

**UNOLS VAN SHARED-USE AGREEMENT
FOR
NSF-FUNDED VANS HELD BY SHIP OPERATORS
_____, 201_**

Definitions:

“Owner” – the ship operator having normal custody of the van and who is responsible for its maintenance and all logistical arrangements. With respect to all vans currently or hereafter in the normal custody of the University of Delaware, the University shall be the Owner.

“User” – either a) a ship owner (other than the Owner) who requests a van on behalf of a principal investigator; or b) a principal investigator who requests a van on behalf of his/her scientific research project.

Terms:

1. The Owner shall have the first option to use the van to meet Owner’s operational and research needs. It shall be available to other Users as long as there are no negative operational impacts to the Owner.
2. **Van Used Aboard the Owner’s Vessel.** When used by User while aboard the Owner’s vessel, no rental fee or other charges shall be imposed other than reimbursement for extraordinary costs incurred by Owner arising from User’s use.
3. **Van Embarked from Port Other than Owner’s Home Port.** Where the van is to be embarked from a port other than the Owner’s home port, the User shall notify and coordinate with the Owner no later than _____ [weeks/months] prior to the Ship Operations Proposal Submittal Date (such Ship Operations Proposal Submittal Date to be October 1, unless the Owner informs the User otherwise). In the event that the User does not notify and coordinate with the Owner by such time, User shall be responsible for all shipping costs and crane and/or loading fees. The Owner shall be the sole determiner as to whether or not the User has provided all necessary notifications and information as to avoid responsibility for shipping costs and crane/loading fees.
4. **Van Used on a Vessel Other than Owner’s Vessel.** Where the van is to be used on a vessel other than one owned by the Owner, fees and costs will be allocated as set forth herein:
 - 4.1. Shipping Cost. The User shall pay all shipping costs; provided, however, that the Owner shall be responsible for making all shipping arrangements. The User shall not be responsible for any administrative costs incurred by the Owner in making such shipping arrangements. Shipping shall be charged “at cost” and shown separately from the basic rental fee. The Owner shall invoice the User as

appropriate. The User shall be responsible for arranging, and paying all shipping costs associated with, shipping the van back to the Owner.

- 4.2. Crane/Loading Fees. The User shall pay all crane and/or loading fees; provided, however, that the Owner shall be responsible for making all loading arrangements. The User shall not be responsible for any administrative costs incurred by the Owner in making such loading arrangements. Crane and/or loading fees shall be charged “at cost” and shown separately from the basic rental fee. The Owner shall invoice the User as appropriate. The User shall be responsible for arranging, and paying all crane and/or loading costs, associated with loading and offloading the van onto and off of the ship.
- 4.3. Rental Fee. The User shall pay a daily rental fee of \$_____ for the entire period of use, including, without limitation, the day of departure from Owner’s institution, the day of arrival back at the Owner’s institution, all time in transit from pier head to pier head, and time at sea.
- 4.4. Other Costs. All other costs associated with the van shall be set forth in Section 9 of the User’s Ship Operations proposal, and, if set forth therein, are not intended to be a part of the shipping costs, crane and/or loading fees, or rental fee.
- 4.5. Normal “Wear and Tear.” Normal “wear and tear” is covered in the rental fee. Any significant damage caused by the User from either mishandling or misuse of the van itself, van components, or outfitting items, shall be paid for the by the User. The determination of whether any damage constitutes normal “wear and tear” or significant damage shall be made in the sole discretion of the Owner. All repairs requiring payment by the User shall be charged “at cost.” Damages caused by a third party (*i.e.* shipping company, crane company, etc.) shall be negotiated separately.
- 4.6. Isotope Vans. For Isotope Vans, radioactive contamination caused by the User in any part of the van (including deck, bulkheads, counters, refrigerators, etc.) that cannot be cleaned with simple, in-house procedures is considered beyond the scope of “normal wear and tear” and shall be the responsibility of the User. All clean-up costs of such contamination, and/or disposal costs for all radioactive wastes, will be charged directly to the User. The User shall be responsible for complying with all wipe test procedures set forth by the Owner (as to both the van and the vessel). The User shall return the van to the Owner properly cleaned, with all radioactive waste and samples removed, and the User shall provide the Owner with a “clean” wipe test report.

General Provisions

1. Notices. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to be sufficiently delivered if

sent by (i) hand delivery; (ii) nationally recognized overnight carrier with confirmation of receipt; (iii) certified mail, return receipt requested and regular mail; or (iv) by electronic transmission to the following addresses:

If to the Owner:

[physical and email address]

If to the Custodian:

[physical and email address]

If to the User:

[physical and email address]

2. Assignment. No party to this Agreement shall assign its rights or duties hereunder without the prior written consent of each of the other parties to this Agreement, and any attempted assignment without such prior written consent(s) shall be null and void.
3. Amendment. This Agreement may not be amended without the express written consent of each of the parties.
4. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware without regard to the law of conflicts of law, and without regard to any rule of interpretation or construction relating to which party drafted this Agreement. Any legal action or proceeding with respect to this Agreement shall be brought and determined in the courts of the State of Delaware or the federal district court for the District of Delaware. Each party hereto submits unconditionally to the exclusive jurisdiction and venue of such courts and shall neither contest personal jurisdiction, subject matter jurisdiction, venue of such courts nor assert *forum inconvieniens*.
5. Severability. In the event that any provision or any part thereof of this Agreement is found invalid or unenforceable by a court of competent jurisdiction, such invalid or unenforceable provision or part thereof shall be modified to the extent necessary to eliminate such invalidity or unenforceability and, to the extent any invalidity or unenforceability remains, it shall not affect the validity or enforceability of the remaining part of such provision or any other provision of this Agreement.
6. Attorneys' Fees. In the event of a dispute between the parties regarding or relating to this Agreement, the prevailing party shall have its reasonable attorneys' and other fees, costs and expenses of such litigation paid by the losing party.
7. Waiver of Jury Trial. The parties hereby waive any right to trial by jury with respect to any claim under or related to this agreement.

8. Entire Agreement. This Agreement constitutes the entire agreement between the parties regarding the subject matter of this Agreement and supersedes all previous and contemporaneous understandings, whether oral, written or otherwise, regarding the subject matter of this Agreement
9. Indemnification. User shall release, defend, indemnify and hold Owner harmless from and against any and all loss, cost, damage, expense, demands, suits, claims, attorneys' fees, and any other liability resulting from any and all loss of life or property, or from injury or damage to the person or property of any person, firm, corporation or entity, including Owner and its trustees, agents and employees, arising out of or in connection with this Agreement.
10. Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original but which when taken together shall be deemed one instrument.

[The Remainder of this Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth above.

OWNER:

[Name of Owner]

By: _____

Name:

Office:

USER:

[Name of User]

By: _____

Name:

Office: