



Access Agreement for the New Mexico Consortium Biological Laboratory

ARTICLE I. Facilities and Scope of Work

The New Mexico Consortium (NMC) will allow employees, consultants or representatives (hereinafter "Residents") of [COMPANY] (hereinafter "Company") access to the New Mexico Consortium Biological Laboratory (hereinafter "Lab"). Residents will use scientific facilities, equipment, services, information and other materials in the Lab for a defined period of time and purpose.

ARTICLE II. Allocation

NMC agrees to allocate Company access to the Lab as follows:

- ___ Full Access Seats for the period _____ to _____.
- ___ Lab Only Seats for the period _____ to _____.

The current schedule of fees per seat and startup fees per individual are described on our website at <http://newmexicoconsortium.org/about/laboratory/useraccess> and below.

NMC and Company may, by mutual agreement, modify this allocation at any time during the term of this agreement; NMC requires written 90 days notice to change an approved allocation.

ARTICLE III: Terms of Access

Company will prepare a Project Task Statement (PTS) for each proposed Resident for consideration by the NMC. The PTS identifies the individual, the technical scope of the research activity, special requirements, and the period and level of access proposed for the allocation. NMC must approve a PTS for each Resident prior to the start of access to the facility. Any new use or change in use requires a PTS prior to the new activity.

All Residents in the Lab must be NMC Research Fellows and execute attached Research Fellow Agreement with the NMC prior to the start of work.

Residents may not start work in the Lab without the Biolab Work Approval, which further specifies the scope of the activity and acknowledges the completion of required training.

Residents are subject to the administrative and technical supervision and control of the NMC and will comply with all applicable policies of the NMC governing use of the facility. NMC policies govern safety, operating and health-physics procedures, environment protection, protection of information, hours of work and workplace conduct.

In the absence of an employment agreement with the NMC, Residents will not be considered employees of the NMC for any purpose.

The NMC or Company may, without prejudice to any other legal or contractual rights, issue an order stopping all or any part of Resident's activities at the Lab at any time for any reason.

In the event that either party stops an activity supported by this agreement, Company remains financially responsible for the space allocation. Company and NMC agree to work in good faith to promptly establish a new PTS and/or Resident so that the Company receives the full benefit of their allocation.

ARTICLE IV: Information and Biological Materials

The materials and information used in and/or resulting from the performance of this agreement are subject to export control laws. Each party is responsible for its own compliance with such laws. Failure to obtain an export control license or other authority from the U.S. Government may result in criminal liability.

Sensitive Information is information, technology, or equipment that is not releasable to the public. NMC supports activities that involve Sensitive Information by exception. Company must report Sensitive Information involved in activities supported by this agreement in the PTS. Controls related to Sensitive information are a special requirement and are subject to NMC approval through the PTS.

If NMC allows an activity involving Sensitive Information to proceed in the Lab, NMC and Company will establish project specific controls for the protection of the information by mutual agreement in the PTS. NMC applies controls related to Sensitive Information project-by-project and not on the operations of the Lab as a whole.

Intellectual Property shall be governed by a separate agreement between the Company and the NMC.

Shipping certain biomaterials is subject to USDA APHIS regulations. Company is solely responsible for notifying USDA APHIS of regulated shipments and obtaining shipping permits.

ARTICLE V: Cost

NMC publishes current Access Fees to the Lab on the NMC [website](#). Access Fees are based on NMC's actual cost of operations and may change with a 90 days notice. NMC's Base Access Fees as of December 1, 2014 are as follows:

- Full access to the Lab is \$6,666 per month per Seat and includes office and laboratory access.
- Laboratory only access is \$5,000 per month per Seat.

The Base Access Fee does not include use of the greenhouse. Greenhouse space is \$.50/day/square foot of tray space and includes use of head house facilities.

NMC allocates space to Company for an agreed upon number of Seats for an agreed upon period. Company is financially responsible for their allocation whether or not they use it.

NMC will invoice Company 30 days in advance of the start of the allocation. Payment is due monthly and payable on the first day of the month of the allocation.

Company may reimburse NMC for support services that are provided above and beyond those normally or routinely provided by the Lab. Support services above and beyond those normally or routinely provided NMC may include, for example, sample preparation for analysis. Costs associated with Resident support shall be agreed upon in advance and set forth in the PTS.

ARTICLE VI: Services

NMC provides a full-service wet lab facility. NMC's capabilities evolve in response to researcher requirement. NMC maintains a current list of services on its [website](#) at <http://www.newmexicoconsortium.org/about/laboratory/useraccess>. Specific services are defined and agreed to in the PTS for each task and Resident.

ARTICLE VII: Access to the NMC Network

NMC provides limited Internet access to all visitors on an open guest network. NMC also provides Residents access to a private network with higher bandwidth Internet service and printer/scanner capabilities. Any computer that will connect to NMC's private networks must be registered with the NMC; NMC will require identifying information like MAC addresses and basic system information. Residents must follow the NMC Internet access and other workplace policies specified in the attached Research Fellow Agreement.

NMC provides full support for Internet and printing services on the private network if Company gives NMC root/administrative access to the computers they provide. If Company does not give the NMC root/administrative access, then NMC provides Company with the information necessary to access NMC printing and Internet services. NMC does not provide support for computers if it does not have root/administrative access.

Residents may require special computing services like computing resources tied to analytical equipment or extremely high bandwidth connections. The PTS should include any such special requirements. NMC approves computing requirements beyond the basic services described above prior to the start of work and on a case-by-case basis. Approval depends on research priorities and available resources.

ARTICLE VIII: Company Provided Equipment

Residents may be permitted by the NMC to furnish equipment, tooling, or test apparatus necessary to assist in the performance of their own work at the Lab. Unless otherwise agreed through a Property Loan agreement or other mechanism, such items shall remain the responsibility of Company. Company shall be responsible for maintenance of such equipment. All such equipment must be enumerated in a PTS for each activity and approved by the NMC prior to transfer to the Lab.

NMC will have no responsibility for Company property in the Lab other than loss or damage caused by willful misconduct or gross negligence of NMC employees.

Resident will remove all equipment furnished by Company within 60 days of the termination of residency. Any property left at the Lab after 60 days becomes the property of the NMC.

Company may loan property to the NMC to be managed by the NMC for the benefit of all residents in the Lab. The maintenance, liability, inventory and disposal of such equipment shall be governed by a separate Property Loan agreement between the NMC and Company and the NMC's property management policies.

ARTICLE IX: Company Provided Materials

Residents may bring materials and supplies to the NMC for their own use per the terms of an approved PTS. NMC may require certain materials to be managed per NMC procedures and controls; NMC's requirements will be specified in the PTS for each activity. Residents are not permitted to bring materials and supplies into the lab that are not part of an approved PTS.

Company acknowledges that any materials supplied for work in the Lab may be damaged, consumed or lost. Materials supplied by Company and remaining after performance of the work or analysis will be removed by Company and at Company's expense.

ARTICLE X: Hosting Privileges

The NMC encourages Residents to invite collaborators for short-term visits the Lab subject to NMC policies. Collaborative visits require prior approval by the NMC. NMC may approve visits of up to one

month depending on research priorities and available resources. Visitors who will use the laboratory require an approved host's PTS addendum, training per NMC policies, and a Biolab Work Approval.

ARTICLE XI: Indemnification

To the extent permitted by US Federal and NM State law, Company hereby agrees to indemnify and hold harmless NMC, their officers, agents and employees from any and all liability, claims, damages, costs and expenses, including attorney fees, for injury to or death of persons, or damage to, loss, or destruction of property, to the extent such liability, claims, or damages is caused by or contributed to by the negligence or intentional misconduct of NMC or its employees or representatives during the performance of the work under this Agreement.

Company shall provide the NMC with a Certificate of Insurance for general liability with minimum limits of \$2 million per occurrence and \$4 million aggregate. NMC, Inc. must be named as an Additional Insured on the Certificate of Insurance for general liability. Certificate should also include workers compensation, including employer's liability with limits of \$500,000 per accident.

ARTICLE XII: Term

This Agreement shall be effective from _____, 20__ to _____, 20___. This Agreement may be extended annually for an additional ____ years in the absence of prior written objection to such renewal by either Party.

By:

Katharine Chartrand
Executive Director
New Mexico Consortium

By:

[COMPANY]