

**Texas State University
Business and Operating Plan
STAR One Facility at
Science, Technology, and Advanced Research (STAR) Park**

1. Introduction:

STAR One is the initial research facility project within the Science, Technology and Advanced Research Park (STAR Park) owned and operated by Texas State University (Texas State). STAR One will serve as a technology accelerator for start-up and early-stage businesses, and will provide STAR tenants access to secure wet labs, general research space, and office space.

The Incubator Program located at STAR One, is designed to foster the development of new commercial ventures related to technologies in applied research. STAR One is a 20,000 sq ft research facility sited on the STAR Park 38-acre site, providing ample space for growth. This building will house 'spin-offs' from research conducted and intellectual property generated by Texas State faculty, and 'spin-ins' from companies outside Texas State that want to strategically work with the university.

The overall goal of the Incubator Program is to provide space and infrastructure to expedite research and commercial development of promising technologies in the context of viable, well managed start-up companies working in partnership with Texas State.

2. Objectives:

By bringing together a critical mass of university and private sector specialists, the Incubator Program becomes a magnet for scientific expertise, novel problem solving, and successful commercial ventures. The Incubator Program is particularly interested in supporting companies that have established research relationships with Texas State, or that have an interest in, and potential for, initiating such relationships. The Incubator Program provides benefits to the University, San Marcos, and the Central Texas I-35 corridor.

In the academic arena, the Incubator Program:

- Encourages commercialization of faculty and student discoveries
- Increases the depth and breadth of Texas State research programs
- Increases technology transfer
- Stimulates collaborative research projects between local and outside companies with University faculty
- Provides opportunities for student research and employment
- Contributes to Texas State's academic competitiveness in recruiting and retaining faculty

In the economic development area, the Incubator Program:

- Encourages advanced technology commercialization from public investment in research
- Translates University research results into products that solve unmet needs
- Attracts new and existing companies to San Marcos and the Central Texas I-35 corridor
- Stimulates the formation of new, small, advanced technology businesses in the State
- Stimulates economic development and competitiveness in San Marcos, Hays County and the State of Texas, through collaborations with regional and state entities committed to economic development
- Furthers University and State purposes in connection with efforts to establish Texas State and the State of Texas as a center for research and advanced technology
- Provides a financial return to the State of Texas

3. Commercialization Advisory Council:

The Commercialization Advisory Council (CAC) provides advice to the Chief Research Officer on the commercialization activities at Texas State. The CAC advises in all areas related to commercialization activities. In particular, the CAC:

- Advises the Incubator Program regarding incubator management policies and operations
- Assists in publicizing and marketing the Incubator Program
- Assists the Incubator Program and the University in obtaining the resources needed for the building and its companies
- Reviews and advises on incubator membership and milestones
- When possible, provide mentor support for STAR One incubator tenants

4. Admittance Criteria and Procedures:

The Incubator Program is intended for start-up or early stage companies that need to conduct research and development for new products or services in the advanced technology sciences. The companies must have established collaborative relationships with Texas State or must have an interest in, and potential for, initiating such relationships. Moreover, those companies that intend to work with Texas State must establish these interactions before admittance to the Incubator Program. Please see Texas State's "Guide for Industry" document.

In order to be considered as a participant in the Incubator Program the company must at a minimum show *one* of the following:

- The company has (or is negotiating) a Sponsor Research Agreement (SRA) with the University
- The company has (or is negotiating) a University Industry Partnership Agreement (UIPA) with the University
- The company has (or is negotiating) a license of technology owned or controlled by Texas State

- A company has received an STTR or SBIR in partnership with Texas State

The Incubator Program expects that companies that successfully graduate from the Incubator Program within STAR One will find it attractive to locate in the San Marcos area.

4.1. Application Review Process:

Companies interested in locating in STAR One building must complete an application (**Attachment A**) for admittance, including a non-proprietary description of their R&D program goals and milestones and a description of their proposed business milestones, and submit a business plan, or agree to complete a business plan within three months of being approved.

Once the application has been reviewed by the Program Director or his designee and it is determined that the company meets the general criteria for admittance, the CAC will provide to the Chief Research Officer advice related to the technical and commercial feasibility of the application. The emphasis of the technical review will be on the feasibility and scientific merit of the technology, whether it is innovative, the compatibility of the R&D program with the overall purpose of the Incubator Program, and whether there is good potential for a collaborative project relationship with the University. Further, the review will create research milestones. The focus of the business plan review will be on the potential for commercialization, capability of the company's management, the status of its financing, and its financial ability to meet its obligations under the license agreement with the Incubator Program, and will include establishment of business milestones, and may result in recommended modifications to the company's plan. Incubator Program management may separate the technical and business plan reviews or may include experts from outside the membership of the CAC. Once this review is complete, the Chief Research Officer will submit the information to the Provost for final review and approval/disapproval of the application.

4.2. Incubator License Agreement:

After satisfactory completion and approval by Provost of the technical and business plan review, the OCIR and the company will negotiate an Incubator Lease Agreement (ILA) (**Attachment B**) for the company to obtain access to space, facilities, services, and equipment in STAR One. The lease agreement will indicate the specific space that the company will occupy, the services that the Incubator Program will provide, and the other obligations of the parties. The current space lease rent consists of cash payments at a monthly rate to be determined per square foot for occupied office space and at a monthly rate to be determined per square foot for occupied wet lab space. Costs included in the monthly rent (subject to terms and conditions of each individual lease) are utilities, (excluding any special utility needs), janitorial services, phone lines (excluding long distance services), internet access, non-exclusive receptionist services (located at entry of building), secure key access, use of conference room, kitchen and dining area.

Sponsored Research Agreements (SRAs) and/or University Industry Partnership Agreements (UIPA) with Texas State will be executed under separate agreements and guidelines of the

respective entities.

4.3. Length of Stay and Graduation:

Companies admitted to the Incubator Program are given month to month renewable terms up to a maximum of three years though this may be extended with the consent of the OCIR. Cash payments for the space will increase with the length of stay. There is a required annual review of the status of the company's business and R&D goals and milestones, designed to assure that the company's activities continue to be appropriate for the Incubator Program. All companies entering the program must understand that the ILA is renewable at the discretion of the Texas State, and that there is no guarantee of continued occupancy. Furthermore, certain terms and conditions may be in the ILA with a particular company that would limit the length of stay, or place specific performance criteria as conditions of continued occupancy.

5. Personal Guarantee:

Because of the financial instability of most start-up businesses and lack of sufficient corporate assets, one or more of the officers or principals of all business entities that locate in the STAR building will be required to sign a personal guarantee of the obligation under the ILA, unless the business is publicly traded.

Attachment A

Texas State University Science, Technology and Advanced Research (STAR) One Research Facility

Tenant Application Form

Applying to STAR One

The Incubator Program at Texas State University (Texas State) is looking for high-potential technology start-up companies that will be active participants in the Texas State's research and commercialization activities. Applicants typically are product-based companies that have potential for intellectual property rights, and are seeking a collaborative, supportive, resource-rich environment in which to accelerate the growth of their companies. If you would like to apply, please complete the application below.

Application Process

Step 1—Application: Submit an application and letter of interest to: ocir@txstate.edu

Step 2—Interview: If you meet the criteria outlined under Selection Criteria, you will be invited to present to the Commercialization Advisory Council (CAC). That Council advises Texas State on which companies to accept as tenants.

Selection Criteria Requirements

1. Company has either an existing collaborative relationship with Texas State or the interest in creating one. Collaborative relationships can include faculty research collaboration, joint development agreements, company connections to academic programs, and/or active involvement with students through providing paid internships or sponsoring course-related student projects, or
2. Company is a start-up technology and/or science-based company within its first five years. Companies in existence for more than five years can be considered if the company is in an industry or technology/science area such as green technology or green science that requires a longer development time frame, or
3. The company has (or is negotiating) a license of technology owned or controlled by the Texas State, or
4. A company has received an STTR or SBIR, with the Texas State or a University employee or faculty member integral to the work to be performed under the grant, or
5. The company has given the Texas State a royalty-free license to its proprietary technology.

SECTION I - COMPANY INFORMATION

Name of Company: _____
Contact Person: _____ Position with Company: _____
Current Address: _____
Phone: _____ Fax: _____
E-mail: _____ URL: _____

Business Form (Corporation, Sole Proprietorship, LLC, etc.): _____
In which state is your business registered? _____
Year Company established: _____ Current Number of Employees: _____

Company Ownership and Principals (Attach another sheet if necessary):

Name: _____ Percent: _____ Full Time Y/N
Name: _____ Percent: _____ Full Time Y/N
Name: _____ Percent: _____ Full Time Y/N

Company Officers (Attach another sheet if necessary):

Name: _____ Title: _____
Name: _____ Title: _____
Name: _____ Title: _____

Describe your business, its products, and/or services: _____

At what stage is the product development (concept, prototype, beta test, revenue generating)?

Type of space needed (office, laboratory, assembly, etc.): _____
Amount of space needed in square feet: _____ Date needed: _____ For how long: _____
Special needs, if any (high voltage, Internet, loading access, handicap access, etc.): _____

Once beyond your initial start-up years, where do you see the company being located (e.g., San Marcos, Austin suburbs, elsewhere in state, out of state)? _____

What are your current funding sources? Include self, friends and family, bank loans, angel investors, VC funds and any other current sources of capital. _____

Are you now or do you plan to seek funding from angels, VCs or equity investors? If yes, please briefly describe your plans. _____

Are you currently working with Texas State programs, faculty and/or students? If yes, describe. If no, identify ways in which you would like to work with Texas State: _____

What are your three-year growth plans? _____

What is your exit strategy? _____

How did you hear about the Texas State Incubator Program? _____

Why does your company want to be located in the STAR Building? _____

Give the names of at least three references, to include (1) banking relationship, (2) credit reference (credit card, previous landlord, etc.), and (3) credit or character reference. Please provide account numbers for bank and credit references.

(1) Bank: _____
Type of Account: _____ Contact Name: _____
Account Number: _____ Phone Number: _____

(2) Credit: _____
Type of account: _____ Contact Name: _____
Account Number: _____ Phone number: _____

(3) Person's Name or Institution: _____
Relationship: _____ Organization: _____
Account Number: _____ Phone number: _____

SECTION II - REQUIRED DOCUMENTATION

1. The Business Plan and it should include, (a) Cover page, (b) Table of contents, (c) Executive summary, (d) Company description, (e) Markets and competition, (f) Products and services offered, (g) Sales, marketing, and promotion plans, and (h) Financial projections, to include amount and sources of capital, most current income statement and balance sheet, source of income for living expenses, if plan does not show salaries or profit.
2. Proof of insurance.

Attach a business plan with this application and certificate of insurance prior to occupancy. If you are accepted as a tenant, the business plan shall be retained. Otherwise it will be returned to you.

Signature (Required): _____ Date: _____
Name: _____ Title: _____

All Terms, Conditions, and Exhibits to be Determined and Completed with Each Tenant

Attachment B
Incubator Lease Agreement

STATE OF TEXAS
COUNTY OF HAYS

THIS LEASE AGREEMENT, made and entered into effective this 1st day of June 2012, between Texas State University-San Marcos, (herein referred to as "Texas State", and - _____, (hereinafter called "Tenant");

WITNESSETH:

WHEREAS, Texas State, as owner of a 38 acre site, commonly known as STAR Park and a building within STAR Park known as STAR One (the "Building"), located at 3055 Hunter Road, San Marcos, TX 78666; and

WHEREAS, Tenant desires to lease _____ unfinished gross square feet of office and research space located in Suite _____ with common areas finished out by Texas State in the Building as more specifically set forth herein;

NOW, THEREFORE, the parties agree as follows:

1. PREMISES:

In consideration of the covenants and agreements hereinafter set out and of the rent herein provided to be paid by the Tenant to the Texas State, the Tenant does hereby lease from Texas State the premises ("Premises") described on Exhibit A attached hereto.

Texas State reserves the right to reasonably alter such Common Areas and to adopt reasonable rules and regulations applicable to and enforceable against all tenants, including Tenant and with which Tenant agrees, with respect to the Building and its Common Areas.

2. TERM:

The term of this Lease shall be for _____ () years and will begin on _____, _____ (the "Commencement Date") and shall end on _____, _____ (the "Expiration Date"). Extensions will be mutually agreeable between the Texas State and Tenant.

3. RENT:

Tenant shall pay rent to Texas State in amount of _____ dollar (\$ _____) per month.

All Terms, Conditions, and Exhibits to be Determined and Completed with Each Tenant

4. USE OF PREMISES/SECURITY:

4.1 The Premises must be used and occupied by Tenant exclusively for carrying out - research and development activities, none of which will (i) have a material adverse effect on the value of the Premises, or (ii) result or give rise to any material environmental deterioration or degradation of the Premises. Tenant shall ensure that its representatives – including but not limited to its directors, officers, employees, agents, invitees, and contractors (hereinafter “Representatives”) shall not conduct unauthorized activities on the Premises. Tenant shall further ensure that each of its Representatives shall refrain from any action or conduct which is in any way detrimental to Texas State’s interests.

4.2 Tenant will supply a list of all employees as well as all Tenant Representatives that do not work in the lease research space on a regular basis but will require periodic access.

4.3 Tenant must comply with all Insurance Requirements and Legal Requirements pertaining to Tenant’s use and occupancy of the Premises during the term of this Lease. Tenant shall maintain the Premises in good repair, condition and appearance and will upon the expiration or other termination of this Lease return the Premises to Texas State in as good condition as they were at the Commencement Date. Tenant shall not permit any unlawful occupation, business, or trade to be conducted on any of the Premises or any use to be made thereof contrary, in any material respect, to applicable Legal Requirements or Insurance Requirements. Tenant shall not use, occupy or permit any of the Premises to be used or occupied, or do or permit anything to be done in or on any of the Premises, in a manner which would (i) violate in any material respect any certificate of occupancy or equivalent certificate affecting any of the Premises, (ii) make void or voidable any insurance which Tenant is required hereunder to maintain then in force with respect to any of the Premises, (iii) affect in any material manner the ability of Tenant to obtain any insurance which Tenant is required to furnish hereunder, (iv) cause any material injury or damage to any of the improvements or (v) constitute a public or private nuisance or waste. As used herein, (a) “Insurance Requirement” or “Insurance Requirements” shall mean, as the case may be, any one or more of the terms of each insurance policy required to be carried by Tenant under this Lease and the requirements of the issuer of such policy; and (b) “Legal Requirement” or “Legal Requirements” shall mean, as the case may be, any one or more of all present and future laws, statutes, codes, ordinances, orders, judgments, decrees, injunctions, rules, regulations and requirements of every duly constituted governmental authority or agency applicable to the Premises and all covenants, restrictions and conditions now or hereafter of record which may be applicable to any of the Premises, or to the use, manner of use, occupancy, possession, operation, maintenance, alteration, repair or reconstruction of any of the Premises.

5. CONDITION OF PREMISES:

Texas State stipulates that Tenant has examined the Premises and the Building. The Texas State will deliver Premises to Tenant as a clean, unfinished shell. Tenant at Tenant’s expense will finish out the renovation, operation and establishment of the

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collaborative research facility with the following improvements: electrical, plumbing, HVAC, utilities, fixtures, equipment, furniture, etc. Texas State makes no representation or warranty, express or implied, with respect to same. THE LEASE OF THE PREMISES IS ON AN "AS IS" BASIS, IT BEING AGREED THAT TENANT WILL LEASE THE PREMISES IN THEIR PRESENT CONDITION, WITH ALL FAULTS. TEXAS STATE HEREBY DISCLAIMS ANY AND ALL EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE RELATIVE TO THE PREMISES OR ANY COMPONENT PART THEREOF. Tenant acknowledges and agrees that no representations or warranties have been made by Texas State, or by any person, firm or agent acting or purporting to act on behalf of Texas State, as to (i) the presence or absence on or in the Premises of any particular Hazardous Substances, (ii) the condition or repair of the Premises or any portion thereof, (iii) the value, expense of operation or income potential of the Premises, (iv) the accuracy or completeness of any title, survey, structural report, environmental audit or other information provided to Tenant by any third party contractor relative to the Premises (regardless of whether the same were retained or paid for by Texas State), or (v) any other fact or condition which has affected or might affect the Premises or the condition, repair, value, expense of operation or income potential thereof. Tenant represents that the officers of Tenant are knowledgeable and experienced in the leasing of properties comparable to the Premises and agrees that Tenant will be relying solely on Tenant's inspections of the Premises in leasing the Premises. THE PROVISIONS OF THIS SECTION HAVE BEEN NEGOTIATED AND ARE INTENDED TO BE A COMPLETE EXCLUSION AND NEGATION BY TEXAS STATE OF, AND TEXAS STATE DOES HEREBY DISCLAIM, ANY AND ALL WARRANTIES BY TEXAS STATE, EXPRESS OR IMPLIED, WITH RESPECT TO THE PREMISES OR ANY PORTION THEREOF, WHETHER ARISING PURSUANT TO ANY LAW NOW OR HEREAFTER IN EFFECT OR OTHERWISE, AND TENANT HEREBY ACKNOWLEDGES AND ACCEPTS SUCH EXCLUSION, NEGATION AND DISCLAIMER.

6. ASSIGNMENT AND SUBLETTING:

Tenant may not assign its rights or obligations hereunder or sublet all or any part of the Premises without prior approval from Texas State.

7. TENANT ALTERATIONS AND IMPROVEMENTS:

Tenant will make alterations to the Premises and will make other improvements on the Premises. Tenant may install certain of its own hardware, equipment, and fixtures (provided such hardware, equipment, or fixtures are removable without damage to the Premises) and shall remove such hardware, equipment, and fixtures upon termination or expiration of this Lease. Any hardware, equipment, or fixtures which are not removable without damage to the Premises shall be placed in the Premises by Tenant only with Texas State's prior written consent. Any damage to the Premises caused by the removal of any such installation by Tenant shall be restored by Tenant to its original condition. Any of Tenant's hardware, equipment and fixtures not removed by Tenant prior to the expiration of the Lease or an earlier termination shall be considered abandoned by Tenant and may be

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appropriated, sold, destroyed or otherwise disposed of by Texas State without obligation to account therefor. Tenant will coordinate with Texas State in its installation of computer equipment and additional telecommunications equipment. All plans must be approved by Texas State. Tenant shall not install any sign or signs on or in the Premises without the prior written consent of Texas State.

8. TEXAS STATE – PROVIDED PERSONAL PROPERTY:

All Texas State provided office furniture and other property shall remain the property of Texas State and shall remain on the Premises at all times during the term of this Lease and at the expiration or termination of this Lease.

9. SERVICES AND UTILITIES:

Texas State will, at its own expense, to the extent commercially reasonable and available, provide water and wastewater utility services. Tenant will, at its own expense, will be responsible for electric power, heat, air conditioning, telephone and/or internet service.

Texas State will be responsible for janitorial service and security for leased premises. Unless otherwise agreed upon by Texas State and Tenant, Tenant shall supply its own equipment, supplies and other items and materials used or useable in connection with Tenant's activities including, without limitation, any and all laboratory and research equipment, chemicals (subject to Section 14.2), office equipment, communication equipment, computer and technology equipment, stationery, and other office supplies.

10. MAINTENANCE, REPAIR AND AD VALOREM TAXES:

Tenant at Tenant's expense, will maintain the interior of the Premises in good appearance, condition and repair during the term of this Lease, reasonable wear and tear excepted. Any maintenance or repair necessary to maintain the Premises in good condition, appearance and repair (whether occasioned by the Tenant's misuse, neglect or waste or that of the Tenant's Representatives or visitors or otherwise), will be the sole responsibility of the Tenant.

Texas State shall be responsible for (a) payment of any ad valorem taxes, if any, assessed against the Building and the real property described in Exhibit A, and (b) maintenance, repair, replacement and restoration of all Building common areas, including lobbies, corridors, and restrooms. Texas State at Texas State's expense will maintain the Building structures, exterior walls and roof, as well as windows, doors, and plate glass on the Premises; and all sidewalks, parking lots, driveways and landscaping.

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Except in case of emergency, Tenant will notify Texas State, either orally or in writing, of the need for maintenance, repairs, replacement or restoration for which Texas State is responsible hereunder. Such notice, if in writing, shall be addressed to Mr. David Bisett, Assistant Real Estate Director, 601 University Dr., San Marcos, Texas 78666 (or such other person or address as Texas State shall advise Tenant), and if orally, shall be communicated to Mr. David Bisett at telephone number (512) 245-2244 (or such other person or phone number as Texas State shall advise Tenant). In case of emergency, including maintenance, repairs, replacement or restoration requiring immediate attention, whether during business or non-business hours, Tenant shall notify Texas State at telephone number (52) 245-2244 (or such other person or phone number as Texas State shall advise Tenant).

11. INSURANCE:

Texas State will carry such fire and extended coverage insurance at replacement cost for its own protection against loss of or damage to the Premises, improvements and Texas State installed fixtures, furniture or equipment located in the Premises. Tenant will not be liable for any loss or damage to Texas State's building, improvements or fixtures which shall be caused by fire or other casualty insurable under standard policies of fire or other casualty insurance.

Tenant will carry commercial general liability insurance on the Premises with companies reasonably acceptable to Texas State and in amounts not less than \$1,000,000 per occurrence and \$3,000,000 aggregate and will designate Texas State as an additional insured. Upon Texas State's request Tenant will provide Texas State with a certificate of insurance evidencing such commercial general liability coverage. Tenant also agrees that it will keep, at its expense, any Tenant provided furniture, fixtures, trade fixtures, equipment or other property located in or on the Premises insured against loss or damage by fire or other casualty. Texas State will not be liable for any loss or damage to Tenant's furniture, fixtures, trade fixtures or other equipment which shall be caused by fire or other casualty insured or insurable under standard policies of fire insurance with extended coverage (contents), as generally issued by insurance companies in at the time of such damage.

- a. Tenant agrees to carry Workers' Compensation coverage on it employees with statutory limits and Employers Liability limits of \$1,000,000 Per Accident, \$1,000,000 Policy Limit/Disease, \$1,000,000 Ea. Employee/Disease

12. WAIVER OF SUBROGATION:

So long as their respective insurers so permit, Tenant and Texas State hereby mutually waive their respective rights of recovery against each other for any loss insured by fire, extended coverage or all risk insurance now or hereafter existing for the benefit of the respective party. Texas State and Tenant assume the responsibility of notifying any and all insurers of its property of any waivers and agree to exercise reasonable efforts to have its insurers waive their rights of subrogation against the other party.

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13. DAMAGE OR DESTRUCTION BY CASUALTY:

If the Premises or any portion thereof are damaged or destroyed during the term of this Lease, or any extension thereof, by fire or other casualty, Tenant shall give prompt notice thereof to Texas State, and either Tenant or Texas State shall have the option to terminate this Lease by notice to the other to be given within forty-five (45) days of either event indicated in this sentence, and, if so notified, Tenant and Texas State shall be released and discharged from any further obligation to each other, and in such case rent shall cease as of the date of such casualty.

For the purpose of this paragraph, if Tenant is unable to occupy and reasonably conduct its business in all or any substantial portion of the Premises due to damage or destruction by fire or other casualty, then, except as otherwise provided, the rent apportionable to the area which is not usable by the Tenant or apportionable to the degree to which Tenant's quiet enjoyment is substantially diminished (whichever is greater) shall abate from the date of such casualty until the damaged or destroyed portion of the Premises shall have been replaced or repaired by Texas State to as good condition as that immediately preceding the fire or other casualty.

14. HEALTH, SAFETY AND ENVIRONMENTAL COMPLIANCE:

14.1 Texas State will provide to Tenant (and update, as necessary) Texas State's policies and procedures, including, but not limited to the following subjects: fire and life safety; hazardous waste management; chemical storage; chemical inventory requirements; transportation and shipment of hazardous materials; personal protective equipment and emergency services access.

14.2 Tenant will provide to Texas State (and update, as necessary and as reasonably requested by Texas State):

- a. A written chemical inventory and corresponding Material Safety Data Sheets.
- b. A written Chemical Hygiene Plan.
- c. Emergency personnel contact information.
- d. Agreement to use the same hazardous waste vendors (chemical, biological, radiological) as Texas State.
- e. A written radioactive material inventory, with copy of corresponding license.
- f. A written radiation machine inventory, with copy of corresponding registration.
- g. A written laser machine inventory, with copy of corresponding registration.
- h. EPA Hazardous Waste Generator Permit ID #.
- i. A copy of any other pertinent licenses or permits which pertain to health, safety or environmental compliance and practices.

14.3 Tenant and its Representatives, while performing activities on the Premises or elsewhere at Texas State, shall comply with the Federal Occupational Safety and Health Act, Texas State's rules and policies with respect to safety and security, and applicable rules and regulations with regard to possession, handling,

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and transport of chemicals; use of biological materials; use of radioactive materials; environmental matters; and regulated activities. Tenant shall inform relevant safety officers of Texas State of the identity of chemicals that Tenant possesses on the Premises, and Tenant shall maintain material safety data sheets, as required by law, for those chemicals on the Premises. Periodically, Tenant shall coordinate safety inspections with relevant safety officers of Texas State.

- 14.4** Except as permitted above, Tenant agrees that Tenant and its Representatives shall not otherwise use, manufacture, store or dispose of any flammable explosives, radioactive materials, hazardous wastes or materials, toxic wastes or materials, or other similar substances (collectively "Hazardous Materials") on, under or about the Premises, provided that Tenant may handle, store, use or dispose of products containing small quantities of Hazardous Materials, which products are of a type customarily found in offices and households (such as aerosol cans containing insecticides, toner for copies, paints, paint remover, and the like), and provided further that Tenant shall handle, store, use and dispose of any such Hazardous Materials in a safe and lawful manner and shall not allow such Hazardous Materials to contaminate the Premises or the environment.
- 14.5** If Texas State reasonably believes that the Premises or the environment have become contaminated with Hazardous Materials, Texas State, in addition to its other rights under this Lease, may enter upon the Premises and obtain samples from the Premises, including the soil and groundwater under the Premises, for the purposes of analyzing the same to determine whether and to what extent the Premises or the environment have become so contaminated. Tenant shall reimburse Texas State for the costs of such inspection, sampling and analysis.
- 14.6** Without limiting the above, Tenant shall indemnify and hold harmless Texas State from and against any and all claims, losses, liabilities, damages, costs and expenses, including without limitation, attorneys fees and costs, arising out of or in any way connected with the use, manufacture, storage, or disposal of Hazardous Materials by Tenant and its Representatives on, under or about the Premises including, without limitation, the cost of any required or necessary repair, clean-up or detoxification and the preparation of any closure or other required plans in connection therewith.
- 14.7** Tenant covenants that, during the term of this Lease, and the use and occupation of the Premises, Tenant will comply with all covenants, conditions and restrictions of duly constituted public authorities, laws, ordinances, requirements, permits, licenses, rules and regulations, including those in reference to environmental matters now or hereafter in any manner affecting the Premises, whether or not any such laws, ordinances or regulations which may be hereinafter enacted involve a change of policy on the part of the governmental body enacting the same. Tenant agrees to hold Texas State harmless (a) from the consequences of any violations of such laws, ordinances or regulations, and (b) from all claims for damages on account of injuries, death or property damage resulting from any such

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violation. The Tenant further agrees that it will not permit any unlawful occupation, business or trade to be conducted within the Premises or any use to be made thereof contrary to any law, ordinance or regulation as aforesaid with respect thereto.

14.8 Tenant covenants that, in the event Texas State or Tenant is cited for violating or is threatened in writing for violating any applicable environmental laws for any condition on the Premises coming into existence after the commencement date, where Texas State or Tenant is compelled by citation or threat of citation to perform an environmental cleanup of the Premises by the citing governmental or other authority, Tenant shall cause such cleanup to be performed at Tenant's expense after first consulting with Texas State on the violation and proposed cleanup. Tenant shall initiate and diligently pursue such cleanup to completion, which cleanup shall to the extent reasonably possible be completed before the deadlines imposed under such cleanup by any citing authority.

14.9 If Tenant fails to initiate and diligently pursue to completion any required cleanup before the deadline of a citing authority, Texas State may elect to do perform the required environmental cleanup. If Texas State cancels this Lease but is compelled notwithstanding its termination to perform an environmental cleanup of the Premises, Tenant shall be obligated to reimburse Texas State for the costs of said cleanup upon written demand for the same. Failure to promptly reimburse Texas State is a cost and expense for which the indemnification provisions herein stated shall apply and which indemnification shall survive the expiration or earlier termination of this Lease.

14.10 In furtherance and not in limitation of the other terms of this Lease, Tenant agrees as follows:

(a) The Tenant has complied, and will comply, and cause all employees and any other persons, excluding the Texas State, who may come upon the Premises to comply, with all Environmental Laws. The Tenant has obtained or will obtain all environmental permits and approvals required for operation and use of the Premises in accordance with all Environmental Laws. As used herein, (a) "Environmental Laws" means any federal, state, county, municipal or local law and any amendments thereto (ordinance, rule, regulation, or otherwise), or other requirement of governmental authorities, whether existing on the Commencement Date or enacted during the term of this Lease, relating to the environment, natural resources, public health, safety, or to any environmental hazards, including but not limited to (each as amended), the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. § 9601, et seq. ("CERCLA"), the Solid Waste Disposal Act, 42 U.S.C. § 6901 et seq. ("RCRA"), the Toxic Substances Control Act, 15 U.S.C. § 2601, et seq., the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq., the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq., the Safe Drinking Water Act,

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42 U.S.C. § 300f et seq., the Clean Air Act, 42 U.S.C. § 7401 et seq., the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. § 11001 et seq., the Endangered Species Act, 16 U.S.C. § 1531, et seq.; the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136 et seq.; the Atomic Energy Act, 42 U.S.C. § 2011 et seq., the Occupational Safety and Health Act, 29 U.S.C. § 651 et seq., and any similar State of Texas law or regulation; and (b) "Hazardous Substances" means chloroform, chlorinated hydrocarbons (including but not limited to tetrachloroethylene and its breakdown products), polychlorinated biphenyls ("PCB"), PCB contaminated material (including PCB contaminated electrical equipment as defined in 40 C.F.R. 761.3), lead, mold, flammable explosives, chemicals that pose a risk to human health, safety or the environment, asbestos, asbestos containing materials, radioactive materials, petroleum or its constituents, petroleum fractions, petroleum distillates, and any materials included in the definitions of "solid waste," "hazardous waste," "hazardous materials," "hazardous substances," "extremely hazardous substances," "medical waste," "toxic waste," "toxic materials," "toxic substances," or other formulations that classify substances by harmful properties such as ignitability, corrosivity, carcinogenicity, reactivity, toxicity, and are regulated under the Environmental Laws. The Tenant must adhere to the Texas State's Spill Prevention Control and Countermeasure (SPCC) plan as applicable.

- (b) The Tenant shall promptly notify the Texas State in writing (a) in the event the Tenant or the Premises may be subject to any threatened or pending investigation in respect of the Premises by any governmental agency under any Environmental Law; (b) if Lessee knows or reasonably believes there may be any Hazardous Substance migrating to or from or in or around any part of the Premises, any improvements constructed on the Premises, or the soil, groundwater or soil vapor on or under or impacting the air quality at the Premises (i) at a level of concentration that results in the Hazardous Substance being subject to regulation, control, removal, restriction or liability claims by any governmental agency under any Environmental Law, and (ii) affects the availability to use or the value of the Premises; and (c) of any claim made or threatened by any Person, other than a governmental agency, against the Tenant arising out of or resulting from any Hazardous Substance migrating to or from or being present or released in, under, on or around any part of the Premises, or the soil, groundwater or soil vapor on or under or impacting the air quality at the Premises.
- (c) Texas State, Texas State's members, partners, officers, directors, shareholders, employees and agents and designees (each a "Texas State Party"), shall have the right at any reasonable time during normal business hours to enter and visit the Premises for the purposes of observing the Premises. Any Texas State Party will give the Tenant reasonable notice before entering the Premises. Each Texas State Party will make reasonable efforts to avoid interfering with the use of the Premises by the Tenant and by the employees of the Tenant in

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exercising any rights provided in this Section.

14.11 Texas State shall maintain the right to Stop Work for observed or identified unsafe practices that are not immediately corrected.

15. INSPECTION OF PREMISES:

Texas State and their authorized representatives, shall have the right upon reasonable notice (which shall not be less than twenty-four (24) hours except in the case of an emergency) to enter the Premises at all reasonable business hours (and at all other times in the event of an emergency), for (i) the purpose of inspecting the same or for the purpose of doing any work, and may take all such action thereon as may be necessary or appropriate for any such purpose (but nothing contained in this Lease or otherwise shall create or imply any duty upon the part of Texas State to make any such inspection or do any such work), and (ii) the purpose of showing the Premises to prospective purchasers or tenants. No such entry shall constitute an eviction of Tenant but any such entry shall be done by Texas State in such reasonable manner as to minimize any disruption of Tenant's business operation.

16. QUIET ENJOYMENT:

Texas State warrants that it has the right to enter into this Lease; and that, subject to the terms of this Lease (including, without limitation, Section 23), Tenant, upon paying the Rents and performing the other covenants and agreements to be performed by it hereunder, shall have quiet and peaceful possession of the Premises during the term hereof, free from interruption or disturbance by Texas State or any other person or persons whomsoever.

17. CONFIDENTIALITY:

Neither party desires to jeopardize maintenance of any of its confidential or proprietary information, including trade secrets, as a result of entering into this Lease. Each party thus expects all of its business and technical information and the information of third parties with which it has contractual relationships (any of such information, "Confidential Information") to remain confidential.

18. SUBORDINATION OF LEASE:

This Lease and Tenant's interest therein are subordinate to any liens or encumbrances now or later placed on the Premises by Texas State all advances made under any such liens or encumbrances, the interest payable on any such liens or encumbrances and any and all renewals or extensions of such liens or encumbrances.

19. SURRENDER OF PREMISES:

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At the expiration of the lease term and if an extension is not mutually agreeable between Tenant and Texas State, Tenant must surrender the Premises in reasonable condition. A final closeout inspection of the property shall be conducted by Texas State to identify and damages and for any hazardous waste or chemicals left on site. Repair and removal associated with these items will be charged to Tenant.

20. INDEMNIFICATION:

Tenant hereby indemnifies and agrees to defend, save and hold Texas State harmless from and against any and all claims for injury or death to persons or damage to property occurring within or about the Premises, arising directly or indirectly out of use or occupancy of the Premises or a breach or default by Tenant in the performance of any of its obligations hereunder, unless caused solely by the willful misconduct or negligence of Texas State. Texas State shall not be liable to Tenant for, and Tenant assumes all risk of damage to, personal property (including, without limitation, loss of records kept within the Premises). Tenant further waives any and all claims for injury to Tenant's business or loss of income relating to any such damage or destruction of personal property (including, without limitation, any loss of records). Texas State shall not be liable for any damages arising from any act, omission, or neglect of any tenant in the Building or of any other third party.

21. LEGAL FEES:

Tenant agrees to pay reasonable costs and attorneys' fees incurred by Texas State to enforce any of the terms, conditions and covenants of this Lease.

22. ABANDONMENT:

If at any time during the term of this Lease Tenant abandons the Premises, Texas State may obtain possession of the Premises in the manner provided by law without becoming liable to Tenant for damages or for any payment of any kind whatever.

23. TENANT'S DEFAULT:

In the event Tenant: (a) fails to pay the rental amount when it becomes due; or (b) fails to perform any other promises, duty or obligation herein agreed to by it or imposed upon it by law and such failure continues for a period of thirty (30) days from the date Texas State

provides Tenant with written notice of such failure, then in either of such events and as often as either of them may occur, Texas State, in addition to all other rights and remedies provided by law, may, at its option and with or without notice to Tenant, either (a) terminate this Lease, or (b) terminate Tenant's right to possession of the Premises without terminating this Lease.

24. LIMITATION ON TEXAS STATE'S LIABILITY:

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NOTWITHSTANDING ANYTHING SET FORTH HEREIN OR IN ANY OTHER AGREEMENT BETWEEN TEXAS STATE AND TENANT TO THE CONTRARY: (A) TEXAS STATE SHALL NOT BE LIABLE TO TENANT FOR (AND TENANT ASSUMES ALL RISK OF) LOSS, DAMAGE OR INJURY TO: TENANT'S PERSONAL PROPERTY OF EVERY KIND AND DESCRIPTION, INCLUDING, WITHOUT LIMITATION, TRADE FIXTURES, EQUIPMENT, INVENTORY, SCIENTIFIC RESEARCH, SCIENTIFIC EXPERIMENTS, LABORATORY ANIMALS, PRODUCT, SPECIMENS, SAMPLES, AND/OR SCIENTIFIC, BUSINESS, ACCOUNTING, AND OTHER RECORDS OF EVERY KIND AND DESCRIPTION KEPT AT THE PREMISES AND ANY AND ALL INCOME DERIVED OR DERIVABLE THEREFROM; (B) THERE SHALL BE NO PERSONAL RECOURSE TO TEXAS STATE FOR ANY ACT OR OCCURRENCE IN, ON OR ABOUT THE PREMISES OR THE BUILDING OR ARISING IN ANY WAY UNDER THIS LEASE OR ANY OTHER AGREEMENT BETWEEN TEXAS STATE AND TENANT WITH RESPECT TO THE SUBJECT MATTER HEREOF AND ANY LIABILITY OF TEXAS STATE HEREUNDER SHALL BE STRICTLY LIMITED SOLELY TO TEXAS STATE'S INTEREST IN THE BUILDING OR ANY PROCEEDS FROM SALE OR CONDEMNATION THEREOF AND ANY INSURANCE PROCEEDS PAYABLE IN RESPECT OF TEXAS STATE'S INTEREST IN THE BUILDING OR IN CONNECTION WITH ANY SUCH LOSS; AND (C) IN NO EVENT SHALL ANY PERSONAL LIABILITY BE ASSERTED AGAINST ANY OF TEXAS STATE'S OR TENANT'S OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR CONTRACTORS. UNDER NO CIRCUMSTANCES SHALL TEXAS STATE OR ANY OF TEXAS STATE'S OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR CONTRACTORS BE LIABLE FOR INJURY TO TENANT'S BUSINESS OR FOR ANY LOSS OF INCOME OR PROFIT THEREFROM. TEXAS STATE AND TENANT EACH HEREBY WAIVE ANY CLAIM AGAINST THE OTHER FOR PUNITIVE DAMAGES IN CONNECTION WITH THIS LEASE.

25. NOTICE:

All notices, demands, and requests to be given by either party to the other shall be in writing and shall be sent by United States registered or certified mail, postage prepaid, addressed to the addressees listed below, or at such other place as Texas State or Tenant indicates in writing sent pursuant to this section. Any notice or document required or permitted to be delivered hereunder shall be effective upon receipt.

To Tenant at:

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To Texas State at:

Texas State University
Attention: Dr. Billy Covington
Chief Research Officer
601 University Drive, JCK 489
San Marcos, TX 78666

with a copy to:

Texas State University System
Attention: Dr. Fernando Gomez
Office of General Counsel
Thomas J. Rusk Building
208 E. 10th Street, Suite 600
Austin, Texas 78701

26. CAPACITY TO CONTRACT:

Each party represents and warrants to the other that it is lawfully constituted in accordance with the laws of its state or country of incorporation and that its signatory to this Lease has full power and authority to enter into this Lease. Each of the parties agrees to enter into or execute, or procure the entering into or execution of, any such agreements, assignments, or further assurances, or do such other acts as the other party may reasonably request to carry out the terms and conditions of this Lease.

27. ENTIRE AGREEMENT:

This Lease constitutes the entire understanding of the parties with respect to the leasing of the Premises by Tenant from Texas State, and any amendment hereto must be in writing signed by both parties.

28. BINDING EFFECT:

These covenants and conditions apply to and bind the heirs, legal representatives and assigns of the parties and all covenants are to be construed as conditions of this Lease.

29. GOVERNING LAW; JURISDICTION AND VENUE:

This contract is governed by the laws of the State of Texas. Any claim or dispute arising between the parties regarding the terms or performance of this Agreement will be adjudicated in the state or federal Courts of Texas, and both parties consent to the exclusive jurisdiction of such Courts. Venue will lie only in Hays County, Texas or the U.S. District Court.

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IN TESTIMONY WHEREOF, the parties have executed this lease in duplicate the day and year first above written.

Tenant: _____ **TEXAS STATE UNIVERSITY**

By: _____

Name: _____ Mr. William Nance

Title: _____ Vice President, Finance and Support Services

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EXHIBIT A

Premises

Approximately _____ gross unfinished square feet of office and research space located as illustrated on the attached floor plan drawing of STAR One, a part of STAR Park, 3055 Hunter Road, San Marcos, TX, , and located on real property described on the attached Exhibit A-1, together with rights of use of and subject to the rights of others in and to the Common Areas (TBD).

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EXHIBIT A-1
Land

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EXHIBIT A-2

**Premises and Common Areas
(See attached)**

A Diagram of the Premises and Common Areas is attached hereto as Exhibit A-2.

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EXHIBIT A-3

Texas State Improvements Available to User For the term of this Agreement and the sole property of Texas State upon termination

Exclusive Space:

- All utility systems servicing the Premises including all Texas State and User installed service lines, control systems, meters, connections, conduit, filters, and associated installations:
 - HVAC
 - Chilled Water system
 - DI Water
 - Nitrogen Gas system
 - Compressed Air system
 - Electric Power
 - Water and Wastewater
- All walls, doors, ceiling, fixed cabinets, plumbing or other Texas State and User constructed improvements to the Premises approved pursuant to the terms of this agreement
- All Texas State and User installed data communications wiring and all Texas State owned and installed equipment.

Shared Space and Common Areas:

- All Texas State provided improvements, including, but not limited to:
 - Infrastructure
 - Furnishings
 - Lab equipment (use pursuant to terms of agreement)
 - Copiers, fax machines and other electronic equipment