

UC Santa Barbara **Lab Service Agreement**
between *INSTITUTION* and *UNIVERSITY of CALIFORNIA* (Rev. 8-2018)

This Service Agreement ("AGREEMENT") is entered into on this ____ day of _____ ("EFFECTIVE DATE") by and between **The Regents of the University of California**, a California public corporation, ("UNIVERSITY") on behalf of the lab facilities listed in Attachment A ("FACILITY") at the Santa Barbara campus and the institution, company, or individual set forth below ("INSTITUTION") in connection with the UNIVERSITY's efforts to complete the services described on the FACILITY's webpage (<http://www.bfs.ucsb.edu/procurement/revenue-contracts/multi-user-lab-access>) and requested from time to time by the INSTITUTION and approved by the FACILITY ("SERVICES"). The information at the referenced webpage, and each modification thereto, is incorporated in and made a part of this AGREEMENT. The UNIVERSITY and the INSTITUTION do hereby affirm and agree to the following:

- 1) In endeavoring to complete the SERVICES, the UNIVERSITY's employees shall provide service hours and use FACILITY hours as mutually agreed by the parties. The INSTITUTION shall pay the UNIVERSITY for SERVICES performed and for the UNIVERSITY's use of the FACILITY in its performance of the SERVICES at the hourly rates set forth on the following webpage: <http://www.bfs.ucsb.edu/procurement/revenue-contracts/multi-user-lab-access> or such other webpage as the FACILITY might designate. The UNIVERSITY shall periodically invoice the INSTITUTION for these costs. The INSTITUTION shall remit payment in full within thirty (30) days of its receipt of each such invoice. The INSTITUTION is responsible for payment regardless of the outcome of the SERVICES. The INSTITUTION acknowledges that the FACILITY may change the information on the referenced webpage, including the hourly rates, at any time without notice to the INSTITUTION. The INSTITUTION assumes sole responsibility for reviewing the current information at the referenced webpage before requesting SERVICES.
- 2) This AGREEMENT will become effective on the EFFECTIVE DATE and will continue in full force and effect until terminated by the UNIVERSITY or by the INSTITUTION in accordance with this AGREEMENT. This AGREEMENT may be terminated by either party upon thirty (30) days' written notice to the other party made in accordance with Section 9 of this AGREEMENT. In the event that this AGREEMENT is terminated by either party, the INSTITUTION shall pay the UNIVERSITY for all costs incurred and all work performed prior to the effective date of termination. Any provision of this AGREEMENT that contemplates an ongoing obligation of either party will survive the termination of this AGREEMENT.
- 3) The UNIVERSITY agrees that the results generated through the use of the FACILITY under this AGREEMENT including, but not limited to, any intellectual property, shall be owned by the INSTITUTION. The UNIVERSITY shall not assert ownership to any intellectual property developed by the INSTITUTION as an external user of the FACILITY based solely on equipment use. The UNIVERSITY and the INSTITUTION agree to follow all applicable federal laws relating to any results or intellectual property developed under this AGREEMENT.
- 4) The INSTITUTION shall immediately defend, protect, indemnify and hold the 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 with the exception of those liabilities, losses, expenses, attorney's fees or claims for injury or damages arising from the sole negligence of the UNIVERSITY, its officers, agents, or employees.
- 5) THE UNIVERSITY MAKES NO WARRANTIES, EITHER EXPRESS OR IMPLIED, AS TO THE SERVICES, THE DELIVERABLES, OR THE RESULTS PROVIDED UNDER THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. THE INSTITUTION ACKNOWLEDGES THAT THE SERVICES, AND ANY DELIVERABLES AND RESULTS, ARE PROVIDED "AS IS" AND WITHOUT WARRANTIES OF ANY KIND. THE INSTITUTION FURTHER ACKNOWLEDGES THAT IT USES SUCH SERVICES, DELIVERABLES, AND RESULTS AT ITS OWN RISK.
- 6) THE INSTITUTION ACKNOWLEDGES AND AGREES THAT THE UNIVERSITY WILL NOT BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES OF ANY KIND ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT, WHETHER IN WARRANTY, TORT, CONTRACT, OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS OR LOSS OF GOOD WILL, WHETHER OR NOT THE UNIVERSITY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND WHETHER OR NOT SUCH DAMAGES WERE FORESEEABLE. THE INSTITUTION AGREES THAT THE AGGREGATE LIABILITY OF THE UNIVERSITY WILL NOT EXCEED THE AMOUNT RECEIVED BY THE UNIVERSITY FROM THE INSTITUTION UNDER THIS AGREEMENT.
- 7) The UNIVERSITY shall bear no responsibility for the success or failure of the SERVICES. The INSTITUTION acknowledges that the UNIVERSITY does not have any liability with respect to any loss of any property, materials, data, or information that the INSTITUTION provides to the UNIVERSITY under this AGREEMENT.
- 8) The UNIVERSITY will not be liable for any delay in performing, or any failure to perform, its obligations under this AGREEMENT when such delay or failure results from any material condition, whether foreseeable or not, beyond the UNIVERSITY's reasonable control.
- 9) INSTITUTION shall notify the UNIVERSITY in writing if: (1) any commodity, software, technological information or data which is subject to U.S. export control laws will be provided to the UNIVERSITY; or (2) any commodity, software, technological information or data that the INSTITUTION is requesting the UNIVERSITY to produce during execution of this AGREEMENT is subject to U.S. export control law. INSTITUTION shall provide the UNIVERSITY with all applicable export control information (e.g. Commerce Control List designations, reasons for control, countries for which an export license is required) associated with the item(s). The

UNIVERSITY maintains the right to decline any export controlled item or any tasks requiring production of an export controlled item.

- 10) Any notice required by or made pursuant to this AGREEMENT shall be deemed to have been received when provided to the other party in writing.
- 11) This AGREEMENT shall be governed by and interpreted in accordance with the laws of the State of California as applied to contracts made and performed in California but excluding its conflict of laws provisions. Each party hereby consents to the jurisdiction of the state courts in the State of California for the purpose of all actions arising under or in connection with this AGREEMENT. The exclusive venue for all such actions will be the Superior Court of California in and for Santa Barbara County, California.
- 12) Should any provision of this AGREEMENT be held unenforceable or in conflict with the law of any jurisdiction, the validity of the remaining provisions shall not be affected by such a holding.
- 13) This AGREEMENT, and the information expressly incorporated herein, constitutes the entire agreement between the parties regarding the subject matter hereof. Except as otherwise expressly provided herein, any alteration, variation, or amendment hereto must be in writing and must be signed by a duly authorized representative of each party hereto and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto. If the INSTITUTION appends or attaches any document to this AGREEMENT, such document shall not be effective unless and until it is accepted and signed by the UNIVERSITY.
- 14) The signatories to this AGREEMENT warrant and certify that they are authorized representatives of their respective organizations and that they hold the position and authority necessary to execute this AGREEMENT.

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: _____
_____, UCSB Contracts _____ Date