

LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Lease") is made and entered into this ____ day of _____, 20__ A.D. between _____, (the "Landlord"), and THE FLORIDA INTERNATIONAL UNIVERSITY BOARD OF TRUSTEES, on behalf of Florida International University (the "Tenant"). Landlord's Federal Identification Number (FEIID or SS) is _____.

WITNESSETH:

I. DEMISE/PREMISES

The Landlord hereby leases to Tenant and Tenant hereby leases from Landlord, on the terms and conditions hereinafter set out, those certain premises in _____ (City) _____ (County) Florida, described as follows:

(the "Premises").

The Premises contain _____ square feet of net rentable space, measured in accordance with the State University System's Standard Method of Space Measurement at the rate of \$_____ per square foot per year. This Lease is intended to be a gross lease.

(If space is not sufficient attach separate sheet containing legal description of premises.)

II. TERM

TO HAVE AND TO HOLD the Premises for an original term commencing on the day of _____, 20__ to and including the ____ day of _____, 20__. **[IF APPLICABLE: The Landlord hereby grants the Tenant _____ option(s) to renew this Lease for a period of _____ years [each]. If the Tenant desires to exercise [this/these] option(s), it shall so notify the Landlord no later than thirty (30) days prior to the date the original term or applicable renewal term expires.]** For purposes hereof, the "Term" means the original term and all renewal terms.

III. RENTALS

Tenant agrees to pay to the Landlord the sum of _____ (_____) per month as rent during the Term. The rent for any partial month shall be prorated on the basis of a thirty (30) day month. The rent shall be payable monthly, in arrears, pursuant to Section 215.422, Florida Statutes. The rent shall be paid to the Landlord at: _____.

IV. SALES TAXES

Landlord shall pay any federal, state or local sales or other taxes upon the rents payable hereunder.

V. HEATING, AIR-CONDITIONING, JANITORIAL AND PEST CONTROL SERVICES

1. Landlord agrees to furnish to the Tenant heating and air conditioning equipment and maintain it in satisfactory operating condition at all times for the Premises in accordance with applicable laws, including those specifically applicable to Tenant.

2. The Landlord agrees to furnish, at its expense, janitorial services, daily, Monday through Friday, and all necessary janitorial supplies for the Premises.

3. The Landlord agrees to furnish, at its expense, pest control services for the Premises during the Term.

VI. LIGHT FIXTURES

1.a. The Landlord agrees to install in the Premises light fixtures for the use of the Tenant.

b. The Landlord shall be responsible for replacement of all bulbs, lamps, tubes and starters used in such fixtures for the purpose of furnishing light.

2. The Landlord represents and warrants that the lighting levels maintained within the Premises do not exceed the following levels: 10 foot-candles in hall and corridors; 30 foot candles in other public areas; 50 foot-candles in office, conference rooms, etc.; set forth in the State Energy Management Plan, Volume II, Section F, as may be amended from time to time.

VII. MAINTENANCE AND REPAIRS

At Landlord's expense, Landlord shall maintain, repair and replace as necessary, all portions of the Premises, including, but not limited to, the roof, foundations, floor slabs, columns, exterior walls, imbedded utility lines, gutters, downspouts and subfloors, HVAC, parking lot, driveways, sidewalks, carpeting, paint and other interior elements, so as to keep the same in good order and repair throughout the Term.

VIII. UTILITIES

The Landlord will promptly pay all gas, water, power and electric light rates or charges which may become payable during the Term for the gas, water and electricity used by the Tenant on the Premises. In the event any utility is disrupted to such an extent that Tenant cannot, in its reasonable discretion, operate for business for a period of more than twenty-four (24) hours, the rent payable under this Lease shall abate during the remaining period of disruption. If the Premises contain 5,000 net square feet or more, Landlord will provide Tenant, in a form and manner agreed upon, timely and accurate data on Tenant's monthly consumption or use of electricity, natural gas, LP gas and/or fuel oil, as appropriate, pursuant to Section 255.257, Florida Statutes.

IX. COMPLIANCE WITH LAW

The Landlord represents and warrants that the Premises comply with all laws, rules and regulations applicable thereto, including, but not limited to, environmental compliance, fire safety, life safety and disabled access standards applicable to University owned or leased buildings. In addition, Landlord shall be responsible for causing the Premises to comply with all hereinafter enacted laws, rules and regulations applicable thereto. The Landlord agrees that the Premises shall be available for inspection by the State Fire Marshall or other applicable authority, prior to occupancy by the Tenant, and at any reasonable time thereafter.

X. ALTERATIONS

The Tenant shall not make any structural alterations or alterations to the Premises, without having first obtained Landlord's written consent, which consent will not be unreasonably withheld, qualified or delayed.

XI. CASUALTY

- 1.** In the event the Premises are damaged or destroyed by fire, lightening, storm or other casualty, the Landlord shall, within ninety (90) days following the casualty, repair or rebuild the Premises to their condition immediately prior to such casualty, at its own cost and expense.
- 2.** Notwithstanding anything herein to the contrary, in the following events, the Landlord shall have the right to terminate this Lease, effective as of the date of the casualty, by written notice to the Tenant within sixty (60) days following such casualty: (i) the Premises are substantially damaged (i.e. repair costs exceed \$100,000.00) within the last one hundred eighty (180) days of the original term and the Tenant does not exercise its renewal option; or (ii) the Premises are substantially damaged (i.e., repair costs exceed \$100,000.00) and the damage is not covered by the Landlord's insurance.
- 3.** Notwithstanding anything herein to the contrary, in any of the following events, the Tenant shall have the right to terminate this Lease, effective as of the date of the casualty: (i) the Premises are damaged to an extent that repair cannot be or is not completed within ninety (90) days following the casualty; (ii) the Premises are substantially damaged (i.e., repair costs exceed \$100,000.00) within the last one hundred eighty (180) days of the then current term; or (iii) the common areas, if any, are damaged resulting in a material interference with the operations of or access to the Tenant's business, and repair cannot be or is not completed within ninety (90) days following the casualty.
- 4.** In the event this Lease is not terminated, the rent shall be reduced during the period of repair or restoration to the extent the Premises are rendered unusable by the Tenant, in the Tenant's reasonable judgment, in the conduct of its business. Such abatement shall continue until the earlier to occur of (a) the date the Tenant reopens for business; or (b) thirty (30) calendar days after substantial completion of Landlord's repair or restoration work.
- 5.** The Landlord shall provide for fire protection during the Term in accordance with the fire safety standards of the authority having jurisdiction over this area which may include but not be limited to the State Fire Marshal. The Landlord shall be responsible for maintenance and repair of all fire protection equipment necessary to conform to the requirements of the applicable Building and Fire Safety Codes.

XII. TAKING

- 1.** If by any lawful authority through condemnation or under the power of eminent domain: (a) the whole of the Premises shall be taken; (b) less than the entire Premises shall be taken, but the remainder of the Premises are not, in the Tenant's sole judgment, fit for the Tenant to carry on its business therein; (c) the Tenant determines, in its reasonable judgment, that after such taking adequate parking space will not be available near the Premises; (d) there is any substantial impairment of ingress or egress from or to the Premises; or (e) all or any portion of the common areas, if any, shall be taken resulting in a material interference with the operations of the Tenant's business, then in any such event, the Tenant may terminate this Lease, effective as of the date of such taking, and the rent shall be prorated as of the date of such termination.
- 2.** Unless this Lease is canceled as above provided, commencing with the date possession is acquired by the condemning authority the rent shall be reduced in proportion to the ratio that the value of the Premises immediately following such taking bears to the value of the Premises immediately prior to such taking, and Landlord shall restore the Premises, at Landlord's cost and expense, to a complete architectural unit. During such restoration the rent shall be abated to the extent the Premises are rendered untenable.

3. All compensation awarded or paid in any such eminent domain proceeding shall belong to and be the property of the Landlord without any participation by the Tenant except that nothing contained herein shall preclude the Tenant from prosecuting any claim directly against the condemning authority in such eminent domain proceeding for the value of its leasehold estate (if the Lease terminates), its relocation costs, its unamortized leasehold improvements and trade fixtures, loss of business and the like.

XIII. EXPIRATION OF TERM

At the expiration of the Term the Tenant will peaceably yield up to the Landlord the Premises in good order and condition, ordinary wear and tear, damage from casualty and condemnation excepted. It is understood and agreed between the parties that the Tenant shall have the right to remove from the Premises all fixtures, machinery, equipment, appurtenances, appliances and other personal property placed or installed on the Premises by Tenant. The Tenant shall repair any damage caused by such removal.

XIV. SUBLETTING AND ASSIGNMENT

Tenant shall not assign or transfer its interest in this Lease or sublet the Premises without Landlord's consent, which shall not be unreasonably withheld, qualified or delayed.

XV. ESTOPPEL CERTIFICATES

Within twenty (20) days after request by either party, but no more frequently than once per calendar year, the other party agrees to deliver a certificate certifying (a) the time periods through which rent has been paid; (b) that this Lease is in full force and effect; (c) that there are no defenses or offsets to its obligations hereunder (or stating those that are claimed); and (d) as to such other matters as the first party may reasonably request. Tenant shall further, in the event of any foreclosure, attorn to the purchaser as a Landlord under this Lease.

XVI. SUBORDINATION/NON-DISTURBANCE

This Lease shall be subject and subordinate to any mortgages, or ground leases now or hereafter constituting a lien upon the Premises from time to time on the condition that the holder of such mortgage or ground lease shall agree in writing that in the event of foreclosure of such mortgage or termination of such ground lease, Tenant shall remain undisturbed under this Lease so long as Tenant complies with all of Tenant's obligations hereunder. **Landlord represents and warrants to Tenant that there is no existing financing secured by the Premises.**

XVII. ACKNOWLEDGMENT OF ASSIGNMENT

The Tenant, upon the request of the Landlord, shall execute an acknowledgment or acknowledgments, or any assignment, or assignments, of rentals and profits made by the Landlord to any third person, firm or corporation, provided that the Landlord will not make such request unless required to do so by the Mortgagee under a mortgage, or mortgages, executed by the Landlord. This provision shall be subject to the requirement that Tenant shall remain undisturbed under this Lease.

XVIII. USE OF PREMISES

The Tenant may use the Premises for any lawful purpose.

XIX. HAZARDOUS MATERIAL

Landlord represents and warrants to Tenant that to the best knowledge of Landlord, the Premises are free and clear of Hazardous Materials. For the purposes of this Lease, "Hazardous Materials" means substances regulated under federal law or by the laws of the state or municipality, in which the Premises are located, and including but not limited to asbestos, and petroleum-related products. Tenant shall not be responsible for any

Hazardous Materials located on the Premises at the time Landlord delivers possession of the Premises to Tenant.

XX. RIGHT OF LANDLORD TO INSPECT

The Landlord, upon reasonable prior notice, may enter into and upon the Premises during regular business hours for the purposes of inspecting the same and making any repairs as it is required to make under this Lease.

XXI. BREACH

1. If the Tenant shall fail to perform or observe any covenant herein contained which is on the Tenant's part is to be performed, and such failure shall continue for a period of thirty (30) days after the receipt of written notice thereof from the Landlord to the Tenant, then the Landlord lawfully may seek and enforce any lawful remedies to which it may be entitled.

2. If Landlord fails to perform any of its obligations under this Lease, within thirty (30) days after receipt of notice of such failure from Tenant (except in the event of an emergency, in which case only reasonable notice shall be required), then Tenant may, at Tenant's option: (1) cure such violation in Landlord's behalf and offset the cost thereof against the rent; or (2) seek and enforce any other lawful remedies to which it may be entitled.

XXII. TAXES AND INSURANCE

The Landlord shall pay all real estate taxes, public charges and assessments assessed or imposed upon the Premises. The Landlord shall carry property insurance on the Premises with Causes of Loss-Special Form coverage at full replacement value and commercial general liability insurance. Landlord's insurer shall be licensed to do business in the State of Florida and have a minimum A.M. Best's financial rating of A-/VII. Landlord shall provide Tenant with the appropriate insurance certificates confirming the existence of all required insurance coverage. The Landlord agrees to defend and indemnify the Tenant for losses that occur in the common area of the Premises owned/controlled by the Landlord. The Landlord hereby waives all rights to recover against the Tenant for any loss or damage arising from any cause that would be covered by the insurance required by this Lease or actually carried by the Landlord. The Landlord will cause its insurer to issue appropriate waiver of subrogation rights endorsements and supply the Tenant with appropriate information from its insurer confirming such waiver to be in effect. The Landlord will reimburse the Tenant at replacement value for damages to Tenant property as a result of the Landlord's negligence.

XXIII. AVAILABILITY OF FUNDS

The obligations of the Tenant under this Lease are subject to the availability of funds lawfully appropriated annually for its purposes by the Legislature of the State of Florida and/or the allotment of funds through contractor or grant programs.

XXIV. NOT CONSENT TO SUE

The provisions, terms, or conditions of this Lease shall not be construed as a consent of the State of Florida to be sued because of said leasehold.

XXV. NO CONSTRUCTION AGAINST PREPARER

This Lease has been prepared by Tenant and reviewed by Landlord. Tenant and Landlord believe that this Lease is the product of their efforts, that it expresses their agreement, and that it should not be interpreted in favor of either Tenant or Landlord or against either Tenant or Landlord merely because of their efforts in preparing it.

XXVI. RIGHT TO TERMINATE

The Tenant shall have the right to terminate, without penalty, this lease in the event a State-owned building becomes available to the Tenant for occupancy during the Term for the purposes for which this space is being leased, upon giving thirty (30) days written notice to the Landlord.

XXVII. UNILATERAL CANCELLATION

This Lease may be unilaterally cancelled at any time by Tenant for refusal by Landlord to allow public access to all documents, papers, letters or other materials subject to the provisions of Chapter 119, Florida Statutes, and made or received by Landlord in conjunction with this Lease.

XXVIII. NOTICES AND INVOICES

All notices required to be served upon the Landlord shall be served by registered or certified mail return receipt requested or hand-delivery with evidence of receipt thereof at:

Street City State Zip

and all notices required to be served on the Tenant shall be served by registered or certified mail, return receipt requested or by hand-delivery with evidence of receipt thereof at:

Florida International University – Purchasing Services

11200 S.W. 8th Street, CSC 411 Miami, FL 33199

Street City State Zip

Invoices, in triplicate, shall be submitted monthly to:

XXIX. COVENANT OF QUIET ENJOYMENT

Landlord warrants that if Tenant shall pay all rent as provided herein to be paid by Tenant and perform all the covenants of the Lease to be performed by Tenant, then Tenant shall, during the Term hereof, freely, peaceably and quietly occupy and enjoy the full possession of the Premises, together with all appurtenances and all other rights and privileges herein granted, without hindrance or interruption by Landlord or any other person(s). Notwithstanding anything to the contrary contained herein, in the event Tenant’s quiet enjoyment of the Premises is disturbed, then, in addition to any other remedies available to Tenant hereunder or at law or in equity, Tenant shall be entitled to an equitable proration of the rent Tenant is required to pay hereunder according to the duration of the disturbance.

XXX. HOLDOVER

If Tenant fails to surrender the possession of the Premises at the expiration or termination of this Lease, Tenant shall pay, as holdover rent, an amount equal to the rent prorated for each day that Tenant fails to surrender possession of the Premises, and this Lease shall thereafter continue on a month-to-month basis, terminable by either party upon thirty (30) days’ notice.

XXXI. GOVERNING LAW

This Lease shall be construed according to the laws of the State of Florida.

XXXII. SHORT FORM LEASE

Each party hereto agrees, on the request of the other party and at the expense of the requesting party, to execute a short form or memorandum of lease in recordable form.

XXXIII. ENTIRE AGREEMENT

This Lease, and any exhibits attached hereto contain the entire agreement between the parties, all previous or contemporaneous agreements being merged herein and waived hereby, and no modifications hereof or assent or consent of either party to any waiver of any part of this Lease, in spirit or letter, shall be deemed as given or made unless the same is done in writing after the date hereof.

XXXIV. WAIVER OF DEFAULTS

The waiver by the Landlord or the Tenant of any breach of this Lease shall not be construed as a waiver of any subsequent breach of any duty or covenant imposed by this Lease.

XXXV. RADON GAS DISCLOSURE

Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from the Miami-Dade County, Florida public health unit.

[Signatures on Following Page]

IN WITNESS WHEREOF, the parties hereto have hereunto excluded this instrument for the purpose herein expressed, the day and year above written.

ORIGINAL SIGNATURE REQUESTED ON ALL COPIES

If Landlord is an individual:	
Signed, sealed and Delivered in the presence of:	LANDLORD:
_____	By: _____
(seal) WITNESS	Print Name: _____
_____	Date: _____
(seal) WITNESS	

If Landlord is a corporation:	
Signed, sealed and delivered in the presence of:	NAME OF CORPORATION:
_____	_____
(Corp. seal) WITNESS	By: _____
_____	Title: _____
_____	Date: _____
_____	Attest: _____
WITNESS	ITS SECRETARY

Signed, sealed and delivered in the presence of:	
_____	TENANT: THE FLORIDA INTERNATIONAL UNIVERSITY BOARD OF TRUSTEES
_____	By: _____
WITNESS	UNIVERSITY PRESIDENT OR AUTHORIZED DESIGNEE
_____	Date: _____
WITNESS	

APPROVED AS TO FORM AND LEGALITY SUBJECT ONLY TO FULL AND PROPER EXECUTION BY THE PARTIES AND SUBJECT TO COMPLIANCE WITH APPLICABLE FIU REGULATIONS FOR LEASES OF 5,000 SQUARE FEET OR MORE. OFFICE OF THE GENERAL COUNSEL FLORIDA INTERNATIONAL UNIVERSITY

BY: _____
APPROVAL DATE: _____