

Core Research Facilities Master Agreement

University of Massachusetts Amherst
Core Research Facilities

UMass Contact: Andrew Vinard
Telephone: 413-577-4582
Email: avinard@umass.edu

Client Name:
Address:
C/S/Z:
Client Contact:
Telephone:
Email:

Introduction

The University of Massachusetts Amherst (“UMass”) has highly specialized research expertise, advanced equipment and other resources that provide UMass with research and analytical capabilities that are not widely available. These specialized capabilities are organized into a number of “core” research facilities, each having specialized equipment, resources and facilities staff. UMass makes the capabilities of these core facilities available to other institutions and companies, in furtherance of its public service, research, educational and economic development missions. UMass does so in a manner that is consistent with its status as a tax-exempt institution of higher education.

The Client has expressed interest in using the services of the UMass core research facilities on an ongoing basis, and UMass has offered to enter into this Master Agreement so that use of the core facilities in individual instances can be greatly simplified.

The Agreement

This Agreement, effective as of _____, 2019 (“Effective Date”), provides the terms under which UMass agrees to provide certain Core Research Facilities Services (“CRFS”) to _____ (“Client”).

1. Orders. The Client can order specific tests, analyses and/or services using the specific Order forms provided by each of the CRFS (“Order”) attached as Exhibit A.
2. Order Management. The Technical Contact for the relevant CRFS will acknowledge receipt and acceptance of the Order, and will provide an estimate of when the work will be completed. In some cases, Order acknowledgement and acceptance may be delayed to complete the export control review described in Section 18 below.
3. Contacts. The CRFS Technical Contact and the Client Technical Contact named in the Order will consult with one another in the course of the work to best meet the Client’s needs. The Client may contact the CRFS Business Manager regarding any billing, service or administrative matters. Each party will notify the other party of any change in Contact.
4. Materials. Where the Client is to provide UMass with materials for testing or other use, these will be listed in the Order (“Materials”). Client remains at all times responsible for the risk of loss to Materials. The Client will provide Materials in amounts reasonably sufficient for the work to be done, and will also provide UMass with information on the stability and toxicity of the Materials, and instructions on their proper storage and safe handling. If available, export control classification and material safety information will be provided (in the form of a Material Safety Data Sheet or MSDS). The Client will transport and deliver the Materials in compliance with all applicable laws and regulations. Upon completion of the Order, UMass will dispose of any unused Materials or return them to the Client, either of which shall be done at Client’s request and at Client’s expense.

5. Reports. If applicable, upon completion of an Order, UMass will furnish a report containing the test results, image analyses, etc. as specified in the Order. All data and test results contained in the report are the property of Client.
6. Payments. Client agrees to pay the service fees set forth in the Order. All payments are due no later than thirty (30) days from receipt of the invoice. Payments will be made in U.S. Dollars and will be net of taxes, duties or withholding of any kind. Payments will be made in accordance with the payment instructions provided in the invoice.
7. Intellectual Property. Each party will retain ownership of its own intellectual property. UMass will not claim ownership of any rights to Materials provided by the Client and recognizes that the Client will own intellectual property rights in the data and results from the services provided. UMass will not retain data and results once provided to Client, but will delete or destroy them as applicable. UMass will retain all rights in any new technologies, methodologies, processes and procedures that may be developed by UMass personnel that do not rely on or encompass Materials.
8. Publications. UMass, in keeping with its academic mission, may publish as it sees fit regarding new technologies, methodologies, processes and procedures that may be developed by UMass personnel. However, UMass will not have the right to publish Client's data and results arising from an Order, unless the Client consents in writing to such publication in advance.
9. Confidentiality. Client will not disclose confidential information to UMass under this Agreement. Notwithstanding the foregoing, any information regarding the Materials, the data and results from work hereunder shall be confidential information of Client which UMass shall hold in confidence.
10. Safety Procedures. If an employee or agent of the Client visits or is present on any UMass premises or facilities ("Visitor") as an observer, the Client agrees they will observe and obey all applicable UMass policies and procedures as instructed by UMass. If Visitor is to perform any work or intends to use any equipment in the facilities, then Visitor must complete and comply with the Core Facility Visitor Form attached as Exhibit B. Client acknowledges and agrees that UMass may refuse access to potentially hazardous facilities if such Visitor is unwilling or unable to comply.
11. Use of Premises. Client accepts complete liability for all acts and omissions of any Visitor, whether such acts and omissions are negligent, grossly negligent, or intentional, and Client agrees to defend, indemnify, and hold harmless the Indemnitees to the full extent described in Section 14 below. Client further agrees that the Visitor will be covered by Client's workers' compensation or other insurance in compliance with applicable Federal and state laws, including liability insurance with limits of at least one million dollars (\$1,000,000) per occurrence. The Client agrees that such insurance will be primary and that the UMass's insurance will be non-contributing. The Client agrees to provide proof of such insurance upon request.
12. Representation. UMass represents that it will carry out Orders in a manner consistent with academic standards. THE FOREGOING REPRESENTATION IS IN LIEU OF ALL OTHER REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT OF A PATENT OR OTHER INTELLECTUAL PROPERTY RIGHT.
13. Limitation of Liability. IN NO EVENT WILL UMASS BE LIABLE FOR ANY LOST PROFITS, LOSS OF USE, INDIRECT, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT, EVEN IF UMASS HAS BEEN ADVISED OF THE

POSSIBILITY OF THOSE DAMAGES. NOTWITHSTANDING THE FOREGOING, IN NO EVENT WILL THE LIABILITY OF UMASS ARISING OUT OF THIS AGREEMENT EXCEED THE AMOUNTS ACTUALLY PAID UNDER THE APPLICABLE ORDER. If UMass commits a breach of the representation set forth in Section 12, its sole responsibility, and Client's sole remedy, shall be for UMass to repeat the ordered service.

14. Indemnification. Client will defend, indemnify, and hold harmless UMass and its trustees, officers, faculty, students, employees, and agents and their respective successors, heirs and assigns (the "Indemnitee") against any liability, damage, injury, loss, or expense (including reasonable attorneys' fees and expenses of litigation) incurred by or imposed upon Indemnitee in connection with any claims, suits, actions, demands or judgments ("Claims") arising out of or resulting from the activities to be carried out pursuant to this Agreement or the manufacture, distribution, use, sale or other disposition by the Client, or its distributors or customers, of any Materials, data, results or reports that are the subject of an Order, including without limitation actions in the form of tort, warranty, or strict liability and regardless of whether the action has any factual basis.
15. Term; Renewals. Unless terminated earlier by a party under Section 16 below, this Agreement will begin on the Effective Date and will continue for a period of 100 calendar days ("Term"). The Term will automatically renew for successive 100 calendar day periods unless a party objects by written notice to the other party before thirty (30) days of the expiration of the then-current Term. However, this Agreement will not automatically extend beyond the date that is two (2) years from the Effective Date, unless the parties so agree by written amendment to this Agreement.
16. Termination. If either party defaults in the performance of any of its material obligations under this Agreement, the non-defaulting party may give written notice of the default to the defaulting party. Unless the default is corrected within thirty (30) days after receipt of the notice, the notifying party may terminate this Agreement immediately upon written notice. Further, Client may terminate an Order at any time upon written notice to UMass and agrees to pay UMass for any expenses incurred prior to the notice of termination.
17. Survival. The obligations of the parties under Sections 4, 6, 7, 8, 9, 11, 12, 13, 14, 17, 19, 20 and 22 survive the expiration or termination of this Agreement.
18. Export Control. The parties acknowledge that they are obligated to comply with United States Export Control Laws and Regulations, including, but not limited to, the Export Administration Regulations and the International Traffic in Arms Regulations. Client shall notify UMass in advance if any Materials to be provided are export-controlled, thereby allowing UMass's Office of Research Compliance (ORC) to take any necessary access-control precautions. The ORC export control officer will communicate with the Client Technical Contact as needed, and may contact the Client's export control officer, if any, to make arrangements for receipt of export-controlled Materials. These arrangements must be completed prior to receipt of export-controlled Materials or technical data, and acceptance of the Order will be contingent on implementation of these arrangements.
19. Use of Names. Neither party may use the name or logo of the other party in any advertising or product promotional materials. Except as otherwise required by applicable laws, rules or regulations, each party agrees that it will not use the name or logo of the other party or of any employee of the other party in any press release or public announcement without the prior written approval of the other party. With permission, the Client agrees to credit the use of the UMass facilities in any related publication.
20. Governing Law. This Agreement is governed by, construed, and interpreted in accordance with the laws of the Commonwealth of Massachusetts.
21. Status. In the completion of all Orders hereunder, UMass shall be deemed to be and shall be an independent contractor.

22. Entire Agreement. This Agreement, together with any Orders and the Core Research Facilities Visitor Form, if applicable, constitutes the entire Agreement between the parties with respect to the core research facility services that are the subject hereof, and may be modified only by a written instrument signed by both parties that references this Agreement. Without limiting the foregoing, this Agreement shall not be amended or superseded by terms or conditions on any purchase order or other business form used by the Client. In the event of a conflict between the terms of this Agreement, any Order or form, the terms of this Agreement control.

Each party has executed this Agreement by providing the signature of its duly authorized representative below.

Client

University of Massachusetts Amherst

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

CORE RESEARCH FACILITIES SERVICES ORDER

Order # _____

Please complete and return to [@umass.edu](mailto:ials@umass.edu), identifying the relevant lab in the subject line of your email. Email approval is accepted.

Core Facility



Type of Organization	Industry	Master Agreement On File?	Yes
	Academic		No
	Other		

Client Organization

Billing Address

City, State, Zip

Name , Email, Telephone

Massachusetts Voucher Program Eligibility: 50 or Fewer Full time Employees:	
# of FTE for Client Org:	Headquartered in MA? Yes No

Business Contact

Technical Contact

Requestor's Reference #

Purchase Order #

When are analytical results needed?

Signature of Responsible

Authority for Client _____

Date signed _____

Brief description of SERVICES requested. Include aim of study, expected data/deliverables, and preferred analytical method.

Description of and instructions for MATERIALS provided. Include number/amounts of samples/data, and information about form, toxicity, other characteristics, and preferred manner of disposal.

If needed, include an Addendum containing additional information pertaining to Services or Materials.

Additional Information:

- Are the materials Export Controlled? Yes No Unsure
- Are the materials a Biohazard? Yes No If Yes, complete the Biohazard Assessment form.
- Does the Service involve Human Subjects? Yes No If Yes, attach the IRB approval.

Basis of Service Fee Estimate

For UMass Amherst use only

	Item/Description	Unit Price	Quantity	Total
1				
2				
3				
4				
5				
	TOTAL ESTIMATED SERVICE FEES			

Technical Contact

Actual Service Fees

Unit Price	Quantity	Total
TOTAL ACTUAL SERVICE FEES		

Expected Start Date:

Expected Completion Date :

GENERAL TERMS AND CONDITIONS: The laboratory services and results are performed and delivered without warranty of any kind, either express or implied, including but not limited to any warranty of fitness for a particular purpose. The entire risk of Client's use of the results shall be solely with the Client. Client represents and warrants that it has the full right to provide Materials to UMass for the purpose of Services, and that it has obtained any necessary informed consent, or authorization, required in order to collect the Materials and provide them to Core Facilities for the purpose of the Services. Core Facilities shall use the Materials solely for the purpose of the Services and shall not further distribute the Materials to any third party. All right, title and interest in and to the Materials shall remain vested solely with Client and no right, title or interest therein is transferred or granted to UMass under this Order. Unless otherwise advised by Client, Materials will be destroyed or disposed in accordance to relevant UMass policy. UMass shall have no rights in any new inventions, developments, or discoveries made by Client as a result of Client's use of the results. The results of the services, including but not limited to data, data analysis and chemical compositions of Materials, shall be and remain the property of the Client. UMass retains all rights in services, including new technologies, methodologies, processes and procedures, while performing services for Client. Neither party shall disclose confidential information to the other party. Client shall indemnify and hold UMass and the employees, faculty, students and researchers of UMass harmless from and against any and all liability, damages, losses and expenses arising out of or in connection with performance of any Services for Client. If Client has signed a UMass Amherst Core Research Facilities Master Agreement and the agreement is in effect, the terms and conditions of the master agreement are incorporated herein. By signing this document, client agrees it has adequate funds to complete the requested work, and is committed to paying any for all completed services. By entering the total number of Full Time Equivalent (FTE) Employees above, the Client represents that it has accurately and truthfully reported its number of FTEs. By selecting "Yes" in response to "Headquartered in MA," the Client represents that it is headquartered in Massachusetts and is registered to do business in Massachusetts with the Secretary of State.

Approval for Massachusetts State Voucher program

Signature of UMass Approving Authority :

Approved Voucher Amount: \$

Exhibit B

Core Research Facilities Visitor Form

Visitor Name:	Core Facility:
Client Name:	Location:
Address:	Director:
C/S/Z:	Telephone:
Telephone:	Email:
Email:	

In addition to the terms and conditions of the Core Research Facilities Master Agreement dated _____, which are incorporated herein by reference, these additional terms and conditions apply when an officer, employee or other representative or agent of Client visits any UMass premises or facilities to perform work or otherwise use facility equipment. The Client and Visitor must complete this form. Use of the premises, facilities or equipment will be at the sole discretion of the Core Research Facility Director or other authorized UMass personnel (“Director”).

Safety and Other Training. Client and Visitor agree that Visitor shall complete all UMass training applicable to the subject facilities and/or equipment before use. This training may include, by way of example, courses offered by UMass’s Environmental Health & Safety Department (EH&S) in Biosafety, Lab Safety, Laser Safety, Radiation Safety, etc. At a minimum, Visitor shall complete the Lab Safety training course. Depending on the nature of the work to be performed, other safety courses may be required. The Director will advise on safety course arrangements. Additional information can be found at: <http://ehs.umass.edu/trainings>.

If the Visitor’s work involves use of Core Research Facilities equipment, the Visitor shall receive training from qualified UMass personnel on that equipment. The Director will decide on the type and amount of training required and when the Visitor is adequately prepared to use the equipment with or without supervision. The Visitor may only use equipment on which he/she has been trained and received approval.

Materials. Should any Materials be of a hazardous or similar nature, the Director will advise on EH&S transportation, handling and disposal requirements.

Access: The Visitor shall have access to the subject Core Research Facilities during normal UMass business hours. Access at other times may be made by specific arrangement and with the approval of the Director.

Visitor	Core Research Facility Director
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____