

## Equipment Loan Agreement

This Equipment Loan Agreement (hereinafter referred to as this "Agreement") is entered into and effective as of the date of last signature below (hereinafter referred to as the "Effective Date") by and between **The Regents of the University of California on behalf of its San Diego Campus's Scripps Institution of Oceanography** (hereinafter referred to as "University"), and **[ENTER COMPANY NAME]** (hereinafter referred to as "Company").

**WHEREAS** University owns a specific piece of equipment – **[DESCRIPTION OF EQUIPMENT]** (hereinafter referred to as the "Equipment"),

**WHEREAS** a University-employed Principal Investigator, **[ENTER PI NAME]**, needs this equipment to be transferred to Company for a limited time for use in a research project regarding **[ENTER PURPOSE OF EQUIPMENT LOAN]** (hereinafter referred to as "Purpose"),

**NOW THEREFORE**, University agrees to loan Equipment to Company for the Purpose described above subject to the terms and conditions contained herein:

**Obligations of the Company.** The Company shall, at all times while Equipment(s) is under its control or in its possession, ensure that Equipment(s) is (a) used strictly in connection with the Purpose; (b) used and operated in a clean, dry environment; and (c) operated only by competent and trained persons. The Company agrees that it shall not sell, lease, loan, sublicense, assign, transfer, or distribute Equipment(s) to any third parties.

The Company further agrees that it shall not modify, alter, reverse-engineer, or use Equipment(s) in any manner that is inconsistent with the Purpose without the prior written approval of University. The Company shall permit University or its authorized representative to, at all reasonable times, enter the Company's premises, installation, vehicle, or vessel where Equipment(s) is located to enable University to use, inspect, service, repair, or test Equipment(s).

The Company shall not remove or deface any University identification numbers, marks, or nameplates that may be included on or affixed to Equipment(s). The Company shall be liable to University for any damage, misuse, or loss of Equipment(s), including any replacement or repair cost incurred by University.

Replacement cost for the Equipment is **[ENTER DOLLAR AMOUNT]**.

The Company agrees to maintain appropriate and adequate insurance policies and coverage to cover any such damage to or loss of Equipment(s). Notwithstanding such insurance coverage, The Company shall immediately reimburse University for any such damage or loss.

Upon the expiration of the Term, The Company shall return Equipment(s) to University, together with any and all documentation and materials provided by University in connection with Equipment(s), and in accordance with instructions given by University. The Company shall be responsible for 100% of all Equipment(s) shipping costs, 100% of insurance costs and 100% of any materials required to operate the Equipment(s).

The Company hereby covenants that all of its activities under or pursuant to this Agreement comply with all applicable laws, rules, and regulations.

**Title and Risk of Loss.** Title to Equipment shall remain solely and exclusively with University at all times. Company is responsible for loss of or damage to Equipment while Equipment is under Company's control or in its possession.

**Intellectual Property.** Any University Invention, whether invented, discovered or authored (i) solely by one or more University employees, advisors and/or consultants; (ii) solely by one or more of Company employees, advisors and/or consultants; or (iii) jointly by one or more University employees, advisors and/or consultants and one or more Company employees, advisors and/or consultants, shall be owned by University. Any inventions under this agreement shall follow University of California Patent Policy.

**Publication.** The parties acknowledge and agree that University shall be free to publish and distribute results generated as a result of Company's use of the Equipment.

**Results.** Any Results generated using Equipment during the Term of this Agreement, whether generated (i) solely by one or more Company employees, advisors and/or consultants; or (iii) jointly by one or more Company employees, advisors and/or consultants and one or more University employees, advisors and/or consultants, shall be owned by University.

**Export Control.** It is understood that the Equipment may be subject to United States laws and regulations controlling the export of technical data, computer software, laboratory prototypes and other commodities, and that its obligations hereunder are contingent on compliance with applicable U.S. export laws and regulations (including the Arms Export Control Act, as amended, and the Export Administration Act of 1979). The transfer of any such Technology and Items and the entering into and provision of such Transactions and Services that are subject to Restrictions may require a license or authorization from the cognizant agency of the United States Government, and/or may require written assurances by the receiving party that it shall not re-export such Technology and Items to certain foreign destinations and/or to certain recipients without prior approval of the cognizant government agency; and/or may require that the involved individuals and entities will comply with conditions on Transactions and Services. Company is required to obtain and all permits or licenses for the export of such property/equipment. **{Revise depending on specific equipment.}**

**Indemnification.** Company shall indemnify, protect, and defend University, officers, directors, and employees (hereinafter referred to as "Indemnitees") harmless from all liabilities, costs, expenses, claims, demands, suits, or actions, including reasonable attorney's fees incurred in connection therewith, which may be asserted against University for any kind of damage, including, but not limited to, damage or injury to property or persons and any incidental, indirect, and consequential damages occurring out of, or incident to, Company's use of the Equipment(s) and performance under this Agreement.

**Limitation of Liability.** Notwithstanding any other Section or provision of this Agreement, under no circumstances shall University be liable for any consequential, special, incidental, indirect, multiple, administrative, or punitive damages, or any damage of an indirect or consequential nature arising out of or related to Company's use of the Equipment or University's performance under this Agreement, whether based upon breach of this Agreement, whether grounded in tort, contract, civil law, or other theories of liability, including strict liability, even if advised in advance of the possibility of such damages.

EQUIPMENT IS PROVIDED "AS IS" AND UNIVERSITY DOES NOT MAKE ANY REPRESENTATION OR WARRANTY OF ANY KIND WITH RESPECT TO EQUIPMENT TO COMPANY HEREUNDER; COMPANY ACKNOWLEDGES THAT THE EQUIPMENT IS SUPPLIED WITH NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR WARRANTY AGAINST INFRINGEMENT AND ANY OTHER IMPLIED WARRANTIES WITH RESPECT TO THE VALIDITY, CAPABILITIES, SAFETY, UTILITY, OR COMMERCIAL APPLICATION OF ANY KIND WHATSOEVER.

TO THE EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY KIND ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT.

**Governing Law and Venue.** This agreement shall be governed by and construed in accordance with the laws of the State of California without regard to its conflict of laws principles.

**Use of University Name.** California Education Code Section 92000 prohibits use of the University of California, San Diego's name to suggest that UCSD endorses a product or service. The Company will not use The University of California's name, or any acronym thereof, including UCSD, without University's prior written approval.

**Assignment.** This Agreement may not be assigned, delegated, sublicensed, or transferred, whether by operation of law or otherwise, by the University or Company, without the written consent, and any attempted assignment, delegation, sublicense, or transfer without such written consent is void and of no effect.

**Term and Termination.** This agreement shall be effective as of the date of last signature below, and be effective for a period of two (2) years. The agreement may be extended upon mutual written agreement by the parties. Either party may terminate this agreement with a thirty (30) day written notice. Upon termination, the Equipment shall be returned to University immediately at the end of the notice period.

**Notices.**

For University:

ENTER CONTRACT OFFICER NAME

UC San Diego Scripps Institution of Oceanography  
Contracts and Grants  
9500 Gilman Drive, 0210  
La Jolla, CA 92093

ENTER CONTRACT OFFICER PHONE

ENTER CONTRACT OFFICER EMAIL

For Company:

ENTER AUTHORIZED OFFICIAL INFORMATION FOR COMPANY

**IN WITNESS WHEREOF**, each party has caused this Agreement to be executed by its duly authorized representatives as of the Effective Date.

For University:

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

For Company:

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_