

This Facilities Use Agreement is entered into between the **ARIZONA BOARD OF REGENTS** for and on behalf of **THE UNIVERSITY OF ARIZONA, PHOENIX BIOMEDICAL CAMPUS/COLLEGE OF MEDICINE-PHOENIX** (the "University") and \_\_\_\_\_

\_\_\_\_\_, a \_\_\_\_\_, whose mailing address is \_\_\_\_\_

\_\_\_\_\_ (the "Licensee") for the use by Licensee of certain space or facilities owned by University as of the "Effective Date." University and Licensee are herein collectively referred to as the "Parties".

**UNIVERSITY:**

**LICENSEE:**

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Effective Date:** \_\_\_\_\_, 20\_\_\_\_.

By signing this Agreement, the Parties confirm that they have completed (where necessary), read, understood, and agree to all the conditions as outlined in this Agreement.

**Upon execution, a complete copy of this Facilities Use Agreement must be sent to:**

**INSERT NAME AND ADDRESS**

## 1. SPACE

Subject to the terms of this Agreement, University grants Licensee a license to use the following Space or Space and equipment at the University (collectively, the "Space"):

The Space is delivered to Licensee in an "AS IS", "WHERE IS", condition and location, without any representations or warranties by University. University reserves the right to relocate the Space from time to time, and in such event University shall provide comparable Space in a location to be determined by University, in its sole discretion. Nothing in this Agreement shall be construed as a grant of any real property right or interest.

## 2. USE

2.1. Licensee may use the Space for following, and for no other purpose:

## 2. USE

2.2. Licensee may use the Space on the following dates during the following hours:

Date(s): \_\_\_\_\_, except when University is closed for holidays.

Hours: \_\_\_\_\_.m. to \_\_\_\_\_.m.

Day(s): \_\_\_\_\_.

Licensee agrees to all of the following:

- a. When using the Space, Licensee will comply with all applicable state, federal or city laws and regulations, and with the policies and regulations of the University pertaining to the use and occupancy of the Space.
- b. Licensee agrees to take good care of the Space and to maintain the space in as good order and condition as it was prior to Licensee's use.
- c. Licensee agrees not to use or allow the Space to be used for any unlawful or non-permitted purpose. Licensee agrees not to commit or allow to be committed any waste or nuisance in or about the Space, or subject the Space to any use that would damage the Space or raise or violate any insurance coverage maintained by the University.
- d. Licensee agrees that it shall not make any statement, written, oral, or otherwise, including any promotional materials related to the use of the Space that could cause confusion as to the entity sponsoring the event occurring within the Space. **Licensee agrees to put affirmatively in all its promotional materials that the event occurring within the Space is not offered, presented, sponsored, or endorsed, by The University of Arizona and is not in any way associated with The University of Arizona, unless otherwise specifically agreed to in writing by University.**

## 3. DURATION

The duration, or term, of this Agreement will begin on the "Effective Date" and end on \_\_\_\_\_, 20\_\_\_\_, at which time Licensee's right to use the Space under this Agreement will automatically expire. This Agreement may be terminated earlier by either party upon ten (10) days' prior written notice to the other party. If the whole or any part of the project within which the Space is located is taken under the power of eminent domain and University elects to terminate this Agreement, Licensee shall have no right to any compensation awarded for any such taking.

#### 4. FEE

Licensee agrees to pay University a use fee of a specified U.S. dollar amount per a specified interval (e.g., year, week, month, or other) whether or not Licensee actually uses the Space. The first installment shall be payable in advance on or before the "**Effective Date.**" All subsequent payments shall be payable in advance on or before the fee due date (e.g., first of the month). Licensee also shall pay, when due, all taxes, or payments in lieu of taxes, if any, paid by the University by reason of this Agreement or Licensee's use of the Space (other than University's income taxes). All payments must be made to The University of Arizona and sent to the address indicated in this Agreement.

**Fee Amount:** \$ \_\_\_\_\_ per (check one):  week;  month;  year;  in one single installment on or before the Effective Date; or  other (explain) **Fee to be paid following receipt of invoice.**

**Paid Every:**            **Due and payable 30 days after receipt of invoice.**

**Payment Address:**    The University of Arizona, College of Medicine-Phoenix campus  
                                 Attention: Finance Office  
                                 550 E. Van Buren St., Bldg. 1  
                                 Phoenix, Arizona 85004

**[If no fee is to be charged, indicate 0 in the Fee Amount space above.]**

#### 5. INSURANCE

Licensee, at its expense, agrees to procure and maintain, during the term, a policy of commercial general liability insurance in an amount of not less than one million dollars (\$1,000,000), single limit, against claims for bodily injury, death and property damage occurring in connection with Licensee's use of the Space. This insurance must name the State of Arizona, the Arizona Board of Regents, the University of Arizona and the University of Arizona Foundation as additional insureds. Licensee must provide University with a certificate evidencing this insurance coverage no later than ten days prior to Licensee's use of the Space.

#### 6. LIABILITY

Licensee agrees to conduct its activities in the Space in a careful and safe manner. As a material part of the consideration to University, Licensee agrees to assume all risk of damage to and loss or theft of Licensee's property while at University, damage to the Space, and injury or death to persons related to Licensee's use or occupancy of the Space in, upon, or about the Space from any cause, and Licensee waives all claims against University. Neither University, nor its affiliates, agents and/or employees shall be liable for any special, incidental, indirect, exemplary, consequential or any other damages, including without limitation, loss of use or loss of profit or revenue, as a result of any breach by University under this Agreement.

Licensee will indemnify, defend and hold harmless The University of Arizona, the Arizona Board of Regents, the State of Arizona and their officers, regents, agents and employees, against

## **6. LIABILITY**

all claims, suits, liabilities, costs, damages and expenses (including reasonable attorney's fees) arising out of or in connection with:

- a. Licensee's use or occupancy of the Space, or any activity or thing done, performed or suffered by Licensee, its agents, its employees, licensees, invitees or persons attending or participating in Licensee's activities in or about the Space; or
- b. Any loss, injury, death or damage to persons or the Space on or about the Space by reason of any act, omission or negligence of Licensee, or any of its agents, its contractors, its employees, licensees, or invitees; or
- c. Any breach or default in the performance of any obligation on Licensee's part to be performed under the terms of this Agreement. Licensee's indemnity obligations will not extend to any liability to the extent caused by the negligence of University or its agents or employees.
- d. Licensee's indemnity obligations under this Agreement shall survive the expiration or earlier termination of this Agreement.

## **7. ENVIRONMENTAL REGULATIONS**

Licensee will not permit any Hazardous Substance to be used, stored, generated or disposed of on, in or about, or transported to or from, the Space, by Licensee, Licensee's agents, employees, contractors, invitees, subtenants, concessionaires or licensees without first obtaining University's written consent, which University may give or withhold in its sole discretion, or revoke at any time. If University consents, all Hazardous Substances must be handled at Licensee's sole cost and expense, in compliance with all applicable state, federal or local governmental requirements, using all necessary and appropriate precautions. If Licensee breaches these obligations, or if the presence of Hazardous Substances on, in or about the Space caused or permitted by Licensee results in contamination of any part of the Space, or if contamination by Hazardous Substances otherwise occurs in a manner for which Licensee is legally liable, then Licensee will indemnify, defend and hold harmless The University of Arizona, the Arizona Board of Regents, and the State of Arizona from and against any and all claims, actions, damages, fines, judgments, penalties, costs, liabilities, losses and expenses (including, without limitation, any sums paid for settlement of claims, court costs, attorneys' fees, consultant and expert fees) arising during or after the expiration or termination of this Agreement as a result of any breach or contamination. Without limitation, if Licensee causes or permits the presence of any Hazardous Substance on, in or about the Space and this results in contamination of any part of the Space, Licensee will promptly, at its sole cost and expense, take all necessary actions to return the Space and any adjacent facility to the condition existing prior to the presence of any Hazardous Substance; however, Licensee must first obtain University's approval for any such remedial action. "Hazardous Substance" means any substance regulated by any local government, the State of Arizona or the United States government. "Hazardous Substance" includes any material or substances which are defined as "hazardous material," "hazardous waste," "extremely hazardous waste" or a "hazardous substance" pursuant to state, federal or local government law. "Hazardous Substance" includes but is not restricted to asbestos, polychlorobiphenyls, and petroleum.

## 8. ASSIGNMENT & SUBLETTING

Licensee does not have the right to assign any rights under this Agreement or allow any other person or entity to use or occupy any of the Space without the prior written consent of University, which consent may be granted or withheld in University's sole discretion.

## 9. DEFAULT

If Licensee fails to pay any fee or other sum required to be paid by Licensee when due, or otherwise fails to comply with or observe any other provision of this Agreement, in addition to any other remedy that may be available to University, whether at law or in equity, University may immediately terminate this Agreement and all rights of Licensee. In the event of a breach or default by University, University's liability shall be limited to no more than the amount equal to the fee paid by Licensee (as noted in **Paragraph 4** above) for the corresponding duration of such breach.

## 10. INTERPRETATION

This Agreement constitutes the entire agreement and understanding of the parties with respect to its subject matter. No prior or contemporaneous agreement or understanding will be effective. This Agreement may not be modified or amended except by written instrument signed by both parties. This Agreement shall be governed by the laws of Arizona, the courts of which state shall have jurisdiction over its subject matter.

## 11. RELATIONSHIP

Neither Licensee nor any personnel of Licensee will for any purpose be considered employees or agents of University. Licensee assumes full responsibility for the actions of Licensee's personnel, and is solely responsible for their supervision, daily direction and control, payment of salary (including withholding income taxes and social security), worker's compensation and disability benefits.

## 12. AUTHORITY

The individual signing on behalf of Licensee hereby represents and warrants that s/he is duly authorized to execute and deliver this Agreement on behalf of Licensee and that this Agreement is binding on Licensee in accordance with its terms.

## 13. STATE OF ARIZONA PROVISIONS

13.1. **Nondiscrimination.** The parties agree to comply with all applicable state and federal laws, rules, regulations, and executive orders governing equal employment opportunity, immigration, and nondiscrimination, including the Americans with Disabilities Act.

### 13. STATE OF ARIZONA PROVISIONS

13.2. **Conflict of Interest.** This Agreement is subject to A.R.S. § 38-511. This Agreement may be cancelled if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of University is, at any time while this Agreement or any extension thereof is in effect, an employee or agent of the other party to this Agreement in any capacity or a consultant to any other party with respect to the subject matter of this Agreement.

13.3. **Notice of Arbitration Statutes.** Pursuant to A.R.S. § 12-1518, the parties acknowledge and agree that they will be required to make use of mandatory arbitration of any legal action that is filed in the Arizona superior court concerning a controversy arising out of this Agreement if required by A.R.S. § 12-133.

13.4. **Failure of Legislature to appropriate.** If University's performance under this Agreement depends upon the appropriation of funds by the Arizona Legislature, and if the Legislature fails to appropriate the funds necessary for performance, then University may provide written notice of this to Licensee and cancel this Agreement without further obligation of University. Appropriation is a legislative act and is beyond the control of University.

13.5. **Weapons, Explosive Devices, and Fireworks.** University prohibits the use, possession, display or storage of any weapon, explosive device or fireworks on all land and buildings owned, leased, or under the control of University or its affiliated or related entities, in all University residential facilities (whether managed by University or another entity), in all University vehicles, and at all University or University affiliate sponsored events and activities, except as provided in A.R.S. § 12-781 or unless written permission is given by the UA Police Department (UA PD). Notification by Licensee to all persons or entities who are employees, officers, subcontractors, consultants, agents, guests, invitees or licensees of Licensee ("Licensee Parties") of this policy is a condition and requirement of this Agreement. Licensee further agrees to enforce this contractual requirement against all Licensee Parties. University's policy may be accessed through the following web page: <http://uapd.arizona.edu/weapons-campus>.

**14. MISCELLANEOUS**

[Insert additional conditions here; if none, INSERT "NONE".]

14.1.

14.2.

14.3.

14.4.

Any additional conditions added to this contract, such as in **Paragraph 14** above, **must** be reviewed by the UA Office of General Counsel, and approved by the parties, which review and approval will be evidenced by their respective initials appearing below:

Reviewed:

**OGC** \_\_\_\_\_

Approved:

**UNIVERSITY** \_\_\_\_\_

Approved:

**LICENSEE** \_\_\_\_\_