

# PART-TIME SPACE OCCUPANCY LICENSE AGREEMENT

## PART-TIME SPACE OCCUPANCY LICENSE AGREEMENT

This **PART-TIME SPACE OCCUPANCY LICENSE AGREEMENT** (this "Agreement"), made and entered into this \_\_\_ day of \_\_\_\_\_, 2020 ("Effective Date") by and between UNIVERSITY OF MISSISSIPPI MEDICAL CENTER, a Mississippi governmental entity ("Licensor") and \_\_\_\_\_, a student or graduate of \_\_\_\_\_ ("Licensee").

### RECITALS

WHEREAS, Licensor is **Owner** of certain clinical space located in the School of Dentistry on the campus of the University of Mississippi Medical Center located at 2500 N. State Street, Jackson, Mississippi 39216 (the "Building").

WHEREAS, Licensor hereby grants to Licensee and Licensee hereby accepts from Licensor a license for the right to occupy and use certain premises in the Building consisting of approximately 100 square feet of clinical space, including appropriate furniture and furnishings, as shown generally on the drawing attached hereto as Exhibit A and incorporated herein (the "Premises"), subject to the terms and conditions of this Agreement.

#### **1. Occupancy Period**

During the Term (as defined in Section 3 below) of this Agreement, Licensee shall have a license for the right to the use of the Premises during the time periods described on Exhibit B attached hereto and incorporated herein (the "Occupancy Periods"). The Premises shall include a non-exclusive right in common with Licensor and other occupants of the Building to use, enjoy, and occupy the "Common Areas" (as hereinafter defined) on and subject to the terms and conditions hereinafter set forth. As used herein, the term "Common Areas" shall mean and include all entrances, lobbies, corridors, stairways, stairwells, public restrooms, elevators, loading areas, trash areas, roadways, walkways, sidewalks, driveways and landscaped areas located in, on, adjacent to or under the Building. Licensor and Licensee hereby expressly agree that the Premises shall be occupied by Licensee only on a part-time basis in accordance with the Occupancy Periods described above. Licensor and Licensee hereby acknowledge and expressly agree that this Agreement does not convey a possessory leasehold interest in the Premises to Licensee.

#### **2. License Fee**

The License Fee rate for the part-time use of the Premises is \$250.00 (the "License Fee"), which is calculated based on scheduled Occupancy Periods occurring as set forth on Exhibit B. The License Fee is due and payable on the first day of the applicable month and shall be delivered to the address given by Licensor for such payments. Occupancy Periods may be adjusted only upon written consent of both parties and by written amendment to this Agreement.

#### **3. Term and Termination**

The term of the Agreement is for one day (April 9, 2020 or May 15, 2020). Either party may terminate this Agreement at any time without cause or penalty upon 30 days' prior written notice to the other party.

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### **4. Utilities, Housekeeping, Maintenance, and Other Services**

Licensor shall provide necessary housekeeping and maintenance services as determined by Licensor at the Premises. Licensor shall provide the following utilities for Licensee's use: water, electricity, gas, and rubbish collection. Licensor shall also provide to Licensee those additional services, materials or supplies that are identified on Exhibit C attached hereto and incorporated herein. Unless expressly provided for in Exhibit C, Licensor will not provide personnel support services to the Licensee. Licensee shall be responsible for these services and for his or her records system, postage and courier service, long distance phone calls, account receivables collection, and all other services necessary in Licensee's utilization of the Premises. Licensee assumes sole responsibility for the collection of all fees for services rendered by Licensee during each Occupancy Period that Licensee utilizes the Premises.

### **5. Use of Premises**

The Premises are to be used as a testing/licensing location and for no other business or purpose without the written consent of Licensor. Licensee shall comply with all applicable laws and other governmental regulations and with such rules and regulations as Licensor may adopt from time to time. Licensee shall use the Premises in compliance with all applicable laws and other governmental rules, regulations and orders concerning the generation, storage and/or removal of infectious, biohazardous and hazardous wastes from the Premises. Licensee shall take good care of the Premises and any furniture, furnishings, equipment and other personal property situated within the Premises or used in association therewith, and Licensee shall be solely responsible for any damage to any of the foregoing resulting directly from any act or omission of Licensee or any of Licensee's invitees. Licensee expressly agrees that it shall only use the Premises to provide testing/licensing services to Licensee's applicants.

### **6. Alterations**

The Licensee, by occupying the Premises shall be deemed to have agreed that such Premises are then in a satisfactory and habitable condition, and Licensee agrees to take good care of the Premises. Licensee shall not make alterations or improvements to the Premises without the written consent of Licensor. Licensee shall not suffer or permit any mechanic's liens or materialmen's liens to be filed against the Premises.

### **7. Insurance**

Licensee shall maintain at all times during the Term of this Agreement: (a) general liability insurance in an amount and form acceptable to Licensor; (b) fire and extended coverage insurance and property damage insurance insuring Licensee's personal property and equipment in the Premises against loss from fire or other casualty for not less than the full insurable value thereof; and (c) professional liability insurance in an amount and form acceptable to Licensor. Proof of insurance coverage shall be provided to Licensor by Licensee prior to execution of this Agreement. Such policies shall name Licensor as an additional insured.

Licensor shall maintain in full force and effect, during the Term of this Agreement, a policy of fire and extended coverage insurance and property damage insurance insuring the Premises (excluding the personal property of Licensee) for not less than the full insurable value thereof.

### **8. Assignment and Subletting**

Neither this Agreement nor any interest hereunder may be assigned or otherwise transferred by either party to third parties other than their respective affiliates or to a successor in interest without the prior written consent of the other party, which shall not be unreasonably withheld.

### **9. Events of Default**

An event of default shall occur hereunder if: (i) Licensee without Licensor's written consent fails to pay any installment of License Fee or other payment required hereunder; or (ii) either Licensor or Licensee (a) breaches or shall have breached any representation or warranty made or given in this Agreement or any such representation or

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warranty shall be untrue or, by reason of failure to state a material fact or otherwise, shall be misleading; (b) shall file bankruptcy or become insolvent or make an assignment for the benefit of creditors or consent to the appointment of a trustee or receiver, or a trustee or receiver shall be appointed for a substantial part of its property without its consent, or a bankruptcy, reorganization or insolvency proceeding shall be instituted by or against Licensee or Licensor; or (c) fails to perform or observe any other covenant, condition or agreement to be performed or observed by it hereunder, and such failure or breach shall continue un-remedied for a period of 30 business days after the date on which notice thereof shall be given by the other party.

### **10. Remedies**

Upon the occurrence of any event of default the non-breaching party may, in its sole discretion, do any one or more of the following: (i) upon notice to the breaching party, terminate this Agreement; (ii) exercise any other right or remedy which may be available to it at law or in equity; or (iii) proceed by appropriate court action, to enforce the terms hereof or to recover damages for the breach hereof. No remedy referred to in this Section is intended to be exclusive, but each shall be cumulative and in addition to any other remedy referred to above or otherwise available to the non-breaching party at law or in equity.

### **11. Waiver of Breach**

No waiver of a breach of any of the conditions or covenants of this Agreement shall be construed to be a waiver of any succeeding breach of the same or any other conditions or covenants.

### **12. Fraud and Abuse**

Licensor and Licensee enter into this Agreement with the intent of conducting their relationship and implementing the agreements contained herein in full compliance with applicable federal, state and local law, including without limitation, the Medicare/Medicaid Anti-Kickback statute and regulations, as amended (the "Anti-Kickback Law"), and Section 1877 of the Social Security Act, as amended and the regulations promulgated thereunder (the "Stark Law"). Notwithstanding any unanticipated effect of any of the provisions of this Agreement, neither party will intentionally conduct itself under the terms of this Agreement in a manner that would constitute a violation of the Anti-Kickback Law or the Stark Law. Without limiting the generality of the foregoing, Licensor and Licensee expressly agree that nothing contained in this Agreement shall require either party to refer any patients to the other, or to any affiliate or subsidiary of the other. Further, if any legislation, regulation or government policy is passed or adopted, the effect of which would cause either party to be in violation of such laws due to the existence of any provision of this Agreement, then the parties agree to negotiate in good faith for a period of 90 days to modify the terms of this Agreement to comply with applicable law. Should the parties hereto fail to agree upon modified terms to this Agreement within this time period, either party hereto may immediately terminate this Agreement.

### **13. Amendments**

This Agreement may be amended only upon the written agreement of both parties.

### **14. Notices**

All notices to be given hereunder by either party shall be in writing and may be sent by hand delivery, by a recognized overnight courier service (e.g., FedEx, UPS Next Day) or by certified mail, postage prepaid, addressed to:

If to Licensor:                      University of Mississippi Medical Center  
2500 N. State Street  
Jackson, MS 39216  
Attention: Dean School of Dentistry

with a copy to:                      Office of General Counsel  
University of Mississippi Medical Center  
2500 North State Street

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Jackson, Mississippi 39216

If to Licensee:

## 15. Representations of Licensor

Licensor hereby represents and warrants to Licensee as follows:

(a) **Organization, Power and Qualification** Licensor is a validly existing government entity in good standing and has full power to own, license and operate the Premises, to carry on its business as now being conducted, to enter into this Agreement and to consummate the transaction contemplated hereby.

(b) **Authority; Binding Effect** Licensor has taken all action necessary or required, either by law or by its organizational documents or otherwise, to authorize the execution and the delivery of this Agreement and the performance of the transaction contemplated hereby. The execution, delivery and performance of this Agreement constitutes the valid and binding agreement of Licensor enforceable in accordance with its terms.

(c) **Material Compliance with Applicable Law** Licensor believes its operations are in material compliance with applicable law and expects to modify its agreements and operations to conform in all material respects to future regulatory changes.

## 16. Representations of Licensee

Licensee hereby represents and warrants to Licensor as follows:

(a) **Organization, Power and Qualification** Licensee is a student or graduate of \_\_\_\_\_, an accredited educational program, and has the full power to carry on Licensee's purposes as now being conducted, to enter into this Agreement and to consummate the transaction contemplated hereby.

(b) **Authority; Binding Effect** The execution, delivery and performance of this Agreement constitutes the valid and binding agreement of Licensee enforceable in accordance with its terms.

(c) **Material Compliance with Applicable Law** Licensee believes Licensee's operations are in material compliance with applicable law and expects to modify Licensee's agreements and operations to conform in all material respects to future regulatory changes.

## 17. Equipment

Licensee acknowledges that the Premises shall only include such equipment, furnishings and furniture as are specifically identified in Exhibit C. Licensee acknowledges and agrees that (a) none of the equipment specifically identified in Exhibit C shall be used to furnish Designated Health Services (as defined herein) and (b) the equipment specifically identified in Exhibit C does not include advanced imaging equipment, radiation therapy equipment, or clinical or pathology laboratory equipment (other than equipment used to perform CLIA-waived laboratory tests). The term "Designated Health Services" shall have the meaning given such term in the Stark Law. As of the Effective Date of this Agreement, the term "Designated Health Services" includes the following: (a) Clinical laboratory services, (b) Physical therapy services, (c) Occupational therapy services, (d) Outpatient speech-language pathology services, (e) Radiology and certain other imaging services, (f) Radiation therapy services and supplies, (g) Durable medical equipment and supplies, (h) Parenteral and enteral nutrients, equipment, and supplies, (i) Prosthetics,

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orthotics, and prosthetic devices and supplies, (j) Home health services, (k) Outpatient prescription drugs and (l) Inpatient and outpatient hospital services.

### **18. Counterparts**

This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall comprise one and the same instrument.

### **19. Governing Law**

This Agreement shall be governed by the law of the State of Mississippi.

### **20. Force Majeure**

“Force Majeure Event” means any act or event, whether foreseen or unforeseen, that meets all three of the following tests: (a) The act or event prevents a party in whole or in part from performing its obligations under this Agreement; or satisfying any conditions to the performing party’s obligations under this Agreement; (b) The act or event is beyond the reasonable control of and not the fault of the non-performing party; and (c) The non-performing party has been unable to avoid or overcome the act or event by the exercise of due diligence. Notwithstanding anything to the contrary in this Agreement or otherwise, a Force Majeure Event excludes economic hardship, changes in market conditions, or insufficiency of funds. If a Force Majeure Event occurs, the non-performing party is excused from whatever performance is prevented by the Force Majeure Event to the extent prevented and satisfying whatever conditions precedent that cannot be satisfied. When the non-performing party is able to resume performance of its obligations under this Agreement or satisfy the conditions precedent to the performing party’s obligations, it shall immediately give the performing party written notice to that effect and shall resume performance under this Agreement no later than five (5) working days after the notice is delivered. This provision is the exclusive remedy available to the non-performing party with respect to a Force Majeure Event. Should the Premises or the Building be totally or substantially destroyed by fire, the elements or otherwise, so as to render the Premises or the Building untenable, either party shall have the option to cancel the remaining portion of this Agreement or of any extended term or period hereof. Licensee shall have no obligation to pay License Fee of any nature so long as the Premises or the Building is untenable. If termination of this Agreement is desired, the terminating party shall give provide the non-terminating party written notice of termination within 30 days of the occurrence of such Force Majeure Event and upon the giving of such notice, this Agreement shall terminate as of the date of the Force Majeure Event, and any prepaid Rent shall be refunded to Licensee. Licensor may offer comparable space under the same terms and conditions as this Agreement, subject to Licensee’s approval.

### **21. Entire Agreement**

This Agreement supersedes any and all other agreements, either oral or written, between the parties with respect to the subject matter hereof, and no other agreement, statement or promise relating to the subject matter of this Agreement shall be valid or binding.

**IN WITNESS WHEREOF**, the parties hereto have duly executed this Agreement the day and year of the last party to execute this Agreement.

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**LICENSEE:**

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Educational Institution: \_\_\_\_\_  
Date: \_\_\_\_\_

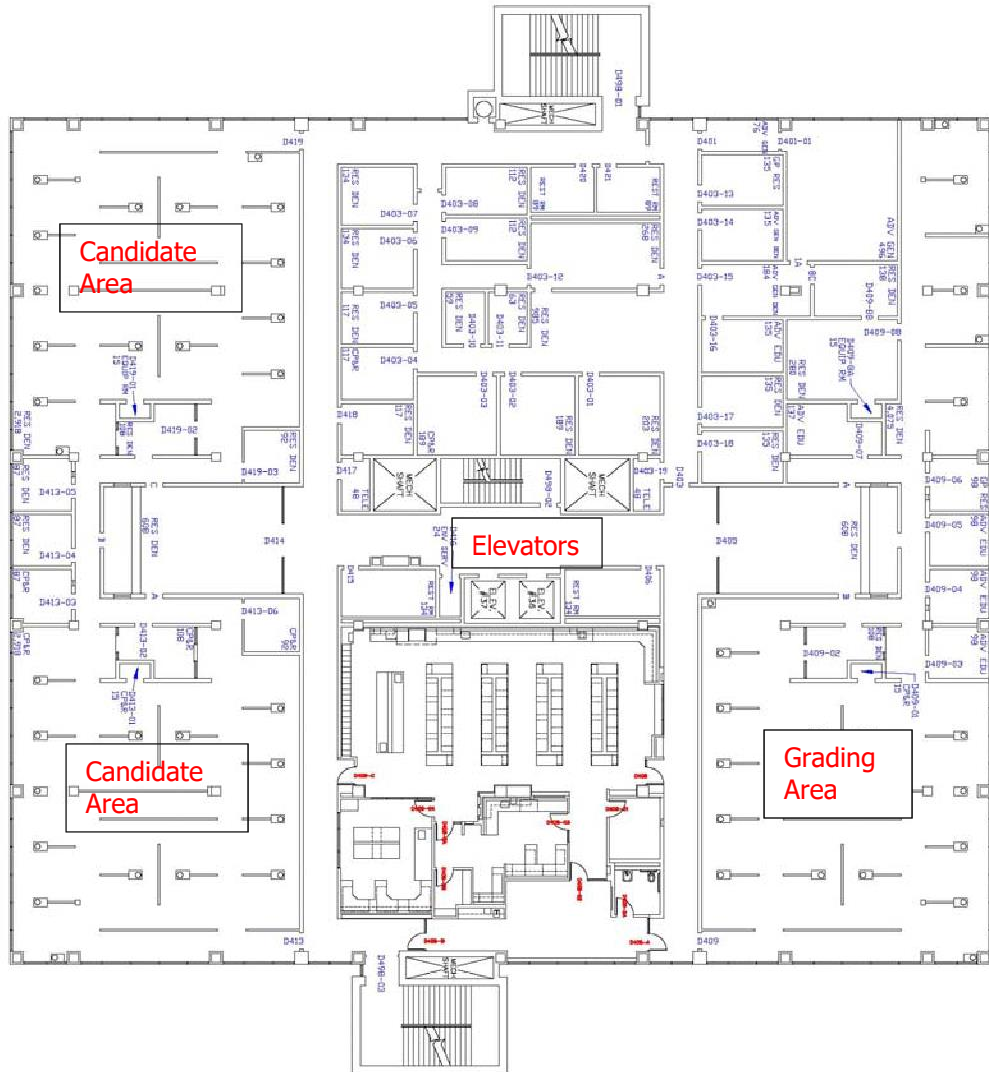
**LICENSOR:**

UNIVERSITY OF MISSISSIPPI MEDICAL CENTER,  
a Mississippi governmental entity

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

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## EXHIBIT A DESCRIPTION OF PREMISES



N  
FOURTH FLOOR  
DENTAL SCHOOL

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## EXHIBIT B

### OCCUPANCY PERIODS AND SCHEDULE OF RATES

#### OCCUPANCY PERIODS

Licensee shall be entitled to occupy the premises during the following **4-hour** Occupancy Period on the following date (check the applicable period):

\_\_\_\_\_ Thursday, April 09, 2020 from 8:00 a.m. to 12:00 p.m.

\_\_\_\_\_ Thursday, April 09, 2020, from 1:00 p.m. to 5:00 p.m.

\_\_\_\_\_ Thursday, May 15, 2020 from 8:00 a.m. to 12:00 p.m.

\_\_\_\_\_ Thursday, May 15, 2020 from 1:00 a.m. to 5:00 p.m.

#### RATES

The rate for each **4-hour** Occupancy Period shall be **\$250.00**. Additional sessions may be requested and must be submitted by Licensee, but are subject to approval by Licensor.



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## EXHIBIT C

### ITEMS, MATERIALS OR SERVICES

Licensors shall provide the additional items, materials or services that are listed below:

Patient Care Kit:

- Toothbrush and paste
- Prophy cup, brush, and paste
- Floss (waxed and unwaxed)
- Air/water syringe tip
- Napkin chain

Off-Tray Instruments and Supplies:

- Prophy angle
- HVE Suction
- Saliva ejector
- 2 X 2 Gauze

Supplies:

Paper, cotton, and plastic disposables.  
Gowns, gloves, masks, and face shields.

*The following items are not provided to Licensee by Licensor:*

Blood pressure checking devices, safety glasses for you and your patient, covered container to transport instruments from clinic to grading area and ultrasonic or sonic scaler. Licensor will not provide anesthesia.

\*\*\*If Licensee chooses to utilize anesthesia, Licensor will not permit it to be given to a patient unless a supervising faculty member from Licensee's educational program will be on-site at Licensor's facility for the entire Occupancy Period. Said supervising faculty member must hold a valid license to practice Dentistry in the State of Mississippi and must have adequate malpractice insurance to cover the scope of services to be provided during the Occupancy Period.