

GENERAL COLLABORATION AGREEMENT

BETWEEN

ARIZONA BOARD OF REGENTS FOR AND ON BEHALF OF

ARIZONA STATE UNIVERSITY (“ASU”)

AND

CENTRO DE ENSEÑANZA TÉCNICA Y SUPERIOR (CENTER FOR HIGHER AND TECHNICAL EDUCATION), A MEXICAN PRIVATE NOT-FOR-PROFIT UNIVERSITY COMMONLY REFERRED TO AS CETYS UNIVERSIDAD (“CETYS”)

DECLARATIONS

The legal representatives of each institution declare that:

The ARIZONA BOARD OF REGENTS for and on behalf of ARIZONA STATE UNIVERSITY, hereafter referred to as ASU, is a body established by the laws of the State of Arizona. CENTRO DE ENSEÑANZA TÉCNICA Y SUPERIOR (CENTER FOR HIGHER AND TECHNICAL EDUCATION) commonly referred to as CETYS UNIVERSIDAD, hereinafter referred to as CETYS, is a Mexican private not-for-profit university established by the laws of Mexico.

ASU is an institution of scientific research and undergraduate and graduate studies, legally constituted under the laws of The United States of America. CETYS is a comprehensive institution that offers undergraduate and graduate programs, legally constituted under the laws of Mexico, accredited by the Mexican Federation of Private Universities, and candidate for institutional accreditation by the Western Association of Schools and Colleges (WASC).

This General Collaboration Agreement (this “Agreement”) is made within a spirit of equality of capabilities, academic level, rights and responsibilities, and mutual benefits.

In order to encourage closer academic ties, ASU and CETYS intend to enter into agreements addressing areas of interest and benefit to both institutions. This Agreement will serve as a general framework for cooperation between the two institutions and is intended to facilitate the development of specific bilateral programs of collaboration.

In particular, both institutions agree to explore the following areas of collaboration:

- A. To identify opportunities for the exchange of faculty and research staff.
- B. To exchange and educate academic personnel through sabbaticals, short stays, seminars, courses, workshops, etc.
- C. To jointly develop research programs and projects.
- D. To jointly develop undergraduate and graduate programs consistent with the respective accrediting bodies that recognize ASU and CETYS.
- E. To exchange information in the fields of interest to both institutions.
- F. To explore opportunities for faculty and student exchange, studies and research.
- G. To jointly carry out professional and academic events.
- H. To mutually lend advice, technical support and services, including libraries and/or information center.
- I. To jointly co-edit publications.
- J. To identify other areas of possible interest and collaboration.

The scope of activities under this Agreement shall be determined mutually by the parties and shall be subject to the finances available at each institution for the types of collaboration undertaken and by such other financial assistance as may be obtained by each institution from external sources. Each cooperative activity undertaken by the parties hereunder shall be preceded by detailed discussions and a written agreement (each, a "Specific Collaboration Agreement") that addresses information pertaining to such activity, including statement of work, duration, cost, intellectual property rights, timeline, and other necessary terms for international cooperative activities.

Based on the above, the parties agree to the following:

(1) Both parties are obligated to present written specific proposals to collaborate in areas of mutual interest which, if approved by both institutions, will be separate from the present instrument and elevated to the category of Specific Collaboration Agreements. Each Specific Collaboration Agreement shall be in writing and signed by authorized representatives of both parties.

(2) ASU and CETYS agree that:

- a. Any individual participating in any aspect of this Agreement shall be selected on the basis of merit without regard to race, national or ethnic origin, color, religion, sex, marital status or physical handicap.
- b. Participants will remain bona fide students or academic staff members of their home institution throughout the Term of this Agreement.
- c. All participants under this Agreement, including students and academic staff engaged in study or joint research projects arising out of this Agreement, are expected to respect and honor the laws, rules and regulations of the host institution and the host country.
- d. Reasonable efforts will be made to have equivalent numbers of students and staff members exchanged from each institution during the Term of this Agreement.
- e. Each institution will undertake to encourage joint research among its own faculty members and researchers from the other institution on mutually agreed upon projects funded by external agencies.
- f. Each institution will undertake to provide reasonable office space and other reasonable working facilities to approved researchers from the other institution.
- g. Each institution will undertake to facilitate the access of researchers from the other institution to data sources generally available to its own researchers.
- h. This Agreement shall take effect when signed by the legal representatives of both institutions.

(3) For the implementation and care of this Agreement, ASU appoints Vice Provost for Global Education Services, Kathleen Fairfax, and CETYS appoints the International Liaison Officer, Laura Carrillo. Notices shall be sent to the following people at the following addresses:

For ASU:

Kathleen Fairfax
Vice Provost for Global Education Services
Office of the Executive Vice President and Provost

Arizona State University
PO Box 874311
Tempe, AZ 85287-4311
USA
Telephone: (480) 965-5965
Fax: (480) 965-4026

For CETYS:

Laura Carrillo
CETYS Universidad
P.O.Box 2808
Calexico, California 92231
laura.carrillo@cetys.mx
Telephone: 011-664-903-1894

All notices, requests, reports and other communications required or permitted to be given under this Agreement shall be deemed to have been duly given if the same shall be in writing and shall be delivered either (i) personally, (ii) by facsimile transmission, with a copy by regular mail, (iii) by registered or certified mail, postage prepaid, return receipt requested or (iv) by courier to the address written above or to such other address or facsimile number as may be specified from time to time in a written notice given by a party in accordance with this paragraph. The parties agree to acknowledge in writing the receipt of any written notice, request, report or other communication under this paragraph that is delivered in person.

(4) Use of Intellectual Property and Marks / Information Sharing / Publication

- a. The parties agree that this Agreement does not constitute a grant by either party to the other of any license or rights whatsoever to the Intellectual Property of a party that may exist at the time this Agreement is entered. For purposes of this Agreement, "Intellectual Property" includes, but is not limited to, all registered and common law trademarks and service marks used in any country by the parties, logos, business names and other identifying property, patents (as well as all rights of invention, patented or not), copyrights, trade secrets, know how, courses, industrial designs, utility models, Confidential Information, commercial or proprietary names, commercial notices, rights archives, domain names, and all types of proprietorship rights and forms of industrial or intellectual property that can be protected by corresponding laws.
- b. Each party agrees that it will not use, commercialize, reveal to third parties, distribute, give, or in any other form dispose of or disseminate the Intellectual Property or confidential or proprietary materials or information of the other party (collectively, the "Confidential Information") without the prior written consent of the other. "Confidential Information" shall not include:
 - i. Information that was or becomes published, known publicly, or otherwise in the public domain without breach of this Agreement or any other obligation of confidentiality;
 - ii. Information that is required to be disclosed by the receiving party by law or court order, provided that the receiving party gives the disclosing party prompt notice prior to making such compelled disclosure so that the disclosing party may seek a protective order or other appropriate remedy and further provided that the receiving party discloses only that portion of the confidential information that is legally required to be disclosed;

- iii. Information that was lawfully known to or in the possession of the receiving party prior to the time of the disclosing party's disclosure, as reflected in the receiving party's written records; or
- iv. Information that is disclosed lawfully to the receiving party by a third party having the right to disclose it without an obligation of confidentiality.

The disclosure of Intellectual Property or Confidential Information by one party to the other hereunder shall not constitute or be deemed to result in the grant of any right or license by the disclosing party to the receiving party.

- c. ASU and CETYS understand that information and materials provided by ASU or within the custody of ASU are subject to the Arizona Public Records Act, and the information and materials provided by the CETYS to ASU are subject to the laws of Mexico.
- d. Ownership of Intellectual Property shall be as set forth below.
 - i. The parties understand and agree that ASU retains any and all right, title and interest in and to any and all Intellectual Property developed, created, collected, received, brought into or used solely by ASU in its performance under this Agreement and that ASU shall have the exclusive right to copyright, publish, distribute, disclose, use or disseminate in whole or in part any such Intellectual Property.
 - ii. The parties understand and agree that CETYS retains any and all right, title and interest in and to any and all Intellectual Property developed, created, collected, received, brought into or used solely by CETYS in its performance under this Agreement and that CETYS shall have the exclusive right to copyright, publish, distribute, disclose, use or disseminate in whole or in part any such Intellectual Property.
 - iii. The parties understand and agree that any joint Intellectual Property created or developed under this Agreement shall be owned by both parties and the parties shall work in good faith to agree which party shall be responsible for patent prosecution and commercialization efforts prior to taking any action to obtain patent protection or to commercialize such Intellectual Property. Each party shall have a royalty-free, non-exclusive, and irrevocable license to use (i.e., reproduce, distribute, display, perform and create derivative works) such joint Intellectual Property, so long as such uses are for its own internal, noncommercial, educational and research purposes.
- e. Neither party may publish the results of the parties' joint efforts without the prior consent of the other party and without giving appropriate credit to the other party in the publication.
- f. The parties agree to provide each other all reasonable assistance in the application, filing, and securing of Intellectual Property rights and protections.
- g. The parties acknowledge that each is the owner of certain names, designations, trade names, trademarks, service marks, logos, abbreviations, business names, and other identifying property ("Marks"), which have become associated and identified with the party. It is expressly agreed and understood that:
 - i. Any use by one party of the other party's Marks shall be subject to the prior written approval of the party owning the Marks and such use shall be solely in connection

with this Agreement. CETYS agrees to comply with ASU's trademark licensing program in connection with its use (if any) of ASU's Marks on goods and in relation to services. Prior to any use of an ASU Mark by CETYS or its affiliates or successors or assigns, CETYS will submit the proposed use of the Mark (together with a sample or specimen of the intended use) to ASU's Trademark Licensing Coordinator for approval. Except as expressly authorized in this Agreement, CETYS is not permitted to use any ASU Mark without prior written approval by ASU's Trademark Licensing Coordinator. CETYS use of any ASU Mark must comply with ASU's requirements, including using the "circle R" indication of a registered trademark.

- ii. Each party shall have the right to monitor the development of marketing ideas and withdraw any permission or license that it has granted to the other to use its Marks if such use of the Marks will be contrary to the validity, preservation, integrity, character, and dignity of that party's Marks.
- iii. Each party waives any past or future right, title or interest in or to the Marks of the other party that might otherwise be available beyond this Agreement and acknowledges that upon termination of this Agreement, it shall have no further right to use such Marks.
- iv. Nothing in this Agreement shall be construed or interpreted to prevent either party from granting to the other any other license for the use of its Intellectual Property or its Marks.

(5) Relationship of the Parties

Each party is an independent contractor and is independent of the other party. This Agreement does not create a partnership, joint venture or agency relationship of any kind between the parties. This Agreement does not create any fiduciary or other obligation between the parties, except for those obligations expressly and specifically set forth herein. Neither party shall have any right, power or authority under this Agreement to act as a legal representative of the other party, and neither party shall have any right or authority to bind or obligate the other or make any representation or warranty on behalf of the other. Under no circumstances shall any employees of one party be deemed the employees of the other party for any purpose. Each party is responsible for the direction and compensation of its employees. Each party acknowledges that the relationship of the parties hereunder is non-exclusive.

(6) Term

- a. The initial term of this Agreement (the "Term") shall commence on the date noted above the signature blocks of this Agreement and shall continue for a period ending five (5) years thereafter. This Agreement shall earlier terminate:
 - i. At any time if either party gives sixty (60) days prior written notice of its intention to terminate the Agreement to the other party;
 - ii. In the event of a breach by either party of any provision of this Agreement which is not cured within thirty (30) days of receipt of written notice from the non-breaching party describing the breach;
 - iii. Immediately if either party becomes insolvent, dissolves or makes an assignment for the benefit of its creditors, files or has filed against it any bankruptcy or reorganization proceeding, or becomes unable, or admits in writing its inability to meet its obligations as they mature.

- b. Without prejudice to any other remedy for breach of this Agreement, upon termination of this Agreement, no party will be released from any obligations which have accrued prior to the effective date of such termination.

(7) Force Majeure

No party shall be liable for any costs or damages resulting from its inability to perform any of its obligations under this Agreement due to a natural disaster, actions of third parties or actions or decrees of governmental bodies beyond the control of the affected party ("Force Majeure Event"). A Force Majeure Event shall not constitute a breach of this Agreement. The party so affected shall give prompt notice to the other party of the Force Majeure Event. Upon such notice, all obligations of the affected party under this Agreement which are reasonably related to the Force Majeure Event shall be immediately suspended, and the affected party shall do everything reasonably possible to resume performance as soon as practicable. Notwithstanding, if after 30 (thirty) days from the Force Majeure Event the affected party cannot resume performance, the other party may terminate this Agreement with no further responsibilities.

(8) Dispute Resolution

The parties hereby agree that, in the event of any dispute between the parties relating to this Agreement, the parties shall first seek to resolve the dispute through informal discussions.

In the event any dispute cannot be resolved informally within sixty (60) days, the parties will submit the dispute to non-binding arbitration to be conducted by mutually agreed upon arbitrators and pursuant to mutually agreed upon rules and in the English language. Each party shall bear its respective costs of arbitration.

(9) Severability

If any provision of this Agreement is held to be invalid or unenforceable, such decision shall not affect the validity or enforceability of the Agreement or any of the remaining provisions.

(10) Assignment

Neither party to this agreement may assign or subcontract or otherwise transfer its rights and duties under this Agreement and subsequent agreements arising from this Agreement without the prior written consent of the other party.

(11) Entirety

This Agreement, including all terms and conditions and its Exhibits, if any, is a complete and exclusive statement of the Agreement between the parties, which supersedes all prior or concurrent proposals and understandings in any language, whether oral or written, and all other communications, in any language, between the parties relating to the subject matter of this Agreement. Such communications include but are not limited to in person conversations, telephone exchanges including any messages received or not received, email or other electronic transmissions including instant messaging services or fax, letters, memoranda, etc.

(12) Amendments

No amendments, modifications or supplements to this Agreement shall be binding unless in writing and signed by all parties to this Agreement.

(13) State of Arizona Provisions

- a. **Non-Discrimination.** The parties agree to comply with all applicable state and federal laws, rules, regulations and executive orders governing equal employment opportunity and non-discrimination, including the Americans with Disabilities Act.

- b. **Non-Appropriation.** The parties recognize that performance of this Agreement by ASU may be dependent upon the appropriation of funds by the State Legislature of Arizona (the "Legislature"). Should the Legislature fail to appropriate the necessary funds, then by written notice to CETYS, ASU may cancel this Agreement without further duty or obligation. CETYS recognizes and understands that appropriation is a legislative act and is beyond the control of ASU.
- c. **Provisions in Arizona Law.** Both parties recognize that as a state institution in Arizona, ASU is bound by provisions of Arizona law, and CETYS is subject to provisions of the laws of Mexico. Notice is provided of Arizona Revised Statutes, sections 12-133, 12-1518, and 38-511. Copies of these statutes are available on request.

(14) Translation

The performance of CETYS and ASU's obligations will be governed by the English version of this Agreement. There will be no other version of this agreement.

(15) Signatures

After reading and having knowledge of the legal extent of this Agreement, the undersigned parties bind themselves to the terms and conditions set forth in this Agreement, as of the effective date noted below.

FOR ASU

ARIZONA BOARD OF REGENTS
for and on behalf of
ARIZONA STATE UNIVERSITY



Name: Elizabeth D. Capaldi, Executive Vice
President and Provost of Arizona State University

Date: June 7, 2011

FOR "CETYS"

CENTRO DE ENSEÑANZA TÉCNICA Y
SUPERIOR (CENTER FOR HIGHER AND
TECHNICAL EDUCATION), commonly
referred to as CETYS UNIVERSIDAD



Name: Dr. Fernando León García
Title: President

Date: June 9, 2011