**LABORATORY AND EQUIPMENT LICENSE AGREEMENT**

This Laboratory and Equipment License Agreement (this “**Agreement**”) is made and entered as of \_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_, by and between Northeastern University, a Massachusetts nonprofit educational corporation having an address at 360 Huntington Avenue, Boston, MA 02115 (“**Northeastern**”) and \_\_\_\_\_\_\_\_\_\_\_\_\_\_ having an address at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(“**Licensee**”).

**RECITALS**

**WHEREAS**, Northeastern has a laboratory called \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “**Laboratory**”) and the Licensee desires to obtain a license to access and share use of the Equipment (defined below) in the Laboratory;

**WHEREAS,** Licensee desires the license so that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“**User**”) can access and use the Equipment in the Laboratory on the terms and conditions in this Agreement;

**WHEREAS**, Northeastern desires to provide to Licensee for User’s use a short-term, limited license to the Equipment in connection with research, educational and/or public service efforts of Northeastern; and

**WHEREAS**, the Licensee requires the use of the Equipment for the performance of Licensee’s research or other educational or public service-related activities in accordance with the terms and conditions of this Agreement.

**NOW THEREFORE**, in consideration of the premises and for other good and valuable consideration, the sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**AGREEMENT**

1. **License of Equipment.** Subject to the terms and conditions of this Agreement, Northeastern hereby grants to Licensee and Licensee hereby accepts, a non-exclusive, revocable, limited license (the “**License**”) for User to use the equipment described on Exhibit A, attached hereto and incorporated herein by this reference (“**Equipment**”). Except for the License granted by this Agreement, all rights, title and interest in and to the Equipment shall remain with Northeastern.
2. **License Fee.** Licensee shall pay to Northeastern all costs for the use of the Equipment, including (without limitation) any assistance of laboratory staff in accordance with the rates and manner set forth on Exhibit B, attached hereto and incorporate herein. Such payment shall be due and payable to Northeastern on the date hereof or within 30 days of the date of any invoice. In the event that Northeastern is required to undertake collection procedures or legal action for the collection of past due payments, Northeastern shall also recover interest at 1 ¼% per month, collection fees, court costs and reasonable attorneys’ fees.
3. **Laboratory Supplies; Use of Equipment.** Licensee shall be solely responsible for providing all of its miscellaneous Laboratory supplies and consumables for use in the Laboratory, as well as the maintenance, loss of or damage to any of its miscellaneous laboratory supplies and consumables. In the event that Northeastern provides any miscellaneous Laboratory supplies and consumables to the Licensee or User, Licensee shall pay Northeastern for all miscellaneous laboratory supplies and consumables used by the Licensee or User, as well as be responsible for the maintenance, loss of or damage to any such miscellaneous laboratory supplies and consumables. Northeastern shall send the Licensee an invoice for such supplies and consumables to be paid by the Company within thirty (30) days of receipt of an invoice. Licensee shall ensure that User uses the Equipment in a safe manner and in compliance with all applicable laws and Northeastern’s policies, rules and regulations.
4. **Term; Termination.** This term of this Agreement shall begin as of the date hereof and if not terminated earlier as provided in this Agreement, shall terminate on\_\_\_\_\_\_\_\_\_\_\_\_\_\_. The parties may renew this Agreement for an additional time period by written notice of such renewal to Licensee and Licensee’s payment of rental amounts to Northeastern thereunder. Either party may terminate this Agreement at any time by providing fifteen (15) days’ prior written notice to the other party. Either party may terminate this Agreement immediately if the other party fails to perform any term or condition under this Agreement and such failure continues for five (5) days after the non-breaching party provides written notice thereof, provided, however, no termination or expiration of this Agreement shall relieve any unpaid payment obligation of Licensee to Northeastern under this Agreement. Upon any termination or expiration of this Agreement, Licensee shall be responsible for the prompt return of the Equipment to Northeastern in a form and manner acceptable to Northeastern.
5. **Replacement Costs.** In the event of any damage to the Equipment or Laboratory which results from the negligent use of the Equipment by, or willful misconduct of, the User, Licensee shall pay to Northeastern an amount equal the cost to repair or replace the Equipment or Laboratory, as determined by Northeastern, no later than thirty (30) days from the date Northeastern provides the Licensee with a written statement attesting to the amount owed by Licensee.
6. **Warranties; Disclaimers.** Northeastern hereby disclaims any and all warranties, whether express or implied, including, without limitation, the warranties of merchantability, non-infringement and fitness for a particular purpose with respect to the Equipment. In addition, Northeastern makes no representation as to the correctness, accuracy or reliability of the Equipment. Northeastern licenses the Equipment to the Licensee on an “as is” basis with all faults.
7. **Limitation of Liability; Indemnification.** Licensee, on behalf of User and for itself, knowingly assumes all risks and responsibilities relating to or arising out of use of the Equipment by User. The use of the Equipment may involve exposure to potentially hazardous conditions, including but not limited to, chemical, mechanical, electrical, thermal and radiation hazards. Licensee, on behalf of User and for itself, hereby releases and forever discharges Northeastern from any and all claims, demands, suits, actions, causes of action, liabilities, damages or other losses and potential losses related to, arising from or in connection with this Agreement or Licensee’s use or possession of the Equipment. Licensee shall defend, indemnify and hold harmless Northeastern from and against any and all claims, demands, suits, actions, causes of action, liabilities, damages or other losses asserted against, incurred by or paid by Northeastern arising under or relating to or in connection with this Agreement or the use or possession of the Equipment by User. In no event shall Northeastern have any liability arising under or in connection with this Agreement for any consequential, incidental, special or other indirect damages of any kind whatsoever, including (without limitation) lost profits, even if Northeastern has knowledge of the likelihood of such damages. Notwithstanding any provision in this Agreement, the maximum liability of Northeastern under this Agreement shall not exceed an amount equal to the amount paid by Licensee for use of the Laboratory and Equipment six (6) months prior to the date of the event giving rise to such liability.
8. **Governing Law; Export Control.** The validity, construction, interpretation and all other matters relating to this Agreement shall be governed by and interpreted in accordance with the laws of the Commonwealth of Massachusetts, without regard to its conflict of laws principles. In the event of any dispute hereunder or any action or proceeding to enforce any term of this Agreement, the parties shall submit to the exclusive venue of any state or federal court located in Suffolk County, Massachusetts. Licensee hereby certifies that the User identified below is not a foreign national who would be prohibited or restricted by U.S. laws and regulations from using the Equipment.
9. **Entire Agreement; Assignment; Miscellaneous.** This Agreement contains the entire agreement between the parties and may not be modified except by written agreement of the parties. This Agreement supersedes all prior communications, understandings and agreements, whether oral or written, between Northeastern and Licensee with respect to the subject matter hereof. All exhibits, addenda, attachments and riders to this Agreement are attached hereto and made a part hereof by this reference. In the event of any conflict or inconsistency between the terms hereof and any such exhibit, addenda, attachment or rider, the terms hereof shall govern and control. Licensee may not assign or otherwise transfer any rights or obligations of Licensee to any person or entity without the prior written consent of Northeastern.
10. **Confidentiality.** Licensee shall not access, use or disclose any of the information provided by Northeastern to Licensee in connection with this Agreement (collectively, “**Confidential Information**") except to the extent of the prior written consent of Northeastern in each case. Licensee shall protect the Confidential Information against unauthorized access, use and disclosure using the same degree of care, but no less than a reasonable degree of care, Licensee uses to protect the confidential information of Licensee against such unauthorized access, use and disclosure.
11. **Orientation.** Licensee shall ensure that User accepts all training of Northeastern with respect to Northeastern’s procedures, and safety and equipment operation, including all environmental, health and safety protocols, prior to possession or use of Equipment. Licensee will ensure that User operates all instruments and equipment in a reasonable and safe manner. Ultimate responsibility for the safe use of such Equipment remains with the Licensee. Licensee acknowledges and agrees that Northeastern will refuse access to the Equipment to any User who is unwilling or unable to comply with the requirements of such procedures and operations and/or the terms of this Agreement.
12. **Scheduling.** The schedule of use of any equipment shall be determined by the respective Laboratory Director. The schedule shall be maintained and made at the Laboratory Director’s sole and unfettered discretion.
13. **Services Provided to the Laboratory.** Northeastern reserves the right to interrupt, curtail, stop or suspend the furnishing of services provided for in this Agreement when necessary by reason of accident or emergency, or of repairs, alterations, replacements or improvements in the reasonable judgment of Northeastern desirable or necessary to be made, or of difficulty or inability in securing supplies or labor, or of strikes, or of any other cause beyond the reasonable control of Northeastern, until said cause has been removed. Northeastern shall have no responsibility or liability for any such interruption, curtailment, stoppage or suspension of possession or use of services.
14. **Inability to Perform; Exculpatory Clause.** Except as otherwise expressly provided in this Agreement, this Agreement and the obligations of Licensee to pay any fees or charges hereunder and perform all other covenants, agreements, terms, provisions and conditions hereunder on the part of Licensee to be performed shall in no way be affected, impaired or excused because Northeastern is unable to fulfill in whole or in part any of its obligations under this Agreement if Northeastern is prevented or delayed from doing so by reason of strikes or labor troubles or other similar or dissimilar cause whatsoever beyond Northeastern’s reasonable control. In each instance of inability of Northeastern to perform, Northeastern shall exercise reasonable diligence to eliminate the cause of such inability to perform.
15. **Insurance.** Licensee shall take out and maintain at its sole expense, during the term of this Agreement: (i) Commercial General Liability Insurance naming Northeastern as additional insured, subject to a combined single limit of at least Two Million U.S. Dollars ($2,000,000) each occurrence and Four Million ($4,000,000) in the aggregate for bodily injury and property damages, and from time to time thereafter in such higher amounts, as may be reasonable required by Northeastern as are customarily carried by responsible office and laboratory tenants in the City of Boston; (ii) so-called contents and improvements insurance adequately insuring all property belonging to or removable by Licensee and/or User and situated in the Laboratory; (iii) worker’s compensation insurance providing for the payment of statutory benefits required by law covering the persons employed by the Licensee, including without limitation, the User; and (iv) employer’s liability insurance with a minimum limit of Two Million U.S. Dollars ($2,000,000). Such insurance shall name Northeastern as an additional insured where required by Northeastern and provide that the insurance shall not be cancelled without at least thirty (30) days prior written notice to each insured named therein. Licensee shall provide to Northeastern original copies of the policies provided for in this Section 15 issued by the respective insurers or, at the option of Northeastern, certificates or binders of such policies setting forth in full the provisions thereof and issued by such insurers.
16. **Waiver of Subrogation.** Any insurance carried by Licensee with respect to the Laboratory or Equipment or occurrences thereon shall include a clause or endorsement denying to the insurer rights of subrogation against Northeastern. Licensee, on behalf of itself and User, notwithstanding any provisions of this Agreement to the contrary, hereby waives any rights of recovery against Northeastern for injury or loss due to hazards covered by its insurance or that would have been covered under the insurance the Licensee is required to carry under this Agreement.
17. **Requirements of Law; Fines and Penalties.** Licensee shall, at its own expense, comply with municipal, state and federal laws, ordinances, rules and regulations including, without limitation, federal export control laws and the obligation to obtain any licenses, permits and governmental approvals required with respect to and arising out of Licensee’s use of Equipment. Licensee shall pay any fines or penalties assessed for failure to comply with such laws, ordinances, rules or regulations, and shall pay any expenses, legal or otherwise, incurred by Northeastern due to Licensee’s failure to so comply.
18. **Rules and Regulations.** Licensee and User will faithfully observe such rules and regulations as Northeastern hereafter at any time or from time to time may make and may communicate in writing to Licensee and/or User, and which in the reasonable judgment of Northeastern shall be necessary for the reputation, safety, care or appearance of the Laboratory, the Equipment, the building housing the Laboratory and the land on which it is situated (together, the “**Property**”), or the preservation of good order therein, or the operation or maintenance of the Property, or the comfort of any tenants or others in the Laboratory or the building housing the Laboratory, provided, however, that in the case of any conflict between the provisions of this Agreement and any such rules and regulations, the provisions of this Agreement shall control, and provided further, that nothing contained in this Agreement shall be construed to impose upon Northeastern any duty or obligation to enforce such rules and regulations or the terms, covenants or conditions in any other lease, license or occupancy agreement as against any other tenant or occupant and Northeastern shall not be liable to Licensee or User for violation of the same by any other tenant or occupant, its servants, employees, agents, visitors, invitees or licensees. Consistent with this provision, Northeastern shall be entitled to require that the Licensee and User promptly remove any of its employees and/or agents from the Property who Northeastern reasonably believes are in violation of any rules, regulations or policies of Northeastern in general or of the Property in particular. Northeastern rules, regulations and policies to which Licensee and User are required to comply may be viewed on Northeastern’s website http://www.northeastern.edu/policies/ but are not all-inclusive and may change, from time to time. Accordingly, it shall be Licensee’s responsibility to ensure that it and User remain current and comply with Northeastern’s published rules, regulations and policies, as well as with whatever other rules, regulations or policies are otherwise required and imposed by Northeastern with the appropriate informative notice.
19. **Prohibited Items.** Licensee shall not bring nor permit to be brought any radioactive, hazardous, inflammable, combustible or explosive fluid, material, chemical or substance (except such as are related to Licensee’s use of Equipment, provided that Licensee obtains prior written permission from the Laboratory Director for such usage, storage and handling, which shall be consistent with applicable legal standards) or take any action with respect thereto in violation of, or in a manner that would give rise to liability under any applicable law, including without limitation, M.G.L. c. 21C or 21E. Licensee shall coordinate with and notify in writing the Laboratory Director and Northeastern’s Office of Environmental Health and Safety with respect to the use, storage or handling of any radioactive, hazardous, inflammable, combustible or explosive fluid, material, chemical or substance.
20. **Description of Work.** A description of work to be performed using Northeastern’s Equipment at the Laboratory shall be provided by Licensee prior to the commencement of such work hereunder. Written approval by Northeastern staff is required before a project can begin. No substantive deviation from said description of work will be permitted unless a revised description of work is provided by Licensee and is agreed to in writing by the Laboratory Director.
21. **Intellectual Property.** Northeastern shall make no claim to co-own Licensee-created intellectual property based solely on Licensee’s use of Northeastern’s Laboratory and Equipment. However, Licensee and Northeastern acknowledge that the commercial viability of any device or technique developed at the Laboratory and/or through possession or use of Equipment is subject to the existing intellectual property rights of Northeastern and other third-party rights holders. Northeastern makes no guarantee that devices or techniques developed using Equipment and/or at the Laboratory are not covered by its own or a third party’s intellectual property. Licensee and Northeastern further acknowledge that Northeastern may claim partial ownership of intellectual property that Licensee co-develops with Northeastern staff or personnel.
22. **Relationship of the Parties.** Nothing in this Agreement is intended, or shall be understood or construed, to create any relationship between the parties in the nature of joint venture, employment, agency or partnership. Neither party shall have any power or authority to act on behalf of the other party or in its name or to bind the other party, either directly or indirectly, in any manner, nor shall either party make any representation otherwise to any person.
23. **Survival; Counterparts.** The provisions of sections 2, 3, 5 through 9, 17, 19, 21, 22 and 23 shall survive the expiration or termination of this Agreement. This Agreement may be signed in two or more counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same Agreement.

**[***Signature page immediately follows.*]

**IN WITNESS HEREOF**, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date first written above:

**NORTHEASTERN UNIVERSITY** **LICENSEE**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name Name

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date Date

**READ and ACKNOWLEDGED:**

**[NAME OF USER]**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date

**EXHIBIT A**

**Description of Equipment**

**EXHIBIT B**

**Rate and Fee Schedule**