

This document is only a SAMPLE to be used for the NJ IGNITE Program and is subject to revision. An agreement will be prepared by the NJEDA for each approved grant. This agreement was prepared in conjunction with the Office of the Attorney General and is non-negotiable. We hereby reserve the right to make changes to this document without notice.
11-2-18

NJ IGNITE
GRANT AGREEMENT

This NJ IGNITE Grant Agreement (hereinafter the "Agreement") dated as of _____, 20__ and effective as of the date set forth below, by and between **[BOLD CAPS]** _____ having its principal offices at _____, NJ _____ (hereinafter the "Grantee"), and the New Jersey Economic Development Authority, a body corporate and politic organized and existing under the authority of N.J.S.A. 34:1B-1 et seq., having its offices at 36 West State Street, PO Box 990, Trenton, New Jersey 08625-0990, (hereinafter referred to as the "Authority" or "Grantor"), the above entities being (hereinafter referred to as the "Parties".)

WITNESSETH:

WHEREAS, in order to provide real estate partnership grants that support the rent for early stage technology or life science companies to work in a New Jersey incubator or collaborative workspace (including accelerators or co-working spaces), and thereby further develop the State's entrepreneurial ecosystem, the NJ Ignite Program authorizes the Authority to enter into agreements with incubators and collaborative workspaces to provide NJ IGNITE grants in accordance with the NJ IGNITE Program specifications approved by the Authority, as such specifications may be amended from time to time; and

WHEREAS, the Grantor has found, on the basis of the information contained in the Grantee's verification form and any other documentation submitted by Grantee in support of its collaborative workspace application, that Grantee qualifies as a Collaborative Workspace; and

WHEREAS, the Grantor has found, on the basis of the information contained in the Tenant's verification or self-certification form, executed lease or membership agreement; and any other documentation submitted by Grantee in support of the application for a NJ IGNITE Grant, that Grantee qualifies for a NJ IGNITE Grant; and

WHEREAS, the Grantor has determined to provide Grantee with a NJ IGNITE Grant, in accordance with the requirements of the NJ IGNITE Program specifications and in accordance with the terms and conditions of this Agreement.

NOW THEREFORE, in consideration of the mutual promises and covenants made herein, it is agreed as follows:

1. Definitions. The following terms shall have the following meaning when used in this Agreement, unless the context clearly indicates otherwise.

"Affiliate" means an entity that directly or indirectly controls, is under common control with, or is controlled by the Grantee. Control exists in all cases in which the entity is a member of a controlled group of corporations as defined pursuant to Section 1563 of the Internal Revenue Code of 1986, as amended, 26 U.S.C. § 1563 or the entity is an organization in a group of organizations under common control as defined Section 414(b) or (c) of the Internal Revenue Code of 1986, as amended, 26 U.S.C. § 414.

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“Bonus Month” Grantee is eligible for up to three (3) one-month bonus months of the Grantor’s provided rent support, which do not need to be matched by the Grantee or the Tenant. One (1) bonus month of rent support will be provided for each of the following three categories: i) the Grantee is located in an Opportunity Zone; ii) the Grantee is affiliated with a New Jersey university or healthcare facility; and iii) the Grantee has opened within the last ninety (90) days from the date of the Collaborative Workspace application and cannot be in the same location as an existing facility.

“Incubator” or **“Collaborative Workspace”** means the facility that qualified under the NJ IGNITE Program.

or **“NJ IGNITE Grant”** or **“Grant”** means a grant given pursuant to the Authority’s (“NJ IGNITE Program”).

“Grantee’s Commitment” means the period for which Tenant is not responsible to pay rent or membership fees to Grantee, excluding the period covered by Grantor’s Commitment, for Tenant’s occupancy at the Project Site for a period of ^1, 2, or 3 months under the eligible Lease or Membership Agreement.

“Grantor’s Commitment” means the period for which the Grant proceeds shall apply toward the Tenant’s occupancy at the Project Site for a period of ^2, 4 or 6 months ^plus ___ Bonus Month/s [2x Grantee’s Commitment plus any additional Bonus Months under the eligible ^Lease ^Membership Agreement.

“Effective Date” means the date last written below representing the date of execution of this Agreement by the respective Parties.

“Grant Amount” means the aggregate amount of all monies paid, or to be paid, by Grantor to Grantee pursuant to Section 3 of this Agreement, provided however in no event shall the Grant Amount exceed ^\$_____, including any Bonus Month.

“Grant Payment” means the Grant funds paid directly to the Grantee for the benefit of the rent expense of the Tenant

“Grant Term” means ^__ months [Grantee’s Commitment + Grantor’s Commitment + Tenant’s Commitment.

“Innovation Ecosystem Building Event” means community events such as meet-ups, speaker series, office hours for attorneys, accountants, consultants, and/or investors.

“Lease Agreement” or **“Membership Agreement”** means the ^lease ^membership agreement described in **Exhibit A**.

“Lease Execution Date” or **“Membership Execution Date”** means the respective dates of execution of the Lease or Membership Agreement between the Grantee and Tenant.

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"**Project Site**" means the Incubator or Collaborative Workspace facility located in the State of New Jersey that meets specific NJ IGNITE Program requirements.

"**State**" means the State of New Jersey.

"**Tenant**" means eligible start-up tenant company leasing a space from Grantee under the Lease or Membership Agreement.

"**Tenant's Commitment**" means the ^tenancy ^membership period paid for by the Tenant for its occupancy at the Project Site, which period shall be equal to the Grantee's Commitment and the Grantor's Commitment combined.

"**Tenant's Total Commitment**" means additional tenancy months of ^three (3), six (6) or nine (9) months of occupancy at the Project Site, which period shall be equal to the Grantee's Commitment, Grantor's Commitment and the Tenant's Commitment combined.

"**Technology and Life Science Entity**" means an entity whose business involves advanced computing, advanced materials, biotechnology, electronic device technology, information technology, food technology, life sciences, medical device technology, health care technology, logistics technology, mobile communications technology, agriculture technology, or renewable energy.

2. Grant Amount. The Grant Amount of \$ _____ is determined based on the application request for number of months, including any eligible Bonus Month, at the standard rent rates charged to all other companies at the specified community for similar space. The Grant Amount disbursed to the Grantee in total shall not exceed \$150,000 per facility under the NJ Ignite Program regardless of time; and \$15,000 per Tenant, including any Bonus Month.

3. Grant Payment. The full Grant Amount may be requested after the Grantee has satisfied the Grantee's Commitment and the Tenant has satisfied the Tenant's Commitment as defined herein.

Provided the grant disbursement request, and any supporting documentation, including but not limited to a current New Jersey Business Tax Clearance Certificate, is satisfactory to the Grantor, the Grant will be disbursed directly to the Grantee for the benefit of the rent expense of the Tenant. Should the Tenant leave the Collaborative Workspace prior to completing the Tenant's Total Commitment period, the Grantee will be required to immediately refund the portion of the Grant that was not utilized for the Tenant.

4. Reporting Requirements. Grantee agrees to furnish to Grantor on an annual basis:

- (i) Evidence that Grantee hosted at least eight (8) Innovation Ecosystem Building Events per year. If the Grantee fails to provide such evidence, the Grantee shall be removed from the approved NJ IGNITE Program list and not be able to participate in the NJ IGNITE Program moving forward. The existing Grant for the Tenant will not be revoked for failure of the Grantee to meet the Innovation Ecosystem Building Events requirement. In such cases, the Authority will help the Tenant source access to community events at another collaborative workspace; and

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- (ii) Documentation that the Grant proceeds were fully utilized for the Tenant for which the Grant was awarded. If the Tenant vacates the Project Site before the expiration of the Tenant's Total Commitment, the Grantee must immediately refund the Grantor the portion of the Grant that was not used.

These Reporting Requirements shall continue after the Grant Term until Grantee furnishes evidence and documentation demonstrating that paragraphs (i) and (ii) above have been satisfied.

5. Covenants of Grantee. Grantee covenants and agrees that:

- (i) Grantee shall at all times during the Grant Term satisfy all eligibility criteria under the NJ IGNITE Program, upon which Grantor relied in approving the Grantee as a Collaborative Workspace and the Grant.
- (ii) Grantee shall operate its business at the Project Site for the Grant Term.
- (iii) Grantee shall invest in a New Jersey an early-stage Technology or Life Sciences Entity by providing ^1, 2, or 3 months of free rent.
- (iv) Grantee shall commit to holding eight (8) Innovation Ecosystem Building Events per year Notwithstanding any other provision in the Agreement, a failure by Grantee to satisfy this covenant may result in Grantee's removal from the Authority's qualified NJ IGNITE Program list.
- (v) Grantee shall at all times during the Grant Term carry insurance coverage on the Project Site with insurance companies licensed to do business in New Jersey in such a manner and against such loss, damage and liability to third parties as is customary with companies in the same or similar business. The Grantee shall at all times during the Grant Term carry general liability insurance with companies licensed to do business in New Jersey and naming the Authority as additional insured as it applies to both general liability and any umbrella/excess coverage.

6. Representations and Warranties of Grantee.

(i) Grantee has been duly organized and validly exists as a [corporation a partnership an S corporation, limited liability company or a non-profit corporation] under the laws of the State of ^New Jersey, has power to enter into this Agreement and has authorized the taking of all action necessary to carry out and give effect to the transactions contemplated by this Agreement.

(i) To the best of the Grantee's knowledge, and upon due inquiry, there is no action or proceeding pending or threatened against the Grantee before any court or administrative agency that might adversely affect the ability of the Grantee to perform its obligations under this Agreement and all consents, authorizations, and approvals of governmental bodies or agencies required in connection with the

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performance of the Grantee's obligations under this Agreement have been obtained and will be obtained whenever required hereunder or by law.

(iii) Neither the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented, limited by, or conflicts with or results in a breach of, the terms, conditions, or provisions of any corporate restrictions or any evidence of indebtedness, agreement, or instrument of whatever nature to which the Grantee is bound, or constitutes a default under any of the foregoing.

(iv) All tax returns and reports of the Grantee required by law to be filed have been duly filed and all taxes, assessments, fees and other governmental charges upon Grantee or upon any of its respective properties, assets, income or franchises which are due and payable pursuant to any assessment received by the Grantee have been paid other than those which are presently payable without penalty or interest. Nothing in this subparagraph is intended to preclude Grantee from exercising its lawful right to contest any tax, assessment, fee or other governmental charge.

(v) All statements, representations and warranties made by Grantee in its application to Grantor, and in any materials furnished in support of that application were true when made, are true, in all material respects, as of the date hereof, and shall remain and be true and correct during the term of this Agreement, it being understood by Grantee that all such statements, representations and warranties have been relied upon by Grantor as an inducement to make the Grant and shall continue to be relied upon by Grantee in administering the Grant. Grantee further understands and agrees that, if, during the term of this Agreement, any such statements, representations and warranties become untrue or false, it shall have a duty to immediately notify the Grantor in writing of such fact.

(vi) The principal office of Grantee is located at _____. All of the Grantee's books and records relating to the NJ IGNITE Program shall be located at _____. The Grantee shall notify Grantor in writing of any change in the location of such books and records prior to any such relocation.

(vii) Grantee represents that it has at all times relevant to this Agreement been represented by advisors of its own selection, including, but not limited to, attorneys at law and/or certified public accountants; that it has not relied upon any statement, representation, warranty, agreement or information provided by Grantor; that it acknowledges that it is informed by its advisors of its respective rights, duties, and obligations with respect to the transaction which is the subject of this Agreement under all applicable laws, and that it has no set-offs, defenses or counterclaims against Grantor with respect to the transaction which is the subject of this Agreement.

(viii) If during the duration of this Agreement the Grantee becomes aware of any facts, occurrences, information, statements, or events that render any of the foregoing representations or warranties herein untrue or materially misleading or incomplete, Grantee shall immediately notify Grantor in writing of such facts, occurrences, information, statements, or events.

The representations and warranties made in this Section shall survive termination of this Agreement.

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7. Records, Access and Maintenance. Grantee shall establish and maintain during the Grant Term such records as are required by the Grantor hereof, and all relevant supporting documentation. The Parties further agree that records required by the Grantor with respect to any questioned costs, litigation or dispute between the Grantor and the Grantee shall be maintained for the time needed for the resolution of any such issue and that in the event of early termination of this Agreement, or if for any other reason the Grantor shall require a review of the records related to the Grant or Lease Agreement(s), the Grantee shall, at its own cost and expense, segregate all such records from its other records, if any. The Grantee shall maintain and organize its records in such form so that, in case of a review of its records or audit, it is able to verify and document the information it provides in its annual reports pursuant to Section 4 hereof. The provisions of this Section shall survive termination of this Agreement.

8. Default. Any one or more of the following shall constitute an event of default ("Event of Default") if during the Grant Term the default is not cured within thirty (30) days after written notice of the default, provided, however, if the cure of such default reasonably requires more than thirty (30) days after written notice as aforesaid, and Grantee demonstrates it has promptly initiated steps reasonably sufficient to cure the default at its own cost, is proceeding with due diligence, in good faith and with continuity to complete the curing of such default, then the Authority may, at its reasonable discretion, extend the time necessary to cure such default by a reasonably practical period necessary for Grantee to cure such default. Notwithstanding the foregoing, if such default is not cured within said period as may be extended, termination shall, in the discretion of the Authority, be effective at the conclusion thereof.

(i) If there is a monetary or material default under the ^Lease^Membership Agreement by Grantee or Tenant;

(ii) If the ^Lease ^Membership Agreement has been terminated;

(iii) If Grantee has breached or failed to perform any covenant or promise under this Agreement, except for failure to meet Section 5. (iv) of the Agreement; and such remedies shall to include removal of the Grantee from the Authority's qualified NJ IGNITE Program list.

(iv) If any representation or warranty made by Grantee herein, in the application for the Grant, or, in any report, certificate, financial statement or other instrument furnished in connection with the subject matter of this Agreement is false or misleading in any material respect;

(v) If any of the following has occurred: 1) Grantee has applied for, or consented to, the appointment of a receiver, trustee, or liquidator of all or a substantial portion of Grantee's assets; 2) Grantee has admitted in writing the inability to pay Grantee's debts as they mature; 3) Grantee has made a general assignment for the benefit of creditors; 4) Grantee has been adjudged a bankrupt, or filed a petition or an answer seeking an arrangement with creditors or taken advantage of any insolvency law, or an answer admitting the material allegations of a petition in bankruptcy or insolvency proceeding; 5) an order, judgment or decree has been entered, without the application, approval or consent of Grantee, by any court of competent jurisdiction approving a petition seeking reorganization of the Grantee, or appointing a receiver, trustee, or liquidator of Grantee or of a substantial part of its assets and such order shall continue unstayed and in effect for

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a period of forty-five (45) consecutive days; 6) Grantee has filed a voluntary petition in bankruptcy or has failed to remove an involuntary petition in bankruptcy within forty-five (45) days of the filing thereof.

(vi) The failure of Grantee to timely submit the documents, materials, and information required to be submitted by this Agreement.

(vii) Grantor has made a determination of debarment as to Grantee pursuant to its debarment/disqualification regulations set forth in N.J.A.C. 19:30-2.1 et seq. as amended from time to time.

(viii) If the Grantee has ceased to operate its business at the Project Site.

(ix) If the Grantee has sold or assigned its operations at the Project Site or assigned the ^Lease ^Membership Agreement(s) to another company, including a related company other than wholly owned subsidiaries, without the prior written consent of the Grantor.

(x) A declaration of default under any existing or new financial assistance or incentive provided by the Authority to the Grantee and/or any of its Affiliates.

9. Remedies Upon Default. Upon the existence of any Event or Events of Default, the Grantor may, in its sole and absolute discretion, do any of the following, alone or in combination, after having first given Grantee notice and opportunity to cure the default in accordance with Section 8 hereof:

- (i) require the Grantee to repay a portion of the Grant previously paid to Grantee under this Agreement;
- (ii) remove Grantee from the approved NJ IGNITE Program list and bar participation in the NJ IGNITE Program in the future;
- (iii) terminate this Agreement; and
- (iv) take any other action legally available to it.

The Grantor's rights under this Section shall survive termination of the Agreement.

10. Taxes and Other Charges. Grantee shall pay during the duration of this Agreement as the same become due, all taxes, assessments and governmental charges which may be required by law or contract to be paid by Grantee. Grantee may in good faith contest such taxes and governmental charges and such taxes and charges may remain unpaid during the period of such contest provided that the Project Site will not be subject to loss or forfeiture as a result.

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11. Audits and Inspections. At any time during normal business hours upon written notice and as often as Grantor may reasonably deem necessary, the Grantee shall make available to the Grantor, for examination, and to appropriate State agencies or officials, all of its records with respect to matters covered by this Agreement and shall permit the Grantor to audit, examine and make excerpts or transcripts from such records. The provisions of this Section shall survive termination of this Agreement. Grantee shall maintain records to adequately verify all information provided in any reports or schedules required under this Agreement.

12. Assignment. Grantee may not assign its interests in this Agreement to another without the prior written consent of Grantor, which consent will not be unreasonably withheld. Unless otherwise indicated by the Grantor in writing, any obligations hereunder shall become the obligations of any assignee or successor of the Grantee.

13. Forbearance Not a Waiver. No act of forbearance or failure to insist on the prompt performance by the Grantee of its obligations pursuant to this Agreement, either express or implied, shall be construed as a waiver by the Grantor of any of its rights hereunder. In the event that any provision of this Agreement should be breached by Grantee and the breach may thereafter be waived by Grantor, such waiver shall be limited to the particular breach waived by Grantor and shall not be deemed to waive any other breach.

14. Indemnification. Grantee covenants and agrees to indemnify and hold harmless Grantor, the State of New Jersey and their respective members, agents, officers, employees and servants from all losses, claims, damages, liabilities, and costs whatsoever (including all costs, expenses and reasonable counsel fees incurred in investigating and defending such losses and claims, etc.), brought by any person or entity, and caused by, related to, arising or purportedly arising out of, or from: (i) the condition, use, possession, conduct, management, construction, and financing of the Project Site; (ii) the performance by Grantee of its obligations under this Agreement; (iii) any loss, damage or injury to, or death of, any person occurring at or about or resulting from, the operations of the business at the Project Site; and, (iv) any damage or injury to property of Grantee or to the agents, servants, employees of Grantee, caused by the negligence, gross negligence and willful misconduct of any person, except for: losses, claims, damages, liabilities and costs arising from the gross negligence or willful misconduct of Grantor and its respective members, agents, officers, employees and servants. The provisions of this Section shall survive termination of this Agreement.

15. Insurance. The Grantee agrees to insure the Project Site with insurance companies licensed to do business in New Jersey in such a manner and against such loss, damage and liability to third parties as is customary with companies in the same or similar business. The Grantee shall at all times carry general liability insurance with companies licensed to do business in New Jersey and naming the Authority as additional insured as it applies to both general liability and any umbrella/excess coverage.

16. Adherence to State and Federal Laws and Regulations. Grantee agrees to comply with all applicable federal, state and local laws relevant to the Project Site and its operation.

17. Applicability of Disqualification Regulations to Entities. Grantor's disqualification/debarment regulations, which are set forth in N.J.A.C. 19:30-2.1 through 2.7, shall be applicable to any entities with which Grantee merges, consolidates or combines. In the event that, in accordance with the procedures and

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provisions set forth in such regulations, Grantor makes a determination to disqualify any entity, then, notwithstanding anything contained in the Agreement to the contrary, no Grant Payment will be made.

18. Miscellaneous.

A. Governing Law. This Agreement shall be governed by the laws of the State of New Jersey.

B. Forum and Venue. All actions related to the matters which are the subject of this Agreement shall be forumed and venued in a court of competent jurisdiction in the County of Mercer and State of New Jersey.

C. Entire Agreement. This Agreement and its exhibits and any documents referred to herein constitute the complete understanding of the Parties and merge and supersede any and all other discussions, agreements and understandings, either oral or written, between the Parties with respect to the subject matter of this Agreement.

D. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid pursuant to applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions of this Agreement, unless Grantor shall in its sole and absolute discretion deem the invalidated provision essential to the accomplishment of the public purposes served by this Agreement, in which case Grantor has the right to terminate this Agreement and all benefits provided to Grantee hereunder upon the giving of sixty (60) days prior notice as set forth in the following Section hereof.

E. Notices. All notices, consents, demands, requests and other communications which may be or are required to be given pursuant to any term of this Agreement shall be in writing and shall be deemed duly given when personally delivered or sent by United States mail, registered or certified, return receipt requested, postage prepaid, to the addresses set forth hereunder or to such other address as each party to this Agreement may hereafter designate in a written notice to the other party transmitted in accordance with this provision.

Grantor: Commercialization Center for Innovative Technologies (CCIT)
675 US Highway One
North Brunswick, New Jersey 08902
Telephone: 609-858-6713
email: kcoviello@njeda.com
Attention: Vice President, Technology & Life Science Investments

Grantee: _____

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F. Amendments or Modifications. This Agreement may only be amended in writing executed by both Parties. Such Amendments or Modifications shall become effective only upon execution of same by both Parties.

G. Headings. Section headings contained in this Agreement are inserted for convenience only and shall not be deemed to be a part of this Agreement.

H. Contractual Liability Act. The rights and remedies of the Grantee under this Agreement shall be subject to the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq., the provisions of which are hereby incorporated herein by reference.

I. Tort Claims Act. The rights and remedies of the Grantee under this Agreement shall be subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq., the provisions of which are hereby incorporated herein by reference.

J. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument. This Agreement may be delivered by telecopier, e-mail, PDF or other facsimile transmission all with the same force and effect as if the same were a fully executed and delivered original manual counterpart.

K. Successors and Assigns. This Agreement shall be binding upon the successors and assigns of the parties hereto.

L. Cross-default. It is specifically understood and agreed that this Agreement is *cross-defaulted* with any existing assistance and any future assistance provided by the Authority and/or the State to the Grantee and/or any of its Affiliates, including, but not limited to, entities that have common principals. For purposes of this cross-default, a principal of an entity shall be any executive officer, director, or general partner of the entity; any person or other entity directly or indirectly controlling the entity; or a person or other entity directly or indirectly owning or controlling ten percent (10%) or more of the entity's ownership interest.

[SIGNATURE PAGE FOLLOWS]

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IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their respective signatories duly authorized as of the date and year last written below.

WITNESS:

**GRANTOR:
NEW JERSEY ECONOMIC DEVELOPMENT
AUTHORITY**

By: _____

Arlene M. Clark
Director-Closing Services

Date: _____

WITNESS:

GRANTEE:

By: _____

Name:

Title:

Date: _____

Project
Name :
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EXHIBIT A

LEASE^MEMBERSHIP AGREEMENT

On file

1. Lease ^Membership Agreement dated _____ between _____ as ^Landlord and _____ as ^Tenant regarding real property located at _____, New Jersey.

SAMPLE

Project
Name :
P#