work-space, laboratory, or conference areas available for joint use by the University

and MPFC in connection with the anticipated joint cooperative efforts foreseen in the Cooperative Agreement.

IMPLEMENTATION PLAN/DATE

The long-term sublease shall become effective upon approval by this Board, as well as approval by the governing board of MPFC, the Florida Division of State Lands, the MacArthur Foundation, and the Palm Beach County Commission.

FISCAL IMPLICATIONS

MPFC shall be responsible for all construction costs of the permanent facilities (through grants provided by Palm Beach County and the State of Florida), and for all utilities, services, and costs (other than concurrency costs) attributable to MPFC's use and occupancy of the permanent facilities.

Supporting Documentation: Sublease (note: certain exhibits are located only on the FAU BOT website, to conserve resources)
Easement Agreement
Sublease Consent and Agreement

Presented by: Elizabeth F. Rubin, Associate General Counsel Phone: 561-297-3007





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Max Planck Florida Corporation

June 17, 2009

FAU

Max Planck Florida Corporation Agreements in Place

- July 30, 2008: Cooperative Agreement approved by FAU BOT
  - Research and academic affiliation
    - Biomedical sciences and related fields

- March 18, 2009: Facilities Use Agreement approved by FAU BOT
  - Use of T-2 and a portion of T-1 research buildings (vivarium and robotics facility)
  - Occupancy anticipated to commence June 22, 2009

Max Planck Florida Corporation
New Agreements

- Sublease
  - 50 years
  - 6 acres of land
  - 100,000 gsf facility
    - To be constructed by MPFC
    - 10,000 gsf for joint FAU-MPFC use

- Easement-Access Agreement
  - MPFC Drive
- Sublease Consent and Agreement

THE FLORIDA ATLANTIC UNIVERSITY BOARD OF TRUSTEES

SUBLEASE

Between

THE FLORIDA ATLANTIC UNIVERSITY BOARD OF TRUSTEES

("Sublessor")

And

MAX PLANCK FLORIDA CORPORATION

("Sublessee")

Joined By

PALM BEACH COUNTY

("County")

TABLE OF CONTENTS

Page

1. ACKNOWLEDGMENTS 1

2. DESCRIPTION OF SUBLEASED PREMISES 2

3. TITLE; TITLE DISCLAIMER 6

4. SUBLEASE TERM 7

5. PURPOSE 7

6. CONFORMITY 9

7. QUIET ENJOYMENT AND RIGHT OF USE 9

8. ASSIGNMENT 10

9. RIGHT OF INSPECTION 10

10. PLACEMENT OF IMPROVEMENTS 11

11. INSURANCE REQUIREMENTS 12

12. INDEMNITY 14

13. PAYMENT OF TAXES AND ASSESSMENTS 14

14. NO WAIVER OF BREACH 15

15. TIME 15

16. BINDING EFFECT AND INUREMENT 16

17. NON-DISCRIMINATION 16

18. VENUE 16

19. UTILITIES; UTILITY FEES; SIGNAGE 16

TABLE OF CONTENTS

Page

20. MINERAL RIGHTS 21

21. RIGHT TO REPORTS 21

22. CONDITION OF PROPERTY; MASTER PLAN AND CONCURRENCY 22

23. OPERATIONAL REPORT 24

24. NOTICES 25

25. DAMAGES TO THE PREMISES; ENVIRONMENTAL REMEDIATION 27

26. SURRENDER OF PREMISES; RIGHTS OF COUNTY 31

27. BREACH OF COVENANTS TERMS, OR CONDITIONS AND DEFAULT AND FORFEITURE 33

28. BEST MANAGEMENT PRACTICES 35

29. SOVEREIGNTY SUBMERGED LANDS 35

30. PROHIBITIONS AGAINST LIENS OR OTHER ENCUMBRANCES 35

31. CONDITIONS AND COVENANTS 36

32. PARTIAL INVALIDITY 36

33. ENTIRE UNDERSTANDING 36

34. EASEMENTS 37

35. SUBSUBLEASES 37

36. MAINTENANCE OF IMPROVEMENTS 38

37. COMPLIANCE WITH LAWS 38

TABLE OF CONTENTS

Page

38. ARCHAEOLOGICAL AND HISTORIC SITES 39

39. GOVERNING LAW 39

40. RECORDATION 39

41. SECTION CAPTIONS 39

42. COUNTY JOINDER 39

43. INTEREST 40

44. CONSENT BY TRUSTEES 40

DEFINED TERMS

Page

Acknowledgement 8
Amendments 2
Campus 1
Commencement Date 1
Common Facilities 3
Cooperative Agreement 8
Cooperative Space 8
County 1
Development Costs 20
Excluded Services 17
Foundation 8
Grant Agreement 10
Master Lease 2
Master Plan 23
MPFC Drive 5
MPFC Funding Agreement 7
New Access Drive 4
New Capacity 19
Original Lease 1
OTTED 8
Permanent Facilities 11
Permitted Use 8
Pre-Existing Environmental Conditions 14
Provided Utilities 17
Remediation Activities 29
Scripps 9
Scripps Way 9
Shared Infrastructure Improvements 19
Sublease 1
Subleased Premises 2
SUBLESSEE 1
SUBLESSEE Parties 14
SUBLESSOR 1
SUBLESSOR'S Share 20
Term 7
TRUSTEES 1

THE FLORIDA ATLANTIC UNIVERSITY BOARD OF TRUSTEES

SUBLEASE AGREEMENT

Sublease Number 4189-05

THIS SUBLEASE AGREEMENT (the "**Sublease**") is made and entered into this ____ day of _____, 2009 (the "**Commencement Date**"), between THE FLORIDA ATLANTIC UNIVERSITY BOARD OF TRUSTEES (successor in interest by operation of law to the Florida Board of Education, which was the successor in interest by type two transfer pursuant to Section 20.06(2), Florida Statutes, to the Florida Board of Regents), hereinafter referred to as "**SUBLESSOR**", and MAX PLANCK FLORIDA CORPORATION, a Florida nonprofit corporation, doing business as Max Planck Florida Institute, its successors and assigns, hereinafter referred to as "**SUBLESSEE**" and joined by PALM BEACH COUNTY, a political subdivision of the State of Florida, hereinafter referred to as "**County**".

WITNESSETH:

In consideration of the covenants and conditions set forth herein SUBLESSOR subleases the below described premises to SUBLESSEE on the following terms and conditions:

1. ACKNOWLEDGMENTS. The parties acknowledge that fee simple title to land consisting of the Subleased Premises (defined in Paragraph 2) is held by the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida ("**TRUSTEES**") and is currently leased and managed by SUBLESSOR as the Florida Atlantic University North Palm Beach Campus (the "**Campus**") under TRUSTEES' Lease No. 4189 (the "**Original Lease**"), dated May 19, 1998, and amended by Amendment to Lease Agreement Number One, dated February 24, 2004, Amendment Number Two To Lease Number 4189, dated November 4, 2004, Amendment

to Lease (Amendment No. 3) dated April 16, 2006, and Amendment Number 4 to Lease Number 4189, dated May 23, 2006 (collectively, the "**Amendments**", which together with the Original Lease are collectively referred to as the "**Master Lease**"). A copy of the Original Lease and the Amendments are attached to this Sublease as Exhibit "B". The parties further acknowledge that County has or will contribute significant funds toward the construction of permanent improvements to be constructed by SUBLESSEE upon the Subleased Premises and that the County anticipates recouping the County's investment through economic growth resulting from SUBLESSEE'S operations at the Subleased Premises. In consideration for the County's financial contribution toward the construction of said improvements, SUBLESSOR and SUBLESSEE agree to give the County certain limited rights in this Sublease.

2. DESCRIPTION OF SUBLEASED PREMISES.

a. The property subject to this Sublease is situated in the County of Palm Beach, State of Florida, consisting of approximately six acres, and is more particularly described in Exhibit "A" attached hereto and hereinafter referred to as the "**Subleased Premises**". If during development of the Subleased Premises, SUBLESSEE determines that the configuration of the Subleased Premises should to be altered, SUBLESSEE shall so notify SUBLESSOR in writing of SUBLESSEE'S determination (with supporting rationale for the requested reconfiguration) and SUBLESSEE'S proposed revised configuration of the Subleased Premises. If SUBLESSOR agrees, in its sole discretion, that a revised configuration is feasible and generally acceptable, SUBLESSOR and SUBLESSEE shall thereafter work together in good faith to agree upon a revised configuration

of the Subleased Premises and upon agreement thereon, SUBLESSOR and SUBLESSEE shall execute an amendment to this Sublease which substitutes the agreed upon revised Exhibit "A" for the original Exhibit "A" attached to this Sublease. In conjunction with the occupancy of the Subleased Premises, SUBLESSEE, its employees, agents and guests shall have a non-exclusive license, in common with others entitled thereto, of the internal Campus roadway system and access points, bicycle pathways and pedestrian system under the control of SUBLESSOR (and not subleased to or otherwise under the control of other third parties) (collectively the "**Common Facilities**") and such other Common Facilities as may be designated from time to time by SUBLESSOR, subject, however, to the terms and conditions of this Sublease. Notwithstanding anything set out in this Sublease to the contrary, it is agreed that (a) all Common Facilities shall be subject to the exclusive control and management of SUBLESSOR, and SUBLESSOR shall have the right at any time, once or more often, to change the size, area, level, location and arrangement of the Common Facilities and to construct buildings and other improvements throughout the Campus, excluding the Subleased Premises; (b) SUBLESSOR shall have the right to close, sublease or assign (on either a non-exclusive or exclusive basis) all or any portion of the Common Facilities; provided, however, that any such closure, sublease or assignment shall not permanently deny reasonable access to the Subleased Premises, nor temporarily prohibit access without the use of temporary detours or alternate routes in order to have vehicular access to and from the Subleased Premises; (c) SUBLESSOR shall have the right to do and perform such other acts in and to the Common Facilities as

SUBLESSOR shall determine to be advisable consistent with SUBLESSOR'S development and operation of a public academic and research institution and (d) SUBLESSOR shall maintain the Common Facilities, at SUBLESSOR'S cost and expense, consistent with SUBLESSOR'S standards and policies, subject to appropriate funding for such purposes.

b. The parties agree that, notwithstanding subpart (a) above, the location and configuration of the Subleased Premises and the site planning of SUBLESSEE'S Permanent Facilities may be influenced by a contemplated roadway from Donald Ross Road to the existing Campus Drive/Scripps Way between Central Boulevard and Parkside Drive (the "**New Access Drive**"). The staff of the County's engineering department conceptually approved the location of the intersection of Donald Ross Road and the New Access Drive in September, 2008. Notwithstanding such conceptual approval, SUBLESSOR and SUBLESSEE shall remain obligated to fully comply with all applicable local, County, state and federal regulations regarding the development of New Access Drive. SUBLESSOR and SUBLESSEE shall exercise reasonable efforts to agree on the location, timing, and source of funding for the development of the New Access Drive, but neither party shall have the obligation to construct the New Access Drive.

c. As an alternative to the development of the New Access Drive as set forth above, SUBLESSOR grants to MPFC the right to obtain from the TRUSTEES (or its designated agent, if applicable) a nonexclusive easement appurtenant to the Subleased Premises and in favor of SUBLESSEE, which easement shall be used

for pedestrian and vehicular access to and from Donald Ross Road and the Subleased Premises on the terms set forth in this Paragraph 2.c ("**MPFC Drive**") and agrees to consent to such a grant of easement. The easement for MPFC Drive shall expire on the same date as this Sublease (or a replacement thereof) or on such earlier date as set forth below in this Paragraph 2.c. In addition, following development of MPFC Drive, SUBLESSEE agrees it shall abrogate that portion of the easement not utilized by MPFC Drive. If developed, MPFC Drive would be contiguous to the Subleased Premises to the west and furnish pedestrian and vehicular access between Donald Ross Road and the Subleased Premises. MPFC Drive (i) would be developed at the direction of SUBLESSEE, subject to reasonable coordination with SUBLESSOR and SUBLESSOR'S review and approval, not to be unreasonably withheld, (ii) would serve the Permanent Facilities exclusively, (iii) would not connect to the Campus Drive/Scripps Way to the north, and (iv) would be operated, maintained, repaired and replaced at SUBLESSEE'S sole cost and expense. SUBLESSOR agrees that SUBLESSEE shall have the exclusive right to name MPFC Drive, subject to applicable law, regulations and FAU naming policies. SUBLESSOR reserves the right to extend MPFC Drive north to Campus Drive/Scripps Way and to widen and otherwise improve MPFC Drive at SUBLESSOR'S sole discretion, without cost to SUBLESSEE, so that upon completion of those SUBLESSOR improvements (i) the nonexclusive easement appurtenant described above would automatically terminate and SUBLESSEE'S right to use the entire roadway between Donald Ross Road and Campus Drive/Scripps Way would continue as a Common Facility,

(ii) SUBLESSEE'S obligation to operate, maintain, repair and replace MPFC Drive set forth above would automatically terminate, (iii) SUBLESSEE would be entitled to no reimbursement or payment for any of SUBLESSE'S cost of development MPFC Drive, and (iv) SUBLESSOR would automatically become responsible for the operation, maintenance, repair and replacement of the entire roadway between Donald Ross Road and Campus Drive/Scripps Way as a Common Facility as set forth in this Paragraph 2.

d. SUBLESSOR grants to SUBLESSEE the right to use the existing temporary access drive between Donald Ross Road and the Subleased Premises for the development of the Permanent Facilities. This grant is subject to any necessary approval by the TRUSTEES and any reasonable rules and regulations imposed by SUBLESSOR.

3. TITLE; TITLE DISCLAIMER. SUBLESSOR, to the best of its knowledge and belief, covenants, warrants and represents the following to SUBLESSEE as of the Commencement Date: (a) that the execution, delivery and performance of this Sublease are within SUBLESSOR'S powers, have been duly authorized by all necessary action on the part of SUBLESSOR and will not violate any provisions of any existing law or regulation or order or decree of any court or governmental agency or the terms of any loan document, contract, agreement or instrument binding upon SUBLESSOR or any provision of the organizational documents of SUBLESSOR; (b) that this Sublease constitutes the legal, valid and binding obligations of SUBLESSOR, enforceable against SUBLESSOR in accordance with its terms; (c) that it has a valid leasehold estate in the Sublease pursuant to the Master Lease; and (d) possession of the Subleased Premises

is delivered to SUBLESSEE free and clear of all interests of all persons other than the TRUSTEES and SUBLESSOR. Except as set forth above, SUBLESSOR does not warrant or guarantee any title, right or interest in or to the Subleased Premises.

4. SUBLEASE TERM. Unless sooner terminated pursuant to the provisions of this Sublease, the term of this Sublease (the "**Term**") shall be for a period of fifty (50) years commencing on the date hereof (the Commencement Date), and ending on the 50th anniversary of the Commencement Date, with no option for renewal; provided, however, SUBLESSOR and SUBLESSEE agree, that during the last 60 months of the Term, they may consider one or more extensions of the Term, in each party's sole and absolute discretion, upon such terms as SUBLESSOR and SUBLESSEE may agree and subject to the consent of the TRUSTEES in accordance with applicable law. SUBLESSOR shall deliver to SUBLESSEE and SUBLESSEE shall accept possession of the Subleased Premises as of the Commencement Date.

5. PURPOSE. The Subleased Premises shall be used only for the establishment, construction, operation and maintenance of a not-for-profit biomedical research institution for biomedical and other scientific research, training and education, together with related office uses and with ancillary uses such as classrooms, lecture halls, conference rooms, cafeterias and libraries for the use of SUBLESSEE'S employees and guests, consistent with SUBLESSEE'S obligations under the Innovation Incentive Funding Agreement, dated as of March 12, 2008 (the "**MPFC Funding Agreement**"), between the Office of Tourism, Trade and Economic Development of the State of Florida ("**OTTED**") and SUBLESSEE (a copy of which is attached hereto as Exhibit "D")**,** along with other related uses necessary for the accomplishment of this purpose as designated in the Operational Report required by Paragraph 23 of this Sublease, all in conjunction

with the Master Lease for the operation by the SUBLESSOR of a public university campus site (the "**Permitted Use**"). The Permitted Use shall commence within five years (or such date as may be extended by SUBLESSOR) after the Commencement Date (subject to extension due to delay caused by force majeure as set forth in Paragraph 15 or by SUBLESSOR). If the Permitted Use shall not commence within that period, SUBLESSOR shall thereafter have the right, upon 60 days prior written notice to SUBLESSEE and the County, to terminate this Sublease, subject, however, to the County's rights under this Sublease. This right to terminate shall be SUBLESSOR's remedy for the failure of the Permitted Use to commence as set forth in the previous sentence. The Subleased Premises shall include approximately 10,000 gross square feet for (a) conference facilities with capacity for approximately 100 seats to be jointly used by SUBLESSOR and SUBLESSEE for the enhancement of the collaborative relationship set forth in the Cooperative Agreement dated as of July 30, 2008 between SUBLESSEE and SUBLESSOR (the "**Cooperative Agreement**"), as well as (b) classrooms, work-space, laboratory, or conference areas available for joint use by SUBLESSOR and SUBLESSEE in connection with the anticipated joint cooperative efforts foreseen in Article II of the Cooperative Agreement (collectively, the "**Cooperative Space**"). Within 30 days after the Commencement Date, SUBLESSOR, SUBLESSEE, TRUSTEES and the County shall receive a copy of the written acknowledgement (the "**Acknowledgement**") from the John D. and Catherine T. MacArthur Foundation (the "**Foundation**") dated as of February 13, 2009 that the Permitted Use does not violate the "Restriction" as defined in that certain special warranty deed, dated December 15, 1997, between the Foundation, as grantor, and the TRUSTEES, as grantee, and recorded in Official Records Book 10248, Page 3, of the Public Records of Palm Beach County, Florida. If the Subleased Premises are not used for the Permitted Use and violate the Restriction after notice

and opportunity to cure as set forth in the Acknowledgement, all right and interest conveyed under this Sublease is subject to termination in accordance with the provisions of Paragraph 27. SUBLESSEE shall, at its cost and expense, have the right to record the Acknowledgement in the public land records of Palm Beach County.

6. CONFORMITY. This Sublease shall conform to all terms and conditions of the Master Lease as of the Commencement Date, except to the extent such terms and conditions have been amended or modified in this Sublease as to the Subleased Premises and to SUBLESSEE. SUBLESSEE shall, through its agents and employees, prevent the unauthorized use of the Subleased Premises or any use thereof not in conformance with this Sublease.

7. QUIET ENJOYMENT AND RIGHT OF USE. Subject to the rights of SUBLESSOR in the Cooperative Space, commencing as of the Commencement Date, SUBLESSEE shall quietly have and enjoy the Subleased Premises during the Term without hindrance or molestation from SUBLESSOR and shall have the right of ingress and egress to, from and upon the Subleased Premises for all purposes necessary to the full quiet enjoyment by SUBLESSEE of the rights conveyed herein. SUBLESSEE acknowledges that, as of the Commencement Date, SUBLESSOR does not have access or use rights with respect to the roadway improvements constructed by The Scripps Research Institute ("**Scripps**") pursuant to a sublease dated as of May 23, 2006 between Scripps as sublessee and SUBLESSOR, which roadway improvements are commonly referred to as "**Scripps Way**"). Upon request of SUBLESSEE, and at SUBLESSEE'S sole cost and expense, SUBLESSOR shall provide reasonable assistance to SUBLESSEE to obtain non-exclusive access and/or use rights on "Scripps Way" from Scripps

and shall consent to any access rights granted by the TRUSTEES and/or Scripps over Scripps Way.

8. ASSIGNMENT. This Sublease shall not be assigned in whole or in part without the prior written consent of SUBLESSOR and the TRUSTEES and, if such assignment alters the County's rights under this Sublease, without the prior written consent of the County, provided, however, that the consent of the County shall not be unreasonably withheld, conditioned or delayed. The County's right to consent to an assignment pursuant to this Paragraph 8 shall terminate upon the earlier of July 21, 2023 or the termination of the Grant Agreement due to a Material Default (as defined in the Grant Agreement (as hereinafter defined)) by the County under the terms of the Grant Agreement, dated July 22, 2008 (the "**Grant Agreement**"), between the County and SUBLESSEE (a copy of which is attached hereto as Exhibit "E"). Any assignment made either in whole or in part without the prior written consent of SUBLESSOR, the TRUSTEES and, to the extent required by the preceding sentence, the County, shall be void and without legal effect. Notwithstanding the foregoing, SUBLESSEE may assign this Sublease without SUBLESSOR'S or TRUSTEES' prior written consent to any successor in interest to all or substantially all of SUBLESSEE'S assets, so long as such successor in interest (a) assumes all rights and obligations under the MPFC Funding Agreement, the Grant Agreement and this Sublease, (b) is a not-for-profit entity, and (c) agrees to use and manage the Subleased Premises as set forth in Paragraph 5.

9. RIGHT OF INSPECTION. The TRUSTEES and SUBLESSOR or their duly authorized agents, representatives or employees shall have the right, upon reasonable prior notice to SUBLESSEE, to enter and inspect the Subleased Premises, subject to reasonable restrictions upon such inspections imposed by SUBLESSEE for safety and security purposes due to the

nature of SUBLESSEE'S operations. The exercise of this inspection right by the TRUSTEES and SUBLESSOR shall not unreasonably interfere with or disrupt SUBLESSEE'S operations within the Subleased Premises.

10. PLACEMENT OF IMPROVEMENTS. All buildings, structures, and land improvements to be constructed upon the Subleased Premises, or any major land alterations associated therewith, other than those set forth in the Operational Report described in Paragraph 23.c and the Grant Agreement, shall require the prior written approval of SUBLESSOR as to location, which approval shall not be unreasonably withheld, delayed or conditioned. For the avoidance of ambiguity, all buildings, structures and land improvements to be constructed upon the Subleased Premises which conform to the Operational Report and Grant Agreement shall not require the prior written approval of SUBLESSOR to be so constructed, it being understood that except for (a) general conformity to the Architectural Design Guidelines Element of the draft Master Plan (defined in Paragraph 22), and (b) SUBLESSOR permitting process (all construction will require a building permit issued by SUBLESSOR), SUBLESSEE shall have sole discretion in the design and construction of the Permanent Facilities as defined in the Grant Agreement ("**Permanent Facilities**"); provided, however, SUBLESSEE agrees to keep SUBLESSOR regularly informed of the proposed design submittals and shall provide SUBLESSOR courtesy copies of SUBLESSEE'S plans and specifications, as they are being developed and as provided to the County pursuant to the terms of the Grant Agreement. Further, no trees, other than non-native species, shall be removed without the prior written approval of SUBLESSOR, which approval shall not be unreasonably withheld, delayed or conditioned. All improvements to the Subleased

Premises shall be constructed in accordance with this Sublease at the expense of SUBLESSEE (except as set forth in Paragraph 19.g).

11. INSURANCE REQUIREMENTS. During the Term, SUBLESSEE shall procure and maintain policies of builder's risk, commercial general liability and property, flood and windstorm insurance coverage as set forth below. The builder's risk insurance shall be on an all risk, full replacement cost at estimated completed value basis for any construction in progress. The commercial general liability insurance shall be provided on a primary basis and shall have a limit of liability of not less than $10,000,000 each occurrence. The property insurance coverage shall (a) provide coverage in an amount not less than 100% of the replacement cost of the buildings, structures or improvements constructed on the Subleased Premises, (b) be written on a replacement cost basis and (c) include an endorsement for ordinance and law coverage. Flood insurance coverage shall be obtained, regardless of the flood zone, in the amount equal to the lesser of (a) 100% of the replacement costs of the buildings, structures or improvements constructed on the Subleased Premises or (b) the maximum amount available from the National Flood Insurance Program. Windstorm insurance coverage shall be obtained, unless included as a covered peril in the property insurance, in an amount equal to the lesser of (a) 100% of the replacement costs of the buildings, structures or improvements constructed on the Subleased Premises or (b) the maximum amount available from Citizens Property Insurance Corporation or another insurer mutually acceptable to the parties. Such policies of insurance shall name SUBLESSEE, SUBLESSOR, the TRUSTEES, the State of Florida and the County, pursuant to the terms of the Grant Agreement, as additional insureds. Prior to the Commencement Date and annually thereafter, SUBLESSEE shall deliver to SUBLESSOR and the Bureau of Public Land

Administration, Division of State Lands, State of Florida Department of Environmental Protection, Mail Station 130, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000 a Certificate of Insurance evidencing that all types and amounts of insurance coverages required by this Sublease have been obtained and are in full force and effect. Such Certificate of Insurance shall include a minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage. SUBLESSEE shall provide copies of the actual policies upon request of SUBLESSOR, the TRUSTEES, the State of Florida or, as set forth in the Grant Agreement, the County. SUBLESSEE shall purchase all policies of insurance from a financially-responsible insurer assigned a rating of "A" or better by the A.M. Best Company. Following a determination by SUBLESSEE, in its reasonable discretion, that the amounts or coverages set forth in this paragraph have become unavailable or are only available at rates that are not commercially reasonable, the TRUSTEES and SUBLESSOR agree to negotiate with SUBLESSEE in good faith as to reductions in the amounts and types of coverages required pursuant to this paragraph. Subject to the foregoing, SUBLESSEE shall use reasonable efforts to acquire the required insurance policies from an insurer duly authorized to cover the above mentioned risks in the State of Florida. SUBLESSEE shall immediately notify SUBLESSOR, the TRUSTEES and the insurer of any erection or removal of any building or other improvement on the Subleased Premises and any changes affecting the value of any improvements and shall request the insurer to make adequate changes in the coverage to reflect the changes in value if necessary. SUBLESSEE shall be financially responsible for any loss due to failure to obtain required insurance coverage, and SUBLESSEE'S failure to maintain such policies in the amounts set forth shall constitute a breach of this Sublease.

12. INDEMNITY. SUBLESSEE hereby covenants and agrees to (a) investigate, at its own expense, and (b) to indemnify, protect, defend, save and hold harmless SUBLESSOR, the TRUSTEES and the State of Florida from all claims, actions, lawsuits and demands of any kind or nature arising out of this Sublease, which are due to any act or omission of SUBLESSEE or its agents, employees, contractors, invitees, or licensees (collectively, the "**SUBLESSEE Parties**"); provided, however, that SUBLESSEE shall not indemnify the TRUSTEES, SUBLESSOR or the State of Florida for any hazardous substances or environmental condition that existed on the Subleased Premises on or prior to the Commencement Date (collectively, the "**Pre-Existing Environmental Conditions**"); provided further, that SUBLESSEE'S obligation to indemnify the TRUSTEES, SUBLESSOR and the State of Florida for hazardous substances or other environmental conditions on the Subleased Premises shall be expressly limited to claims arising out of (x) any releases or discharges of hazardous substances on, under or from the Subleased Premises, or any portion thereof, which are caused or contributed to by the SUBLESSEE Parties, (y) any activity in connection with the handling, treatment, removal, storage, decontamination, cleanup or disposal of hazardous substances by the SUBLESSEE Parties, or (z) the lack of compliance with or violation of any environmental laws, as now in effect or hereinafter amended, by the SUBLESSEE Parties. Without limiting the generality of the foregoing, the covenants and indemnities of SUBLESSEE set forth in this Paragraph shall survive the expiration of the Term or earlier termination of this Sublease.

13. PAYMENT OF TAXES AND ASSESSMENTS. SUBLESSEE shall assume full responsibility for and shall pay all liabilities, if any, for real estate taxes and assessments that accrue to the Subleased Premises or to the improvements thereon, including any and all drainage

and special assessments and all mechanic's or materialman's liens which may be hereafter lawfully assessed and levied against the Subleased Premises. SUBLESSOR shall reasonably cooperate with any lawful contests of any such taxes and assessments and/or application for property tax exemption of the Subleased Premises by SUBLESSEE and at SUBLESSEE'S expense.

14. NO WAIVER OF BREACH. The failure of SUBLESSOR to insist in any one or more instances upon strict performance of any one or more of the covenants, terms and conditions of this sublease shall not be construed as a waiver of such covenants, terms and conditions, but the same shall continue in full force and effect, and no waiver of SUBLESSOR of any of the provisions hereof shall in any event be deemed to have been made unless the waiver is set forth in writing, signed by SUBLESSOR.

15. TIME. Time is expressly declared to be of the essence of this Sublease, provided, however, (a) if the final date of any period set forth falls on a Saturday, Sunday or legal holiday under the laws of the United States of America, the final date of such period shall be extended to the next business day and (b) in the event that either party is delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lock-outs, labor troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, war, military or usurped power, sabotage, terrorism, bioterrorism, unusually severe weather, acts of God, fire or other casualty or other reason of a like nature beyond the reasonable control of the party delayed in performing work or doing acts required under the terms of this Sublease, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of the delay.

16. BINDING EFFECT AND INUREMENT. This Sublease shall be binding on and shall inure to the benefit of the successors and assigns of the parties hereto, but nothing contained in this Paragraph shall be construed as a consent by the TRUSTEES and SUBLESSOR to any assignment of this Sublease or any interest therein by SUBLESSEE.

17. NON-DISCRIMINATION. SUBLESSEE shall not violate any laws prohibiting discrimination based on race, color, religion, sex, national origin, age, handicap, or marital status with respect to any activity occurring within or about the Subleased Premises.

18. VENUE. SUBLESSEE agrees that SUBLESSOR has venue privileges as to any litigation arising from matters relating to this Sublease. Any such litigation between SUBLESSOR and SUBLESSEE shall be initiated and maintained only in Palm Beach County, Florida, as long as such litigation does not include the TRUSTEES as a party. If the TRUSTEES are or become a party to such litigation, then any such litigation shall be initiated or removed and maintained only in Leon County, Florida.

19. UTILITIES; UTILITY FEES; SIGNAGE.

a. Except as set forth in this Sublease, SUBLESSOR shall not be required to furnish to SUBLESSEE any services of any kind whatsoever during the Term. SUBLESSOR shall provide during the Term potable water, sanitary sewer and reclaimed water service (the "**Provided Utilities**") to the Subleased Premises from distribution points existing as of the Commencement Date, the parties agreeing that SUBLESSEE shall be responsible for installing submeters for such connections to the Provided Utilities, accessible by FAU, in order to determine

SUBLESSEE usage, and extending and/or expanding the distribution system as needed for SUBLESSEE'S use and occupancy of the Subleased Premises, all at SUBLESSEE'S cost (subject to Paragraph 19.g), and SUBLESSEE shall reimburse SUBLESSOR for SUBLESSEE'S usage of the Provided Utilities at SUBLESSOR'S direct, actual cost (without profit or overhead). SUBLESSEE shall not, however, be responsible for any concurrency fees pertaining to the Subleased Premises or the Campus generally, which concurrency fees shall include expenses or costs that purport to defray the additional strain upon public infrastructure from a new facility, including extension or expansions of solid waste, drainage, potable water, parks and recreation, or school and/or transportation facilities.

b. Neither the TRUSTEES nor SUBLESSOR shall be responsible for (i) the payment of any connection, use or similar charges for gas, electricity, stormwater management, and other public utilities furnished to or used at the Subleased Premises or for having all utilities turned off when the Subleased Premises are surrendered, or (ii) the furnishing (or the payment of any charges in lieu of furnishing) of services, including, but not limited to chilled water, telecommunications, police, security and emergency response, and Campus Safety Program services (collectively, the "**Excluded Services**"), unless SUBLESSOR and SUBLESSEE agree to the provision of Excluded Services by separate agreement. In the absence of a separate agreement with SUBLESSOR with

respect to the Excluded Services, SUBLESSEE shall arrange for the provision of such Excluded Services.

c. SUBLESSEE shall be responsible for obtaining, at its sole cost and expense, and with the reasonable cooperation and assistance of SUBLESSOR and TRUSTEES, any easements for utilities and, if necessary, any consents required to relocate such utilities (with all such easements and consents to remain in effect for the duration of the Term), if required by SUBLESSEE for its development of the Subleased Premises pursuant to the Sublease.

d. SUBLESSOR does not warrant the availability or capacity of utility service transmission and/or distribution lines at or around the Subleased Premises. To the extent sufficient utility service capacity or infrastructure does not exist for the development of the Permanent Facilities, SUBLESSEE shall, at its sole cost and expense (with the exception of concurrency fees as described above and with the reasonable cooperation and assistance of SUBLESSOR and TRUSTEES), arrange for such capacity and infrastructure, including any expansion, oversizing or other alterations needed of existing facilities, sufficient to serve the Subleased Premises improved with the Permanent Facilities, unless the parties agree otherwise in writing.

e. SUBLESSEE shall have the right to install legally permitted monument and building signage on the Subleased Premises identifying SUBLESSEE. In addition, SUBLESSOR, in its sole discretion, shall consider any requests by SUBLESSEE to install its name on Campus monument signage consistent with SUBLESSOR'S

graphics and signage criteria. SUBLESSOR shall use reasonable efforts to notify SUBLESSEE of Campus signage opportunities.

f. SUBLESSOR agrees to reasonably cooperate with SUBLESSEE with respect to any agreements of SUBLESSEE with the Town of Jupiter regarding the waiver of impact fees, hook-up, tie-in and/or connection fees otherwise assessable in connection with the development of the Subleased Premises.

g. If, pursuant to this Paragraph, (i) SUBLESSEE improves the SUBLESSOR'S Provided Utilities systems and (ii) SUBLESSOR thereafter uses such improvements in the delivery of Provided Utilities in the Campus to users other than SUBLESSEE (the "**Shared Infrastructure Improvements**"), SUBLESSOR shall be obligated to reimburse SUBLESSEE for a portion of SUBLESSEE'S construction costs attributable to such Shared Infrastructure Improvements, as set forth in this Paragraph, but only to the extent that the capacity of such Shared Infrastructure Improvements exceed the capacity existing prior to the Shared Infrastructure Improvements work (the "**New Capacity**"). The parties understand that SUBLESSEE'S construction of single service lines or extensions from SUBLESSOR'S existing potable water system and/or sanitary sewer system shall not be deemed a Shared Infrastructure Improvement, unless SUBLESSOR otherwise connects to SUBLESSEE'S extension. By way of illustration and not limitation, SUBLESSEE'S oversizing or expansion of trunk lines or water mains which are used by SUBLESSOR to deliver potable water and/or sanitary sewer service to users other than to SUBLESSEE would be Shared Infrastructure

Improvements. SUBLESSEE shall establish and maintain records of all costs SUBLESSEE incurs to design, engineer, permit, construct and place into service the Shared Infrastructure Improvements (collectively, the "**Development Costs**"). Upon completion of the Shared Infrastructure Improvements, SUBLESSEE will submit to SUBLESSOR for its review the Development Costs and reasonably detailed supporting documentation, including a civil engineer's certification of the New Capacity, whereupon SUBLESSEE and SUBLESSOR will in good faith attempt to agree upon an equitable apportionment of the Development Costs between SUBLESSEE and SUBLESSOR in light of the facts and circumstances of each instance where the Shared Infrastructure Improvements were installed. If after 30 days, SUBLESSOR and SUBLESSEE are unable to agree upon an equitable apportionment of such Development Costs, they shall select an independent, qualified licensed civil engineer having more than ten years' experience in the construction of public works, who shall review SUBLESSEE'S and SUBLESSOR'S Development Cost submittals and shall, within 30 days, decide in writing the equitable apportionment of the Development Cost ("**SUBLESSOR'S Share**"), which decision shall be binding on SUBLESSOR and SUBLESSEE (the cost of such independent engineer shall be equally borne by SUBLESSOR and SUBLESSEE). SUBLESSOR's obligation to pay SUBLESSOR'S Share shall be subject to and limited by availability of capital funding for such purpose. Until SUBLESSEE receives payment in full for SUBLESSOR'S Share, SUBLESSEE'S sole recourse shall be to setoff from amounts due from SUBLESSEE to SUBLESSOR until such setoff amounts equal

SUBLESSOR'S Share. SUBLESSEE shall cause all Shared Infrastructure Improvements to be engineered and constructed in accordance with (1) plans reviewed and approved by SUBLESSOR, which approval shall not be unreasonably withheld, conditioned or delayed, (2) applicable legal requirements and (3) the terms of the Grant Agreement, including Exhibit E, Permanent Facilities Development Addendum pursuant to which SUBLESSEE agreed to exercise its best efforts to develop the Permanent Facilities responsibly, efficiently and economically. SUBLESSOR acknowledges SUBLESSEE'S obligations under the Grant Agreement and agrees to use reasonable efforts to facilitate the fulfillment of such obligations in its review and approval of SUBLESSEE'S plans and Shared Infrastructure Improvements.

20. MINERAL RIGHTS. This Sublease does not cover petroleum or petroleum products or minerals and does not give the right to SUBLESSEE to drill for or develop the same. To the best of SUBLESSOR'S and TRUSTEES' respective knowledge and belief, the mineral rights have not been severed, and neither the SUBLESSOR nor the TRUSTEES shall drill for or develop the same or permit any third parties to drill for or develop the same during the Term of this Sublease.

21. RIGHT TO REPORTS. So long as the MPFC Funding Agreement remains in effect, SUBLESSEE shall make available to OTTED (defined in Paragraph 5) all financial and other records relating to this Sublease, as required by OTTED. In addition to satisfying its requirements to OTTED**,** SUBLESSEE shall provide the TRUSTEES and SUBLESSOR with copies of annual scientific reports prepared for its board of directors, and any other reports as provided to the County pursuant to the Grant Agreement, to confirm that SUBLESSEE'S use of

the Subleased Premises is consistent with the purposes set forth in Paragraph 5. This right shall be continuous until this Sublease expires or is terminated. The parties recognize the right of public access to public records. Therefore, unless otherwise exempt (e.g., pursuant to Section 288.075, Florida Statutes), the parties agree that the public shall be allowed access to public records in accordance with the provisions of Chapter 119, Florida Statutes and all applicable exemptions thereto.

22. CONDITION OF PROPERTY; MASTER PLAN AND CONCURRENCY.

a. The TRUSTEES and SUBLESSOR assume no liability or obligation (other than the obligations expressly set forth in this Sublease) to SUBLESSEE with reference to the condition of the Subleased Premises or the suitability of the Subleased Premises for any improvements. The Subleased Premises are subleased by SUBLESSOR to SUBLESSEE in an "as is" condition; provided, however, that (i) SUBLESSEE shall have no obligation or responsibility under this Sublease to cleanup, remediate or restore any Pre-Existing Environmental Condition and (ii) SUBLESSOR shall not change or cause to be changed the Subleased Premises. The TRUSTEES and SUBLESSOR acknowledge and agree that SUBLESSEE shall have no responsibility or liability under this Sublease with respect to any Pre-Existing Environmental Condition. SUBLESSOR represents and warrants that, to the best of SUBLESSOR'S knowledge as of the Commencement Date, and during the term of SUBLESSOR'S tenancy under the Master Lease, except as set forth in environmental reports SUBLESSOR has furnished SUBLESSEE pursuant to Paragraph 23, (i) SUBLESSOR has made available to SUBLESSEE any

notifications from any federal, state, county or city agency or authority relating to hazardous substances in or under the Subleased Premises; and (ii) no underground or above ground storage tanks have been used by SUBLESSOR on the Subleased Premises. SUBLESSEE expressly disclaims any representations or warranties, environmental or otherwise, regarding Scripps's use of the Subleased Premises. SUBLESSOR assumes no responsibility for bidding, contracting, permitting, construction, and the care, repair, maintenance or improvement of the Subleased Premises for the benefit of SUBLESSEE, except for SUBLESSOR'S issuance of permits.

b. SUBLESSOR represents that, as of the Commencement Date, the John D. MacArthur Campus Master Plan developed and approved consistent with the requirements of Section 1013.30, Florida Statutes (the "**Master Plan**") anticipates the development and use of the Permanent Facilities on the Subleased Premises. SUBLESSOR agrees not to amend the Master Plan to the extent that such amendment would materially adversely affect SUBLESSEE'S rights under this Sublease. In addition, SUBLESSOR (i) agrees to exercise reasonable efforts to enter into a Campus Development Agreement with the Town of Jupiter which will provide potable water, sanitary sewer and traffic concurrency reservations necessary for SUBLESSEE to develop the Permanent Facilities and, (ii) if necessary to develop the Permanent Facilities, agrees to transfer (or otherwise make available) to SUBLESSEE recaptured concurrency reservation.

23. OPERATIONAL REPORT.

a. As of the Commencement Date, SUBLESSOR has made available to SUBLESSEE: (i) the current Master Plan with all amendments; (ii) the current Campus Development Agreement pertaining to the Subleased Premises; (iii) as-built plans (and any proposed modifications thereto) in full-size printed and electronic (AutoCAD 2008) formats showing the Campus stormwater management/drainage system, potable water distribution system, sanitary sewer system, re-use water distribution system, chilled water distribution system, electrical distribution system, telecommunications system, and (iv) future parking plans and vehicular, pedestrian and bicycle traffic plans and current studies upon which such plans were established; provided, however, that SUBLESSOR makes no representations and warranties regarding the accuracy or completeness of items (iii) or (iv) above.

b. SUBLESSOR agrees to make its Campus planners, architects, engineers and staff reasonably available to SUBLESSEE for SUBLESSEE'S development of the Permanent Facilities. SUBLESSOR will consider, in its sole discretion, whether or not mutually acceptable staging and laydown areas in other areas of the Campus are available for SUBLESSEE'S construction of the Permanent Facilities.

c. Attached hereto as Exhibit "C" is the Operational Report that has been prepared by SUBLESSEE, which provides basic guidance for all activities to be conducted on the Subleased Premises. By execution and delivery of this Sublease, the TRUSTEES and SUBLESSOR hereby approve the Operational Report.

SUBLESSEE has provided SUBLESSOR with an opportunity to participate in all phases of preparing and developing the Operational Report for the Subleased Premises. SUBLESSEE shall give SUBLESSOR reasonable notice of the application for and receipt of any state, federal or local permits as well as any public hearings or meetings relating to the development or use of the Subleased Premises. SUBLESSEE shall not proceed with construction of the Permanent Facilities until the Operational Report has been submitted and approved by the TRUSTEES and SUBLESSOR; provided, however, that SUBLESSEE shall have the right to engage, prior to the approval of the Operational Report, contractors, planners, architects, engineers and other consultants SUBLESSEE deems appropriate to assist SUBLESSEE in preparing the Operational Report and any plans and specifications for development of the Permanent Facilities, as well as any other pre-construction activities. Any financial commitments made by SUBLESSEE which are not in compliance with the terms of this Sublease shall be done at SUBLESSEE'S own risk. The approved Operational Report shall provide the basic guidance for all activities conducted on the Subleased Premises. SUBLESSEE shall not use or alter the Subleased Premises except as provided in the approved Operational Report without the prior written approval of SUBLESSOR, as set forth in Paragraph 10, and the TRUSTEES.

24. NOTICES. All notices given under this Sublease shall be in writing and shall be served by certified mail including, but not limited to, notice of any violation served pursuant to Section 253.04, Florida Statutes, to the last address of the party to whom notice is to be given, as

designated by such party in writing. SUBLESSOR and SUBLESSEE hereby designate their address as follows:

SUBLESSOR:	Florida Atlantic University 777 Glades Road Boca Raton, Florida 33431 Attn: Vice President, Facilities Fax: 561-297-1065
With a copy to:	Florida Atlantic University Office of the General Counsel 777 Glades Road, ADM 367 Boca Raton, Florida 33431 Fax: 561-297-2787
SUBLESSEE:	Max Planck Florida Corporation 555 Heritage Drive Suite 205 Jupiter, Florida 33458 Attention: Dr. Peter Gruss Fax: 561-624-6978
With a copy to:	Raquel A. Rodriguez McDermott Will & Emery LLP 201 S. Biscayne Blvd., 22nd Floor Miami, Florida 33131 Fax: 1.305.347-6500 rrodriguez@mwe.com
COUNTY:	Shannon LaRocque Assistant County Administrator, Palm Beach County 301 North Olive Avenue, 11th Floor West Palm Beach, Florida 33401 Fax: (561) 355-3982
With a copy to:	County Attorney Palm Beach County 301 North Olive Avenue, 6th Floor West Palm Beach, Florida 33401 Attention: Real Estate Fax: (561) 355-4398

With a mandatory copy to:

Board of Trustees of the Internal Improvement Trust Fund
of the State of Florida
State of Florida Department of Environmental Protection
Division of State Lands
3900 Commonwealth Boulevard, MS#130
Tallahassee, Florida 32399-3000
Fax: (850) 245-2761

SUBLESSOR shall send copies of all notices sent to SUBLESSEE under this paragraph to the County on the same date such notices are sent to SUBLESSEE. SUBLESSOR agrees to give the County written notice of any default by SUBLESSEE and of SUBLESSOR'S intention to terminate this sublease for any reason.

25. DAMAGES TO THE PREMISES; ENVIRONMENTAL REMEDIATION.

a. SUBLESSEE shall not do, or suffer to be done, in, on or upon the Subleased Premises or as affecting said Subleased Premises or adjacent properties, any act which may result in damage or depreciation of value to the Subleased Premises or adjacent properties, or any part thereof, subject, however, to reasonable wear and tear, casualty and condemnation. As of the Commencement Date, SUBLESSEE shall have full responsibility for the condition of the Subleased Premises and the Permanent Facilities. If the Permanent Facilities, or any part thereof, shall be damaged in any material way, whether by act of God, by the act, default or negligence of SUBLESSEE, or of SUBLESSEE'S agents, employees, officers, representatives, guests, invitees, contractors, patrons, or any person admitted to the Subleased Premises or the Permanent Facilities by SUBLESSEE or otherwise, SUBLESSEE shall at its sole cost and expense repair the damage. Repair under

this paragraph shall not necessarily mean reconstruction of improvements as and where they existed prior to such damage, as long as the overall value and utility of the Permanent Facilities as a biomedical research facility after repair or restoration is substantially the same as it was prior to such damage, and as long as any such repairs short of reconstruction of improvements as and where they existed prior to such damage is approved in writing by SUBLESSOR, which approval shall not be unreasonably withheld, conditioned or delayed. Subject to the following sentence, SUBLESSEE shall commence such repair or restoration within 120 days after receipt of insurance proceeds or 180 days after the date of the damage, whichever date is earlier, and shall diligently pursue the same to completion. If the amount of the insurance proceeds is insufficient to pay the costs of the necessary repair, replacement or rebuilding of such damaged improvements, as required by this subpart, SUBLESSEE shall pay any additional sums required. If the amount of such insurance proceeds is in excess of the costs thereof, the amount of such excess shall be remitted to SUBLESSEE. Notwithstanding the foregoing, if during the last five years of the Term, the Permanent Facilities are substantially damaged, SUBLESSEE shall not be obligated to restore the Permanent Facilities and shall have the right to terminate this Sublease within 90 days after such event of damage, upon written notice to SUBLESSOR, provided (i) such notice is accompanied with an assignment in favor of SUBLESSOR of the insurance proceeds and the right to receive same by SUBLESSEE under the insurance policies which SUBLESSEE is obligated to maintain under this Sublease and (ii) such termination of this Sublease shall remain subject to the provisions of

Paragraph 26.b to the extent SUBLESSOR shall have the right to require SUBLESSEE to remove the damaged Permanent Facilities and return the Subleased Premises to substantially the same condition existing immediately prior to the Commencement Date.

b. SUBLESSEE shall provide, operate and maintain adequate facilities for separating, neutralizing, treating, storing and properly disposing of hazardous substances, pollutants, industrial waste and foreign materials, including, without limitation, biomedical and biohazardous waste and materials generated by SUBLESSEE'S operations, as required by all applicable federal, state or local statutes, laws, ordinances, codes, rules, regulations, orders, and decrees. For the purposes of this Sublease, "hazardous substances" shall mean and include those elements or compounds defined in 42 USC Section 9601 or which are contained in the list of hazardous substances adopted by the United States Environmental Protection Agency (EPA) and the list of toxic pollutants designated by the United States Congress or the EPA or defined by any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance, material, pollutant or contaminant. "Pollutants" and "pollution" shall mean those products or substances defined in Chapters 376 and 403, Florida Statutes, and the rules promulgated thereunder, all as amended or updated from time to time. In the event of SUBLESSEE'S failure to comply with this Paragraph, SUBLESSEE shall, at its sole cost and expense, promptly

commence and diligently pursue any legally required closure, investigation, assessment, cleanup, decontamination, remediation, restoration and monitoring (collectively, "**Remediation Activities**") of (1) the Subleased Premises affected by SUBLESSEE'S such failure to comply, and (2) all off-site ground and surface waters and lands affected by SUBLESSEE'S failure to comply, as may be necessary to bring the Subleased Premises and affected off-site waters and lands into full compliance with all applicable federal, state or local statutes, laws, ordinances, codes, rules, regulations, orders, and decrees. Such Remediation Activities shall include, as applicable, restoring the elevations and grades to the elevations and grades existing immediately prior to the occurrence which caused such Remediation Activities. SUBLESSEE'S obligations set forth in this Paragraph shall survive the termination or expiration of this Sublease. This Paragraph shall not apply to any Pre-Existing Environmental Condition. This Paragraph shall not be construed as a limitation upon SUBLESSEE'S obligations regarding indemnification and payment of costs and fees as set forth in Paragraphs 12 and 13 of this Sublease, nor upon any other obligations or responsibilities of SUBLESSEE as set forth herein. Nothing herein shall relieve SUBLESSEE of any responsibility or liability prescribed by law for fines, penalties and damages levied by governmental agencies, and the cost of remediating any contamination caused directly or indirectly by SUBLESSEE'S activities or facilities as required by applicable laws. Upon discovery of a release of a hazardous substance or pollutant, or any other violation of local, state or federal law, ordinance, code, rule, regulation, order or decree relating to the generation, storage, production,

placement, treatment, release or discharge of any contaminant, SUBLESSEE shall report such violation to all applicable governmental agencies having jurisdiction, and to SUBLESSOR, all within the reporting periods of the applicable agencies.

26. SURRENDER OF PREMISES; RIGHTS OF COUNTY.

a. Upon termination or expiration of this Sublease, SUBLESSEE shall surrender the Subleased Premises to SUBLESSOR, subject to the rights of the County as set forth in the Grant Agreement and this Sublease. In the event no further use of the Subleased Premises or any part thereof is needed, SUBLESSEE shall give written notification to SUBLESSOR and the Bureau of Public Land Administration, Division of State Lands, State of Florida Department of Environmental Protection, Mail Station 130, Commonwealth Boulevard, Tallahassee, Florida 32399-3000 at least six months prior to the release of any or all of the Subleased Premises. Notification shall include a legal description, this Sublease number and an explanation of the release. Upon release of all or any part of the Subleased Premises or upon termination or expiration of this Sublease, all improvements, including both physical structures and modifications to the Subleased Premises, but excluding all equipment and other items of personal property, shall become the property of SUBLESSOR and the TRUSTEES unless SUBLESSOR gives written notice to SUBLESSEE to remove any and all such improvements at the expense of SUBLESSEE (subject to the rights of the County as set forth in the Grant Agreement and this Sublease); provided, however, that the TRUSTEES and SUBLESSOR shall not require removal of any improvements if (i) such

improvements are in good condition, as reasonably determined by SUBLESSOR, and can be utilized by SUBLESSOR in its operations or (ii) the County elects to exercise its rights hereunder to enter into a sublease of the Subleased Premises and requests that such improvements not be removed. Subject to the County's rights herein, the decision to retain any improvements upon termination of this Sublease shall be at SUBLESSOR'S sole discretion. Prior to surrender of all or any part of the Subleased Premises SUBLESSOR shall perform an on-site inspection and the keys to any building on the Subleased Premises shall be turned over to SUBLESSOR. If the improvements do not meet all conditions as set forth in Paragraphs 19, 25, 28 and 36, subject to reasonable wear and tear of such improvements and SUBLESSEE'S right set forth in Paragraph 25.a, SUBLESSEE shall pay all costs necessary to meet the prescribed conditions. Removable equipment and removable improvements placed on the Subleased Premises by SUBLESSEE and which do not become a permanent part of the Subleased Premises will remain the property of SUBLESSEE and may be removed by SUBLESSEE at any time during the Term and up to 30 days after the Term has ended.

b. If SUBLESSEE commences vertical construction of its Permanent Facilities on the Subleased Premises and SUBLESSOR regains possession of the Subleased Premises for any reason other than at the natural expiration of the Sublease Term, whether as a result of a breach of this Sublease or otherwise during the term of the Grant Agreement, the County shall have the right to enter into a sublease of the

Subleased Premises with SUBLESSOR upon the same terms and conditions as in this Sublease, except that the County and its successors and assigns shall not be bound by the terms of this Sublease that are specific to SUBLESSEE pursuant to the MPFC Funding Agreement; provided, however, that the County's right to sublease the Subleased Premises pursuant to this Paragraph 26 shall terminate upon the earlier of July 21, 2023 or the termination of the Grant Agreement due to a Material Default (as defined in the Grant Agreement) by the County under the terms of the Grant Agreement. The County shall notify SUBLESSOR of the County's election to enter into a sublease within sixty (60) days of the date that the County receives notice from SUBLESSOR that SUBLESSOR has regained possession of the Subleased Premises.

27. BREACH OF COVENANTS TERMS, OR CONDITIONS AND DEFAULT AND FORFEITURE. Should SUBLESSEE breach any of the covenants, terms, or conditions of this Sublease, SUBLESSOR shall give SUBLESSEE written notice to remedy such breach within sixty days of such notice. In the event SUBLESSEE fails to remedy the breach within sixty days of receipt of written notice, SUBLESSOR may terminate this Sublease and recover from SUBLESSEE all damages SUBLESSOR may incur by reason of the breach including, but not limited to, the cost of recovering the Subleased Premises and reasonable attorneys' fees; provided, however, that if the nature of SUBLESSEE'S default is such that more than sixty days are reasonably required for its cure, then SUBLESSEE shall not be deemed to be in default if SUBLESSEE provides written notice to SUBLESSOR of the expected time necessary to complete the cure and that it has commenced such cure within such sixty day period and

thereafter diligently pursues such cure to completion; provided further that such extended cure period shall not exceed one hundred eighty days unless expressly consented to in writing by SUBLESSOR (such consent not to be unreasonably withheld). Should SUBLESSEE, at any time during the term of this Sublease, suffer or permit to be filed against it an involuntary, or voluntary, petition in bankruptcy or institute a composition or an arrangement proceeding under Chapter 10 or 11 of the Bankruptcy Reform Act of 1978, as amended, or make any assignments for the benefit of its creditors, or should a receiver or trustee be appointed for SUBLESSEE'S property because of SUBLESSEE'S insolvency, and the said appointment not vacated within thirty days thereafter; or should SUBLESSEE'S subleasehold estate be levied on and the lien thereof not discharged within thirty days after said levy has been made; should there be a Material Default (as defined in the MPFC Funding Agreement) by SUBLESSEE under the MPFC Funding Agreement and such Material Default is not cured within the time period set forth in the MPFC Funding Agreement or should SUBLESSEE vacate or abandon the Subleased Premises; then, in such event, and upon the happening of either or any of said events, SUBLESSOR shall have the right, at its discretion, to consider the same a default on the part of SUBLESSEE of the terms and provisions hereof, and, in the event of such default, SUBLESSOR shall have the option of either declaring this Sublease terminated, and the interest of SUBLESSEE forfeited, or maintaining this Sublease in full force and effect and exercising all rights and remedies herein conferred upon SUBLESSOR. If there is a Material Default (as defined in the Grant Agreement) of SUBLESSEE under the Grant Agreement and SUBLESSEE fails to cure such Material Default within the time provided in the Grant Agreement, SUBLESSOR shall, if so requested by the County, treat SUBLESSEE'S Material Default as a default under this Sublease, and shall

terminate this Sublease and enter into a new sublease with the County as set forth in Paragraph 26.

28. BEST MANAGEMENT PRACTICES. The TRUSTEES and SUBLESSOR hereby agree that by their approval of the Operational Report pursuant to Paragraph 23, SUBLESSEE shall be deemed to have satisfied applicable Best Management Practices in compliance with paragraph 18-2.018(2)(h), Florida Administrative Code. SUBLESSEE shall, at its sole cost and expense, maintain the Subleased Premises and improvements and appurtenances thereto in good, safe, presentable condition and repair consistent with good business practice and industry standards.

29. SOVEREIGNTY SUBMERGED LANDS. This Sublease does not authorize the use of any lands located waterward of the mean or ordinary high water line of any lake, river, stream, creek, bay, estuary, or other water body or the waters or the air space thereabove.

30. PROHIBITIONS AGAINST LIENS OR OTHER ENCUMBRANCES. The TRUSTEES and SUBLESSOR acknowledge that OTTED has a security interest and lien on certain personal property, equipment and fixtures of SUBLESSEE and that the County has a security interest in SUBLESSEE'S subleasehold estate and nothing contained in this Sublease shall prohibit such security interests or liens. Fee simple title to the land consisting of the Subleased Premises is held by the TRUSTEES. Except as provided herein, SUBLESSEE shall not do or permit anything to be done which purports to create a lien or encumbrance of any nature against the real property contained in the Subleased Premises including, but not limited to, mortgages or construction liens against the Subleased Premises or against any interest of the TRUSTEES and SUBLESSOR therein; provided, however, that the TRUSTEES and SUBLESSOR hereby acknowledge and

agree that SUBLESSEE may encumber SUBLESSEE'S subleasehold estate in and to the Subleased Premises and any improvements thereon in connection with the construction, retrofitting or upgrading of the improvements on the Subleased Premises and nothing contained herein shall prohibit any such encumbrance. SUBLESSEE shall notify any person or entity performing work or providing materials relating to any improvements made by SUBLESSEE pursuant to the provisions of this Sublease. If a construction lien is recorded against the Subleased Premises in connection with any work performed by or on behalf of SUBLESSEE, SUBLESSEE shall satisfy such claim, or transfer same to security, within thirty days from the date SUBLESSEE receives notice of such recording. The TRUSTEES and SUBLESSOR waive their statutory landlord's lien rights with respect to the personal property and trade fixtures of SUBLESSEE.

31. CONDITIONS AND COVENANTS. All of the provisions of this Sublease shall be deemed covenants running with the land included in the Subleased Premises, and construed to be "conditions" as well as "covenants" as though the words specifically expressing or imparting covenants and conditions were used in each separate provision.

32. PARTIAL INVALIDITY. If any term, covenant, condition or provision of this Sublease shall be ruled by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

33. ENTIRE UNDERSTANDING. This Sublease sets forth the entire understanding between the parties and shall only be amended with the prior written approval of the TRUSTEES and SUBLESSOR and, if such amendment alters the County's rights under this Sublease, with the

prior written consent of the County (such consent not to be unreasonably withheld, conditioned or delayed); provided, however, that the County's right to consent to an amendment pursuant to this Paragraph 33 shall terminate upon the earlier of July 21, 2023 or the termination of the Grant Agreement due to a Material Default (as defined in the Grant Agreement) by the County under the terms of the Grant Agreement.

34. EASEMENTS. All easements including, but not limited to, utility easements are expressly prohibited without the prior written approval of the TRUSTEES and SUBLESSOR (such consent not to be unreasonably withheld, conditioned or delayed). Any easement not approved in writing by the TRUSTEES and SUBLESSOR shall be void and without legal effect.

35. SUBSUBLEASES. SUBLESSEE may not subsublease the Subleased Premises in whole or in part without the prior written consent of the TRUSTEES and SUBLESSOR and, to the extent any such subsublease alters the County's rights under this Sublease, without the prior written consent of the County; provided, however, that the consent of the County shall not be unreasonably withheld, conditioned or delayed. Any subsublease not consented to in writing by the TRUSTEES, SUBLESSOR and, to the extent required by the preceding sentence, the County, shall be void and without legal effect; provided further, that the County's right to consent to a subsublease pursuant to this Paragraph 35 shall terminate upon the earlier of July 21, 2023, or the termination of the Grant Agreement due to a Material Default (as defined in the Grant Agreement) by the County under the terms of the Grant Agreement. All subsubleases shall be consistent with the purposes set forth in Paragraph 5. SUBLESSEE shall be required to use all subsublease fees solely for the purposes set forth in Paragraph 5; provided, however, the foregoing restriction on the use of subsublease fees shall not apply to the County as

SUBLESSEE. Notwithstanding the foregoing, collaborative use arrangements and similar facility sharing arrangements between SUBLESSEE and SUBLESSOR pursuant to the Cooperative Agreement or third parties relating to the use of the Subleased Premises, consistent with the purposes set forth in Paragraph 5 and, during the term of the Grant Agreement, the Grant Agreement use restrictions, shall not be deemed subsubleases requiring approval or consent of the TRUSTEES, SUBLESSOR or the County, whether or nor remuneration to SUBLESSEE is involved.

36. MAINTENANCE OF IMPROVEMENTS. Commencing on the Commencement Date, SUBLESSEE shall maintain the real property contained within the Subleased Premises and any improvements located thereon, in a state of good condition, working order and repair including, but not limited to, maintaining the planned improvements (including any replacements for the planned improvements) as set forth in the approved Operational Report and the Grant Agreement, keeping the Subleased Premises free of trash or litter, meeting all building and safety codes in the location situated and maintaining any and all existing roads, canals, ditches, culverts, risers and the like in as good condition (or altered or modified condition if altered or modified by SUBLESSEE pursuant to this Sublease) as the same may be on the Commencement Date, subject to reasonable wear and tear, and SUBLESSEE'S rights set forth in Paragraph 25.a.

37. COMPLIANCE WITH LAWS. SUBLESSEE and SUBLESSOR agree that this Sublease is contingent upon and subject to SUBLESSEE obtaining and maintaining at all times all applicable permits and complying with all applicable permits, applicable regulations, ordinances, rules, and laws of the State of Florida or the United States or of any political subdivision or agency of either.

38. ARCHAEOLOGICAL AND HISTORIC SITES. Execution of this Sublease in no way affects any of the parties' obligations pursuant to Chapter 267, Florida Statutes. The collection of artifacts or the disturbance of archaeological and historic sites on state-owned lands is prohibited unless prior authorization has been obtained from the State of Florida Department of State, Division of Historical Resources. The Operational Report prepared pursuant to Rule 18-2.006, Florida Administrative Code, may be reviewed by the Division of Historical Resources to insure that adequate measures have been planned to locate, identify, protect and preserve the archaeological and historic sites and properties on the Subleased Premises.

39. GOVERNING LAW. This Sublease shall be governed by and interpreted according to the laws of the State of Florida.

40. RECORDATION. After the Commencement Date, SUBLESSEE shall, at its cost and expense, cause either this Sublease or a memorandum of this Sublease (executed and acknowledged by the parties in a form acceptable for recording in form approved by SUBLESSOR, SUBLESSEE and the County) to be recorded in the public records of Palm Beach County, Florida.

41. SECTION CAPTIONS. Articles, subsections and other captions contained in this Sublease are for reference purposes only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Sublease or any provisions thereof.

42. COUNTY JOINDER. The County's joinder is for the sole purpose of approving the rights granted to the County in this Sublease and agreeing to be bound by the terms and conditions herein that specifically pertain to the County and shall not be construed as amending,

altering or waiving any rights, duties or obligations of County or SUBLESSEE pursuant to the Grant Agreement. Furthermore, nothing contained herein shall be construed as limiting, prohibiting or eliminating the obligation of the SUBLESSEE to comply with applicable ordinances, statutes and laws as they may pertain to the Subleased Premises.

43. INTEREST. Each of the parties to this Sublease agree that no interest shall accrue on any amounts due one another pursuant to this Sublease.

44. CONSENT BY TRUSTEES. This Sublease shall not be effective until the TRUSTEES consent to this Sublease in writing which consent the parties are seeking concurrently with the execution of this Sublease. The date of the TRUSTEES', by their authorized agent, the Division of State Lands, written consent to this Sublease shall be the Commencement Date, and the parties are authorized to insert such date on the first page of this Sublease.

* * *

IN WITNESS WHEREOF, the parties have caused this Sublease to be executed on the day and year first above written.

THE FLORIDA ATLANTIC UNIVERSITY
BOARD OF TRUSTEES

_____ By: _____(SEAL)
Witness

_____ _____
Print/Type Witness Name Print/Type Name

_____ Title: _____
Witness

_____ "SUBLESSOR"
Print/Type Witness Name

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____ 200___, by _____, as _____ on behalf of The Florida Atlantic University Board of Trustees, who is/are personally known to me or who has produced _____ as identification.

_____
Notary Public, State of Florida

_____
Print/Type Notary Name

Commission Number:

Commission Expires:

MAX PLANCK FLORIDA CORPORATION,
a Florida nonprofit corporation

_____ By: _____(SEAL)
Witness

_____ _____
Print/Type Witness Name Print/Type Name

_____ Title: _____
Witness

_____
Print/Type Witness Name "SUBLESSEE"

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____ 200__, by _____, as_____ of Max Planck Florida Corporation, a Florida nonprofit corporation, on behalf of the corporation, who is/are personally known to me or who has produced _____ as identification.

_____
Notary Public, State of Florida

_____
Print/Type Notary Name

Commission Number:

Commission Expires:

JOINDER

County hereby joins in the execution of this Sublease.

PALM BEACH COUNTY, a political subdivision of the State of Florida

OFFICIAL SEAL
ATTEST:
SHARON R. BOCK, Clerk & Comptroller

By its BOARD OF COUNTY COMMISSIONERS

_____
Deputy Clerk

By:_____
John F. Koons, Chairperson

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By:_____
Assistant County Attorney

APPROVED AS TO TERMS AND CONDITIONS

By:_____
MPFC Program Manager

_____
Witness

_____
Witness

_____
Print/Type Witness Name

_____
Print/Type Witness Name

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____, 200__, by John F. Koons as Chairperson, for and on behalf of the Board of County Commissioners of Palm Beach County, Florida. He is personally known to me or produced _____, as identification.

_____
Notary Public, State of Florida

_____
Print/Type Notary Name

Commission Number:
Commission Expires:

Consented to by the TRUSTEES on _____ day of _____, 20_____.

_____
Gloria C. Barber, Operations and Management Consultant Manager, Bureau of Public Land Administration, Division of State Lands, State of Florida Department of Environmental Protection, As Agent for and on behalf of the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida

Approved as to Form and Legality:
By: _____
DEP Attorney

_____ _____
Witness Witness

_____ _____
Print/Type Witness Name Print/Type Witness Name

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 200__, by Gloria C. Barber, Operations and Management, Consultant Manager, Bureau of Public Land Administration, Division of State Lands, State of Florida Department of Environmental Protection, as agent for and on behalf of the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida. She is personally known to me or produced _____ as identification.

_____
Notary Public, State of Florida

_____
Print/Type Notary Name

Commission Number:
Commission Expires:

DESCRIPTION & SKETCH
PREPARED FOR:
MAX PLANCK SOCIETY

PROPERTY
DESCRIPTION

LEGAL DESCRIPTION:

A PARCEL OF LAND BEING A PORTION OF TRACT UN1, ABACOA PLAT NO. 1, RECORDED IN PLAT BOOK 78, PAGES 145 THROUGH 163, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 23, TOWNSHIP 41 SOUTH, RANGE 42 EAST, AS SHOWN ON SAID PLAT; THENCE NORTH 01°23'13" EAST, ALONG THE EAST LINE OF SAID SECTION 23, A DISTANCE OF 165.04 FEET TO A POINT ON THE NORTH LINE OF A 90.00 FOOT BUFFER AND A 90.00 FOOT WATER MANAGEMENT EASEMENT AS SHOWN ON SAID PLAT; THENCE NORTH 89°50'06" WEST, DEPARTING THE SAID EAST LINE AND ALONG THE SAID NORTH LINE A DISTANCE OF 3.86 FEET; THENCE SOUTH 89°55'48" WEST, CONTINUING ALONG THE SAID NORTH LINE, A DISTANCE OF 532.88 FEET TO A POINT ON A SOUTHERLY PROJECTION OF A WESTERN BOUNDARY LINE OF THE SUBLEASE PARCEL FOR SCRIPPS PHASE 1 AS RECORDED IN OFFICIAL RECORD BOOK 20830, PAGE 1491, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA, SAID POINT ALSO BEING THE POINT OF BEGINNING;

THENCE CONTINUE SOUTH 89°55'48" WEST, ALONG THE SAID NORTH LINE A DISTANCE OF 772.63 FEET; THENCE NORTH 00°02'32" WEST, DEPARTING THE SAID NORTH LINE, A DISTANCE OF 11.73 FEET TO A POINT OF CURVATURE OF A CURVE, CONCAVE TO THE EAST, HAVING A RADIUS OF 300.00 FEET AND A CHORD BEARING OF NORTH 20°12'55" EAST; THENCE ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 40°30'55", A DISTANCE OF 212.14 FEET TO A POINT OF REVERSE CURVATURE OF A CURVE, CONCAVE TO THE WEST, HAVING A RADIUS OF 600.00 FEET AND A CHORD BEARING OF NORTH 32°33'28" EAST; THENCE ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 15°49'49", A DISTANCE OF 165.77 FEET TO A POINT OF TANGENCY; THENCE NORTH 24°38'34" EAST, ALONG THE SAID TANGENT LINE A DISTANCE OF 153.74 FEET TO A POINT ON A SOUTHERLY BOUNDARY LINE OF THE SAID SUBLEASE PARCEL FOR SCRIPPS PHASE 1; THENCE SOUTH 65°21'26" EAST, ALONG THE SAID SOUTHERLY BOUNDARY LINE, A DISTANCE OF 224.32 FEET TO A POINT OF CURVATURE OF A CURVE, CONCAVE TO THE NORTH, HAVING A RADIUS OF 695.50 FEET AND A CHORD BEARING OF SOUTH 78°44'35" EAST; THENCE CONTINUING ALONG THE SAID SOUTHERLY BOUNDARY LINE AND THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 26°46'19" A DISTANCE OF 324.98 FEET TO A POINT ON A WESTERN BOUNDARY LINE OF THE SAID SUBLEASE PARCEL FOR SCRIPPS PHASE 1; THENCE SOUTH 04°53'24" EAST, ALONG THE SAID WESTERN BOUNDARY LINE AND A SOUTHERLY PROJECTION OF THE SAID WESTERN BOUNDARY LINE A DISTANCE OF 329.55 FEET TO THE POINT OF BEGINNING.

CONTAINING IN ALL 264,654 SQUARE FEET / 6.08 ACRES, MORE OR LESS.

BSM APPROVED
BY MJA
DATE 6-05-09

Plot Date: Apr. 23, 2009
File: Z:\2008\08-906 Max Planck\dwg\08-906 Max Planck Description-Sketch.dwg

Keshavarz & Associates, Inc.
CONSULTING ENGINEERS - SURVEYORS
711 N. Dixie Highway, Suite 201
West Palm Beach, Florida 33401
Tel: (561) 689-8600 Fax: (561) 689-7476 LB 4897

PROJ.: 08-906	REVISIONS:	SCALE: N/A
OFFICE: S.F.B.		DWG. No: A08-906
CHK: C.D.	DATE: 10/27/08	SHEET 2 OF 4

EXHIBIT “B”

MASTER LEASE BETWEEN THE TRUSTEES AND SUBLESSOR

(1) 4189

SAL1

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT
TRUST FUND OF THE STATE OF FLORIDA

LEASE AGREEMENT

FLORIDA ATLANTIC UNIVERSITY
NORTH PALM BEACH CAMPUS

Lease Number 4189

This lease is made and entered into this 18th day of May 1998, between the BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA, hereinafter referred to as "LESSOR", and the FLORIDA BOARD OF REGENTS, hereinafter referred to as "LESSEE".

WITNESSETH:

WHEREAS, the BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA holds title to certain lands and property being utilized by the State of Florida for public purposes; and

WHEREAS, the BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA is authorized in Section 253.03, Florida Statutes, to enter into leases for the use, benefit and possession of public lands by State agencies which may properly use and possess them for the benefit of the people of the State of Florida.

Sec. 1. 41. 42.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements hereinafter contained, LESSOR leases the below described premises to LESSEE subject to the following terms and conditions:

1. DELEGATIONS OF AUTHORITY: LESSOR'S responsibilities and obligations herein shall be exercised by the Division of State Lands, Department of Environmental Protection.

2. DESCRIPTION OF PREMISES: The property subject to this lease, is situated in the County of Palm Beach, State of Florida and is more particularly described in Exhibit "A" attached hereto and hereinafter referred to as the "leased premises."

3. TERM: The term of this lease shall be for a period of fifty years, commencing on May 18, 1998 and ending on May 17, 2048, unless sooner terminated pursuant to the provisions of this lease.

4. PURPOSE: LESSEE shall manage the leased premises only for the establishment and operation of the Florida Atlantic University North Palm Beach Campus, along with other related uses necessary for the accomplishment of this purpose as designated in the Management Plan required by paragraph 7 of this lease.

5. QUIET ENJOYMENT AND RIGHT OF USE: LESSEE shall have the right of ingress and egress to, from, and upon the leased premises for all purposes necessary to the full quiet enjoyment by said LESSEE of the rights conveyed herein.

6. UNAUTHORIZED USE: LESSEE shall, through its agents and employees, prevent the unauthorized use of the leased premises or any use thereof not in conformance with this lease.

7. MANAGEMENT PLAN: LESSEE shall prepare and submit a Management Plan for the leased premises, in accordance with Section 253.034, Florida Statutes, and subsection 18-2.021(4), Florida Administrative Code, within twelve months of the effective date of this lease. The Management Plan shall be submitted to LESSOR for approval through the Division of State Lands. The leased premises shall not be developed or physically altered in any way other than what is necessary for security and maintenance of the leased premises without the prior written approval of LESSOR until the Management Plan is approved. The Management Plan shall emphasize the original management concept as approved by LESSOR on the effective date of this lease which established the primary public purpose for which the leased premises are to be managed. The approved Management Plan shall provide the basic guidance for all management activities and shall be reviewed jointly by LESSEE and LESSOR at least every five years. LESSEE shall not use or alter the leased premises except as provided for in the approved Management Plan without the prior written approval of LESSOR. The Management Plan prepared under this lease shall identify management strategies for exotic species, if present. The introduction of exotic species is prohibited, except when specifically authorized by the approved Management Plan.

8. RIGHT OF INSPECTION: LESSOR or its duly authorized agents shall have the right at any and all times to inspect the leased premises and the works and operations thereon of LESSEE, in any matter pertaining to this lease.

9. INSURANCE REQUIREMENTS: LESSEE shall procure and maintain adequate fire and extended risk insurance coverage for any improvements or structures located on the leased premises in amounts not less than the full insurable replacement value of such improvements by preparing and delivering to the Division of Risk Management, Department of Insurance, a completed Florida Fire Insurance Trust Fund Coverage Request Form immediately upon erection of any structures as allowed by paragraph 4 of this lease. A copy of said form and immediate notification in writing of any erection or removal of structures or other improvements on the leased premises and any changes affecting the value of the improvements shall be submitted to the following: Bureau of Land Management Services, Division of State Lands, Department of Environmental Protection, Mail Station 130, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000.

10. LIABILITY: LESSEE shall assist in the investigation of injury or damage claims either for or against LESSOR or the State of Florida pertaining to LESSEE'S respective areas of responsibility under this lease or arising out of LESSEE'S respective management programs or activities and shall contact LESSOR regarding the legal action deemed appropriate to remedy such damage or claims. LESSEE is responsible for all personal injury and property damage attributable to the negligent acts or omissions of LESSEE and its officers, employees, and agents.

11. ARCHAEOLOGICAL AND HISTORIC SITES: Execution of this lease in no way affects any of the parties' obligations pursuant to Chapter 267, Florida Statutes. The collection of artifacts or the disturbance of archaeological and historic sites on state-owned lands is prohibited unless prior authorization has been obtained from the Division of Historical Resources of the Department of State. The Management Plan prepared pursuant to Section 253.034, Florida Statutes, shall be reviewed by the Division of Historical Resources to insure that adequate measures have been planned to locate, identify, protect and preserve the archaeological and historic sites and properties on the leased premises.

12. EASEMENTS: All easements including, but not limited to, utility easements are expressly prohibited without the prior written approval of LESSOR. Any easements not approved in writing by LESSOR shall be void and without legal effect.

13. SUBLEASES: This lease is for the purposes specified herein and subleases of any nature are prohibited, without the prior written approval of LESSOR. Any sublease not approved in writing by LESSOR shall be void and without legal effect.

14. ENVIRONMENTAL AUDIT: At LESSOR'S discretion, LESSEE shall provide LESSOR with a current Phase I environmental site assessment conducted in accordance with the Department of Environmental Protection, Division of State Land's standards prior to termination of this lease, and if necessary a Phase II environmental site assessment.

15. SURRENDER OF PREMISES: Upon expiration or termination of this lease, LESSEE shall surrender the leased premises, to LESSOR. In the event no further use of the leased premises or any part thereof is needed, LESSEE shall give written notification to the Bureau of Land Management Services, Division of State Lands, Department of Environmental Protection, Mail Station 130, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000, at least six months prior to the release of any or all of the leased premises. Notification shall include a legal description, this lease number and an explanation of the release. The release shall only be valid if approved by LESSOR through execution of a release of lease instrument with the same formality as this lease. Upon release of all or any part of the leased premises or upon expiration or termination of this lease, all improvements, including both physical structures and modifications to the leased premises, shall become the property of LESSOR, unless LESSOR gives written notice to LESSEE to remove any or all such improvements at the expense of LESSEE. The decision to retain any improvements upon termination of this lease shall be at LESSOR'S sole discretion. Prior to surrender of all or any part of the leased premises, a representative of the Division of State Lands shall perform an on-site inspection and the keys to any buildings on the leased premises shall be turned over to the Division. If the leased premises do not meet all conditions as set forth in paragraphs 19 and 22 herein, LESSEE shall, at its expense, pay all cost necessary to meet the prescribed conditions.

16. BEST MANAGEMENT PRACTICES: LESSEE shall implement applicable Best Management Practices for all activities conducted under this lease in compliance with paragraph 18-2.018(2)(h), Florida Administrative Code, which have been selected, developed, or approved by LESSOR or other land managing agencies for the protection and enhancement of the leased premises.

17. PUBLIC LANDS ARTHROPOD CONTROL PLAN: LESSEE shall identify and subsequently designate to the respective arthropod control district or districts within one year of the effective date of this lease all of the environmentally sensitive and biologically highly productive lands contained within the leased premises, in accordance with Section 388.4111, Florida Statutes and Chapter 5E-13, Florida Administrative Code, for the purpose of obtaining a public lands arthropod control plan for such lands.

18. MINERAL RIGHTS: This lease does not cover petroleum or petroleum products or minerals and does not give the right to LESSEE to drill for or develop the same, and LESSOR specifically reserves the right to lease the leased premises for purposes of exploring and recovering oil and minerals by whatever means appropriate; provided, however, that LESSEE shall be fully compensated for any and all damages that might result to the leasehold interest of LESSEE by reason of such exploration and recovery operations.

19. UTILITY FEES: LESSEE shall be responsible for the payment of all charges for the furnishing of gas, electricity, water and other public utilities to the leased premises and for having all utilities turned off when the leased premises are surrendered.

20. ASSIGNMENT: This lease shall not be assigned in whole or in part without the prior written consent of LESSOR. Any assignment made either in whole or in part without the prior written consent of LESSOR shall be void and without legal effect.

21. PLACEMENT AND REMOVAL OF IMPROVEMENTS: All buildings, structures, improvements, and signs shall be constructed at the expense of LESSEE in accordance with plans prepared by professional designers and shall require the prior written approval of LESSOR as to purpose location, and design. Further, no trees, other than non-native species, shall be removed or major land alterations done without the prior written approval of LESSOR. Removable equipment and removable improvements placed on the leased premises

by LESSEE and which do not become a permanent part of the leased premises will remain the property of LESSEE and may be removed by LESSEE upon termination of this lease.

22. MAINTENANCE OF IMPROVEMENTS: LESSEE shall maintain the real property contained within the leased premises and any improvements located thereon, in a state of good condition working order and repair including, but not limited to, maintaining the planned improvements as set forth in the approved Management Plan, meeting all building and safety codes in the location situated, keeping the leased premises free of trash or litter and maintaining any and all existing roads, canals, ditches, culverts, risers and the like in as good condition as the same may be on the effective date of this lease.

23. ENTIRE UNDERSTANDING: This lease sets forth the entire understanding between the parties and shall only be amended with the prior written approval of LESSOR.

24. BREACH OF COVENANTS, TERMS, OR CONDITIONS: Should LESSEE breach any of the covenants, terms, or conditions of this lease, LESSOR shall give written notice to LESSEE to remedy such breach within sixty days of such notice. In the event LESSEE fails to remedy the breach to the satisfaction of LESSOR within sixty days of receipt of written notice, LESSOR may either terminate and recover from LESSEE all damages LESSOR may incur by reason of the breach including, but not limited to, the cost of recovering the leased premises or maintain this lease in full force and effect and exercise all rights and remedies herein conferred upon LESSOR.

25. NO WAIVER OF BREACH: The failure of LESSOR to insist in any one or more instances upon strict performance of any one or more of the covenants, terms and conditions of this lease shall not be construed as a waiver of such covenants, terms and conditions, but the same shall continue in full force and effect, and no waiver of LESSOR of any one of the provisions hereof shall in any event be deemed to have been made unless the waiver is set forth in writing, signed by LESSOR.

26. PROHIBITIONS AGAINST LIENS OR OTHER ENCUMBRANCES: Fee title to the leased premises is held by LESSOR. LESSEE shall not do or permit anything to be done which purports to create a lien or encumbrance of any nature against the real property

contained in the leased premises including, but not limited to, mortgages or construction liens against the leased premises or against any interest of LESSOR therein.

27. CONDITIONS AND COVENANTS: All of the provisions of this lease shall be deemed covenants running with the land included in the leased premises, and construed to be "conditions" as well as "covenants" as though the words specifically expressing or imparting covenants and conditions were used in each separate provision.

28. DAMAGE TO THE PREMISES: (a) LESSEE shall not do, or suffer to be done, in, on or upon the leased premises or as affecting said leased premises or adjacent properties, any act which may result in damage or depreciation of value to the leased premises or adjacent properties, or any part thereof. (b) LESSEE shall not generate, store, produce, place, treat, release or discharge any contaminants, pollutants or pollution, including, but not limited to, hazardous or toxic substances, chemicals or other agents on, into, or from the leased premises or any adjacent lands or waters in any manner not permitted by law. For the purposes of this lease, "hazardous substances" shall mean and include those elements or compounds defined in 42 USC Section 9601 or which are contained in the list of hazardous substances adopted by the United States Environmental Protection Agency (EPA) and the list of toxic pollutants designated by the United States Congress or the EPA or defined by any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance, material, pollutant or contaminant. "Pollutants" and "pollution" shall mean those products or substances defined in, Chapters 376 and 403, Florida Statutes, and the rules promulgated thereunder, all as amended or updated from time to time. In the event of LESSEE'S failure to comply with this paragraph, LESSEE shall, at its sole cost and expense, promptly commence and diligently pursue any legally required closure, investigation, assessment, cleanup, decontamination, remediation, restoration and monitoring of (1) the leased premises, and (2) all off-site ground and surface waters and lands affected by LESSEE'S such failure to comply, as may be necessary to bring the leased premises and affected off-site waters and lands into full compliance with all applicable federal, state or local statutes, laws, ordinances, codes, rules, regulations, orders

and decrees, and to restore the damaged property to the condition existing immediately prior to the occurrence which caused the damage. LESSEE'S obligations set forth in this paragraph shall survive the termination or expiration of this lease. Nothing herein shall relieve LESSEE of any responsibility or liability prescribed by law for fines, penalties and damages levied by governmental agencies, and the cost of cleaning up any contamination caused directly or indirectly by LESSEE'S activities or facilities. Upon discovery of a release of a hazardous substance or pollutant, or any other violation of local, state or federal law, ordinance, code, rule, regulation, order or decree relating to the generation, storage, production, placement, treatment, release or discharge of any contaminant, LESSEE shall report such violation to all applicable governmental agencies having jurisdiction, and to LESSOR, all within the reporting periods of the applicable governmental agencies.

29. PAYMENT OF TAXES AND ASSESSMENTS: LESSEE shall assume full responsibility for and shall pay all liabilities that accrue to the leased premises or to the improvements thereon, including any and all drainage and special assessments or taxes of every kind and all mechanic's or materialman's liens which may be hereafter lawfully assessed and levied against the leased premises.

30. RIGHT OF AUDIT: LESSEE shall make available to LESSOR all financial and other records relating to this lease and LESSOR shall have the right to audit such records at any reasonable time. This right shall be continuous until this lease expires or is terminated. This lease may be terminated by LESSOR should LESSEE fail to allow public access to all documents, papers, letters or other materials made or received in conjunction with this lease, pursuant to Chapter 119, Florida Statutes.

31. NON-DISCRIMINATION: LESSEE shall not discriminate against any individual because of that individual's race, color, religion, sex, national origin, age, handicaps, or marital status with respect to any activity occurring within the leased premises or upon lands adjacent to and used as an adjunct of the leased premises.

32. COMPLIANCE WITH LAWS: LESSEE agrees that this lease is contingent upon and subject to LESSEE obtaining all applicable permits and complying with all applicable

permits, regulations, ordinances, rules, and laws of the State of Florida or the United States or of any political subdivision or agency of either.

33. TIME: Time is expressly declared to be of the essence of this lease.

34. GOVERNING LAW: This lease shall be governed by and interpreted according to the laws of the State of Florida.

35. SECTION CAPTIONS: Articles, subsections and other captions contained in this lease are for reference purposes only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this lease or any provisions thereof.

36. ADMINISTRATIVE FEE: LESSEE shall pay LESSOR an annual administrative fee of $300. The initial annual administrative fee shall be payable within thirty days from the date of execution of this lease agreement and shall be prorated based on the number of months or fraction thereof remaining in the fiscal year of execution. For purposes of this lease agreement, the fiscal year shall be the period extending from July 1 to June 30. Each annual payment thereafter shall be due and payable on July 1 of each subsequent year.

IN WITNESS WHEREOF, the parties have caused this lease to be executed on the day and year first above written.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA

By: _____ (SEAL)
DANIEL T. CRABB, CHIEF
BUREAU OF PUBLIC LAND ADMINISTRATION, DIVISION OF STATE LANDS, DEPARTMENT OF ENVIRONMENTAL PROTECTION

"LESSOR"

Witness
Print/Type Witness Name

Witness
Print/Type Witness Name

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me this 18th day of _____, 1998 by Daniel T. Crabb, as Chief, Bureau of Public Land Administration, Division of State Lands, Department of Environmental Protection, as agent for and on behalf of the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida. He is personally known to me or produced N/A as identification.

Notary Public, State of Florida

(SEAL)

NOTARY PUBLIC STATE OF FLORIDA
OFFICIAL NOTARY SEAL
PATRICIA TOLODAY
COMMISSION NUMBER
CC545665
MY COMMISSION EXPIRES
APR. 18,2000

Print/Type Notary Name

Commission Number:

Commission Expires:

Approved as to Form and Legality

By: _____
DEP Attorney

FLORIDA BOARD OF REGENTS

Michele Childers
Witness

Michele Childers
Print/Type Witness Name

Patricia J. McEntire
Witness

Patricia J. McEntire
Print/Type Witness Name

By: C.W. Blackwell (SEAL)

C.W. Blackwell
Print/Type Name

Title: Vice Chancellor for Budgets & Finance

"LESSEE"

STATE OF Florida
COUNTY OF Leon

The foregoing instrument was acknowledged before me this 4th day of May, 1998, by C.W. Blackwell as Vice Chancellor, of the Florida Board of Regents. He/she is personally known to me.

Gloria Baragona
Notary Public, State of Florida

Gloria Baragona
Print/Type Notary Name

Commission Number:

Commission Expires:

GLORIA BARAGONA
MY COMMISSION # CC372241 EXPIRES
May 23, 1998
BONDED THRU TROY FAIN INSURANCE, INC

ALYS NAGLER DANIELS
GARY, DYTRYCH & RYAN, P.A.
701 U.S. ONE, SUITE 402
NORTH PALM BEACH, FLA. 33408

Prepared By
Steven Cohen, Esquire
4400 PGA Blvd., Suite 900
Palm Beach Gardens, FL 33410

FEB-25-1998 3:57PM 98-065230
ORB 10248 Ps 3
Con 10.00 Doc .70

Grantee's ID No.
Control No. 30-42-41-13-10-001-0010

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED, made effective this 15th day of December, 1997.

between JOHN D. AND CATHERINE T. MacARTHUR FOUNDATION, an Illinois not-for-profit corporation, hereinafter called the Grantor.

whose mailing address is: 4400 PGA Blvd., Suite 900, Palm Beach Gardens, FL 33410-9680

to BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA, hereinafter called the Grantee,

whose mailing address is:

(Wherever used herein the terms "Grantor" and "Grantee" are used for singular or plural, as context requires and include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations.)

WITNESSETH, that the said Grantor, for and in consideration of the sum of Ten Dollars ($10.00) and other good and valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases conveys and confirms unto the Grantee, all that certain land situate in Palm Beach County, State of Florida, to-wit:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

SUBJECT TO restrictions, reservations, covenants, and easements of record; and all applicable zoning ordinances.

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

This deed is made for the purpose of giving and granting the herein described land to the Grantee, its successors and assigns, for the express purpose of the Board of Regents of the State of Florida using the lands as a public university campus site; and is made, executed and delivered with the express understanding and condition that (i) within twenty-one (21) years from the date hereof, should the lands be used for other than a public university campus site and education-related purposes or (ii) if, within three (3) years from the date hereof, development of the campus site is not commenced, then the title to same shall thereupon revert to and revest in the Grantor, its successors and assigns.

AND the said Grantor hereby covenants with said Grantee that the Grantor is lawfully seized of said land in fee simple; that Grantor has good right and lawful authority to sell and convey said land; that the Grantor does hereby fully warrant the title to said real property and will defend the same against the lawful claims of all persons claiming by, through or under the said Grantor but against none other whatsoever.

IN WITNESS WHEREOF, the said Grantor has signed and sealed these presents the day and year first above written.

As to Grantor:

Virginia L. Deighan
Witness
Print Name: Virginia L. Deighan

Kaye Sauls
Witness
Print Name: Kaye Sauls

GRANTOR:
JOHN D. AND CATHERINE T. MacARTHUR FOUNDATION

BY: _____
Lawrence L. Landry
Vice President

ATTEST: _____
Steven Cohen
Assistant Secretary
(Corporate Seal)

J:\LEGAL\PRIVATE\33FAU.DOC

ORB 10248 Pg 5

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 15th day of December 1997 by L.L. Lansdale, of John D. and Catherine T. MacArthur Foundation, an Illinois not-for-profit corporation, who is personally known to me or has produced _____ as identification.

Printed Name:
Notary Public, State of Florida
Serial Number:

(NOTARY SEAL)

Karen Souls
Notary Public, State of Florida
Commission No. CC 379681
My Commission Expires 07/30/98

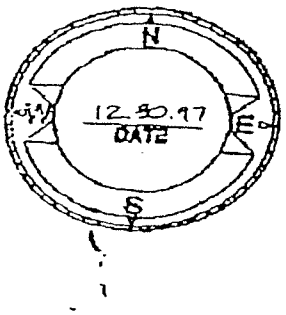
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ORB 10248 Pg 5

Exhibit "A"

Tract UN1 of ABACOA PLAT NO. 1, according to the Plat thereof, as recorded in Plat Book 78, Page 145, public records of Palm Beach County, Florida.

13-41S-42E



Florida Atlantic University, Abacoa, MacArthur

EXHIBIT "B"

088 10248 Pg 7
DOROTHY H. WILKEN, CLERK PB COUNTY, FL

ACCEPTANCE OF TRANSFER OF TITLE TO DONATED LANDS

Board of Trustees of the Internal Improvement Trust Fund of the State of Florida hereby accepts this conveyance as a transfer of title of the real property as described in this Deed.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA

Lynda J. Chiapputo
(SIGNATURE OF FIRST WITNESS)

BY: _____
Robert J. Lovern
Senior Management Analyst II, DIVISION OF STATE LANDS, DEPARTMENT OF ENVIRONMENTAL PROTECTION, as agent for and on behalf of the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida

Lynda J. Chiapputo
(PRINTED, TYPED OR STAMPED NAME OF FIRST WITNESS)

Adrienne Bellflower
(SIGNATURE OF SECOND WITNESS)

Adrienne Bellflower
(PRINTED, TYPED OR STAMPED NAME OF SECOND WITNESS)

2-24-98
Date Signed

STATE OF Florida)
COUNTY OF Leon)

The foregoing instrument was acknowledged before me this 24 day of February, 1998, by Robert J. Lovern, Senior Management Analyst II, Division of State Lands, Department of Environmental Protection, as agent for and on behalf of the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida. He is personally known to me.

(NOTARY PUBLIC SEAL)

Adrienne Bellflower
Notary Public

Adrienne Bellflower
(Printed, Typed, or Stamped Name of Notary Public)

Commission No.: CC601445

My Commission Expires: 4/4/98

(treasd.lovern.rob

AMENDMENT TO LEASE AGREEMENT Number One

THIS IS AN AMENDMENT TO LEASE AGREEMENT made and entered into February 04, 2004, by and between the **Board of Trustees of the Internal Improvement Trust Fund of the State of Florida** ("Lessor") and the **Florida Atlantic University Board of Trustees** ("Lessee"), as successor to the Florida Board of Regents.

WITNESSETH:

WHEREAS, Lessor and Lessee entered into that certain Lease Agreement dated May 18, 1998 (Lease No. 4189) (the "FAU Lease"); and

WHEREAS, Palm Beach County has requested that Lessor and Lessee modify the Lease to delete certain property there from so that Lessor and Palm Beach County can enter into a Lease of such property in order to secure Palm Beach County's investment in a laboratory and research facility to be constructed upon such property (the "County Lease"); and

WHEREAS, Lessor and Lessee are willing to so amend the FAU Lease provided the other party agrees that upon Palm Beach County terminating the County Lease, such property shall be added back into the leased premises of the FAU Lease.

NOW, THEREFORE, in consideration of the sum of Ten Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. The foregoing recitals are true and correct and incorporated herein by reference. Terms not defined herein shall have the same meaning as ascribed to them in the FAU Lease.

2. The leased premises as defined in the FAU Lease is hereby modified to delete the real property legally described in Exhibit "A" from the leased premises. Lessor and Lessee agree that provided Lessee is not then in default under the FAU Lease, upon termination of the County Lease, Lessor and Lessee will enter into a lease amendment adding the real property legally described in Exhibit "A" back into the leased premises under the FAU Lease.

3. Except as set forth herein, the FAU Lease remains unrevised and in full force and effect, and the parties hereby ratify, confirm, and adopt the FAU Lease as amended hereby.

IN WITNESS WHEREOF, the parties have set their hands and seals on the date set forth above to this Amendment to Lease Agreement.

Signed in the presence of:

Judy Woodard
(Signature)

Judy Woodard
(Print Name of Witness)

Lisa Spackman
(Signature)

Lisa Spackman
(Print Name of Witness)

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA

By Gloria C. Nelson

GLORIA C. NELSON, OPERATIONS AND MANAGEMENTCONSULTANT MANAGER BUREAU OF PUBLIC LAND ADMINISTRATION, DIVISION OF STATE LAND, FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

APPROVED AS TO FORM AND LEGALITY
By: _____
DEP Attorney
Date: 2/24/04

STATE OF Florida]
SS:
COUNTY OF Leon]

The foregoing instrument was acknowledged before me this 24th day of February, 2004, by Gloria C. Nelson the Omcm. of the Bureau of Public Land Administration, who is personally known to me OR who produced _____ as identification and who did _____ take an oath.

Sylvia D. Roberts
Notary Public

Print Notary Name

NOTARY PUBLIC
State of Florida at Large

My Commission Expires:

Sylvia S. Roberts
MY COMMISSION # DD035841 EXPIRES
July 25, 2005
BONDED THRU TROY FAIN INSURANCE, INC.

Signed in the presence of:

(Signature)

Mary Beth Yumang
(Print Name of Witness)

(Signature)

Diane G. Wolak
(Print Name of Witness)

FLORIDA ATLANTIC UNIVERSITY,
BY ITS BOARD OF TRUSTEES

By: _____

(Print Name)

Title: Chairman

STATE OF Florida]
SS:
COUNTY OF Palm Beach]

The foregoing instrument was acknowledged before me this 9th day of February, 2004 by George Zoley the Chairman of _____ who is personally known to me OR who produced _____ as identification and who did _____ take an oath.

Rosa Suarez
Notary Public

Rosa Suarez
Print Notary Name

NOTARY PUBLIC
State of Florida at Large

My Commission Expires:

ROSA SUAREZ
Notary Public State of Florida
My Commission Expires Sep 4, 2006
Commission # DD147751
Bonded By National Notary Assn.

EXHIBIT "A"

THE "LEASED PREMISES"

A parcel of land lying in Section 23, Township 41 South, Range 42 East, and being more particularly described as follows:

Commencing at the southeast Corner of said Section 23, run thence along the southerly line of said Section 23, south 89 55′ 48″ west a distance of 1155.52 feet;

thence leaving said southerly line, north 00 04′ 12″ east a distance of 1021.07 feet to the point of beginning;

thence north 65 13′ 35″ west a distance of 237.20 feet;

thence north 24 46′ 25″ east a distance of 182.27 feet;

thence south 65 13′ 35″ east a distance of 237.2 feet;

thence south 24 46′ 25″ west a distance of 182.27 feet to the point of beginning.

Containing 43,234 square feet.

ATL1

(19.85 Acres)

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT
TRUST FUND OF THE STATE OF FLORIDA

AMENDMENT NUMBER TWO TO LEASE NUMBER 4189

THIS LEASE AMENDMENT is entered into this 4th day of November, 2004, by and between the BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA, hereinafter referred to as "LESSOR" and THE FLORIDA ATLANTIC UNIVERSITY BOARD OF TRUSTEES (successor in interest by operation of law to the Florida Board of Education, which was the successor in interest by type two transfer pursuant to s. 20.06(2), Florida Statutes to the Florida Board of Regents), hereinafter referred to as "LESSEE";

W I T N E S S E T H

WHEREAS, LESSOR, by virtue of Section 253.03, Florida Statutes, holds title to certain lands and property for the use and benefit of the State of Florida; and

WHEREAS, on May 18, 1998, LESSOR and LESSEE entered into Lease Number 4189; and

WHEREAS, LESSOR and LESSEE desire to amend the lease to add land to the leased property.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties hereto agree as follows:

1. The legal description of the leased premises sat forth in Exhibit "A" of Lease Number 4189 is hereby amended to include the real property described in Exhibit "A," attached hereto, and by reference made a part hereof.

2. It is understood and agreed by LESSOR and LESSEE that in each and every respect the terms of the Lease Number 4189, except as amended, shall remain unchanged and in full force and effect and the same are hereby ratified, approved and confirmed by LESSOR and LESSEE.

IN WITNESS WHEREOF, the parties have caused this Lease Amendment to be executed on the day and year first above written.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA

Witness

Print/Type Witness Name

Witness

Print/Type Witness Name

By: _____ (SEAL)
GLORIA C. NELSON, OPERATIONS AND MANAGEMENT CONSULTANT MANAGER, BUREAU OF PUBLIC LAND ADMINISTRATION, DIVISION OF STATE LANDS, DEPARTMENT OF ENVIRONMENTAL PROTECTION

"LESSOR"

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me this 04th day of November, 2004 by Gloria C. Nelson, Operations and Management Consultant Manager, Bureau of Public Land Administration, Division of State Lands, Florida Department of Environmental Protection, as agent for and on behalf of the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida. She is personally known to me.

Notary Public, State of Florida

Print/Type Notary Name

Commission Number:

Commission Expires:

Theresa M. Brady
Commission # DD081825
Expires Jan. 2, 2006
Bonded Thru
Atlantic Bonding Co., Inc.

Approved as to Form and Legality

By: _____
DEP Attorney

Witness

Print/Type Witness Name

Witness

Print/Type Witness Name

THE FLORIDA ATLANTIC UNIVERSITY BOARD OF TRUSTEES

By: _____ (SEAL)

Print/Type Name

Title:

"LESSEE"

APPROVED AS TO FORM AND LEGALITY
General Counsel
Florida Atlantic University

STATE OF FLORIDA
COUNTY OF ~~BROW~~

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by _____, as _____ on behalf of The Florida Atlantic University Board of Trustees. He/~~she~~ is personally known to me.

Notary Public, State of Florida

Print/Type Notary Name

Commission Number:

Commission Expires:

SANDRA A. LOCIGNO
Notary Public - State of Florida
My Commission Expires Jun 23, 2005
Commission # DD034801

EXHIBIT "A"
LEGAL DESCRIPTION

Causseaux & Ellington, Inc.
Engineering • Surveying • Planning

PREPARED FOR:	UNIVERSITY OF FLORIDA I.P.A.S.
PROJECT No:	03-414S
DRAWING No.	03-414s-AR.dwg
DESCRIPTION FOR:	FAU PARCEL

LEGAL DESCRIPTION:
A PARCEL OF LAND BEING A PORTION OF TRACT 7 AND 8, TIER 39, PORTION OF TRACT 7 AND 8, TIER 41 AND A PORTION OF TRACT 8, TIER 43 OF "NEWMAN'S SURVEY" ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 26 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWESTERLY CORNER OF TRACT 9, TIER 45 OF SAID "NEWMAN'S SURVEY"; THENCE NORTH 75°16'30" WEST, ALONG THE WESTERLY EXTENSION OF THE SOUTHERLY BOUNDARY LINE OF SAID TRACT 9, A DISTANCE OF 15.00 FEET TO THE CENTERLINE OF A 30 FOOT STREET RIGHT-OF-WAY; THENCE NORTH 14°43'30" EAST, ALONG SAID CENTERLINE, A DISTANCE OF 1245.66 FEET TO THE INTERSECTION WITH THE WESTERLY EXTENSION OF THE NORTHERLY RIGHT-OF-WAY LINE OF SW 30TH STREET (A 60 FOOT RIGHT-OF-WAY); THENCE SOUTH 75°16'30" EAST, ALONG SAID WESTERLY EXTENSION AND ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID SW 30TH STREET, A DISTANCE OF 1074.34 FEET TO THE POINT OF BEGINNING, SAID POINT OF BEGINNING BEING ON A NON-TANGENT CURVE TO THE RIGHT, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 1504.50 FEET, AND BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF NORTH 56°54'14" EAST, 1300.38 FEET;
THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 51°12'35", AN ARC DISTANCE OF 1344.69 FEET TO THE POINT OF COMPOUND CURVATURE OF A CURVE TO THE RIGHT, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 35.00 FEET, AND BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 55°04'51" EAST, 47.22 FEET;
THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 84°51'00", AN ARC DISTANCE OF 51.83 FEET TO THE POINT OF TANGENCY;
THENCE SOUTH 12°39'21" EAST, A DISTANCE OF 26.30 FEET;
THENCE SOUTH 00°05'54" WEST, A DISTANCE OF 168.87 FEET;
THENCE SOUTH 58°01'07" EAST, A DISTANCE OF 27.69 FEET;
THENCE NORTH 89°21'51" EAST, A DISTANCE OF 25.29 FEET;
THENCE NORTH 82°35'52" EAST, A DISTANCE OF 100.85 FEET;
THENCE SOUTH 75°15'05" EAST, A DISTANCE OF 193.91 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF A 15 FOOT RIGHT-OF-WAY PER SAID "NEWMAN'S SURVEY";
THENCE SOUTH 14°43'37" WEST, ALONG SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 586.99 FEET TO THE INTERSECTION WITH THE NORTHERLY BOUNDARY LINE OF LANDS DESCRIBED IN OFFICIAL RECORDS 1974, PAGE 108 OF SAID PUBLIC RECORDS;
THENCE NORTH 75°16'30" WEST, ALONG THE NORTHERLY BOUNDARY LINE OF SAID LANDS, A DISTANCE OF 195.00 FEET TO THE NORTHWESTERLY CORNER OF SAID LANDS;
THENCE SOUTH 14°43'30" WEST, ALONG THE WESTERLY BOUNDARY LINE OF SAID LANDS, A DISTANCE OF 210.00 FEET TO THE SOUTHWESTERLY CORNER OF SAID LANDS AND THE NORTHERLY RIGHT-OF-WAY LINE OF AFOREMENTIONED SW 30TH STREET (A 60 FOOT RIGHT-OF-WAY);
THENCE NORTH 75°16'30" WEST, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 1115.34 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL OF LAND CONTAINS 19.851 ACRES, MORE OR LESS.

All as shown on the Map
attached herewith and made
a part hereof

6011 NW 1st Place, Gainesville, Florida 32607 • Phone 352.331.1976 • FAX 352.331.2476 • Email: mailbox@ce-civil.com

AMENDMENT TO LEASE AGREEMENT (Amendment No. 3)

THIS IS AN AMENDMENT TO LEASE AGREEMENT is made and entered into April 19, 2006, by and between the **Board of Trustees of the Internal Improvement Trust Fund of the State of Florida** ("Lessor") and **The Florida Atlantic University Board of Trustees** ("Lessee"), as successor to the Florida Board of Regents.

WITNESSETH:

WHEREAS, Lessor and Lessee entered into that certain Lease Agreement Number 4189 dated May 18, 1998 (the "FAU Lease"); and

WHEREAS, Palm Beach County ("County") has requested that Lessor and Lessee modify the FAU Lease to delete certain property from the FAU Lease so that Lessor and County can enter into an amendment of that certain Lease Agreement Number 4452 between Lessor and County dated February 24, 2004 (R2004-0260) (the "County Lease") to add such property to the County Lease; and

WHEREAS, Lessor and Lessee are willing to so amend the FAU Lease on the condition that upon the termination of the County Lease or County's leasehold interest in the Second Jupiter Campus site (as hereinafter defined), such property shall be added back into the leased premises of the FAU Lease.

NOW, THEREFORE, in consideration of the sum of Ten Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. The foregoing recitals are true and correct and incorporated herein by reference. Terms not defined herein shall have the same meaning as ascribed to them in the FAU Lease.

2. The leased premises, as defined in the FAU Lease, is hereby modified to delete the real property legally described in Exhibit "A" from the leased premises ("Second Jupiter Campus Site") as evidenced by a copy of the executed Partial Release of Lease that is attached hereto as Exhibit "B" and by reference made a part hereof. Lessor and Lessee agree that, provided Lessee is not then in default under the FAU Lease, upon termination of the County Lease or County's leasehold interest in the Second Jupiter Campus Site, Lessor and Lessee will enter into a lease amendment adding the Second Jupiter Campus Site back into the leased premises under the FAU Lease.

3. Except as set forth herein, the FAU Lease remains unrevised and in full force and effect, and the parties hereby ratify, confirm, and adopt the FAU Lease as amended hereby.

IN WITNESS WHEREOF, the parties have set their hands and seals on the date set forth above to this Amendment to Lease Agreement.

Signed in the presence of:

Judy Woodard
(Signature)

Judy Woodard
(Print Name of Witness)

(Signature)

Rita Robbins
(Print Name of Witness)

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA

By Gloria C. Nelson

GLORIA C. NELSON, OPERATIONS AND MANAGEMENTCONSULTANT MANAGER
BUREAU OF PUBLIC LAND ADMINISTRATION, DIVISION OF STATE LAND, FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA]
SS:
COUNTY OF LEON]

The foregoing instrument was acknowledged before me this 19th day of April, 2006, by Gloria C. Nelson, as Operations and Management Consultant Manager, Bureau of Public Land Administration, Division of State Lands, Department of Environmental Protection, as agent for and on behalf of the Board of Trustees of the Internal Improvement Trust Fund, who is personally known to me OR who produced _____ as identification and who did take an oath.

Cheryl J. King
Notary Public

Print Notary Name

NOTARY PUBLIC
State of Florida at Large

CHERYL J. KING
MY COMMISSION # DD 264736
EXPIRES: November 7, 2007
Bonded Thru Notary Public Underwriters

My Commission Expires:

Approved as to Form and Legality
By: _____
DEP Attorney

Signed in the presence of:

Patricia L. Singer
(Signature)

Patricia L. Singer
(Print Name of Witness)

Jennifer O'Flannery
(Signature)

JENNIFER O'FLANNERY
(Print Name of Witness)

THE FLORIDA ATLANTIC UNIVERSITY BOARD OF TRUSTEES

By: Sheridan B. Plymale

Sheridan B. Plymale
(Print Name)

Title: CHAIRMAN

Approved as to Form
and Legality
General Counsel 9/27/05
Florida Atlantic University

STATE OF Florida]
COUNTY OF Palm Beach] SS:

The foregoing instrument was acknowledged before me this 30th day of September, 2005, by Sheridan B. Plymale, as CHAIRMAN on behalf of The Florida Atlantic University Board of Trustees, who is personally known to me ~~OR who produced~~ ~~as identification~~ and who did ___ take an oath.

Sandra A. Locigno
Notary Public
SANDRA A. LOCIGNO
Print Notary Name

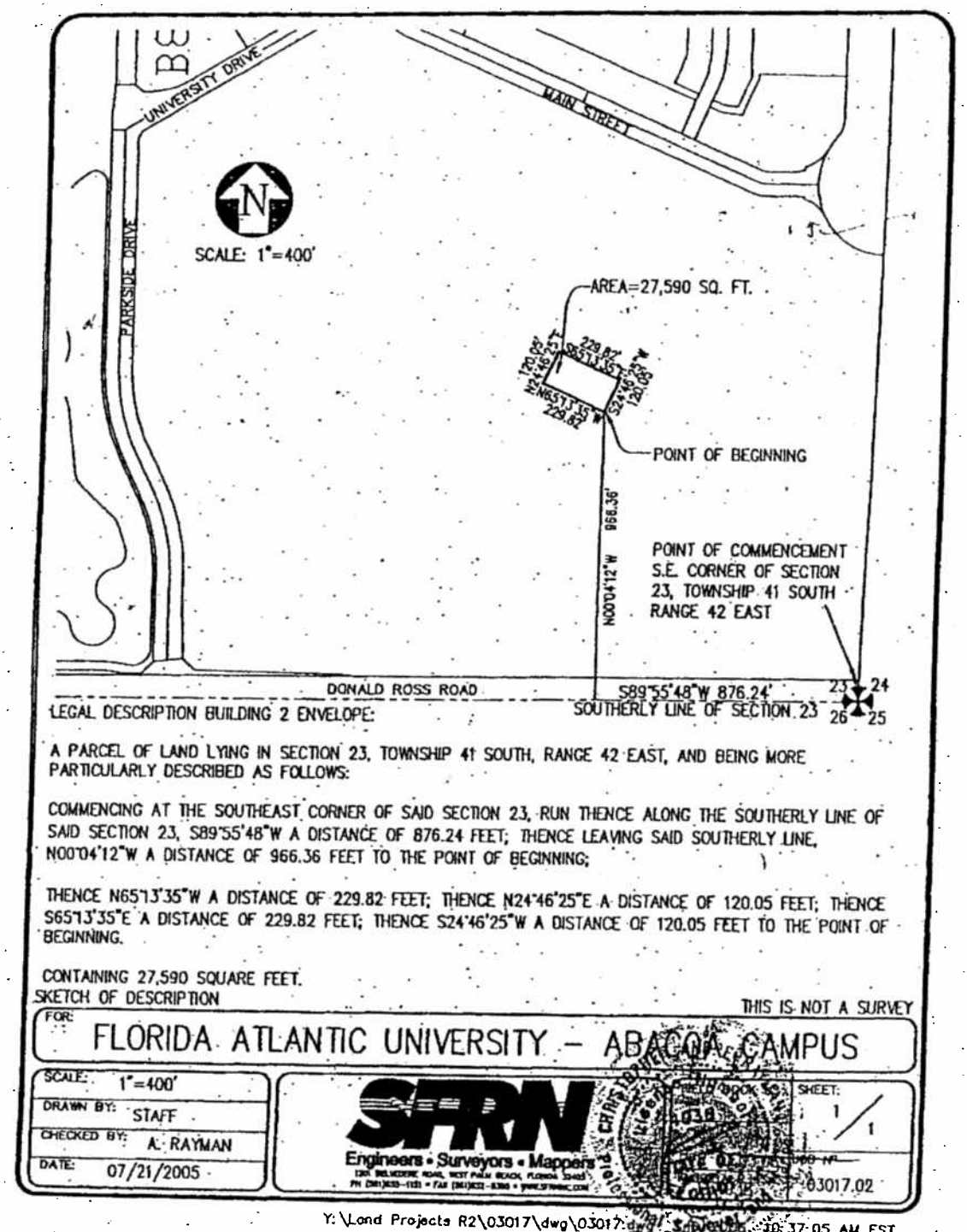
NOTARY PUBLIC
State of Florida at Large

My Commission Expires:

Notary Public State of Florida
Sandra A Locigno
My Commission DD434291
Expires 06/23/2009

EXHIBIT "A"
TO AMENDMENT

THE "SECOND JUPITER CAMPUS SITE"



LEGAL DESCRIPTION BUILDING 2 ENVELOPE:

A PARCEL OF LAND LYING IN SECTION 23, TOWNSHIP 41 SOUTH, RANGE 42 EAST, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 23, RUN THENCE ALONG THE SOUTHERLY LINE OF SAID SECTION 23, S89°55'48"W A DISTANCE OF 876.24 FEET; THENCE LEAVING SAID SOUTHERLY LINE, N00°04'12"W A DISTANCE OF 966.36 FEET TO THE POINT OF BEGINNING;

THENCE N65°13'35"W A DISTANCE OF 229.82 FEET; THENCE N24°46'25"E A DISTANCE OF 120.05 FEET; THENCE S65°13'35"E A DISTANCE OF 229.82 FEET; THENCE S24°46'25"W A DISTANCE OF 120.05 FEET TO THE POINT OF BEGINNING.

CONTAINING 27,590 SQUARE FEET.

SKETCH OF DESCRIPTION

THIS IS NOT A SURVEY

FOR: FLORIDA ATLANTIC UNIVERSITY - ABACOA CAMPUS

SCALE:	1"=400'
DRAWN BY:	STAFF
CHECKED BY:	A. RAYMAN
DATE:	07/21/2005

SHEET: 1 / 1

SFRN Engineers • Surveyors • Mappers

03017.02

Y:\Land Projects R2\03017\dwg\03017.dwg Saved: 10:37:05 AM EST

PROL1

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA

PARTIAL RELEASE OF LEASE

STATE OF FLORIDA
COUNTY OF LEON
LEASE NUMBER 4189

The undersigned on the 22nd day of February, 200 do(es) hereby quitclaim, release, and surrender all right, title, and interest in and to the below described in attached Exhibit "A" which are leased under Lease Agreement Number 4189 dated May 18, 1998, between the BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA as LESSOR, and THE FLORIDA ATLANTIC UNIVERSITY BOARD OF TRUSTEES as LESSEE, effective the 22nd day of February, 2006.

THE FLORIDA ATLANTIC UNIVERSITY BOARD OF TRUSTEES

Witness

By: FRANK T. BROGAN (SEAL)

JENNIFER O'FLANNERY
Print/Type Witness Name

Print/Type Name

Witness

Title: PRESIDENT

LILL DAKATE
Print/Type Witness Name

"LESSEE"

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 8th day of September, 2005, by FRANK T. BROGAN, as President of Florida Atlantic University. He/she is personally known to me or produced _____ as identification.

BETTY C. HARVEY
Commission # DD0178264
Expires 5/9/2007
Bonded through
(800-432-4254) Florida Notary Assn., Inc.

Notary Public, State of Florida

Betty C. Harvey
Print/Type Notary Name

Commission Number: DD0178264

Commission Expires: 5/9/07

The BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA hereby consents to the foregoing Partial Release of Lease this 22nd day of February, 2006

Judy Woodard
Witness

Judy Woodard
Print/Type Witness Name

S. D. Roberts
Witness

Sylvia S. Roberts
Print/Type Witness Name

Gloria C. Nelson (SEAL)
GLORIA C. NELSON, OPERATIONS AND MANAGEMENT CONSULTANT, MANAGER, BUREAU OF PUBLIC LAND ADMINISTRATION, DIVISION OF STATE LANDS, DEPARTMENT OF ENVIRONMENTAL PROTECTION

"LESSOR"

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me this 22nd day of February 2006, by Gloria C. Nelson, Operations and Management Consultant Manager, Bureau of Public Land Administration, Division of State Lands, Florida Department of Environmental Protection, acting as agent for and on behalf of the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida. She is personally known to me.

Michelle Brady
Notary Public, State of Florida

NOTARY PUBLIC-STATE OF FLORIDA
Michelle Brady
Commission # DD507113
Expires: JAN. 16, 2010
Bonded Thru Atlantic Bonding Co., Inc.

Print/Type Notary Name

Commission Number:

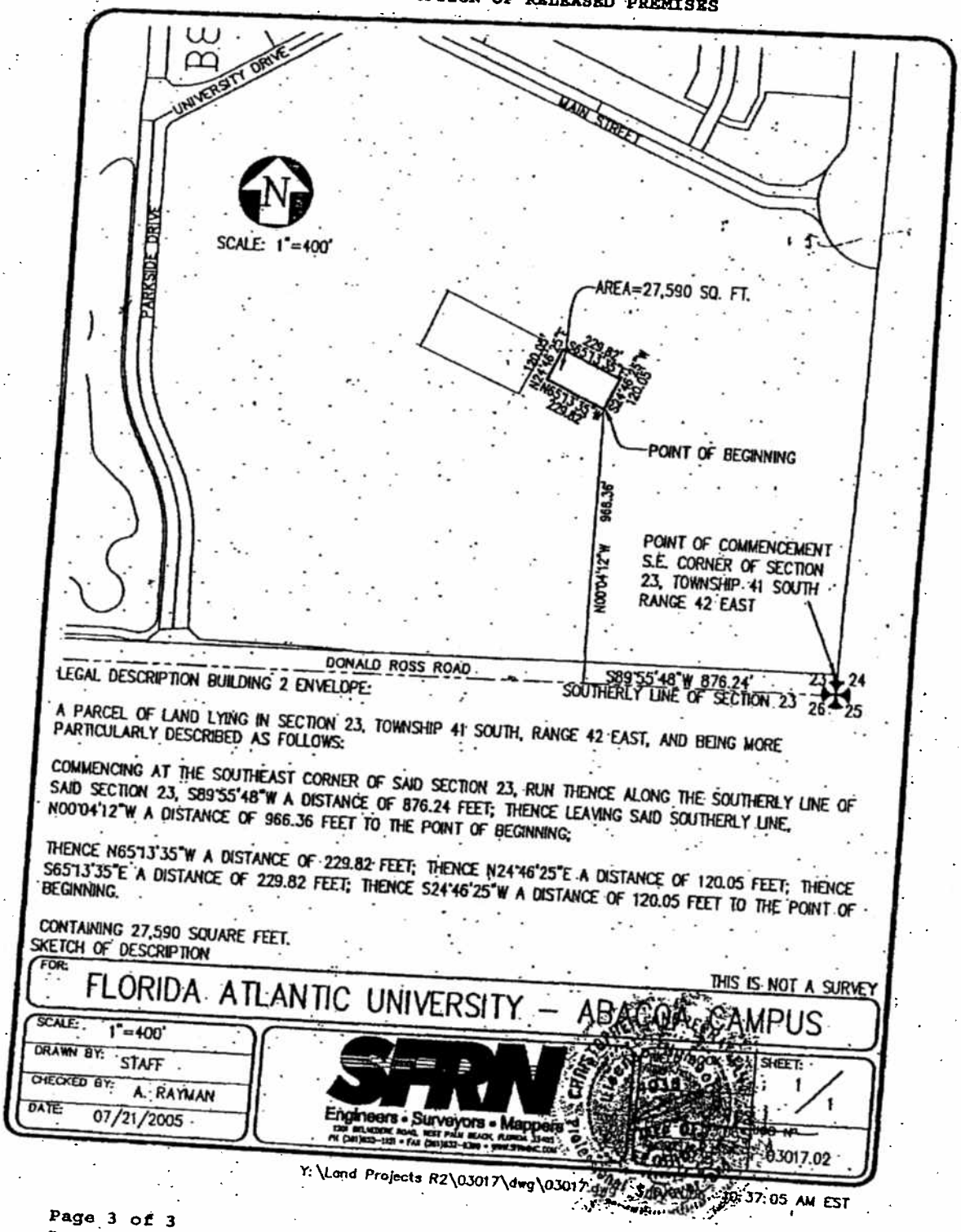
Commission Expires:

Approved as to Form and Legality

By: _____
DEP Attorney

EXHIBIT "A"

LEGAL DESCRIPTION OF RELEASED PREMISES



LEGAL DESCRIPTION BUILDING 2 ENVELOPE:

A PARCEL OF LAND LYING IN SECTION 23, TOWNSHIP 41 SOUTH, RANGE 42 EAST, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 23, RUN THENCE ALONG THE SOUTHERLY LINE OF SAID SECTION 23, S89°55'48"W A DISTANCE OF 876.24 FEET; THENCE LEAVING SAID SOUTHERLY LINE, N00°04'12"W A DISTANCE OF 966.36 FEET TO THE POINT OF BEGINNING;

THENCE N65°13'35"W A DISTANCE OF 229.82 FEET; THENCE N24°46'25"E A DISTANCE OF 120.05 FEET; THENCE S65°13'35"E A DISTANCE OF 229.82 FEET; THENCE S24°46'25"W A DISTANCE OF 120.05 FEET TO THE POINT OF BEGINNING.

CONTAINING 27,590 SQUARE FEET.

SKETCH OF DESCRIPTION

FOR: FLORIDA ATLANTIC UNIVERSITY – ABACOA CAMPUS

THIS IS NOT A SURVEY

SCALE:	1"=400'
DRAWN BY:	STAFF
CHECKED BY:	A. RAYMAN
DATE:	07/21/2005

SHEET: 1 / 1

SITE NO. 03017.02

Y:\Land Projects R2\03017\dwg\03017.dwg 10:37:05 AM EST

Partial Release of Lease No. 4189

Revised 05/06/05

ATL1

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT
TRUST FUND OF THE STATE OF FLORIDA

AMENDMENT NUMBER 4 TO LEASE NUMBER 4189

THIS LEASE AMENDMENT is entered into this 23rd day of May, 2006 by and between the BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA, hereinafter referred to as "LESSOR" and THE FLORIDA ATLANTIC UNIVERSITY BOARD OF TRUSTEES (successor in interest by operation of law to the Florida Board of Education, which was the successor in interest by type two transfer pursuant to Section 20.06(2), Florida Statutes to the Florida Board of Regents), hereinafter referred to as "LESSEE";

W I T N E S S E T H

WHEREAS, LESSOR, by virtue of Section 253.03, Florida Statutes, holds title to certain lands and property for the use and benefit of the State of Florida; and

WHEREAS, on May 18, 1998, LESSOR and LESSEE entered into Lease Number 4189, as amended by Amendment Number 1, Amendment Number 2, and Amendment Number 3 (hereinafter referred to as the "Master Lease") for the premises described therein (the "Leased Premises"); and

WHEREAS, LESSEE desires to enter into a sublease substantially in the form attached hereto as Exhibit "A" (the "Sublease"), with The Scripps Research Institute, a California nonprofit public benefit corporation ("Sublessee"), to sublease the premises described therein (the "Subleased Premises") for the purpose of establishing, constructing, operating and

maintaining a not-for-profit biomedical research institution and campus for biomedical and other scientific research, training and education, together with related office uses and with ancillary uses such as classrooms, lecture halls, conference rooms, cafeterias, libraries and recreation and fitness facilities for the use of Sublessee's employees and guests, all in conjunction with the lease of the Leased Premises for the operation of a public university campus site; and

WHEREAS, LESSOR and LESSSEE acknowledge that Palm Beach County ("County"), a political subdivision of the State of Florida, has or will contribute significant funds toward construction of improvements to be constructed by Sublessee upon the Subleased Premises; that County is anticipating recouping its investment through economic growth resulting from Sublessee's operations at the Subleased Premises; that in the event of termination of the Master Lease for any reason other than the expiration of its term or due to a default by Sublessee of the Sublease, and in the further event that LESSEE or LESSEE's successor entity does not enter into a subsequent direct lease with LESSOR of the Subleased Premises, LESSOR shall enter into a direct lease with Sublessee of the Subleased Premises upon the same terms and conditions as in the Master Lease, in conjunction with leasing the Leased Premises (less the Subleased Premises) for the operation of a public university campus site; and that in the event of termination of the Master Lease due to a default by Sublessee of the Sublease, and in the further event that LESSEE or LESSEE's successor entity does not enter into a subsequent direct lease with LESSOR of the Subleased

Premises, County shall be entitled to lease the Subleased Premises from LESSOR upon the same terms and conditions as in the Master Lease, in conjunction with LESSOR's leasing the Leased Premises (less the Subleased Premises) for the operation of a public university campus site; and

WHEREAS, LESSOR and LESSEE agree to extend the term of the Master Lease to expire ninety-nine (99) years from the effective date of this Lease Amendment Number 4, and to amend and modify the Master Lease to, among other things, allow the Subleased Premises to be used for the purposes set forth in the Sublease.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties hereto agree as follows:

1. Paragraph 3 of the Master Lease, entitled TERM, is hereby deleted in its entirety and replaced as follows:

> "The term of this lease shall be for a period of ninety-nine (99) years, commencing on June 1, 2006, and ending on May 31, 2105, unless sooner terminated pursuant to the provisions of this lease."

2. Paragraph 4 of the Master Lease, entitled PURPOSE, is deleted in its entirety and replaced as follows:

> "LESSEE shall manage the leased premises only (a) for the establishment and operation of the Florida Atlantic University North Palm Beach Campus for education-related purposes or (b) the establishment, construction, operation and maintenance of a not-for-profit biomedical research institution and campus

for biomedical and other scientific research, training and education, together with related office uses and with ancillary uses such as classrooms, lecture halls, conference rooms, cafeterias, libraries and recreation and fitness facilities for the use of the not-for-profit biomedical research institution's employees and guests, each along with other related uses necessary for the accomplishment of such purposes as designated in the Management Plan required by paragraph 7 of this lease, all in conjunction with LESSEE's lease of the Leased Premises for the operation of a public university campus site."

3. LESSOR agrees that by execution and delivery of this Master Lease Amendment Number 4, LESSOR approves the execution and delivery of the Sublease as required under paragraph 13 of the Master Lease. LESSOR further agrees that, to the extent that execution and delivery of the Sublease by LESSEE constitutes an assignment under paragraph 20 of the Master Lease, LESSOR herby consents to such assignment.

4. Attached hereto as Exhibit "B" is the Master Plan for the Florida Atlantic University North Palm Beach Campus as approved by the LESSEE on March 15, 2006. LESSOR hereby acknowledges that such Master Plan satisfies the requirements of paragraph 7 of the Master Lease.

5. LESSOR hereby acknowledges that the improvements to be constructed on the Subleased Premises will not be insured in accordance with the requirements of paragraph 9 of the Master Lease. LESSOR agrees that, so long as LESSEE requires Sublessee to maintain the insurance coverages set

forth in paragraph 11 of the Sublease, LESSEE will not be in violation of the requirements of paragraph 9 of the Master Lease.

6. LESSOR agrees that it shall send copies of all notices sent to LESSEE under the Master Lease to County on the same date such notices are sent to LESSEE. LESSOR agrees to give County written notice of any default by LESSEE and of LESSOR'S intention to terminate the Master Lease for any reason at least sixty (60) days before the effective date of such termination. Notices to the County shall be sent to:

County Attorney
Palm Beach County
301 North Olive Avenue, 6th Floor
West Palm Beach, Florida 33401

7. It is understood and agreed by LESSOR and LESSEE that in each and every respect the terms of the Master Lease, except as amended hereby, shall remain unchanged and in full force and effect and the same are hereby ratified, approved and confirmed by LESSOR and LESSEE.

IN WITNESS WHEREOF, the parties have caused this Lease Amendment Number 4 to be executed on the day and year first above written.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA

Witness

Teresa Johnson
Print/Type Witness Name

Witness

RANDY K WEGNER
Print/Type Witness Name

By: _____ (SEAL)
EVA ARMSTRONG, DIRECTOR, DIVISION OF STATE LANDS, STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, AS AGENT FOR AND ON BEHALF OF THE BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA

"LESSOR"

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me this 27th day of July, 2006, by Eva Armstrong, Director, Division of State Lands, State of Florida Department of Environmental Protection, as agent for and on behalf of the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida. She is personally known to me.

Sheryl P. Jones
Notary Public, State of Florida
Sheryl P. Jones
Print/Type Notary Name

Commission Number:

Commission Expires:

Sheryl P. Jones
MY COMMISSION # DD206102 EXPIRES
May 3, 2007
BONDED THRU TROY FAIN INSURANCE, INC.

Approved as to Form and Legality

By: _____
DEP Attorney

Witness

Print/Type Witness Name

Witness

Print/Type Witness Name

THE FLORIDA ATLANTIC UNIVERSITY BOARD OF TRUSTEES

By: _____ (SEAL)

Print/Type Name

Title:

"LESSEE"

STATE OF
COUNTY OF

The foregoing instrument was acknowledged before me this ___ day of _____, 2006, by _____ as _____, on behalf of The Florida Atlantic University Board of Trustees. He/~~she~~ is personally known to me.

Notary Public, State of Florida

Print/Type Notary Name

Commission Number:

Commission Expires:

Notary Public State of Florida
Sandra A Locigno
My Commission DD434291
Expires 06/23/2009

R06/02
\\\MI - 64730/0004 - 95966 v2

EXHIBIT "C"

FORM OF OPERATIONAL REPORT

OPERATIONAL REPORT
MAX PLANCK FLORIDA INSTITUTE

MAX PLANCK FLORIDA CORPORATION,
SUBLESSEE

AND

FLORIDA ATLANTIC UNIVERSITY (JOHN D. MacARTHUR CAMPUS),
SUBLESSOR

This Operational Report is prepared pursuant to Section 18-2.018(3)(a)5.b., F.A.C.

1. The common name of the property, if any:

   RESPONSE: The property is a vacant and unimproved approximately six acre parcel of land. Until this sublease transaction, the property was an undivided portion of Florida Atlantic University's John D. MacArthur Campus (Jupiter).

2. A map showing the approximate location and boundaries of the property, the location of any structures or improvements to the property, and a statement as to whether the property is adjacent to an aquatic preserve or a designated area of critical state concern or an area under study for such designation:

   RESPONSE: Attached is a plat of survey showing the property. There are no improvements to the property as of the date of this Operational Report. Pursuant to the Sublease, Max Planck Florida Corporation intends to construct one research office building consisting of approximately 100,000 square feet and all necessary site improvements. FAU and Max Planck Florida Corporation have no knowledge that the property is adjacent to an aquatic preserve or designated area of critical state concern or an area under for such designation. A copy of Max Planck Florida Corporation's ESA Phase I is attached.

   .

3. The legal description and acreage of the property:

RESPONSE: the legal description and acreage of the property is attached to this Operational Report.

4. The land acquisition program, if any, under which the property was acquired:

RESPONSE: The property is part of 135 acres of land donated to the Board of Trustees of the Internal Improvement Trust Fund (TIITF) of the State of Florida by John D. and Catherine D. Macarthur Foundation. This property is leased to the Florida Atlantic University Board of Trustees by TIITF.

5. The designated single or multiple use management for the property, including use by other managing entities:

RESPONSE: The Sublease requires Max Planck Florida Corporation to be exclusively responsible for the development and management of the property during the term of the Sublease.

6. The approximate location and description of known renewable and non-renewable resources of the property including archaeological and historical resources; fish and wildlife resources, both game and non-game; mineral resources (such as oil, gas, phosphate, etc.); and natural resources (such as virgin timber stands, scenic vistas, rivers, streams, etc.):

RESPONSE: FAU and Max Planck Florida Corporation have no knowledge of any renewable or non-renewable resources on the property (be it mineral, natural, game, archaeological or historical and does not intend to exploit any such resources. Attached is a copy of Max Planck Florida Corporation's archaeological report and gopher tortoise report.

7. A description of past and existing uses, including unauthorized uses of the property:

RESPONSE: Under Lease Number 4189, the property has been designated for educational use. In support of the educational mission of the University, the future land use element within the adopted master plan for the John D. MacArthur campus identifies the referenced six acre site as Research. FAU is not aware of any unauthorized use of the property.

8. A description of alternative or multiple uses of the property considered by the lessee and a statement detailing why such uses were not adopted:

RESPONSE: Alternative land use categories under the Master Plan include: Academic, Academic Support, Campus Support, Residential, Recreation, Utilities, Open Space, and Parking. During the Master Planning process it was determined that zoning this site for research is consistent with the current development of the Campus Plan and best supports the mission of the University.

9. An assessment of the impact of planned uses on the renewable and non-renewable resources of the property and a description of the specific actions that will be taken to protect, enhance and conserve those resources and to compensate/mitigate the damage that is caused by such use:

RESPONSE: The planned uses for this site is consistent with the adopted Master Plan for the John D. MacArthur Campus; as such, the anticipated impact for development on this site is addressed under the Conservation Element within the overall Campus Master Plan. Measures to protect, enhance, and conserve the renewable and non-renewable resources will be consistent with the Goals, Objectives, and Policies as outlined in the Conservation Element of the Master Plan. Specific information is available at: http://www.fau.edu/facilities/uavp/masterplans-folder/macarthur-mp-folder/JupMP-043005-Text/13_CONSERVATION.pdf

10. A description of management needs and problems on the property:

RESPONSE: Management needs associated with site development, design, construction and operation of the facility will be the responsibility of Max Planck Florida Corporation. There are no known problems on the property.

11. A description of the management responsibilities of each entity and how such responsibilities will be coordinated:

RESPONSE: Max Planck Florida Corporation is solely responsible for developing and managing the property during the term of the Sublease. FAU is solely responsible for managing the campus common areas.

12. A statement concerning the extent of public involvement and local government participation, if any, in the development of the plan:

RESPONSE: Max Planck Florida Corporation has received support from both the State of Florida and Palm Beach County. Attached to this Operational Report is a(A) a copy of the Innovation Incentive Funding Agreement, dated as of March 12, 2008, between Max Planck Florida Corporation and the Office of Tourism, Trade and Economic Development of the State of Florida and (B) a Grant Agreement, dated July 22, 2008, between Max Planck Florida Corporation and Palm Beach County.

13. A statement of gross income generated, net income and expenses:

RESPONSE: The property is currently vacant and unimproved and Max Planck Florida Corporation has no activities on the property. Once Max Planck Florida Corporation develops the property pursuant to this Operational Report, the Sublease and the Grant Agreement, the property will be devoted to the uses set forth in the Sublease and will begin to generate income and expenses. Attached is Max Planck Florida Corporation's Business Plan dated September 27, 2007, which was an exhibit to the Grant Agreement.

* * *

EXHIBIT "D"

MPFC FUNDING AGREEMENT

INNOVATION INCENTIVE FUNDING AGREEMENT

BETWEEN

OFFICE OF TOURISM, TRADE, AND ECONOMIC DEVELOPMENT

and

MAX PLANCK FLORIDA CORPORATION

Dated March 12, 2008

TABLE OF CONTENTS

Page

ARTICLE 1 DEFINITIONS 2

ARTICLE 2 ESTABLISHMENT OF AWARDEE'S OPERATIONS 7

2.1 Establishment of Institute; Purpose 7
2.2 Name 7
2.3 Principal Executive Office 7
2.4 Term 7
2.5 Awardee's Tax-Exempt Status 7
2.6 Awardee's Federal Funding 7

ARTICLE 3 DISBURSEMENT OF INCENTIVE FUNDS 8

3.1 Terms of Incentive 8
3.2 Use of Incentive Funds 8
3.3 Prohibition on Use of Incentive Funds for Lobbying 8
3.4 Ownership of Discoveries, Inventions and Other Technology 8
3.5 Publications 8
3.6 Other Funding Sources 8

ARTICLE 4 TIMING AND CONDITIONS OF DISBURSEMENTS 8

4.1 Incentive Funds 8
4.2 Timing of Disbursement of Incentive Funds 9
4.3 Request for Incentive Funds 9
4.4 Conditions 9
4.5 Failure to Comply with Disbursement Request 12

ARTICLE 5 SECURITY FOR OBLIGATIONS 13

ARTICLE 6 REPRESENTATIONS AND WARRANTIES OF AWARDEE 13

6.23 Budget Approval 18
6.24 Board of Trustees Meetings 19

ARTICLE 7 COVENANTS OF AWARDEE 19

7.1 Financial Information 19
7.2 Operations Report 19
7.3 Annual Science Report 20
7.4 Performance Expectations 20

TABLE OF CONTENTS
(continued)

Page

7.5 Awardee to Use Reasonable Best Efforts 21
7.6 Tax Status and Returns 21
7.7 Awardee's Cooperation in Recruiting For Profit and Not-For-Profit Biomedical Companies 22
7.8 Awardee to Proceed Diligently to Implement its Business Plan 22
7.9 Employment Issues 22
7.10 Job Creation and Equipment Purchases 22
7.11 Insurance 22
7.12 Other Reports 22
7.13 Compliance Assessment and Audit 23
7.14 Compliance with Applicable Laws 23
7.15 Awardee Not to Pledge Equipment, Materials 23
7.16 Relocation of Equipment or Materials and Supplies 23

ARTICLE 8 EXCLUSIVE FACILITY; OUTSIDE ACTIVITIES 24
8.1 Limitation on Additional Research Facilities 24
8.2 Certain Acknowledgments 24
8.3 Modification of Covenant 24
8.4 Remedies for Violation 24

ARTICLE 9 INSPECTION OF AWARDEE'S RECORDS 25
9.1 Records to be Kept 25
9.2 Inspection of Awardee's Records 26
9.3 OTTED's Covenants Regarding Confidential and/or Proprietary Records of Awardee 26

ARTICLE 10 DEFAULTS AND SANCTIONS 26
10.1 Events of Default 26
10.2 Material Default 27
10.3 Remedies 28
10.4 Disbursement Adjustments 29
10.5 No Waiver 29
10.6 Sanctions 29

ARTICLE 11 INDEPENDENT CAPACITY OF AWARDEE 30
11.1 Liability 30
11.2 Independent Capacity 30

TABLE OF CONTENTS
(continued)

Page

ARTICLE 12 MISCELLANEOUS 30

12.1 Notices 30
12.2 Survival; Rights not Affected by Knowledge 31
12.3 No Implied Waiver 31
12.4 Partial Invalidity 32
12.5 Binding Effect 32
12.6 Modifications 32
12.7 Governing Law 32
12.8 No Assignment 32
12.9 Counterparts 32
12.10 No Partnership 32
12.11 Arbitration 32
12.12 Entire Agreement 33
12.13 Titles and Subtitles; Form of Pronouns; Construction and Definitions 33
12.14 Costs 33
12.15 Force Majeure 33
12.16 Disclaimer 34
12.17 Limitation of Liability 34

Exhibits

Exhibit 1 Innovation Incentive Application
Exhibit 2 Business Plan
Exhibit 3 Disbursements
Exhibit 4 Form of Disbursement Request
Exhibit 5 Reporting Requirements
Exhibit 6 Security Agreement
Exhibit 7 Sample Legal Opinion
Exhibit 8 Monitoring Checklist
Exhibit 9 Florida Single Audit Act Requirements
Exhibit 10 Equipment Budget

STATE OF FLORIDA
OFFICE OF TOURISM, TRADE, AND ECONOMIC DEVELOPMENT
INNOVATION INCENTIVE FUNDING AGREEMENT

THIS INNOVATION INCENTIVE FUNDING AGREEMENT (OT07-030) is made and entered into as of the 12th day of March, 2008, ("Effective Date") by and between the State of Florida, Governor's Office of Tourism, Trade, and Economic Development ("OTTED"), and Max Planck Florida Corporation, a Florida not-for-profit corporation ("Awardee").

W I T N E S S E T H

WHEREAS, the Florida legislature has enacted the Enabling Statute to ensure that sufficient resources are available to allow the state to respond expeditiously to extraordinary economic opportunities and to compete effectively for high-value research and development and innovation business projects;

WHEREAS, Awardee is a Florida not-for-profit corporation established by the Max Planck Society for the Advancement of Science, an independent, not-for-profit German research organization, that primarily promotes and supports cutting-edge basic research at its own internationally recognized institutes and that, through the establishment of Awardee in Florida, seeks to promote and support cutting-edge research in the sciences independently as well as in cooperation with Florida and US-based universities and research institutes and expedite drug discovery through state-of-the art technologies;

WHEREAS, Awardee desires to establish and operate a biomedical research institute in the State of Florida as the "Max Planck Florida Institute" (the "Institute");

WHEREAS, the Enabling Statute contemplates that OTTED and Awardee will enter into this Agreement governing the disbursement and use of Incentive Funds;

WHEREAS, OTTED and Trustee have entered into a trust agreement pursuant to which the Incentive Funds that are the subject of this Agreement will be invested and disbursed (the "Trust Agreement"); and

WHEREAS, Awardee and OTTED desire to make certain representations, warranties, covenants and agreements governing their respective rights and obligations with respect to, among other things, (1) the establishment and operation of the Institute, and (2) the Incentive Funds Disbursements made to Awardee, consistent with the provisions of this Agreement and the Enabling Statute.

NOW, THEREFORE, in consideration of the mutual terms, covenants, and conditions contained herein, the parties hereby agree as follows:

ARTICLE 1

DEFINITIONS

Capitalized terms used in this Agreement without other definition shall, unless expressly stated otherwise, have the meanings specified in this Article 1.

"Agreed Average Wage" means 130% of the Average Private Sector Wage in the State of Florida. As of the Effective Date, the Agreed Average Wage is $46,931 (130% of the Average Private Sector Wage).

"Agreement" means this Innovation Incentive Funding Agreement, as may be amended in accordance with its terms. Words such as "herein," "hereafter," "hereof," "hereto," "hereby" and "hereunder," when used with reference to this Agreement, refer to this Agreement as a whole, unless the context otherwise requires.

"Annual Science Report" means the annual report that describes the scientific activities of Awardee, as set forth in Section 7.3.

"Application" means the application created by Enterprise Florida, Inc. specifically for the Incentive Funds. A copy of Awardee's completed Application is attached hereto as Exhibit "1."

"Average Private Sector Wage" is $36,101, the average private sector wage in the State of Florida.

"Awardee" shall have the meaning set forth in the introductory paragraph of this Agreement.

"Board of Trustees" means the governing body with the exclusive power to direct the operational affairs of Awardee.

"Business Plan" means the business plan of Awardee, which includes the Initial Budget and the Organizational Plan, and may include, among other information, strategic goals and objectives, general research and development information, status reports, and study updates. The Business Plan shall cover at a minimum the first three (3) years of the project. The Business Plan shall include a proposed budget, including a staffing plan, an equipment purchase budget, and proposed operating expenses. The staffing plan shall identify the number and average salaries of positions to be funded in Florida through Disbursements. A copy of the Business Plan will be attached hereto as Exhibit "2." The Business Plan may be amended from time to time in accordance with Section 3.2 of this Agreement.

"Ceased Operations" means, for each Report Period following the Fourth Disbursement that falls within the Measurement Period, the situation where Awardee's total number of Jobs as of the end of such Report Period is less than 50% of the total number of Jobs, measured in the aggregate, that Awardee is scheduled to have as of the end of such Report Period as set forth in the Business Plan. For example, if in March 2011, Awardee was scheduled to have created a

total of eighty-one (81) Jobs and the total number of Jobs created by Awardee as of such date is forty (40) or less, Awardee will have Ceased Operations for purposes of this definition.

"Code" means the United States Internal Revenue Code of 1986, as amended, and as to any specific Code section, any corresponding provision or provisions of any succeeding law.

"Commercial Spin-Off" means a commercial entity that derives a portion of its commercial activities from the application or use of a technology (e.g. inventions, know-how, software and corresponding patent rights) developed by Awardee, or as a result of Awardee's activities or Awardee scientists. Without limiting the generality of the foregoing, a Commercial Spin-Off may include an enterprise that has been created either (1) to license-in an Awardee technology in order to develop and commercialize products and/or services, (2) to fund research of the Awardee in order to further develop an Awardee technology that will thereafter be licensed-in by the Commercial Spin-Off, or (3) by Awardee scientist(s) as (co-)founder(s) of the Commercial Spin-Off.

"County" shall mean Palm Beach County, a political subdivision of the State of Florida.

"Demand" shall have the meaning set forth in Section 12.11 of this Agreement

"Disbursement" shall mean any of the Initial Disbursement, First Disbursement, Second Disbursement, Third Disbursement, Fourth Disbursement, Fifth Disbursement, Final Disbursement or other disbursement of Incentive Funds by Trustee or otherwise in accordance with the terms of this Agreement and the Trust Agreement.

"Disbursement Conditions" means the applicable conditions set forth in Section 4.4 that must be met for Trustee to make Disbursements.

"Disbursement Date" means the date on which a Disbursement is made.

"Disbursement Request" shall have the meaning set forth in Section 4.3 of this Agreement.

"Early Amount" shall have the meaning set forth in Section 4.2 of this Agreement

"Effective Date" shall have the meaning set forth in the introductory paragraph of this Agreement.

"Enabling Statute" means Chapter 2006-55, Laws of Florida, codified as Florida Statutes, Section 288.1089, Florida Statutes (2007).

"Environmental Law" shall have the meaning set forth in Section 6.7 of this Agreement.

"Environmental Permits" shall have the meaning set forth in Section 6.7 of this Agreement.

"Equipment" means equipment purchased by Awardee with Incentive Funds.

"Event of Default" shall have the meaning set forth in Section 10.1 of this Agreement.

"Fifth Disbursement" shall mean a disbursement to the Awardee in the amount set forth in Exhibit "3".

"Final Disbursement" shall mean a disbursement to the Awardee in the amount set forth in Exhibit "3".

"Force Majeure Event" shall have the meaning set forth in Section 12.15 of this Agreement.

"Fourth Disbursement" shall mean a disbursement to the Awardee in the amount set forth in Exhibit "3".

"GAAP" means accounting principles generally accepted in the United States of America, applied on a consistent basis.

"Government Auditing Standards" means the Generally Accepted Government Auditing Standards as promulgated from time to time by the United States Government Accountability Office.

"Governmental Licenses" shall have the meaning set forth in Section 6.16 of this Agreement.

"Incentive Funds" means an aggregate of $94,090,000 plus the investment income thereon, which funds were appropriated by the State of Florida for Awardee.

"Initial Budget" means the line item budget of Awardee included as part of the Business Plan, which includes a detailed line item budget for the first year of operations and a less detailed line item budget for the succeeding two (2) years of operation, and shows the total costs for each category of expenditures and the amount of each line item to be funded from the Incentive Funds, as may be revised from time to time in accordance with Section 3.2 of this Agreement, and which shall be revised each year not less than 90 days prior to the anniversary of the Effective Date to add a detailed line item budget for Awardee's next fiscal year.

"Initial Disbursement" shall mean a disbursement to Awardee of $10,000,000 in accordance with Section 4.1 of this Agreement.

"Initial Research Groups" shall have the meaning set forth in Section 4.4(d)(vii) of this Agreement.

"Institute" shall have the meaning set forth in the recitals to this Agreement.

"Intellectual Property" shall have the meaning set forth in Section 6.14 of this Agreement.

"Jobs" means full-time jobs and full-time equivalent jobs (based on a 35 hour work week), and Other Personnel, as defined herein. In tabulating hours worked, any paid leave an

employee takes during the pay period, such as vacation or sick leave, may be included. "Other Personnel" shall mean (a) employees of contractors, joint venture partners or licensees operating under agreement with Awardee that are performing functions or services for Awardee in Awardee's facility and (b) personnel engaged directly by Awardee as independent contractors to which the Awardee issues an IRS Form 1099. In addition, to be counted towards Jobs, Other Personnel shall:

a. (i) perform ongoing services or functions for Awardee that might otherwise be performed by employees, but which Awardee has elected to procure through the services of Other Personnel due to the specialized nature of the expertise required or other business purpose, and/or (ii) perform their work for Awardee substantially in Awardee's Florida facility (other than customary business travel);

b. not perform services or functions limited to term of less than six months; and

c. not constitute more than 25% of the total Jobs.

Jobs shall include binding offers accepted and committed to by the prospective employee or Other Personnel even though the employee's or Other Personnel's commencement date may be deferred by up to one year from the date of employee's or Other Personnel's acceptance of the offer. Jobs shall also include jobs attributable to a Commercial Spin-Off to the extent that any such job meets the other requirements of this definition.

"Legal Requirements" shall have the meaning set forth in Section 6.17 of this Agreement.

"Material Adverse Effect" means a material adverse change in or effect on the business, condition (financial or otherwise), or in the "change in unrestricted net assets," affairs or prospects, whether or not in the ordinary course of operations, of Awardee, which change would reasonably be expected to jeopardize the ability of Awardee to continue to conduct its core operations in the future.

"Material Default" shall have the meaning set forth in Section 10.2 of this Agreement.

"Materials and Supplies" means non-Equipment items which are purchased with Incentive Funds and used in the course of research activities. Materials and Supplies will not be subject to the Security Agreement.

"Measurement Period" means the period commencing on the Effective Date and ending on the tenth anniversary of the Effective Date or such earlier date that Awardee has created the total number of Jobs that are projected to be created by the tenth anniversary of the Effective Date under the Business Plan. The Measurement Period may be extended pursuant to a Force Majeure Event under Section 12.15.

"Non-OTTED Funding Source" shall have the meaning set forth in Section 12.15 of this Agreement.

"Operations Report" means the report prepared by Awardee describing Awardee's operations for each Report Period and delivered to OTTED as provided in Section 7.2.

"Organizational Plan" means the plan of organization for Awardee required to be submitted to OTTED, which plan shall include job titles and duties.

"OTTED" shall have the meaning set forth in the introductory paragraph of this Agreement.

"Person" means any partnership, joint venture, association, corporation, limited liability company, trust or other entity, or, where the contexts so permits or requires, a natural person.

"Pledged Account" shall have the meaning set forth in Section 4.2 of this Agreement.

"Public Records Statute" means Chapter 119, Florida Statutes, as amended from time to time, and the exceptions and exemptions thereto.

"Report Period" means the applicable reporting period as described on the schedule attached hereto as Exhibit "5".

"Sanctions" means the remedies OTTED may impose in accordance with the terms of this Agreement to ensure Awardee adheres to its Business Plan, statutory obligations, and reporting requirements.

"Second Disbursement" shall mean a disbursement to the Awardee in the amount set forth in Exhibit "3".

"Security Agreement" means the security agreement executed on the date hereof between Awardee and OTTED, the form of which is attached hereto as Exhibit "6".

"Security Interest" means the security interest of OTTED granted by Awardee pursuant to the Security Agreement.

"Security Interest Default" means an Event of Default set forth in Section 10.1 (d), (e), (g), (h), (i) or (j); provided, however, that with respect to Section 10.1 (g) or (h), a Security Interest Default shall not occur until ninety (90) days after written notice thereof shall have been given to Awardee if Awardee is using its best efforts to cure such breach during such ninety (90) day period.

"Third Disbursement" shall mean a disbursement to the Awardee in the amount set forth in Exhibit "3".

"Treasury Regulations" means the regulations issued by the United States Treasury Department under the Code, as such regulations may be amended from time to time, including any successor regulations.

"Trust Agreement" shall have the meaning set forth in the recitals to this Agreement.

"Trustee" shall mean the Florida State Board of Administration.

"Withheld Amount" shall have the meaning set forth in Section 10.3(b) of this Agreement.

ARTICLE 2

ESTABLISHMENT OF AWARDEE'S OPERATIONS

2.1 Establishment of Institute; Purpose. Awardee shall establish the Institute in Florida. Awardee shall promote research and development in Florida, focusing on biomedical and other scientific research in accordance with the Business Plan. The parties acknowledge and agree that Awardee is an independent legal entity controlled and directed by its Board of Trustees and management, that Awardee controls and directs its research and related affairs, and that neither OTTED nor Trustee shall control or direct Awardee's research or, except as expressly set forth in this Agreement, its related affairs.

2.2 Name. Awardee shall operate as "Max Planck Florida Institute" or such other name as determined by Awardee. Awardee shall make such filings and take such other actions as shall be necessary for Awardee to conduct its operations under such name.

2.3 Principal Executive Office. Awardee shall designate a principal executive office of Awardee within the State of Florida, which may be changed from time to time by the Board of Trustees. Awardee shall promptly notify OTTED of the location of its principal executive office and of any changes thereto.

2.4 Term. The term of this Agreement shall end twenty (20) years after the Effective Date, unless sooner terminated in accordance with this Agreement. Upon the conclusion of the first seven (7) years of the Agreement or, if earlier, the date that Awardee has created the total number of Jobs that were to be created by the seventh anniversary of the Effective Date under the Business Plan, only the reporting requirements specified under annual reports for subsequent years through twenty (20) on Exhibit "5" shall remain in effect, except that if, as of the seventh anniversary of the Effective Date, Awardee has not created the total number of Jobs that were to be created by the seventh anniversary of the Effective Date under the Business Plan and Awardee is in Material Default, OTTED shall have the remedies provided in this Agreement.

2.5 Awardee's Tax-Exempt Status. OTTED acknowledges and agrees that the receipt and maintenance of Awardee's tax-exempt status under Code Section 501(c)(3) is critical to the goals set forth herein, and OTTED agrees that neither OTTED nor Trustee shall impose any requirements upon Awardee that would jeopardize Awardee's tax exempt status or the tax exempt status of any of Awardee's rights or obligations for the purposes of federal, state and local laws.

2.6 Awardee's Federal Funding. OTTED agrees that neither OTTED nor Trustee shall impose any requirements upon Awardee that would reasonably be expected to jeopardize Awardee's federal financial grants or to jeopardize Awardee's ability to obtain federal financial grants in the future. In addition, OTTED agrees that this Agreement is subject to the requirements of Awardee's federal financial grants and shall not be interpreted in a manner that would violate any term or condition of such grants.

ARTICLE 3

DISBURSEMENT OF INCENTIVE FUNDS

3.1 Terms of Incentive. OTTED agrees to authorize distribution of the Incentive Funds to Awardee at such times and on the terms and conditions hereinafter set forth.

3.2 Use of Incentive Funds. The proceeds of the Incentive Funds shall be used by Awardee in a manner that is consistent with the Business Plan and the Initial Budget. The Business Plan and the Initial Budget may be amended from time to time by Awardee, provided however, that any such amendment that would modify the number of Jobs or the Agreed Average Wage must be submitted to OTTED for advance approval. Unless OTTED objects to the proposed changes within thirty (30) days of its receipt of such proposed amendments, such changes shall be deemed approved. Incentive Funds shall only be disbursed or expended for activities that principally benefit or are directly related to the establishment, ownership or operation of Awardee and the Institute.

3.3 Prohibition on Use of Incentive Funds for Lobbying. Incentive Funds may not be used for the purpose of lobbying any branch or agency of state government or any political subdivisions of the state, or for any political purpose.

3.4 Ownership of Discoveries, Inventions and Other Technology. The parties acknowledge and agree that, as between Awardee, on the one hand, and OTTED and Trustee, on the other hand, all discoveries, inventions and other technology developed by or on behalf of Awardee as a result, either directly or indirectly, of Awardee's operations or its Awardee employees shall be owned exclusively by Awardee, and neither OTTED nor Trustee shall have any legal interest, right or license in any such discoveries, inventions and other technology. Nothing contained in this Agreement shall in any way limit or restrict the right of Awardee to commercialize or license its discoveries, inventions and other technology.

3.5 Publications. OTTED acknowledges and agrees that Awardee shall have the right to publish (whether orally, in writing, or otherwise) results of its research in accordance with its policies which encourage publication of all research conducted by or on behalf of Awardee.

3.6 Other Funding Sources. Nothing contained in this Agreement shall in any way limit or restrict Awardee's right to receive and use funds from sources other than OTTED.

ARTICLE 4

TIMING AND CONDITIONS OF DISBURSEMENTS

4.1 Incentive Funds. Subject to the terms and conditions of this Agreement, no later than five days subsequent to the Effective Date, OTTED shall cause the Chief Financial Officer of the State of Florida to make the Initial Disbursement to the Pledged Account (as defined below). Within five (5) days of the execution of the Trust Agreement, OTTED shall request that the Chief Financial Officer of the State of Florida disburse to the Trustee all of the remaining Incentive Funds pursuant to the Trust Agreement. Trustee shall invest the Incentive Funds in

Trust in accordance with the terms of the Trust Agreement and any investment income resulting therefrom shall be distributable to Awardee in accordance with the terms of this Agreement.

4.2 Timing of Disbursement of Incentive Funds. Subject to Awardee's delivery of a Disbursement Request in accordance with Section 4.3, Trustee shall make all Disbursements (other than the Initial Disbursement) to a segregated interest-bearing account held in the name of and controlled by Awardee, which account shall be pledged to OTTED as security for Awardee's obligations under this Agreement (the "Pledged Account"). In addition, within forty-five days of the end of any quarter of Awardee's fiscal year, Awardee may, to the extent that Awardee remains in compliance with the Disbursement Conditions for the prior Disbursement, request an additional amount of up to 100% of the total Incentive Funds that have not been previously disbursed (the "Early Amount"), with the Early Amount requested taking into account the needs of Awardee for additional funding in light of the number of Jobs created in Florida. The request shall include the following:

(a) Information supporting the need for Disbursement of the Early Amount, including why the number of Jobs created in Florida to date and number of Jobs expected to be created prior to the next Disbursement, if applicable, justify the Early Amount requested;

(b) Awardee's representation that it remains in compliance with the Disbursement Conditions for the prior Disbursement; and

(c) Awardee's representation that it expects to remain in compliance with the Disbursement Conditions for the next Disbursement, if applicable.

To the extent that OTTED and Awardee agree on the Disbursement of any Early Amount, OTTED shall cause Trustee to make a Disbursement of the Early Amount to Awardee. OTTED and Awardee will discuss how to adjust the amount of any subsequent Disbursements to take into account the Disbursement of any Early Amount and Trustee shall be bound by the terms of any mutually agreed upon adjustment.

4.3 Request for Incentive Funds. With respect to each request for Incentive Funds, Awardee shall submit to OTTED and the Trustee, not less than four weeks prior to each Disbursement Date a completed written request for disbursement (a "Disbursement Request"), substantially in the form of Exhibit "4", executed by an authorized representative of Awardee. Notwithstanding the foregoing and in accordance with Section 4.1(a) of this Agreement, a Disbursement Request shall not be submitted in respect of the Initial Disbursement. OTTED shall, upon receipt of a Disbursement Request, direct the Trustee to make the applicable Disbursement to Awardee on the Disbursement Date. To the extent that Trustee fails to so direct the Trustee, Awardee may demand arbitration in accordance with Section 4.5.

4.4 Conditions.

(a) Conditions to the Initial Disbursement. The Initial Disbursement is conditioned upon OTTED's receipt of the following documents and Awardee's satisfaction of each of the following conditions:

(i) OTTED's receipt of a fully executed copy of this Agreement;

(ii) OTTED's receipt of a fully executed copy of the Security Agreement; and

(iii) Awardee's opening of the Pledged Account.

(b) Conditions to the Second Disbursement. The Second Disbursement is conditioned upon OTTED's receipt of the following documents and Awardee's satisfaction of each of the following conditions:

(i) OTTED's receipt of a fully executed copy of a Grant Agreement by and between Awardee and the County;

(ii) OTTED's receipt of a fully executed copy of the Trust Agreement;

(iii) OTTED's receipt and approval of the Business Plan and the Initial Budget; and

(iv) The County's receipt and approval of the Business Plan and the Initial Budget.

(c) Conditions to the Third Disbursement. The Third Disbursement is conditioned upon OTTED's receipt of the following documents and Awardee's satisfaction of each of the following conditions:

(i) OTTED's receipt of a copy of a fully executed Sublease Agreement by and between Awardee and Florida Atlantic University;

(ii) OTTED's receipt of a copy of a fully executed lease or facilities use agreement, if any, for Awardee's temporary facilities;

(iii) Awardee shall have commenced work on the refurbishment of Awardee's temporary facilities;

(iv) Awardee shall have met the Job creation goal for the Third Disbursement set forth in Exhibit "3";

(v) Awardee shall have identified a candidate for the position of first Scientific Director of the Institute and such candidacy shall have been submitted for a "First Reading" of the Senate of The Max Planck Society;

(vi) Awardee shall have caused the conduct of soil borings at Awardee's permanent facilities;

(vii) Awardee shall have implemented a science lecture or workshop series in Palm Beach County the purpose of which will be to educate and inform the public about relevant scientific research and discoveries as well as the work of the Institute;

(viii) Awardee shall have appointed a local representative to be based in Florida who shall act as Awardee's community liaison;

(ix) Awardee shall have commenced horizontal development of the Institute, including but not limited to such activities as grading and other site preparation work;

(x) Awardee shall have entered into agreements for collaboration with Florida Atlantic University and The Scripps Research Institute; and

(xi) Awardee shall have prepared a plan for outreach to secondary school teachers in science and math in Palm Beach County.

(d) Conditions to the Fourth Disbursement. The Fourth Disbursement is conditioned upon OTTED's receipt of the following documents and Awardee's satisfaction of each of the following conditions:

(i) Awardee shall have met the Job creation goal for the Fourth Disbursement set forth in Exhibit "3"; provided, however, that if Awardee shall have created the minimum number of Jobs for the Fourth Disbursement set forth in Exhibit "3", the Fourth Disbursement shall be made subject to the provisions of Section 10.3(b);

(ii) Awardee's aggregate expenditures on scientific equipment (including, without limitation, any scientific equipment purchased with Incentive Funds or with grant funds from the County) shall be at least $2,000,000; provided, however, that if such aggregate expenditures shall not be at least $2,000,000, the Fourth Disbursement shall be made subject to the provisions of Section 10.3(d);

(iii) Awardee shall have taken occupancy of its temporary facilities;

(iv) Awardee shall have commenced a scientific research program at the Institute;

(v) Awardee shall have hired the first Scientific Director of the Institute;

(vi) Awardee shall have identified a candidate for the position of second Scientific Director of the Institute and such candidacy shall have been submitted for a "First Reading" of the Senate of The Max Planck Society;

(vii) Awardee shall have identified two (2) junior research groups for the Institute (the "Initial Research Groups") as well as a timeframe for the commencement of their work with the Institute; and

(viii) Awardee shall have solicited bids for the engineering and design work of its permanent facilities.

(e) Conditions to the Fifth Disbursement. The Fifth Disbursement is conditioned upon OTTED's receipt of the following documents and Awardee's satisfaction of each of the following conditions:

(i) the Initial Research Groups shall have commenced their work with the Institute;

(ii) Awardee shall have identified a third junior research group for the Institute as well as a timeframe for the commencement of its work with the Institute; and

(iii) Awardee shall have met the Job creation goal for the Fifth Disbursement set forth in Exhibit "3"; provided, however, that if Awardee shall have created the minimum number of Jobs for the Fifth Disbursement set forth in Exhibit "3", the Fifth Disbursement shall be made subject to the provisions of Section 10.3(b).

(f) Conditions to the Final Disbursement. The Final Disbursement is conditioned upon Awardee creating at least one-hundred thirty-five (135) Jobs by the seventh anniversary of the Effective Date, as such period may be extended by virtue of the occurrence of a Force Majeure Event.

(g) Conditions to All Disbursements. Awardee's entitlement to any Disbursement is conditioned upon OTTED's receipt of the following documents and Awardee's satisfaction of each of the following conditions:

(i) OTTED's receipt of (x) the Annual Science Report required by Section 7.3 by the date specified in Section 7.3, and (y) the Operations Report required by Section 7.2 for the applicable Report Period by the date specified in Section 7.2, and if there have been any material developments between the date of the Operations Report and the end of the calendar year, OTTED's receipt, by the following April 15th, of an updated progress report, which shall address those items contained in the Operations Report, including any changes in the budgeted expenditures for the next Disbursement of Incentive Funds;

(ii) OTTED's receipt, within one hundred twenty (120) days of the end of Awardee's fiscal year, of any proposed changes to the Business Plan and the reasons therefor, subject to Section 3.2;

(iii) OTTED's receipt of a legal opinion of counsel for Awardee, dated as of the date of the Disbursement Request, substantially in the form set forth in Exhibit "7," or letter from such counsel confirming the accuracy of any such prior legal opinion delivered in connection with a previous Disbursement as of the date of each such subsequent Disbursement Request; and

(iv) For the Third, Fourth, Fifth and Final Disbursements, OTTED's receipt of quarterly updates on Awardee's progress with respect to expansion activities, which include Jobs, wages, property and equipment purchases, construction, and leases, as set forth in Exhibit "5" attached hereto.

OTTED may reduce or eliminate funding in any year if Awardee has Ceased Operations in Florida, if Awardee has failed to commit in writing to maintain operations in Florida for the succeeding year, or if Awardee's actions or inactions have had a Material Adverse Affect on its operations.

4.5 Failure to Comply with Disbursement Request. If Awardee submits a properly executed Disbursement Request in accordance with this Article 4, which Disbursement Request indicates that Awardee has complied with all of the applicable Disbursement Conditions set forth in Section 4.4 and OTTED declares a Material Default, asserts that Awardee has violated Article 8 or fails to direct the Trustee to make the applicable Disbursement pursuant to Awardee's Disbursement Request within the timeframe set forth in Section 4.3, Awardee may demand arbitration under Section 12.11, in which case the arbitration shall be subject to expedited procedures under the Commercial Arbitration Rules of the American Arbitration Association, in effect as of the date of this Agreement. The purpose of an arbitration pursuant to this Section 4.5 solely shall be to determine: (i) whether Awardee has violated Article 8 (which violation has not been cured), (ii) whether an event has occurred, which upon declaration by OTTED would be a Material Default, and (iii) whether Awardee has failed to satisfy any of the Disbursement Conditions for the applicable Disbursement. If the arbitrator's determination as to (i), (ii) and (iii) is in the negative, he or she shall issue an award requiring OTTED to instruct Trustee to make the applicable Disbursement to Awardee within five (5) days of the date of such award. In arbitrations commenced pursuant to this Section 4.5, the arbitrator shall render an award within five (5) working days of the hearing. If the arbitrator's determination as to (i), (ii) or (iii) is in the affirmative, OTTED shall not be required to instruct Trustee to make the applicable Disbursement to Awardee; provided, however, that if Awardee subsequently cures and/or satisfies the conditions that resulted in such affirmative determination, and all the other Disbursement Conditions for such Disbursement remain satisfied, OTTED shall promptly, and no later than seven (7) days after such satisfaction, instruct Trustee to make the applicable Disbursement within three (3) days of delivery of such instruction.

ARTICLE 5

SECURITY FOR OBLIGATIONS

Contemporaneously with the execution of this Agreement, Awardee and OTTED shall execute the Security Agreement. With respect to any Equipment that is subject to the Security Agreement, Awardee shall maintain an inventory of such Equipment with a useful life of more than one (1) year and a cost of $5,000 or more. OTTED's security interest in the Pledged Account shall automatically expire upon the tenth anniversary of the Effective Date unless a Material Default subject to Section 10.4(c) exists as of such date, or such earlier date that Awardee has created the total number of Jobs that were to be created by the end of the Measurement Period under the Business Plan. In the event that Awardee's Job creation and scientific equipment purchase obligations under this Agreement have been extended beyond the tenth anniversary of the Effective Date pursuant to an amendment to the Business Plan hereunder or as a result of a Force Majeure Event under Section 12.15, the pledge shall continue until the conclusion of the extended Measurement Period.

ARTICLE 6

REPRESENTATIONS AND WARRANTIES OF AWARDEE

6.1 Awardee represents and warrants to OTTED on the Effective Date and as of each Disbursement Date, except as set forth in the disclosure letter, if any, dated as of the date of this Agreement or as of the date of applicable Disbursement Request, as the case may be, from Awardee to OTTED, executed and delivered to OTTED immediately prior to the execution and delivery of this Agreement and on the date of the applicable Disbursement Request (the "Disclosure Letter"):

6.2 Awardee has been duly incorporated or organized and is validly existing as a not-for-profit corporation under the laws of the State of Florida. Awardee is in good standing under the laws of the State of Florida and is duly qualified to do business as a foreign corporation under the laws of each jurisdiction which requires such qualification wherein it owns or leases properties or conducts business, except in such jurisdictions in which the failure to be so incorporated or organized and validly existing or to so qualify, in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

6.3 Awardee has full corporate power to own or lease its properties and conduct its operations and has full corporate power to enter into this Agreement and to carry out all the terms and conditions hereof.

6.4 The Board of Trustees and officers of Awardee are empowered to make all business decisions with respect to Awardee, and such Board of Trustees has not delegated, whether by contract or through its Articles of Incorporation or By-Laws, any of the powers to manage or operate Awardee to any Person, except to the extent such Board of Trustees has delegated some of its powers to such committees as it is permitted to create under Florida nonprofit corporation law.

6.5 A nationally or regionally recognized accounting firm has been or will be selected as the auditors for Awardee, and is or will be, as the case may be, an "independent" public accountant with respect to Awardee within the meaning of the laws, rules and regulations applicable to not-for-profit corporations.

6.6 The financial statements (including the schedules and notes thereto) of Awardee, if any, fairly present in all material respects the financial position of Awardee, and its results of operations as of the dates and for the periods specified therein; since the date of such financial statements, there has been no change nor any development or event involving a prospective change which has had or would reasonably be expected to have a Material Adverse Effect; and such financial statements have been prepared in accordance with GAAP consistently applied throughout the periods involved (except as otherwise expressly noted in the notes thereto).

6.7 Awardee maintains or will maintain a system of internal accounting controls sufficient to provide reasonable assurances that (i) transactions are executed in accordance with management's general or specific authorizations; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain asset

accountability; (iii) access to assets is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

6.8 This Agreement has been duly authorized, executed and delivered by Awardee and constitutes a valid and binding agreement of Awardee, enforceable against Awardee in accordance with its terms, except as the enforcement thereof may be limited by bankruptcy, insolvency (including, without limitation, all laws relating to fraudulent transfers), reorganization, moratorium or similar laws affecting enforcement of creditors' rights generally and except as enforcement thereof is subject to general principles of equity (regardless of whether enforcement is considered in a proceeding in equity or at law).

6.9 The authorization, execution and delivery of this Agreement and the performance, as of the date hereof, of the Agreement by Awardee do not (i) require the consent, approval, authorization, order, registration or qualification of, or filing with, any governmental authority or court, or body or arbitrator having jurisdiction over any of Awardee or its assets or properties, except for consents, approvals, authorizations, orders, registrations or qualifications of, or filings with, any governmental authority in connection with the temporary or permanent facilities for Awardee, except for such filings as may be necessary or appropriate to perfect the Security Interest, or except where the failure to obtain such consents, approvals, authorizations, orders, registrations or qualifications, or make such filings, would not reasonably be expected to have a Material Adverse Effect; or (ii) conflict with, result in a breach or violation of, or constitute a default under, (a) any contract, indenture, mortgage, deed of trust or loan or credit agreement, note, lease or other agreement or instrument to which Awardee is a party or by which Awardee or any of its properties is bound, except for such conflicts, breaches, violations or defaults which would not reasonably be expected to have a Material Adverse Effect, or (b) the Articles of Incorporation or By-Laws of Awardee, or (c) any statute, rule or regulation or any judgment, order or decree of any governmental authority or court or any arbitrator applicable to Awardee, except for such conflicts, breaches, violations or defaults which would not reasonably be expected to have a Material Adverse Effect.

6.10 No legal or governmental proceedings or investigations are pending or, to the actual knowledge of Awardee, threatened to which Awardee is a party or to which the property of Awardee is subject, except for such proceedings or investigations that would not reasonably be expected to have a Material Adverse Effect.

6.11 After giving effect to the Disbursement and the execution, delivery and performance of this Agreement, Awardee will not be (i) insolvent, (ii) left with unreasonably small capital with which to engage in its anticipated operations, or (iii) incurring debts or other obligations beyond its ability to pay such debts or obligations as they become due.

6.12 No "prohibited transaction" (as defined in Section 406 of the Employee Retirement Income Security Act of 1974, as amended, including the regulations and published interpretations thereunder ("ERISA"), or Section 4975 of the Code or "accumulated funding deficiency" (as defined in Section 302 of ERISA) or any of the events set forth in Section 4043(c) of ERISA (other than events with respect to which the 30-day notice requirement under

Section 4043 of ERISA has been waived)) has occurred, exists or is reasonably expected to occur with respect to any employee benefit plan (as defined in Section 3(3) of ERISA) that Awardee maintains, contributes to or has any obligation to contribute to, or with respect to which Awardee has any liability, direct or indirect, contingent or otherwise (a "Plan"), which would reasonably be expected to have a Material Adverse Effect; each Plan is in compliance with applicable law, including ERISA and the Code, except where non-compliance would not reasonably be expected to have a Material Adverse Effect; Awardee has not incurred and does not expect to incur liability under Title IV of ERISA with respect to the termination of, or withdrawal from, any Plan, which liability would reasonably be expected to have a Material Adverse Effect; and each Plan that is intended to be qualified under Section 401(a) of the Code is so qualified and nothing has occurred, whether by action or failure to act, which would reasonably be expected to cause the loss of such qualification, except where such action or failure to act would not reasonably be expected to have a Material Adverse Effect

6.13 No proceeding looking toward merger, amalgamation, consolidation, liquidation or dissolution of Awardee, or the sale of all or substantially all of the assets of Awardee is pending or contemplated.

6.14 To Awardee's knowledge, Awardee owns or otherwise possesses or can acquire on reasonable terms adequate rights to use all material patents, patent rights, inventions, trademarks, service marks, trade names and copyrights, know-how (including trade secrets and other unpatented and/or unpatentable proprietary information), licenses, all applications and registrations for each of the foregoing, and all other material proprietary rights and confidential information, systems or procedures (collectively, the "Intellectual Property") necessary to conduct its operations as currently conducted, except where the absence of such rights or information would not reasonably be expected to have a Material Adverse Effect; and Awardee has not received any notice nor does it have other actual knowledge of any infringement of the rights of any third party with respect to any of the Intellectual Property, which infringement would reasonably be expected to have a Material Adverse Effect.

6.15 Awardee is insured or will be insured by insurers of recognized financial responsibility against such losses and risks, in such amounts, and with such deductibles as are prudent for the operations in which it is engaged; and Awardee has no reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its operations at a cost that would not reasonably be expected to have a Material Adverse Effect.

6.16 To Awardee's knowledge, Awardee possesses all certificates, authorizations and permits (collectively, "Governmental Licenses") issued by the appropriate federal, state, local, provincial or foreign regulatory authorities necessary to conduct its operations, except where the failure to have such Governmental Licenses would not reasonably be expected to have a Material Adverse Effect; to Awardee's knowledge, Awardee is in compliance with the terms and conditions of all such Governmental Licenses, except where the failure so to comply would not reasonably be expected to have a Material Adverse Effect; and, to Awardee's knowledge, all of the Governmental Licenses are valid and in full force and effect, except where the invalidity of such Governmental Licenses or the failure of such Governmental Licenses to be in full force and effect would not reasonably be expected to have a Material Adverse Effect; and Awardee has not

received any notice of proceedings relating to the revocation or modification of any such Governmental License that would reasonably be expected to have a Material Adverse Effect.

6.17 (a) To Awardee's knowledge, Awardee is in compliance with all applicable laws, statutes, ordinances, rules, regulations, orders, judgments, decisions, decrees, standards, and requirements (collectively, "Legal Requirements") relating to: pollution or protection of human health and safety from pollution; management, disposal or release of any chemical substance, product or waste; and protection, cleanup, remediation or corrective action relating to the environment or natural resources (collectively, "Environmental Law");

(b) To Awardee's knowledge, Awardee has obtained and is in compliance with the conditions of all permits, authorizations, licenses, approvals, and variances necessary under any Environmental Law for the continued conduct in the manner now conducted of its operations (collectively, "Environmental Permits");

(c) To Awardee's knowledge, there are no conditions or circumstances, including, but not limited to, pending changes in any Environmental Law or Environmental Permits, that interfere with the conduct of the operations of Awardee in the manner now conducted or with any Environmental Law or Environmental Permits; and

(d) To Awardee's knowledge, there are no past or present conditions or circumstances at, or arising out of, the operations, assets and properties of Awardee or any operations, assets or properties formerly leased, operated or owned by Awardee, including, but not limited to, on-site or off-site disposal or release of any chemical substance, product or waste, which may give rise to: (i) liabilities or obligations of Awardee for any cleanup, remediation or corrective action under any Environmental Law; (ii) claims against Awardee arising under any Environmental Law for personal injury, property damage, or damage to natural resources; (iii) liabilities or obligations incurred by Awardee to comply with any Environmental Law; or (iv) fines or penalties against Awardee arising under any Environmental Law; except in the case of each of (a), (b), (c) or (d), for any non-compliance or condition or circumstance that would not reasonably be expected to have a Material Adverse Effect.

6.18 To Awardee's knowledge, no default exists, and no event has occurred that, with notice or lapse of time or both, would constitute a default in the due performance and observation of any term, covenant or condition of any indenture, mortgage, deed of trust, lease or other agreement or instrument to which Awardee is a party or by which Awardee or any of its properties is bound which, after notice or lapse of time or both, would reasonably be expected to have a Material Adverse Effect.

6.19 Awardee has filed all foreign, federal, state, provincial and local tax returns that are required to be filed or has requested extensions thereof and have paid all taxes required to be paid by Awardee and any other assessment, fine or penalty levied against them, to the extent that any of the foregoing is due and payable, except for any such assessment, fine or penalty that is currently being contested in good faith and for which Awardee retains adequate reserves and except in each case for any noncompliance that would not reasonably be expected to have a Material Adverse Effect. Within one hundred twenty (120) days of the Effective Date, Awardee

will have sought a determination from the Internal Revenue Service that it meets the requirements of Section 501(c)(3) of the Code.

6.20 No labor dispute with the employees of Awardee exists or, to the knowledge of Awardee, is threatened or imminent, which would reasonably be expected to have a Material Adverse Effect, and Awardee is not aware of any existing or imminent labor disturbance by the employees of Awardee' principal suppliers, manufacturers, customers or contractors, which would reasonably be expected to have a Material Adverse Effect.

6.21 To Awardee's knowledge, Awardee is in compliance with the terms, conditions, rules, mandates and policy guidelines pertaining to all applicable federal, state and private financial grants, sponsored research agreements and funding contracts from which Awardee derives revenue, including, but not limited to, all related financial and progress reporting and disclosure requirements, except for any non-compliance that would not reasonably be expected to have a Material Adverse Effect.

6.22 To Awardee's knowledge, Awardee is in compliance with all federal, state, local, provincial and foreign laws, statutes, ordinances, rules, regulations, decrees, orders, and permits applicable to the operation of Awardee's facilities and the conduct of its research activities and operations, including, without limitation, to the extent applicable, (a) Medicare, Medicaid, other federal, state and local health care and reimbursement laws and regulations, (b) insurance laws and regulations and (c) licensing and certificate laws and regulations covering any aspect of the operations of Awardee, except, in each case, where such non-compliance would not reasonably be expected to have a Material Adverse Effect. Awardee has not received any notification asserting, and has no knowledge of, any present or past failure by Awardee to comply with, or any violation by Awardee of, such laws, statutes, ordinances, rules, regulations, decrees, orders, and permits, except where such non-compliance or violation would not reasonably be expected to have in a Material Adverse Effect.

6.23 Budget Approval.

(a) The Initial Budget, which shall be included in the Business Plan, is hereby deemed to have been approved by Awardee and OTTED. Awardee shall cause such Initial Budget to be approved by the Board of Trustees.

(b) Awardee shall submit a proposed budget for Awardee (the "Budget") for each fiscal year of Awardee. The Budget shall include an income statement, balance sheet, and capital budget prepared consistently with the Awardee's method of accounting, for the forthcoming fiscal year of Awardee, and a cash flow statement which shall show in reasonable detail the anticipated receipts and disbursements (including anticipated expenditures) projected for Awardee for the forthcoming fiscal year of Awardee and the amount of any corresponding cash deficiency or surplus. The Budget shall be prepared on a basis consistent with Awardee's financial statements and in accordance with the provisions of this Agreement.

(c) Awardee shall provide a copy of the Budget to OTTED together with the certification of an authorized representative of Awardee that such Budget satisfies the following requirements: (i) amounts budgeted for equipment purchases meet the aggregate expenditure

requirements of Exhibit "10" for such year, (ii) Incentive Funds have not been budgeted for activities that do not principally benefit or that are not directly related to the establishment or operation of Awardee's Florida activities, except upon OTTED's approval, (iii) no Incentive Funds have been budgeted to be used for the purpose of lobbying any branch or agency of state government or any political subdivision of Florida, or for any political purpose, and (iv) the Budget meets the requirements of the Enabling Statute.

6.24 Board of Trustees Meetings.

(a) At least one meeting of the Board of Trustees each year shall be in Florida.

(b) The Articles of Incorporation and By-Laws of Awardee shall not be amended to be inconsistent with the terms set forth in this Agreement.

ARTICLE 7

COVENANTS OF AWARDEE

7.1 Financial Information. Awardee shall furnish the following reports to OTTED:

(a) As soon as possible after the end of each fiscal year of Awardee, and in any event within one hundred twenty (120) days thereafter, an audited consolidated balance sheet of Awardee as at the end of such fiscal year, and audited consolidated statements of activities and cash flows of Awardee for such year prepared in accordance with GAAP and setting forth in each case in comparative form the figures for the previous year, all in reasonable detail and accompanied by an independent auditors' report from independent public accountants of recognized national or regional standing selected by Awardee. The audit shall be conducted in accordance with Government Auditing Standards, or Generally Accepted Auditing Standards, as applicable at the time of such audit. In addition, the schedules to the audited financial statements shall (i) include such additional schedules as are required so that the audited financial statements comply with Florida's Single Audit Act as further described in Exhibit "9" attached hereto and (ii) include additional schedules that set forth the assets and liabilities, and revenues and expenses of Awardee's operations separately from those of the rest of Awardee.

(b) Within ten (10) days after approval by the Board of Trustees of Awardee, the annual Budget, as so approved.

With respect to the information required by this Section 7.1, Awardee may, where feasible, comply with one or more of these reporting standards by submitting to OTTED copies of information submitted by Awardee to the other governmental entities (whether federal, state or local) or to organizations awarding research grants to Awardee, if such information satisfies the reporting standards of this Section 7.1.

7.2 Operations Report. Awardee shall prepare the Operations Report each year and deliver such Operations Report to OTTED not later than ninety (90) days after the end of the Report Period to which such Operations Report pertains. The Operations Report shall include, but not be limited to, the following information:

(a) an accounting of the expenditures of Incentive Funds for each Report Period and financial commitments made by Awardee during the Report Period;

(b) data regarding the activities and performance of Awardee during such Report Period and detailing the progress of Awardee in meeting its Business Plan, including but not limited to:

(i) information on the number and salary level of Jobs created by Awardee within Awardee's operations;

(ii) a description of the status of the performance expectations set forth in Section 7.4 of this Agreement and the Disbursement Conditions;

(iii) information on the positions and funds required to be committed for equipment for such positions by means of the next anticipated Disbursement of Incentive Funds;

(iv) commencing with the Operations Report for the Report Period ending in 2011, report a description of the status of Awardee's relocation from its temporary facilities to its permanent Florida facilities and the progress of construction activities for any other Florida facilities, as described in the Business Plan; and

(v) commencing with the Operations Report for the Report Period during which Awardee commences activities at its permanent facility, a description of the status of Awardee' activities in its permanent facility, including its educational and outreach programs; and

(c) Such internal information regarding Awardee as OTTED may reasonably request to confirm Awardee's compliance with the terms of this Agreement.

With respect to the information required by this Section 7.2, Awardee may, where feasible, comply with one or more of these reporting standards by submitting to OTTED copies of information submitted by Awardee to the Federal government or to other organizations awarding research grants to Awardee, if such information satisfies the reporting standards of this Section 7.2.

7.3 Annual Science Report. Awardee shall prepare the Annual Science Report that describes its scientific activities for Awardee each year and deliver such Annual Science Report to OTTED within one hundred twenty (120) days after the end of each fiscal year of Awardee.

7.4 Performance Expectations. Awardee, shall report to OTTED not less than annually on its progress in meeting certain performance expectations that reflect the aspirations of the Florida Governor and Legislature for the benefits accruing to Florida as a result of the Incentive Funds. These reports shall include, but are not limited to, performance expectations addressing the following with respect to Awardee:

(a) the number and dollar value of research grants obtained by Awardee with respect to Awardee's operations from the Federal Government or sources other than Florida;

(b) the percentage of total research dollars received by Awardee from sources other than Florida, which is used to conduct research activities by Awardee in Florida;

(c) the number or value of patents obtained by Awardee with respect to Awardee's operations;

(d) the number or value of licensing agreements executed by Awardee with respect to Awardee's operations;

(e) the extent to which research conducted by Awardee's operations results in commercial applications;

(f) the number of collaborative agreements reached and maintained with colleges and universities in Florida and with research institutions in Florida;

(g) the number of collaborative partnerships established and maintained with businesses in Florida, including small businesses;

(h) the total amount of funding received by Awardee with respect to Awardee's operations from sources other than OTTED, including a breakdown of amounts received from grants and from other sources;

(i) the number of Commercial Spin-Offs created in Florida as a result of commercialization of the research of Awardee's operations;

(j) the establishment and implementation of policies to promote supplier diversity using the guidelines developed by the Office of Supplier Diversity under Section 287.09451, Florida Statutes, and to comply with the ordinances, including any small-business ordinances, enacted by applicable local governments and which are applicable to Awardee;

(k) the designation by Awardee of a representative to coordinate with the Office of Supplier Diversity;

(l) the establishment and implementation of a program to conduct workforce recruitment activities at public and private colleges and universities and community colleges in Florida, regardless of their size, which request the participation of Awardee; and

(m) the designation of a senior-level point of contact for economic development activities related to Awardee's operations.

7.5 Awardee to Use Reasonable Best Efforts. Awardee shall use its reasonable best efforts to operate in accordance with the terms of this Agreement, in accordance with all applicable laws, in accordance with applicable policies and mandates of the federal agencies and related entities that provide Awardee with financial grants, and in general in a manner that is cost efficient and results in the greatest benefit to the public and the residents of Florida from Awardee' use of the Incentive Funds. Awardee shall also implement and maintain internal controls and compliance procedures.

7.6 Tax Status and Returns.

(a) Awardee shall not take any action that is reasonably likely to cause it to lose its tax exempt status once granted by the Internal Revenue Service pursuant to Code Section 501 (c)(3); and

(b) Awardee shall prepare or shall direct such other Person to prepare or cause to be prepared all tax returns and statements, if any, that must be filed on behalf of Awardee with any taxing authority and shall make timely filing thereof and pay any amount shown due thereon in a timely manner except for such amounts as are being contested in good faith by Awardee. Such returns and statements, as filed, shall be correct in all material respects. Further, Awardee shall prepare or shall direct such other Person to prepare or cause to be prepared all tax statements, if any, that must, by law, be provided to any employee or other Person and shall timely deliver such statements to such Persons.

7.7 Awardee's Cooperation in Recruiting For Profit and Not-For-Profit Biomedical Companies. Beginning on the Effective Date of this Agreement, Awardee shall commence collaboration efforts with OTTED by complying with reasonable requests for cooperation in economic development efforts in the biomed/biotech industry and, no later than March 31, 2009, Awardee shall designate a person who shall be charged with assisting in these collaborative efforts.

7.8 Awardee to Proceed Diligently to Implement its Business Plan. Awardee shall proceed diligently with implementing a plan to hire, associate, or retain scientific and administrative personnel within the time periods provided in the Business Plan, commencing from the Effective Date of this Agreement and subject to the receipt of Incentive Funds. With respect to the recruitment of Scientific Directors and Research Groups in accordance with the Business Plan, OTTED and Awardee acknowledge and agree that the recruitment of internationally respected high level scientists and researchers is subject to many variables that may affect the success and the timing of such recruitment. So long as Awardee continues to use its reasonable best efforts in such recruitment, failure to meet the projected timetable for such hires shall not constitute an Event of Default under this Agreement. Nothing in this Section 7.8 shall affect the Disbursement Conditions of Article 4.

7.9 Employment Issues. Awardee shall be an equal opportunity employer.

7.10 Job Creation and Equipment Purchases. From the Effective Date through the end of the tenth anniversary of the Effective Date, Awardee shall use reasonable best efforts to create 135 Jobs, acquire $16,830,000 of scientific equipment (including, without limitation, any scientific equipment purchased with Incentive Funds or with grant funds from the County), and pay for related maintenance of such scientific equipment in accordance with the Business Plan. If OTTED agrees or is deemed to agree to an amendment to the Business Plan that changes the number of Jobs or expenditures on scientific equipment pursuant to Section 3.2, it will have the effect of amending the number of Jobs or expenditures on scientific equipment under this Section 7.10.

7.11 Insurance. Awardee shall purchase liability insurance for Awardee in such amounts and with such coverage levels and with such deductibles as are prudent for the operations in which it is engaged.

7.12 Other Reports. Awardee shall, upon request of OTTED, provide OTTED a copy of or access to review each report Awardee prepares with respect to Awardee for federal and state funding sources, private donors and others; provided, however, that Awardee shall not be required to provide OTTED copies or access to any reports where to do so would cause Awardee to violate a confidentiality obligation it has to another person and provided further that OTTED agrees to maintain the confidentiality of information contained in such reports that Awardee determines to be confidential and/or proprietary.

7.13 Compliance Assessment and Audit. The parties acknowledge and agree that OTTED shall have the right to review the activities of Awardee to assess Awardee's operational compliance with the terms of this Agreement and with relevant provisions of law, and shall have the right to engage a third party auditor to audit the activities of Awardee's operations to assess its financial compliance with the terms of this Agreement. The parties further acknowledge that such compliance audits will likely occur on an annual basis in conjunction with Awardee's audit of its financial statements. OTTED may (a) retain an independent certified public accounting firm licensed in Florida to annually audit Awardee in accordance with Government Auditing Standards after the close of Awardee's fiscal year and (b) conduct periodic onsite fiscal and programmatic monitoring of Awardee's operations to confirm compliance with the applicable Disbursement Conditions. OTTED's audit shall be conducted so that it is completed approximately 135 days after the end of Awardee's fiscal year. In connection with OTTED's fiscal and programmatic monitoring of Awardee, Awardee shall adopt and use a monitoring instrument substantially in the form of Exhibit "8" hereto. If at any time during the Measurement Period, Awardee has been shown to have expended or disbursed Incentive Funds for activities that do not principally benefit or that are not directly related to the establishment or operation of Awardee in Florida, without the consent of OTTED, or if Awardee is otherwise declared to be in Material Default under this Agreement, which has not been cured pursuant to this Agreement, then OTTED shall have the remedies set forth in Section 10.3. OTTED's rights under this Section 7.13 to conduct financial audits and programmatic monitoring shall expire upon Awardee's submission of the final Operations Report required hereunder, or one year after the Final Disbursement to Awardee, whichever is later. To the extent expressly applicable to Awardee, Awardee shall also comply with the provisions set forth in Exhibit "9" hereto.

7.14 Compliance with Applicable Laws. Awardee shall comply with all applicable federal and state laws in all material respects.

7.15 Awardee Not to Pledge Equipment, Materials. Until the end of the Measurement Period, Awardee shall not pledge, grant a security interest in, or otherwise encumber any Equipment or Materials and Supplies it purchases with Incentive Funds unless such pledge or encumbrance is necessary to comply with Awardee's federal, state or county financial grants and except that Awardee may transfer Materials and Supplies to any third party in connection with collaborative research conducted in the ordinary course of business.

7.16 Relocation of Equipment or Materials and Supplies. Awardee shall not remove or relocate any of the Equipment or Materials and Supplies at Awardee that were purchased with Incentive Funds to a location outside the State of Florida except that Awardee may transfer Materials and Supplies to any third party in connection with collaborative research conducted in the ordinary course of business.

ARTICLE 8

EXCLUSIVE FACILITY; OUTSIDE ACTIVITIES

8.1 Limitation on Additional Research Facilities. Until the conclusion of the Measurement Period, Awardee shall not establish other biomedical science or research facilities in any state in the United States other than Florida; provided, however, nothing contained herein shall prohibit (a) Awardee from establishing or engaging in normal collaborative activities with other organizations, or (b) one or more Awardee scientists from performing normal off-site research associated with projects primarily being conducted at the Institute.

8.2 Certain Acknowledgments. Awardee acknowledges that OTTED is authorizing disbursement of Incentive Funds to it, in large part, to utilize the goodwill and competitive ability of Awardee, and that the State of Florida has a valid and legitimate interest in protecting such goodwill by restraining Awardee's ability to establish additional research facilities and thereby dilute the value of Awardee's operations as provided in this Article 8. The limitations concerning time, territory, nature and character imposed by this Agreement upon Awardee's ability to open another research facility are reasonable and fair, and will not prevent Awardee from conducting its operations. Awardee further acknowledges that any violation of any term or provision of this Article 8 will have a substantial detrimental effect on OTTED and the State of Florida. Awardee has carefully considered the nature and extent of the restrictions placed upon it and the rights and remedies conferred upon OTTED on behalf of the State of Florida under the provisions of this Agreement and believes that the same are reasonable in time, scope and territory.

8.3 Modification of Covenant. OTTED and Awardee recognize that the laws and public policies of the State of Florida and other applicable jurisdictions and their interpretation may be uncertain as to the scope, validity and enforceability of certain of the provisions contained in this Article 8. It is the intention of OTTED and Awardee that the provisions of this Article 8 shall be enforced to the fullest extent permissible, and that the unenforceability (or the modification to conform to such laws or public policies) of any provision hereof shall not render unenforceable or impair the remainder of this Article 8. Accordingly, if any provision of this Article 8 is invalid or unenforceable, either in whole or in part, this Article 8 shall be deemed to delete or modify, as necessary, the offending provision and to alter the balance of this Article 8 in order to render the same valid and enforceable to the fullest extent permissible as aforesaid. In the event that the provisions of this Article 8 are found to exceed the period of time or scope which an arbitration tribunal can or will enforce, said period of time and scope shall, for purposes of this Article 8, consist of the maximum area or period of time or scope which an arbitration tribunal can and will enforce. Awardee acknowledges and agrees that, but for the agreement of Awardee to comply with the covenants contained in this Article 8, OTTED would

not have agreed to enter into this Agreement with Awardee or to disburse the Incentive Funds to Awardee.

8.4 Remedies for Violation. (a) Between the Effective Date and the date on which all Incentive Funds have been disbursed to Awardee, if OTTED believes that Awardee has violated this Article 8, OTTED shall notify Awardee promptly of the alleged violation and Awardee shall use its best efforts to cure such violation as soon as possible thereafter. If Awardee fails to cure such violation within 30 days after receipt of such notice or denies in writing that a violation has occurred, either party may commence arbitration under Section 12.11 to resolve such dispute. Prior to the time arbitration is commenced, while the arbitration is pending, and following any final determination by the arbitral tribunal that a violation of Article 8 has occurred and is continuing, OTTED may refuse to instruct the Trustee to make a Disbursement in accordance with Section 4.3. Notwithstanding the foregoing, upon the cure by Awardee of any violation of this Article 8 or upon the determination by the arbitral tribunal that a violation of Article 8 did not occur (or occurred but has been cured), OTTED shall instruct the Trustee to make a Disbursement of the withheld amounts in accordance with the provisions of Section 4.5.

(b) Between the date on which all Incentive Funds have been disbursed to Awardee and the end of the Measurement Period, if OTTED believes that Awardee has violated this Article 8, OTTED shall notify Awardee promptly of the alleged violation and Awardee shall use its best efforts to cure such violation as soon as possible thereafter. If Awardee fails to cure such violation within 30 days after receipt of such notice or denies in writing that a violation has occurred, either party may commence arbitration under Section 12.11 to resolve such dispute.

ARTICLE 9

INSPECTION OF AWARDEE'S RECORDS

9.1 Records to be Kept. During the term of this Agreement and thereafter, where indicated, Awardee shall keep at its office:

(a) A current list of the full name and last known business, resident or mailing address of each member of the Board of Trustees;

(b) Copies of this Agreement and all amendments hereto;

(c) Copies of Awardee's income tax returns and reports, if any, for the five (5) most recent years;

(d) Copies of all financial statements and financial records of Awardee's operations for the five (5) most recent years; and

(e) During the term of this Agreement and for five (5) years after submission of the Operations Report for a given Report Period (or such other period provided by federal law), Awardee (i) shall retain all records regarding Incentive Funds received for such Report Period, and (ii) shall ensure the retention of its independent auditors' working papers. If any litigation, claim, negotiation, audit, or other action involving the records has been started before

the expiration of the five (5) year period (or such other period provided by federal law), the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the five (5) year period (or such other period provided by federal law), whichever is later.

9.2 Inspection of Awardee's Records.

(a) At any time, OTTED may retain an independent certified public accountant of national or regional stature licensed in Florida pursuant to Chapter 473 of the Florida Statutes to inspect the records of Awardee in order to audit the expenditure of Incentive Funds, conduct a financial statement audit of Awardee and to conduct a program and compliance audit of Awardee, as set forth in Section 7.13. The independent certified public accountant shall not disclose any confidential or proprietary scientific information of Awardee.

(b) Awardee agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by OTTED. In the event OTTED determines that a limited scope audit of the recipient is appropriate, Awardee agrees to comply with any additional instructions provided by OTTED to Awardee regarding such audit. Awardee further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Chief Financial Officer, Auditor General, or Chief Inspector General of the State of Florida. Awardee shall permit access to Awardee's records and independent auditor's working papers as necessary to comply with the requirements of this Agreement. OTTED shall bear all expenses incurred in connection with any examination made by it or its representatives.

9.3 OTTED's Covenants Regarding Confidential and/or Proprietary Records of Awardee. Subject to compliance with the Public Records Statute, OTTED covenants and agrees that it shall at all times preserve and protect the confidentiality of any Awardee documents and information deemed by Awardee to be confidential and/or proprietary; provided, however, that confidential and/or proprietary information shall not include information which: (i) is or becomes generally available to the public other than as a result of a disclosure by OTTED or its representatives, (ii) was available to OTTED on a non-confidential basis prior to its disclosure to OTTED by Awardee or its agents, or (iii) becomes available to OTTED on a non-confidential basis from a source other than Awardee or its agents, provided that such source is not bound by a confidentiality agreement with Awardee known to OTTED or its representatives. OTTED agrees it shall not copy or otherwise take possession of any Awardee documents or records deemed by Awardee to be confidential and/or proprietary unless and until Awardee consents in writing.

ARTICLE 10

DEFAULTS AND SANCTIONS

10.1 Events of Default. Each of the following shall constitute an event of default (each, an "Event of Default") hereunder:

(a) Any representation or warranty made by Awardee in this Agreement, without regard to any matters set forth in the Disclosure Letter, shall prove to be false in any

material respect as of the Effective Date or any Disbursement Date, and the effect thereof is a Material Adverse Effect;

(b) a breach by Awardee of any material term, covenant, obligation or agreement under this Agreement, and the continuance of such breach for a period of thirty (30) days after written notice thereof shall have been given to Awardee, except for a breach of those provisions described in subsection (e), (f) or (g) below;

(c) an "Event of Default" shall have occurred under, and as defined in, any agreement entered into in the future between Awardee and the county (or local government authority) in which Awardee is or will be located, which agreement relates to the development and/or ownership of the Institute, and which event of default is not cured within the permitted time period would be reasonably be expected to result in a Material Adverse Effect;

(d) an event of default, as defined in the Security Agreement, shall have occurred and be continuing under the Security Agreement which event of default is not cured within the permitted time period;

(e) Awardee's loss of an amount of federal funding that would reasonably be expected to result in a Material Adverse Effect, loss of a license necessary for it to operate, suspension of an amount of federal funding for more than 120 days that would reasonably be expected to result in a Material Adverse Effect, or suspension of a license necessary for it to operate for more than 120 days; provided, however, that non-renewal of a grant at the end of the grant's ordinary life cycle shall not constitute an event of default;

(f) Awardee's voluntary filing of or consent to a petition under any bankruptcy, insolvency, or reorganization law, Awardee's failure to secure the dismissal of an involuntary bankruptcy petition within sixty (60) days of filing, or a determination by a court of competent jurisdiction that Awardee is insolvent and unable to pay its debts when due;

(g) A breach by Awardee of any material term under Section 7.1, 7.2, or 7.3 of this Agreement and the continuance of such breach for a period of thirty (30) days after written notice thereof shall have been given to Awardee, unless such breach is cured during such period or such breach is immaterial (such as the failure by Awardee to provide an immaterial amount of information required in a report due under Section 7.1, 7.2 or 7.3) and Awardee is using its reasonable best efforts to correct such breach;

(h) a breach by Awardee of any material term under Section 7.14 of this Agreement and the continuance of such breach for a period of thirty (30) days after written notice thereof shall have been given to Awardee; unless such breach is cured during such period;

(i) a Disbursement Request containing a material misrepresentation;

(j) Awardee having Ceased Operations in Florida or having failed to make a commitment in writing to remain in Florida for the next year; or

(k) Awardee's loss, whether voluntarily or involuntarily, of its tax-exempt status under Code Section 501(c)(3), once obtained.

10.2 Material Default. The Events of Default set forth in Section 10.1 (d), (e), (f), (g), (h), (i), (j), and (k) shall, at OTTED's option, also constitute a Material Default (to the extent not cured in accordance with its provisions).

10.3 Remedies. (a) Upon or at any time after the occurrence of a Material Default and while such Material Default continues to exist, OTTED may direct Trustee to reduce or eliminate Disbursements. In addition, if the Material Default also constitutes a Security Interest Default, OTTED may exercise any right, power or remedy as set forth in the Security Agreement.

(b) Job Creation. To the extent that a reduction in the amount of the Fourth or Fifth Disbursement is required in accordance with the provisions of Sections 4.4(d)(i) or 4.4(e)(iii) due to the failure of Awardee to create the requisite number of Jobs, such Disbursement shall be reduced by $4,000,000 (the "Withheld Amount"). The Withheld Amount shall continue to be held in Trust by Trustee until it is either authorized for Disbursement to the Awardee or the Trust is dissolved and the funds are returned to OTTED. Immediately upon Awardee's cure of any such Jobs deficiency, and provided that all other Disbursement Conditions have been met, OTTED shall direct Trustee to make a Disbursement of the Withheld Amount to Awardee.

(c) Average Wage. If, for any Report Period during the Measurement Period, the average wage paid to employees of the Awardee, as confirmed by OTTED (the "Confirmed Average Wage"), falls below the Agreed Average Wage, the amount of the next Disbursement shall be reduced by one-half of one percent (0.5%) for every percentage point by which the Confirmed Average Wage falls below the Agreed Average Wage. If the Confirmed Average Wage falls below 120% of the Average Private Sector Wage for two consecutive Report Periods during the Measurement Period, Awardee shall, after consultation with OTTED, provide a modified Business Plan and budget to address such situation for approval by OTTED at its sole discretion. If the Confirmed Average Wage falls below 120% of the Average Private Sector Wage in the State of Florida for three consecutive Report Periods during the Measurement Period, at OTTED's option it shall constitute a Material Default. At the conclusion of the tenth year of this Agreement, termination of the Agreement or dissolution of the Trust, any funds remaining undisbursed to Awardee as a result of this Section 10.3(c) shall revert to OTTED.

(d) Equipment Investment. For purposes of the Fourth Disbursement, if Awardee's aggregate expenditures on scientific equipment have not reached the threshold amount set forth in Section 4.4(d)(ii), the portion of the Fourth Disbursement that corresponds to scientific equipment expenditures shall be an amount equal to 120% of the actual aggregate scientific equipment investment as of the date of submission of the Disbursement Request for the Fourth Disbursement; provided that all other portions of such Fourth Disbursement shall be disbursed to Awardee subject to the terms of this Agreement. In no event, however, shall an adjustment in the Fourth Disbursement under this provision cause the amount of the Fourth Disbursement to exceed the amount that would have been disbursed absent such adjustment. The balance of the withheld amount of the Fourth Disbursement shall continue to be held in Trust by the Trustee in an investment that allows Disbursement prior to the next Disbursement until it is authorized for Disbursement to Awardee in accordance with this Agreement. If Awardee demonstrates that it has cured the scientific equipment investment shortfall that resulted in the withholding of funds, and provided all other Disbursement Conditions have been met, OTTED

shall direct Trustee to disburse the withheld funds as promptly as possible following such demonstration by Awardee.

10.4 Disbursement Adjustments. (a) In no year shall the reduction in the amount of a Disbursement exceed the larger of the individual reduction amounts for Jobs, Average Wage, or scientific equipment investment shortfalls.

(b) Upon or at any time after the occurrence of an Event of Default that is not also a Material Default, OTTED shall notify Awardee that it has declared that an Event of Default has occurred, and advise Awardee that it must promptly report to OTTED regarding the circumstances that led to the Event of Default, how it plans to cure such Event of Default and the time frame in which such cure will take place. If the Event of Default is not capable of cure, Awardee shall promptly report to OTTED regarding the circumstances that led to the Event of Default, the impact of the Event of Default on Awardee and how Awardee intends to mitigate any anticipated or actual adverse impact. Such reports to OTTED shall occur as promptly as possible after notification to Awardee that an Event of Default has occurred, and shall continue until the Event of Default has been cured or until OTTED is reasonably satisfied that any Event of Default that is not capable of being cured, cannot reasonably be expected to impede the ability of Awardee to continue to operate as contemplated by this Agreement. During this time period OTTED shall continue to direct the Trustee to make Disbursements hereunder. If Awardee and OTTED are unable to resolve the Event of Default within 120 days, either by its cure or by OTTED's satisfaction that Awardee can continue to operate as contemplated by this Agreement, then either party may initiate arbitration pursuant to Section 12.11 against the other to reach an acceptable remedy for the Event of Default.

(c) If a Material Default results from Ceased Operations which has not been cured, OTTED may, at its option, direct the Trustee not to disburse Incentive Funds, may terminate this Agreement, enforce the Security Agreement, dissolve the Trust, and demand that Awardee immediately repay to OTTED all Incentive Funds disbursed to it pursuant to this Agreement that remain in the Pledged Account, less Awardee's reasonable wind down costs associated with its operations, as described in the plan prepared by Awardee for the wind down of operations (taking into account, without limitation, severance costs and continuing operational costs until the wind down is completed), which plan shall be approved by OTTED.

10.5 No Waiver. No consent or waiver, express or implied, by OTTED to or of any breach or default by Awardee in the performance by Awardee of its obligations under this Agreement shall constitute a consent to or waiver of any similar breach or default by Awardee. Failure by OTTED to complain of any act or omission to act by Awardee, or to declare Awardee in default, irrespective of how long such failure continues, shall not constitute a waiver by OTTED of its rights under this Agreement.

10.6 Sanctions. The remedies provided in this Article 10 are the Sanctions OTTED may impose, as required by Section 288.1089, Florida Statutes, to ensure Awardee adheres to obligations under this Agreement. These remedies are intended to act as incentives for compliance and are not intended to be punitive.

ARTICLE 11

INDEPENDENT CAPACITY OF AWARDEE

11.1 Liability. (a) OTTED will not assume any liability for the acts, omissions to act, or negligence of Awardee, its agents, servants, or employees; nor will the Awardee exclude liability for its own acts, omissions to act, or negligence to OTTED.

(b) To the extent permitted by law, the Awardee agrees to indemnify and hold OTTED harmless from and against any and all losses incurred by OTTED arising from any third party claims or demands for damages resulting from personal injury, including death or damage to property, arising out of any activities performed by Awardee under this Agreement and will investigate all claims at its own expense. However, neither OTTED nor any agency or subdivision of the State of Florida waives any defense of sovereign immunity or increases the limits of its liability upon entering into this Agreement. OTTED shall give notice to Awardee of any losses incurred by OTTED that may be subject to indemnification under this Section 11.1(b), promptly after learning of any relevant third party claim or demand, and Awardee shall assume the defense of such claim or demand with counsel reasonably satisfactory to OTTED. If such defense is assumed by Awardee with counsel so selected, Awardee will not be subject to any liability for any settlement of such claim or demand made by OTTED without its consent (but such consent will not be unreasonably withheld or delayed), and will not be obligated to pay the fees and expenses of any separate counsel retained by OTTED with respect to such claim or demand.

11.2 Independent Capacity. (a) The parties agree that each of the Awardee, its officers, agents, and employees, in the performance of this Agreement, will act in the capacity of an independent contractor and not as an officer, employee, or agent of the State. The Awardee is not entitled to accrue any benefits of State employment, including retirement benefits and any other rights or privileges connected with employment. The Awardee agrees to take such steps as may be necessary to ensure that each subcontractor of the Awardee will be deemed to be an independent contractor and will not be considered or permitted to be an agent of the State.

(b) The Awardee has no authority to, and shall not pledge the State's credit or make OTTED a guarantor of payment or surety for any contract, debt, obligation, judgment lien, or any form of indebtedness.

ARTICLE 12

MISCELLANEOUS

12.1 Notices. All notices and communications under this Agreement shall be in writing and shall be given by either (a) hand delivery, (b) certified mail, return receipt requested (postage prepaid), (c) reliable overnight commercial courier (charges prepaid), or (d) facsimile (with confirmation of transmission) to each of the parties as follows:

If to OTTED:	Office of Tourism, Trade, and Economic Development The Capitol, Suite 1902 Tallahassee, Florida 32399-0001 Fax: (850) 414-1734
With copies to:	State Board of Administration of Florida 1801 Hermitage Blvd. Tallahassee, Florida 32308 Attn: Executive Director Fax: (850) 413-1255
If to Awardee:	Max Planck Florida Corporation 11380 Prosperity Farms Road, Suite 221 East, Palm Beach Gardens, Florida 33410 Attention: Dr. Peter Gruss Fax: (305) 672-0686
With a copy to:	McDermott, Will & Emery LLP Attention: Raquel A. Rodriguez, Esq. 201 South Biscayne Boulevard, 22nd Floor Miami, FL 33131 Fax: (305) 347-6500

Notice shall be deemed to have been given and received: (i) if by hand delivery, upon receipted delivery; (ii) if by mail, three (3) calendar days after the date first deposited in the United States mail; (iii) if by overnight courier, on the date shown on the courier's receipt as the date of actual delivery, and (iv) if by facsimile, on the date shown on the confirmation of transmission. A party may change its address by giving written notice to the other party as specified herein.

12.2 Survival; Rights not Affected by Knowledge. All representations, warranties, covenants, and obligations in this Agreement and any Disbursement Request, Schedule, certificate or document delivered pursuant to this Agreement will survive the execution of this Agreement. All of the covenants in Section 7 hereof, unless otherwise stated therein, shall remain in effect for the term of this Agreement. The right to any remedies granted in this Agreement will not be affected by any investigation conducted, or any knowledge acquired (or capable of being acquired) at any time, whether before or after the execution and delivery of this Agreement, with respect to the accuracy or inaccuracy of or compliance with, any such representation, warranty, covenant, or obligation.

12.3 No Implied Waiver. No party shall be deemed to have modified or waived any of its rights or remedies hereunder unless such modification or waiver is in writing and signed by the party sought to be charged, and then only to the extent specifically set forth therein. A waiver shall not be construed as an amendment of this Agreement and a waiver in one event shall not be construed as continuing or as a waiver of or bar to such right or remedy on a subsequent event.

12.4 Partial Invalidity. The invalidity or unenforceability of any one or more provisions of this Agreement shall not render any other provision invalid or unenforceable. In lieu of any invalid or unenforceable provision, there shall be added automatically a valid and enforceable provision as similar in terms to such invalid or unenforceable provision as may be possible.

12.5 Binding Effect. The covenants, conditions, and agreements contained in this Agreement shall bind, and the benefits thereof shall inure to, the parties hereto and their respective heirs, executors, administrators, successors and assigns.

12.6 Modifications. Awardee and OTTED may supplement, extend, modify or terminate this Agreement by an instrument in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

12.7 Governing Law. This Agreement shall be governed by, and construed in accordance with, the substantive laws of the State of Florida without regard to conflict of laws principles.

12.8 No Assignment. Neither party may assign, sublicense, nor otherwise transfer its rights, duties, or obligations under this Agreement without the prior written consent of the other party, which consent will not be unreasonably withheld, and OTTED shall not consent to Trustee assigning, sublicensing or otherwise transferring its rights, duties or obligations under the Trust Agreement without the prior written consent of OTTED and Awardee. Any assignment, sublicense, or transfer by OTTED under this Agreement and any consent by OTTED under the Trust Agreement to Trustee's assignment, sublicense, or transfer of Trustee's rights, duties or obligations under the Trust Agreement, will be null and void; provided, however that OTTED and Trustee will at all times be entitled to assign or transfer its rights, duties, or obligations under this Agreement or the Trust Agreement, as applicable, to another governmental agency in the State of Florida, upon giving prior written notice to the Awardee and providing Awardee confirmation of assumption by such other governmental agency in the State of Florida of the obligations of OTTED Trustee under this Agreement or the Trust Agreement, as applicable. In the event that OTTED approves transfer of Awardee's obligations, Awardee remains responsible for obligations in connection with this Agreement unless specifically released from such obligations by OTTED. Awardee may assign this Agreement to any successor in interest to all or substantially all of Awardee's assets, provided that such successor in interest assumes all rights and obligations hereunder, including rights and obligations under the Security Agreement.

12.9 Counterparts. This Agreement may be executed in any number of counterparts by the different parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all the counterparts shall together constitute one and the same instrument.

12.10 No Partnership. Nothing contained herein shall be deemed to create an equity investment on the part of OTTED in Awardee, or a partnership or joint venture of the parties.

12.11 Arbitration. Any controversy or claim arising out of or relating to this Agreement, or any alleged breach hereof, shall be finally determined under the Commercial

Arbitration Rules of the American Arbitration Association, in effect as of the date of this Agreement, by a single arbitrator appointed in accordance with said Rules. The terms of this Section 12.11 will become operative upon demand for Arbitration ("Demand") being given by one party to the other party. The site of the arbitration, unless the parties agree otherwise, shall be in Palm Beach County, Florida. The award shall be binding on the parties and may be enforced in any court having jurisdiction to enter judgment upon any interim or final award. Prior to any award and upon application of any party, the court may order provisional measures subject to any subsequent award of the arbitral tribunal. A party seeking provisional measures from a court, before or after commencement of arbitration, shall not be considered to have waived its right to seek arbitration. Any party failing to pay its share of any deposits or fees required by the American Arbitration Association, and any party which fails to be represented at any arbitration proceeding, may, in the arbitrator's discretion, have a judgment of default entered against it. The parties shall not exchange documents or information other than in support of their respective positions. Subject to such shorter times required under expedited procedures pursuant to Section 4.5 of this Agreement, the arbitration shall be concluded by entry of final reasoned award no later than 90 calendar days after a party requests arbitration. The parties shall bear their respective costs and attorneys fees, except that the prevailing party shall be entitled under the award to recover from the non-prevailing party any filing, case service or administrative fees paid to the AAA in connection with the arbitration. THE PARTIES ACKNOWLEDGE THAT BY AGREEING TO ARBITRATION THEY HAVE IRREVOCABLY WAIVED ANY RIGHT THEY MAY HAVE TO A JURY TRIAL WITH RESPECT TO ANY DISPUTE ARISING OUT OF OR RELATING TO THIS AGREEMENT.

12.12 Entire Agreement. This Agreement, including the exhibits and schedules hereto, constitutes the entire agreement between OTTED and Awardee with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements, representations, and understandings of the parties. No party hereto shall be liable or bound to the other in any manner by any warranties, representations or covenants with respect to the subject matter hereof except as specifically set forth herein.

12.13 Titles and Subtitles; Form of Pronouns; Construction and Definitions. The titles of the sections and paragraphs of this Agreement are for convenience only and are not to be considered in construing this Agreement. All pronouns used in this Agreement shall be deemed to include masculine, feminine and neuter forms, the singular number includes the plural and the plural number includes the singular. Unless otherwise specified, references to an Article or Articles are to an Article or Articles in this Agreement. Unless the context otherwise requires, the term "including" shall mean "including, without limitation."

12.14 Costs. Each of Awardee and OTTED shall bear its own costs (including legal and accounting fees) in connection with the negotiation and preparation of this Agreement. Nothing in this Agreement shall prohibit Awardee from using Incentive Funds to pay for a portion of its administrative expenses and overhead (including legal expenses) allocated for the purposes of negotiating and implementing agreements (other than this Agreement) relating to establishment of the Institute in Florida.

12.15 Force Majeure. Notwithstanding any other terms contained in this Agreement, if Awardee is prevented from achieving the Disbursement Conditions or is prevented from

performing under the terms of this Agreement due to: (i) a breach by any of the various public and private funding sources that have pledged their support for Awardee's operations ("Non-OTTED Funding Sources") of the terms of the agreements between Awardee and such Non-OTTED Funding Source(s) that is not due to a breach by Awardee; or (ii) permitting delays or related administrative or judicial proceedings, acts of God, war, riot, terrorism, civil unrest, labor disturbances, or other similar events beyond the control of Awardee (each, a "Force Majeure Event"); then each such Disbursement Condition whose satisfaction has been impaired by the Force Majeure Event shall be deemed to have been met and OTTED shall make the applicable Disbursement to the extent that all other Disbursement Conditions have been met for such Disbursement and then all of the dates for performance of Awardee's obligations under this Agreement shall be extended by the number of days by which Awardee was prevented from complying with such obligation under the terms of this Agreement because of the Force Majeure Event. In no event shall the extension be for more than four years. Upon the occurrence of a Force Majeure Event, OTTED shall continue to fund Awardee at a level that permits it to sustain its then-current level of operations until the Force Majeure Event ceases.

12.16 Disclaimer. Except as expressly set forth herein, EACH PARTY EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICES, IN ALL CASES WITH RESPECT THERETO. Without limiting the generality of the foregoing, each party expressly does not warrant the success of any activities conducted pursuant to this Agreement.

12.17 Limitation of Liability. NEITHER PARTY SHALL BE ENTITLED TO RECOVER FROM THE OTHER PARTY ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES IN CONNECTION WITH THIS AGREEMENT OR ANY RIGHTS GRANTED HEREUNDER.

IN WITNESS WHEREOF, the undersigned have executed this Innovation Incentive Funding Agreement as of the day set forth on the first page of this Agreement.

MAX PLANCK FLORIDA CORPORATION, a Florida not-for-profit corporation

By: Pet. SJ

Name: Peter Gruss
Title: Chairman of the Board of Trustees

EXECUTIVE OFFICE OF THE GOVERNOR'S OFFICE OF TOURISM, TRADE, AND ECONOMIC DEVELOPMENT

By: _____

Name: Dale Brill
Title: Director

IN WITNESS WHEREOF, the undersigned have executed this Innovation Incentive Funding Agreement as of the day set forth on the first page of this Agreement.

MAX PLANCK FLORIDA CORPORATION, a Florida not-for-profit corporation

By:_____
Name: Peter Gruss
Title: Chairman of the Board of Trustees

EXECUTIVE OFFICE OF THE GOVERNOR'S OFFICE OF TOURISM, TRADE, AND ECONOMIC DEVELOPMENT

By: _____
Name: Dale A. Brill, Ph.D.
Title: Director

Exhibit 1 – Innovation Incentive Funds Application

See attached.

Innovation Incentive Fund Request for Consideration as an Attachment to the General Project Overview

To add text outside of the gray fields or click the statutory reference link, de-select the "Protect Form" (lock) button on the Forms toolbar.

Max Planck Florida Corporation

Name of Business

Must be a business unit or reporting unit of a business unit that is or will be registered with the State of Florida for unemployment compensation purposes.

IMPORTANT NOTE: This application must be filed and the incentive approved ***prior*** to making the decision to expand an existing Florida business unit or to locate a new business unit in Florida.

*** * *Be sure to attach the General Project Overview* * ***

1. PROJECT OVERVIEW

A. Industry sector: Non-commercial Biomedical Research

B. Site location decision date: Dependent on funding approvals and agreements with Palm Beach County, FAU and State of Florida.

C. Provide a full project description including the type of facility, its business operation, and the product or service associated with the facility:

Through its involvement in Florida, the Max Planck Society (parent organization to the not-for-profit Max Planck Florida Corporation) intends to contribute to the development of a strong research environment in Florida, particularly in the field of the Life Science, as a motor for the biotech industry. In doing so, the Society will be able to apply its specific scientific strengths and use its ability to create the best conditions for excellent basic research.

The Max Planck Florida Institute will focus its scientific activities on Bioimaging using most advanced techniques for visualization of microscopic molecular processes to achieve a deeper understanding of the structure, dynamics, and function of molecules and tissues in order to tackle challenging problems in biology, bioengineering, and medicine. Bioimaging is indispensable to a rapid translation of basic research into clinical application, improving health and creating wealth for the population through a stronger biotechnology industry.

The outline of the Institute is therefore based on an integrative and coherent concept that attempts to visualize molecular and physiologic tissue properties with unprecedented specificity and in a noninvasive manner. It aims at innovative and goal-directed approaches in the life sciences which – at the highest level – include new tools for diagnostic imaging and therapy monitoring in humans.

Bringing together the technical expertise of increasingly complementary fields of bioimaging and applying novel innovative concepts to emerging questions in biology and medicine offers a historic chance for broad advancements in the biologic sciences as well as for a more specific and individualized characterization of human disease. The Max Planck Florida Institute will meet this challenge by providing a unique interdisciplinary platform for translational research from molecules to human, and by combining expertise in the fields of physics, chemistry, biology, medicine, and computational sciences. It will develop the potential for a broad impact on both biomedical research and improved health care.

Innovation Incentive Fund Request for Consideration as an Attachment to the General Project Overview

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Research Objectives and Planned Activities

The Max Planck Florida Institute will unite the power of e.g. advanced optical microscopy, magnetic resonance imaging, and imaging sciences to study the structure, dynamics, and function of molecules and tissues that underlie challenging problems in biology, bioengineering, and medicine.

The Institute will comprise academic departments dedicated to:
- the exploration of new imaging approaches in biomedical research and the testing of imaginative new ideas challenging existing paradigms and techniques,
- the further development of existing techniques in bioimaging that promise substantial advances in spatial resolution, sensitivity, and specificity,
- the transfer of scientific concepts into operational implementations of future technologies that lead to solutions of important problems in both biomedical research and diagnostic imaging,
- the furthering of translational concepts in biomedicine from the molecular level to patient-oriented research,
- the establishment of a platform for exchanging ideas and expertise in multidisciplinary biomedical research projects.

In order to accomplish the aforementioned goals, the Max Planck Florida Institute will consist of scientific departments, junior research groups, a core facility for the imaging sciences, and a guest facility.

In terms of organizational structure, molecular and cellular bioimaging will be at the heart of the Institute. Associated research areas will employ optical imaging techniques and deal with molecular bioimaging, biosensing, and cellular mechanisms.

Together, the aforementioned areas constitute the operational basis of a scientific concept that expands from basic studies of molecules and cells to animal models and patient-oriented research in emerging fields of medicine. Moreover, there are considerable synergistic effects of individual research enterprises across departments as many approaches share key methodological competences. They will be supported and benefit from a common facility in the computational sciences and from expert guests from bioimaging sites of the Max Planck Society and elsewhere.

SCIENTIFIC DEPARTMENTS AND/OR JUNIOR RESEARCH GROUPS

The exact distribution of departments and junior research groups across the planned research areas of the Max Planck Florida Institute will be determined once the leading scientific staff has been identified. The following tentative list of research areas identifies topics, individual scopes, major techniques and subjects as well as specific requirements.

The three scientific departments described in the following form the core of the Business Plan and are fully included in the financial projections.

Biomolecular Imaging

Employing the combination of optical and related microscopic and image processing, the research area Biomolecular Imaging will

• apply image processing, computerized visualization, and analysis techniques optimized for the biomedical sciences,
• enable the objective, integrative analysis of image data obtained from any kind of microscopy,
• develop novel imaging techniques for analyzing large multi-dimensional datasets generated in dynamic studies of cellular behavior and complex cell-cell interactions extending up to the organismic level.

Biosensing

The research area Biosensing will conduct interdisciplinary research ranging from neurobiology to metabolic diseases. An essential component of this effort will be the development of highly specific markers and/or sensor molecules indicative of key cellular and physiologic processes. The area will
• design and apply new optical probes and molecular indicators for optical bioimaging based on organic, inorganic, and nanoparticulate scaffolds,
• address fundamental questions in cell biology and physiology, particularly those with medical implications,
• require biomedical, chemical, and physical expertise for the development of novel diagnostic methods.

Cellular Mechanisms

Research in the area Cellular Mechanisms will focus on some of the most pressing questions in biology and medicine using integrative and interdisciplinary tools based on model organisms relevant for medical research. The area will
• aim at a system-based understanding of the basic cellular processes involved in normal development and disease,
• study animal models ranging from the fruit fly to the zebra fish and mouse,
• identify new molecular targets for drug development, extending to system-driven high throughput screening,
• •select and adapt its specific research topics as the Institute develops in response to the directions taken by the other areas of the Max Planck Florida Institute as well as other Institutes on the Campus. Anticipated fields include Neurobiology, Virology, Immunology, and Metabolism..

The Max Planck Florida Institute will launch a new Bioimaging Science Center, which will develop and refine computerized imaging techniques to tackle complex biologic questions. This core facility will
• utilize and develop high-performance computing techniques for processing large bioimaging datasets,
• develop computational tools for creating, processing, and storing high-resolution maps of multi-dimensional information,
• bring together expertise from physics, biology, chemistry, biomedicine, engineering, informatics, and imaging sciences,
• help to create easily accessible data bases for the life sciences community,
• adapt and broaden its scope as the Institute grows and additional departments are established.

In order to best support the development of the Max Planck Florida Institute, Guest

Laboratories will be established to accommodate frequent scientific visits of members of the Max Planck Society and of their staff, with the aim of conducting cooperative research and optimizing scientific exchange.

D. Describe in detail how the R&D project will serve as a catalyst for an emerging or evolving technology cluster and the basis for such expectations:

The Max Planck Florida Institute will serve as a unique powerhouse in collaboration with SCRIPPS Florida and Florida Atlantic University in Palm Beach County and to speed up considerably the formation of a strong biotech cluster in Florida.

Max Planck Florida intends to contribute to the development of a strong research environment in Florida as a motor for the biotech industry. The experience from Germany shows that Max Planck Institutes successfully attract companies both in a regional cluster and as partners in licensing contracts. Max Planck Florida Institute will also actively pursue to spin off start-up companies, to transfer its knowledge to companies and to provide skilled workforce for the regional biotech industry.

E. Discuss the R&D project's plan for collaboration with one or more of Florida's higher education institutions. Please identify the college / university by name(s):

The experience from Germany shows that universities cooperating with Max Planck Institutes reach much higher approval rates for their grant applications in such collaborative relationships than without them. This effect will also strengthen the universities in Florida.

Usually Max Planck Institutes are linked with many partner universities in Germany and world wide through joint appointments and cooperative agreements, investment in areas of special research, programs of scientific focus, graduate schools and further measures. The Max Planck Society also strives to achieve such cooperation schemes with its Institute in Florida: Joint appointments of faculty, joint research plans, mutual access to infrastructure, joint education of junior scientists and other suitable measures should be agreed upon in particular with the Florida Atlantic University and other universities in Florida, as well as other research institutes moving into the area, on the basis of mutual agreement, declarations of intent or contracts. The location of the Institute on the FAU MacArthur Campus in Jupiter will provide opportunities for strong scientific cooperations.

As in Germany, a Florida Max Planck Institute will offer not only scientific positions but also positions for technicians and administrative staff. Palm Beach Community College's commitment to serving the needs of industry, in this case life science research, makes a useful collaboration possible between the College and MPF. It is hoped that the College will be a resource for highly skilled and well trained support staff with interesting professional perspectives. Correspondingly, the institute will be able to serve as a training site for student internships and also provide vocational training opportunities.

Generally speaking, the institute will have a direct impact on the level of the training and education of a creative workforce and thus lifting the professional quality level of the Community and County population.

Innovation Incentive Fund Request for Consideration as an Attachment to the General Project Overview

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F. Itemize all sources and amounts of funding / in-kind contributions for this project, including contributions from the local community and the applicant. Provide appropriate documentation of commitments to contribute:

On September 11, 2007, the Board of County Commissioners of Palm Beach County passed a resolution that conceptually approved a grant in the amount of $ 86.9 M to establish a Max Planck Florida Institute. The resolution authorized County staff to begin contract negotiations with Max Planck with the aim of bringing a grant agreement back to the Board for final approval.

Discussions are underway with Scripps Florida and the relevant bodies of FAU to make temporary space available to the MPF Institute in the T1 or T2 buildings on the MacArthur Campus of FAU (exact value will be finalized).

In addition, FAU Board of Trustees approved for 6 (six) acres to be made available to the MPF Institute on a long term basis. It is contemplated that the permanent facility for MPF will be constructed on this site. This six acre parcel is valued at $ 6.3 m. The land at the MacArthur Campus of FAU was donated to the State of Florida by the MacArthur Foundation for educational use by FAU.

Furthermore the Town of Jupiter is proposing to waive impact and other fees which might be applicable to the construction of the MPF Institute. This contribution is valued at approximately $ 260,000.

County Commissioner Santamaria declared to donate $ 100,000 for the Max Planck Florida Institute.

$94,060,000 approximately. This number is subject to further negotiations, in particular, in case of mobilizing further local match sources.

Note: For the construction of the institute building appropriate financial provisions have to be made.

G. Innovation Funds requested:

H. Specify project needs that will be satisfied by the requested funds:

Building Construction and related expenses

Divisions Operation
Divisions Investments (durable equipment)

Junior Research Groups Operation
Junior Research Groups Investments(durable equipment)

Research Infrastructure Operation
Research Infrastructure Investments (durable equipment)

Innovation Incentive Fund Request for Consideration as an Attachment to the General Project Overview

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I. Indicate the cumulative investment: (Be sure to identify the source of funds for each category; include additional documentation, if needed).

	Source of Funds[1]	Investment Amount				
		Year 1	Year 2	Year 3	Year 4	Year 5
Land	FAU/PBC	$	$	$	$	$
Construction / Renovation	PBC/State	$ to be determined	$to be determined	$ to be determined	$	$
Manufacturing Equipment		$	$	$	$	$
R&D Equipment	PBC/State/Research Grants/Philantropy	$ 4.069 m	$8.377 m	$5.123 m	$1.953	$1.600
Telecom, Furniture / Fixtures		$	$	$	$	$
Other Capitalized Costs		$	$	$	$	$
Total		**$4.069 m + construction costs**	**$8.377 m + construction costs**	**$5.123 m + construction costs**	**$1.953 + construction costs**	**$1.600**
GRAND TOTAL (all years)						**$ 39,506,000 in a 10-years projection for R&D equipment (for details see Appendix 4 in the attached Appendices) + $ XX for building**

1. Specify items included in "Other Capitalized Costs":

2. PROJECT EMPLOYMENT AND WAGES

A. What is the total number of net new full-time equivalent Florida jobs created by the project at the business unit?

135 FTEs
The total of 135 FTEs contemplated is based on the statutory definition of "job" in the Innovation Incentive Fund statute.

It does not include up to 18 Guest Researchers, who will be physically located at Max Planck Florida institute for a period of up to three years,

1 Source of funds is the entity to provide each category of investment (Applicant, City, County, State, Developer, etc.)

Innovation Incentive Fund Request for Consideration as an Attachment to the General Project Overview

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although their salaries will be paid by other research institutes. As full-time temporary residents in Florida, they will acquire housing, cars, consumer products, services, etc. from the local community.

B. Provide the job creation schedule to which you commit:

Phase	Number of net new full-time equivalent Florida jobs created in the business unit	Date by which jobs will be created	Average Wage
I	61 subject to change	12/31/2010	$58,841
II	47 subject to change	12/31/2012	$57,005
III	13 subject to change	12/31/2013	$56,730
IV	11 subject to change	12/31/2014	$56,446
V	5 subject to change	12/31/2015	$56,454
Total	**135 (Exact projection/schedule to be determined. The job creation timeline starts from the assumption that the institute starts its initial operation during 2008. The timeline can be extended up to ten years, in keeping with previous applications and research institutes that have applied for Innovation Incentive. The duration of each single set-up phase above is subject to further adjustments.)**		

C. For the purposes of certification, agreement, and claim review, indicate the average wage to which you commit:
$56,000 p.a. per employee contemplated. Estimation based on 2006 salaries, not including benefits and any salary raises

Innovation Incentive Fund Request for Consideration as an Attachment to the General Project Overview

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3. SIGNATURES

Max Planck Society submits this application on behalf of Max Planck Florida Corporation, non-profit Florida corporation, and does not assume liability for any obligations of such corporation

September 25, 2007

Signature of Individual Completing this Attachment (if different from General Project Overview) — Date

Address (if different)

Phone Number (if different)

September 25, 2007

Signature (Authorized Company Officer) REQUIRED — Date

Professor Peter Gruss, President

Name and Title of Authorized Officer

Innovation Incentive Program: *Section 288.1089, Florida Statutes*

Exhibit 2 – Business Plan

[TO BE ATTACHED]

EXHIBIT 3 – Disbursements[1]

Disbursement Table

	Initial Disbursement	Second Disbursement	Third Disbursement	Fourth Disbursement	Fifth Disbursement	Final Disbursement
Disbursement Amount[2]	$10,000	$20,000	$30,000	$24,090	$10,000	All remaining funds held in Trust by Trustee.
Amount paid to Awardee by Trustee at OTTED's direction	$0[3]	$20,000	$30,000	$24,090	$10,000	All remaining funds held in Trust by Trustee.
Anticipated Disbursement Date[4]	March 2008	June 2008	June 2009	June 2010	June 2011	March 2015

Disbursement Conditions[5]

(a) Conditions to the Initial Disbursement. The Initial Disbursement is conditioned upon OTTED's receipt of the following documents and Awardee's satisfaction of each of the following conditions:

(i) OTTED's receipt of a fully executed copy of this Agreement;

(ii) OTTED's receipt of a fully executed copy of the Security Agreement; and

(iii) Awardee's opening of the Pledged Account.

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[1] In the event of a conflict between this Exhibit 3 and the terms of the Agreement, the terms of the Agreement shall govern.

[2] Amounts are set forth in the table are expressed in thousands.

[3] The Initial Disbursement will be made by the Chief Financial Officer of the State of Florida within five (5) days of the Effective Date in accordance with Section 4.1(a) of the Agreement.

[4] For the avoidance of doubt, the actual Disbursement Dates may occur earlier than these anticipated Disbursement Dates and shall be determined solely by reference to whether the applicable Disbursement Conditions set forth in Section 4.4 have been complied with by Awardee or waived by OTTED.

[5] The following Conditions to Disbursement are set forth in Section 4.4 of the Agreement and are included in this Exhibit for convenience and to provide specific Job creation requirements for the Third, Fourth and Fifth Disbursements. All Section and Exhibit references contained in this Exhibit are references to Sections and Exhibits of the Agreement.

(b) Conditions to the Second Disbursement. The Second Disbursement is conditioned upon OTTED's receipt of the following documents and Awardee's satisfaction of each of the following conditions:

(i) OTTED's receipt of a fully executed copy of a Grant Agreement by and between Awardee and the County;

(ii) OTTED's receipt of a fully executed copy of the Trust Agreement;

(iii) OTTED's receipt and approval of the Business Plan and the Initial Budget; and

(iv) The County's receipt and approval of the Business Plan and the Initial Budget.

(c) Conditions to the Third Disbursement. The Third Disbursement is conditioned upon OTTED's receipt of the following documents and Awardee's satisfaction of each of the following conditions:

(i) OTTED's receipt of a copy of a fully executed Sublease Agreement by and between Awardee and Florida Atlantic University;

(ii) OTTED's receipt of a copy of a fully executed lease or facilities use agreement, if any, for Awardee's temporary facilities;

(iii) Awardee shall have commenced work on the refurbishment of Awardee's temporary facilities;

(iv) Awardee shall have created at least three (3) Jobs;

(v) Awardee shall have identified a candidate for the position of first Scientific Director of the Institute and such candidacy shall have been submitted for a "First Reading" of the Senate of The Max Planck Society;

(vi) Awardee shall have caused the conduct of soil borings at Awardee's permanent facilities;

(vii) Awardee shall have implemented a science lecture or workshop series in Palm Beach County the purpose of which will to be educate and inform the public about relevant scientific research and discoveries as well as the work of the Institute;

(viii) Awardee shall have appointed a local representative to be based in Florida who shall act as Awardee's community liaison;

(ix) Awardee shall have commenced horizontal development of the Institute, including but not limited to such activities as grading and other site preparation work;

(x) Awardee shall have entered into agreements for collaboration with Florida Atlantic University and The Scripps Research Institute; and

(xi) Awardee shall have prepared a plan for outreach to secondary school teachers in science and math in Palm Beach County.

(d) Conditions to the Fourth Disbursement. The Fourth Disbursement is conditioned upon OTTED's receipt of the following documents and Awardee's satisfaction of each of the following conditions:

(i) Awardee shall have created at least twenty-five (25) Jobs; provided, however, that if Awardee shall have created at least nineteen (19) Jobs by the Disbursement Date, the Fourth Disbursement shall be made subject to the provisions of Section 10.3(b);

(ii) Awardee's aggregate expenditures on scientific equipment (including, without limitation, any scientific equipment purchased with Incentive Funds or with grant funds from the County) shall be at least $2,000,000; provided, however, that if such aggregate expenditures shall not be at least $2,000,000, the Fourth Disbursement shall be made subject to the provisions of Section 10.3(d);

(iii) Awardee shall have taken occupancy of its temporary facilities;

(iv) Awardee shall have commenced a scientific research program at the Institute;

(v) Awardee shall have hired the first Scientific Director of the Institute;

(vi) Awardee shall have identified a candidate for the position of second Scientific Director of the Institute and such candidacy shall have been submitted for a "First Reading" of the Senate of The Max Planck Society;

(vii) Awardee shall have identified two (2) junior research groups for the Institute (the "Initial Research Groups") as well as a timeframe for the commencement of their work with the Institute; and

(viii) Awardee shall have solicited bids for the engineering and design work of its permanent facilities.

(e) Conditions to the Fifth Disbursement. The Fifth Disbursement is conditioned upon OTTED's receipt of the following documents and Awardee's satisfaction of each of the following conditions:

(i) the Initial Research Groups shall have commenced their work with the Institute;

(ii) Awardee shall have identified a third junior research group for the Institute as well as a timeframe for the commencement of its work with the Institute; and

(iii) Awardee shall have created at least sixty-one (61) Jobs; provided, however, that if Awardee shall have created at least forty-six (46) Jobs, the Fourth Disbursement shall be made subject to the provisions of Section 10.3(b).

(f) Conditions to the Final Disbursement. The Final Disbursement is conditioned upon Awardee creating at least one-hundred thirty-five (135) Jobs by the seventh anniversary of the Effective Date, as such period may be extended by virtue of the occurrence of a Force Majeure Event.

(g) Conditions to All Disbursements. Awardee's entitlement to any Disbursement is conditioned upon OTTED's receipt of the following documents and Awardee's satisfaction of each of the following conditions:

(i) OTTED's receipt of (x) the Annual Science Report required by Section 7.3 by the date specified in Section 7.3, and (y) the Operations Report required by Section 7.2 for the applicable Report Period by the date specified in Section 7.2, and if there have been any material developments between the date of the Operations Report and the end of the calendar year, OTTED's receipt, by the following April 15th, of an updated progress report, which shall address those items contained in the Operations Report, including any changes in the budgeted expenditures for the next Disbursement of Incentive Funds;

(ii) OTTED's receipt, within one hundred twenty (120) days of the end of Awardee's fiscal year, of any proposed changes to the Business Plan and the reasons therefor, subject to Section 3.2;

(iii) OTTED's receipt of a legal opinion of counsel for Awardee, dated as of the date of the Disbursement Request, substantially in the form set forth in Exhibit "7," or letter from such counsel confirming the accuracy of any such prior legal opinion delivered in connection with a previous Disbursement as of the date of each such subsequent Disbursement Request; and

(iv) For the Third, Fourth, Fifth and Final Disbursements, OTTED's receipt of quarterly updates on Awardee's progress with respect to expansion activities, which include Jobs, wages, property and Equipment purchases, construction, and leases, as set forth in Exhibit "5" attached hereto.

EXHIBIT 4 – Form of Disbursement Request

DISBURSEMENT REQUEST

To: Office of Tourism, Trade, and Economic Development
The Capitol, Suite 1902
Tallahassee, Florida 32399
Attention: Director

Ladies and Gentlemen:

We refer to the Innovation Incentive Funding Agreement (the "Agreement") dated as of March 12, 2008, between you and the undersigned, which provides that OTTED direct the Disbursement of Incentive Funds to us in the aggregate amount of Ninety Four Milllion and Ninety Thousand Dollars ($94,090,000) plus investment income thereon. Terms used but not otherwise defined herein shall have the same meanings given to them in the Agreement.

We refer to Section 4.3 of the Agreement and hereby request Disbursement of the following portion of the Incentive Funds:

(a) the [•] Disbursement in an amount equal to $[•];
(b) the Disbursement Date of the requested Disbursement is [•]; and
(c) the payment instructions for the requested disbursement are as follows:

_____
[insert Awardee's banking details]

As a condition to the foregoing disbursement of Incentive Funds, the undersigned hereby represents, warrants and confirms to you that:

(a) [check applicable box]

☐ (1) All of the Disbursement Conditions set forth in Section 4.4([•]) and (g) of the Agreement applicable to this Disbursement of Incentive Funds have been met as of the date hereof; or

☐ (2) Less than all of the Disbursement Conditions set forth in Section 4.4(([•]) and (g) of the Agreement have been met as of the date hereof, however, OTTED has approved Disbursement of the amount set forth above based on the attached list, which identifies which of the Disbursement Conditions have not been fully met; and

(b) No Material Default (or event which, with the giving of notice and/or lapse of time, would constitute a Material Default) has occurred and is continuing (and has not been cured) or would result from the Disbursement requested hereby; and

(c) Awardee shall maintain operations in Florida for the next succeeding year.

MAX PLANCK FLORIDA CORPORATION,
a Florida not for profit corporation

By: _____
Name: _____
Title: _____

Date: _____

EXHIBIT 5 –Reporting Requirements

1. Quarterly Report Requirements

(a) Beginning with the Fiscal Quarter immediately preceding the Fiscal Quarter in which the Third Disbursement is made and ending with the Fiscal Quarter immediately preceding the Fiscal Quarter in which the Final Disbursement is made, quarterly reports shall be delivered to OTTED no later than thirty (30) days after the end of each such Fiscal Quarter.

(b) The following information shall be included in such quarterly reports:

(i) Information about Awardee's location and expansion activities for the Institute, which shall include land acquisitions, leases, construction, and/or renovation, as applicable.

(ii) An update on hiring activities for the Institute, including information about Jobs created and salaries.

(iii) A list of Equipment purchases made with Incentive Funds. This shall include a list of items that are covered by the Security Agreement. Items included in the Security Agreement are those items that are purchased with Funds, valued at $5,000 or more, and that have a useful life of more than one (1) year.

(c) For purposes of this Exhibit 5, "Fiscal Quarter" shall mean a fiscal quarter of Awardee.

2. Annual Reporting Requirements. The following information shall be provided by Awardee to OTTED at least 120 days (or at such other time as set forth below) after the end of Awardee's fiscal year or on the date indicated below.

During the Measurement Period:

a) Audited financial statements that comply with the requirements of Section 7.1 of the Agreement;

b) A proposed budget for Awardee's next fiscal year;

c) A list of Equipment covered by the Security Agreement;

d) A Florida Single Audit Report and Agreed Upon Procedures;

e) The Awardee's Annual Science Report;

f) Within ninety (90) days of the end of Awardee's fiscal year, the Operations Report with an update on any material developments between the date of such

Operations Report and the date of the prior year's Operations Report. Awardee's Operations Report shall include information on all of the items listed in Section 7.2 of the Agreement; and

g) Progress reports with respect to the Performance Expectations set forth in Section 7.4 of the Agreement; and

h) Any proposed changes to Awardee's Business Plan and the reasons therefor.

Subsequent to the Measurement Period until the expiration of the Term of the Agreement:

a) Audited financial statements that comply with the requirements of Section 7.1 of the Agreement;

b) The Awardee's Annual Science Report; and

c) Within ninety (90) days of the end of Awardee's fiscal year, the Awardee's Operations Report with an update on any material developments between the date of such Operations Report and the date of the prior Operations Report. Awardee's Operations Report shall include information on all of the items listed in Section 7.2 of the Agreement.

EXHIBIT "6" – Security Agreement

See attached.

SECURITY AGREEMENT

THIS AGREEMENT (the "Security Agreement") is made as of the 12th day of March, 2008, by and between, the State of Florida, Executive Office of the Governor's Office of Tourism, Trade, and Economic Development ("OTTED"), and Max Planck Florida Corporation, a Florida not-for-profit corporation ("Awardee").

RECITALS:

1. Awardee and OTTED have entered into an Innovation Incentive Funding Agreement (the "Funding Agreement") on even date herewith whereby OTTED has agreed to make certain disbursements of Innovation Incentive Funds to Awardee pursuant to the terms of the Funding Agreement.

2. The purpose of this Security Agreement is to secure Awardee's obligation to fulfill the terms and conditions of the Funding Agreement.

3. Unless otherwise defined herein, all capitalized terms shall have the respective meanings ascribed to them in the Funding Agreement.

NOW THEREFORE, in consideration of the mutual terms, covenants and conditions set forth herein, the parties hereto agree as follows:

SECTION 1. The Security Interests.

(A) In order to secure the performance of Awardee's obligations under the Funding Agreement (the "Obligations"), Awardee hereby grants to OTTED a continuing security interest in (i) Equipment that costs individually $5,000 or more and has a life expectancy of one year or more (the "Subject Equipment") and (ii) the Pledged Account (together with the Subject Equipment, the "Collateral"). For the avoidance of doubt, the Subject Equipment shall only include Equipment purchased with Incentive Funds.

(B) The security interests granted pursuant to this Section 1 (the "Security Interests") are granted as security only and shall not subject OTTED to, or transfer or in any way affect or modify, any obligation or liability of Awardee with respect to the Collateral or any transaction which gave rise thereto.

SECTION 2. Filing; Further Assurances. AWARDEE HEREBY AUTHORIZES OTTED TO FILE FINANCING STATEMENTS COVERING THE COLLATERAL WITH ALL APPROPRIATE FILING OFFICES. Awardee will, at its expense, execute, deliver, file and record (in such manner and form as OTTED may require), or permit OTTED to file and record, any financing statements, any carbon, photographic or other reproduction of a financing statement or this Security Agreement (which shall be sufficient as a financing statement hereunder), any specific assignments or other paper that may be reasonably necessary or desirable, or that OTTED may request, in order to create, preserve, perfect or validate any

Security Interests or to enable OTTED to exercise and enforce its rights hereunder with respect to any of the Collateral. In addition, OTTED and Awardee shall enter into an account control agreement (the "Account Control Agreement") with the financial institution with which Awardee maintains the Pledged Account. Pursuant to the Account Control Agreement and pursuant hereto, Awardee grants and shall grant to OTTED a continuing lien upon, and security interest in, the Pledged Account.

SECTION 3. Representations and Warranties of Awardee. Awardee hereby represents and warrants to OTTED (a) that Awardee is, or to the extent that any or all of the Subject Equipment is to be acquired after the date hereof, will be, the owner of the Subject Equipment free from any adverse lien, security interest or encumbrance; (b) that no financing statement covering the Subject Equipment is on file in any public office, other than the financing statements filed pursuant to this Security Agreement; and (c) that all additional information, representations and warranties contained in **Exhibit "A"** attached hereto and made a part hereof are true, accurate and complete on the date hereof.

SECTION 4. Covenants of Awardee. Awardee hereby covenants and agrees with OTTED that Awardee (a) will defend the Subject Equipment against all claims and demands of all persons at any time claiming any interest therein; (b) will provide OTTED with prompt written notice of (i) any change in the jurisdiction of Awardee' incorporation or the office where Awardee maintains its books and records pertaining to the Subject Equipment, (ii) the movement or location of any of the Subject Equipment (other than solely for repair or maintenance) to or at any address other than an address within the State of Florida at which Awardee conducts activities; (iii) and of Awardee's merger, consolidation or other type of reorganization where the resulting entity is other than Awardee; (c) will promptly pay any and all taxes, assessments and governmental charges upon the Subject Equipment prior to the date penalties are attached thereto, except to the extent that such taxes, assessments and charges shall be contested in good faith by Awardee; (d) will have and maintain insurance at all times with respect to the Subject Equipment on such terms as are set forth in the Funding Agreement, such insurance to be payable to OTTED and Awardee as their interests may appear, and shall provide for at least twenty (20) days' written notice prior to cancellation or material modification to OTTED, and Awardee shall furnish OTTED with certificates or other evidence satisfactory to OTTED of compliance with the foregoing insurance provisions; (e) will not sell or offer to sell or otherwise assign, transfer or dispose of the Subject Equipment or any interest therein, without the written consent of OTTED; provided, however, that Awardee may dispose of Subject Equipment that is obsolete, worn out or no longer useful to the conduct of Awardee's operations, which decision shall be made by Awardee in its reasonable judgment, provided, however, that the proceeds of each such disposition pursuant to this proviso are reinvested in the operations of the Institute; (f) will keep the Subject Equipment free from any adverse lien, security interest or encumbrance and in good order and repair, reasonable wear and tear excepted, and will not waste or destroy the Subject Equipment or any part thereof; and (g) will not use the Subject Equipment in violation of any statute or ordinance.

SECTION 5. Records Relating to Subject Equipment. Awardee will keep its records concerning the Subject Equipment at its office located at the address set forth at the beginning of this Security Agreement, at the address where the Institute is located or at such other place or places of business in Florida as Awardee shall have identified in a notice to OTTED pursuant to Section

4(b)(i). Awardee will hold and preserve such records, and will permit representatives of OTTED at any time during normal business hours (and upon reasonable advance written notice and at OTTED's expense) to examine and inspect the Subject Equipment and to make abstracts from such records and will furnish to OTTED such information and reports regarding the Subject Equipment as OTTED may from time to time reasonably request.

SECTION 6. General Authority. Solely for the purposes specified in the next sentence hereof, Awardee hereby appoints OTTED as Awardee's lawful attorney, with full power of substitution, in the name of Awardee, for the sole use and benefit of OTTED, but at Awardee's expense. Following an Event of Default (defined below) and during the continuance of such Event of Default, OTTED may exercise, all or any of the following powers with respect to all or any of the Subject Equipment to the extent permitted by applicable law:

(i) to settle, compromise, compound, prosecute or defend any action or proceeding with respect thereto,

(ii) to sell, transfer, assign or otherwise deal in or with the same and the proceeds of such sale, transfer, assignment, or deal, as fully and effectually as if OTTED were the absolute owner thereof, and

(iii) to discharge any taxes, liens, security interests or other encumbrances at any time placed thereon; provided that OTTED shall give Awardee not less than ten (10) days prior written notice of any such proposed discharge and an opportunity to effect such discharge.

SECTION 7. Events of Default. OTTED may declare Awardee to be in default under this Security Agreement upon the occurrence and during the continuance of any one of the following events (herein referred to as an "Event of Default"):

(a) default by Awardee in the due observance or performance of any covenant or agreement contained herein and the continuance thereof for a period of thirty (30) days (which period shall be increased to up to ninety (90) days if Awardee is unable to cure such default within thirty (30) days after using its diligent efforts and is continuing to diligently pursue the cure of such default) after written notice thereof shall have been given to Awardee, or any representation or warranty made by Awardee in this Security Agreement shall prove to be false in any material respect as of the date when made, and the effect thereof is a Material Adverse Effect; or

(b) the occurrence of any Security Interest Default under the provisions of the Funding Agreement.

SECTION 8. Remedies upon Event of Default. If any Event of Default shall have occurred and is continuing, OTTED may exercise all the rights and remedies of a secured party under the Uniform Commercial Code as in effect in the State of Florida (the "Florida UCC"). OTTED shall give Awardee twenty (20) days prior written notice of its intention to make any public or private sale of the Subject Equipment. At any such sale the Subject Equipment may be sold in one lot as an entirety or in separate parcels, as OTTED may determine. OTTED shall not be obligated to make any such sale pursuant to any such notice. OTTED may, without notice or publication, adjourn any public or private sale or cause the same to be adjourned from time to

time by announcement at the time and place fixed for the sale, and such sale may be made at any time or place to which the same may be adjourned. OTTED, instead of exercising the power of sale herein conferred upon it, may proceed by a suit or suits at law or in equity to foreclose the Security Interests and sell the Subject Equipment, or any portion thereof, under a judgment or decree of a court or courts of competent jurisdiction.

SECTION 9. Right of OTTED to Use and Operate Subject Equipment, Etc.

Upon the occurrence and during the continuance of an Event of Default, to the extent permitted by law, OTTED shall have the right and power to take possession of all or any part of the Subject Equipment, and to exclude Awardee and all persons claiming under Awardee wholly or partly therefrom, and thereafter, to hold, store, and/or use, operate, manage and control the same. Upon any such taking of possession, OTTED may, from time to time, at its expense, make all such repairs, replacements, alterations, additions and improvements to and of the Subject Equipment as OTTED may deem proper. In such case, OTTED shall have the right to manage and control the Subject Equipment and to carry on the operations of the Subject Equipment and to exercise all rights and powers of Awardee in respect thereto as OTTED shall deem appropriate, including the right to enter into any and all such agreements with respect to the leasing and/or operation of the Subject Equipment or any part thereof as OTTED may see fit; and OTTED shall be entitled to collect and receive all rents, issues, profits, fees, revenues and other income of the same and every part thereof. Such rents, issues, profits, fees, revenues and other income shall be applied to pay the expenses of holding and operating the Subject Equipment, and of all maintenance, repairs, replacements, alterations, additions and improvements, and to make all payments which OTTED may be required or may elect to make, if any, for taxes, assessments, insurance and other charges upon the Subject Equipment or any part thereof, and all other payments which OTTED may be required or authorized to make under any provision of this Security Agreement (including legal costs and attorney's fees). The remainder of such rents, issues, profits, fees, revenues and other income shall be applied to the payment of the Obligations in such order or priority as OTTED shall determine (subject to the provisions of Section 10 hereof) and, unless otherwise provided by law or by a court of competent jurisdiction, any surplus shall be paid over to Awardee.

SECTION 10. Application of Subject Equipment and Proceeds. The proceeds of any sale of, or other realization upon, all or any part of the Subject Equipment shall be applied in the following order of priorities: (a) first, to pay the reasonable expenses of such sale or other realization, including reasonable attorneys' fees and all reasonable expenses, liabilities and advances incurred or made by OTTED in connection therewith, and any other reasonable unreimbursed expenses for which OTTED is to be reimbursed pursuant to Section 11; (b) second, to the payment of the Obligations in such order as OTTED, in its sole discretion, shall determine; and (c) finally, to pay to Awardee, or its successors or assigns, or as a court of competent jurisdiction may direct, any surplus then remaining from such proceeds.

SECTION 11. Expenses. Awardee will forthwith upon demand pay to OTTED: (a) the amount of any taxes which OTTED may have been required to pay to free any of the Subject Equipment from any lien thereon, and (b) the amount of any and all reasonable out-of-pocket expenses, including the reasonable fees and disbursements of its counsel and of any agents not regularly in

its employ, which OTTED may incur in connection with the enforcement of its remedies upon the occurrence and continuation of an Event of Default.

SECTION 12. Termination of Security Interests; Release of Subject Equipment. Upon the performance in full of all the Obligations, the Security Interests in the Subject Equipment shall terminate and all rights to the Subject Equipment shall revert to Awardee. Upon the tenth anniversary of the Effective Date or such earlier date that Awardee has created the total number of Jobs that are to be created by the end of the Measurement Period under the Business Plan, the Security Interests in the Pledged Account shall terminate. Upon any such termination of the Security Interests or release of Subject Equipment, OTTED will, at no expense to OTTED, execute and deliver to Awardee such documents as Awardee shall reasonably request to evidence the termination of the Security Interests or the release of such Subject Equipment, as the case may be. In addition to the foregoing, in the event Subject Equipment is disposed of pursuant to the proviso in Section 4(e), the Subject Equipment that is so disposed of shall automatically be released from the Security Interests and shall no longer be subject to this Security Agreement, without the necessity of any acknowledgement or other act or agreement on the part of OTTED, and OTTED hereby authorizes Awardee to prepare, deliver and file such releases of lien and other instruments as Awardee may reasonably deem necessary to evidence and effect, on the public records or otherwise, the release of such Subject Equipment from the Security Interests.

SECTION 13. Notices. All notices, communications and distributions hereunder shall be given or made to the parties pursuant to the Funding Agreement.

SECTION 14. Miscellaneous. (a) No failure on the part of OTTED to exercise, and no delay in exercising, and no course of dealing with respect to, any right, power or remedy under this Security Agreement shall operate as a waiver thereof; nor shall any single or partial exercise by OTTED of any right, power or remedy under this Security Agreement preclude any other right, power or remedy. The remedies in this Security Agreement are cumulative and are not exclusive of any other remedies provided by law. Awardee also waives trial by jury in any action brought on or with respect to this Security Agreement. Neither this Security Agreement nor any provision hereof may be changed, waived, discharged or terminated orally but only by a statement in writing signed by the party against which enforcement of the change, waiver, discharge or termination is sought.

(b) This Security Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Unless otherwise defined herein, or unless the context otherwise requires, all terms used herein which are defined in the Florida UCC have the meanings therein stated.

(c) Any controversy or claim arising out of or relating to this Security Agreement, or any alleged breach hereof, shall be finally determined by binding arbitration pursuant to Section 12.11 of the Funding Agreement.

SECTION 15. Severability. If any provision hereof is invalid or unenforceable in any jurisdiction, the other provisions hereof shall remain in full force and effect in such jurisdiction.

IN WITNESS WHEREOF, this Security Agreement has been executed by the parties hereto all as of the day and year first above written.

MAX PLANCK FLORIDA CORPORATION,
A Florida not-for profit corporation

By: _____
Name: Peter Gruss
Title: Chairman of the Board of Trustees

EXECUTIVE OFFICE OF THE GOVERNOR'S OFFICE OF TOURISM, TRADE, AND ECONOMIC DEVELOPMENT

By: _____
Name: Dale Brill
Title: Director

EXHIBIT "A"

ADDITIONAL REPRESENTATIONS AND WARRANTIES

1. Awardee was incorporated as a Florida non-profit corporation on September 5, 2007, under the laws of the State of Florida and is in good standing under those laws.

2. The address of Awardee is located at: 11380 Prosperity Farms Road, Suite 221E, Palm Beach Gardens, Florida 33410.

3. Awardee is qualified to transact business in the following states: Florida.

Exhibit "7" – Proposed Form Of Legal Opinion By Awardee's Counsel

(i) Awardee is validly existing as a corporation not for profit and in good standing as of the date of the certificate of status received from the Florida Department of State under the laws of the State of Florida.

(ii) Awardee has the corporate power to execute, deliver and perform the Agreement.

(iii) The execution, delivery and performance by Awardee of the Agreement have been duly authorized by all necessary corporate action of Awardee.

(iv) The Agreement has been duly executed and delivered on behalf of Awardee and constitutes a valid and binding obligation of Awardee, enforceable against Awardee in accordance with its terms. This opinion shall be understood to mean only that if there is a default in performance of an obligation, (a) if a failure to pay or other damage can be shown and (b) if the defaulting party can be brought into a court that will hear the case and apply the governing law, then, subject to the availability of defenses, and to the exceptions set forth elsewhere in the opinion, the court may provide a money damage (or perhaps injunctive or specific performance) remedy.

(v) The execution, delivery and performance on the date hereof by Awardee of the Agreement do not (a) violate the Articles of Incorporation or By-laws of Awardee; or (b) violate any provision of the Florida Not for Profit Corporation Act, except, in each case, for any such violation that would not reasonably be expected to have a Material Adverse Effect.

(vi) No approval or consent of, or registration or filing with, (a) the Florida Secretary of State is required to be obtained or made by Awardee under the Florida Not for Profit Corporation Act in connection with the execution, delivery and, to my knowledge, performance on the date hereof by Awardee of the Agreement, except (i) for any filings necessary to perfect the liens and security interests created pursuant to the Security Agreement, (ii) for any registrations and filings necessary for the Awardee to continue to conduct its business as currently conducted, or (iii) where the failure to obtain such approvals or consents, or make such registrations or filings, would not reasonably be expected to have a Material Adverse Effect.

(vii) To my knowledge, there is no pending litigation against Awardee, or in which Awardee is a party, before any court or governmental department, commission, board, bureau agency or instrumentality that questions the validity of the Agreement or any action taken or to be taken pursuant thereto, or that seeks to enjoin or otherwise prevent the consummation of the transactions contemplated by the Agreement or to recover in damages or obtain other relief as a result thereof where such damages or other relief would reasonably be expected to have a Material Adverse Effect.

(viii) [On Disbursement Dates other than the Disbursement Date for the Initial Disbursement, the following will replace numbers (iv) and (vi) above: To my knowledge, no Material Default has occurred under the Agreement, or other event which, with the giving of notice or lapse of time, would constitute a Material Default.]

NOTE: All opinions will be subject to exceptions, qualifications and assumptions as customary and as standard for opinion giver, including, without limitation (i) the qualification that opinions as to enforceability are subject to the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar law affecting creditors' rights generally and to the effect of general principles of equity, including without limitation concepts of materiality, reasonableness, good faith and fair dealing regardless of whether considered in a proceeding in equity or at law, (ii) the qualification that knowledge is limited to the actual knowledge of the particular attorney who is giving the opinion, (iii) the assumption that all items submitted to the opinion giver as originals are authentic, all signatures thereon are genuine, all items submitted as copies conform to the originals, and that each such items has been duly executed and delivered by each party (other than Awardee) pursuant to due authorization as such party's legal, valid and binding obligation, enforceable against such party in accordance with its respective terms; (iv) the qualification that the opinions expressed are limited to the laws of the State of Florida; and (v) the qualification that no opinions are given with respect to the enforceability of the provisions of the Agreement requiring arbitration. The opinion letter may be accompanied and qualified by and may rely on an Officer's Certificate issued by a senior officer of Awardee, which may include, without limitation, statements that (i) Awardee is qualified in each state in which Awardee is required to be so qualified and in which Awardee maintains an office, has employees or owns or leases property, except where the failure so to qualify or to be in good standing would not reasonably be expected to have a Material Adverse Effect, (ii) to such officer's actual knowledge, there is no pending litigation against Awardee before any court or administrative agency that would reasonably be expected to have a Material Adverse Effect and that is not listed in Disclosure Letter, and (iii) no Material Default has occurred.

EXHIBIT "8" – Monitoring Instrument

DELIVERABLE	YES	NO	NOT APPLICABLE
1. Number of Jobs created consistent with approved Business Plan and Innovation Incentive Funding Agreement?			
2. Number of Jobs created verified?			
3. Average salaries of Jobs created consistent with approved Business Plan and Funding Agreement?			
4. Confirmed Average Wage is verified as at least 130% of the Average Private Sector Wage of the State of Florida?			
5. Person designated to assist in collaborative efforts with OTTED?			
6. Compliance with OTTED's requests for cooperation verified by OTTED?			
7. Equipment purchases / contracts consistent with approved Budget?			
8. Equipment purchases / contracts (if any) involving Incentive Funds verified?			
9. UCC statement filed / updated for new qualifying capital equipment (if any) purchased with Incentive Funds during quarter?			
10. Receipt of quarterly reports as and when required?			
11. Receipt of non-state funding sources consistent with Budget?			
12. Evidence of collaborative efforts with Florida universities delivered and verified?			
13. Report of dollar and value of grants?			
14. Evidence of workforce training and recruitment activities at public and / or private universities provided and verified?			
15. Evidence of policy to promote supplier diversity?			
16. Establishment and implementation of policy of equal employment opportunities?			
17. Records made available in timely manner as required by OTTED?			
18. Compliance with required applicable Disbursement Conditions verified?			
19. Verification that Awardee is in good standing, has not declared bankruptcy, has filed any required tax returns?			
20. Certification by Awardee that Incentive Funds have been spent in accordance with Innovation Incentive Funding Agreement?			

EXHIBIT "9" - Florida Single Audit Act Requirements

The administration of Innovation Incentive Funds awarded by the Office of Tourism, Trade, and Economic Development (OTTED) and disbursed to Awardee are subject to audits and/or monitoring of OTTED, as described in this section.

MONITORING

By entering into this agreement, Awardee agrees to comply and cooperate with any monitoring procedures / processes as to Awardee as deemed reasonably appropriate by OTTED. In the event OTTED determines that a limited scope audit of Awardee is appropriate, Awardee agrees to comply with any additional instructions provided by OTTED to Awardee regarding such audit. Awardee further agrees to comply and cooperate with any inspections, reviews, investigations or audits as to Awardee deemed necessary by the Chief Financial Officer, Auditor General, or Chief Inspector General of the State of Florida. Awardee shall permit access to Awardee's records and shall give its permission to its independent auditor for review of the auditor's working papers as necessary to comply with the requirements of this Agreement.

AUDITS

1. In the event that Awardee expends a total amount of State awards (i.e., State financial assistance provided to the recipient to carry out a State project) equal to or in excess of $500,000, in any fiscal year of Awardee, Awardee must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes (the Single Audit Act); applicable rules of the Executive Office of the Governor and Chapter 69I-5, Rules of the Department of Financial Services. In determining the State financial assistance expended in its fiscal year, Awardee shall consider all sources of State awards, including State funds received from OTTED, except that State financial assistance received by a non-state entity for Federal program matching requirements shall be excluded from consideration.

2. In connection with the audit requirements Awardee shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a reporting package as defined by Section 215.97(8)(g), Florida Statutes, and Chapter 69I-5, Rules of the Department of Financial Services

3. If Awardee expends less than $500,000 in State financial assistance in its fiscal year, an audit conducted in accordance with the provisions of the Single Audit Act is not required. In the event that Awardee expends less than $500,000 in State financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of the Single Audit Act, the cost of the audit must be paid from non-State funds (i.e,. the cost of such an audit must be paid from Awardee funds obtained from other than State entities).

4. For information regarding the Florida Single Audit Act, including the Florida Catalog of State Financial Assistance (CFSA), Awardee should access the website for the Department of Financial Services located at https://apps.fldfs.com/fsaa/ for assistance. In addition to the above website, the following websites may be accessed for information:

Legislature's website http://www.leg.state.fl.us/ and the Auditor generals Website http://www.state.fl.us/audgen/.

REPORT SUBMISSION

Copies of audit reports for the annual financial audit conducted in accordance with Generally Accepted Accounting Principles shall be submitted to the parties set out below. The annual financial audit report shall include all management letters and Awardee's response to all findings, including corrective actions to be taken. The annual Florida Single Audit report shall include a schedule of financial assistance specifically identifying all Innovation Incentive Funds and other revenue by the sponsoring agency and Agreement number.

The complete financial audit report, together with the Florida Single Audit report and including all items specified above, shall be sent directly to:

Jorge Nunez
Office for Tourism, Trade and Economic Development
The Capitol, Suite 1902
Tallahassee, Florida 32399-0001

and

State of Florida, Auditor General
Attn Ted J. Sauerbeck
Room 574, Claude Pepper building
111 West Madison Street
Tallahassee, Florida 322302-1450

RECORDS RETENTION

Awardees shall retain all grant records as to Awardee and shall request that its independent auditors retain their working papers relating to Awardee for a period of five (5) years from the date of submission for the final project report. If any litigation, claim negotiation, audit or other action involving the records has been started before the expiration of the five (5) year period, the records shall retained until completion of the action and resolution of all issues which arise from it, or until the end of the five (5) year period, whichever is later.

EXHIBIT "10" – Equipment Budget

See attached.

Max Planck Florida Institute

	Measurement Periode (Effective Date + 10 Years or 135 Jobs)											
	Year 0 3/08 - 2/09	**Year 1** 3/09 - 2/10	**Year 2** 3/10 - 2/11	**Year 3** 3/11 - 2/12	**Year 4** 3/12 - 2/13	**Year 5** 3/13 - 2/14	**Year 6** 3/14 - 2/15	**Year 7** 3/15 - 2/16	**Year 8** 3/16 - 2/17	**Year 9** 3/17 - 2/18	**Year 10** 3/18 - 2/19	
Jobs		*25*	*61*	*91*	*108*	*121*	*130*	*135*	*135*	*135*	*135*	
Equipment Investments												
Devisions		643	1,467	1,640	1,953	1,386	1,192	891	572	1,085	1,999	12,828
Jun. Research Groups			399	204		213	218		457	234		1,725
Infrastructure		3,426	6,510	3,279					4,017	3,875	3,845	24,952
		4,069	**8,376**	**5,123**	**1,953**	**1,599**	**1,410**	**891**	**5,046**	**5,194**	**5,844**	**39,505**
Construction Investments		**10,000**	**50,000**	**12,000**								**72,000**
Operations												
Devisions	*1,000*	427	1,310	2,234	3,656	5,199	6,290	6,924	7,583	7,758	7,936	50,317
Jun. Research Groups			440	1,126	1,382	1,650	2,170	2,467	2,523	2,581	2,641	16,980
Infrastructure		2,015	4,123	5,803	8,094	8,280	8,471	8,665	8,865	9,069	9,277	72,662
	1,000	**2,442**	**5,873**	**9,163**	**13,132**	**15,129**	**16,931**	**18,056**	**18,971**	**19,408**	**19,854**	**139,959**
	1,000	**16,511**	**64,249**	**26,286**	**15,085**	**16,728**	**18,341**	**18,947**	**24,017**	**24,602**	**25,698**	**251,464**
OTTED + SBA Interest*	**30,000**	**30,000**	**24,090**	**10,000**				**3,000**				97,090
PBC		**14,069**	**25,331**	**15,600**		**13,140**		**13,380**		**5,350**		86,870
Grants, Philantrophy					**500**	**1,000**	**3,000**	**5,000**	**8,500**	**11,750**	**14,800**	44,550
MPF Corp. Interest*	**500**	**2,000**	**2,000**	**2,000**	**1,500**	**1,500**	**750**	**1,000**	**500**			11,750
	30,500	**46,069**	**51,421**	**27,600**	**2,000**	**15,640**	**3,750**	**22,380**	**9,000**	**17,100**	**14,800**	**240,260**
p.a.	29,500	29,558	-12,828	1,314	-13,085	-1,088	-14,591	3,433	-15,017	-7,502	-10,898	
Total	**29,500**	**59,058**	**46,230**	**47,544**	**34,459**	**33,371**	**18,780**	**22,213**	**7,196**			

*Rough Estimation

EXHIBIT "E"

GRANT AGREEMENT

GRANT AGREEMENT

BETWEEN

PALM BEACH COUNTY

AND

MAX PLANCK FLORIDA CORPORATION

TABLE OF CONTENTS

		Page
ARTICLE I	Recitals	2
ARTICLE II	Definitions	2
ARTICLE III	Representations and Warranties	10
A.	MPFC's Representations and Warranties	10
B.	The County's Representations and Warranties	13
ARTICLE IV	Establishment of Max Planck Florida Institute	14
A.	Establishment of Max Planck Florida Institute; Purpose	14
B.	Name	14
C.	MPFC's Tax-Exempt Status	14
D.	MPFC's Funding	14
E.	Other Funding Sources	14
ARTICLE V	Facilities and Funding	15
A.	Temporary Facilities	15
B.	MPFC's Permanent Facilities Construction	15
C.	Accounts for Grant Funds	16
D.	Disbursement and Use of Construction Funds	16
E.	Disbursement and Use of Operating Funds	17
F.	Conditions Precedent	21
G.	Termination Due to Failure of Conditions	22
H.	Condition on County's Funding Obligations	22
I.	Acknowledgment of Governmental Limitations	22
J.	Governmental Authority	22
K.	No Warranty of Accuracy	23
ARTICLE VI	Covenants of MPFC	23
A.	Incorporation of Funding Agreement Covenants	23
B.	Educational Opportunities	23
C.	Cooperation with Economic Development Activities	24
D.	Job Creation and Salaries	24
E.	Grant Funding	25
F.	Investment of Royalties in Education	25
G.	Max Planck Science Tunnel	25

ARTICLE VII Exclusive Facility; Outside Activities 26
A. Limitation on Additional Research Facilities 26
B. Certain Acknowledgments 26
C. Modification of Covenant 26
ARTICLE VIII General Conditions 26
A. Contingent Fees 26
B. Civil Rights Compliance and Opportunities for Residents 27
C. Competitive Procurement 27
D. SBE Project Goal 28
E. Federal and State Law 28
F. Insurance 28
G. Indemnification of the County 31
ARTICLE IX Term, Termination, and Default 32
A. Term 32
B. Termination 32
C. MPFC Events of Material Default 33
D. MPFC Events of Default 33
E. The County Events of Material Default 33
F. County Events of Default 34
ARTICLE X Remedies 34
A. Remedies for Default 34
B. Limitation of Liability 34
C. Governing Law/Venue 34
ARTICLE XI Allocation of Funds 35
ARTICLE XII Inspection 35
A. County's Covenants Regarding Confidential and/or Proprietary Records of MPFC 35
B. Examination of Certain Other Records 35
ARTICLE XIII Successors and Assigns 35
ARTICLE XIV County Credit; Police Powers 36
ARTICLE XV Independent Contractor Relationship; Third Parties 36
A. Independent Contractor Relationship 36
B. Third Parties 36
ARTICLE XVI Severability; Construction of Agreement 36

A. Severability 36
B. Construction of Agreement 37
ARTICLE XVII No Forfeiture 37
ARTICLE XVIII Waiver 37
ARTICLE XIX Public Entity Crimes 37
ARTICLE XX Enforcement Costs 37
ARTICLE XXI Amendments 37
ARTICLE XXII Captions 37
ARTICLE XXIII Notice 38
ARTICLE XXIV Entirety of Contractual Agreement 39
ARTICLE XXV Delegation 39
ARTICLE XXVI No Fees 39
ARTICLE XXVII Inconsistency 39
ARTICLE XXVIII Consents 40
ARTICLE XXIX Time is of the Essence 40

GRANT AGREEMENT BETWEEN
PALM BEACH COUNTY AND
MAX PLANCK FLORIDA CORPORATION

THIS GRANT AGREEMENT is made as of the_____day of July, 2008, by and between PALM BEACH COUNTY, a political subdivision of the State of Florida (hereinafter the "County"), by and through its Board of County Commissioners, and MAX PLANCK FLORIDA CORPORATION (hereinafter "MPFC"), a Florida not-for-profit corporation.

WITNESSETH:

WHEREAS, The Max Planck Society of Germany is one of the world's largest research organizations; and

WHEREAS, The Max Planck Society of Germany has established MPFC as a separate legal entity with independent existence; and

WHEREAS, it is the policy of the County to encourage and stimulate economic growth in Palm Beach County by either attracting new businesses to Palm Beach County or by assisting businesses to expand into Palm Beach County that would otherwise expand elsewhere; and

WHEREAS, the creation of new full-time employment opportunities for residents of Palm Beach County and the tax revenues resulting from business relocation or expansion within Palm Beach County are beneficial to the local economy; and

WHEREAS, the State of Florida has determined that counties may expend funds to attract and retain business enterprises, the use of public funds toward the achievement of such economic development goals constitutes a public purpose, and encouraging MPFC to operate in the State constitutes a public purpose; and

WHEREAS, while the County grants funds to MPFC directly, MPFC and the County anticipate that much of the County's return will be realized indirectly, through the anticipated creation of an industry cluster that will expand Palm Beach County's economy and tax base; and

WHEREAS, the Board of County Commissioners declares improving economic opportunities available to the residents of Palm Beach County by attracting new or expanding businesses to, and retaining businesses in, Palm Beach County to be an essential governmental service; and service of improving the health of the citizens of Palm Beach County by promoting research and development for the prediction, treatment, prevention, and cure of disease; and

WHEREAS, it is the intent of the County to cause the funds provided pursuant to this Agreement to be used to, among other things, advance the essential government service of improving the health of the citizens of Palm Beach County by promoting research and development for the prediction, treatment, prevention, and cure of disease; and

WHEREAS, the County, in this Agreement, establishes criteria whereby MPFC, by complying with those criteria, can become and remain eligible to receive the benefits outlined in this Agreement thereby fulfilling the County's desire to support projects which will enhance the prospects for economic development in Palm Beach County; and

WHEREAS, the County acknowledges that the covenants and obligations being undertaken by the County pursuant to this Agreement constitute a material inducement to MPFC to establish its operations in Palm Beach County, without which MPFC would not have agreed to enter into this Agreement or agreed to establish its operations in Palm Beach County; and

WHEREAS, MPFC acknowledges that the covenants and obligations being undertaken by MPFC pursuant to this Agreement constitute a material inducement to the County to provide the funding to encourage MPFC to establish its operations in Palm Beach County, without which the County would not have agreed to enter into this Agreement or agreed to provide funding to MPFC to assist its operations in Palm Beach County; and

WHEREAS, MPFC brings to the County its intellectual capital and reputation as a part of a world-renowned research society; and

WHEREAS, MPFC desires to locate its Permanent Facilities on the Florida Atlantic University John D. MacArthur Campus, in close proximity to The Scripps Research Institute facilities; and

WHEREAS, the Board of County Commissioners conducted a public meeting prior to approving this Agreement, heard public comment and has determined that approval of this Agreement is in the best interests of the citizens of Palm Beach County.

NOW, THEREFORE, in consideration of the promises and mutual covenants herein contained, and intending to be legally bound hereby, the parties agree as follows:

ARTICLE I.
RECITALS

The foregoing recitals are correct and true at the time of execution of this Agreement and are incorporated herein.

ARTICLE II.
DEFINITIONS

The following terms, when used in this Agreement, shall have the meanings set forth below:

Accounts. The Project Construction Account and the Operating Account.

Additional Insured. The term "Additional Insured" shall have the meaning ascribed to it in Article VIII(F)(5).

Agreement or Grant Agreement. This Grant Agreement, as amended and supplemented, and all addenda, schedules and exhibits hereto (including, without limitation, the FAU Site Obligations and Permanent Facilities Development Addendum), which are incorporated herein by this reference. Words such as "herein," "hereafter," "hereof," "hereto," "hereby" and "hereunder," when used with reference to this Agreement, refer to this Agreement as a whole, unless the context otherwise requires.

Annual Average. The sum of the total number of MPFC New Jobs on the last day of each month during the preceding calendar year divided by 12.

Average Annual Salary. The total amount of compensation paid to Covered Employees during the preceding calendar year (as determined on an annual basis as of December 31st of that year), and annualized for any partial year Covered Employees, divided by the total number of Covered Employees actually employed as of December 31st of that year. For purposes of calculating the Average Annual Salary, compensation shall include only such monies, benefits and other compensation used by the Florida Agency for Workforce Innovation, or any successor entity, in reporting per capita income for the State of Florida.

Best Efforts. As used herein, the term "best efforts" means the obligation to make every effort a prudent business entity (in the case of MPFC) or governmental entity (in the case of the County) under similar circumstances would make when acting in a determined manner to obtain the intended result by action or expenditure, which is not unreasonably disproportionate or burdensome under the circumstances, but which is subject to the limitation on remedies and/or expenditures set forth herein.

Biomedical Research Facility. A facility for biomedical and other related scientific research, training and education, together with related office uses and with ancillary uses such as classrooms, lecture halls, conference rooms, cafeterias, libraries and recreation and fitness facilities for the use and benefit of MPFC's employees and guests.

Biomedical Research Institute. An organization for biomedical and other related scientific research, training and education.

Board of County Commissioners. The Palm Beach County Board of County Commissioners.

Board of Trustees. The governing body of MPFC with the exclusive power to direct and supervise the operational affairs of MPFC.

Board of Trustees of the Internal Improvement Trust Fund. The Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, which includes the Florida Department of Environmental Protection when acting under the authority delegated to it by the Board of Trustees of the Internal Improvement Trust Fund.

Bond Issuance Schedule. The issuance by the County of Bonds in the amounts and on the dates shown on Exhibit "A".

Bonds. The term "Bonds" shall have the meaning ascribed to it in Article V(H).

Business Day. Any day other than a Saturday, a Sunday or a bank holiday under the laws of the State of Florida. Use of the word "day", as opposed to Business Day, means calendar day.

Ceased Operations. Shall have the meaning set forth in the Funding Agreement.

Certificate of Occupancy. The term "Certificate of Occupancy" shall have the meaning ascribed to it in Article V(E)(7).

Code. The United States Internal Revenue Code of 1986, as amended, and as to any specific Code section, any corresponding provision or provisions of any succeeding law.

Commercial Spin-Off. A commercial entity that derives a portion of its commercial activities from the application or use of a technology (e.g. inventions, know-how, software and corresponding patent rights) developed by MPFC, or as a result of MPFC's activities or MPFC's scientists. Without limiting the generality of the foregoing, a Commercial Spin-Off may include an enterprise that has been created either (1) to license-in a MPFC technology in order to develop and commercialize products and/or services, (2) to fund research at MPFC in order to further develop MPFC technology that will thereafter be licensed-in by the Commercial Spin-Off, or (3) by MPFC scientist(s) as (co-)founder(s) of the Commercial Spin-Off.

Construction Contract. The term "Construction Contract" shall have the meaning ascribed to it in the Permanent Facilities Development Addendum.

Construction Cost. All costs incurred by MPFC pursuant to the Construction Contract.

Construction Funds. Those funds deposited into the Project Construction Account which shall be used to pay Project Costs as provided for herein.

Construction Soft Cost. All costs, other than Construction Costs, incurred by MPFC after commencement of construction related to the construction of the Permanent Facilities (exclusive of the Construction Cost), which includes but is not limited to costs for architectural services, the program manager services, permit fees, inspections, impact fees, any Remediation Costs, necessary travel (which with respect to travel expenditures reimbursed or paid directly by MPFC shall be subject to the limitations contained in Section 112.061, Florida Statutes, regardless of whether the traveler is a public or private employee), testing laboratory, utility connections and temporary utilities, but only to the extent such costs are related to the construction of the Permanent Facilities.

Consultant. The term "Consultant" shall have the meaning ascribed to it in the Permanent Facilities Development Addendum.

Contractor. The term "Contractor" shall have the meaning ascribed to it in the Permanent Facilities Development Addendum.

County or Palm Beach County. Palm Beach County, Florida a political subdivision of the State of Florida.

County Administrator. The Palm Beach County Administrator or his or her designee.

Covered Employees. The term "Covered Employees" shall include the following categories of employees of MPFC employed at the FAU Site: (i) professors; (ii) associate professors (iii) assistant professors, (iv) research faculty; (v) staff scientists; (vi) research associates and post doctoral students; and (vii) administration. The term "employee" as used herein shall include any person employed at the FAU Site or under the direction and control of MPFC regardless of the source of funds providing a salary to that person.

Covered Person or Covered Persons. The term "Covered Person" or "Covered Persons" shall have the meaning ascribed to it in Article VIII(G)(1).

Damages. The term "Damages" shall have the meaning ascribed to it in Article VIII(G)(1).

Default. The term "Default" shall have the meaning ascribed to it in Article IX(D) (with respect to MPFC) and Article IX(F) (with respect to the County).

Design Costs. The term "Design Costs" shall have the meaning ascribed to it in the Permanent Facilities Development Addendum, subject to the limitations contained herein.

Design Professional. The term "Design Professional" shall have the meaning ascribed to it in the Permanent Facilities Development Addendum.

Due Diligence Materials. The FAU Site Due Diligence Materials.

Effective Date. The term "Effective Date" shall mean the date that this Agreement is signed on behalf of the Board of County Commissioners.

Environmental Law. The term "Environmental Law" shall have the meaning ascribed to it in Article III(A)(13).

Environmental Permits. The term "Environmental Permits" shall have the meaning ascribed to it in Article III(A)(14).

FAU. Florida Atlantic University.

FAU Lease. The term "FAU Lease" shall have the meaning ascribed to it in Article V(B)(1)(a).

FAU Site. The approximately six (6) acre parcel of land the general location of which is described in the attached Exhibit "B".

FAU Site Due Diligence Materials. The following due diligence materials relating to the FAU Site: a title report and commitment, Phase I Environmental Audit, Phase II Environmental Audit (if necessary or appropriate), geotechnical report, gopher tortoise report, archeological report, topographical survey, boundary survey and aerial survey.

FAU Site Obligations. The requirements set forth in the attached Exhibit "C".

FAU Sublease. The term "FAU Sublease" has the meaning ascribed to it in Article V(B)(1)(a).

Force Majeure Event. The term "Force Majeure Event" shall mean (a) with respect to MPFC only, any (i) failure of refusal of OTTED to comply with its material obligations under the Funding Agreement that is not due to a breach by MPFC thereunder or (ii) permitting delay or related administrative or judicial proceeding beyond the control of MPFC or (b) with respect to MPFC and the County, any act of God, war, riot, terrorism, civil unrest, labor disturbances, or other similar event affecting such Party and that is not within the control of such Party.

Full-time or Equivalent. Two thousand eighty hours (2,080) annually, which includes employee work hours, vacation time and sick time.

Funding Date. The term "Funding Date" shall have the meaning ascribed to it in Article V(E)(7.2).

Funding Agreement. That certain Innovation Incentive Funding Agreement dated March 12, 2008 by and between MPFC and OTTED.

Governmental Licenses. The term "Governmental Licenses" shall have the meaning ascribed to it in Article III(a)(9).

Grant Funds. The funds generated by the issuance and sale of the Bonds, which funds are to be distributed to MPFC in accordance with the terms of this Agreement in a maximum aggregate amount of $86,926,000.

Grant Request. The term "Grant Request" shall have the meaning ascribed to it in Article V(E)(7.3).

Gross Floor Area. The horizontal square footage of all floors of a building measured from the exterior face of exterior walls or other type of enclosure, or from the centerline of a wall separating two buildings. The calculation of Gross Floor Area shall not include parking areas or parking structures.

Hazardous Substances. Any hazardous or toxic substances, materials or wastes, pollutants or contaminants regulated by Environmental Laws, as now or may hereinafter be amended, including, but not limited to, petroleum products, biomedical waste, radioactive materials, flammable or corrosive substances, explosives, polychlorinated biphenyls and asbestos.

Infrastructure. Such roads, water, sewer, telephone, electric, fiber optic cable and natural gas infrastructure improvements as may be necessary to construct and fully utilize the Permanent Facilities on the FAU Site.

Job Creation Date. The term "Job Creation Date" shall have the meaning ascribed to it in the Job Creation Schedule attached hereto as Exhibit "D".

Job Maintenance Goal. The maintenance by MPFC as of December 31st of each calendar year following the Job Creation Date of an Annual Average of one hundred thirty-five MPFC New Jobs. It is expressly understood that any MPFC New Job that is lost to a Commercial Spin-Off located in Palm Beach County or that maintains such MPFC New Job in Palm Beach County shall forever be deemed to have been "maintained" for purposes of determining whether the Job Maintenance Goal has been met.

Legal Requirements. The term "Legal Requirements" shall have the meaning ascribed to it in Article III(A)(13).

MacArthur Deed Restriction. The restrictions set forth in that certain Special Warranty Deed from the MacArthur Foundation to the Board of Trustees of the Internal Improvement Trust

Fund recorded in Official Records Book 10248, Page 3 of the Public Records of Palm Beach County.

MacArthur Foundation. The John D. and Catherine T. MacArthur Foundation, an Illinois not-for-profit corporation.

Material Adverse Effect. The term "Material Adverse Effect" shall mean a material adverse change in or effect on the business, condition (financial or otherwise), or a change in unrestricted net assets, affairs or prospects, whether or not in the ordinary course of operations, of MPFC, which change would reasonably be expected to jeopardize the ability of MPFC to continue to conduct its core operations in the future.

Material Default. The term "Material Default" shall have the meaning ascribed to it in Articles IX(C) (with respect to MPFC) and IX(E) (with respect to the County).

MPFC New Job. A MPFC Full-time or Equivalent employee, including MPFC's Full-time and Equivalent leased employees and contract positions, but excluding any new job meeting the preceding criteria attributable to MPFC solely by virtue of a merger or acquisition of an existing business or operation in Palm Beach County. The term "employee" as used in this Agreement shall include any person employed at the Temporary Facilities, Permanent Facilities or additional facilities on the FAU Site, or under the direction and control of MPFC at the Permanent Facilities regardless of the source of funds providing a salary to that person. It is expressly understood that an MPFC New Job shall be deemed to have been created for purposes of this Agreement as soon as an offer for Full-time or Equivalent employment has been extended by MPFC to an individual provided, however, that such offer has been accepted and provided, further, that if such individual does not begin to provide services pursuant to such employment within one calendar year of such offer, such MPFC New Job shall not count towards the Job Maintenance Goal.

MPFC Parties. The term "MPFC Parties" shall have the meaning ascribed to it in Article VIII(G)(1).

Net Royalty Income. The term "Net Royalty Income" shall have the meaning ascribed to it in Article VI(F).

Operating Account. The term "Operating Account" shall mean that separate restricted account, created and controlled by the County, which shall be used exclusively for the receipt, maintainence, and disbursement of the Operating Funds.

Operating Funds. The term "Operating Funds" shall have the meaning ascribed to it in Article V(E)(1).

OSBA. The Palm Beach County Office of Small Business Assistance.

OTTED. Florida's Office of Tourism, Trade and Economic Development.

Permanent Facilities. The Biomedical Research Facility consisting of laboratory and office space, including fixtures, to be constructed pursuant to the Permanent Facilities Development Addendum, which: (i) shall include all necessary Infrastructure to serve the uses; (ii) shall

include such classroom and meeting space for use by FAU (the "Shared Space") as agreed to by and between FAU and MPFC; and (iii) may include, at MPFC's sole discretion, appropriate ancillary uses such as: (a) classrooms, (b) lecture halls, (c) conference rooms, (d) cafeterias, (e) libraries, (f) parking, and (g) landscape/open space areas. As of the Effective Date, it is anticipated that the Gross Floor Area of the Permanent Facilities may be approximately one hundred thousand (100,000) square feet. The specific size and features of the Permanent Facilities will be determined by MPFC in its sole discretion, however, the Gross Floor Area of the Permanent Facilities shall not be reduced below 90,000 square feet without the express approval of the Board of County Commissioners.

Permanent Facilities Development Addendum. The Permanent Facilities Development Addendum attached hereto as Exhibit "E".

Person. Any partnership, joint venture, association, corporation, limited liability company, trust or other entity, or, where the context so permits or requires, a natural person.

Pre-Construction Cost. Design Cost and all other costs incurred by MPFC prior to commencement of construction associated with obtaining the FAU Site Due Diligence Materials and Required Approvals and other pre-construction activities, which includes but is not limited to costs of architectural and engineering services, program manager services, preconstruction services of the construction manager, necessary travel (which with respect to travel expenditures reimbursed or paid directly by MPFC with Grant Funds shall be subject to the limitations contained in Section 112.061, Florida Statutes, regardless of whether the traveler is a public or private employee), permit fees including fees for the state fire marshall, due diligence materials, bidding, updating procurement/safety/quality plans, SBE strategy and outreach program, and the cost of remediating any Pre-existing Environmental Condition on the FAU Site.

Pre-existing Environmental Condition. An environmental condition identified in the FAU Site Due Diligence Materials as affecting the FAU Site or determined by an independent environmental consultant to have occurred prior to FAU's delivery of possession to MPFC of the FAU Site.

Preliminary Costs. The term "Preliminary Costs" shall have the meaning ascribed to it in Article V(D).

Primary Operations. The location in Palm Beach County where seventy per cent (70%) of MPFC's employees are employed.

Prohibited Action. The term "Prohibited Action" shall have the meaning ascribed to it in Article IV(C).

Project Construction Account or Construction Account. Shall mean that separate restricted capital account, created and controlled by the County, which shall be used exclusively for the receipt, maintainence, and disbursement of the construction funds from which the Project Costs will be paid for the Permanent Facilities

Project Cost. The term "Project Cost" shall include all construction and construction-related costs associated with construction of the Permanent Facilities, including but not limited to Design Costs, Construction Cost, Construction Soft Cost, Pre-Construction Cost, Remediation

Costs, costs associated with Due Diligence Materials, and any and all other Reimbursable Costs as further described in the Permanent Facilities Development Addendum and herein, subject to the limitations contained herein.

Project Cost Maximum Funding Requirement. The term "Project Cost Maximum Funding Requirement" shall have the meaning ascribed to it in Article V(D)

Reimbursable Costs. The term "Reimbursable Costs" shall have the meaning ascribed to it in the Permanent Facilities Development Addendum, subject to the limitations contained herein.

Remediation Cost. The cost of remediating any Pre-existing Environmental Condition on the FAU Site.

Request for Funding. The term "Request for Funding" shall have the meaning ascribed to it in Article V(E)(7.5).

Required Approvals. All necessary development approvals and regulatory permits required to commence construction of the Permanent Facilities on the FAU Site, including, but not limited to, a South Florida Water Management District ERP Construction Permit, Northern Palm Beach County Improvement District Drainage Permit, Florida Department of Environmental Protection NPDES Permit, Florida Department of Environmental Protection Water/Wastewater Construction Permit, and building permits issued by FAU.

Royalty Commencement Date. The term "Royalty Commencement Date" shall have the meaning ascribed to it in Article VI(F).

Royalty Measurement Period. The term "Royalty Measurement Period" shall have the meaning ascribed to it in Article VI(F).

Royalty Revenue. The term "Royalty Revenue" shall have the meaning ascribed to it in Article VI(F).

Small Business Enterprise or SBE. A business which is certified by the State of Florida or Palm Beach County, as a SBE. Once an entity has been certified by the State of Florida or Palm Beach County as a SBE and has entered into a contract for services or goods to MPFC, such entity shall continue to be considered a SBE for purposes of this Agreement for the entire Term, including any extensions or renewals. For purposes of this definition, an enterprise certified by the State of Florida as a "minority business enterprise" pursuant to Fla. Stat. § 288.702 *et. seq.* (2007), as amended, shall be deemed to be a SBE.

SBE Project Goal. The term "SBE Project Goal" shall have the meaning ascribed to it in Article VIII (D).

Science Tunnel. The term "Science Tunnel" shall have the meaning ascribed to it in Article VI(G).

Solvent. With respect to any Person, that: (i) such Person is not engaged in business or a transaction for which such Person's property would constitute unreasonably small capital after giving due consideration to the prevailing practice in the industry in which such Person is

engaged; or (ii) such Person is able to realize upon its assets and pay its debt and other liabilities, contingent obligations and other commitments as they mature in the normal course of business.

State. The State of Florida.

Temporary Facilities. The temporary facilities to be made available by FAU on the FAU John D. MacArthur Campus pursuant to the Temporary Facility Agreements to be entered into between MPFC and FAU.

Term. The term "Term" shall have the meaning ascribed to it in Article IX(A).

Trigger Date. The date on which MPFC hires a Founding Director.

Unused Project Funds. The term "Unused Project Funds" shall have the meaning ascribed to it in Article V(C).

ARTICLE III.
REPRESENTATIONS AND WARRANTIES

A. MPFC's Representations and Warranties. As a material inducement to the County to enter into this Agreement and to consummate the transactions contemplated hereby, MPFC hereby acknowledges, represents and warrants to the County that the following acknowledgments, representations and warranties are true and correct as of the Effective Date:

1. MPFC has been duly incorporated and is a validly existing not-for-profit corporation under the laws of the State of Florida. MPFC is in good standing under the laws of the State of Florida and is duly qualified to do business as a domestic corporation under the laws of the State of Florida and of each jurisdiction which requires such qualification wherein it owns or leases properties or conducts business, except in such jurisdictions in which the failure to be so incorporated or organized and validly existing or to so qualify, in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

2. MPFC has full legal authority to own or lease its properties and conduct its operations and has full corporate power to enter into this Agreement and to carry out all the terms and conditions hereof.

3. The Board of Trustees and officers of MPFC are empowered to make all business decisions with respect to MPFC, and such Board of Trustees has not delegated, whether by contract or through its Articles of Incorporation or by-laws, any of the powers to manage or operate MPFC to any other Person, except to the extent the Board of Trustees has delegated some of its powers to its executive committee, its audit committee, its compensation committee, and such other committees as the Board of Trustees deems fit to establish from time to time.

4. This Agreement has been duly authorized, executed and delivered by MPFC and constitutes a valid and binding agreement of MPFC, enforceable against MPFC in accordance with its terms, except as the enforcement thereof may be limited by bankruptcy, insolvency (including, without limitation, all laws relating to fraudulent transfers), reorganization,

moratorium or similar laws affecting enforcement of creditors' rights generally and except as enforcement thereof is subject to general principles of equity (regardless of whether enforcement is considered in a proceeding in equity or at law).

5. Except for such conflicts, breaches, violations or defaults that would not reasonably be expected to have a Material Adverse Effect or would not reasonably be expected to materially impact the ability of MPFC to perform its material obligations under this Agreement, the authorization, execution and delivery of this Agreement and the performance of this Agreement by MPFC do not: (i) other than the Required Approvals require the consent, approval, authorization, order, registration or qualification of, or filing with, any governmental authority or court, or body or arbitrator having jurisdiction over MPFC or its assets or properties; or (ii) conflict with, result in a breach or violation of, or constitute a default under: (a) any contract, indenture, mortgage, deed of trust or loan or credit agreement, note, lease or other agreement or instrument to which MPFC is a party or by which MPFC or any of its properties is bound; (b) the Articles of Incorporation or by-laws of MPFC; or (c) any statute, rule or regulation or any judgment, order or decree of any governmental authority or court or any arbitrator applicable to MPFC.

6. Except for any legal or governmental proceedings or investigations that may be pending as of the Effective Date in respect of the FAU Site, no legal or governmental proceedings or investigations are pending or, to the actual knowledge of MPFC, threatened to which MPFC is a party or to which the property of MPFC is subject, except for such proceedings or investigations which would not reasonably be expected to have a Material Adverse Effect or which would not reasonably be expected to materially impact the ability of MPFC to perform its material obligations under this Agreement.

7. MPFC is, and after consummation of the transaction contemplated in this Agreement will be, Solvent.

8. No proceeding looking toward merger, amalgamation, consolidation, liquidation or dissolution of MPFC, or the sale of all or substantially all of the assets of MPFC is pending or contemplated.

9. MPFC possesses, or will possess when required, all certificates, authorizations and permits (collectively, "Governmental Licenses") issued by the appropriate federal, state, local or foreign regulatory authorities necessary to conduct its operations, except where the failure to have such Governmental Licenses would not reasonably be expected to have a Material Adverse Effect or to prevent MPFC from performing its material obligations under this Agreement; MPFC is or will be in compliance with the terms and conditions of all such Governmental Licenses, except where the failure so to comply would not reasonably be expected to have a Material Adverse Effect or prevent MPFC from performing its material obligations under this Agreement; all of the Governmental Licenses are valid and in full force and effect, except where the invalidity of such Governmental Licenses or the failure of such Governmental Licenses to be in full force and effect would not reasonably be expected to have a Material Adverse Effect or prevent MPFC from performing its material obligations under this Agreement; and MPFC has not received any notice of proceedings relating to the revocation or modification of any such certificate, authorization or permit issued prior to the Effective Date that would

reasonably be expected to have a Material Adverse Effect or prevent MPFC from performing its material obligations under this Agreement.

10. MPFC has received or will receive a determination from the Internal Revenue Service that it meets the requirements of Section 501(c)(3) of the Code, and MPFC is or will be in material compliance with the terms of such determination.

11. MPFC is or will be, when required, in material compliance with the terms, conditions, rules, mandates and policy guidelines pertaining to all applicable federal, state and private financial grants, sponsored research agreements and funding contracts from which MPFC derives revenue, including, but not limited to, all related financial and progress reporting and disclosure requirements, except for any noncompliance that would not reasonably be expected to have a Material Adverse Effect.

12. MPFC is in material compliance with all federal, state, local and foreign laws, statutes, ordinances, rules, regulations, decrees, orders, and permits applicable to the operation of MPFC's facilities and the conduct of its research activities and operations, including, without limitation, to the extent applicable: (i) insurance laws and regulations and (ii) licensing and certificate laws and regulations covering any aspect of the operations of MPFC, except, in each case, where such noncompliance would not reasonably be expected to have a Material Adverse Effect. MPFC has not received any notification asserting, and has no actual knowledge of, any present or past failure to comply with, or any violation of, such laws, statutes, ordinances, rules, regulations, decrees, orders, and permits, except where such non-compliance or violation would not reasonably be expected to have a Material Adverse Effect.

13. MPFC is in material compliance with all applicable laws, statutes, ordinances, rules, regulations, orders, judgments, decisions, decrees, standards, and requirements (collectively, "Legal Requirements") as a result of its operations relating to: pollution or protection of human health and safety from pollution; management, disposal or release of any chemical substance, product or waste; and protection, cleanup, remediation or corrective action relating to the environment or natural resources (collectively, "Environmental Law"), except where such noncompliance or violation would not reasonably be expected to have a Material Adverse Effect.

14. MPFC has obtained, and is in compliance with the conditions of, all material permits, authorizations, licenses, approvals, and variances necessary under any Environmental Law for the continued conduct of its operations in the manner now conducted (collectively, "Environmental Permits"), except where such noncompliance or violation would not reasonably be expected to have a Material Adverse Effect.

15. There are no past or present conditions or circumstances, including but not limited to pending changes in any Environmental Permits, that, to the actual knowledge of MPFC are likely to interfere with the conduct of the operations of MPFC in the manner now conducted or which would interfere with compliance with any Environmental Law or Environmental Permits, except where such noncompliance or violation would not reasonably be expected to have a Material Adverse Effect.

16. To the actual knowledge of MPFC, there are no past or present conditions or circumstances at, or arising out of, the operations of MPFC, including but not limited to on-site or off-site disposal or release of any chemical substance, product or waste, which may give rise to: (i) liabilities or obligations for any cleanup, remediation or corrective action under any Environmental Law; (ii) claims arising under any Environmental Law for personal injury, property damage, or damage to natural resources; (iii) liabilities or obligations incurred by MPFC to comply with any Environmental Law; or (iv) fines or penalties arising under any Environmental Law; except in the case of each of (i), (ii), (iii) or (iv), for any noncompliance or condition or circumstances that would not reasonably be expected to have a Material Adverse Effect.

B. The County's Representations and Warranties. As a material inducement to MPFC to enter into this Agreement and to consummate the transactions contemplated hereby, the County hereby acknowledges, represents and warrants to MPFC that the following acknowledgments, representations and warranties are true and correct as of the Effective Date:

1. The County is a political subdivision of the State of Florida.

2. The County has all requisite power and authority to enter into this Agreement and to carry out all the terms and provisions hereof.

3. This Agreement has been duly authorized by all necessary action of the Board of County Commissioners, executed and delivered by the County and constitutes a valid and binding agreement of the County, enforceable against the County in accordance with its terms, except as the enforcement thereof may be limited by bankruptcy, insolvency (including, without limitation, all laws relating to fraudulent transfers), reorganization, moratorium or similar laws affecting enforcement of creditors' rights generally and except as enforcement thereof is subject to general principles of equity (regardless, of whether enforcement is considered in a proceeding in equity or at law).

4. The authorization, execution and delivery of this Agreement by the County do not require the consent, approval, authorization, order, registration or qualification of, or filing with, any governmental authority or court, or body or arbitrator having jurisdiction over the County or its assets or properties.

5. Neither: (i) the authorization, execution and delivery of this Agreement; (ii) the undertaking of any of the obligations set forth in this Agreement by the County; nor (iii) the obligations imposed on or rights granted to MPFC pursuant to this Agreement, conflict with, result in a breach or violation of, or constitute a default under: (a) the County's charter, County's code of ordinances, County's administrative code, (b) any contract, indenture, mortgage, deed of trust or loan or credit agreement, note, lease or other agreement or instrument to which the County is a party or by which the County or any of its properties are bound, or (c) any statute, rule or regulation or any judgment, order or decree of any governmental authority or court or any arbitrator applicable to the County.

6. Except for any legal or governmental proceedings or investigations that may be pending as of the Effective Date in respect of the FAU Site, no legal or governmental proceedings or investigations are pending or, to the actual knowledge of the County, threatened

to which the County is a party or to which the property of the County is subject, except for such proceedings or investigations which would not reasonably be expected to materially impact the ability of the County to perform its material obligations under this Agreement.

7. The County's underlying rating for the issuance of general obligation debt is AAA by Standard & Poor's and Fitch and Aaa by Moody's. The County's underlying rating for the issuance of non-ad valorem revenue bonds, such as the proposed Bonds, is AA+ by Standard & Poor's and Fitch and Aa1 by Moody's. Based on its current and any anticipated financial conditions, the County has sufficient bonding capacity to finance up to the amount needed to satisfy, on a timely basis, its obligations described herein.

ARTICLE IV.
ESTABLISHMENT OF MAX PLANCK FLORIDA INSTITUTE

A. Establishment of Max Planck Florida Institute; Purpose. MPFC has been formed to establish a Biomedical Research Institute and campus in Palm Beach County. The parties acknowledge and agree that MPFC is an independent legal entity controlled and directed by its Board of Trustees and management; that MPFC controls and directs its research and related affairs; and that County shall not control or direct MPFC's research or its related affairs.

B. Name. MPFC shall operate in the State as "Max Planck Florida Institute" or such other name as determined by MPFC. MPFC shall make such filings and take such other actions as shall be necessary for MPFC to conduct its operations under such name.

C. MPFC's Tax-Exempt Status. The County acknowledges and agrees that maintenance of MPFC's tax-exempt status is critical to the goals set forth herein, and the County agrees it shall impose no requirements upon MPFC that would jeopardize MPFC obtaining or maintaining its tax exempt status for the purposes of federal, state and local laws nor shall the County seek from MPFC any payments in lieu of taxes or its equivalent for property/ad valorem tax revenues not collected by County as a result of MPFC's tax-exempt status (any such action, a "Prohibted Action"). Notwithstanding the foregoing, in no event shall MPFC assert that the execution, performance or enforcement of this Agreement or the consummation of any of the transactions contemplated hereby constitutes a Prohibited Action.

D. MPFC's Funding. Except for the exercise of its remedies as set forth in this Agreement in the case of a Default or Material Default, the County agrees that it shall not impose any requirements upon MPFC that would reasonably be expected to jeopardize (i) MPFC's ability to obtain federal financial grants in the future or (ii) MPFC's ability to obtain funding under the Funding Agreement. Notwithstanding the foregoing, in no event shall MPFC assert that the execution, performance or enforcement of this Agreement or the consummation of any of the transactions contemplated hereby imposes any such requirement.

E. Other Funding Sources. Nothing contained in this Agreement shall in any way limit or restrict MPFC's right to receive or use funds from sources other than the County.

ARTICLE V.
FACILITIES AND FUNDING

A. Temporary Facilities. MPFC shall negotiate an agreement for the use of temporary facilities pending completion of the Permanent Facilities. To the extent that such temporary facilities are not located at FAU's John D. MacArthur Campus, such agreement shall be subject to the reasonable approval of the County.

B. MPFC's Permanent Facilities Construction.

1. FAU Site.

a. FAU Sublease. The parties acknowledge that the Board of Trustees of the Internal Improvement Trust Fund owns the FAU Site and that FAU leases the FAU Site pursuant to that certain Lease Agreement between the Board of Trustees of the Internal Improvement Trust Fund and the Florida Board of Regents dated May 18, 1998 (Lease Number 4189), as amended, as the successor to the Florida Board of Regents ("FAU Lease"). The parties further acknowledge that the Permanent Facilities cannot be constructed on the FAU Site unless FAU and MPFC enter into a sublease agreement for the sublease of the FAU Site to MPFC. The parties acknowledge that MPFC currently is in negotiations with FAU for a fifty (50) year sublease of the FAU Site ("FAU Sublease"), that the terms and conditions of the currently proposed FAU Sublease, including any restrictions and limitations on the use of the FAU Site, are acceptable to the County and that the execution of the FAU Sublease shall be a condition to the disbursement of Grant Funds to MPFC in accordance with Article V(F)(2).

b. FAU Site Obligations. MPFC acknowledges that the County has or will contribute a significant amount of public funds toward the construction of the Permanent Facilities and that the County has requested the option to lease the FAU Site under certain circumstances. MPFC shall comply with the FAU Site Obligations commencing on the effective date of the FAU Sublease and continuing through the Term, to the extent such FAU Site Obligations are not in conflict with the FAU Sublease (and FAU Lease). MPFC acknowledges and agrees that the County does not own the FAU Site and is not attempting to grant MPFC a leasehold interest in the FAU Site. Notwithstanding the foregoing, MPFC acknowledges and agrees that (i) the FAU Site Obligations, to the extent not in conflict with the FAU Sublease (and FAU Lease), shall be fully binding upon and enforceable by the County against MPFC and (ii) to the extent that any requirement of the FAU Site Obligations imposes a more stringent standard upon MPFC than the FAU Sublease (and FAU Lease), such requirement shall not be deemed to be in conflict with the FAU Sublease (and FAU Lease).

c. Application for Required Approvals. MPFC shall, in coordination with FAU, cause complete applications for all Required Approvals to be prepared and filed as soon as reasonably practicable, and thereafter diligently pursue obtaining the Required Approvals. MPFC shall cause all requests by any agency responsible for issuing any of the Required Approvals, including, but not limited to FAU, the South Florida Water Management District, the Florida Department of Environmental Protection and Northern Palm Beach County Improvement District for supplemental or revised documentation or information to be responded to in a timely manner. In the event notice is required to be published by the permitee in order foreclose points of entry to request administrative proceedings to challenge the issuance of any of the Required

Approvals, MPFC shall cause such notice(s) to be published in accordance with the issuing agency's requirements as soon as legally permissible.

d. Construction of Permanent Facilities. MPFC agrees to have the Permanent Facilities designed and constructed in accordance with the requirements of this agreement and the Permanent Facilities Development Addendum. Before MPFC executes the Construction Contract to be awarded by MPFC for construction of the Permanent Facilities, MPFC shall cause the Contractor to furnish to MPFC and the County Performance Bonds and Payment Bonds in accordance with the Permanent Facilities Development Addendum.

e. FAU Site Due Diligence Materials. Within thirty (30) days of MPFC's receipt thereof, MPFC shall provide the County with complete copies of the FAU Site Due Diligence Materials, certified to MPFC and the County. The County and MPFC shall have forty five (45) days from the date of receipt to review the FAU Site Due Diligence Materials (the "Review Period"). In the event either party reasonably determines that the FAU Site Due Diligence Materials reveal any matter that would prevent or materially impair the use of the FAU Site for the Permanent Facilities, such party shall provide written notice of such matter to the other party on or before the expiration of the Review Period. The parties shall work cooperatively and in good faith to resolve any such matter to the reasonable satisfaction of both the parties as soon as reasonably practicable, and not later than one hundred eighty (180) days from the date hereof. To the extent that no such resolution is reached within such timeframe,and such matter cannot be resolved within a commercially reasonable time thereafter, (a) MPFC, at its option, shall have one (1) year to identify and secure an alternate site for the Permanent Facilities which alternate site shall be reasonably acceptable to the County and (b) during such one (1) year period, the County may, in its discretion, reduce or withhold its payment of Preliminary Costs until an alternate site for the Permanent Facilities has been identified and secured. To the extent that such an alternate site is not so identified and secured within such timeframe, this Agreement shall terminate; provided, however, that MPFC shall not be required to reimburse the County for any Preliminary Costs paid by the County prior to such termination.

C. Accounts for Grant Funds. The County agrees to use Best Efforts to issue and sell Bonds in accordance with the Bond Issuance Schedule and to deposit and maintain the proceeds from the issuance of such Bonds in the Project Construction Account and the Operating Account, as applicable. All funds deposited, or to be deposited, in the Project Construction Account pursuant to this paragraph shall be disbursed to MPFC on a pass-through basis in accordance with this Agreement and shall be used exclusively for the payment of the Project Cost. All funds deposited, or to be deposited, in the Operating Account pursuant to this paragraph shall be disbursed to MPFC in accordance with this Agreement as Operating Funds. In the event the actual Project Cost is less than the Project Cost Maximum Funding Requirement (any such remaining funds, the "Unused Project Funds"), fifty percent (50%) of the Unused Project Funds shall be available to MPFC as Operating Funds and fifty percent (50%) of the Unused Funds shall be retained by the County. MPFC acknowledges and agrees that it shall not be entitled to receive any interest or earnings on the Grant Funds deposited in the Accounts by the County.

D. Disbursement and Use of Construction Funds. The County agrees to pay on a pass-through basis the Project Costs for the Permanent Facilities as set forth herein and in accordance with the Permanent Facilities Development Addendum in an amount not to exceed $60,000,000 in the aggregate (the "Project Cost Maximum Funding Requirement"). As envisioned herein,

"pass-through basis" means that the County shall provide MPFC, in accordance with the requirements of this agreement and the Permanent Facilities Development Addendum, with the funds which MPFC shall use to pay for the Project Costs of the Permanent Facilities as they are incurred or that have been incurred. Within six (6) months of the Trigger Date, MPFC shall establish its estimate of the Project Cost and the schedule for the site work and vertical construction. Once the Project Cost is established, MPFC shall, in conjunction with its Design Professionals and Contractors, establish a spend-down schedule for the project and deliver the schedule to the County. The County agrees that sufficient funds to satisfy the obligations set forth in the spend-down schedule will be available in the Project Construction Account at least thirty (30) days prior to the date that such funds are required under the spend-down schedule. The parties agree that the County's maximum contribution towards Project Cost shall not exceed the Project Cost Funding Requirement and that MPFC shall be responsible for and shall pay all amounts in excess of such Project Cost Maximum Funding Requirement. The County agrees that the Project Cost Maximum Funding Requirement shall include an amount not to exceed $270,000 in the aggregate (the "Preliminary Costs") that the County shall pay on a pass-through basis in accordance with this Article V(D) for Pre-Construction Costs. The obligation of the County to pay such Preliminary Costs shall not be subject to the conditions precedent of Article V(F) (other than the condition precedent set forth in Article V(F)(6)) or the requirement that the Trigger Date have occurred or the spend-down schedule have been established.

E. Disbursement and Use of Operating Funds.

1. Terms of Grant. County agrees to distribute an amount equal to (i) $26,926,000 plus (ii) any Unused Project Funds to which MPFC is entitled in accordance with Article V(C) ("Operating Funds") at such times and on the terms and conditions hereinafter set forth.

2. Use of Operating Funds. Operating Funds shall be used by MPFC in a manner that is consistent with the Business Plan and the Initial Budget as set forth on Exhibit "I"; as such Business Plan and Initial Budget may be amended from time to time in accordance with the terms and conditions of the Funding Agreement. Operating Funds may not be disbursed or expended for activities that do not principally benefit or that are not directly related to the establishment or operation of MPFC except upon the County's approval, which shall not be unreasonably withheld. With respect to any equipment purchased by MPFC with Operating Funds, during the Term MPFC agrees to not permanently remove such equipment from either the Temporary Facilities or the Permanent Facilities during such equipment's useful life; provided, however, that MPFC shall be entitled to replace any such equipment in the ordinary course of business.

3. Prohibition on Use of Operating Funds for Lobbying. Operating Funds may not be used for the purpose of lobbying any branch or agency of state or local government, the Federal government, or any political subdivisions of the state or local government, or for any political purpose.

4. Ownership of Discoveries, Inventions and Other Technology. The parties acknowledge and agree that, as between MPFC and County, all discoveries, inventions and other technology developed by MPFC as a result, either directly or indirectly, of its operations or its employees shall be owned exclusively by MPFC, and County shall have no legal interest, right or license in any such discoveries, inventions and other technology. Nothing contained in this

Agreement shall in any way limit or restrict the right of MPFC to commercialize or license its discoveries, inventions and other technology.

5. Publications. The County acknowledges and agrees that MPFC shall have the right to publish (whether orally, in writing, or otherwise) results of its research in accordance with its policies.

6. Other Funding Sources. Nothing contained in this Agreement shall in any way limit or restrict MPFC's right to receive or spend funds from sources other than the County and the receipt of any such funds shall not reduce or otherwise affect any of the County's obligations hereunder. Similarly, nothing contained in this Agreement shall in any way limit or restrict the County's right to receive funds from sources other than the County's sale of Bonds and the receipt of any such funds shall not increase or otherwise affect any of the County's obligations, or MPFC's rights or entitlements, hereunder.

7. Timing And Conditions Of Disbursement of Operating Funds

7.1 Disbursement of Operating Funds. Subject to the terms and conditions of this Agreement, the County shall disburse Operating Funds to MPFC from the Operating Account on the dates requested by MPFC as Funding Dates (as defined below), and as otherwise provided herein; provided, however, that no Operating Funds shall be disbursed to MPFC unless and until a certificate of occupancy shall have been issued for the Permanent Facilities (a "Certificate of Occupancy"). Notwithstanding the foregoing, upon the earlier to occur of (a) commencement of ground clearing on the Permanent Facilities or (b) MPFC's occupancy of the Temporary Facililities, MPFC shall be entitled to disbursement of up to an aggregate of $4,100,000 in Operating Funds from the County for the purchase of equipment for the Temporary Facilities whether in a single purchase or over time. The disbursement of such Operating Funds shall be made against one or more invoices submitted by MPFC to the County for such equipment purchases. For the avoidance of doubt, any submission of such an invoice by MPFC to the County shall constitute a Request for Funding that shall be subject to the terms and provisions of Section 7.5 of this Agreement. MPFC shall grant the County a first priority security interest with respect to any equipment purchased with Operating Funds disbursed prior to the Certificate of Occupancy, and that has a useful life of more than one (1) year and a cost of $5,000 or more. Such security interest shall automatically expire upon the issuance of the Certificate of Occupancy. The County may perfect its interest by filing a financing statement at its expense.

7.2 Timing of Disbursement of Operating Funds. Subject to compliance by MPFC with all of the applicable conditions to funding set forth in Section 7.4, the disbursement of Operating Funds by the County shall be made annually on such Business Day (in each case, a "Funding Date") as may be requested by MPFC pursuant to a Grant Request (as defined in Section 7.3 below); and the amount of such annual disbursement shall be as set forth on Exhibit "F". Notwithstanding the foregoing, to the extent that MPFC does not satisfy any of the applicable conditions to a disbursement of Operating Funds hereunder due to a Force Majeure Event, the County shall make a disbursement of Operating Funds to MPFC at a level that

permits it to sustain its then-current level of operations until the Force Majeure Event ceases. Upon satisfaction of the condition that prevented the full disbursement of Operating Funds, MPFC shall be entitled to the balance of the Operating Funds that would have been disbursed but for the Force Majeure Event.

7.3 Request for Operating Funds. With respect to each annual request for Operating Funds, MPFC shall submit to the County, not less than thirty (30) days prior to each Funding Date, a completed written disbursement request (each, a "Grant Request"), executed by its President or other authorized officer, substantially in the form attached hereto as Exhibit "G".

7.4 Conditions to Funding.

(a) General Conditions. The County shall disburse each annual disbursement of Operating Funds to MPFC on the Funding Date, provided no Material Default has been declared and is continuing and, further provided, that MPFC is not beyond the cure period for any other Default of any provision of this agreement.

(b) Conditions to Operating Funds Disbursement. The County's obligation hereunder to make the initial disbursement of Operating Funds to MPFC is conditioned upon the County's receipt of the following documents and MPFC's satisfaction of the following conditions:

(i) the County's receipt of a timely and properly executed Grant Request; and

(ii) the County's receipt and approval of the detailed Business Plan.

(c) Conditions to Subsequent Grants. County's obligation hereunder to make any of the subsequent disbursements of Operating Funds is conditioned upon MPFC not being in Material Default or beyond the cure period for any other Default of any provision of this agreement, and upon MPFC's satisfaction of the following conditions and delivery of the following documents in connection with each subsequent Grant Request (subject to Section 7.2):

(i) the County's receipt of a timely and properly executed Grant Request;

(ii) MPFC's being current in its compliance with the requirements of this agreement including delivery to County of the documents and reports set forth in Article VI hereof; and

(iii) MPFC's presenting an verbal report to the Board of County Commissioners detailing the preceding year's scientific, research, educational, business, and economic accomplishments.

(d) The County may reduce or eliminate funding in any year if MPFC has Ceased Operations in Florida, or if MPFC has failed to commit in writing to maintain its Primary Operations in Florida for the succeeding year.

7.5 Failure to Comply with Grant Request. If MPFC (i) submits a properly executed Grant Request in accordance with this Article V, which Grant Request indicates that MPFC has complied with all of the applicable conditions to funding set forth in Section 7.4 with respect to the applicable disbursement or (ii) submits to the County such documentation as is required hereunder and under the Permanent Facilities Development Addendum for the County's payment to MPFC of Project Costs on a "pass-through basis" in accordance with Article V(D) (either such submission, a "Request for Funding") and the County declares a Material Default, asserts that MPFC has violated Article VII or fails to make the requisite payment requested by MPFC pursuant to the Request for Funding within five (5) Business Days after the date such payment is required to be made in accordance with the terms hereof, MPFC may demand arbitration pursuant to this Section 7.5 by serving a demand for arbitration upon the County, in which case the arbitration shall be subject to expedited procedures under the Commercial Arbitration Rules of the American Arbitration Association, in effect as of the date of this Agreement. The sole purpose of an arbitration pursuant to this Section 7.5 shall be to determine: (i) whether MPFC has violated Article VII (which violation has not been cured), (ii) whether an event has occurred, which upon declaration by the County would be a Material Default, and (iii) whether MPFC has failed to satisfy any of the applicable conditions under this Agreement to such Request for Funding. As part of such expedited arbitration hearing, which shall last no more than two (2) days, the County shall be required to select an arbitrator within one week after receipt of MPFC's demand, MPFC shall select its arbitrator no later than five (5) Business Days thereafter and the two arbitrators shall agree on a third arbitrator within five (5) Business Days after MPFC has selected its arbitrator. The parties shall use their best efforts (and the arbitrators shall be selected only if they agree that they will use their best efforts) to hold the final arbitration hearing within thirty (30) days after the date of the selection of the third arbitrator and to have a reasoned award issued within five (5) Business Days of the final hearing. If the determination of the majority of the arbitrators as to (i), (ii) and (iii) is in the negative, the arbitrators shall issue an award requiring the County to disburse to MPFC the amount requested pursuant to the Request for Funding within five (5) days of the date of such award. If the determination of the majority of the arbitrators as to (i), (ii) or (iii) is in the affirmative, the County shall not be required to make the applicable disbursement to MPFC; provided, however, that if MPFC subsequently cures and/or satisfies the conditions that resulted in such affirmative determination, and all the other conditions to disbursing to MPFC the amount requested pursuant to the Request for Funding remain satisfied, the County shall promptly, and no later than seven (7) days after receiving notice of such cure or satisfaction of conditions, make the applicable disbursement. The award shall be binding on the parties and may be enforced in any court having jurisdiction to enter judgment upon any interim or final award. Prior to any award and upon application of any party, the court may order provisional measures subject to any subsequent award of the arbitral tribunal. A party seeking provisional measures from a court, before or after commencement of arbitration, shall not be considered to have waived its right to seek arbitration. Any party failing to pay its share of any deposits or fees required by the American Arbitration Association, and any party which fails to be represented at any arbitration proceeding, may,

in the arbitrators' discretion, have a judgment of default entered against it. The parties shall not be obligated to exchange documents or information other than in support of their respective positions.

7.6 Treatment of MPFC Florida as a Separate Segment for Accounting Purposes. MPFC shall cause its financial books and records, including its audited financial statements, to be prepared as a separate entity and not as an unidentifiable part of The Max Planck Society of Germany or any other organization. Accordingly, all revenue and expenses of MPFC shall be accounted for on a separate basis from the revenue and expenses for any other entity or organization. MPFC shall develop a reasonable and adequate cost allocation methodology with respect to the Grant Funds and shall explain such methodology to County and provide such documentation with respect to the application of such methodology to County as is reasonably required by County. In addition, MPFC shall establish and maintain segregated accounts for any and all Grant Funds so that the receipt and use of the Grant Funds can be easily identified.

F. Conditions Precedent. Except for the payment of Preliminary Costs in accordance with Article V(D), the County shall not be obligated to disburse Grant Funds to MPFC hereunder, and MPFC shall not be required to fulfill its obligations pursuant to this Grant Agreement until the following conditions precedent have been satisfied or waived by the parties:

1. The Board of Trustees of the Internal Improvement Trust Fund, or the Division of State Lands acting on behalf of such Board, and FAU provide in a form reasonably acceptable to the parties that during the Term the County shall have the option to lease the FAU Site directly from the Board of Trustees of the Internal Improvement Trust Fund in the event the FAU Lease is terminated for any reason. The parties acknowledge that the parties have reviewed the FAU Lease (and proposed Amendment 5 thereto) and agree that the terms and conditions of the FAU Lease (and proposed Amendment 5 thereto) are acceptable to the parties.

2. MPFC and FAU shall have entered into the FAU Sublease and a Temporary Facilities Use Agreement or Cooperation Agreement providing for use of Temporary Facilities by MPFC at FAU, in each case reasonably acceptable to the parties.

3. The Board of Trustees of the Internal Improvement Trust Fund, or the Division of State Lands acting on behalf of such Board, shall have consented to the FAU Sublease.

4. The MacArthur Foundation shall have acknowledged and agreed, in written recordable form reasonably acceptable to the parties, that the uses contemplated in the FAU Sublease by MPFC and the County do not conflict with the terms of the MacArthur Deed Restriction. The parties acknowledge that the parties have reviewed the proposed recordable acknowledgement and consent from the MacArthur Foundation and agree that its terms and conditions acceptable to the parties.

5. The due diligence for the FAU Site shall have been completed in accordance with Article V(B)(1)(e).

6. The County shall have received a legal opinion of counsel for MPFC substantially in the form attached hereto as Exhibit "H".

G. Termination Due to Failure of Conditions. Subject to Article V(B)(1)(e), either party may terminate this Agreement upon written notice to the other party in the event the conditions precedent set forth in Articles V(F)(1)-(6) have not been satisfied or waived by the parties on or before the date that is one hundred eighty (180) days from the Effective Date. In the event that neither party exercises its right to terminate this Agreement on or before such date, in accordance with the requirements of this paragraph, the parties shall be deemed to have waived their rights to terminate this Agreement pursuant to this paragraph, and this Agreement shall continue in full force and effect.

H. Condition on County's Funding Obligations. MPFC acknowledges and agrees that neither the full faith and credit nor the taxing power of the County is pledged to payment of the County's obligations under this Agreement and that said obligations are to be satisfied solely from the sources provided for in this paragraph. The County intends to finance its monetary obligations under this Agreement by the issuance of the County's limited obligation revenue bonds or other indebtedness, secured by a pledge of certain legally available revenues of the County ("Bonds"). Notwithstanding any other provision of this Agreement to the contrary, and without affecting the County's obligation to use Best Efforts to issue and sell the Bonds in accordance with Article (V)(C), MPFC acknowledges and agrees that: (i) the County's obligations under this Agreement are subject to the condition precedent that the County generate sufficient funds to satisfy such obligations by the issuance and sale of Bonds; and (ii) the County may, in its sole and absolute discretion, choose to fund the County's obligations hereunder with any other non-ad valorem revenue or financing source in lieu of issuing the Bonds.

I. Acknowledgment of Governmental Limitations. The parties acknowledge and agree that this Agreement shall not limit or restrict the County's discretion in the exercise of its governmental or police powers and shall not constitute a delegation of the County's governmental authority or police powers to MPFC. MPFC further acknowledges and agrees that all governmental actions to be taken by the County, the Board of County Commissioners, County staff and quasi-judicial boards regarding the FAU Site shall be in conformance with applicable laws and ordinances with no guarantees or agreement by the County as to any particular recommendation or approval.

J. Governmental Authority. Nothing in this Agreement shall be construed to waive or limit the County's governmental authority as a political subdivision of the State of Florida to regulate MPFC or its operations. The County's obligations under this Agreement are made in a proprietary capacity, rather than in a governmental capacity, and such agreements shall not be construed as limiting, prohibiting or eliminating the obligation of the parties to comply with all applicable rules, regulations, ordinances, statutes and laws, nor alter or impair the County's governmental functions, including, without limitation, the County's right to lawfully exercise its regulatory authority over the development of the FAU Site, nor as enabling, permitting, or creating any cause of action or claim arising out of the lawful exercise of the County's governmental authority; provided, however, that nothing in this Agreement shall be construed to limit the liability of the County, acting in, its proprietary capacity, for defaults under this Agreement.

K. No Warranty of Accuracy. The parties acknowledge that any due diligence materials, including, but not limited to, the FAU Site Due Diligence Materials, reports, surveys, title information or other documents, that are provided by either party to the other party pursuant to this Agreement or otherwise at any time prior to, or after, the Effective Date are provided to the other party and accepted by the other party without any acknowledgments, representations, statements or warranties as to accuracy, scope of investigation or any other matter.

ARTICLE VI
COVENANTS OF MPFC

A. Incorporation of Funding Agreement Covenants. The parties hereto agree that the Covenants contained in Article 7 (other than those set forth in Section 7.10 and 7.11) of the Funding Agreement are incorporated herein by reference, as if fully set forth herein, and futher, agree that for purposes hereof, references to "Awardee" shall be understood to be references to MPFC, that references to "OTTED" shall be understood to refer to the County, as appropriate, and that references to "Incentive Funds" shall be understood to be references to Grant Funds and defined herein. The parties further agree that the term "reasonable best efforts" as used in the Funding Agreement shall, for purposes hereof, be understood as referring to Best Efforts, as defined herein. The prohibitions of paragraph 7.15 of the Funding Agreement shall, for purposes hereof, also apply to any asset constructed or purchased with Grant Funds. The requirements of Article 7 of the Funding Agreement are, for purposes hereof, specifically supplemented and expanded as provided in the remainder of this Article VI. Nothing contained in this Agreement shall be deemed to alter, amend, modify or supplement any of the terms or provisions of the Funding Agreement or to give or vest in the County any rights under the Funding Agreement.

B. Educational Opportunities.

1. Within twelve (12) months of taking occupancy of the Temporary Facilities, MPFC will:

(a) implement a science lecture or workshop series in Palm Beach County, the purpose of which will to be educate and inform the public about relevant scientific research and discoveries as well as the work of the Institute;

(b) make available in English to the Palm Beach County School District, for reproduction and dissemination at the District's expense, the Max Planck Society's successful "Bio-MAX" series, which contains educational material on topics in modern biology, as well as its science magazine "Max Planck Research", together with any updates that may be published from time to time;

(c) develop a voluntary mentorship program whereby, during each school year, a certain number of MPFC employees (to be determined by MPFC in accordance with its business needs) may receive up to one (1) hour per week of paid administrative leave to participate in one or more mentorship programs for students in grades K-12 within the Palm Beach County School District and will encourage employees, including scientific staff, to participate in such program; and

(d) enter into cooperation agreements with Florida Atlantic University and

Scripps Florida, with respect to, by way of example and not by way of limitation, scientific collaboration, courtesy faculty appointments, joint community outreach, exchange programs for Ph.D. candidates and post-doctoral researchers, or such other areas as they may deem mutually beneficial.

2. Within twenty-four (24) months of taking occupancy of the Temporary Facilities, MPFC will establish a Speakers' Bureau that it will publicize through means reasonably calculated to reach Palm Beach County public and private schools and community colleges, and thereafter MPFC will hold four speaking engagements a year open to the public, with such speakers and on such scientific topics as MPFC deems relevant and appropriate.

3. Within eighteen (18) months of taking occupancy of its Permanent Facilities, MPFC will:

(a) establish an internship program for internship positions for qualified Palm Beach School District high school or community college science teachers as research assistants, the length of and qualifications for which will be determined solely in the discretion of MPFC;

(b) work with the Palm Beach County School District and Palm Beach Community College to provide field trip experiences modelled on the Max Planck Society's "school lab" for high-school and community college students to perform experiments with the most advanced laboratory techniques; and

(c) hold an annual one-day "Career Fair", in which MPFC scientists will be available to discuss scientific careers with middle school and high school students.

C. Cooperation with Economic Development Activities.

1. Hold at least one meeting per year of the Board of Trustees, and MPFC's board of advisors, if any, in Palm Beach County;

2. Cooperate with the reasonable requests of the Palm Beach Business Development Board to assist with the recruitment of research institutes, biomedical or pharmaceutical companies, or other related businesses to Palm Beach County;

3. Within 12 months of taking occupancy of the Temporary Facilities,

(a) Appoint a liaison to the Palm Beach Business Development Board with respect to its Life Science strategies;

(b) Make appropriate introductions to respected international research and life science organizations that are considering expansion to Florida, with the goal of showcasing Palm Beach County as a possible location for relocation or expansion; and

(c) Develop a website of the MPFC (which may be linked to the website of the Max Planck Society) highlighting its activities in Palm Beach County.

D. Job Creation and Salaries MPFC shall create 135 MPFC New Jobs in Palm Beach County in accordance with the Job Creation Schedule attached hereto as Exhibit "D", as such

schedule may be modified from time to time pursuant to the Funding Agreement. From the Job Creation Date (as defined in the Job Creation Schedule) through the end of the Term, MPFC shall comply with the Job Maintenance Goal. From and after the Job Creation Date, the MPFC New Jobs shall provide an Average Annual Salary of at least 130% of the current annual Palm Beach County countywide salary average. The Average Annual Salary for calendar year 2008 is agreed to be $53,214.72, which amount shall be adjusted annually to keep pace with the countywide salary average as reported by Florida Agency for Workforce Innovation or any mutually agreeable, similar agency in the event the Florida Agency for Workforce Innovation should cease to exist.

E. Grant Funding MPFC will report to the County annually on the number and value of National Institutes of Health and other grants its has sought and received.

F. Investment of Royalties in Education. In consideration of the disbursement of the Grant Funds, and provided the County has made all disbursements required pursuant to this Agreement, MPFC agrees that commencing on December 1, 2012 (as such commencement date may be extended by a Force Majeure Event, the "Royalty Commencement Date") and terminating on November 1, 2038 (such period, the "Royalty Measurement Period"), MPFC shall commit three percent (3%) of its Net Royalty Income towards the funding of such science-related educational purposes in Palm Beach County as MPFC shall deem appropriate in its sole discretion. Such purposes may include, without limitation, the funding of science-related student scholarships for students at high schools, community colleges and universities in Palm Beach County or in cooperation with the Palm Beach County Conference of Black Elected Officials. For purposes of this Agreement, "Net Royalty Income" shall mean all cash revenue generated from the licensing or transfer of inventions, methods, processes, and other patentable discoveries conceived or reduced to practice using the Permanent Facilities or MPFC's employees, in whole or in part ("Royalty Revenue"), and to which MPFC becomes entitled and receives following the Royalty Commencement Date, minus all costs and expenses incurred by MPFC in connection with the creation, acquisition, maintenance and exploitation of such inventions, methods, processes, and other patentable discoveries, including, without limitation, any taxes and fees related thereto. Notwithstanding the foregoing, to the extent that subsequent to the Royalty Commencement Date, MPFC determines in good faith that the funds required to be invested pursuant to this Section VI(F) are necessary to avoid a Material Adverse Effect, then MPFC shall not be required to comply with the terms of this Section VI(F). During the Royalty Measurement Period, MPFC shall provide the County with annual updates as to the Net Royalty Income generated by MPFC and the amounts so funded for science-related educational purposes, in each case for the applicable year. Commencing on the Effective Date of this Agreement and terminating on November 1, 2028, all Royalty Revenue not otherwise paid to the inventor(s) or collaborating institutes shall be reinvested in the Institute. The requirements of this paragraph shall survive expiration of this Agreement until satisfied.

G. Max Planck Science Tunnel. Provided there is a suitable location between mid-January and mid-March of 2009 for its exhibition at no expense to MPFC, MPFC agrees to arrange the display of the "Max Planck Science Tunnel" (the "Science Tunnel") in Palm Beach County during such time period and to cover the costs for transporting the Science Tunnel to and from Palm Beach County including assembly and removal. The County shall assume full responsibility for the exhibition of the Science Tunnel (e.g. housing, coverage of all operating

costs for the exhibition and local marketing) at its own expense from sources of its own choosing.

ARTICLE VII
EXCLUSIVE FACILITY; OUTSIDE ACTIVITIES

A. Limitation on Additional Research Facilities. Commencing on the Effective Date and ending on the tenth anniversary of the Effective Date, MPFC agrees to cause its Primary Operations to be in Palm Beach County and to not establish any other science or research facilities in any state other than the State of Florida. Nothing contained in this Agreement shall prohibit: (i) MPFC from establishing or engaging in normal collaborative activities with other organizations, or (ii) MPFC's scientists from performing normal off-site research associated with a project primarily being conducted at the FAU Site.

B. Certain Acknowledgments. MPFC acknowledges that the County is entering into this Agreement, in large part, to benefit from the goodwill and competitive ability of MPFC, and that the County has a valid and legitimate interest in protecting such goodwill by restraining MPFC's ability to compete as provided in this Article VII. The limitations concerning time, territory, nature and character imposed by this Agreement upon MPFC's ability to open another research facility are reasonable and fair, and will not prevent MPFC from conducting its Palm Beach County operations. MPFC further acknowledges that any violation of any term or provision of this Article VII will have a substantial detrimental effect on the County. MPFC has carefully considered the nature and extent of the restrictions placed upon it and the rights and remedies conferred upon the County under the provisions of this Agreement and acknowledges and agrees that the same are reasonable in time, scope and territory.

C. Modification of Covenant. The County and MPFC recognize that the laws and public policies of the State of Florida and other applicable jurisdictions and their interpretation may be uncertain as to the scope, validity and enforceability of certain of the provisions contained in this Article VII. It is the intention of the County and MPFC that the provisions of this Article VII shall be enforced to the fullest extent permissible, and that the unenforceability (or the modification to conform with such laws or public policies) of any provision hereof shall not render unenforceable or impair the remainder of this Article VII. Accordingly, if any provision of this Article VII is invalid or unenforceable, either in whole or in part, this Article VII shall be deemed to delete or modify, as necessary, the offending provision and to alter the balance of this Article VII in order to render the same valid and enforceable to the fullest extent permissible as aforesaid. In the event that the provisions of this Article VII are found to exceed the period of time or scope which courts of competent jurisdiction can or will enforce, said period of time and scope shall, for purposes of this Article VII, consist of the maximum area or period of time or scope which courts of competent jurisdiction can and will enforce. MPFC acknowledges and agrees that but for the agreement of MPFC to comply with the covenants contained in this Article VII, the County would not have agreed to enter into this Agreement with MPFC.

ARTICLE VIII
GENERAL CONDITIONS

A. Contingent Fees. MPFC warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for MPFC, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation,

individual, or firm, other than a bona fide employee working solely for MPFC, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement. The County acknowledges that this provision does not restrict the right of MPFC to engage any Person paid on an hourly and non-contingent basis to negotiate the terms and conditions of this Agreement.

B. Civil Rights Compliance and Opportunities for Residents.

1. Discrimination and Diversity. MPFC shall be an equal opportunity employer. MPFC shall develop and implement hiring policies consistent with the requirements of applicable law, providing that no person shall on the grounds of race, color, disability, national origin, religion, age, familial status, sex or sexual orientation be excluded from the benefits of, or be subjected to discrimination under, any activity carried out by the performance of this Agreement. MPFC shall also adopt a policy with the goal of promoting diversity in the selection of MPFC's employees and vendors.

2. Low-income and Palm Beach County Residents. MPFC agrees to develop and implement hiring policies that will strive to give low-income residents of Palm Beach County opportunities for training and employment at MPFC Florida.

3. Preferences for Palm Beach County Residents. Except for professional scientific staff positions requiring a doctoral degree, postdoctoral training positions, and graduate student positions, MPFC shall develop and implement hiring policies that grant Palm Beach County residents preference in the hiring process.

4. Local Businesses. Businesses located in, or owned in substantial part by persons residing in, Palm Beach County shall be given preference in the award of all contracts, where economically practical, and in particular, in connection with the design and construction of the Permanent Facilities.

C. Competitive Procurement.

1. Competitive Procurement Policies and Procedures. MPFC agrees to establish policies and procedures with the goal of providing equitable treatment of all qualified persons interested in doing business with MPFC; to provide fair and open competition; to obtain goods and services of satisfactory quality and quantity at reasonable cost; and to act in good faith in the procurement of goods and services. In no event shall MPFC be required to permit bid protests or adopt any procurement requirements of the State of Florida or the County.

2. Lowest Responsive Bidder. Once MPFC has identified the contractors and construction managers that meet or exceed MPFC's minimum qualifications for the Project based on published criteria developed in MPFC's sole discretion and that meet at least the minimum criteria provided in the Permanent Facilities Development Addendum, to the extent that price is the primary consideration in selecting such contractors or construction managers, MPFC shall use the lowest responsive bidder that MPFC determines, in its sole discretion, is sufficiently responsible to complete the construction in accordance with the plans and specifications and applicable schedule.

3. Permanent Facilities Development Addendum. The terms and provisions of the

Permanent Facilities Development Addendum relating to competitive procurement are hereby incorporated by reference into this Article VIII(C).

D. SBE Project Goal.

1. Project Cost. MPFC agrees to establish policies and procedures with the goal of investing up to fifteen (15%) of the total Project Cost in goods and services provided by SBEs, either directly or through sub-contracts or joint ventures. The policies and procedures that MPFC agrees to establish will include:

a. notification to OSBA of any competitive procurements concurrently with the notification to any third party of the same in order to permit OSBA to advertise the opportunity to the SBE community, which the County, on behalf of OSBA, commits shall be done within five (5) business days of OSBA's receipt of such notification; provided, however, that in no way shall any delay by OSBA in providing such advertisement delay or otherwise cause MPFC to change its procurement schedule;

b. seeking access to OSBA's SBE database to facilitate identification of SBE vendors;

c. furnishing reports on the progress of the SBE Project Goal on a periodic basis to OSBA;

d. holding no less than two (2) advertised public workshops in the County's offices, the purpose of which will be to inform the public about opportunities for SBE's to contribute towards the SBE Project Goal; and

e. the appointment of a community liaison to address issues relating to the achievement of the SBE Project Goal.

2. Operating Funds. MPFC will strive to establish policies and procedures with the goal of investing up to fifteen (15%) of the total Operating Funds that are budgeted by MPFC towards equipment and supplies in equipment and supplies provided by SBEs, either directly or through sub-contracts or joint ventures, and that are of a quality and at a cost that is at least equivalent to other alternatives.

Notwithstanding any provision of this Agreement to the contrary, MPFC shall not be considered in Default or Material Default of this Agreement for failure to attain the SBE Project Goal.

E. Federal and State Tax. The County is exempt from payment of Florida State Sales and Use Taxes. The County will sign an exemption certificate submitted by MPFC. Without prejudice to MPFC's right to rely on its own tax exempt status, MPFC shall not, as a result of the receipt of the County's exemption certificate, be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the County, nor is MPFC authorized to use the County's Tax Exemption Number in securing such materials. MPFC shall be responsible for payment of its own and its share of its employees' payroll taxes, and benefits with respect to this Agreement

F. Insurance. MPFC shall, at its sole expense, maintain in full force and effect throughout

the Term the insurance coverages and limits (including endorsements), as described herein. The requirements contained herein, as well as the County's review or acceptance of insurance maintained by MPFC are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by MPFC under this Agreement.

1. Commercial General Liability. MPFC shall maintain Commercial General Liability at a limit of liability not less than $10,000,000 Each Occurrence. Coverage shall not contain any endorsement excluding Contractual Liability or Cross Liability unless agreed to in writing by the County's Risk Management Department. MPFC shall provide this coverage on a primary basis.

2. Business Automobile Liability. MPFC shall maintain Business Automobile Liability at a limit of liability not less than $1,000,000 Each Occurrence for all owned, non-owned and hired automobiles. In the event MPFC does not own any automobiles, this Business Auto Liability requirement shall be amended allowing MPFC to maintain only Hired & Non-Owned Auto Liability. The amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto coverage form. MPFC shall provide this coverage on a primary basis.

3. Worker's Compensation Insurance & Employers Liability. MPFC shall maintain Worker's Compensation & Employers Liability in accordance with Chapter 440, Florida Statutes. MPFC shall provide this coverage on a primary basis.

4. Property Insurance on the Permanent Facilities.

a. Builder's Risk Insurance. MPFC shall maintain builder's risk insurance covering the Permanent Facilities under the course of construction in an amount at least equal to 100% of the estimated completed property or project value as well as subsequent modifications of that sum. Coverage shall be provided on an All-Risk basis including coverage for the perils of wind and flood. MPFC shall provide this coverage on a primary basis.

b. Property, Wind, & Flood Insurance. After construction of the Permanent Facilities is completed, MPFC shall maintain: (i) property insurance in an amount not less than 100% of the replacement cost of the Permanent Facilities, including Betterments and Improvements thereto made by or on behalf of MPFC. Coverage shall be written on a replacement cost basis and include an endorsement for Ordinance & Law coverage, (ii) Flood insurance, regardless of the flood zone, in an amount not less than 100% of the replacement cost of the Permanent Facilities, including Betterments and Improvements thereto made by or on behalf of MPFC, or the maximum amount available from the National Flood Insurance Program, whichever is less, (iii) Windstorm insurance, unless included as a covered peril in the property insurance, in an amount not less than 100% of the replacement cost of the Permanent Facilities, including Betterments and Improvements thereto made by or on behalf of MPFC, or the maximum amount available under the Florida Windstorm Underwriting Association, whichever is less. MPFC shall provide these coverages on a primary basis.

5. Additional Insured. MPFC shall endorse the County as an Additional Insured with a CG 2026 Additional Insured - Designated Person or Organization endorsement, or its equivalent, to the Commercial General Liability. The Additional Insured endorsement shall read

"Palm Beach County Board of -County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents." MPFC shall provide the Additional Insured endorsements coverage on a primary basis.

6. Loss Payee. MPFC shall endorse the County as a Loss Payee on the Property, Builder's Risk, Flood, and Windstorm insurance policies. MPFC agrees the Loss Payee endorsement provides coverage on a primary basis. The Loss Payee endorsement shall read "Palm Beach County Board of County Commissioners". During the Term, any proceeds paid to the County as a Loss Payee under such insurance policies shall be distributed promptly to MPFC and MPFC shall use such proceeds for the restoration or repair of the Permanent Facilities.

7. Waiver of Subrogation. MPFC agrees by entering into this Agreement to a Waiver of Subrogation for each required insurance policy but only with respect to claims that might otherwise be asserted against the County. When required by the insurer, or should a insurance policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then MPFC shall notify the insurer and request the insurance policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any insurance policy, when a condition to the insurance policy specifically prohibits such an endorsement, or voids coverage should MPFC enter into such an agreement on a pre-loss basis

8. Certificate(s) of Insurance. MPFC shall deliver to the County a Certificate(s) of Insurance evidencing that all types and amounts of insurance coverages required by this Agreement have been obtained and are in full force and effect. Such Certificate(s) of Insurance shall include a minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage.

9. Umbrella or Excess Liability. MPFC may satisfy the minimum limits required above for Commercial General Liability, Business Auto Liability, and Employer's Liability coverage under an Umbrella or Excess Liability policy. The Umbrella or Excess Liability policy shall have an Aggregate limit not less than the highest "Each Occurrence" limit for Commercial General Liability, Business Auto Liability, or Employer's Liability. The County shall be specifically endorsed as an "Additional Insured" on the Umbrella or Excess Liability policy, unless the Certificate of Insurance notes the Umbrella or Excess Liability policy provides coverage on a "Follow-Form" basis.

10. Right to Review. The County, by and through its Risk Management Department, reserves the right to review required policies of insurance, including coverages, or endorsements, from time to time throughout the Term to confirm compliance with the requirements of this Agreement. In such event, the County shall provide MPFC written notice of the request for review and MPFC shall provide the County with copies of required insurance policies within thirty (30) days of receipt thereof.

11. Adjustments

a. Every five (5) years, the parties shall, in good faith, negotiate whether there should be increases (and, if so, the amount thereof) in the amounts of liability insurance required hereunder. If the parties are unable to agree, the matter shall be resolved by binding

mediation. The mediation shall be heard by one (1) mediator selected by mutual agreement of the County and MPFC. If the parties cannot agree on a mediator, then either party may seek to have the mediator selected by the American Arbitration Association and the decision of the American Arbitration Association as to the appointment of the mediator shall be binding on both parties. The site of the mediation, unless the parties agree otherwise, shall be in Palm Beach County.

b. The County agrees to negotiate with MPFC in good faith as to reductions in the amounts and types of coverages set forth in this Article VIII(F) in the event such amounts and/or coverages become unavailable or available only at rates which are not commercially reasonable.

12. Blanket Insurance. Any insurance required to be provided by MPFC pursuant to this Agreement may be provided by blanket insurance covering the FAU Site (whether obtained by MPFC, FAU or other parties) and other locations of MPFC or any member of MPFC, provided that such blanket insurance complies with all of the other requirements of this Agreement with respect to the insurance involved.

13. Deductibles, Coinsurance & Self-Insured Retention. MPFC shall be solely responsible for any deductibles, coinsurance penalties or self-insured retention, including any uncovered losses, damages or expenses.

G. Indemnification of the County

1. General Indemnification. MPFC shall indemnify and hold the County, its agents, employees, officers and Board of County Commissioners (individually, "Covered Person"; collectively "Covered Persons") harmless from and against any and all claims, liabilities, expenses, losses, costs, damages, fines, penalties and causes of action of every kind and character (excluding the cost of defense for any such claims) incurred or suffered by a Covered Person (collectively, "Damages"), which is due to any act or omission of MPFC or its agents, employees, contractors, or invitees, or licensees or subtenants to or of the FAU Site (collectively, "MPFC Parties") arising out of: (i) the design or construction by the MPFC Parties of the Permanent Facilities or any other improvements on the FAU Site; or (ii) or the use, operation or occupancy by the MPFC Parties of the Temporary Facilities or the FAU Site, the Permanent Facilities or any other improvements, now existing or hereinafter constructed or placed on or within the FAU Site.

2. Environmental Indemnification. MPFC shall indemnify and hold the Covered Person(s) harmless from and against any and all Damages arising, in whole or in part, out of: (i) the presence on or under the FAU Site, or any portion thereof, of any Hazardous Substances (excluding any Hazardous Substances related to a Pre-existing Environmental Condition); (ii) any releases or discharges of Hazardous Substances on, under or from the FAU Site or the Temporary Facilities, or any portion thereof, which are caused or contributed to by the MPFC Parties; (iii) any activity in connection with the handling, treatment, removal, storage, decontamination, cleanup or disposal of Hazardous Substances by the MPFC Parties; and/or (iv) the lack of compliance with or violation of any Environmental Laws, as now or may be hereinafter amended, by the MPFC Parties.

3. Procedure for Defense of Claims by Third Parties. If any proceeding referred to

in this Article VIII(G) is brought against a Covered Person, the Covered Person shall give notice to MPFC of the commencement of such proceeding and MPFC will be entitled to participate in such proceeding and to assume the defense of such proceeding with counsel reasonably satisfactory to the Covered Person (if MPFC is also a party to such proceeding and the-Covered Person determines in good faith that joint representation would be inappropriate, the Covered Person shall be entitled to retain independent counsel). If MPFC assumes the defense of a proceeding: (i) it will be conclusively established for purposes of this Agreement that the claims made in that proceeding are within the scope of and subject to indemnification; (ii) MPFC shall have the exclusive right to defend, compromise, or settle such proceeding; and (iii) MPFC shall pay all costs and expenses associated therewith, including attorney's fees and costs. The County shall reasonably cooperate with MPFC, in the assertion of all available defenses (including, without limitation, the defense of sovereign immunity) in connection with any action or proceeding in respect of which MPFC is indemnifying the County pursuant to this Agreement.

4. MPFC acknowledges the broad nature of the indemnification and hold-harmless clauses provided for in this Article VIII(G) and further acknowledges that the County would not have entered into this Agreement without the inclusion of such clauses, and voluntarily makes this covenant and expressly acknowledges the receipt of good and valuable consideration provided by the County in support of such indemnification clauses in accordance with the laws of the State of Florida. Notwithstanding any other provision to the contrary, the parties acknowledge and agree that the provisions of this Article VIII(G) shall not be construed as obligating MPFC to protect, reimburse, indemnify or hold the Covered Person(s) harmless from or against any Damages or otherwise arising from any act or omission of any Covered Person(s) or resulting from the breach by any Covered Person(s) of any acknowledgment, representation, warranty or covenant of this Agreement.

5. The obligations arising under this Article VIII(G) shall survive the expiration or termination of this Agreement, as to causes of action arising prior to the date of termination of this Agreement.

ARTICLE IX
TERM, TERMINATION, AND DEFAULT

A. Term. The term of this Agreement shall end on the fifteenth (15th) anniversary of the Effective Date, unless terminated earlier in accordance with the provisions of this Agreement (the "Term").

B. Termination. This Agreement may be terminated prior to the end of the Term as follows:

1. by mutual consent of the parties; or

2. by a non-defaulting party upon written notice of the defaulting party, provided that the defaulting party is in Material Default.

In the event of termination of this Agreement under Article IX(B)(1), none of the covenants or agreements set forth in this Agreement shall survive. In the event of termination of this Agreement by a non-defaulting party under Article IX(B)(2), the non-defaulting party shall be excused from further performance under this Agreement.

C. MPFC Events of Material Default. The occurrence of any one or more of the following events shall constitute a "Material Default" by MPFC hereunder:

1. Vacating, abandoning, or closing MPFC's operations in Palm Beach County or relocating any of MPFC's operations outside Palm Beach County during the Term.

2. Failure during the Term to continuously operate the Permanent Facilities as a Biomedical Research Institute on and from issuance of certificate(s) of occupancy for the Permanent Facilities

3. A material default by MPFC under the FAU Sublease, which is not cured within any applicable cure period.

4. The making by MPFC of any general assignment, or general arrangement for the benefit of creditors; the filing by or against MPFC of a petition to have MPFC adjudged bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against MPFC, the same is dismissed within sixty (60) days); the appointment of a trustee or receiver to take possession of substantially all of MPFC's assets where possession is not restored to MPFC within thirty (30) days; or the attachment, execution or other judicial seizure of substantially all of MPFC's assets located within Palm Beach County where such seizure is not discharged within thirty (30) days.

5. MPFC having Ceased Operations in Florida or having failed to make a commitment in writing to remain in Florida for the next year.

D. MPFC Events of Default. The occurrence of one or more of the following events shall constitute a "Default" by MPFC hereunder:

1. Except as described in Article IX(C), the failure of MPFC to observe or perform any of the terms, covenants, conditions, obligations, or provisions of this Agreement to be observed or performed by MPFC where such failure continues for a period of thirty (30) days after written notice thereof from the County to MPFC; provided, however, that if the nature of MPFC's default is such that more than thirty (30) days are reasonably required for its cure, then MPFC shall not be deemed to be in Default if MPFC commenced such cure within the thirty (30) day period and thereafter diligently pursues such cure to completion.

2. The breach of any acknowledgment, representation or warranty by MPFC contained in this Agreement.

3. MPFC's loss of an amount of federal funding that would reasonably be expected to result in a Material Adverse Effect, loss of a license necessary for it to operate, suspension of a majority of its federal funding for more than one hundred twenty (120) days that would reasonably be expected to result in a Material Adverse Effect, or suspension of a license necessary for it to operate for more than one hundred twenty (120) days that would reasonably be expected to result in a Material Adverse Effect.

E. The County Events of Material Default. The occurrence of the following event shall constitute a "Material Default" by the County hereunder:

1. Failure to disburse Grant Funds to MPFC in accordance with the requirements of this Agreement, where such failure continues for a period of ten (10) days after the written decision of the arbitrators pursuant to Article V(E)(7.5).

2. The County's imposition of any requirements upon MPFC that would reasonably be expected to jeopardize (i) MPFC's ability to obtain federal financial grants in the future or (ii) MPFC's ability to obtain funding under the Funding Agreement. Notwithstanding the foregoing, in no event shall MPFC assert that the execution, performance or enforcement of this Agreement or the consummation of any of the transactions contemplated hereby gives rise to a Material Default by the County hereunder.

F. County Events of Default. The occurrence of one or more of the following events shall constitute a "Default" by County hereunder:

1. Except as described in Article IX(E), the failure of County to observe or perform any of the terms, covenants, conditions, obligations, or provisions of this Agreement to be observed or performed by County where such failure continues for a period of thirty (30) days after written notice thereof from MPFC to the County; provided, however, that if the nature of the County's default is such that more than thirty (30) days are reasonably required for its cure, then the County shall not be deemed to be in Default if the County commenced such cure within the thirty (30) day period and thereafter diligently pursues such cure to completion; provided, further, that in the event that any such failure is attributable to a continuing Force Majeure Event affecting the County, then such cure period shall be extended for up to a maximum of one hundred eighty (180) days after the end of the Force Majeure Event.

2. The breach of any acknowledgment, representation or warranty by the County contained in this Agreement.

ARTICLE X
REMEDIES

A. Remedies for Defaults. In the event of a Default each party shall be entitled to exercise any available legal remedy except termination.

B. Limitation of Liability. It is specifically understood and agreed that MPFC shall not be liable to County for any damages in excess of the dollar amounts disbursed by the County to MPFC pursuant to this Agreement; provided, however, that the County shall not be enitled to recover any dollar amounts disbursed by the County to MPFC to the extent that the County derives equivalent value by exercising its rights under the FAU Sublease; provided, further that regardless of whether the County exercises its rights under the FAU Sublease, MPFC shall be entitled to assert as a defense the failure of the County to mitigate its damages and/or any other defense available to MPFC at law or in equity to any action for damages by the County. It is, also, specifically understood and agreed that County shall not be liable to MPFC for any damages in excess of the balance of the dollar amounts which County has agreed to pay to MPFC pursuant to this Agreement less any amounts actually paid to or on behalf of MPFC.

C. Governing Law/Venue. This Agreement shall be governed by the laws of the State of Florida. Any legal action with respect to this Agreement (other than a dispute under Article

V(E)(7.5) or Article VIII(F)(11)(a) which shall be resolved only in accordance with the terms thereof) may be brought and maintained in any state court of competent jurisdiction located in Palm Beach County.

ARTICLE XI.
ALLOCATION OF FUNDS

In the event that the Agreement is terminated, all Grant Funds, including any interest or other earnings thereon, remaining in the Accounts shall be transferred to the County's General Revenue Fund unallocated and MPFC shall cease to have any right to any such funds.

ARTICLE XII.
INSPECTION

A. County's Covenants Regarding Confidential and/or Proprietary Records of MPFC. Subject to compliance with Chapter 119, Florida Statutes, and the Public Records Statute, the County covenants and agrees that it shall at all times preserve and protect the confidentiality of any MPFC documents deemed by MPFC to be confidential and/or proprietary and as to which MPFC has so notified the County in writing; provided, however, that confidential and/or proprietary information shall not include information which: (i) is or becomes generally available to the public other than as a result of a disclosure by the County or its representatives, (ii) was available to the County on a non-confidential basis prior to its disclosure to the County by MPFC or its agents, or (iii) becomes available to County on a non-confidential basis from a source other than MPFC or its agents, provided that such source is not bound by a confidentiality agreement with MPFC known to the County or its representatives. The County agrees it shall not copy or otherwise take possession of any MPFC documents or records deemed by MPFC to be confidential and/or proprietary unless and until MPFC consents in writing. The County acknowledges and agrees that this Agreement does not grant or otherwise entitle the County to request or seek, and MPFC is under no obligation to deliver to the County, any of MPFC's proprietary or confidential information.

B. Examination of Certain Other Records. Upon ten (10) Business Days notice and at any time during normal business hours and as often as the County deems necessary, there shall be made available by MPFC to the County for examination in Palm Beach County all of MPFC's records with respect to any of MPFC's obligations hereunder. MPFC agrees to preserve all such records for a period of five (5) years (including five (5) years from the date of termination or expiration of this Agreement) from the later of: (i) the date such records were first produced; or (ii) the date that MPFC delivers any of the reports required hereunder to the County, which is based, in whole or in part, upon such records. The County reserves the right to require copies of such records. The requirements of this paragraph shall survive termination of this Agreement until satisfied.

ARTICLE XIII.
SUCCESSORS AND ASSIGNS

The County and MPFC each binds itself and its partners, successors, executors, administrators and assigns to the other party and to the partners, successors, executors,

administrators and assigns of such other party, in respect of all covenants of this Agreement. Neither the County nor MPFC shall assign, convey or transfer its interest in this Agreement without the prior written consent of the other, which consent may be granted or withheld in that party's sole discretion; provided, however, that MPFC may assign this Agreement to any successor-in-interest to all or substantially all of MPFC's assets, provided that such successor assumes all rights and obligations under this Agreement and such successor is a not-for-profit entity. Any attempted assignment by one party in violation of this Article shall be void without the prior written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the County, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the County and MPFC and permitted assigns. Any merger, consolidation or reorganization of MPFC which results in a change of control shall be deemed an assignment hereunder.

ARTICLE XIV.
COUNTY CREDIT; POLICE POWERS

MPFC shall not pledge the County's credit nor make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. MPFC further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement. The parties further acknowledge and agree that this Agreement does not nor shall it be construed as a delegation of any of the County's governmental authority or police powers to MPFC.

ARTICLE XV.
INDEPENDENT CONTRACTOR RELATIONSHIP; THIRD PARTIES

A. Independent Contractor Relationship. MPFC is, and shall be, in the performance of all work services and activities under this Agreement, an independent contractor, and not an employee, agent, or servant of the County. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to MPFC's sole direction, supervision, and control. MPFC shall exercise control over the means and manner in which it and its contractors perform the work. MPFC does not have the power or authority to bind the County in any promise, agreement or representation.

B. Third Parties. Nothing in this Agreement, express or implied, is intended to confer upon any party, other than the parties hereto and their respective successors and permitted assigns, any rights, remedies, obligations or liabilities under, or by reason of, this Agreement.

ARTICLE XVI.
SEVERABILITY; CONSTRUCTION OF AGREEMENT

A. Severability. If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

B. Construction of Agreement. Neither party shall be considered the author of this Agreement since the parties hereto have participated in extensive negotiations and drafting and redrafting of this document to arrive at a final Agreement. Thus, the terms of this Agreement shall not be strictly construed against one party as opposed to the other party based upon who drafted it.

ARTICLE XVII.
NO FORFEITURE

The rights of the County under this Agreement shall be cumulative and failure on the part of the County to exercise promptly any rights given hereunder shall not operate to forfeit or waive any of the said rights.

ARTICLE XVIII.
WAIVER

No waiver of any provision of this Agreement shall be effective against any party hereto unless it is in writing and signed by the party(s) waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

ARTICLE XIX.
PUBLIC ENTITY CRIMES

By entering into this Agreement or performing any work in furtherance hereof, MPFC certifies that it and to its actual knowledge its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty six (36) months immediately preceding the Effective Date.

ARTICLE XX.
ENFORCEMENT COSTS

Any costs or expenses (including reasonable attorney's fees) associated with the enforcement of the terms and/or conditions of this Agreement by a party shall be borne by such party; provided, however, that this clause pertains only to the parties to this Agreement.

ARTICLE XXI.
AMENDMENTS

Except as otherwise provided herein, no amendment to this Agreement shall be binding on either party unless in writing, approved by the Board of County Commissioners and signed by both parties.

ARTICLE XXII.
CAPTIONS

The captions, sections and part designations herein set forth are for convenience only and shall have no substantive meaning.

ARTICLE XXIII.
NOTICE

All notices and communications under this Agreement shall be in writing and shall be given by: (i) hand delivery; (ii) certified mail, return receipt requested (postage prepaid); (iii) reliable overnight commercial courier (charges prepaid); or (iv) facsimile (with confirmation of transmission) to each of the parties as follows:

If to County:

Economic Development Coordinator
Palm Beach County Economic Development Office
P.O. Box 1989 (10th floor)
West Palm Beach, Florida '33402-1989
Fax: (561) 355-6017

and

Shannon LaRocque
Assistant County Administrator, Palm Beach County
301 North Olive Avenue, 11th Floor
West Palm Beach, Florida 33401
Fax: (561) 355-3982

with a copy to:

James C. Mize, Jr., Chief Assistant County Attorney
Palm Beach County Attorney's Office
301 North Olive Avenue, Suite 601
West Palm Beach, Florida 34301
Fax: (561) 355-4398

If to MPFC:

Max Planck Florida Corporation
310 Evernia Street
Palm Beach, Florida 33401
Attention: Dr. Peter Gruss
Fax: [•]

With a copy to:

McDermott, Will & Emery LLP
Attention: Raquel A. Rodriguez, Esq.
201 South Biscayne Boulevard, 22nd Floor
Miami, FL 33131
Fax: (305) 347-6500

Notice shall be deemed to have been given and received: (i) if by hand delivery, upon delivery; (ii) if by mail, on the date shown on the receipt for delivery; (iii) if by overnight courier, on the date shown on the Courier's receipt as the date of actual delivery; and (iv) if by facsimile, on the date shown on the confirmation of transmission. A party may change its address by giving written notice to the party as specified herein.

ARTICLE XXIV.
ENTIRETY OF CONTRACTUAL AGREEMENT

The parties agree that this Agreement sets forth the entire agreement and understanding between the parties and supersedes all prior negotiations, representations, understandings or agreements, whether oral or written, between the parties or made by third parties to either party, and there are no promises, covenants, agreements, representations, warranties or understandings between the parties other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered except by written instrument executed by the parties hereto.

ARTICLE XXV.
DELEGATION

The County Administrator shall have the right to execute and deliver on behalf of the County (in its capacity as a party to this Agreement and not in its governmental function) all consents and/or approvals hereunder and to review and approve on behalf of the County all plans and documents submitted pursuant to this Agreement. Notwithstanding the foregoing, the County Administrator may, in his or her sole and absolute discretion, elect to defer any such approvals to the Board of County Commissioners.

ARTICLE XXVI.
NO FEES

Except as otherwise expressly set forth in this Agreement, no fees or other charges of any kind or amount shall be required by either party hereto as a condition of the grant of any consent or approval which may be required under this Agreement (provided that the foregoing shall not be deemed in any way to limit the County acting in its governmental, as distinct from its capacity as a contract party to this Agreement, from charging governmental fees on a nondiscriminatory basis).

ARTICLE XXVII.
INCONSISTENCY

In the event of any express inconsistency or conflict between the terms and provisions of this Agreement (excluding the exhibits and addendum hereto) and the terms and provisions of any exhibit or addendum hereto, the terms and provisions of this Agreement (excluding the exhibits and addendum hereto) shall control for all purposes.

ARTICLE XXVIII
CONSENTS

In the event this Agreement indicates that a party's consent shall not be unreasonably withheld, such consent shall not be unreasonably withheld, delayed or conditioned. In the event this Agreement indicates that a party's consent may be granted or withheld at such party's sole discretion, such consent may be granted or withheld at such party's sole and absolute discretion for any reason or no reason at all.

ARTICLE XXIX
TIME IS OF THE ESSENCE

Time is of the essence with respect to the performance of each and every provision of this Agreement where a time is specified for performance.

IN WITNESS WHEREOF, the County has caused this Agreement to be signed by the Chair of the Board of County Commissioners and the seal of the Board of County Commissioners to be affixed hereto and attested to by the Palm Beach County Clerk & Comptroller, pursuant to the authority granted by the Board of County Commissioners, and MPFC has caused these presents to be signed in its lawful name by Dr. Peter Gruss its duly authorized Sole Trustee, acting on behalf of MPFC, and the seal of MPFC to be affixed hereto the day and year first written above.

ATTEST:
SHARON R. BOCK, Clerk
& Comptroller

By:_____
Deputy Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By:_____
County Attorney

Signed and delivered in the Presence of two witnesses for MPFC:

_____
Signature

_____
Name (type or print)

_____
Signature

_____
Name (type or print)

PALM BEACH COUNTY, a subdivision of the State of Florida by its Board of County Commissioners:

By:_____
Addie Greene, Chairperson

APPROVED AS TO TERMS
AND CONDITIONS:

By:_____
MPFC Program Manager

MAX PLANCK FLORIDA CORPORATION

By: P.G. JJ
Peter Gruss, Sole Trustee

Date:_____

(Corp. Seal)

STATE OF _____]

COUNTY OF _____]

The foregoing instrument was acknowledged before me this __ day of _____, 200_____, by _____ the _____ of _____a , who is personally known to me OR who produced _____ as identification and who did _____ take an oath.

_____

Notary Public

_____

Print Notary Name

NOTARY PUBLIC
My Commission Expires:

EXHIBIT A

Bond Issuance Schedule

November 1, 2008 - $39,443,000
November 1, 2011 - $15,615,000
November 1, 2013 - $13,137,000
November 1, 2015 - $13,384,000
November 1, 2017- $5,347,000

EXHIBIT B

FAU Site Proposed Location

The FAU Site is expected to be located adjacent to and south of The Scripps Florida Institute on approximately six (6) acres of Florida Atlantic University's John D. MacArthur Campus in Jupiter, Florida. The exact legal description and boundary lines of the FAU Site have yet to be determined. Upon a final determination of such legal description and boundary lines, this Exhibit B shall be amended and restated to set forth such legal description and boundary lines.

EXHIBIT C

FAU SITE OBLIGATIONS

1. Conduct of Business and Use of FAU Site and Permanent Facilities.

1.1 Use. MPFC shall, during the Term of the Grant Agreement, use and occupy the FAU Site and Permanent Facilities exclusively for the establishment and operation of a Biomedical Research Facility. MPFC shall not use, or suffer the use of the FAU Site or Permanent Facilities for any other use, business, or purpose whatsoever without the prior written consent of County, which consent may not be unreasonably withheld so long as such use(s) does not violate the terms of the FAU Lease, the FAU Sublease or the MacArthur Deed Restriction.

1.2 Operation of Premises. MPFC shall occupy, equip, maintain, and operate the FAU Site and Permanent Facilities, in a commercially reasonable manner, consistent with the terms of the Grant Agreement, the FAU Lease and the FAU Sublease.

2. Maintenance and Repair. MPFC shall, at its sole cost and expense, maintain the FAU Site, Permanent Facilities and all alterations, improvements and appurtenances thereto, as set forth in Section 36 of the FAU Sublease.

3. County's Right to Inspect. County or County's agents shall have the right, upon reasonable prior written notice to MPFC to annually enter the FAU Site and Permanent Facilities for the purpose of inspection of the same for compliance with the terms of the Grant Agreement, subject to reasonable restrictions upon such inspections imposed by MPFC for safety and security purposes due to the nature of MPFC's operations. County's exercise of its inspection rights shall not unreasonably interfere with or disrupt MPFC's operations within the Permanent Facilities.

4. Waste or Nuisance. MPFC shall not commit or suffer to be committed any waste upon the FAU Site or within the Permanent Facilities or commit or permit the maintenance or commission of any nuisance upon the FAU Site or within the Permanent Facilities.

5. No Liens. In the event that a construction lien is recorded against the FAU Site or Permanent Facilities in connection with any work performed by or on behalf of MPFC, MPFC shall satisfy such claim, or transfer same to security, within 30 days after MPFC's receipt of written notice of such recording. In the event that MPFC fails to satisfy or transfer such claim within said 30 day period, County may do so and thereafter charge MPFC, and MPFC shall promptly pay to County upon demand, all reasonable costs incurred by County in connection with the satisfaction or transfer of such claim, including attorney's fees.

6. Damage or Destruction/Insurance Proceeds.

6.1 MPFC's Obligations. During the term of the FAU Sublease, MPFC shall have full responsibility for the condition of the FAU Site and Permanent Facilities. If the FAU Site or Permanent Facilities, or any part thereof, shall be damaged in any material way, whether by act of God, by the act, default or negligence of MPFC, or of MPFC's agents, employees, officers, representatives, guests, invitees, contractors, patrons, or any person admitted to the FAU Site or Permanent Facilities by MPFC or otherwise, MPFC shall at its sole cost and expense repair the damage; provided, however, the County shall be responsible for any damage to the FAU Site or the Permanent Facilities caused by the County, the County's agents, employees or representatives. Repair under this paragraph shall not necessarily mean reconstruction of improvements as and where they existed prior to such damage, as long as the overall utility of the Permanent Facilities as a Biomedical Research Facility after repair or restoration is substantially suitable for the same uses contemplated in the Business Plan as it was prior to such damage. Subject to Section 6.2 below, MPFC shall commence such repair or restoration within

one hundred twenty (120) days of receipt of insurance proceeds for such purposes by MPFC or into escrow pursuant to Section 6.2 and shall diligently pursue the same to completion. Nothing herein shall obligate MPFC to repair or restore any improvements other than the Permanent Facilities.

6.2 Insurance Proceeds. With respect to insured casualty losses (i) of $1,000,000.00 or less, the proceeds shall be paid over to MPFC; and (ii) in excess of $1,000,000.00, upon receipt of the proceeds of the insurance policy or policies, the proceeds shall be deposited in an escrow account approved by County and MPFC in order to ensure that such funds are available to pay for the cost of such repair, replacement or rebuilding. Such proceeds shall be disbursed during construction to pay the cost of such work. The County shall work cooperatively with MPFC on the terms, conditions and operation of any such escrow account to assure prompt repair, replacement or rebuilding, as may be necessary. The County shall not impair or impede in any way MPFC's obligations under the FAU Sublease. If the amount of such insurance proceeds is insufficient to pay the costs of the necessary repair, replacement or rebuilding of such damaged improvements, as required by Section 6.1 above, MPFC shall pay any additional sums required, which payment, in the case of (ii) above, shall be into said escrow account. If the amount of such insurance proceeds is in excess of the costs thereof, the amount of such excess shall be remitted to MPFC.

7. Encumbrances. MPFC shall not, in any manner, mortgage, pledge, or otherwise encumber the FAU Site, FAU Site Lease or the Permanent Facilities without County's prior written consent, which may be granted or withheld at County's sole discretion. Any such encumbrance without County's approval shall be null and void. This provision shall be construed to include a prohibition against any mortgage, pledge, or encumbrance by operation of

law, legal process, receivership, bankruptcy, or otherwise, whether voluntary or involuntary. This prohibition shall not restrict MPFC's right to grant a security interest in any equipment in the ordinary course of business for purposes of financing the purchase of such equipment.

8. Assignment, Subletting and Transfer. MPFC shall not, in any manner, assign or otherwise transfer an interest in the FAU Site or Permanent Facilities or sublet the FAU Site or Permanent Facilities or any part thereof ("Assignment"), except as set forth in Sections 8 and 35 of the FAU Sublease. Any such attempted Assignment in violation of this Section shall be null and void. This provision shall be construed to include a prohibition against any assignment, sublease or other transfer by operation of law, legal process, receivership, bankruptcy, or otherwise, whether voluntary or involuntary. Notwithstanding the foregoing, collaborative use arrangements and other similar facility sharing or sublease arrangements between MPFC and third parties relating to the use of the Permanent Facilities (as long as such use is consistent with the terms of the FAU Lease, the FAU Sublease and the Grant Agreement), shall not be deemed an Assignment.

9. Alterations or Additions. MPFC shall be entitled to perform such alterations and construct such additions to the FAU Site and Permanent Facilities as MPFC deems appropriate provided the same comply with the terms of the FAU Lease, the FAU Sublease and the Grant Agreement and do not materially impair the value of the FAU Site and Permanent Facilities. Any such additions, alterations or improvements shall be made at MPFC's sole cost and expense in accordance with the requirements of the terms of the FAU Lease, the FAU Sublease and the Grant Agreement.

10. Laws and Regulations. Throughout the term of this Lease, MPFC, at its cost and expense, shall remain in material compliance with all statutes, regulations, rules, rulings, orders,

ordinances, covenants, restrictions or directives of any kind or nature (whether public or private), as same may be amended, of any and all Federal, State, County, Municipal or local governmental bodies now or hereafter which are applicable to MPFC or its use of the FAU Site and Permanent Facilities, except where such noncompliance or violation would not reasonably be expected to materially impair the value of the FAU Site and Permanent Facilities.

11. Amendment of Leases. If any proposed amendment to the FAU Sublease (or FAU Lease, if MPFC succeeds to Florida Atlantic University's interest) alters County's rights under such leases or impairs County's security for its investment in the Permanent Facilities, MPFC shall not agree to the same without the prior written approval of County, which consent may be granted or withheld at County's sole discretion.

12. Memorandum. MPFC shall, within thirty (30) days of the Effective Date of the FAU Sublease, sign a Memorandum prepared by and satisfactory to County providing notice to the public of MPFC's obligations relating to the FAU Site including specific notice of the prohibition against encumbrances contained in Section 7 and the prohibition against assignment and subletting in Section 8.

EXHIBIT D

Job Creation Schedule

Year	0	1	2	3	4	5	6	7
MPFC New Jobs	0	25	61	91	108	121	130	135

EXHIBIT "E"

PERMANENT FACILITIES DEVELOPMENT ADDENDUM

ARTICLE I

OBLIGATIONS OF THE PARTIES

1.1 Construction of Permanent Facilities. The Palm Beach County Board of County Commissioners, pursuant to the terms of the Grant Agreement, is providing funds to MPFC for use by MPFC in planning, permitting, designing, and constructing the Permanent Facilities. MPFC acknowledges that the funds being provided are provided directly from, or will be repaid from, public funds. Pursuant to the terms and conditions of this Agreement, MPFC agrees to use the Construction Funds for the purpose of planning, permitting, designing and constructing the Permanent Facilities in accordance with the Minimum Requirements and to exercise its best efforts to do so in a manner that will responsibly, efficiently, and economically advance MPFC's and the County's objectives as expressed in the Grant Agreement.

1.2 Authority of MPFC. In accordance with the provisions of Section 1.1, above, MPFC shall have the sole right to select. negotiate and enter into any contract with respect to the design and construction of the Permanent Facilities, subject only to the limitations set forth in Section 3.4 of this Addendum and to supervise and control the activities with respect thereto, including, but not limited to, the sole right to make decisions related to design, permitting, construction and development of the Permanent Facilities, subject only to the terms of the Grant Agreement, the addenda and exhibits attached thereto, including this Addendum; and compliance with all applicable laws, ordinances, codes, rules and regulations, including, but not limited to, all land use restrictions as may be or become applicable to the Permanent Facilities.

1.3 County Obligations (Construction Funds). As set forth in the Grant Agreement, the County and MPFC acknowledge and agree that the County's obligation to provide the Construction Funds is conditioned upon the County's issuance and sale of Bonds. Until such time as the proceeds from the sale of Bonds become available or to the extent that the proceeds from the sale of Bonds are insufficient to cover the obligations of the County in this Agreement, the County may, but shall not be obligated to, budget and appropriate funds sufficient to cover all commitments of the County set forth in this Agreement. The obligations of the County set forth in this Section 1.3 to make available the Construction Funds and in Sections 2.1 and 2.2 of this Addendum to pay for Reimbursable Costs are expressly predicated on MPFC's compliance with the conditions of financing set forth on Attachment B.

1.4 County Obligations (Design and Permitting). The County agrees not to interfere with any aspect of the design, permitting, construction, development or delivery of the Permanent Facilities. The County agrees not to interfere with the Design Professional in the performance of its services under the Design Contract, with the Contractor in the performance of the Work under the Construction Contract, or with any other Person engaged in the design, permitting, construction, development or delivery of the Permanent

Facilities. Nothing in this Section 1.4 shall be construed to require the County to violate any valid and enforceable law, code, ordinance, rule or regulation or as limiting or eliminating the obligation of the parties to comply therewith.

1.5 Governmental Authority. Nothing in this agreement shall be construed to waive or limit the County's governmental authority as a political subdivision of the State of Florida to regulate MPFC or its operations. The County's agreements under this Addendum are made in a proprietary capacity, rather than in it governmental capacity and such agreements shall not be construed as limiting, prohibiting or eliminating the obligation of the parties to comply with all rules, regulations, ordinances, statutes and laws applicable to such party, nor alter or impair the County's governmental functions, including, without limitation, the County's right to lawfully exercise its regulatory authority over the development of the Permanent Facilities, nor as enabling, permitting, or creating any cause of action or claim arising out of the lawful exercise of the County's governmental authority. Nothing herein shall be intended to limit the liability of the County acting in its proprietary capacity.

1.6 MPFC's Obligations. MPFC by itself, or, through its Project Representative, shall:

(a) Subject to the provisions of Section 3.4 of this Addendum, prepare, negotiate, and enter into contracts with such planners, design professionals, and contractors, in accordance with the procurement procedures of this Addendum, as MPFC deems necessary for the planning, design, and construction of the Permanent Facilities;

(b) Provide specific guidance to its planners and design professionals about the proposed program and uses for the Permanent Facilities, and ensure that the program is consistent with, or in excess of, the Minimum Requirements;

(c) Evaluate phasing options and implications and determine an efficient and economical design and construction option consistent with MPFC's construction scheduling requirements and the Minimum Requirements;

(d) Identify critical schedule and/or cost issues for specific monitoring, particularly with respect to funding availability;

(e) Solicit and review requests for proposals from contractors and select a Contractor in accordance with the procedures as set forth in Section 3.4 hereof;

(f) Prepare the preliminary line items within the project budget;

(g) Review preliminary designs for the Permanent Facilities in order to confirm program assumptions, and to confirm whether the, cost of the Permanent Facilities, based upon the preliminary designs, is within the project budget;

(h) Conduct coordination and orientation meetings, as may be required;

(i) Identify and coordinate activities required for access to the Site and identify and coordinate activities required for development that must be performed by third parties, if any, in order for the MPFC's construction schedule to be satisfied; and, once access ways to the project have been provided to MPFC, provide Contractor with access to the project;

(j) Prepare a list of required governmental reviews and approvals, and engage Consultants to secure any permits or approvals for on-site activities that are required for the construction of the Permanent Facilities,

(k) Engage Consultants as may be required, in MPFC's discretion, to perform, or to assist in the performance of, any of the services hereunder:

(l) Monitor the development of the drawings and the specifications prepared by the Design Professional, conduct progress reviews of the drawings and specifications and coordinate such reviews with the County;

(m) Review and certify each request for payment submitted by MPFC's Consultants, Design Professionals, Vendors, and Contractors and transmit payments on account of each such request for payment, in accordance with the applicable contract, provided that MPFC has received payment on account of such request for payment from the County.

(n) In the discretion of MPFC, and as necessary to maximize sales tax savings, prepare and enter into direct purchase agreements with vendors of construction materials, fixture and equipment:

(o) Review the activities of the Design Professional, Contractor, the Subcontractors and Consultants for compliance with the project schedule, the project budget and their respective contracts;

(p) Coordinate with public utilities for on-site water, sewer, gas, steam, electric and telecommunications service, as appropriate, to facilitate on-site infrastructure;

(q) Conduct progress meetings and prepare reports, including a bimonthly executive summary, which reports shall be timely copied to the County, identifying the status of the planning or design efforts or, as applicable, percentage of the Work completed, the amount paid to the Consultants, Design Professional, Vendors, and Contractor;

(r) Review all activities of the Design Professional, Contractor, Subcontractors, Vendors, and Consultants, for substantial compliance with the terms and provisions of their respective contracts, including, but not limited to, the substantial conformance of the Work with the Construction Contract, and the substantial conformance of the Contractor's activities with the project and report any observed material non-conformities to the County, within thirty (30) days from the date that any such non-conformities are observed by MPFC;

(s) Cause the Construction Contract to contain provisions materially in accordance with the requirements of Attachments C and D and, in a manner reasonably calculated to foster timely completion of the project, enforce such provisions;

(t) Take all other actions reasonably necessary to coordinate the planning, design, permitting and construction of the project.

(u) Cause Contractor to procure and maintain Payment and Performance Bonds in accordance with the following:

Prior to execution of the Construction Contract to be awarded by MPFC, Contractor shall furnish contract bonds to MPFC and the County on forms acceptable to the County, as follows:

1. Performance Bond in the amount of 100% of the Contract Price.

2. Payment Bond in the amount of 100% of the Contract Price.

Such Bonds shall incorporate by reference all of the terms and conditions of the Construction Contract Documents, including but not limited to the Contractor and Surety's obligation for liquidated damages as well as Surety's acknowledgment regarding any and all provisions addressing or regarding "no damages for delay", if any. Such Bonds shall be Dual Obligee Bonds listing MPFC and the County as The Surety Company, in addition to the above requirements, shall be currently listed with the United States Department of Treasury for an amount greater than the contract amount, The Contractor, at the time of his, her or its execution of the contract, shall provide, with his Contract Bonds, a copy of the Surety Company's current valid Certificate of Authority issued by the United States Department of the Treasury under ss 31, U.S.C. 9304-9308. The Contractor shall require the attorney-in-fact who executes the required bonds on behalf of the Surety to affix thereto a certified and current copy of his, her or its Power of Attorney, reflecting his her or its authority as Power of Attorney in the State of Florida.

ARTICLE II

PAYMENT OF REIMBURSABLE COSTS

2.1 Reimbursable Costs. Subject to the terms, conditions and limitations contained in the Grant Agreement, the County agrees to disburse Construction Funds to MPFC, or its designee, in accordance with Section 2.2 hereof to cover Project Costs, including, subject to the limitations contained in the Grant Agreement, (i) all amounts incurred with respect to the Design Professional pursuant to the Design Contract; (ii) all amounts incurred with respect to the Contractor pursuant to the Construction Contract; (iii) all amounts incurred with respect to Vendors and Consultants; (iv) all fees and expenses for due diligence, site work, remediation, construction permits, impact fees, connection charges and the like; and (v) all other costs or expenses (including attorney's fees and expenses

incurred after the Effective Date of the Grant Agreement, except for such fees and expenses as may be incurred by MPFC in renegotiating all or any part of the Grant Agreement or any exhibits or attachments thereto or in any claim, lawsuit or proceeding against the County, or any proceeding asserting a violation of-any Federal, State or Local statute, law, code, ordinance, rule or regulation, or any proceeding relating to any fines or penalties assessed against MPFC in connection with the construction of the Permanent Facilities, it being expressly understood that attorney's fees and expenses incurred by MPFC in connection with obtaining the necessary approvals for the construction of the Permanent Facilities shall be reimbursable hereunder) reasonably incurred by MPFC related to materials and services provided by third parties associated with the planning, permitting, design and construction of the Permanent Facilities and fixtures installed within the Permanent Facilities (collectively referred to herein as "Reimbursable Costs"). All construction contracts shall provide for the withholding of retainage in an amount which shall be agreed to by MPFC and the County, before execution of any construction contract. All retainage under all Construction Contracts shall be retained by the County until MPFC certifies that the Contractor is entitled to release thereof under the Construction Contract or until such earlier event as MPFC and the County may agree. The County expressly agrees that it shall not make any payment nor release any retainage directly to any Contractor.

2.2 Applications for Payment On the fifth (5th) day of each month, commencing the month following the funding of the Construction Account, MPFC shall be entitled to submit to the County for approval an application for payment for Reimbursable Costs, which shall include a copy of invoices or receipts certified by MPFC, as well as copies of the documentation required by MPFC in connection with payments due under the Design Contract, the Construction Contract or in respect of payments due to Vendors, Consultants or others ("Application for Payment"). Such application shall include a copy of the consolidated and reconciled pay application submitted to MPFC by MPFC's Contractor, certified by MPFC's engineer or architect, as applicable, and the Applicable Documentation as hereinafter defined). Documentation submitted by MPFC with each Application for Payment shall be sufficient to establish that amounts requested for payment were actually incurred for Reimbursable Costs. Within ten (10) Business Days after receipt of each Application for Payment, the County shall: (i) review such Application for Payment solely for compliance with the foregoing requirements; (ii) based upon such review, approve or disapprove, in whole or in part, such Application for Payment; and (iii) disburse from the Construction Account, by wire transfer to such account(s) as MPFC may direct in writing, funds in the amount equal to the approved expenditures. The parties acknowledge that the Clerk of the Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, as custodian of the Construction Funds, will be disbursing the same, upon approval thereof by the County, under the County's delegated authority. Thereafter, upon the County Representative's request, MPFC shall provide documentation to the County to certify that payment has been made to MPFC's contractors, consultants, suppliers, vendors and subcontractors, including, but not limited to, the Contractor and Design Professional for all amounts previously received from the County. Upon receipt of payment from the County with respect to any Application for Payment, MPFC shall transmit payment to the Design Professional, to the Contractor, to each Consultant, and to each Vendor, in the exact amount received from the County for the service or Work performed by or materials and equipment

delivered by each, within five (5) business days from the date of MPFC's receipt of such payment from the County. Any disapproved amount shall remain in the Construction Account until MPFC and the County jointly determine the disposition of such amount.

2.3 Waivers and Releases. With each Application for Payment submitted to the County, MPFC shall deliver to the County from the Vendors, Consultants, Design Professional and the Contractor for which payment is requested, as the case may be, fully executed partial waivers and releases of claims in the amount of the immediately prior payment made by the County to MPFC for the Vendors, Consultants, Design Professional or the Contractor, excepting any claims that may remain in dispute. The County shall not release payment for any material or equipment supplied by any Vendor or work performed by the Consultants, Design Professional or the Contractor, as the case may be, unless the Application for Payment submitted to the County, incorporating a request for payment for such material or portion of the work performed by the Vendor, Consultant, Design Professional or the Contractor, as the case may be, is accompanied by such partial waiver and release of claims by the Vendor, Consultant, Design Professional or the Contractor; provided however, the County shall make disbursements on account of the Construction Contract without such partial waiver and release of claims if the Contractor presents to MPFC, and MPFC presents to the County, a consent of surety to such payment, from the Contractor's surety, in a form acceptable to MPFC and the County.

2.4 County Independent Expenditures. The County acknowledges and agrees that the Construction Funds shall not be applied to any costs incurred by the County.

2.5 Cost Overruns. In the event that construction of the Permanent Facilities is commenced by MPFC, and the Project Cost exceeds the Project Cost Maximum Funding Requirement, MPFC shall be responsible, subject to the terms, conditions and limitations in the Grant Agreement, for paying all excess costs (hereinafter collectively referred to as a "Cost Overrun"). Notwithstanding the foregoing, if a Default or Material Default by the County under the Grant Agreement causes any delay in the completion of the construction of the Permanent Facilities, which delay results in a Cost Overrun, the County will be responsible to pay any Cost Overrun so caused by the County. In the event the actual Project Cost is less than the Project Cost Maximum Funding Requirement (any such remaining funds, the "Unused Project Funds"), fifty percent (50%) of the Unused Project Funds shall be available to MPFC as Operating Funds and fifty percent (50%) of the Unused Funds shall be retained by the County.

ARTICLE III

COORDINATION OF CONSTRUCTION ACTIVITIES

3.1 Project Representative & County Representative. Within sixty (60) days after the Effective Date, MPFC shall designate a competent, authorized project representative, acceptable to the County, to represent and act for MPFC (the "Project Representative") and shall inform the County in writing, of the name and address of such Project Representative together with a clear definition of the scope of his or her authority to

represent and act for MPFC and shall specify any and all limitations of such authority. MPFC shall keep the County informed of any subsequent changes in the foregoing. If, at any time during the term of this Agreement, the Project Representative becomes, for good cause, unacceptable to the County, upon written notice from the County specifying the reason that the County finds such Project Representative to be unacceptable, MPFC shall replace the unacceptable Project Representative with a Project Representative acceptable to the County. The County shall designate a representative who will have authority to act for the County, within the limits provided by law (the "County Representative"). The County will notify MPFC in writing of the name of the County Representative. The County Representative will be an employee and member of the Facilities Development and Operations Department of the County. If, at any time during the term of this Agreement, the County Representative becomes, for good cause, unacceptable to MPFC, upon written notice from MPFC specifying the reason that MPFC finds such County Representative to be unacceptable, the County shall replace the unacceptable County Representative with a County Representative acceptable to the MPFC.

3.2 [This section is intentionally left blank]

3.3 Permanent Facilities Review Milestones.

3.3.1 As a part of the coordination process, MPFC shall deliver to the County Representative, at no cost to the County, three complete sets of all final documents and materials received by , and in the possession of, MPFC, prepared by the Consultants, Design Professional and the Contractor pursuant to the Design Contract or the Construction Contract, as the case may be or pursuant to any other agreement related to the construction of the Permanent Facilities, as the County may reasonably request including, but not limited to all drawings, maps, sketches, programs, data bases, reports and other data developed, or purchased, under this Addendum or any agreement related to the construction of the Permanent Facilities, by or from any Vendor, Consultant, the Design Professional or the Contractor, and received by MPFC.

3.3.2 MPFC shall deliver to the County, without request by the County, three complete sets of any conceptual drawings or project programming documents prepared by any Consultant or Design Professional and three sets of the 100% schematic drawings, the 100% design development documents and drawings, the 50% and 100% complete sets of construction documents and drawings shall identify a reasonable time within which the County may present MPFC with any comments which the County may have, which shall not be less than ten (10) Business Days. MPFC agrees to accept timely comments from the County regarding these documents and MPFC shall give those comments fair consideration but shall not be obligated to incorporate them. The County's review will be limited to compliance of the documents with the Minimum Requirements and to any provisions of this Agreement requiring County approval. The County shall have twenty (20) Business Days (unless a shorter time period is specified in this Addendum or in the Coordination Agreement, in which case such shorter time period shall apply) within which to issue its approval or rejection of documents requiring County approval. Should the

County fail to respond within such time period, any submission requiring County approval shall be deemed approved.

3.4 Procurement Requirements. MPFC agrees to establish policies and procedures with the goal of providing equitable treatment of all qualified persons interested in doing business with MPFC; to provide fair and open competition; to obtain goods and services of satisfactory quality and quantity at reasonable cost; and to act in good faith in the procurement of goods and services. In no event shall MPFC be required to permit bid protests or adopt any procurement requirements of the State of Florida or the County. Once MPFC has identified the contractors and construction managers that meet or exceed MPFC's minimum qualifications for the Project based on published criteria developed in MPFC's sole discretion and that meet at least the requirements of this Section 3.4, to the extent that price is the primary consideration in selecting contractors or construction managers, MPFC shall use the lowest, responsive bidder that MPFC determines, in its sole discretion, is sufficiently responsible to complete the construction in accordance with the plans and specifications and applicable schedule. MPFC's minimum qualifications and its selection criteria shall be established at the sole discretion of MPFC; provided, however, that MPFC's selection criteria, shall (i) provide a preference for SBE's and local businesses in accordance with the terms and provisions of the Grant Agreement, and (ii) with respect to the selection of the Contractor only grant the highest consideration to those respondents demonstrating one or more of the following criteria, it being expressly understood that MPFC shall weigh the relative criteria as it deems appropriate in making such a selection and may waive one or more of these criteria to the extent that the respondent is otherwise qualified and possesses the relevant experience:

1. Experience in the capacity of construction manager/general contractor in the construction of complex major educational, institutional, industrial/manufacturing, and research;

2. Experience in delivering pre-construction services, including estimating, scheduling and value engineering for complex major educational, institutional, industrial/manufacturing, and research projects with a value of over $50,000;000; and

3. Experience in managing the construction of complex major educational. institutional, industrial/manufacturing, and research projects with a minimum value of $50,000,000 in the State of Florida.

The County's Representative may review and provide its input as to the responses to the request for qualifications, and attend or participate by telephone in MPFC's selection committee' meetings (but shall not have a vote). Notwithstanding the foregoing, MPFC shall have exclusive discretion in selection of the Contractor(s), Design Professional(s), and Consultant(s).

The competitive selection process shall not apply to the hiring of Consultants (i) engaged by MPFC prior to the Effective Date to perform preparatory work or (ii) selected by MPFC

to perform services reasonably expected to result in Reimbursable Costs of less than $25,000 during the course of such Consultant's engagement (which shall be raised to $100,000 for consultant services which MPFC reasonably deems to be only attainable from a sole source or in the event of an emergency). MPFC shall supply the County with a letter demonstrating that a sole source or emergency procurement is warranted. The County shall review such letter within seven (7) days of receiving the same (or twenty-four (24) hours in the event of an emergency procurement) and shall not unreasonably withhold approval of such sole source or emergency procurement. No scope of work shall be divided so as to reduce its cost below the applicable threshold for the purpose of avoiding the competitive selection process.

(b) As a part of this procurement process, MPFC agrees to provide the County with copies of MPFC's proposed Vendor, Consultant, Design, and Construction contract forms. The County shall have five (5) Business Days within which to review and comment on MPFC's proposed contract forms. MPFC agrees to give the County's comments fair consideration, but shall not be obligated to incorporate them (unless otherwise required by this Agreement) before finalizing any of the referenced contract forms.

3.5 Meetings. The County Representative or his designee, at their option, may attend any meetings scheduled by MPFC relating to the construction of the Permanent Facilities, including, but not limited to, site meetings and meetings. with the Vendors, Consultants, Design Professional, the Contractor and any Subcontractor. MPFC shall provide the County Representative with advance notice of any such regularly scheduled meetings.

3.6 Self Performance. MPFC shall not self-perform any physical construction at the Site other than routine maintenance. Furthermore, MPFC shall not perform, and nothing contained in this Agreement shall be construed to require MPFC to 'Perform, any activity or service which would require a license, a certificate of authorization, certification or registration under Chapters 471, 481 or 489, Florida Statutes.

3.7 Third-party Beneficiary Status. MPFC agrees to name the County as a third-party beneficiary in the Design Contract, in the Construction Contract, and in any Vendor and Consultant agreements. Further, MPFC agrees to require the Design Professional, the Contractor and any Consultant to name the County as an additional third-party beneficiary in any subconsultant agreement or subcontract, as the case may be, made by and between any Design Professional and any sub consultant, made by and between any Contractor and any Subcontractor, or made by and between any Consultant and any sub consultant. The County shall be entitled to enforce its rights as a third-party beneficiary under any of the specified contracts (any such enforcement, an "Enforcement Action") only (i) upon receiving MPFC's prior written consent or (ii) in the event (a) MPFC has not undertaken a commercially reasonable response to the underlying default giving rise to the Enforcernent Action, and (b) the County provides MPFC with 20 Business Days' prior written notice of its intention to commence an Enforcement Action and MPFC fails to undertake a commercially reasonable response to the underlying default within such 20 Business Days.

MPFC will contractually obligate the Contractor to name the County as a dual obligee on the Contractor's performance bond and its labor and material payment bond.

3.8 Ownership of Documents. Provided hat the Grant Agreement has not been terminated pursuant to Article IX(B)(2) of the Grant Agreement due to a Material Default of MPFC, the originals of any and all of the documents prepared as a part of MPFC performance of this Addendum shall be and remain MPFC's property.

3.9 Signage. The County shall cooperate with MPFC in coordinating the procurement and placement of off-site directional signage, along major Palm Beach County access roadways, including I-95, with the Florida Department of Transportation and other regulatory jurisdictions.

3.10 Sales and Use Taxes. Subject to compliance with all requirements of Florida Department of Revenue, MPFC shall use commercially reasonable efforts including, but not limited to, direct purchases, to purchase those supplies, materials, and equipment obtained through use of Construction Funds in a manner exempt from the payment of State of Florida sales and use taxes and to maximize these sales tax savings.

ARTICLE IV

DEFINITIONS

All terms not defined herein shall have the meanings provided in the Grant Agreement to which this Addendum is attached. The following terms shall have the meanings specified in this Article IV when capitalized and used in this Addendum. The meanings specified are applicable to both the singular and plural.

"Change Order" shall have the meaning set forth in the Construction Contract.

"Construction Contract" shall mean the construction contract to be entered into by and between MPFC and any Contractor selected by MPFC for the construction of the Permanent Facilities, or any portion- thereof, as such construction contract may be amended or replaced from time to time

"Construction Contract Documents" shall mean the Construction Contract and all amendments thereto, and shall include the drawings and the specifications prepared by the Design Professional, and all Change Orders executed or issued subsequent to the date of the Construction Contract

"Consultant" shall meat any Person, engaged by MPFC responsible for services such as interior design, environmental analysis, pre-construction services, construction management, cost estimation, scheduling, expediting, insurance consulting, value engineering services, and other similar services related to the planning, permitting, design, or construction of the Permanent Facilities.

"Consultant Contract" shall mean the contract to be entered into by and between MPFC and the Consultant(s) selected by MPFC to provide services in furtherance of the planning, permitting, design and construction of the Permanent Facilities, or any portion thereof, as such consultant contract may be amended or replaced from time to time.

"Contractor" shall mean any contractor(s), duly licensed pursuant to Chapter 489, Florida Statutes, selected in accordance with the procedures set forth in Section 3.4, engaged by MPFC, responsible for constructing the Permanent Facilities, or any portion thereof, pursuant to the Construction Contract, and such replacement contractor(s) as may be selected by MPFC.

"Cost Overruns" shall have the meaning set forth in Paragraph 2.5 of this addendum.

"Design Contract" shall mean the design contract to be entered into by and between MPFC and the Design Professional selected by MPFC for the design of the Permanent Facilities, or any portion thereof, as such design contract may be amended or replaced from time to time.

"Design Professional" shall mean any design professional selected in accordance with the procedures set forth in Section 3.4, engaged by MPFC, responsible for architecture, master planning of the site, laboratory planning, engineering (mechanical, civil, and electrical), landscape designs.

"Minimum Requirements" shall mean the minimum programmatic requirements for the Permanent Facilities set forth on Attachment A.

"Project Cost" shall have the meaning set forth in the Grant Agreement.

"Project Representative" shall have the meaning set forth in Section 3.1 of this Addendum.

"Reimbursable Costs" shall have the meaning set forth in Section 2.1 of this Addendum.

"Special Conditions" shall mean the conditions set forth on Attachment C.

"Subcontractor" shall mean any subcontractor in privity with any Contractor or any subcontractor, at any tier.

"Utility Lines" shall have the meaning set forth in the Grant Agreement.

"Vendor" shall mean any Vendor of construction materials, including but not limited to fixtures and equipment, with which MPFC has a direct contract for materials, fixtures or equipment to be used in the construction of the Permanent Facilities.

"Work" shall mean all obligations, duties, and responsibilities assigned to, or undertaken by, the Contractor pursuant to the Construction Contract, required to complete construction of the Permanent Facilities in accordance with the Construction Contract Documents.

ATTACHMENT A
MINIMUM REQUIREMENTS

Subject to the terms, conditions and limitations in the Grant Agreement, the Permanent Facilities will be designed and constructed to meet the following Minimum Requirements:

The laboratory and office space, including fixtures, to be constructed pursuant to the Permanent Facilities Development Addendum, which: (i) shall include all necessary Infrastructure to serve the uses; (ii) shall include such classroom and meeting space for use by FAU (the "Shared Space") as agreed to by and between FAU and MPFC; and (iii) may include, at MPFC's sole discretion, appropriate ancillary uses such as: (a) classrooms, (b) lecture halls, (c) conference rooms, (d) cafeterias, (e) libraries, (f) parking, and (g) landscape/open space areas. As of the Effective Date, it is anticipated that the Gross Floor Area of the Permanent Facilities may be approximately one hundred thousand (100,000) square feet. The specific size and features of the Permanent Facilities will be determined by MPFC in its sole discretion, however, the Gross Floor Area of the Permanent Facilities shall not be reduced below 90,000 square feet without the express approval of the Board of County Commissioners.

The Minimum Requirements shall include compliance with all conditions of applicable permits and land approvals.

ATTACHMENT B
CONDITIONS OF FINANCING

MPFC agrees to submit Applications for Payment in substantially the form of Annex 1 to Attachment B in connection with payments requested from the County hereunder pursuant to Section 2.2 of this Addendum.

ANNEX 1 TO ATTACHMENT B
PAYMENT REQUISITION NO.

Amount to be Paid: $_____

MPFC has submitted an Application for Payment (with accompanying bills) to Palm Beach County, Florida (the "County") for payment to the above-referenced Contractor of the Amount set forth above from moneys held by the Clerk in the Project Construction Account. In this regard the undersigned hereby certifies as follows:

(i) that the obligation described above was incurred and is a proper charge against the the Project Construction Account;

(ii) that the obligations described above, including any amounts retained by the County in the the Project Construction Account to be paid at such later date, have been incurred by, or through, MPFC and that each item thereof is a proper charge against the the Project Construction Account and has not been the basis of any previous withdrawal;

(iii) that all prior disbursements made pursuant to previous Payment Requisitions relating to the Permanent Facilities were applied in the manner set forth in such Payment Requisition;

(iv) that all requited insurance and governmental approvals needed for the construction of the Permanent Facilities, at this time, are in full force and effect.

(v) that the Work performed to date has been satisfactorily performed in a good and workmanlike manner; and

(vi) that there has not been filed with or served upon MPFC notice of any valid lion, right to lien or attachment upon, or claim affecting the right to receive payment of, any moneys payable to any of the persons named in such requisition which has not been released or will not be released simultaneously with the payment of such obligation, other than materialmen's or mechanics' lien accruing by mere operation of law

MPFC

By:

_____
Print Name:
Print Title:
(Corporate Seal)

Attachment C
Special Conditions

1. Work in Progress. MPFC shall contractually obligate the Contractor to be responsible for, and to bear any and all risk of loss or damage resulting from, the Contractor's negligence, or the negligence of its Subcontractors, to Work in progress, all materials delivered to the project site, and all materials and equipment involved in the Work, to the extent not covered by the insurance required to be obtained and maintained pursuant to other provisions of this Agreement or by insurance otherwise obtained by MPFC as contemplated hereby, until the completion and final acceptance of the Work under this Agreement. MPFC shall not be required to contractually obligate the Contractor to be responsible for any loss or damage which results from and to the extent of, the sole, active or contributing negligence of the County, its representatives or separate contractors hired by the County.

2. Protection of Utilities, Roadways, Buildings

2.1 MPFC shall contractually obligate the Contractor to conduct its operations in accordance with all applicable permits and in such a manner as not to damage, close or obstruct any utility installation, highway, road or other property, except to the extent allowed by any applicable permit. MPFC shall contractually obligate the Contractor to make such repairs and provide temporary guards, lights and other signals as necessary or required for safety, in a manner acceptable to FAU and its insurance company, if facilities are closed, obstructed, damaged or rendered unsafe by the Contractor's operations.

2.2 MPFC shall contractually obligate the Contractor to conduct its operations so as not to damage any existing buildings or structures, except as approved in advance, in writing, by FAU, MPFC shall contractually obligate the Contractor to verify that means and methods of construction used inside, adjacent to, under or over existing buildings will not cause damage, and to provide or arrange for protection methods which are acceptable to the FAU and its insurance company.

2.3 MPH shall contractually obligate the Contractor to refrain from doing any work that would disrupt or otherwise interfere with the operation of any pipeline, telephone. electric, radio, gas transmission line, ditch or other structure, and from entering upon land in its natural state without prior written notice to FAU, unless otherwise specifically provided in this Agreement or required to comply with the Contractor's obligations under the Construction Contract Documents.

2.4 MPFC shall require the Contractor to preserve and protect all cultivated and planted areas and vegetation such as trees, plants, shrubs and grass on or adjacent to the project site, which, as determined by MPFC, do not reasonably interfere with the performance of the Contractor's Work. Except as expressly provided to the contrary in this Addendum, MPFC shall contractually obligate the Contractor to be responsible for damage to any areas of the project site, to vegetation and for unauthorized cutting of trees and vegetation, including, without limitation, damage arising from the performance of Work through operation of equipment or stockpiling of materials.

3. Labor. MPFC shall contractually obligate the Contractor to employ only competent and properly licensed personnel to perform the services required under the Construction Contract.

3.1 Labor Laws. MPFC shall contractually obligate the Contractor to comply with all authorities having jurisdiction over the Work or site in enforcing the project site condition and work rules which directly affect the performance of the Work, including, but not limited to, starting and quitting times, smoking regulations, check-in and check-out procedures, project safety regulations and security regulations, emergency plans and procedures and daily clean-up. MPFC shall be, and shall contractually obligate the Contractor and its Subcontractors to be bound by and to comply with all applicable federal, state and local laws with regard to minimum wages, overtime work, hiring and nondiscrimination.

4. MPFC shall contractually obligate the Contractor to take necessary precautions for the safety of its employees on the project, and to comply with all applicable provisions of Federal, State, and local safety laws, codes, ordinances, rules, and regulations and to include in all subcontracts provisions which contractually obligate Subcontractors to similarly be responsible for the safety of their employees on the project.

4.1 MPFC shall contractually obligate the Contractor to be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. MPFC shall contractually obligate the Contractor to take all precautions and follow all procedures for the safety of, and shall provide all protection to prevent injury to, all persons involved in any way in the construction of the project and all other persons; including, without limitation, the employees, agents, guests, visitors, invitees and licensees of the County and MPFC. who may be affected thereby. MPFC will contractually obligate the 'Contractor to provide, or arrange for, safety gear such as hard hats, and for safety training: Neither MPFC nor Contractor shall be responsible for the acts of the County's independent contractors. MPFC shall contractually obligate the Contractor to set forth. in writing, at least fifteen (15) days prior to the date of commencement of construction of the project, or any portion thereof, its safety precautions and programs in connection with the project, or portion thereof, and submit the same to MPFC for review. MPFC may, but shall not be obligated to, make suggestions and recommendations to the Contractor with respect thereto.

4.2 MPFC shall contractually obligate the Contractor: (a) to comply with, (b) to contractually obligate its Subcontractors, and anyone engaged by any of them with respect to the project, to comply with, and (c) to cause all equipment, appliances, machinery, materials, tools and like items incorporated or used in the Work to comply with:

(i) All applicable laws, ordinances, rules, regulations and orders of any public, quasi-public or other authority relating to the safety of persons and their protection against injury, specifically including, but in no event limited to, the Federal Occupational Safety and Health Act of 1970, as amended, and all state and local statutes, laws, ordinances and resolutions now or hereafter in effect; and

(ii) All applicable requirements of the Contractor's insurance carriers relating thereto. In the event of conflicting requirements between subparagraphs (i) and (ii) above, the more stringent requirement shall govern.

4.3 MPFC shall contractually obligate the Contractor, and shall require the Contractor to contractually obligate any of its Subcontractors: (a) to provide, or to cause to be provided, to each worker on the project site, the proper safety equipment for the duties being performed by that worker and (b) not to permit any worker on the project site who fails or refuses to use the same.

4.4 MPFC shall contractually obligate the Contactor, until the date of Substantial Completion: (a) to maintain adequate and continuous protection of all completed Work and temporary facilities against loss or damage from whatever cause; (b) to protect the property of the County and third parties from loss or damage from whatever cause arising out of the performance of this Addendum; and, (c) to comply with applicable laws with respect to the prevention of loss or damage to the Work. The County, or its representatives, may, but shall not be obligated to, make periodic visits to the project site as a part of its normal safety, loss control and security programs. In such event, however, the Contractor shall not be relieved of its aforesaid responsibilities and the County shall not assume, nor shall it be deemed to have assumed, any responsibility otherwise imposed upon the Contractor, through MPFC by virtue of this Addendum.

4.5 Until the date of Substantial Completion, MPFC shall contractually obligate the Contractor to ha e full and complete charge and care of, and, except as otherwise provided in this Addendum, to bear all risk of loss of, and injury or damage to, the Work, or any portion thereof, resulting from the negligence of the Contractor or its Subcontractors. to the extent not covered by the insurance to be obtained and maintained by the Contractor under the provisions of the Construction Contract for the Contractor.

4.6 In the event that the Contractor is required to perform any additional services or rework to correct, replace or repair any portion of the Work damaged or destroyed by fire or other damage covered by the insurance to be obtained and maintained by the Contractor under the provisions of the Construction Contract for the Contractor, such rework, repair or replacement work shall be considered a change under the Construction Contract, to the extent covered by insurance, and shall be undertaken only pursuant to a written Change Order.

4.7 For damages not covered by insurance to be maintained by the Contractor, MPFC shall contractually obligate the Contractor to rebuild, repair, restore and make good all losses of, and injuries or damages to, the Work or any portion thereof (specifically including supplies, equipment or other items furnished by MPFC to be utilized in connection with, or incorporated into, the Work), at the Contractor's sole cost and expense, as a condition precedent to the issuance of a certificate for Substantial Completion.

4.8 MPFC shall contractually obligate the Contractor not to permit surface or subsurface water or other fluid to accumulate in excavations (where such excavation is not legally permitted for accumulation of water) or under structures. MPFC shall contractually

obligate the Contractor, should such conditions develop or be encountered, to control and suitably dispose of such water or other fluid by means of temporary pumps, piping, drainage lines and ditches, dams or other methods approved by MPFC in writing. The proposed location and coordination of temporary channels and conduits conducting accumulated water from the project site shall be permitted subject to the approval of the proper regulatory agency and MPFC. All such Work shall be completed as a part of the project budget.

4.9 MPFC shall contractually obligate the Contractor, in any emergency affecting the safety of persons or property, or in the event of a claimed violation of any statute, law, code, ordinance, rule or regulation regulating safety or health, arising out of or in any way connected with the Work or its performance, to act immediately to prevent threatened damage, injury or loss or to remedy said violation, whichever is applicable. In the event that the Contractor fails to take necessary emergency action within twenty-four (24) hours after the Contractor first has knowledge of the emergency, MPFC shall be entitled to take whatever action it deems necessary including, but not limited to, suspending the Work.

4.10 MPFC may offset any and all costs or expenses of whatever nature, including attorneys' fees, paid or incurred by MPFC in taking such emergency action, against any sums due to the Contractor that tailed to take appropriate action. MPFC shall contractually obligate the Contractor to defend, indemnify and hold the County and MPFC harmless from and against any and all costs or expenses incurred by the County or MPFC as a result of the Contractor's failure to take emergency action within the time period specified in this Section to the extent such expenses would not have been incurred had the Contractor taken such action.

4.11 The County reserves the right, but assumes no duty, to enforce safety standards prescribed in the Construction Contract Documents, for the protection of persons and property, and to review the efficiency of all protective measures taken by the Contractor. The exercise of, or the failure to exercise, any or all of these rights by the County shall not relieve the Contractor of its duties and responsibilities imposed through MPFC under this Agreement, and the County shall not thereby assume, nor be deemed to have assumed, any such duties or responsibilities of the Contractor.

5. Project Site Protection. MPFC shall contractually obligate the Contractor to maintain protection of the Work in a satisfactory condition until the date of Substantial Completion. MPFC shall contractually obligate the Contractor to make all necessary repairs to property damaged by construction operations. Repairs shall be made in a manner reasonably satisfactory to MPFC. Permanent openings or thoroughfares for the introduction of equipment and materials into any structure on the project site shall be protected, so that upon the date of Substantial Completion, the entire Work will be delivered to MPFC in proper, whole and unblemished condition.

6. Fire Protection. MPFC shall contractually obligate the Contractor to conform to all applicable laws, codes, ordinances, rules and regulations pertaining to burning, fire prevention and control within or adjacent to the project. MPFC shall contractually obligate the Contractor to take necessary precautions to avoid and eliminate fire hazards. This includes the requirement to keep the portions of the project site, where Work is

being performed, clear of all trash at all times; provided however, trash may be confined to designated areas of the project site.

6.1 All tarpaulins used for any purpose during the construction of any Work shall be made of material resistant to fire, water and weather and shall bear UL labels. The lighting of any fires on premises is strictly forbidden. Controlled burning shall be in accordance with required permits. MPFC shall contractually obligate the Contractor to provide or arrange for portable fire extinguishers properly labeled, located and compatible with the hazard of each area of the project and to instruct its personnel in their use MPFC shall contractually obligate the Contractor, wherever welding and burning are conducted, to protect inflammable materials, to provide a fire watch which shall require a representative of the Contractor to be present during the burning and welding operation to ensure that protective measures are taken and that no tires result from such operation. The fire watch shall have fire extinguisher equipment readily available.

7. Dust Control. MPFC shall contractually obligate the Contractor, for the duration of the Construction Contract, to maintain all excavation embankments, haul roads, access roads, plant project sites, waste disposal areas, borrow areas, and all other areas at the project site free from excessive dust. Industry-accepted methods of dust control suitable for the area involved and approved by FAU will be permitted.

8. Water Pollution. MPFC shall contractually obligate the Contractor to provide suitable facilities to prevent the introduction of any substance or materials into any stream, river, lake or other body of water which may pollute the water or constitute substances or materials deleterious to fish and wildlife.

9. Air Pollution. MPFC shall contractually obligate the Contractor to perform its work in such a manner not to discharge into the atmosphere from any source whatsoever smoke, dust, or other air contaminants in violation of any applicable Federal, State, and local laws, codes, ordinance, rules and regulations.

10. Explosive and Hazardous Materials. MPFC shall contractually obligate the Contractor to obtain all required federal, state and local permits and licenses and to be responsible for the safe and proper handling, transporting, storage and use of any explosive or hazardous materials brought onto the project site, in accordance with all applicable Federal, State, and local laws, codes, ordinances, rules and regulations, and to make good any damage caused by its handling, transporting, storage or use. MPFC shall contractually obligate the Contractor to immediately notify the County and FAU if explosive or hazardous materials are encountered on the project site. MPFC shall contractually obligate the Contractor to comply with all required permits when transporting explosive or hazardous materials onto the project site, and to maintain, and post as necessary, material hazard data sheets for all applicable hazardous materials used in the course of its work.

10.1 MPFC shall contractually obligate the Contractor to immediately notify the County and FAU, and other appropriate governmental authorities, and to take whatever action is necessary or desirable to remediate any contamination, in the event that hazardous

material brought onto the project site by the Contractor, or its Subcontractors, is improperly handled or stored by the Contractor, its Subcontractors, any sub-subcontractor, or any employee or agent of any of the aforementioned which results in contamination of the project site.

11. Laws and Regulations. MPFC shall contractually obligate the Contractor to give notices and comply with all laws, ordinances, rules, regulations and lawful orders of public authorities relevant to the project.

12. Subcontractor Applications for Payment. MPFC shall contractually obligate the Contractor to review applications submitted by each Subcontractor and to determine whether the amount requested reflects the progress of the Subcontractor's services. MPFC shall contractually obligate the Contractor to submit applications for payment from Subcontractors and waivers and releases from Subcontractors, in the same manner as those submitted by Contractor with its payment application, with the Contractor's applications for payment submitted to MPFC.

13. Payment of Retainage. MPFC shall contractually obligate the Contractor to pay retainage to each of its Subcontractors as the Contractor receives payment of the Subcontractors' retainage.

14. Patent Indemnity. MPFC shall contractually obligate the Contractor to pay royalties and license fees required for the project. MPFC shall contractually obligate the Contractor to defend suits or claims for infringement of patent rights and copyrights and to save MPFC and the County harmless from loss on account thereof.

15. Inspection: Rejection of Materials and Workmanship.

15.1 MPFC shall contractually obligate the Contractor: (a) to properly inspect all materials and equipment furnished and work performed; (b) to, at all times, be subject to quality surveillance, observations or quality audit by MPFC; and, (c) to provide safe and adequate facilities and all samples, drawings, lists and documents necessary for such quality surveillance, observation or quality audit. For this purpose, MPFC shall be afforded full and free access to the shops, factories or places of business of the Contractor and its Subcontractors and suppliers for such quality surveillance, observation or quality audit and to determine the status of the Work. MPFC shall contractually obligate the Contractor to uncover and replace, at its sole cost and expense, all or any portion of the Work that was performed in a manner that is not in accordance with the Contract. Neither the failure to make such quality surveillance, observance or quality audit, nor to discover defective workmanship, materials, or equipment, nor acceptance of or payment for such Work, materials or equipment shall prejudice the rights of MPFC thereafter to correct or reject the same as hereinafter provided.

15.2 If any material, equipment or workmanship is determined by MPFC, either during performance of the Work or on final quality surveillance, or during any applicable warranty period (expressed or implied), to be defective or not complying with the requirements of the Construction Contract Documents, MPFC shall notify the Contractor in writing, that such material, equipment or work is rejected and MPFC and the County reserve the right to withhold payment on any such item. MPFC shall contractually obligate the Contractor, in such event, to

immediately remove and replace or correct such defective material, equipment or Work, at its sole cost and expense, and making the same comply strictly with all requirements of the Construction Contract Documents.

15.3 MPFC shall contractually obligate the Contractor to provide shop testing of materials and Work as a part of the Construction Contract.

15.4 Field testing of materials or Work may be performed by MPFC. Should tests in addition to those required by the Specifications be desired by MPFC, the Design Professional shall advise the Contractor in sufficient time to permit such testing. Such additional tests will be a Reimbursable Cost unless such additional tests are required due to the fact that the Work or materials failed any initial test. In such event, additional tests shall be at the sole cost and expense of the Contractor, and MPFC shall contractually obligate the Contractor to pay for such additional. tests. The Contractor shall furnish samples as requested and shall provide assistance and cooperation as necessary to permit tests to be performed on materials or Work in place, including stopping the Work during testing.

16. Access to Project Site and Storage. MPFC shall contractually obligate the Contractor to access the project site and storage areas as shown in the Construction Contract Documents, and as designated by MPFC. Access routes may also be used by MPFC, FAU and the County, the public and other contractors. No other access points shall be allowed unless approved by MPFC. MPFC shall contractually obligate the Contractor to provide personnel to route or guide all of the Contractor's traffic that enters the project site, unless such route is obviously maintained for such purpose. MPFC shall contractually obligate the Contractor to be responsible for immediate cleanup of any debris deposited along the access route as a result of construction traffic, directly or indirectly, caused by, or attributable to, the Contractor.

17. Concealed, Unknown, or Hazardous Conditions.

17.1 MPFC shall contractually obligate the Contractor to have the sole responsibility of satisfying itself concerning the nature and location of the portion of the Work that it is obligated to perform and the general and local conditions affecting the performance of the Work, particularly, but without limitation, with respect to the following: transportation; access; disposal, handling and storage of materials; availability, quantity and quality of labor; water and electric power; availability and condition of roads; climatic conditions; location of underground utilities as depicted on the Construction Contract Documents and through verification with local utility companies and the County; physical conditions of existing construction, if any; topography and ground surface conditions; equipment and facilities needed preliminary to, and during performance, of the Work; and all other matters which can in any way affect performance of the Work, or the cost associated with such performance. MPFC shall contractually obligate the Contractor, such that the Contractor's failure to acquaint itself with any applicable condition will not relieve the Contractor from the responsibility for properly estimating either the difficulties or the costs of successfully and timely performing the Work.

ATTACHMENT D
INSURANCE

Except to the extent that MPFC, in its sole discretion, undertakes to obtain insurance coverage consistent with the following requirements, or otherwise acceptable to the County, in lieu hereof, MPFC shall contractually obligate the Contractor to comply with the following insurance requirements:

Contractor shall at its sole expense, maintain in effect at all times during the performance of work hereunder insurance coverage with limits not less than those set forth in the table below and with insurers and under forms of policies acceptable to the County. Contractor shall deliver to MPFC and the County Certificates of Insurance, evidencing that such policies are in full force and effect, no later than ten (10) days after receipt of Notice of Intent to Award, but in any event prior to execution of the contract by MPFC and prior to commencing work on the project site. Such Certificates shall adhere to the conditions set forth in the table below.

Contractor shall purchase and maintain during the life of this contract Workers Compensation insurance, including Employers Liability, to comply with all applicable State and Federal laws covering all of its employees on the work site, and in accordance with all of the limits, terms and conditions set forth in the table below. If any work is sublet, Contractor shall require all subcontractors to similarly comply with this requirement unless such subcontractor's employees are covered by Contractor's Workers Compensation insurance policy.

Contractor shall purchase and maintain during the life of this contract Comprehensive or Commercial General Liability insurance in accordance with all of the limits, terms and conditions set forth in the table below.

Should any of the work hereunder involve watercraft owned or operated by Contractor or any subcontractor, such shall be insured under the Comprehensive or Commercial General Liability policy, or by other such liability insurance such as Protection and Indemnity.

Contractor shall purchase and maintain during the life of this contract Comprehensive Automobile Liability insurance covering on all owned, non-owned and hired automobiles with all of the limits, terms and conditions set forth in table below.

Contractor shall procure and maintain "all risk" Builder's Risk insurance, including, but not necessary limited to fire, flood, wind and other water damage, in accordance with all of the limits, terms and conditions set forth in the table below.

Should any of the work hereunder involve the hauling and/or rigging of property in excess of $500,000.00 or $250,000.00 in transit, Contractor shall procure and maintain "all risk" Transit or Motor Truck Cargo insurance, or similar form of coverage, insuring against physical damage or loss to the property being transported, stored, moved or handled by Contractor or any subcontractor pursuant to the terms of this contract, subject to the limits, terms and conditions set forth in the table below.

Should any of the work hereunder involve aircraft (fixed wing or helicopter) owned or operated by Contractor or any subcontractor, Conti-actor shall procure and maintain Aircraft Liability insurance in accordance with the terms and conditions of the table set forth below.

The requirements contained herein as to types and limits, as well as Owner's approval of insurance coverage to be maintained by Contractor are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Contractor under the contract.

The Certificates of Insurance must provide clear evidence that Contractor's Insurance Policies contain the minimum limits of coverage and special provisions prescribed in this exhibit, in accordance with all of the limits, terms and conditions set forth in the table below. All involved policies must be endorsed so that thirty (30) days notification of cancellation and any material change(s) in coverage shall be provided to the Board of County Commissioners of Palm Beach County. Insurance shall remain in force until all work required to be performed under the terms of the Construction Contract Documents is satisfactorily completed. In the event that the insurance certificates provided hereunder indicate that the insurance shall terminate and lapse during the period of the Construction Contract then, in that event, the Contractor shall furnish, at least thirty (30) days prior to the expiration of such insurance, a renewed certificate of insurance as proof that equal and like coverage for the balance of the period of the contract and any extension thereunder is in effect. Contractor shall not continue to work pursuant to this contract unless all required insurance remains in effect. MPFC or the County may withhold payment to the Contractor until coverage is reinstated.

The Contractor shall deliver the original of the initial Certificates of Insurance and five (5) copies to:

Notices, in original and 5 copies, of cancellation, terminations and alterations of such policies shall be delivered to:

STANDARD CONSTRUCTION CONTRACT - INSURANCE

REQUIREMENTS The Contractor shall provide the following insurance:

INSURANCE COVERAGES	CONTRACTS LESS THAN $500,000	CONTRACTS $500,000 OR MORE
Commercial General Liability Combined Single Limit Personal Injury, Bodily Injury and Property Damage Liability Required Coverages: Premises/Operations Independent Contractors Products/Completed Operations Contractual Liability Broad Form Property Damage X-C-U Coverages, if applicable	$500,000 occurrence	$1,000,000 per occurrence
Worker's Compensation and Employer's Liability If work is on or contiguous to navigable bodies of water: U.S. Longshoremen's and Harbor Workers Act and/or Jones Act Endorsements	Statutory $100/500/100	Statutory $500/500/500
If work involves watercraft owned or operated by contractor, Protection and Indemnity Coverage	$5,000,000 per occurrence	
If work involves hauling and/or rigging of property in excess of $500,000 "All Risk" Transit or Motor Truck Cargo or similar form of insurance	Replacement cost coverage for highest value involved. Must contain a Waiver of Subrogation in favor of County.	
If work any type of aircraft (fixed wing or helicopter) Aircraft Liability	$500,000 per occurrence	$1,000,000 per occurrence
Builder's Risk "All Risk" including flood, wind and water damage. Policy must specifically eliminate "Occupancy Clause" – must be endorsed to cover until final acceptance of project by the County Sub-limits for any coverages are not acceptable if they are less than the total value of the project.	Limits equal to total construction value of project. Contractor assumes all deductibles as ongoing cost of doing business County is not providing any insurance on behalf of Contractor for loss or damage to work or to any other property of contractor. If Contractor maintains any insurance for loss or damage to Contractor's property, such must be endorsed to include a Waiver of Subrogation against County.	
Certificates of Insurance	a. Must list Palm Beach County as additional insured for all coverages	

	except Worker's Compensation b. Must indicate as certificate holder: (Program Manager's Name) Palm Beach County Capital Improvements Division 3323 Belvedere Road, Bldg. 503 West Palm Beach, FL 33406 (Project Name) c. Must contain a provision that County is provided at least 30 days prior notice in the event of cancellation, nonrenewal or material adverse change in coverage d. Evidence of renewal coverage must be provided County at least 30 days in advance of any policy that may expire during the term of this contract.

EXHIBIT F

Disbursement of Operating Funds

Year	Operating Funds Disbursement Schedule
2009/2010	US$4,100,000.00 (in accordance with Article V E. 7.1 of the Grant Agreement).
November 1, 2013	US$4,095,000
November 1, 2014	US$0
November 1, 2015	US$10,356,000
November 1, 2016	US$3,028,000
November 1, 2017	US$5,347,000
	Total: US$26,926,000.00

This Exhibit is subject to the provisions of Article V of the Grant Agreement and is based on the Bond Issuance Schedule set forth in Exhibit A to the Grant Agreement. To the extent that the Bond Issuance Schedule is accelerated, this Exhibit shall be amended such that MPFC shall have the opportunity to receive Operating Funds on an accelerated basis.

Within one hundred and eighty (180) days of MPFC having received releases of liens from all building professionals in respect of the Permanent Facilities, or, with respect to unresolved payment disputes with any such building professionals, having posted the appropriate bonds in respect of such disputes, MPFC shall provide the County with a notice of MPFC's determination of the amount of Unused Project Funds and documentation supporting such a determination. Within forty-five (45) days of receiving such a notification and supporting documentation, the County shall pay MPFC an amount equal to fifty percent (50%) of the Unused Project Funds and fifty percent (50%) of the Unused Funds shall be retained by the County, in accordance with Article V(C). In the event that the County disputes MPFC's determination of the amount of Unused Project Funds, MPFC shall be deemed to have submitted a "Request for Funding" and the provisions of Article V(E)(7.5) of the Grant Agreement shall apply.

EXHIBIT G – Form of Grant Request

GRANT REQUEST

To: Shannon LaRocque
Assistant County Administrator, Palm Beach County
301 North Olive Avenue, 11th Floor
West Palm Beach, Florida 33402-1989

Dear Ms. LaRocque:

We refer to the Grant Agreement (the "Agreement") dated as of [•], 2008, by and between Palm Beach County (the "County") and the undersigned, which provides that the County direct the disbursement of Operating Funds to us in the aggregate amount of $26,926,000 plus any Unused Project Funds to which the undersigned is entitled. Terms used but not otherwise defined herein shall have the same meanings given to them in the Agreement.

We refer to Section 7.4 of the Agreement and hereby request disbursement of the following portion of the Operating Funds:

(a) a disbursement in an amount equal to $[•];
(b) the disbursement date of the requested disbursement is [•]; and
(c) the payment instructions for the requested disbursement are as follows:

_____
[insert MPFC's banking details]

As a condition to the foregoing disbursement of Operating Funds, the undersigned hereby represents, warrants and confirms to you that:

(a) [check applicable box]

☐ (1) All of the conditions to disbursement set forth in Section 7.4(b) and (c) of the Agreement applicable to this disbursement of Operating Funds have been met as of the date hereof; or

☐ (2) Less than all of the conditions to disbursement set forth in Section 7.4(b) and (c) of the Agreement applicable to this disbursement of Operating Funds have been met as of the date hereof, however, the County has approved disbursement of the amount set forth above based on the attached list, which identifies which of the conditions for disbursement have not been fully met; and

(b) No Material Default (or event which, with the giving of notice and/or lapse of time, would constitute a Material Default) has occurred and is continuing (and has not been cured) or would result from the disbursement requested hereby; and

(c) MPFC shall maintain operations in Florida for the next succeeding year.

MAX PLANCK FLORIDA CORPORATION,
a Florida not for profit corporation

By: _____
Name: _____
Title: _____

Date: _____

Exhibit H – Proposed Form Of Legal Opinion By MPFC's Counsel

(i) MPFC is validly existing as a corporation not for profit and in good standing as of the date of the certificate of status received from the Florida Department of State under the laws of the State of Florida.

(ii) MPFC has the corporate power to execute, deliver and perform the Agreement.

(iii) The execution, delivery and performance by MPFC of the Agreement have been duly authorized by all necessary corporate action of MPFC.

(iv) The Agreement has been duly executed and delivered on behalf of MPFC and constitutes a valid and binding obligation of MPFC, enforceable against MPFC in accordance with its terms. This opinion shall be understood to mean only that if there is a default in performance of an obligation, (a) if a failure to pay or other damage can be shown and (b) if the defaulting party can be brought into a court that will hear the case and apply the governing law, then, subject to the availability of defenses, and to the exceptions set forth elsewhere in the opinion, the court may provide a money damage (or perhaps injunctive or specific performance) remedy.

(v) The execution, delivery and performance on the date hereof by MPFC of the Agreement do not (a) violate the Articles of Incorporation or By-laws of MPFC; or (b) violate any provision of the Florida Not for Profit Corporation Act, except, in each case, for any such violation that would not reasonably be expected to have a Material Adverse Effect.

(vi) No approval or consent of, or registration or filing with, (a) the Florida Secretary of State is required to be obtained or made by MPFC under the Florida Not for Profit Corporation Act in connection with the execution, delivery and, to my knowledge, performance on the date hereof by MPFC of the Agreement, except (i) for any filings necessary to perfect the liens and security interests created pursuant to the Agreement, (ii) for any registrations and filings necessary for the MPFC to continue to conduct its business as currently conducted, or (iii) where the failure to obtain such approvals or consents, or make such registrations or filings, would not reasonably be expected to have a Material Adverse Effect.

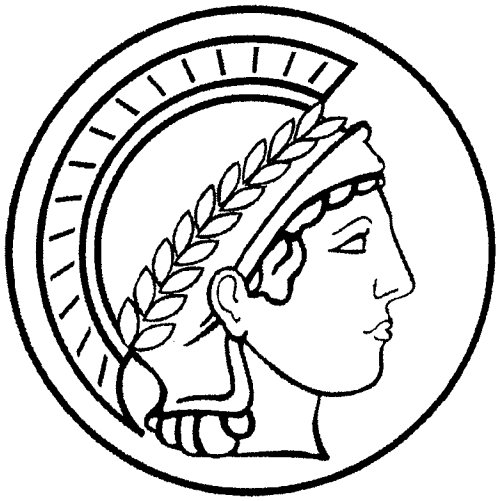
(vii) To my knowledge, there is no pending litigation against MPFC, or in which MPFC is a party, before any court or governmental department, commission, board, bureau agency or instrumentality that questions the validity of the Agreement or any action taken or to be taken pursuant thereto, or that seeks to enjoin or otherwise prevent the consummation of the transactions contemplated by the Agreement or to recover in damages or obtain other relief as a result thereof where such damages or other relief would reasonably be expected to have a Material Adverse Effect.

NOTE: All opinions will be subject to exceptions, qualifications and assumptions as customary and as standard for opinion giver, including, without limitation (i) the qualification that opinions as to enforceability are subject to the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar law affecting creditors' rights generally and to the effect of general principles of equity, including without limitation concepts

of materiality, reasonableness, good faith and fair dealing regardless of whether considered in a proceeding in equity or at law, (ii) the qualification that knowledge is limited to the actual knowledge of the particular attorney who is giving the opinion, (iii) the assumption that all items submitted to the opinion giver as originals are authentic, all signatures thereon are genuine, all items submitted as copies conform to the originals, and that each such items has been duly executed and delivered by each party (other than MPFC) pursuant to due authorization as such party's legal, valid and binding obligation, enforceable against such party in accordance with its respective terms; (iv) the qualification that the opinions expressed are limited to the laws of the State of Florida; and (v) the qualification that no opinions are given with respect to the enforceability of the provisions of the Agreement requiring arbitration. The opinion letter may be accompanied and qualified by and may rely on an Officer's Certificate issued by a senior officer of MPFC, which may include, without limitation, statements that (i) MPFC is qualified in each state in which MPFC is required to be so qualified and in which MPFC maintains an office, has employees or owns or leases property, except where the failure so to qualify or to be in good standing would not reasonably be expected to have a Material Adverse Effect, (ii) to such officer's actual knowledge, there is no pending litigation against MPFC before any court or administrative agency that would reasonably be expected to have a Material Adverse Effect and that is not listed in Disclosure Letter, and (iii) no Material Default has occurred.

EXHIBIT I –Business Plan

[Please see attached].



MAX-PLANCK-GESELLSCHAFT

BUSINESS PLAN

FOR

MAX PLANCK FLORIDA

Max-Planck-Gesellschaft zur Förderung
der Wissenschaften e.V. München

(Max Planck Society for the Advancement of Science)

Munich, September 27, 2007



TABLE OF CONTENTS **Page**

1. Executive Summary **4**

1.1. Vision **4**
1.2. Implementation Summary **4**

2. Mission of Max Planck Florida **5**

2.1. The Max Planck Society and its Mission **6**
2.2. The State of Florida **9**
2.3. The Local Government (County of Palm Beach) **10**

3. Strategic Goals of the Max Planck Society in Florida **10**

3.1. Research Objectives and Planned Activities **11**
3.2. Impact on economic development **14**
3.3. A Bridge to Europe **14**

4. Education Outreach Programs **16**

5. Graduate Program **16**

6. Collaboration Program **17**

7. Implementation Plan **18**

7.1. Organizational Plan **18**
7.2. Research Infrastructure Development and Scientific Staff Recruitment **18**
7.3. Financial Projections **22**



Appendices **Page**

Appendix 1	**Average Salary by Employee Category**	**24**
Appendix 2	**Full Time Employee Projections**	**25**
Appendix 3	**Financial Projections**	**26**

1. Executive Summary

1.1. Vision

The State of Florida has undertaken a visionary initiative to transform the economic landscape of the State by investing in Life Science clusters. Although biotechnology initiatives have been created in many countries around the globe, Florida has already demonstrated unprecedented success in attracting several anchoring institutions to join the State. One of these, The Scripps Research Institute Florida, located in Northern Palm Beach County, has already begun to produce measurable results in terms of educational and economic benefit. To further leverage this initial investment, we propose to build critical mass at an even faster pace, by recruiting one of the worlds' most prestigious research organizations into Florida. The Max Planck Society of Germany is one of the strongest research organizations world wide. With 16 Nobel Laureates since 1948, an annual budget of 1.6 billion US$, 12,000 staff and another 11,000 young researchers, visiting scientists and PostDocs, it pioneers research programs in distinct areas ranging from astronomy to the humanities, with one special focus on biomedical research. It is well linked to leading science worldwide and will make its networks available to its partners in Florida.
Scripps and Max Planck Society have agreed on synergistic research profiles aimed at improving education and healthcare within the State of Florida. This in turn creates the opportunity to accelerate the development of a Life Science cluster. The Max Planck Society will focus its activities on bioimaging, where it is widely considered the world leader. Bioimaging is indispensable to a rapid translation of basic research into clinical application, improving health and creating wealth for its population through a stronger biotechnology industry.

Together, Scripps Florida and Max Planck Florida can serve as the central anchoring point for a knowledge based, sustainably blooming biotechnology landscape in Florida.

1.2. Implementation Summary

Negotiating funding with the State of Florida and local authorities
Founding Max Planck Florida will need funding from both public and private sources in the State of Florida. During the next three to five months, general agreement should be reached on the sources of funding and negotiations on formal agreements should have commenced. Consistent with the stated priority of the Max Planck Society to locate its institute on one campus together with Scripps Florida, the local authority involved is the County of Palm Beach.

Building the Institute stepwise
The Max Planck Institute for Bioimaging Florida will comprise three departments, five research groups and guest laboratories for international exchange, as well as a bioimaging core facility, which will serve all three departments and the research groups,

but equally functions as a hub for cooperation with the partners on campus as well as the universities in Florida. The institute will give employment to a significant number of people, including staff, senior scientist and post doctoral students. Facilities of a sufficient size to accommodate a significant, stand alone institute are envisioned. The size of such facility will depend on the programs designed by the scientific departments.

The steps to realize this aim are as follows:

Step 1: Within one year after the grant agreements have been signed, the Founding Director has been identified and will take office within a further six months.
Step 2: Two years after the grant agreements have been signed, two of the five research groups are active. 50 % of the Core Facility has been set up and will serve as a hub for the collaborations of Max Planck Florida with both Scripps and other research institutes as well as the universities in the State.
Step 3: One year after the Founding Director, the head of the second Department will join the institute.
Step 4: Two years after the Founding Director took office, a third research group is active.
Step 5: Three years after the Founding Director, the head of the third Department will join the institute. Also at this time, the guest labs are fully functioning and the exchange programs with German Max Planck Institutes are in full effect. The Core Facility has been set up.
Step 6: Four years after the Founding Director, the forth research group will start working.
Step 7: Five years after the Founding Director, the fifth research group will start working. Eight years after the funding agreements have been signed, the institute is fully functioning.

The institute depends on an up-start funding by the State of Florida and the County of Palm Beach. After 10 years, it will be self dependent primarily with contributions from philanthropy, grants and commercial activities.

2. Mission of Max Planck Florida

Through the Max Planck Florida Corporation[1], the Max Planck Society intends to contribute to the development of a strong research environment in Florida, particularly in the field of the Life Sciences, as a motor for the biotech industry. In doing so, the Society will be able to apply its specific scientific strengths and use its ability to create the best conditions for excellent basic research. As in Germany, the Max Planck Society in Florida will also actively pursue to spin off start-up companies, to transfer its knowledge to companies and to provide skilled workforce for the regional biotech industry. The Max

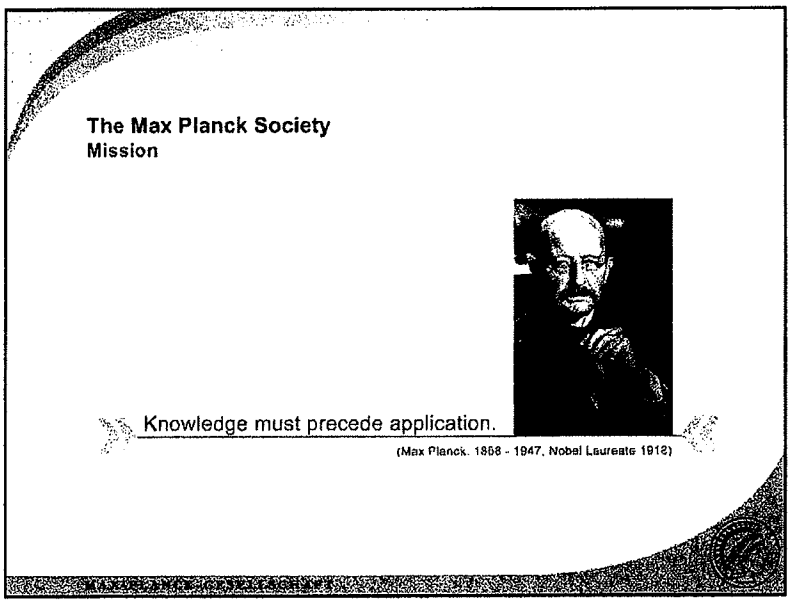
[1] The Max Planck Florida Corporation (MPFC), filed on September 5, 2007 is a not-for-profit corporation under the laws of the State of Florida. MPFC is a 100% subsidiary company of the Max Planck Society.

Planck Society's excellent institutional connections in many countries across Europe and Asia will also serve to move the international networking of research in Florida a step forward by attracting the best students and scientists worldwide. At the same time, the Max Planck Society will have the opportunity to expand its research portfolio.

Max Planck Florida will be closely linked with the universities in Florida, especially with Florida Atlantic University, which provides the land for the building on its Jupiter Campus, and will work with the renowned local research facilities of The Scripps Research Institute, thus speeding up considerably the formation of a strong biotech cluster in Florida.

The Max Planck Society's scientific involvement in Florida will serve to boost the educational opportunities available to students and junior scientists.

2.1. The Max Planck Society and its Mission



The Max Planck Society is a non-profit German research organization under private law. Within the German research system, its mandate is to carry out outstanding basic research at the highest international level in selected areas of the natural sciences and humanities in its own research institutes, most of which are located in Germany. In spite of the focus on basic research, the research performed by the Max Planck Institutes is also open to application. The tech transfer company Max-Planck-Innovation, a full subsidiary of the Max Planck Society, is among the most successful tech transfer agencies in Europe.

2.1.1. Facts and Figures

The Max Planck Society's 78 institutes and research facilities currently employ more than 12,600 people, including 4,400 scientific staff. In addition, there are more than 11,300 students, Ph.D. students, post docs and guest scientists studying and researching at Max Planck Institutes.

Several thousand young scientists complete key elements of their graduate studies at Max Planck Institutes each year. There are currently around 1,600 Ph.D. students at the 49 International Max Planck Research Schools (IMPRS) alone. In total, more than 4,000 Ph.D. students perform research work at Max Planck Institutes in 2006.

The total annual budget of the Max Planck Society in 2007 amounts to approx. EUR 1.4 billion (= USD 1.8 billion).

Max Planck scientists are regularly honored with top scientific distinctions. Since 1948, 16 Max Planck senior scientists have been awarded the Nobel Prize.

2.1.2. Max Planck Institutes

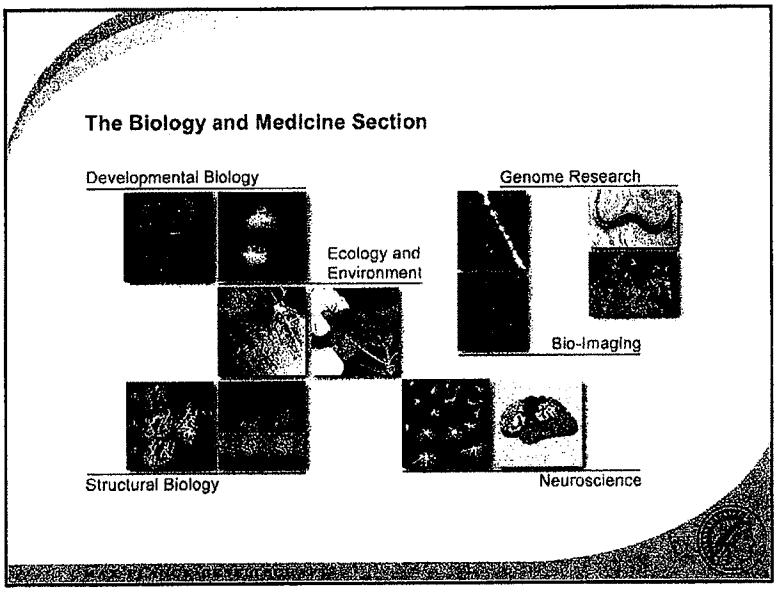
Max Planck Institutes are involved in areas of research that are particularly new and innovative, that require special levels of financing or time to be allocated to them, and that do not fit into the organizational framework of universities' research activities. Their research spectrum is constantly changing and expanding.

The fundamental mission of the Max Planck Society is to generate scientific knowledge of the highest quality. The Max Planck Society achieves this through its unique approach: Max Planck Institutes are only built around the world's leading scientists. The scientists themselves determine the topics they work on, they work under the best conditions and have free reign in terms of choosing their teams.

Furthermore, the Max Planck Society is very effective in accomplishing technology transfer from this autonomous basic research. With its transfer agency Max-Planck-Innovation, the Society has also been the most successful German scientific organization in the field of corporate spinoffs for many years.

The extremely strict selection of directors for the institutes is the key to ensuring that the institutes deliver high quality and productivity in the long term. In addition, each Institute is evaluated and supported by an independent Scientific Advisory Board. More than 90% of the members of the Scientific Advisory Board come from research facilities outside of the Max Planck Society, and more than half come from outside of Germany.

2.1.3. Science: Focus on the Life Sciences



The Max Planck Society is particularly keen on pursuing new, especially innovative research directions. With its diversity of topics from the natural sciences and humanities, the Max Planck Institutes thus complement the work of universities and other research institutions in important fields of research.

The Max Planck Institutes of the Biology and Medicine Section pursue a broad range of questions from the Life Science. The activities of the various institutes range from examining structures and functions on the basis of a wide range of biologically significant molecules and cell organelles to studying single and multi-cell systems and analyzing how organisms interact with each other or with their environment. Faculty in this area includes the Nobel Laureates Manfred Eigen, Erwin Neher, Bert Sakmann, Christiane Nüsslein-Volhard, Hartmut Michel and Robert Huber.

The universal nature of biological processes means that much of this research is directly connected with human health. Also, some of the institutes concentrate specifically on questions of human biology and medicine. The focal areas here lie in the molecular-genetic, physiological and mental performance of human beings. The approach employed to analyze biological processes is based on mathematical, physical and chemical methods on the one hand. On the other hand, with its research groups analyzing the higher abilities of the central nervous system, the Biology and Medicine Section also crosses over into issues of the Humanities.

2.1.4. Technology Transfer

The Max Planck Society's researchers make fundamental, groundbreaking discoveries, at the same time often creating new medical applications or discovering substances and materials of the future.

Within the Max Planck Society, the subsidiary Max-Planck-Innovation GmbH (former Garching Innovation GmbH) has been passing on the findings of the Society's basic research to industry since 1979. The company represents one of the most successful technology transfer agencies in Europe. In the past 10 years, the Max Planck Society has earned licensing revenues of around USD 20 million a year on average. The patent for NMR imaging known as "Fast Low Angle Shot (FLASH)" alone has brought in some USD 180 million. In total, Max Planck scientists have made more than 2,300 inventions. There are almost 1,400 license agreements in place – almost 600 of them with non-German companies. At this time, the Max Planck Society has a total of almost 1,000 inventions, to which are added around 80 new patents each year. The numerous spinoffs in which Max Planck scientists have been involved include, for example, SUGEN (later bought by Pharmacia and then Pfizer) and Alnynam, one of the leading companies in the use of RNA interference.
Results of Max Planck researchers have led to major breakthroughs in the diagnosis and therapy of diseases like multiple sclerosis, breast and colon cancer, or tropical diseases like leishmaniasis. Physicians of Max Planck Institutes are among the pioneers towards a personalized treatment of depression and addiction. Only recently, Max Planck scientists have developed a sleeping medication resulting in a far more natural and restful sleep than any other medication available today, which is to be brought on the market shortly.

2.2. The State of Florida

The US State of Florida has a consistent policy of protecting its future by creating the right conditions to sustain a strong biotech industry. This business climate offers particularly favorable conditions for universities and research institutes to develop and provides a basis for industrial enterprises to set up business locally. Similar clusters are developing worldwide and Florida presents especially favorable and attractive conditions for a competitive Life Science cluster.
The Max Planck Society is an organization that focuses on basic research while at the same time successfully engaging in the economic exploitation of its scientists' inventions. In this context, the Max Planck Society could contribute to the State of Florida's goal to promote, stimulate, develop and advance the business prosperity and economic welfare of Florida and its residents.
This Business Plan shows that founding a Max Planck Florida Institute would require State funds of 90 to 100 Mio US $ from the Florida Innovation Incentive Fund.

2.3. The Local Government (County of Palm Beach, Town of Jupiter, FAU)

Any involvement on the part of the Max Planck Society is subject to the establishment of a Max Planck Institute on the same campus as Scripps Florida and possibly other partners in Jupiter. On September 11, 2007 the Board of County Commissioners of Palm Beach County have unanimously approved conceptually a grant in the amount of $ 86.9 million to the Max Planck Society for the purposes of seeking matching funds from the State of Florida. The Board also authorized County staff to commence negotiations with the Max Planck Society to establish the terms and conditions of a Grant Agreement. Furthermore the Board of Trustees of the Florida Atlantic University approved for 6 (six) acres to be made available to the Max Planck Florida Institute on a long term basis. This six acre parcel is valued at $ 6.3 million. The land at the MacArthur Campus of FAU was donated to the State of Florida by the MacArthur Foundation for educational use by FAU. Furthermore the Town of Jupiter is proposing to waive impact and other fees which might be applicable to the construction of the Max Planck Florida Institute. This contribution is valued at approximately $ 260,000.

3. Strategic Goals of the Max Planck Society in Florida

THE FLORIDA MAX PLANCK FLORIDA INSTITUTE
- FROM MOLECULES TO HUMAN -

Research conducted within the Max Planck Society is geared towards answering important questions in sciences and humanities. It is designed to be highly innovative and imaginative, generating new paradigms drastically different from those of the past. These ideas embed an inherent element of risk as Max Planck research must take a lead position encompassing work at the cutting edge – at the limits of understanding a problem – and thus often lacks a historic basis for novel strategies and visionary concepts.

Recently, tremendous advances in imaging modalities have created new opportunities for biology and medicine far beyond our imagination only a few years ago. High-resolution optical and nuclear magnetic resonance methods enable us to observe the three-dimensional structure of isolated biomolecules, while optical imaging and magnetic resonance imaging (MRI) techniques provide access to the functional role of such molecules in the cell, tissue, or even the intact organ in vivo.

Based on these developments and for the first time, optical imaging (e.g., fluorescence microscopy) and medical imaging (e.g., MRI) offer the opportunity to link so far entirely separated fields of bioimaging. Though originally designed to provide spatial resolution at very different scales, foreseeable progress in biophotonics and MRI will even lead to a partial overlap of research efforts and, when considering the full range of possibilities, devise a unified bioimaging concept. Moreover, while human imaging emphasized

noninvasive techniques at the expense of specificity, optical studies excelled at superior specificity but required destructive preparations. These limitations may now be overcome. There is a horizon of merging ideas and techniques where specificity refers to a multi-modality strategy: molecular and cellular labeling in living tissue may employ either optical probes or paramagnetic nanoparticles as MRI contrast agents or both – thereby expanding applications from cells to histological specimen, animal models, and humans.
For a comprehensive insight into biologic structures and processes, it is indispensable to bridge the gap between biochemical studies at the molecular level and noninvasive assessments with spatial analyses of cells, tissues and organs at the system level. Such bridging must be considered a prerequisite for a successful and future-oriented translational research in molecular-based medicine. Bioimaging is a key technology to contribute to this problem.

The outline of the Institute is therefore based on an integrative and coherent concept that attempts to visualize molecular and physiologic tissue properties with unprecedented specificity and in a noninvasive manner. It aims at innovative and goal-directed approaches in the life sciences which – at the highest level – include new tools for diagnostic imaging and therapy monitoring in humans.

Bringing together the technical expertise of increasingly complementary fields of bioimaging and applying novel innovative concepts to emerging questions in biology and medicine offers a historic chance for broad advancements in the biologic sciences as well as for a more specific and individualized characterization of human disease. The Max Planck Florida Institute will meet this challenge by providing a unique interdisciplinary platform for translational research from molecules to human, and by combining expertise in the fields of physics, chemistry, biology, medicine, and computational sciences. It will develop the potential for a broad impact on both biomedical research and improved health care.

3.1. Research Objectives and Planned Activities

The Max Planck Florida Institute will unite the power of advanced optical microscopy, magnetic resonance imaging, and imaging sciences to study the structure, dynamics, and function of molecules and tissues that underlie challenging problems in biology, bioengineering, and medicine.

The Institute will comprise academic departments dedicated to:

- the exploration of new imaging approaches in biomedical research and the testing of imaginative new ideas challenging existing paradigms and techniques,

- the further development of existing techniques in bioimaging that promise substantial advances in spatial resolution, sensitivity, and specificity,

- the transfer of scientific concepts into operational implementations of future technologies that lead to solutions of important problems in both biomedical research and diagnostic imaging,

- the furthering of translational concepts in biomedicine from the molecular level to patient-oriented research,

- the establishment of a platform for exchanging ideas and expertise in multidisciplinary biomedical research projects.

In order to accomplish the aforementioned goals, the Max Planck Florida Institute will consist of scientific departments, junior research groups, a core facility for the imaging sciences, and a guest facility.

In terms of organizational structure, molecular and cellular bioimaging will be at the heart of the Institute. Associated research areas will employ optical imaging techniques and deal with molecular bioimaging, biosensing, and cellular mechanisms.

Together, the aforementioned areas constitute the operational basis of a scientific concept that expands from basic studies of molecules and cells to animal models and patient-oriented research in emerging fields of medicine. Moreover, there are considerable synergistic effects of individual research enterprises across departments as many approaches share key methodological competences. They will be supported and benefit from a common facility in the computational sciences and from expert guests from bioimaging sites of the Max Planck Society and elsewhere.

SCIENTIFIC DEPARTMENTS AND/OR JUNIOR RESEARCH GROUPS

The exact distribution of departments and junior research groups across the planned research areas of the Max Planck Florida Institute will be determined at a later stage. The following tentative list of research areas identifies topics, individual scopes, major techniques and subjects as well as specific requirements.

Biomolecular Imaging

Employing the combination of optical and related microscopic and image processing, the research area Biomolecular Imaging will

- apply image processing, computerized visualization, and analysis techniques optimized for the biomedical sciences,
- enable the objective, integrative analysis of image data obtained from any kind of microscopy,
- develop novel imaging techniques for analyzing large multi-dimensional datasets generated in dynamic studies of cellular behavior and complex cell-cell interactions extending up to the organismic level.

Biosensing

The research area Biosensing will conduct interdisciplinary research ranging from neurobiology to metabolic diseases. An essential component of this effort will be the development of highly specific markers and/or sensor molecules indicative of key cellular and physiologic processes. The area will

- design and apply new optical probes and molecular indicators for optical bioimaging based on organic, inorganic, and nanoparticulate scaffolds,
- address fundamental questions in cell biology and physiology, particularly those with medical implications,
- require biomedical, chemical, and physical expertise for the development of novel diagnostic methods.

Cellular Mechanisms

Research in the area Cellular Mechanisms will focus on some of the most pressing questions in biology and medicine using integrative and interdisciplinary tools based on model organisms relevant for medical research. The department will

- aim at a system-based understanding of the basic cellular processes involved in normal development and disease,
- study animal models ranging from the fruit fly to the zebra fish and mouse,
- identify new molecular targets for drug development, extending to system-driven high throughput screening,
- select and adapt its specific research topics as the Institute develops in response to the directions taken by the other areas of the Max Planck Florida Institute as well as other Institutes on the Campus. Anticipated fields include Neurobiology, Virology, Immunology, and Metabolism.

Core Facility for Bioimaging Sciences

The Max Planck Florida Institute will launch a new Bioimaging Science Center, which will develop and refine computerized imaging techniques to tackle complex biologic questions. The facility will

- utilize and develop high-performance computing techniques for processing large bioimaging datasets,
- develop computational tools for creating, processing, and storing high-resolution maps of multi-dimensional information,
- bring together expertise from physics, biology, chemistry, biomedicine, engineering, informatics, and imaging sciences,
- help to create easily accessible data bases for the life sciences community,
- adapt and broaden its scope as the Institute grows and additional departments are established.

Guest Facility

Bioimaging is a vital segment of research of the Max Planck Society. The participating scientists include a number of world leaders in the field, including Philippe Bastiaens, MPI of Molecular Physiology, Dortmund; Alexander Borst, MPI of Neurobiology, Munich; Wolfgang Baumeister, MPI of Biochemistry, Munich; Winfried Denk, MPI for Medical Research, Heidelberg; Jens Frahm, Stefan W. Hell, MPI for Biophysical Chemistry, Göttingen; Nikos Logothetis, MPI for Biological Cybernetic, Tübingen; and Thomas M. Jovin, MPI for Biophysical Chemistry, Göttingen.

In order to best support the development of the Max Planck Florida Institute, Guest Laboratories will be established to accommodate frequent scientific visits of these or other members of the Max Planck Society and of their staff, with the aim of conducting cooperative research and optimizing scientific exchange. These facilities will also be available for visitors from outside the Max Planck Society.

3.2. Impact on economic development

Experience from Germany shows that a Max Planck Institute successfully attracts companies both in a regional cluster and as partners in licensing contracts. E.g. one of the most successful biotech campuses in Germany, Martinsried near Munich, has formed around the Max Planck Institutes of Biochemistry and for Neurobiology. Along with biotech companies, the University of Munich decided to move its life-science institutes to Martinsried. Today Martinsried constitutes the most powerful Biotech Cluster in Germany. It should, however, be noted that the Max Planck Society is dedicated to basic science and does not found, hold or manage biotech companies and hence cannot guarantee the commercialization of its research results itself.

The Max Planck Society gives preference to commercializing its results close to where they have been obtained. Our experience is that the entrepreneurial culture in Germany often is not strong enough to take advantage of the opportunities of our research results. This has lead to an increasing proportion of the commercialization revenues coming from abroad. Therefore, moving to the more open entrepreneurial conditions in Florida and commercializing our results in this area seems especially attractive to the Max Planck Society.

3.3. A Bridge to Europe

Science is international. This is particularly true of the basic research that the Max Planck Society conducts: venturing into the unknown calls for interdisciplinary cooperation and an internationally networked research strategy. With this in mind, the Institutes of the Max Planck Society are actively involved in building up a common European research area, and also in promoting science on a global scale.

Internationally, the Max Planck Society is held in high esteem due to its recognized capabilities and is a partner in many major international projects and programs.

Max Planck Institutes are involved in 1,500 major international cooperative ventures, primarily with partners in the countries of western Europe that are strong on research, as well as in Israel, the U.S., Japan and China. More than 5,000 guest scientists from overseas come to work at Max Planck Institutes every year. One in four of the 270 Directors at Max Planck Institutes come from a country other than Germany; in the newly established institutes the figure is as high as 40 percent. Conversely, Max Planck scientists can be found working in a guest capacity at research institutes across the globe. This involvement helps guarantee a leading role for the Max Planck Society in international competition.

The Max Planck Society is prepared to open up its existing international network - comprising 2,068 International Projects including 5,139 partners in 108 countries - to its outstanding partners in Florida. The Max Planck Institutes are highly regarded within the European research arena and are also successful in their Asian activities, especially in China and India: besides a total of 15 partner groups in these countries, the Max Planck Society also runs a partner institute in the field of computational biology in Shanghai. The latter in particular offers a unique opportunity to work with American research institutes to build up a global network spanning Europe, the U.S. and Asia with a clear economic impact. This could dramatically reinforce the international pull of Florida as a research location.

Another benefit of a Max Planck Florida Institute will come through the more intensive interaction between scientists, as this will open up channels providing access to knowledge and expertise to all sides. The geographical proximity to strong partners in Florida will serve to strengthen the mutual basis of trust, optimize genuine cooperation in joint projects and open up new perspectives for junior scientists in Florida.

With the Max Planck Society, The Scripps Research Institute and possibly other Research Institutions, the planned research campus in Palm Beach will bring together leading scientific institutions from America's West and East coasts as well as from Europe. The campus can be expanded to become an internationally recognized magnet for the best researchers from across the globe. In the intensifying competition that the future will bring, only locations like this will be able to attract the best talent. The combination of the specific strengths of all research partners and the close involvement in student education provides a secure basis for the economic and societal wealth of the region.



4. Education Outreach Programs

The importance of education outreach programs is recognized in Germany, too. The Max Planck Society has been trend setting in innovative activities, founding the first major "school lab" for high-school classes to perform experiments with most advanced laboratory techniques or opening its labs to high-school teachers for continuing education. Teaching materials of the Max Planck Society are used by thousands of schools in Germany. Public discussions open the debate on results of Max Planck Researchers with proponents of other societal groups and the press. Some of them have a live TV broadcast to reach an audience not easily moved to the locality of the discussion forums. Similar activities will be set up in Florida. The Max Planck Society especially intends to become actively involved in the education outreach programs of The Scripps Research Institute Florida and to contribute to creating substantial added value here. Knowledge of the local requirements is key in this respect.

As an immediate contribution to the education outreach programs, the Max Planck Florida Corporation will make available the Max Planck Society's successful "Bio-MAX" series, educational material on topics in modern biology, as well as its science magazine "Max Planck Research" in English.

It will be a clear policy of the Max Planck Florida Corporation to closely interact with its partners from society in a board of trustees.

5. Graduate Program

Traditionally, Max Planck Institutes in Germany have close links with local universities. In this context, many Max Planck Directors also hold a university professorship and lecture at a university along with some of their team members.

The Max Planck Society places particular emphasis on promoting junior scientists: the International Max Planck Research Schools (IMPRS) founded in 2000 are considered to be a shining example of the work being done to strengthen and internationalize Germany as a research location. These graduate schools, funded jointly by Max Planck Institutes and their partner universities, attract junior scientists from around the world: about 60 percent of the Ph.D. candidates enrolled at the 43 graduate schools come from outside of Germany.

This successful model could be used as a basis for establishing a new educational framework for Ph.D. candidates in Florida, too. Moreover, Max Planck Florida will ensure intensive exchange between graduate students and the Max Planck Society: each graduate student in Florida should have the opportunity as part of his or her Ph.D. thesis to spend a minimum of 3 months, but generally one year, at a Max Planck Institute in Germany. In return, selected Ph.D. candidates from Germany should be able to come to Florida.

6. Collaboration Program

The complexity of today's scientific issues demands cooperation that transcends institutional boundaries. As in the educational context, Max Planck Institutes are therefore linked with many partner universities and research institutes in Germany through joint appointments and cooperative agreements, investment in areas of special research, programs of scientific focus, graduate colleges and so on.

The Max Planck Florida Institute shall also strive to achieve such cooperation with its Institute in Florida. Joint research plans, mutual access to infrastructure, joint education of junior scientists and other suitable measures should be agreed upon with The Scripps Research Institute and the universities in Florida – especially the Florida Atlantic University – , as well as other research institutes moving into the area, on the basis of mutual agreement, declarations of intent or contracts.

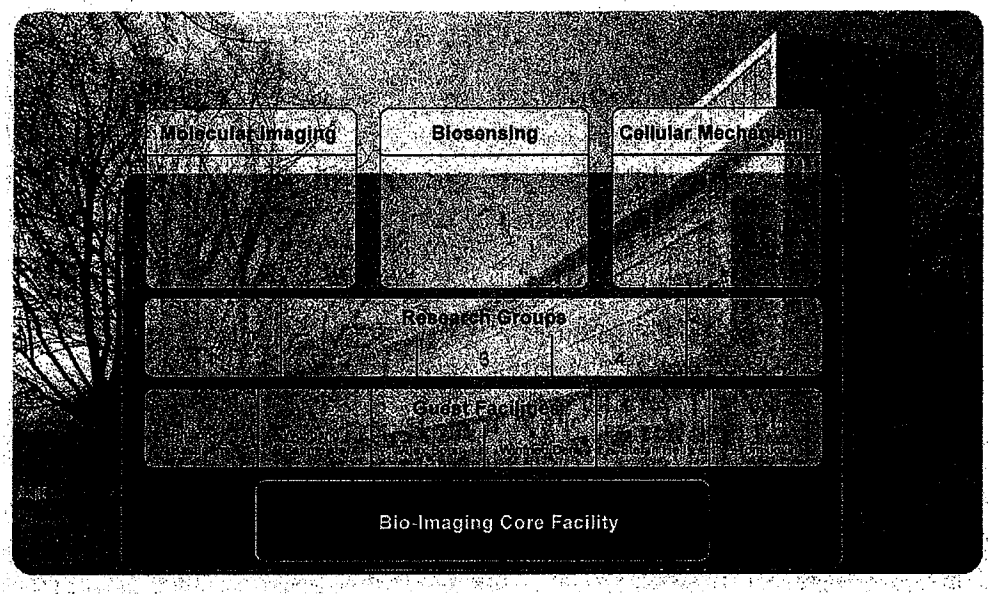
Synergistic effects can clearly been envisioned and have in part started to materialize. The University of Florida in Gainesville is not only a leading research institution in biotechnology, but with its McKnight Brain Institute housing an advanced Magnetic Resonance Imaging and Spectroscopy Facility (AMRIS) the University offers interesting opportunities for collaboration on MR Imaging. The work on optical technologies at the Center for Research and Education of Optics and Lasers (CREOL) of the University of Central Florida, Orlando, can be linked to the revolutionary development of high resolution light microscopy at the Max Planck Society. Collaboration on human MR Imaging could have a focus at the School of Medicine of the University of Miami. Programs of Graduate training for the PhD Students at the Max Planck Florida Institute could be commonly organized with Florida Atlantic University.
There already is a collaboration between "The Miami Project to Cure Paralysis" and the Max Planck Institute of Biochemistry, using imaging techniques to follow axonal growth. There is a further interesting possibility for collaborative work in the area of structural biology (cryo-electron microscopy, electron tomography) at the Department of Biological Science of the Florida State University in Tallahassee. Scripps Florida has only recently agreed a cooperation arrangement with this university.

The experience from Germany shows that universities cooperating with Max Planck Institutes reach much higher approval rates for their grant applications in such collaborative relationships than without them. This effect will also strengthen the universities in Florida.

7. Implementation Plan

The Max Planck Florida Institute will have to be on a secure financial footing and display all of the main structural components of a German Max Planck Institute; in particular, its Directors should be appointed Scientific Members of the Max Planck Society. This means that the central procedures and instruments used at Max Planck Florida to identify research topics, to identify and appoint Institute Directors, and to guarantee quality assurance should be applied in a way identical to that in the Max Planck Society. The cooperation with local research partners that is customary at Max Planck Institutes will be another structural component.

7.1. Organizational Plan



7.2. Research Infrastructure Development and Scientific Staff Recruitment

Introductory remarks

The scientific focus of the planned institute will be on bioimaging and biosensing. It will complement the focal areas of the existing research institutions in the region. The Max Planck Florida Institute will therefore have the potential for a broad impact on biomedical research with future impact on improved health care. The exact orientation of the work within the fields mentioned can only be defined after the leading scientists have been identified.

Detailed information on the structure, personnel as well as financial projections can be found in the appendices.

7.2.1. Institute structure/Infrastructure

The plans for the Max Planck Institute Florida have been drawn up on the basis of three Divisions and five Research Groups.

In addition to the three Divisions and five Research Groups, the institute shall have the following infrastructure:

Scientific Services

- Computer group
- Research coordination
- Library
- Guest laboratories
- Large equipment:
  - Basic IT equipment for an institute working with imaging
  - Electron microscope
  - Laser optic microscopy, 2-photon microscopy
  - NMR machine, 3 Tesla
  - Animal facility for mice, frogs and zebrafish *(non included in the present budget plan)*

Note: In case an animal facility is required as an essential part of the Max Planck Florida Institute, other envisaged research equipment has to be replaced by such a facility in order to ensure that the limited financial projections are met.

Administrative-Technical Services (Administration, Building Engineering etc.)

7.2.2. Resource requirements

Personnel (see also Appendices 1 and 2)

When complete, the Max Planck Florida Institute shall create 135 full time equivalents (FTEs)[2]. The plans for the Institute are based on the same staffing for all three Divisions and for the five Research Groups (average salaries - see Appendix 1 – and prices as of 2006). In addition, 18 Guest Researchers will be physically located at the Max Planck Florida institute for a period of one to three years.

Divisions and Research Groups

	Three Divisions	Five Research Groups
Directors, Scientists	42	15
Engineers, Technicians, Non-Technical Personnel	24	5
Total	**66**	**20**

[2] The total of 135 FTEs is based on the statutory definition of "job" in the Innovation Incentive Fund statute.



Scientific Services

Scientists	6
Engineers, Technicians, Non-Technical Personnel	11
Total	**17**

Six Guest Facilities

Scientist (Manager)	1
Three students and/or PostDocs per Facility	18
Total	**19**

Administrative-Technical Services

Administrative Head	1
Technicians, Non-Technical Personnel	30
Total	**31**

Planned budget (see also Appendix 3)

Divisions and Research Groups budget (annual, in US $)

	Three Divisions	Five Research Groups
Personnel costs	4,798,125	1,786,563
Consumables/operation	1,524,000	317,000
Continuous investment	571,500	
Total	**6,893,625**	**2,103,563**

Scientific Services (annual, without animal facility)

	(in US $)
Personnel costs	1,282,500
Consumables/operation	462,280
Total	**1,744,780**

Six Guest Facilities

	(in US $)	
Total	**1,196,020**	excl. salary benefits

Administrative-Technical Services (annual)

	(in US $)
Personnel costs	1,560,388
Consumables/operation	889,000
Total	**2,137,310**

Facility Management

	(in US $)
Total	**2,000,000**

Costs for special equipment - to be complemented and replaced periodically -	(in US $)
Divisions	7,620,000
Research Groups	952,500
Scientific Services	12,251,500
Administrative-Technical Services	381,000

Optional and not included in the budget plan
Animal Facility (mouse, zebra fish, frog)

Note: In case an animal facility is required as an essential part of the Max Planck Florida Institute, other envisaged research equipment has to be replaced by such a facility in order to ensure that the limited financial projections are met.

7.2.3. Setup plan

There are several uncertainties with regard to the timings within the setup plan:

- When the provisional/temporary and when the new building will be available
- When the designated Director(s) will take up the post(s)
- Availability of staff for the other departments

The plans drawn up to date are based on empirical values and assume that the departments will be set up gradually over a period of five years (see also pages 4/5, Implementation Summary).

Start: Signature of the funding agreements

Step 1: (One year after the signature of the grant agreements)

- Identification and appointment of the Founding Director
- Beginning of operation of the first department after further six months

Step 2: (Two years after signature of the grant agreements)

- Set up of two of the five research groups
- Installation of 50 % of the Core Facility

Step 3: (One year after start of operation of the first department)

- Appointment of the second Director
- Set up and beginning of operation of the second department

Step 4: (Two years after the Founding Director took office)

- Set up of the third of five research groups

Step 5: (Three years after the Founding Director took office)

- Appointment of the third Director
- Set up and beginning of operation of the third department
- Full operation of the guest labs and implementation of the exchange programs with German Max Planck Institutes
- Full operation of the Core Facility

Step 6: (Four years after the Founding Director took office)

- Set up of the fourth of five research groups

Step 7: (Five years after the Founding Director took office)

- Set up of the fifth research groups

Eight years after the signature of the grant agreements, the institute is fully functioning.

7.3. Financial Projections

Max Planck Florida is conceived as a legally fully independent institution. To account for this independence, the "Max Planck Florida Corporation" has already been set up as a Florida not-for-profit corporation in accordance with Section 617 of the Florida Statutes, with the Max Planck Society being the sole shareholder. The corporation will apply to the Internal Revenue Service for the status of a tax-exempted public charity and will be exempt from tax in line with the tax regulations of the State of Florida.

Since the corporation runs its own completely independent budget, the financial projections incorporate all direct and indirect costs as well as all administrative costs. The cost for a complete, ready-for-occupation institute building equipped with animal cages is set at $ 40 million, as assumed in the decision made on Sept. 11, 2007, by the Palm Beach County Commissioners concerning the grant agreement with Max Planck. The Max Planck Society expects the actual costs to be higher. The difference will have to come from donations or a smaller building has to be realized at first and later expanded. Discussions with the partners in Palm Beach County have led to the identification of a suitable site for the Institute on the Jupiter Campus of Florida Atlantic University (FAU).

Running costs and the cost of building maintenance and facility management are, however, included in the financial projection.

The financial projections are based on a cash-in/cash-out calculation and not on commercial book-keeping and balance sheet principles. Consequently, investments are recorded at actual costs and not on the basis of depreciation and amortization.

Furthermore, the financial projections are based on an assumed plan for the scientific setup of the institute, which may need to be modified in the course of the dynamic process of filling the scientific posts.

Bearing all of the above in mind, the financial projections are contained in Appendix 3.

Appendix 1

Table: Average Salary by Employee Category

Personnel	Average Salary ($)
Director	
Professors	234.000
Scientists	
Associate Professors	130.500
Research Faculty	168.500
Staff Scientists	83.500
Research Associates	44.500
Ph.D. students/PostDocs	
Ph.D. students/PostDocs	31,750
Engineers, Technicians, Non-Technical Personnel	
Engineers, Technicians, Non-Technical Personnel	40.000

Numbers of 2006

Appendix 2

Table: Full Time Employee Projections

	Year 0	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
Director							
Professor		1	2	2	3	3	3	3
Scientists							
Associate Professors		0	3	5	5	7	8	8
Research Faculty		2	3	3	4	4	4	4
Staff Scientists *)		2	4	8	10	11	12	14
Research Associates		1	1	2	4	5	6	7
Ph.D. Students/Post Docs		2	9	15	20	25	28	29
Total scientists		**8**	**22**	**35**	**46**	**55**	**61**	**65**
Total Engineers, Technical, Non Technical Personnel		**17**	**39**	**56**	**62**	**66**	**69**	**70**
Total employee		**25**	**61**	**91**	**108**	**121**	**130**	**135**
6 Guest Facilities		**5**	**10**	**14**	**18**	**18**	**18**	**18**

*) including Manager Guest Facilities

The plans drawn up to date are based on empirical values and assume that the departments will be set up gradually over a period of seven years. The projections may need to be modified in the course of the dynamic process of filling the scientific posts.

Appendix 3

Financial Projections

Cash In

in 1.000 US$

	Year 0	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Total	
State of Florida and Palm Beach County	0	6.511	14.250	14.285	14.585	15.729	15.341	13.947	15.517	12.851	10.898	**133.915**	75,0%
Third Party Grants, Philanthropy, Commercial	0	0	0	0	500	1.000	3.000	5.000	8.500	11.750	14.800	**44.550**	25,0%
Total	**0**	**6.511**	**14.250**	**14.285**	**15.085**	**16.729**	**18.341**	**18.947**	**24.017**	**24.601**	**25.698**	**178.465**	

Cash Out

in 1.000 US$

	Year 0	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Total	
Divisions Operation	0	427	1.310	2.234	3.656	5.199	6.290	6.924	7.583	7.758	7.936	**49.317**	27,6%
Divisions Investment	0	643	1.467	1.640	1.953	1.386	1.192	891	572	1.085	1.999	**12.829**	7,2%
Junior Research Groups Operation	0	0	440	1.126	1.382	1.650	2.170	2.467	2.523	2.581	2.641	**16.980**	9,5%
Junior Research Groups Investment	0	0	399	204	0	213	218	0	457	234	0	**1.725**	1,0%
Infrastructure Operation	0	2.015	4.123	5.803	8.094	8.280	8.471	8.665	8.865	9.069	9.277	**72.662**	40,7%
Infrastructure Investment	0	3.426	6.510	3.279	0	0	0	0	4.017	3.875	3.845	**24.952**	14,0%
Total	**0**	**6.511**	**14.250**	**14.285**	**15.085**	**16.729**	**18.341**	**18.947**	**24.017**	**24.601**	**25.698**	**178.465**	

Cash Out

in 1.000 US$

	Year 0	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Total	
Total Operation	0	2.442	5.874	9.162	13.132	15.129	16.930	18.056	18.971	19.408	19.854	**138.958**	77,9%
Total Investment	0	4.069	8.377	5.123	1.953	1.600	1.411	891	5.046	5.194	5.844	**39.506**	22,1%
Total	**0**	**6.511**	**14.250**	**14.285**	**15.085**	**16.729**	**18.341**	**18.947**	**24.017**	**24.601**	**25.698**	**178.465**	

Note: The costs for a complete, ready-for-occupation institute building equipped with animal cages are not included (see also page 21).

PNE3

BOARD OF TRUSTEES OF THE INTERNAL
IMPROVEMENT TRUST FUND OF THE
STATE OF FLORIDA

ACCESS EASEMENT

EASEMENT NO. 32052

THIS EASEMENT, is made and entered into this _____ day of _____, 20____ (the "**Effective Date**"), between the BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA, acting pursuant to its authority set forth in Section 253.03, Florida Statutes, hereinafter referred to as, "**GRANTOR**", and MAX PLANCK FLORIDA CORPORATION, a Florida nonprofit corporation, its successors and assigns, hereinafter referred to as "**GRANTEE**".

WHEREAS, GRANTOR is the owner of the hereinafter described real property, which is managed by the Florida Atlantic University Board of Trustees ("**FAU**") under Lease Number 4189; and

WHEREAS, GRANTEE is the owner of a leasehold interest granted by FAU, as Sublandlord, in favor of GRANTEE, as subtenant, upon an parcel of land which is more particularly described in Exhibit "B" ("**GRANTEE'S Property**") pursuant to even-dated Sublease No. 4189-05 (the "**Sublease**"), which has been consented to by GRANTOR. GRANTEE has granted to Palm Beach County (the "**County**") the right to succeed to GRANTEE'S interest in and to the Sublease as set forth in such Sublease and a certain Grant Agreement attached to the Sublease as an exhibit; and

WHEREAS, GRANTEE desires an easement across the hereinafter described real property for private ingress and egress; and

WHEREAS, the managing agency, FAU, has agreed to the proposed use of this land under this instrument; and

WHEREAS, because the easement granted in this instrument shall be appurtenant to and benefit the GRANTEE'S Property by furnishing access to the GRANTEE'S Property, on which GRANTEE intends to establish, construct, operate and maintain a not-for-profit biomedical research institution for biomedical and other scientific research, training and education, together with related office uses and with ancillary uses such as classrooms, lecture halls, conference rooms, cafeterias and libraries for the use of GRANTEE'S employees and guests, all in conjunction with FAU's operation of a public university campus (the "**Permitted Use**"), GRANTOR has determined that the easement granted in this instrument is not a "private easement" within the meaning of Section 18-2.020(4), Florida Administrative Code (2009).

NOW THEREFORE, GRANTOR, for and in consideration of mutual covenants and agreements hereinafter contained, has granted, and by these presents does grant unto GRANTEE for the use and benefit of and appurtenant to GRANTEE'S Property a non-exclusive easement across the following described real property in Palm Beach County, Florida, to wit:

(See Exhibit "A" Attached)

subject to the following terms and conditions:

1. DELEGATIONS OF AUTHORITY: The Division of State Lands, State of Florida Department of Environmental Protection, herein shall exercise GRANTOR'S responsibilities and obligations.

2. TITLE DISCLAIMER: GRANTOR does not warrant or guarantee any title, right or interest in or to the property described in Exhibit "A" attached hereto.

3. TERM: GRANTOR does hereby grant to GRANTEE an easement appurtenant to GRANTEE'S Property, the term of which shall be coterminous with the term of the Sublease (or replacement sublease with the County as set forth in the Sublease) for ingress and egress, unless sooner (a)terminated pursuant to the provisions of this easement or the Sublease or (b)partially abrogated pursuant to Paragraph 2 the Sublease. If GRANTEE'S or the County's interest in the GRANTEE'S Property shall terminate or expire, all right, title, and interest conveyed under this instrument shall automatically revert to GRANTOR, unless sooner terminated pursuant to the provisions of this easement. If this easement for ingress and egress is ever permanently abandoned, all right, title, and interest conveyed under this easement shall automatically terminate and revert to GRANTOR after 60 days' written notice from GRANTOR to GRANTEE at GRANTEE'S last known address.

4. USE OF PROPERTY AND UNDUE WASTE: This easement shall be limited to ingress and egress only, upon and across the property described in Exhibit "A" during the term of this easement as set forth in Section 3 above, for the benefit of the GRANTEE'S Property in connection with the Permitted Use. This easement shall be non-exclusive. GRANTOR retains the right to engage in any activities on, over, below or across the easement area which do not unreasonably interfere with GRANTEE'S exercise of this easement and further retains the right to grant compatible uses to third parties during the term of this easement, provided that such grant shall be subject to this instrument and, in the case of any conflict, GRANTEE'S use shall be superior such grants made after the Effective Date.

GRANTEE shall dispose of, to the satisfaction of GRANTOR, all brush and refuse resulting from the clearing of the land for the uses authorized hereunder. If timber is removed in connection with clearing this easement,

the net proceeds derived from the sale of such timber shall accrue to GRANTOR. GRANTEE shall take all reasonable precautions to control soil erosion and to prevent any other degradation of the real property described in Exhibit "A" during the term of this easement. GRANTEE shall not remove water from any source on this easement including, but not limited to, a water course, reservoir, spring, or well, without the prior written approval of GRANTOR. GRANTEE shall clear, remove and pick up all debris including, but not limited to, containers, papers, discarded tools and trash foreign to the work locations and dispose of the same in a satisfactory manner as to leave the work locations clean and free of any such debris. GRANTEE, its agents, successors, or assigns, shall not dispose of any contaminants including, but not limited to, hazardous or toxic substances, chemicals or other agents produced or used in GRANTEE'S operations on this easement or on any adjacent state land or in any manner not permitted by law. GRANTEE shall be liable for all costs associated with any cleanup of the subject property which is a result of GRANTEE'S operations and use of the subject property.

Upon termination or expiration of this easement, GRANTEE shall restore the lands over which this easement is granted to substantially the same condition it was upon the Effective Date. GRANTEE agrees that upon termination or expiration of this easement, all authorization granted hereunder shall cease and terminate. GRANTEE shall obtain the consent of FAU prior to engaging in any use of the real property authorized herein.

5. REMEDIES. In the event of a breach or threatened breach by GRANTEE or its permittees of any of the terms, covenants, restrictions or conditions imposed upon GRANTEE pursuant to this instrument, GRANTOR shall be entitled forthwith to full and adequate relief by injunction and/or all such other available legal and equitable remedies from the consequences of such breach,

including payment of any amounts due and/or specific performance and such right of self-help as recognized under law of the State of Florida. Notwithstanding the foregoing to the contrary, no breach hereunder shall entitle GRANTOR to cancel, rescind, or otherwise terminate this instrument or the easement created herein.

6. RIGHT OF INSPECTION: GRANTOR or its duly authorized agents, representatives or employees shall have the right at any and all times to inspect this easement and the works and operations of GRANTEE in any matter pertaining to this easement.

7. BINDING EFFECT AND INUREMENT: This easement shall "run with the land" and shall be binding on and shall inure to the benefit of the heirs, executors, administrators and assigns of the parties hereto. The assignee of or successor in interest to the subtenant's interest in the Sublease, by acceptance of an assignment or other instrument conveying such interest, whether from GRANTEE or from a subsequent successor of GRANTEE'S interest, shall accept such assignment or instrument upon and subject to each and all of the easements, covenants, conditions, restrictions and obligations contained in this instrument. By such acceptance, any such assignee or successor shall for itself and its successors, assigns, covenant, consent, and agree keep, observe, comply with, and perform the obligations and agreements set forth in this instrument.

8. INDEMNITY: GRANTEE hereby covenants and agrees to investigate all claims of every nature at its own expense, and to indemnify, protect, defend, save and hold harmless GRANTOR, the State of Florida and FAU (collectively, the "Indemnified Parties") from any and all claims, actions, lawsuits, and demands of any kind or nature arising out of this easement. The indemnity and hold harmless provisions of the foregoing sentence shall not apply to damages,

liability, actions, claims or expenses resulting wholly or in part from the tortuous acts of the Indemnified Parties.

9. NON-DISCRIMINATION: GRANTEE shall not discriminate against any individual because of that individual's race, color, religion, sex, national origin, age, handicaps, or marital status with respect to any activity occurring within this easement.

10. COMPLIANCE WITH LAWS: GRANTEE shall obtain all applicable permits and shall comply with all applicable permits, regulations, ordinances, rules, and laws of the State of Florida or the United States or of any political subdivision or agency of either.

11. VENUE PRIVILEGES: GRANTOR and GRANTEE agree that GRANTOR has venue privilege as to any litigation arising from matters relating to this easement. Any such litigation between GRANTOR and GRANTEE shall be initiated and maintained only in Leon County, Florida.

12. ARCHAEOLOGICAL AND HISTORIC SITES: Execution of this easement in no way affects any of the parties' obligations pursuant to Chapter 267, Florida Statutes. The collection of artifacts or the disturbance of archaeological and historic sites on state-owned lands is prohibited unless prior authorization has been obtained from the Department of State, Division of Historical Resources.

13. PROHIBITIONS AGAINST LIENS OR OTHER ENCUMBRANCES: Fee title to the lands underlying this easement is held by GRANTOR. GRANTEE shall not do or permit anything to be done which purports to create a lien or encumbrance of any nature against the real property of GRANTOR including, but not limited to, mortgages or construction liens against the real property described in Exhibit “A” or against any interest of GRANTOR therein.

14. PARTIAL INVALIDITY: If any term, covenant, condition or provision of this easement shall be ruled by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

15. SOVEREIGNTY SUBMERGED LANDS: This easement does not authorize the use of any lands located waterward of the mean or ordinary high water line of any lake, river, stream, creek, bay, estuary, or other water body or the waters or the air space thereabove.

16. ENTIRE UNDERSTANDING: This easement sets forth the entire understanding between the parties and shall only be amended with the prior written approval of GRANTOR.

17. TIME: Time is expressly declared to be of the essence of this easement.

18. PAYMENT OF TAXES AND ASSESSMENTS: GRANTEE shall assume full responsibility for and shall pay all liabilities that accrue to the easement area or to the improvements thereon including any and all drainage and special assessments or taxes of every kind which may be hereafter lawfully assessed and levied against this easement and all mechanic's or materialman's liens which are directly occasioned by GRANTEE. Nothing shall prevent GRANTEE from contesting the validity of any mechanics' lien in any manner GRANTEE chooses, so long as such contest is pursued in good faith and with reasonable diligence and is otherwise permitted by applicable law. If such contest is determined adversely, GRANTEE shall promptly pay in full the required amount, together with any interest, penalties, costs, or other charges necessary to release such lien and any judgment arising therefrom.

19. RECORDING OF EASEMENT: GRANTEE, at its own expense, shall record this fully executed easement in its entirety in the public records of Palm Beach County within fourteen days after receipt, and shall provide to GRANTOR within

thirty days following the recordation a copy of the recorded easement in its entirety which contains the O.R. Book and Pages at which the easement is recorded.

20. GOVERNING LAW: This easement shall be governed by and interpreted according to the laws of the State of Florida.

21. SECTION CAPTIONS: Articles, subsections and other captions contained in this easement are for reference purposes only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this easement or any provisions thereof.

22. SPECIAL CONDITIONS: The following special conditions shall apply to this easement:

GRANTOR and GRANTEE acknowledge that the property subject to this easement must align with a legally permitted intersection with Donald Ross Road in order to furnish vehicular access to GRANTEE'S Property. GRANTEE understands that the property described in Exhibit "A" will align with a proposed intersection at Donald Ross Road, which intersection has been conceptually approved by the County. The final location of that intersection is subject to required engineering and to all applicable governmental permitting and approvals (which GRANTEE shall obtain in accordance with paragraph 10 of this easement), which may cause the location of the intersection to be adjusted. GRANTOR agrees that, in such event, GRANTOR will amend the easement area, now described in Exhibit "A", to align with the final intersection location, subject to FAU and GRANTOR approving the amended easement area and subject to GRANTEE providing GRANTOR an acceptable revised survey depicting the amended easement area.

* * *

IN WITNESS WHEREOF, the parties have caused this easement to be executed the day and year first above written.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA

By: _____(SEAL)
GLORIA C. BARBER, OPERATIONS AND MANAGEMENT CONSULTANT MANAGER, BUREAU OF PUBLIC LAND ADMINISTRATION, DIVISION OF STATE LANDS, STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

"GRANTOR"

_____
Witness

_____
Print/Type Witness Name

_____
Witness

_____
Print/Type Witness Name

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me this _____ day of _____, 20___, by Gloria C. Barber, as Operations and Management Consultant Manager, Bureau of Public Land Administration, Division of State Lands, State of Florida Department of Environmental Protection, as agent for and on behalf of the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida. She is personally known to me.

_____
Notary Public, State of Florida

_____
Print/Type Notary Name

Commission Number:

Commission Expires:

Approved as to Form and Legality

By: _____
DEP Attorney

MAX PLANCK FLORIDA CORPORATION,
a Florida nonprofit corporation

_____
Witness

By: _____
Print/Type Name
Title: _____
"GRANTEE"

_____
Print/Type Witness Name

_____
Witness

_____
Print/Type Witness Name

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____, as _____, of MAX PLANCK FLORIDA CORPORATION, a Florida nonprofit corporation, on behalf of the corporation, who_____ is personally known to me or produced _____ as identification.

_____
Notary Public, State of Florida

_____
Print Notary Name

Commission Number:

Commission Expires:

JOINDER

The Florida Atlantic University Board of Trustees hereby joins in this easement solely for the purpose of consenting to the grant of this easement and the use of the easement by GRANTEE for the purposes set forth herein.

THE FLORIDA ATLANTIC UNIVERSITY BOARD OF TRUSTEES

_____
Witness

By: _____

_____
Print/Type Witness Name

_____
Print/Type Name

Title: _____

_____
Witness

_____
Print/Type Witness Name

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____ as _____, on behalf of The Florida Atlantic University Board of Trustees. He/she is personally known to me.

_____
Notary Public, State of Florida

_____
Print/Type Notary Name

Commission Number:

Commission Expires:

DESCRIPTION & SKETCH
PREPARED FOR:
MAX PLANCK SOCIETY

ROADWAY
DESCRIPTION

APPROVED BY
DEP - BSM
SURVEY REVIEW SECTION
BSM# 5704
DATE 6.8.09

LEGAL DESCRIPTION:

A PARCEL OF LAND BEING A PORTION OF TRACT UN1, ABACOA PLAT NO. 1, RECORDED IN PLAT BOOK 78, PAGES 145 THROUGH 163, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 23, TOWNSHIP 41 SOUTH, RANGE 42 EAST, AS SHOWN ON SAID PLAT; THENCE SOUTH 89°55'48" WEST, ALONG THE SOUTH LINE OF SAID SECTION 23, A DISTANCE OF 1305.25 FEET TO A POINT ON THE SOUTHERLY PROJECTION OF THE WEST LINE OF THE MAX PLANCK SOCIETY PROPOSED 6.08 ACRE PARCEL; THENCE NORTH 00°02'32" WEST, ALONG THE SAID SOUTHERLY PROJECTION A DISTANCE OF 75.00 FEET, TO A POINT ON A LINE, 75.00 FEET NORTH OF AND PARALLEL WITH, AS MEASURED AT RIGHT ANGLES TO, THE SAID SOUTH LINE OF SECTION 23, SAID PARALLEL LINE ALSO BEING THE NORTH RIGHT-OF-WAY LINE OF DONALD ROSS ROAD AND THE SOUTH LINE OF TRACT UN1 AS SHOWN ON SAID PLAT, SAID POINT ALSO BEING THE POINT OF BEGINNING OF THE HEREINAFTER DESCRIBED PARCEL OF LAND; THENCE SOUTH 89°55'48" WEST, ALONG SAID PARALLEL LINE, THE SAID NORTH RIGHT-OF-WAY LINE AND THE SAID SOUTH LINE OF TRACT UN1 A DISTANCE OF 83.00 FEET TO A POINT ON A LINE 83.00 FEET WEST OF AND PARALLEL WITH, AS MEASURED AT RIGHT ANGLES TO, THE SAID SOUTHERLY PROJECTION LINE; THENCE NORTH 00°02'32" WEST, ALONG SAID PARALLEL LINE, A DISTANCE OF 101.77 FEET TO A POINT OF CURVATURE OF A CURVE, CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 383.00 FEET AND A CHORD THAT BEARS NORTH 19°22'49" EAST; THENCE, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 38°50'43" A DISTANCE OF 259.67 FEET TO A POINT OF REVERSE CURVATURE OF A CURVE, CONCAVE TO THE WEST, HAVING A RADIUS OF 510.00 FEET AND A CHORD THAT BEARS NORTH 31°43'22" EAST; THENCE, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 14°09'37" A DISTANCE OF 126.04 FEET TO A POINT ON A TANGENT LINE, SAID TANGENT LINE BEING PARALLEL WITH AND 90.00 FEET WEST OF, AS MEASURED AT RIGHT ANGLES TO, THE WEST LINE OF THE MAX PLANCK SOCIETY PROPOSED 6.08 ACRE PARCEL; THENCE NORTH 24°38'34" EAST, ALONG SAID TANGENT AND PARALLEL LINE A DISTANCE OF 180.79 FEET TO A POINT ON THE WESTERLY PROJECTION OF THE NORTH LINE OF THE MAX PLANCK SOCIETY PROPOSED 6.08 ACRE PARCEL AND THE WESTERLY PROJECTION OF A SOUTH LINE FOR THE SCRIPPS PHASE 1 SUBLEASE PARCEL AS RECORDED IN OFFICIAL RECORD BOOK 20830, PAGE 1491, PUBLIC RECORDS PALM BEACH COUNTY, FLORIDA; THENCE SOUTH 65°21'26" EAST, DEPARTING SAID TANGENT AND PARALLEL LINE AND ALONG THE SAID WESTERLY PROJECTION OF THE SAID NORTH LINE AND THE SAID SOUTH LINE AND ALONG A SOUTH LINE OF THE SAID SCRIPPS PHASE 1 SUBLEASE PARCEL A DISTANCE OF 90.00 FEET TO A POINT ON THE WEST LINE OF THE SAID MAX PLANCK SOCIETY PROPOSED 6.08 ACRE PARCEL, SAID POINT ALSO BEING THE NORTHWEST CORNER OF THE SAID MAX PLANCK SOCIETY PROPOSED 6.08 ACRE PARCEL; THENCE SOUTH 24°38'34" WEST, DEPARTING THE SAID WESTERLY PROJECTION OF THE SAID NORTH LINE AND A SOUTH LINE OF SAID SCRIPPS PHASE 1 SUBLEASE PARCEL AND ALONG THE WEST LINE OF THE SAID MAX PLANCK SOCIETY PROPOSED 6.08 ACRE PARCEL A DISTANCE OF 153.74 FEET TO A POINT OF CURVATURE OF A CURVE, CONCAVE TO THE WEST, HAVING A RADIUS OF 600.00 FEET AND A CHORD THAT BEARS SOUTH 32°33'28" WEST; THENCE CONTINUING ALONG THE SAID WEST LINE AND ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 15°49'49" A DISTANCE OF 165.77 FEET TO A POINT OF REVERSE CURVATURE OF A CURVE, CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 300.00 FEET AND A CHORD THAT BEARS SOUTH 20°12'55" WEST; THENCE, CONTINUING ALONG THE SAID WEST LINE AND THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 40°30'55" A DISTANCE OF 212.14 FEET TO A POINT ON A TANGENT LINE; THENCE SOUTH 00°02'32" EAST, CONTINUING ALONG SAID WEST LINE AND SAID TANGENT LINE AND ALONG THE SOUTHERLY PROJECTION OF THE WEST LINE OF THE SAID MAX PLANCK SOCIETY PROPOSED 6.08 ACRE PARCEL A DISTANCE OF 101.73 FEET TO THE POINT OF BEGINNING.

CONTAINING IN ALL 55,694 SQUARE FEET / 1.28 ACRES, MORE OR LESS.

Plot Date: Jun. 08, 2009
File: Z:\2008\08-906 Max Planck\dwg\08-906 Max Planck Roadway legal & sketch.dwg

Keshavarz & Associates, Inc.
CONSULTING ENGINEERS - SURVEYORS
711 N. Dixie Highway, Suite 201
West Palm Beach, Florida 33401
Tel: (561) 689-8600 Fax: (561) 689-7476 LB 4897

PROJ.: 08-906	REVISIONS:	SCALE: N/A	
OFFICE: S.F.B.		DWG. No: A08-906A	
CHK: S.F.B.	DATE: 03/26/09	SHEET 2 OF 4	

EXHIBIT "B"

DESCRIPTION & SKETCH
PREPARED FOR:
MAX PLANCK SOCIETY

PROPERTY
DESCRIPTION

LEGAL DESCRIPTION:

A PARCEL OF LAND BEING A PORTION OF TRACT UN1, ABACOA PLAT NO. 1, RECORDED IN PLAT BOOK 78, PAGES 145 THROUGH 163, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 23, TOWNSHIP 41 SOUTH, RANGE 42 EAST, AS SHOWN ON SAID PLAT; THENCE NORTH 01°23'13" EAST, ALONG THE EAST LINE OF SAID SECTION 23, A DISTANCE OF 165.04 FEET TO A POINT ON THE NORTH LINE OF A 90.00 FOOT BUFFER AND A 90.00 FOOT WATER MANAGEMENT EASEMENT AS SHOWN ON SAID PLAT; THENCE NORTH 89°50'06" WEST, DEPARTING THE SAID EAST LINE AND ALONG THE SAID NORTH LINE A DISTANCE OF 3.86 FEET; THENCE SOUTH 89°55'48" WEST, CONTINUING ALONG THE SAID NORTH LINE, A DISTANCE OF 532.88 FEET TO A POINT ON A SOUTHERLY PROJECTION OF A WESTERN BOUNDARY LINE OF THE SUBLEASE PARCEL FOR SCRIPPS PHASE 1 AS RECORDED IN OFFICIAL RECORD BOOK 20830, PAGE 1491, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA, SAID POINT ALSO BEING THE POINT OF BEGINNING;

THENCE CONTINUE SOUTH 89°55'48" WEST, ALONG THE SAID NORTH LINE A DISTANCE OF 772.63 FEET; THENCE NORTH 00°02'32" WEST, DEPARTING THE SAID NORTH LINE, A DISTANCE OF 11.73 FEET TO A POINT OF CURVATURE OF A CURVE, CONCAVE TO THE EAST, HAVING A RADIUS OF 300.00 FEET AND A CHORD BEARING OF NORTH 20°12'55" EAST; THENCE ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 40°30'55", A DISTANCE OF 212.14 FEET TO A POINT OF REVERSE CURVATURE OF A CURVE, CONCAVE TO THE WEST, HAVING A RADIUS OF 600.00 FEET AND A CHORD BEARING OF NORTH 32°33'28" EAST; THENCE ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 15°49'49", A DISTANCE OF 165.77 FEET TO A POINT OF TANGENCY; THENCE NORTH 24°38'34" EAST, ALONG THE SAID TANGENT LINE A DISTANCE OF 153.74 FEET TO A POINT ON A SOUTHERLY BOUNDARY LINE OF THE SAID SUBLEASE PARCEL FOR SCRIPPS PHASE 1; THENCE SOUTH 65°21'26" EAST, ALONG THE SAID SOUTHERLY BOUNDARY LINE, A DISTANCE OF 224.32 FEET TO A POINT OF CURVATURE OF A CURVE, CONCAVE TO THE NORTH, HAVING A RADIUS OF 695.50 FEET AND A CHORD BEARING OF SOUTH 78°44'35" EAST; THENCE CONTINUING ALONG THE SAID SOUTHERLY BOUNDARY LINE AND THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 26°46'19" A DISTANCE OF 324.98 FEET TO A POINT ON A WESTERN BOUNDARY LINE OF THE SAID SUBLEASE PARCEL FOR SCRIPPS PHASE 1; THENCE SOUTH 04°53'24" EAST, ALONG THE SAID WESTERN BOUNDARY LINE AND A SOUTHERLY PROJECTION OF THE SAID WESTERN BOUNDARY LINE A DISTANCE OF 329.55 FEET TO THE POINT OF BEGINNING.

CONTAINING IN ALL 264,654 SQUARE FEET / 6.08 ACRES, MORE OR LESS.

BSM APPROVED
BY MJA
DATE 6-05-09

Plot Date: Apr. 23, 2009
File: Z:\2008\08-906 Max Planck\dwg\08-906 Max Planck Description-Sketch.dwg

Keshavarz & Associates, Inc. CONSULTING ENGINEERS - SURVEYORS 711 N. Dixie Highway, Suite 201 West Palm Beach, Florida 33401 Tel: (561) 689-8600 Fax: (561) 689-7476 LB 4897	PROJ.: 08-906	REVISIONS:	SCALE: N/A
	OFFICE: S.F.B.		DWG. No: A08-906
	CHK: C.D.	DATE: 10/27/08	SHEET 2 OF 4

SUBLEASE CONSENT AND AGREEMENT

THIS SUBLEASE CONSENT AND AGREEMENT is entered into this _____ day of _____, 200__ by and between the BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA ("**LESSOR**"), THE FLORIDA ATLANTIC UNIVERSITY BOARD OF TRUSTEES (successor in interest by operation of law to the Florida Board of Education, which was the successor in interest by type two transfer pursuant to Section 20.06(2), Florida Statutes to the Florida Board of Regents) ("**LESSEE**"), Max Planck Florida Corporation, a Florida nonprofit corporation, doing business as Max Planck Florida Institute ("**SUBLESSEE**") and PALM BEACH COUNTY, a political subdivision of the State of Florida ("**COUNTY**").

W I T N E S S E T H

WHEREAS, LESSOR, by virtue of Section 253.03, Florida Statutes, holds title to certain lands and property for the use and benefit of the State of Florida; and

WHEREAS, on May 18, 1998, LESSOR and LESSEE entered into Lease Number 4189, as amended by Amendment Number 1, Amendment Number 2, Amendment Number 3 and Amendment Number 4 (collectively, the "**Master Lease**") for the premises described therein (the "**Leased Premises**"); and

WHEREAS, LESSEE desires to enter into a sublease substantially in the form attached hereto as Exhibit "A" (the "**Sublease**"), with SUBLESSEE, to sublease a portion of the Leased Premises described therein (the "**Subleased Premises**") for the purpose of establishing, constructing, operating and maintaining a not-for-profit biomedical research institution for biomedical and other scientific research, training and education, together with related office uses and with ancillary uses such as classrooms, lecture halls, conference rooms, cafeterias and libraries for the use of SUBLESSEE'S employees and guests, all in conjunction with the lease of the Leased Premises for the operation of a public university campus site; and

WHEREAS, LESSOR and LESSEE acknowledge that COUNTY has or will contribute significant funds toward construction of improvements to be constructed by SUBLESSEE upon the Subleased Premises and that COUNTY is anticipating recouping its investment through economic growth resulting from SUBLESSEE'S operations at the Subleased Premises and has

reserved certain rights in and under the Sublease, which reserved rights COUNTY wants to protect as set forth in this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties hereto agree as follows:

1. The foregoing recitals are true and correct and incorporated herein by reference.

2. LESSOR agrees that by execution and delivery of this Agreement, LESSOR approves the execution and delivery of the Sublease as required under paragraph 13 of the Master Lease. LESSOR further agrees that, to the extent that execution and delivery of the Sublease by LESSEE constitutes an assignment under paragraph 20 of the Master Lease, LESSOR herby consents to such assignment.

3. So long as SUBLESSEE (or COUNTY, if applicable) is not in default (beyond any period given SUBLESSEE (or COUNTY, if applicable) to cure such default) in the performance of any of the terms, covenants or conditions of the Sublease on SUBLESSEE'S (or COUNTY'S, if applicable) part to be performed, LESSOR agrees (i) that SUBLESSEE'S (or COUNTY'S, if applicable) possession of the Subleased Premises and SUBLESSEE'S (or COUNTY'S, if applicable) rights and privileges under the Sublease shall not be diminished or interfered with by LESSOR, or its successors or assigns, and SUBLESSEE'S (or COUNTY'S, if applicable) occupancy of the Subleased Premises shall not be disturbed by LESSOR, or its successors or assigns, for any reason whatsoever during the term of the Sublease.

4. In the event that (a) the Master Lease terminates for any reason other than due to a default by SUBLESSEE (or COUNTY, if applicable) (the parties acknowledging that by its terms the Master Lease will not expire prior to the end of the term of the Sublease) and (b) LESSEE or LESSEE'S successor entity does not enter into a subsequent direct lease with LESSOR, then (i) LESSOR shall recognize SUBLESSEE'S (or COUNTY'S, if applicable) right to occupy and possess the Subleased Premises as provided in the Sublease, and SUBLESSEE and COUNTY (if applicable) covenant and agree to make full and complete attornment to LESSOR for the balance of the term of the Sublease upon the then-executory terms and conditions set forth in the Sublease, upon the same terms, covenants and conditions as therein provided, so as to establish direct privity of estate and contract as between LESSOR and SUBLESSEE (or COUNTY, if applicable), and with the same force and effect as though the Sublease were originally made directly from LESSOR to SUBLESSEE (or COUNTY, if

applicable) and (ii) if either LESSOR or SUBLESSEE (or COUNTY, if applicable) request, LESSOR shall enter into a direct lease with SUBLESSEE (or COUNTY, if applicable) of the Subleased Premises upon the same terms and conditions as in the Sublease, subject, however, to the limitations in paragraph 5 below. LESSOR and LESSEE further agree that in the event that (x) the Master Lease terminates due to a default by SUBLESSEE and (y) LESSEE or LESSEE'S successor entity does not enter into a subsequent direct lease with LESSOR of the Subleased Premises, COUNTY shall be entitled to lease the Subleased Premises from LESSOR upon the same terms and conditions as in the Sublease. The foregoing provisions of this paragraph shall apply notwithstanding that, as a matter of law, the Sublease may otherwise terminate upon the termination of the Master Lease and shall be self-operative upon such written demand of LESSOR, and no further instrument shall be required to give effect to said provisions.

5. From and after such termination of the Master Lease, (a) SUBLESSEE (or COUNTY, if applicable) will attorn to LESSOR and LESSOR will accept such attornment; (b) LESSOR will have the same remedies by entry, action or otherwise for the non-performance of any agreement contained in the Sublease, LESSOR had or would have had if the Master Lease had not been terminated; (c) from and after the time of such attornment, SUBLESSEE (or COUNTY, if applicable) will have the same remedies against LESSOR for the breach of an agreement contained in the Sublease that SUBLESSEE (or COUNTY, if applicable) had or would have had if the Master Lease had not been terminated, except that LESSOR will not be (i) liable for any act or omission of LESSEE, (ii) subject to any offsets or defenses which SUBLESSEE (or COUNTY, if applicable) might have against LESSEE, (iii) subject to or bound by any amended term of the Sublease not expressly agreed upon by LESSOR in writing and (iv) LESSOR shall not be liable for or subject or bound to any non-executory provisions of the Sublease to the extent such non-executory provisions are not set forth in the Master Lease as of the date of this Agreement. Upon demand of LESSOR or SUBLESSEE (or COUNTY, if applicable), the other party agrees to execute, from time to time, documents in confirmation of the foregoing provisions of this paragraph, reasonably satisfactory to the requesting party, in which the other party shall acknowledge such attornment and shall set forth the terms and conditions of SUBLESSEE'S (or COUNTY, if applicable) tenancy.

6. A copy of the Amended Master Plan for the Florida Atlantic University John D. MacArthur Campus as adopted by the LESSEE on November 19, 2008, may be found at www.fau.edu/facilities/uavp/masterplans-folder/macarthur-mp-folder/macarthur-mp-home.php. LESSOR hereby acknowledges that such amended Master Plan satisfies the requirements of paragraph 7 of the Master Lease.

7. LESSOR hereby acknowledges that the improvements to be constructed on the Subleased Premises will not be insured in accordance with the requirements of paragraph 9 of the Master Lease. LESSOR agrees that, so long as LESSEE requires SUBLESSEE (or COUNTY, if applicable) to maintain the insurance coverages set forth in paragraph 11 of the Sublease, LESSEE will not be in violation of the requirements of paragraph 9 of the Master Lease.

8. LESSOR agrees that it shall send copies of all notices sent to LESSEE under the Master Lease to SUBLESSEE and COUNTY on the same date such notices are sent to LESSEE. LESSOR agrees to give SUBLESSEE and COUNTY written notice of any default by LESSEE and of LESSOR'S intention to terminate the Master Lease for any reason at least sixty (60) days before the effective date of such termination.

Notices to COUNTY shall be sent to:

Shannon LaRocque
Assistant County Administrator, Palm Beach County
301 North Olive Avenue, 11th Floor
West Palm Beach, Florida 33401

With a copy to:

County Attorney
Palm Beach County
301 North Olive Avenue, 6th Floor
West Palm Beach, Florida 33401
Attention: Real Estate

Notices to SUBLESSEE shall be sent to:

Max Planck Florida Corporation
555 Heritage Drive
Suite 205
Jupiter, Florida 33458
Attention: Dr. Peter Gruss

With copy to:

McDermott, Will & Emery LLP
201 South Biscayne Boulevard
22nd Floor
Miami, Florida 33131-4336
Attention: Raquel Rodriguez

or at such other address as the parties may hereafter specify by written notice in accordance with this Amendment.

9. LESSOR and LESSEE agree that they shall not amend the term of the Master Lease so that the expiration date of the Master Lease would precede the expiration date of the Sublease. The parties to this Agreement acknowledge that neither SUBLESSEE nor COUNTY shall be bound by or subject to an amendment or modification of the Master Lease occurring after the date of this Agreement as it pertains to the Subleased Premises. Notwithstanding the previous sentence, SUBLESSEE and COUNTY agree each shall be bound by and subject to the terms of the Sublease and the Master Lease as of the date of this Sublease Consent and Agreement.

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IN WITNESS WHEREOF, the parties have caused this Sublease Consent and Agreement to be executed on the day and year first above written.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA

_____
Witness

By: _____(SEAL)
GLORIA C. BARBER, OPERATIONS AND MANAGEMENT CONSULTANT MANAGER, BUREAU OF PUBLIC LAND ADMINISTRATION, DIVISION OF STATE LANDS, STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, AS AGENT FOR AND ON BEHALF OF THE BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA

_____
Print/Type Witness Name

_____
Witness

"LESSOR"

_____
Print/Type Witness Name

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by Gloria C. Barber, Operations and Management Consultant Manager, Bureau of Public Land Administration, Division of State Lands, State of Florida Department of Environmental Protection, as agent for and on behalf of the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida. She is personally known to me.

_____
Notary Public, State of Florida

_____
Print/Type Notary Name

Approved as to Form and Legality

By: _____
DEP Attorney

Commission Number:

Commission Expires:

THE FLORIDA ATLANTIC UNIVERSITY BOARD OF TRUSTEES

_____ By: _____(SEAL)
Witness

_____ _____
Print/Type Witness Name Print/Type Name

_____ Title: _____
Witness

_____ "LESSEE"
Print/Type Witness Name

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____ as _____, on behalf of The Florida Atlantic University Board of Trustees. He/she is personally known to me.

_____
Notary Public, State of Florida

_____
Print/Type Notary Name

Commission Number:

Commission Expires:

MAX PLANCK FLORIDA CORPORATION, a Florida nonprofit corporation, doing business as MAX PLANCK FLORIDA INSTITUTE

_____ By: _____(SEAL)
Witness

_____ _____
Print/Type Witness Name Print/Type Name

_____ Title: _____
Witness

_____
Print/Type Witness Name

"SUBLESSEE"

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____ 200__, by _____, as_____ of Max Planck Florida Corporation, a Florida nonprofit corporation, doing business as Max Planck Florida Institute, on behalf of the corporation, who is/are personally known to me or who has produced _____ as identification.

_____
Notary Public, State of Florida

_____
Print/Type Notary Name

Commission Number:

Commission Expires:

PALM BEACH COUNTY**,** a political subdivision of the State of Florida

OFFICIAL SEAL
ATTEST:
SHARON R. BOCK, Clerk & Comptroller

By its BOARD OF COUNTY COMMISSIONERS

_____
Deputy Clerk

By:_____
John L. Koons, Chairperson

"COUNTY"

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By:_____
Assistant County Attorney

APPROVED AS TO TERMS AND CONDITIONS

By:_____
MPFC Program Manager

_____
Witness

_____
Print/Type Witness Name

_____
Witness

_____
Print/Type Witness Name

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____, 200__, by John L. Koons as Chairperson, for and on behalf of the Board of County Commissioners of Palm Beach County, Florida. He is personally known to me or produced _____, as identification.

_____
Notary Public, State of Florida

_____
Print/Type Notary Name

Commission Number:

Commission Expires: