This **RESEARCH FACILITIES USE AGREEMENT** (“Agreement”), effective as of ______________ (“Effective Date”), is executed by and between _____________________ ("User"), having a principal place of business in ________________________, and the University of New Hampshire ("UNH"), in Durham, New Hampshire.

This Agreement sets forth the parties’ mutual understanding regarding User’s use of the facilities and/or equipment owned by UNH, as listed in Exhibit A (the “Facility”). If desired by the User, technical assistance in utilizing UNH equipment in the Facility, as necessary for the User’s purposes, may be provided by UNH employees under terms and conditions attached as a Rider to this Agreement.

1. **TERM OF USE.** User’s use rights in the Facility shall commence on ____________________ ("Commencement Date") and continue through ____________________ ("End Date"), unless otherwise extended or terminated as provided in Article 14, provided the User has complied with User Obligations as set forth in this Agreement.

2. **PURPOSE AND RESTRICTIONS ON USE.**
   a. UNH is providing the User with rights to use the Facility for the specific purposes set forth in Exhibit B and for no other purpose. User shall not make such uses of the Facility as result in the generation of hazardous materials or hazardous waste without further written agreement of UNH.
   
   b. User’s use rights in equipment furnished by UNH are limited to the equipment and uses set forth in Exhibit D.

3. **USER OVERSIGHT.** User’s maintenance, access to and use of the Facility shall be supervised by ____________________ ("User’s Facilities Supervisor") in accordance with the terms of this Agreement. If, for any reason, this individual is unable to continue to serve as User’s Facilities Supervisor and a successor acceptable to both UNH and User is not available, UNH may terminate this Agreement as provided in Article 16.

4. **FEES AND COSTS.** The monthly fee charged to the User for use of the Facility shall be: [REVISE AS APPROPRIATE]
   a. The monthly fee shall be $____________, which shall increase by ___% annually on the anniversary of the Commencement Date according to the following rate schedule:

      __/__/__ through __/__/__: $______ per month, or $______ annually;
      __/__/__ through __/__/__: $______ per month, or $______ annually;
      and so forth, through termination of this Agreement.

   b. User shall pay UNH as indicated above, in advance, on [a monthly] basis. UNH shall submit [a monthly] invoice to User, and User shall pay such invoice within ______ (__) days of
receipt. Payment by User shall be by check, made payable to the University of New Hampshire.

Invoices shall be sent to:  
_______________________________  
_______________________________  
_______________________________  
_______________________________

Payments shall be sent to:  
_______________________________
University of New Hampshire  
Durham, NH 03824-3585

5. DAMAGE TO FACILITY. User shall reimburse UNH for any damage, clean-up or waste-related expenses incurred by UNH, including disposal, shipping, damages, equipment repair and/or replacement and/or other costs or penalties resulting from User’s use of the Facility. User shall submit a separate damage deposit of $______, which shall be applied toward the costs of any UNH expenses beyond reasonable wear and tear that may result from the use of the Facility by User. User’s liability for damages shall not be limited to the amount of its damage deposit. Any unused portion of the User’s damage deposit shall be returned to User.

6. OWNERSHIP AND INTELLECTUAL PROPERTY RIGHTS.

a. Intellectual property developed solely by employees or agents of User in the Facility shall be the exclusive property of User. Intellectual Property jointly developed by employees and/or agents of User and employees, agents and/or students of UNH in the Facility shall be jointly owned by User and UNH. Disposition of such jointly owned intellectual property shall be determined by the terms of a separate agreement between the parties. Nothing in the foregoing grants any rights to UNH’s share of any jointly held intellectual property to User.

b. In the case of intellectual property developed by User which constitutes an improvement or new method of use with respect to equipment within the Facility, User hereby grants to UNH a perpetual, royalty-free right and license to use such intellectual property in combination with such equipment.

7. COMPLIANCE.

a. User, its employees, agents and personnel acting on its behalf shall comply with any state, federal or local laws and any regulations, including regulations specific to UNH, pertaining to the use of the Facility. UNH reserves the right, at its sole discretion, to determine and monitor the manner of User’s compliance for any matter pertaining to use of the Facility. Special conditions applicable to use of the Facility are attached as Exhibit C. User shall permit unannounced access to the Facility by UNH personnel in order to ensure compliance with this Agreement and any applicable laws, regulations or ordinances.

b. User and User’s personnel (whether employees, agents or others acting on its behalf) shall comply with all applicable rules, policies and procedures of UNH applicable to use of the Facility.

c. Prior to commencing any activities in the Facility that require special permits, licenses or certifications, User shall obtain any such necessary permits, licenses or certifications at their expense and shall provide copies to UNH.
d. User shall ensure that its employees, agents or others acting on its behalf execute any and all documents required by UNH to access and use the Facility, and to implement the provisions of this Agreement.

e. User shall promptly comply with all requests by UNH for information related to the use of the Facility as UNH deems necessary for its compliance with state, federal or local laws and regulations.

8. AUTHORIZED USERS. User shall not permit the Facility to be accessed or used by any person who is not an employee, agent or others acting on its behalf without prior written approval from an authorized UNH official. For the avoidance of doubt, under no circumstances shall the User’s use rights in the Facility be extended to unrelated organizations or parties for any purpose except as shall be specifically authorized by UNH. In the event such authorization is given and unless otherwise agreed, any such approved use shall be subject to and governed by the terms and conditions of this Agreement and shall remain the responsibility of the User. UNH shall receive a list of all authorized User employees, agents, or others acting on its behalf who are expected to use the Facility and UNH reserves the right to deny entry to the Facility, at its sole discretion, to any User personnel who UNH believes represents a safety or security risk to UNH.

9. ADDITIONS/MODIFICATIONS TO THE SPACE. UNH shall own all permanent modifications, alterations and additions made to the Facility, whether made by User or UNH. User may furnish non-permanent equipment, tooling, test apparatus or other materials necessary for its use of the Facility, and such items shall remain the property of User. UNH shall not be responsible for any loss or damage to such items however occasioned. At the termination of this Agreement, User shall remove all such non-permanent materials from the Facility, and User shall return the Facility to UNH’s control in its original condition except for normal wear and tear.

10. OTHER USE. Except as specifically provided in this Agreement, User shall not use UNH’s equipment, tools, personnel or furnishings without prior written approval from an authorized UNH official. If the Facility is used by both User’s and UNH’s personnel, User shall consult with User’s Facilities Supervisor regarding scheduling to avoid conflicts in the use of the Facility. In the event of an unavoidable conflict, UNH uses related to research, teaching, and education shall take precedence.

11. INDEMNIFICATION. User assumes all responsibility and liability for its use of the Facility, and shall indemnify, defend, and hold harmless UNH, its trustees, directors, officers, employees, agents, subcontractors and students (or their successors, heirs or assigns) (“Indemnitees”) from any liability, damage, loss, or expense (including reasonable attorneys’ fees and expenses of litigation) incurred by or imposed upon the Indemnitees or any one of them in connection with any claims, suits, actions, demands, or judgments or penalties arising out of or connected with this Agreement or the User’s Use of the Facility, except to the extent that the liability is due to the gross negligence or willful misconduct of UNH. UNH shall promptly notify User of any claim and shall cooperate with User in the defense of the claim. This indemnity shall not be deemed excess coverage to any insurance or self-insurance UNH may have covering a claim. User’s liability shall not be limited by the amount of User’s insurance.
12. INSURANCE.

a. User shall maintain workers’ compensation insurance or other coverage, as may be required under applicable law, on its employees utilizing the Facility.

b. User shall procure and maintain during the term of this Agreement comprehensive liability insurance, covering the Facility and its use, to the full amount of its respective insurance limits, but in no event less than $2 million per occurrence and $4 million aggregate, with a reputable and financially secure insurance carrier that is properly licensed or authorized to do business in the applicable jurisdiction. The insurance shall name The University of New Hampshire, its trustees, directors, employees, agents, subcontractors, and students as additional insureds with respect to this Agreement and the Facility. This insurance shall be written to cover claims incurred, discovered, manifested, or made during or after the expiration of this Agreement.

c. User shall procure and maintain during the term of this Agreement property damage insurance covering the Facility against any loss whatsoever in the amount of at least $________, with a reputable and financially secure insurance carrier that is properly licensed or authorized to do business in the applicable jurisdiction. Such insurance shall cover the replacement or repair, as applicable, of the Facility and shall name UNH as an additional insured.

d. Upon demand, User shall provide UNH with a Certificate of Insurance evidencing the coverage required in (b) and (c) above. User shall provide UNH with at least 30 days prior written notice of cancellation or material change to any such insurance.

c. If User’s insurance is written on a claims-made basis, as opposed to an occurrence basis, User shall purchase the coverage necessary to ensure continued and uninterrupted coverage of all claims related to the Facility, including those made after the policy expires or is terminated.

13. REPRESENTATIONS AND WARRANTIES. User shall be solely responsible for its activities while using the Facility, and agrees that it does so at its own risk. UNH makes no representations or warranties of any kind, express or implied, concerning the fitness or suitability of the Facility for any purposes. Specifically, and not to limit the foregoing, UNH makes no warranty or representation that the use of the Facility by User shall not infringe any patents or other intellectual property rights of UNH or of a third party.

14. TERMINATION.

a. This Agreement shall terminate on the End Date set forth in Article 1, unless it is extended for an additional period of time by written amendment signed by both parties, or it is terminated before that date as provided in this Article 14.

b. Either party may terminate this Agreement at any time without cause and without further obligation except for return of all borrowed equipment/materials and confidential materials to the appropriate party and payment by User for any use charges incurred prior to the termination date. Such “without cause” termination shall be effected by the terminating
party providing at least sixty (60) days’ prior written notice to the other party’s authorized representative at the address in Article 14.

c. UNH may terminate this Agreement immediately for cause if:

i. User fails to make payment to UNH in accordance with the terms stated in Article 4 above and does not remedy the non-payment within thirty (30) days’ written notice from UNH; or

ii. User fails to materially comply with the terms of this Agreement, in particular Article 7, provided that, at its sole discretion, UNH may allow a reasonable amount of time for User to remedy such noncompliance.

iii. Allows its insurance coverage in Article 12 to lapse or terminate for any length of time.

d. Upon termination by either party for any reason, User shall promptly pay UNH any outstanding fees owed for use of the Facility up to and including the Termination date. If User has prepaid for use of the Facility beyond the termination date, UNH shall promptly refund any such excess fees to User on a pro-rata basis subtracting any User obligations for clean-up, damage repair and/or replacement and other liabilities under Article 5. These obligations shall extend beyond the End Date or date of termination under this Article 14 and shall be extinguished only by written notice from UNH that such obligations have been satisfactorily met.

15. NOTICES AND INQUIRIES. Any notices required to be given or which shall be given under this Agreement shall be in writing and delivered by mail (return receipt requested, or with other similar delivery confirmation) to the parties as follows:

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16. EXPORT CONTROLS.

a. User shall comply with United States laws and regulations controlling the export of technical data, computer software, laboratory prototypes, and all other export controlled commodities.

b. User shall not, directly or indirectly, re-export any controlled commodities to which it gains access under this Agreement, unless the required authorization and/or license is obtained from the proper government agency(ies) prior to export.
c. User shall guarantee that the purpose of its use of the Facility, as described in Exhibit B, will not include the participation, at any level, of companies and/or persons on the Denied Persons List; the Unverified List; the Entity List; the Specially Designated Nationals List; the Debarred List; or the Nonproliferations Sanctions List.

d. In addition to the indemnification pursuant to Article 13, User agrees to indemnify, defend, and hold UNH harmless from any and all suits, damages, or other liabilities resulting from its violation of ITAR, EAR and/or other export control regulations as mandated by federal law.

17. STATUS OF THE PARTIES. The parties agree that User, its agents and employees are not agents or employees of UNH. User shall be solely responsible for the actions and omissions of its agents and employees when using the Facility.

18. USE OF NAMES. Neither party shall use the name of the other, or that of any of its trustees, officers, faculty, students, employees or agents, or any trademark owned by the other in any advertising or other form of publicity without the written permission of the other party’s authorized representative.

19. ASSIGNMENT. This Agreement shall be binding upon and inure solely to the benefit of the parties, and shall not be assignable by either party without the prior written consent of the other party.

20. GOVERNING LAW. The validity and interpretation of this Agreement and the legal relationship of the parties to it shall be governed by the laws of the State of New Hampshire, and shall be enforced in a court of competent jurisdiction in New Hampshire. In any action or suit to enforce any right or remedy under this Agreement, the prevailing party shall be entitled to seek its costs, including reasonable attorney's fees.

21. SURVIVAL. Articles 5, 6, 7, 8, 9(d), 11, 13, 14, 16, 22, and 23 shall survive any termination or expiration of this Agreement.

22. ENTIRE AGREEMENT. Unless otherwise specified herein, this Agreement and its Exhibits constitute the entire understanding between the parties regarding use of the Facility and supersedes all prior and contemporaneous communications, representations, understandings, solicitations, offers and agreements (whether oral or written). No waiver by either party of any provision of this Agreement shall operate as a waiver of any prior, concurrent or subsequent breach(es) of the same or any other provisions, and no waiver shall be effective unless made in writing and signed by an authorized representative of the waiving party. This Agreement may be executed in two or more counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument. A facsimile or pdf copy of a signature of a party hereto shall have the same effect and validity as an original signature.
IN WITNESS WHEREOF, the authorized representatives of the parties have executed this
Research Facilities Use Agreement, effective as of the date set forth above.

UNIVERSITY OF NEW HAMPSHIRE [_________USER__________]

By: ___________________________________________ By: ________________________________
Name:                                           Name: ________________________________
Title: [RC Unit Head or Dean]                    Title: ______________________________
Date:                                            Date: ______________________________

UNIVERSITY SYSTEM OF NEW HAMPSHIRE

By: ___________________________________________
Name: Kenneth B. Cody
Title: Vice Chancellor for Financial Affairs &
      Treasurer
Date: _________________________________

cc: UNH Office for Research Partnerships & Commercialization
    UNH Office of Environmental Health & Safety
    UNH Sponsored Programs Administration
    UNH Facilities Operations
    UNH Police
    UNH Energy and Campus Development
EXHIBIT A

Description of Facility

BUILDING: ____________________________

ROOM NUMBER/LOCATION: ____________

SIZE OF SPACE: ________________ square feet

ADDITIONAL INFORMATION
(e.g., Equipment, Services included in rental):

________________________________________________________________________________

________________________________________________________________________________

________________________________________________________________________________

________________________________________________________________________________

________________________________________________________________________________

________________________________________________________________________________
EXHIBIT B

[purpose of rental]
EXHIBIT C

[list of patents or “None”]
EXHIBIT D

[special conditions applicable to Facility's use, including equipment restrictions, or “None”]