

BASIC AGREEMENT

Between

BATTELLE MEMORIAL INSTITUTE
Columbus Operations

and

R.J. REYNOLDS TOBACCO COMPANY

BATTELLE MEMORIAL INSTITUTE, through its Columbus Operations (hereinafter "**Battelle**"), an Ohio corporation, offers this Basic Agreement to **R. J. REYNOLDS TOBACCO CO.** (hereinafter "**Client**").

THIS AGREEMENT, made and entered into as of the latest date of signature below, by and between **Client** and **Battelle**, witnesses that the parties have made the recitals and agreements set forth below.

RECITALS

A. **Client** desires that **Battelle** conduct individually scoped research investigations (hereinafter "Study" or "Studies" or "Task(s)"), as mutually agreed upon in writing; and

B. **Battelle** agrees to undertake individual Studies authorized by **Client** pursuant to this Basic Agreement, unless prevented from doing so by law or prior commitment.

NOW, THEREFORE, in consideration of the above premises and the mutual promises set forth below, **Client** and **Battelle** agree as follows:

1. **AUTHORIZATIONS.** **Client** and/or **Battelle** shall develop a plan of scientific experiments or treatments applicable to each Study (hereinafter "Protocol"), which shall be signed by both parties prior to initiation of the experiments or treatments. The Protocol shall specify the Study design, work schedule and other matters pertinent to the conduct and technical aspects of the Study.

Battelle shall provide **Client** a written quotation (hereinafter "Proposal") for the work to be conducted under each Study, which shall include or reference the applicable Protocol and specify the budget, expected deliverables, and overall Study schedule. **Client** shall accept Proposals by authorized signature thereon, and/or issue other written communication to accept **Battelle's** Proposal and to authorize each Study. **Client's** authorization shall reference **Battelle's** Proposal identification number. The terms and conditions of this Basic Agreement shall apply to each Study accepted and authorized by **Client**.

2. **TEST MATERIALS.** **Client** shall provide **Battelle** sufficient amounts of all compounds, materials or other substances to be tested (hereinafter "Test Materials") with which to perform each Study, as well as all data necessary to apprise **Battelle** as to stability of the Test Materials, special handling, storage and safety requirements, and any other pertinent details specific to the Test Materials. Upon completion of each Study, any remaining samples of Test Materials will be returned to **Client**, at **Client's** expense.

3. **STUDY DIRECTOR.** Battelle will identify a principal contact (hereinafter "Study Director") to coordinate Battelle's performance of the Study's technical activities. Client shall designate a principal contact (hereinafter "Sponsor Representative") to represent and coordinate Client's activities related to performance of the Study. Unless otherwise agreed in the Protocol, all communication between Battelle and Client regarding technical aspects of the Study and the Protocol shall be addressed to the Study Director and Sponsor Representative.

Battelle and Client may substitute Study Directors or Sponsor Representatives respectively during the course of any Study, upon giving written notice to the other party.

4. **COMPLIANCE WITH GOVERNMENT REGULATIONS.** Battelle will comply with all applicable current U.S. Government regulatory requirements concerning Good Laboratory Practices ("GLP") if and as agreed in Battelle's Proposal and the Study Protocol. Should such regulatory requirements change, Battelle will make reasonable efforts to satisfy the new requirements. In the event that compliance with such new regulatory requirements necessitates changes in the Protocol, Battelle will provide Client a revised technical and cost Proposal for Client's approval prior to making any changes to an existing Study or to the Protocol applicable to that Study. In the event of a conflict in U.S. Government regulations, Client and Battelle shall mutually agree which regulations shall be followed by Battelle in its performance of such Study.

5. **LABORATORY VISITS.** Client's authorized representatives may visit Battelle's site and facilities at reasonable times and with reasonable frequency during normal business hours to observe the progress of any Study authorized under this Agreement. Battelle will assist Client in scheduling such visits. All such visits shall be subject to Battelle's restrictions and procedures relating to safety, security, and protection of confidential information. Visitors may be required to sign an access agreement for special access-controlled areas.

6. **PAYMENTS.** In consideration of Battelle's performance under this Basic Agreement, Client shall pay Battelle in the manner and amount set forth in the individual Study Proposal. Except for initial payments due upon Study authorization, payments shall be made within thirty (30) days of receipt of invoice. Unless otherwise specified, all payments shall be sent to:

Battelle
Department L 997
Columbus OH 43260

Specifically for Studies Authorized on a Cost-plus-fee Basis (rather than fixed price):

Battelle agrees to use its best efforts to perform the Study work within Battelle's estimate. Client shall not be obligated to reimburse Battelle for costs and fee incurred in excess of the estimate set forth in the Study, and Battelle shall not be obligated to continue performance under this Agreement and the Study, or otherwise to incur costs and fee in excess of the estimate, unless and until the estimate has been increased by written amendment to the Study. Any balance of payments made by Client in excess of the costs incurred and fee for each cost-plus-fee Study shall be credited or refunded to Client at the completion of each Study. Battelle and Client may also mutually agree to transfer funding among Studies of the cost-plus-fee type, should the need arise.

7. **PROPRIETARY RIGHTS.** In view of the nature of the Studies, acceptance of this Agreement does not preclude Battelle's undertaking work of the same general nature for others. All information, data and materials directly related to Client's product under this Agreement shall belong to the Client. Battelle agrees to grant title to any inventions, discoveries, and improvements arising out of the work performed under this Agreement to Client, except for those inventions, discoveries and improvements directly related to the equipment and instrumentation developed by Battelle to be used during the performance of Client's Studies. At a minimum, Battelle may utilize internally for contract research purposes those general methods and techniques gained directly in the performance of Studies which are the property of Client, solely as a personal and nontransferable limited right, provided that

no identifiable data or information shall be disclosed to any entity concerning such methods and techniques unless required by law or regulation, and in any such event, all reasonable measures shall be taken to ensure that disclosure shall not be made which could link such methods and techniques to Studies or to Client. Client and Battelle agree that a determination will be made regarding the proprietary rights to any invention or discovery made or conceived on each task under this Agreement, prior to the commencement of each respective Study. Client and Battelle further agree that this paragraph may be modified by written agreement between Client and Battelle to further protect Client's proprietary information pursuant to any specific authorization executed hereunder.

Battelle represents that each of its employees has entered into an Agreement that provides for assignment to Battelle of all inventions made by such employee during the course of his or her employment.

8. **REPORTS AND DATA.** Battelle will submit to Client a draft final report on the results of each Study. Client will review the draft report and submit comments to Battelle before a final report is submitted by Battelle. A final report on each Study will be submitted to Client within eight (8) weeks of receipt of Client's comments. All technical information developed by Battelle during its performance of work under Studies authorized pursuant to this Basic Agreement shall be made available to Client at reasonable times during Battelle's normal working hours and Battelle shall promptly communicate to Client information pertinent to technical progress in accordance with the Study Proposal. All Study reports and Study data/results delivered to Client by Battelle on Studies authorized under this Agreement shall be the property of Client, provided that Client is not in default for non-payment. Battelle may, for its internal purposes, retain a copy of any Study report delivered to Client.

9. **PUBLICITY AND LITIGATION.** Client understands that Battelle does not undertake Studies for advertising, sales promotion, endorsement of Client's interests, including raising investment capital or recommending investment decisions, or other publicity purposes. Client agrees not to use Battelle's name directly or by implication and not to reproduce in full or in part Battelle reports or correspondence for such purposes without Battelle's prior written consent unless required by law. Client agrees not to use or present information obtained from the work outlined in the Studies hereunder as evidence in disputes, litigation, or other legal action without Battelle's prior written consent, or unless Client is compelled to do so by court order or other legal obligation.

Client shall have the right to publish the results of a Study, and shall determine at its sole discretion, whether and when the results of a Study shall be submitted to a peer-reviewed journal for publication. In such event, Client shall be responsible for preparing the manuscript for submission. In the event a Battelle employee is listed as a co-author of such manuscript and/or Battelle's name is used in the manuscript, Battelle and Client shall mutually agree upon the manuscript in writing, signed by authorized representatives of both parties, prior to Client's submission to any journal for publication. If Battelle and Client do not agree upon such manuscript, Client shall still have the right to publish the results of the Study but, except for stating in a footnote that the Study was performed at Battelle, shall delete all other references to Battelle and its employees from the manuscript and in no way allow Battelle endorsement thereof to be implied.

10. **RECORDS AND MATERIALS.** For each Study subject to GLP standards which is authorized under this Basic Agreement, all Study records and any other Study materials, such as tissue samples, specimens and slides (hereinafter "Study File"), in Battelle's possession upon completion of the Study shall be shipped to Client or to a repository designated by Client, at Client's expense. Client shall inform Battelle of the location where the Study File is to be shipped and its preferred commercial shipping company, if any. If Client has no preference, Battelle shall select an appropriate commercial shipping company to transport the Study File to the site designated by Client.

Battelle assumes no responsibility for loss of or damage to any items contained in the Study File during shipment or after arrival at destination. Upon Battelle's delivery of the Study File to the selected shipping company, Client assumes all responsibility for and costs associated with proper retention,

protection from alteration or destruction, and storage of the Study File and **Client** releases **Battelle** from any further obligations or responsibilities regarding retention, protection and storage of the Study File or any other Study materials.

11. CONFIDENTIALITY. **Battelle** agrees not to disclose the specific results of the any Study hereunder as embodied in reports and other correspondence transmitted to **Client**, and not available to the public generally, without **Client's** written consent, except as required by law or regulation. In view of the nature of the services, acceptance of this Agreement does not preclude **Battelle's** undertaking work in this general field for others.

If proprietary information other than Study results is disclosed by either party to the other in connection with the performance of this Agreement, the receiving party agrees to protect from disclosure, using the same degree of care it uses to protect its own confidential or proprietary information, all information disclosed which is marked or otherwise identified in writing as confidential or proprietary information, inclusive of **Client's** proprietary Test Materials. The receiving party's obligations to protect such information from disclosure shall not apply to information that (i) is, at the time of disclosure, already in the possession of receiving party, its affiliates, or any of its employees as reasonably demonstrated; (ii) is or becomes public knowledge or published through no breach of this Agreement; (iii) is disclosed to receiving party by third parties under no similar restrictions; or (iv) is independently developed by receiving party's personnel having no access to any of disclosing party's confidential information, as demonstrated by competent documentary evidence. All obligations under this Paragraph 11 shall cease ten (10) years from the date of Study authorization of the particular Study to which this Paragraph 11 pertains.

No license to the other party, under any trademark, patent or copyright is either granted or implied by the conveying of information to that party. None of the information which may be submitted or exchanged by the respective parties shall constitute any representation, warranty, assurance, guarantee or inducement by either party to the other with respect to infringement of trademarks, patents, copyrights or any right of privacy, or other rights of third persons. The confidentiality obligations of this paragraph shall survive the termination or expiration of this Agreement.

12. STANDARD OF SERVICE. For each Study authorized pursuant to this Basic Agreement, **Battelle** agrees to provide **Client** a high standard of professional service and exert diligent efforts to achieve Study technical objectives within time and funds authorized for such Study. **Battelle**, its employees and agents shall have no liability for damages, including but not limited to consequential damages, arising out of or in connection with **Client's** use of or inability to use any information, apparatus, method or process resulting from such Study. **BATTELLE PROVIDES NO WARRANTY OR GUARANTY OF RESULTS, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF FITNESS FOR PURPOSE OR OF MERCHANTABILITY FOR ANY ITEM OR RESEARCH RESULT DELIVERED UNDER THIS AGREEMENT.**

13. INDEMNITY. **Client** agrees to indemnify and hold **Battelle** harmless from any and all liability, suits, claims, demands, and damages, and all costs and expenses in connection therewith, asserted by third parties, for or arising out of **Client's** use or misuse of Study results, apparatus, method or process resulting from such Study. **Battelle** shall indemnify and hold **Client** harmless from any and all liability, suits, claims, demands, and damages, and all costs and expenses in connection therewith, occurring during the performance of project activities and directly resulting from **Battelle's** sole negligence or willful misconduct. In no event will **Battelle** be liable to indemnify **Client** for any indirect or consequential losses or damages.

14. INDEPENDENT CONTRACTOR. The status of **Battelle** under each Study authorized pursuant to this Basic Agreement is that of an independent contractor and not as an agent or employee of **Client**.

15. FORCE MAJEURE. No party to this Basic Agreement is responsible to the other party for nonperformance or delay in performance of the terms and conditions of any Study authorized

hereunder, or of the terms and conditions of this Agreement itself, due to acts of God, acts of government, wars, riots, strikes, accidents in transportation, fuel or materials shortages, or other causes beyond the control of the parties.

16. **TERMINATION.** This Basic Agreement will become effective on the date stated above and shall continue indefinitely. Either party shall have the right of termination, upon giving thirty (30) days written notice to the other party. Termination of this Agreement shall not affect any ongoing Studies having expiration dates beyond the established termination date, unless such Study termination is accomplished as a separate action. Client shall have the right to cancel a Study upon 30 days prior written notice. In the event of such Study termination, Battelle agrees to provide Client all Study reports, materials, or other deliverable items available as of the date of termination, provided that Client is not in default. Client shall be responsible for the professional services and expenses that have been committed as of the effective date of a Study termination plus necessary and irrevocable cancellation and termination costs, and Client agrees to pay such costs within thirty (30) days of receipt of a final Study invoice. The parties recognize and acknowledge that the rights to set forth in the following clauses shall survive termination of this Agreement: Clause 7, Proprietary Rights; Clause 9, Publicity and Litigation; Clause 11, Confidentiality; and Clause 13, Indemnity,

17. **NOTICES.** Any notices to be given under this Basic Agreement shall be in writing and sent to the appropriate address below. If such notice is sent by facsimile, an original copy shall follow immediately thereafter by overnight mail or by first class mail.

If to Client:
R. J. Reynolds Tobacco Co.
Bowman Gray Technical Center
950 Reynolds Blvd [27105]
P.O. Box 2959
Winston-Salem NC 27102
FAX 910-741-5019

If to Battelle:
Battelle Columbus Operations
505 King Avenue
Columbus OH 43201-2693
FAX 614-424-3622

18. ~~PRODUCT LIABILITY~~ **INSURANCE.** Client shall maintain adequate ~~product liability~~ insurance coverage in amounts customary and prudent for a responsible entity in its industry in light of the nature of its products(s). Such insurance shall specifically cover any Client products that may be developed in whole in part based on Battelle's work under this Agreement, and Client shall provide evidence of such insurance upon request.

19. **NATURE OF SERVICES.** Client agrees that Battelle is an independent contractor providing professional advisory services and specifically acknowledges that Battelle is not a manufacturer or supplier. Client retains all final decision making authority and all responsibility for the formulation, design, manufacture, assembly, packaging, marketing and sale of Client's products, including, without limitation, product labeling, warnings, instructions to users, and for obtaining any governmental or other pre- or postmarket approvals, certifications, registrations, licenses, or permits.

20. **GOVERNING LAW.** This Basic Agreement is governed by, and is to be construed in accordance with, the laws of the State of Ohio.

21. **OTHER RIGHTS.** This Basic Agreement shall not affect the rights and obligations of Battelle and Client in any contractual agreements made apart from this Agreement.

22. **MISCELLANEOUS.** This Agreement may not be assigned in whole or in part without the prior written approval of both parties. In any event, however, this Agreement shall be binding upon, inure to the benefit of, and be enforceable by and against the successors, assigns and transferees of the parties. If any part of this Agreement shall be held invalid or unenforceable, such invalidity or

unenforceability shall not affect any other part of this Agreement. The captions preceding the various paragraphs of this Agreement are for convenience only, and none of them shall be used as an aid to the construction of any provisions of this Basic Agreement.

23. ENTIRE AGREEMENT. The foregoing constitutes the general provisions applicable to individual Study authorizations issued pursuant to this Basic Agreement. This Basic Agreement, Battelle's Proposal and the signed Protocol, if any, constitute the entire understanding between the parties for each Study authorized under this Agreement. In case of any conflict between these terms and the Proposal or Protocol, these terms will control. This Basic Agreement may be modified or amended only in writing and signed by the parties' authorized representatives.

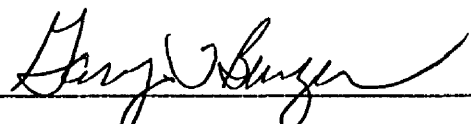
IN WITNESS WHEREOF, the parties hereto cause this Basic Agreement to be executed by their duly authorized officers.

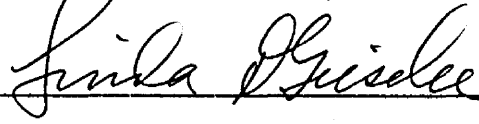
ACCEPTED:

R.J. REYNOLDS TOBACCO CO.

BATTELLE MEMORIAL INSTITUTE

Columbus Operations

By 
Name Gary T. Burger, D.V.M.
Title Senior Vice President, R&D
Date December 30, 1997

By 
Name Linda D. Gieseke
Title Contracting Officer
Date December 9, 1997

In duplicate