

University of California at Santa Barbara
 NSF ExFAB BioFoundry Grant – Facility Agreement
<https://exfab.org>

This Agreement is entered into on this day of _____, by and between **The Regents of the University of California**, a California public corporation ("University"), on behalf of the NSF ExFAB BioFoundry facility ("Facility"), and _____, an institution or federal agency ("Institution") and its employee(s) ("User(s)"), for the use of the Facility services or access to the Facility. This Agreement is only for use for approved, non-proprietary NSF ExFAB BioFoundry user projects. For any projects where data will be kept proprietary and not be published, the UCSB Master Facilities Use agreement should be used.

Institution and User(s) do hereby affirm and agree to abide by the following Terms and Conditions:

- 1) The term of this Agreement shall be one (1) year following execution and shall extend automatically for successive 12 month terms unless either party terminates with 30 days' written notice.
- 2) Use of the Facility is subject to approval on an individual basis by the Facility manager. UNIVERSITY shall have the right to terminate Institution's lab access 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.
- 3) As part of the NSF ExFAB BioFoundry grant, the Facility shall pay for Institution's access to the Facility's equipment or engagement with the Facility's personnel for approved non-proprietary projects.
- 4) 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.
- 5) Institution shall insure their User(s) activities while in the Facility and on University property.
- 6) The results generated by Institution through the use of the Facility shall be owned by the Institution, including, but not limited to, any intellectual property. With respect to any intellectual property developed in the performance of a research project that is performed jointly by University personnel and Institution researchers, ownership shall be determined in accordance with United States intellectual property laws. In the event that a separate research agreement exists between the parties for the contemplated research project, the terms of the research agreement will govern. Institution hereby grants University, and any university hosting an ExFAB facility, a non-exclusive, royalty-free, paid-up, non-exclusive license to use any modification or improvement of equipment housed in the Facilities and any protocol or workflow developed through the use of the Facility. To the extent it is legally able, Institution hereby grants University, and any university hosting an ExFAB facility, a non-exclusive, paid-up, royalty-free license to use any intellectual property created during the use of ExFAB facilities for research and educational purposes only. Upon request, Users will be required to deposit a sample of any strains or genetic parts provided by the User to the ExFAB Facility, together with any sequencing, phenotyping, metabolomics, or other data about the provided strains generated at ExFAB, and any analysis of that data ("ExFAB Library"). The strains deposited in the ExFAB Library will be listed in ExFAB's online database and will be made available by ExFAB for use in the ExFAB facilities.
- 7) University employees will be available to provide generic equipment instruction, safety instructions, materials compatibility information and equipment maintenance. 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 of the Facility, 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. User(s) must complete and sign the UC Waiver of Liability prior to the use of the Facility. Users shall also complete the University's laboratory safety training course online, unless such safety training has already been taken.
- 8) The Facility is used by multiple internal and external users. Institution shall be solely responsible for protecting any information, data or results brought into the Facility or developed by Institution through the use of the Facility under this Agreement. Neither party shall require the other to sign non-disclosure agreements.
- 9) University does not have any liability with respect to Institution's access, participation or use of the Facility, 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 User(s) into the Facility. UCSB will not be liable for damages, lost or stolen property brought by User(s) into the Facility.
- 10) University shall bear no responsibility for project development or success.
- 11) 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's Export Control Officer. Institution further covenants and warrants that it will not bring any U.S. Munitions List at 22 CFR 121 controlled goods, software or technology to the Facility without University's Export Control Officer's 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 Facility, 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.
- 12) For any services the Facility performs to Institution, 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.

An Institution officer with signature authority must sign this Agreement. This Agreement 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: _____

Institution Signatory Name and Title: _____

Institution Signature: _____ Date: _____

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA:

Business & Financial Services

Date _____