

SERVICE CENTER AGREEMENT: COMMERCIAL USERS

This Service Center Agreement (“Agreement”) is effective as of _____ (“Effective Date”) by and between The Board of Trustees of the Leland Stanford Junior University (“Stanford”), on behalf of the **Cell Science Imaging Facility** service center (“Center”), and _____ (“Company/User”).

Background:

- A. Center provides instrumentation, support facilities, and technical assistance for research and education-related activities. As part of its mission of education, research and public service, Center may provide services to third parties.
- B. User is (check one):
- A for-profit company
 - Other (please describe) _____
- C. User desires to use Center’s facilities/equipment (check all that apply):
- As part of a research collaboration with Stanford faculty
 - To conduct its own research
 - Other (please describe) _____

The User agrees as follows:

1. Use of Center’s Facilities/Equipment. User and its employees/agents (“User Personnel”) will use Center facilities and/or equipment in accord with the terms of this Agreement.
2. Description of Use. User shall provide Center personnel with a description of the planned use for their review and approval and shall inform Center of significant changes to the planned use.
3. Requirements for User Personnel. User shall ensure that all User Personnel meet the following requirements before beginning work at Center and that User Personnel meet the requirements for safety training as determined by the Center during the term of this Agreement:
 - 3.1. User Personnel must be authorized by Center personnel or Stanford to access Center’s facility, which may include, health screening, badging, credentialing, and background checks.
 - 3.2. User Personnel must be trained in and comply with all Center procedures, policies and applicable safety procedures as determined by Center staff.
 - 3.3 User Personnel must sign attached Exhibit A: User Personnel Waiver.
4. Compensation. User shall compensate Center for all purchases, materials, training, costs and lab fees incurred by User Personnel in their use of Center. Center shall invoice User and User shall pay invoices within thirty (30) days of invoice receipt.

5. User Obligations and Acknowledgements. User shall comply, and cause User Personnel to comply, with the following:

- 5.1 User may not utilize Center's facilities or equipment for the production or manufacturing of goods for sale.
- 5.2 User may not use Center and/or Center equipment to develop materials for military systems or missile applications.
- 5.3 User acknowledges that Stanford is a community of professional and student researchers. User Personnel shall behave courteously, professionally, and responsibly and abide by the University's Code of Conduct (<http://adminguide.stanford.edu/1.pdf>) and Sexual Harassment policy (http://harass.stanford.edu/pdf/shpo_brochure_2007_08.pdf).
- 5.4 User shall immediately notify Center if any User Personnel cease to be affiliated with User; such personnel may no longer access or use Center.
- 5.5 User shall notify Center and obtain Center's approval before bringing any outside materials or chemicals into Center.
- 5.6. User and User Personnel have complete responsibility for their tangible property and intellectual property brought to Center. Center makes no guarantees against unauthorized access to User or User Personnel property by third parties.
- 5.7. User shall comply with Center requirements from third-party funders, if applicable. Center will notify User of such requirements, which may include providing reports and summaries of the work that User is doing at Center.
- 5.8. If work done at Center provides data used in a publication, Center should be acknowledged as "**Stanford University School of Medicine, Cell Sciences Imaging Facility**" in the publication. Further, if Center staff provide significant experimental design, data interpretation, or other intellectual contribution, it is expected that these individuals will be coauthors on the publication. Acknowledgement of Center efforts is crucial to support grant proposals and enable compliance with reporting requirements.
- 5.9. User and User Personnel may not use Center facilities or equipment in ways that could interfere with other Center users or the general operation of Center.
- 5.10 Check applicable boxes :
 - Human or animal subject research will be performed under this Agreement and User shall provide Center with copies of:
 - User's Institutional Review Board (IRB) panel approval letter, protocol and consent forms, which will be submitted to Stanford's IRB panel for review and/or
 - User's Institutional Animal Care and Use Committee (IACUC) approval letter and protocol, which will be submitted to Stanford's APLAC for review.
 - User will not perform human or animal subject research under this Agreement.

- User will not perform research with biohazardous material under this Agreement.
- Biohazardous research material will be used under this Agreement and User shall provide Center with biosafety information, which will be submitted to Stanford's Environmental Health and Safety office for review.

Research may NOT proceed until Center receives documentation of Stanford's IRB or IACUC or Environmental Health and Safety office. Center is not responsible for obtaining such approval or retaining records.

5.11 USER WILL NOT USE MATERIALS PROVIDED BY CENTER OR CREATED AT CENTER IN CLINICAL TRIALS, OR FOR DIAGNOSTIC PURPOSES INVOLVING HUMAN OR ANIMAL SUBJECTS.

5.12 Center does not conduct studies intended to support applications for research or marketing permits for FDA-regulated products (as described in Title 21, Code of Federal Regulations (CFR) Part 58-Good Laboratory Practice (GLP) or 21 CFR Part 210-Current Good Manufacturing Practice (GMP).

6. Term and Termination.

6.1. Term. The term of this Agreement begins on the Effective Date and shall continue for the earlier of 3 years or until User has completed using the Center, unless terminated earlier in accordance with this Section 6.

6.2. Termination. Either party may terminate this Agreement upon sixty (60) days' written notice.

7. Relationship of Parties. Stanford and User will remain independent contractors and neither will be an agent, joint venturer, or partner of the other.

8. No Warranties; No Guarantee. Center provides User the rights granted in this Agreement AS IS and WITH ALL FAULTS. Stanford does not guarantee any particular research results, outcome, or specific yield. Stanford makes no representations and extends no warranties of any kind, express or implied. Among other things, Stanford disclaims any express or implied warranty: (i) of merchantability or of fitness for a particular purpose, (ii) of non-infringement, or (iii) arising out of any course of dealing. User hereby acknowledges that the services provided by Center are of an experimental and exploratory nature and that no particular results or outcome can be guaranteed.

9. Indemnification. User shall indemnify, defend and hold harmless Stanford and its trustees, officers, faculty, employees, representatives, agents, students, and volunteers from any loss, claim, damage, or liability of whatsoever kind or nature related to this Agreement ("Claims"), including Claims related to User's use of results from Center services. This includes the obligation to make Center whole for any and all damage to Center, its facilities, and equipment to the extent arising out of the negligent actions or use by User or User Personnel.

10. No Indirect Liability. Stanford is not liable for any special, consequential, lost profit, expectation, punitive or other indirect damages in connection with any claim arising out of or related to this Agreement.

11. Insurance. User shall procure and maintain, at its own expense for the duration of this Agreement, policies (which, if made on a claims-made basis, includes adequate tail coverage) of: (a) commercial general

liability insurance at a minimum amount of \$1,000,000 per occurrence combined single limit; and (b) workers' compensation/employers' liability insurance, as required by law, for minimum statutory benefits to insure it, its employees, representatives and agents, including User Personnel, against all claims and liabilities arising out of or related to this Agreement, or such other level of coverage as deemed sufficient by Stanford.

- 12. Intellectual Property. Stanford makes no claims to inventions developed in the Center by User or User Personnel. Ownership of intellectual property resulting from User Personnel work will be governed by the policies of User. In the case of inventions where both Stanford and User personnel are co-inventors, the invention will be jointly owned

- 13. Use of Name. User may not use any name or mark of Stanford or any of Stanford's affiliated entities without prior written consent from Stanford.

- 14. Dispute Resolution. In the event of any dispute relating to, arising out of, or in connection with the validity, interpretation or performance of this Agreement, ("Dispute"), the parties shall meet and confer in order to resolve the Dispute. If they are unsuccessful, they will submit the Dispute to arbitration. A party will commence arbitration by submitting a written notice to the other party describing in reasonable detail the Dispute and electing to submit the matter to binding arbitration by a single arbitrator in accordance with the rules of commercial arbitration of the American Arbitration Association, as modified by the terms of this Agreement. Within 7 days from the other party's receipt of the notice of arbitration, the parties shall meet at a mutually agreeable location to discuss the Dispute, and each party shall use good faith efforts to achieve a satisfactory resolution. If the Dispute is not resolved to the satisfaction of the parties, the Dispute shall be submitted to arbitration before a mutually agreed upon arbitrator. Only those Disputes described in the notice of arbitration shall be adjudicated. The costs and fees of the arbitrator, including attorney's fees, shall be allocated by the arbitrator. The decision reached by the arbitrator shall be final, and judgment may be entered in accordance with applicable law in any court having jurisdiction.

- 15. Confidential Information. Center is part of an open academic institution and has no duty to keep information supplied by User or User Personnel confidential. User agrees not to copy or use Center confidential information except as required to perform under this Agreement.

- 16. Export Control Compliance. User acknowledges that Center is an open laboratory for fundamental research that has many foreign persons as its employees and students. User understands and agrees that under no circumstances will User bring export control-listed items, or unpublished software source code or technical information in the form of defense articles or technical data regulated by the International Traffic in Arms Regulations (ITAR), to Center. Use of Center or facilities for activity subject to the ITAR, including the development, assembly or fabrication of defense articles identified on the US Munitions List, is prohibited.

- 17. [optional: Center Specific Provisions. User and User Personnel shall comply with Center Specific Provisions in Exhibit B.]

- 18. Survival. Sections 8, 9, 10, 11, 12, 13, 14, 21, and 27 will survive the termination of this Agreement.

- 19. Notice. Any notices given under this Agreement will be in writing and delivered by mail, by hand, or by facsimile, addressed to the parties as follows:

If to User: Address Line 1
 Address Line 2

e-mail
Attn: Name of Contact Person

If to Center: Jon Mulholland, Director
Cell Sciences Imaging Facility
SOM Beckman Center CSIF, B050
Stanford University
Stanford, CA 94305

20. Governing Law. This Agreement will be construed in accordance with and governed by the laws of the State of California, without regard to conflict of law rules.
21. Assignment. Neither party may assign this Agreement without the written consent of the other, and any assignment in violation of this section will be void.
22. Severability. If any provision of this Agreement becomes or is declared illegal, invalid, or unenforceable, the provision will be deleted from this Agreement. If the deletion substantially alters the basis of this Agreement, the parties will seek to amend this Agreement to reflect the original intent of the parties.
23. Independent Contractors. Stanford and User are independent contractors and neither is an agent, joint venturer, or partner of the other.
24. Prevailing Terms. In the event of any inconsistency between the terms of this Agreement and its exhibits, the terms of this Agreement prevail, with the exception of Exhibit B, Center Specific Provisions. If specified, Exhibit B terms shall prevail over this Agreement.
25. Entire Agreement. This Agreement represents the entire agreement and understanding between the parties with respect to its subject matter. It supersedes all prior or contemporaneous discussions, representations, or agreements, whether written or oral, of the parties regarding this subject matter.
26. Amendments or Changes. Amendments or changes to this Agreement must be in writing and signed by the parties' authorized representatives.
27. Electronic Signatures. The parties to this Agreement agree that a copy of the original signature (including an electronic copy) may be used for any and all purposes for which the original signature may have been used. The parties further waive any right to challenge the admissibility or authenticity of this Agreement in a court of law based solely on the absence of an original signature.

[SIGNATURES ON FOLLOWING PAGE]

Agreed by [USER]: _____

Signature: _____

Print Name: _____

Title: _____

STANFORD CENTER Acknowledgment:

Stanford Center: **Cell Science Imaging Facility**

Signature: _____

Print Name: Jon Mulholland

Title: Director, CSIF

EXHIBIT A

RELEASE AND WAIVER OF LIABILITY, ASSUMPTION OF RISK AND INDEMNITY AGREEMENT

DATE RELEASE SIGNED

USER RELEASE AND WAIVER OF LIABILITY FOR WORK PERFORMED AT CENTER

I am fully aware of the risks and hazards connected with my activities at the Cell Sciences Imaging Facility (Center), and I agree to undertake all related training that is recommended or required by Center personnel. I am aware that such activities may present significant risk, and I am voluntarily choosing to participate in these activities, knowing that the activities may be hazardous. I voluntarily assume full responsibility for any risks of loss, property damage, or personal injury, including my death, and for any loss or damage to my property or my employer's property that could result from my engaging in activities at Center. I release the Center and Stanford University to the fullest extent possible in return for permission to use Center facilities and equipment. I understand and agree that I am assuming full responsibility both for using Center equipment and all other activities I perform at Center. I agree that Stanford and others at the Center are not responsible for any loss, property damage or personal injury to me.

It is my intent that this User Release and Waiver Agreement also binds the members of my family and my spouse, if I am alive, and my heirs, assigns and personal representative, if I am deceased.

I HAVE READ THIS "USER RELEASE AND WAIVER OF LIABILITY FOR WORK PERFORMED AT CENTER" AND I FULLY UNDERSTAND ITS TERMS AND THAT I AM GIVING UP CERTAIN RIGHTS BY SIGNING IT.

USER PERSONNEL:

PRINT NAME HERE:

EXHIBIT B

CENTER SPECIFIC PROVISIONS

[To be inserted]