

**4D LABS ACCESS & SERVICE AGREEMENT
("Agreement")**

To: Simon Fraser University ("SFU")
4D LABS
8888 University Drive
Burnaby, B.C. V5A 1S6

[legal name of organization] _____ (the "Organization") having its offices
at _____.

SFU agrees to [please select the applicable option(s)]:

- A grant the Organization's employees, contractors, agents, or other representatives (collectively, the "Users") access to SFU's core facility known as 4D LABS ("Facility"), located at SFU's TASC2 building for the purposes of pursuing the following research _____ (the "Activity");

AND/OR

- B provide 4D LABS services (the "Services") as stated in a statement of work in the form provided and accepted by SFU (the "SOW"). From time to time during the term of this Agreement, the Parties may supplement this Agreement by new SOWs, which SOWs will be considered to be part of this Agreement.

The Organization understands and agrees that the following provisions govern its use of the Facility, access to the Facility, and/or the provision of Services by SFU.

If option A is selected above, the following provisions apply:

FACILITY ACCESS

1. The Organization assumes all responsibility for the Users, including but not limited to the Organization providing materials for the Activity as well as payment of all fees incurred by the Users. For clarity, any reference to the access to the Facility in this Agreement includes the use of the equipment associated therewith.
2. The Organization acknowledges that SFU may at any time, at its sole discretion, change, repair, and/or modify equipment within the Facility or restrict access to the Facility ("Changes"). SFU will use reasonable efforts to ensure that any Changes have minimal impact on the Activity. Such Changes will not be construed as a breach of this Agreement.

POLICIES, PROCEDURES AND TRAINING

3. Prior to accessing the Facility, the Organization will cause the Users to complete all training required and provided by 4D LABS, such as laboratory safety courses, and review and abide by all laboratory policies, as may be implemented by the Facility from time to time, including all safety protocols, SFU Environmental Health and Safety Handbook, the 4D LABS User and Safety Manual, and BC WorkSafe Regulations.
4. The Organization understands that it is responsible for ensuring that the Users follow the Facility's safe operating procedures and specified risk mitigation strategies, and that the Users will contact a Facility staff member if any Participant requires more information on these risks, dangers and hazards.
5. Courteous, professional, and responsible behaviour is expected at all times by the Users. Access to the Facility is a privilege and may be revoked by SFU at any time.

6. The Organization is responsible for the planning and performance of the Activity in such a way as to ensure the Users' safety as well as the safety of other Facility users.
7. The Organization will, and will cause the Users to, ensure at all times the Users' proper use of the equipment and will cause its Users to immediately report any malfunction of equipment to the appropriate Facility staff.
8. The Organization certifies that there is no medical reason why any of the Users should not engage in the Activity or access the Facility.
9. SFU may, in its sole discretion, reasonably determine at any time that a Participant requires additional training, and such Participant will not be permitted to access the Facility until such time as the Participant has completed such additional training as required to the satisfaction of SFU.
10. The Organization acknowledges that the Users will be required to sign a Participant acknowledgement and waiver agreement to access the Facility.
11. The Organization shall notify Facility management prior to implementation of any proprietary processes, including without limitation the introduction of any proprietary chemicals or non-SFU equipment. Such proprietary processes are not permitted without the written authorization of Facility management. SFU may, in its sole discretion, prohibit such proprietary processes if they have the potential to affect the research of other Facility users or the Facility.
12. SFU does not make any claim on the intellectual property created by the Users' access to the Facility provided it was created without an intellectual contribution of SFU's employees, students, or representatives.
13. The Organization will acknowledge SFU and 4D LABS in publications or presentations resulting from the Activity.

ASSUMPTION OF RISK

14. The Organization is aware and has adequately advised the Users that working in a laboratory setting involves risks, dangers, and hazards, that may result in, among other things, mild or severe illness, physical injury, partial or total disability, death and/or property loss or damage. These risks include, but are not limited to, risks and dangers arising from infection and exposure to dangerous agents, and use of equipment, machinery or other devices. The Organization accepts and assumes risks, dangers and hazards to the Users and the responsibility of personal injury, death, property damage and loss resulting thereof, without any legal recourse to SFU.

LIMITATION OF WARRANTIES

15. SFU grants the Organization access to the Facility on an "as is" basis and makes no representations or warranties as to the fitness of the Facility or any equipment therein for the Activity or the fitness of purpose of data, materials and/or intellectual property obtained from the Activity.
16. The Organization acknowledges that it is ultimately responsible for the Activity performed by the Users, and SFU does not in any way warrant or assure the success of the Activity.
17. The Organization is solely responsible for the safety and security of Organization's property, including without limitation any intellectual property or materials, while such property is at the Facility. SFU makes no guarantees for the safety and security of such property. If the Organization chooses to disclose confidential information to the Facility staff or other users, the Organization should have no expectation of confidentiality unless a non-disclosure agreement has been completed.

If Option B is selected above, the following provisions apply:**PROVISION OF SERVICES**

18. If SFU accepts the SOW, SFU will carry out the Services in accordance with high scientific and professional standards but makes no representations in achieving the desired result.
19. Unless SFU is notified in writing to the contrary by the Organization within ten (10) business days following the Organization's receipt of the deliverable(s) resulting from the provision of the Services, the Organization is deemed to have accepted the deliverable(s).
20. The Organization shall own the rights, title and interest in the deliverables resulting from the Services.
21. The Organization will acknowledge the Facility's contributions in publications or presentations resulting from the Services.
22. SFU gives no warranty, express or implied, on the results or deliverables or other matter arising from the Services, including without limitation all implied warranties or conditions of merchantable quality and fitness for a particular purpose and all warranties arising from course of dealing and trade usage. If the Organization chooses to disclose confidential information to the Facility staff or other users, the Organization should have no expectation of confidentiality unless a non-disclosure agreement has been completed.

General Provisions (For Option A and/or B):**RELEASE OF LIABILITY AND INDEMNITY**

23. The Organization, for itself and its successors and assigns, hereby remises, releases and forever discharges SFU and its governors, officers, directors, servants, employees, agents, independent contractors, subcontractors, volunteers and representatives, and their heirs, executors, administrators, successors and assigns (as the case may be) who are in any way connected to the Facility, the Activity or Services (each a "Released Party" and collectively, the "Released Parties"), of and from any and all manner of actions, causes of action, suits, proceedings, contracts, claims, demands and liabilities whatsoever, in law or in equity, which the Organization ever had, now has or may hereafter have against any of the Released Parties, with respect to any cause, matter or thing under or in respect of or relating to this Agreement, Organization's involvement in the Activity or Organization's use of the Facility, including the use of the Facility by the Users, or arising or resulting directly or indirectly out of the use by the Organization, or any person or third party acting on behalf of or under authorization, delegation, or transfer from the Organization, of SFU's deliverables, materials, product, works, thing, or information received from, or produced by, their use, save and except for any actions, causes of action, suits, proceedings, contracts, claims, demands and liabilities arising from the gross negligence or willful misconduct of any Released Party.
24. The Organization hereby agrees to indemnify, defend and hold harmless the Released Parties from and against any and all claims, demands, actions, causes of action, damages, losses, deficiencies, costs (including reasonable legal costs on a solicitor and own client basis), expenses, liabilities and administrative proceedings including, without limitation, claims arising by reason of any injury to or death of any person, or damage to any property, including consequential loss, which may be brought or made against any of the Released Parties with respect to (a) any cause, matter or thing under or in respect of or relating to this Agreement, (b) the Organization's involvement in the Activity or Organization's access to the Facility, including the access to the Facility by the Users, and (c) use by the Organization, or any person or third party acting on behalf of or under authorization, delegation, or transfer from the Organization, of SFU's deliverables, materials, product, works, thing, or information received from, or produced by, their use, save and except for any claims, demands, actions, causes of action, damages, losses, deficiencies, costs, expenses, liabilities and administrative proceedings arising from the gross negligence or willful misconduct of any Released Party.

INSURANCE

25. SFU's insurance coverage does not cover the Organization's property or the property of any Participant. The Organization shall ensure that adequate insurance coverage is in place for all Organization property (including property of any Participant, as applicable) that is brought on to SFU premises, and will provide SFU with satisfactory evidence of same upon request. The Organization shall promptly reimburse SFU for any damage to or theft/loss of SFU property resulting from the negligence of a User.

TERM & TERMINATION

26. This Agreement will be effective from and as of the date last signed below (the "Effective Date") and shall terminate on the fifth annual anniversary of that date unless terminated earlier in accordance with this Agreement.
27. This Agreement may be terminated at any time by either Party following thirty (30) days written notice to the other Party. SFU will have the right to immediately suspend or terminate access to the Facility if the Organization fails to make payment within 30 days of the due date.

MISCELLANEOUS

28. Nothing in this Agreement shall be construed as establishing an agency, joint venture, partnership, or employment relationship between the Parties.
29. Sections 13, 17, 21,22, 23-25, and 29-32 shall survive termination of this Agreement.
30. In the event that any article, paragraph or sub-paragraph of this Agreement shall be held to be indefinite, invalid, illegal or otherwise voidable or unenforceable, the entire Agreement shall not fail on account thereof, and the balance of the Agreement shall continue in full force and effect.
31. This Agreement, and all matters arising in respect of it, shall be governed by and interpreted in accordance with the laws of the Province of British Columbia and both Parties expressly attorn to the jurisdiction of the courts of British Columbia for enforcement thereof.
32. In the event of a conflict between this Agreement and any SOW, the provisions of this Agreement will prevail, unless the SOW specifically acknowledges the conflict and expressly states that the conflicting SOW prevails. This Agreement and applicable SOWs constitute the entire agreement between the parties and supersede and extinguish all previous agreements, arrangements, and understandings between them, whether written or oral, relating to this subject matter. If there is any conflict or inconsistency between this Agreement and subsequent purchase order, this Agreement shall prevail.

I confirm that the required action has been taken on the part of the Organization to authorize the release and indemnity contained herein, and this 4D LABS Access and Service Agreement constitutes a legal, valid and binding obligation of the Organization enforceable in accordance with its terms.

by its duly authorized signatory:

Name:
Title:

Date