

UC Santa Barbara FACILITIES USE AGREEMENT

between *INSTITUTION* and *UNIVERSITY* of CALIFORNIA (rev 2.2016)

This Agreement is entered into on this _____ by and between **The Regents of the University of California**, a California public corporation ("*UNIVERSITY*"), on behalf of the various lab facilities on campus, listed in Attachment A ("*FACILITIES*") at the Santa Barbara campus, and, _____, an institution, individual, or company ("*INSTITUTION*") and its employee(s) ("*User(s)*"), for the use of the *UNIVERSITY FACILITIES* listed in Attachment A. In consideration of being permitted to use *UNIVERSITY* facilities, *INSTITUTION* and *User(s)* do hereby affirm and agree to abide by the following Terms and Conditions:

- 1) Use of *UNIVERSITY* facilities shall be for the period of one (1) year following execution, and shall extend automatically for successive 12 month terms unless either party terminates with written notice at least 30 days before the Renewal Date of any term. Use of *UNIVERSITY* facilities are subject to the approval of *UNIVERSITY* on an individual basis; each Activity must be pre-arranged with the individual Lab. *UNIVERSITY* shall have the right to terminate *INSTITUTION'S* use of facilities with 30 days notice without cause and immediately for cause, including, but not limited to, criminal activities, a breach of the Agreement, any conduct that puts people or property at risk, etc. *UNIVERSITY* shall have no liability for loss, damages, or claims incurred by *INSTITUTION* in connection with its use of facilities or *UNIVERSITY'S* revocation of permission to use facilities.
- 2) Users are not employees, agents or representatives of *UNIVERSITY*. Users are acting solely as representatives and/or employees of their *INSTITUTION* while working in *UNIVERSITY* facilities. *UNIVERSITY* shall not provide Worker's Compensation or Liability Insurance for any *User's* benefit. *UNIVERSITY* shall not be responsible for any medical expenses or liabilities that *INSTITUTION* or *Users* may incur. *INSTITUTION* shall carry **Commercial General Liability Insurance, or maintain a program of General Liability Self-Insurance**, with minimum limits of \$1 million per occurrence and \$2 million general aggregate. ***INSTITUTION* shall name The Regents of the University of California as an additional insured on *INSTITUTION'S* general liability policy. *INSTITUTION* shall also carry Workers Compensation insurance, or maintain a program of Workers' Compensation Self-Insurance**, that covers *Users*. Prior to and as a condition of the use of the facilities, *INSTITUTION* shall provide a certificate of insurance demonstrating that *INSTITUTION* maintains the required insurance and a copy of the additional insured endorsement naming The Regents of the University of California as an additional insured. The name of the Certificate Holder shall be The Regents of the University of California, Procurement Services, SAASB Bldg., Rm. 3203, Santa Barbara, CA 93106-1150.
- 3) UCSB agrees that the results generated by *INSTITUTION* through the use of the *FACILITIES* under this agreement including, but not limited to, any intellectual property, shall be owned by *INSTITUTION*. UCSB shall not assert ownership to any intellectual property developed by *INSTITUTION* as an external user of the *FACILITIES* under this Agreement based solely on equipment use. UCSB and *INSTITUTION* agree to follow all applicable federal laws relating to any results or intellectual property developed under this Agreement. UCSB will not sign or negotiate non-disclosure agreements.
- 4) UCSB employees will be available to provide generic equipment instruction, safety instructions, materials compatibility information and equipment maintenance. It is not necessary for UCSB employees to receive any of *INSTITUTION'S* confidential or proprietary information and *INSTITUTION* agrees not to provide any confidential or proprietary information to any UCSB employee or student during *INSTITUTION'S* use of the *FACILITIES* under this Agreement. General process information, without reference to the institution, will be considered information that can be openly shared.
- 5) The *FACILITIES* are used by multiple internal and external users. *INSTITUTION* shall be solely responsible for protecting any information, data or results brought into the facility by *INSTITUTION* or developed by *INSTITUTION* through the use of the *FACILITIES* under this Agreement. The *FACILITIES* benefit greatly from the open exchange of ideas. When appropriate, all users are encouraged, but not required, to share information and data, particularly when such information or data relates to any new or improved uses of the equipment and technology housed in the *FACILITIES*. If *INSTITUTION* chooses to share information generated regarding new processes or new or improved uses of the equipment and technology housed in the *FACILITIES*, all future users may use the information in future projects. UCSB will not share specific device or program details.
- 6) *INSTITUTION* acknowledges that UCSB does not have any liability with respect to *INSTITUTION'S* access, participation or use of the *FACILITIES* or any loss of information resulting from such participation or use. *INSTITUTION* assumes all responsibility for any property (including, but not limited to, any equipment, data, or assets) brought by *INSTITUTION* into *FACILITIES*. UCSB will not be liable for damages, lost or stolen property brought by *INSTITUTION* into the *FACILITIES*.
- 7) *INSTITUTION* warrants that *Users* shall bear complete responsibility for their own personal safety, that they shall operate all equipment in a safe and professional manner, in accordance with the operating instructions and *UNIVERSITY & FACILITIES* rules, and that their knowledge of their area of study is adequate to permit the safe pursuit of research work in conjunction with their specific project. All *Users* and *INSTITUTIONS* will follow all lab safety and process/tool compatibility policies and procedures for any *FACILITY* used by them.
- 8) *UNIVERSITY* shall bear no responsibility for project development or success. *INSTITUTION* shall bear complete responsibility for success or failure of project. *INSTITUTION* is responsible for payment of facility fees in accordance with the *FACILITIES* fee structure (see Attachment A). Fees shall be paid in a timely manner, regardless of project outcome.
- 9) *INSTITUTION* covenants and warrants that it will not disclose to the *UNIVERSITY*, any information, technology or data identified on any U.S. export control list, including the Commerce Control List at 15 CFR 774 and the U.S. Munitions List at 22 CFR 121, unless and until the *INSTITUTION* obtains the written consent of the *UNIVERSITY*. *INSTITUTION* further covenants and warrants that it will not bring any export-controlled goods, software or technology to *FACILITIES* without *UNIVERSITY* prior written consent. If consent has been provided by *UNIVERSITY*, *INSTITUTION* is responsible for maintaining the security of such export-controlled goods, software or technology as there will be other users of the *FACILITIES* and *INSTITUTION* is responsible for avoiding any disclosure of such export-controlled goods, software or technology to such users. Furthermore, *UNIVERSITY* has employees who are foreign nationals and *UNIVERSITY* shall not be responsible for any transfer of export-controlled goods, software or technology by *INSTITUTION* to such individuals.
- 10) *INSTITUTION* shall immediately defend, protect, indemnify and hold *UNIVERSITY*, its officers, employees and agents harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of or in any way connected with this Agreement, including, without limitation, claims for loss or damage to any property, or for death or injury to any person or persons **but only in proportion to and to the extent such liabilities, losses, expenses, attorney's fees or claims for injury and damages, are caused by or result from the intentional or negligent acts or omissions of Institution**, its officers, agents, or employees.
- 11) *INSTITUTION* warrants that *Users* have been provided with, and have read and agree to comply with all training requirements, rules and safety provisions and that *Users* have asked any questions that they may have about facility procedures, policies, rules and/or guidelines and received and understood the answers to their questions.
- 12) *INSTITUTION* shall have its *User(s)* complete and sign the UC Waiver of Liability, as shown on Attachment B, (prior to the use of *UNIVERSITY* facilities, and *INSTITUTION* shall submit the signed Waiver(s) to UCSB Procurement Services prior to use.

INSTITUTION represents that it has read and agrees to the terms and conditions of this Agreement, and that *INSTITUTION* has asked any questions that it may have about this Agreement or any other information it has been provided before signing this Agreement. An *INSTITUTION* officer with signature authority must sign this Agreement. This Agreement, including the Incorporated Documents, contains the entire agreement between the parties regarding the subject matter hereof and supersedes all prior written or oral agreements, including *INSTITUTION*'s subsequent purchase order.

INSTITUTION: _____ Address: _____
Contact Name: _____ Email: _____ Phone: _____
Officer's Name: _____ Officer's Signature: _____ Date: _____
Institution PI's Signature & Date: _____ Additional Institution PI's _____

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA: _____
Calli Price, Procurement Manager; Business & Financial Services Date