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## **SPACE UTILIZATION AGREEMENT**

**REV 6/10/2009**

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Company  
Austin Technology Incubator  
Juan Sanchez, VP for Research  
Amy Wanamaker, Office of VP & CFO  
<http://www.ati.utexas.edu>

3925 W. Braker Lane  
Austin, TX 78759  
(512) 305-0000 (Off.)  
(512) 305-0009 (Fax)

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This Space Utilization Agreement ("Agreement") is entered into effective the [Day] day of [Month], [Year], by and between the BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM, for the use and benefit of The University of Texas at Austin for the benefit of the Austin Technology Incubator, which is a program of the IC2 Institute, which is a department of the University of Texas at Austin, (hereafter collectively called "we" or the "ATI/UT AUSTIN") and [Company Name] ("you").

If two or more of you have signed this Agreement, then your liabilities are joint and several (meaning that each of you is fully liable for the entire obligation). Your agreement supersedes any previous agreement that you may have had with us for the same services and contains all of the terms to which we have agreed.

For convenience, this Agreement uses the term "ATI/UT Facility" to refer to the entire premises devoted to the activities of the ATI/UT AUSTIN, of which your Accommodation (as defined in Section 1.1.1) is a part.

## 1.1 STANDARD SERVICES INCLUDED IN STANDARD FEE

### 1.1.1 *Furnished office accommodation*

This is a contract for the license (permission given to do some act on a tract of land) to use the number of serviced office rooms in the ATI/UT Facility indicated on Attachment A (which rooms are hereafter referred to as the "Accommodation") for the period of time indicated on said Attachment A. As compensation for this License, you will pay us the Space Utilization Fee ("Standard Fee") shown on the attached "List of Fees" and pay and perform your other obligations under this Agreement. You will accept the Accommodation in their "as-is" condition. Your agreement lists the rooms that we have initially allocated for your use. We may, however, at our sole discretion, re-allocate different rooms to you from time to time, but we will notify you in advance with respect to such different room assignments. Upon our notification, you will be required promptly to move all of your belongings to your newly assigned room(s) and surrender your old room(s) to ATI/UT AUSTIN in accordance with this Agreement. If you fail to move promptly, then we may move your belongings to the new rooms at your sole expense.

### 1.1.2 *Office Services*

So long as you are in compliance with this Agreement, we will provide the following office services during normal operating hours, Monday through Friday:

- basic break room amenities (coffee, water, tea, etc.);
- mail handling; and
- cleaning (usually provided in the evening, after normal operating hours).

### 1.1.3 *Standard Services*

So long as you are in compliance with this Agreement, we will provide the following services 24 hours per day, 7 days per week:

- access to your Accommodation;
- heating and air conditioning;
- lighting and electrical power;
- use of rest room facilities and photocopying areas;

- use of meeting and conference rooms, subject to availability and advance reservations; and
- unreserved outdoor parking, subject to availability and your purchase of a UT "A" parking permit.

#### *1.1.4 Additional Services*

So long as you are in compliance with this Agreement, the following services are available for an extra charge in accordance with our published rates, which are subject to change from time to time:

- broadband Internet access;
- photocopying;
- telephone sets, line and usage;
- facsimile; and
- voicemail.

## **1.2 USING THE ACCOMMODATION**

### *1.2.1 The Nature Of Your Business*

You must only use the Accommodation for office purposes, and only for the business stated in Attachment A. Retail use in any form is not permitted. You may not carry on a business that competes with our business of providing facilities, mentoring, strategic and operational support for high-tech startup companies unless we mutually agree in writing that it would be in the best interests of both parties to allow a temporary exception. Violation of any of these terms is cause for immediate termination of this Agreement by ATI/UT AUSTIN pursuant to Section 1.4.4.

### *1.2.2 Your name and address*

You may carry on your business only in your name or in another name that we approve in writing in advance. You may use the ATI/UT Facility address (3925 W. Braker Lane, Austin TX 78759) as your business address.

### *1.2.3 Taking care of our property*

You must take good care of all areas of the ATI/UT Facility and its equipment, fittings and furnishings that you use. You may not alter the Accommodation or any other part of the ATI/UT Facility without prior written permission from the ATI/UT AUSTIN Facility manager. You are liable for any damage caused by you or by those who visit the ATI/UT Facility with your permission or at your invitation.

### *1.2.4 Office Telecom/Networking Infrastructure*

You may not install any cabling, IT or telecom connections without our written approval in advance, which we may refuse at our absolute discretion.

### *1.2.5 Keys and Security*

Any keys or entry cards ("Badges") that we allow you to use remain our property at all times. You may not make any copies of them or allow anyone else to use them without our consent. Any loss must be reported to us immediately, and you must pay the cost of replacement keys or cards and for changing locks, if required.

### *1.2.6 Comply with the law*

In your use of the Accommodation and ATI/UT Facility, you must comply with (i) all relevant federal, state and local laws and regulations, (ii) the rules and regulations of the Board of Regents of the University of Texas, and (iii) the rules and regulations we promulgate from time to time for use of ATI/UT Facility, as further described in Section 1.2.7. (The foregoing laws, regulations and rules are hereafter collectively called the “Rules and Regulations”). You must do nothing illegal. You must not do anything that may interfere with the use of the ATI/UT Facility by us or by others, cause any nuisance or annoyance, increase the insurance premiums that we pay or cause loss, or damage to us or to the owner of any interest in the ATI/UT Facility. You acknowledge that (a) the foregoing terms are a material inducement to us to execute this Agreement and (b) any violation by you of the foregoing terms shall constitute a material default by you hereunder, entitling us to immediately terminate your Agreement pursuant to Section 1.4.4. You agree to indemnify, defend and hold us harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses that may arise during or after the term of your occupancy as a result of any violation by you of any of the Rules and Regulations.

### *1.2.7 Comply with ATI/UT AUSTIN rules*

You must comply with any rules that we may promulgate for the users of the ATI/UT Facility. A partial list of rules is provided in Attachment C. (By signing this Agreement, you acknowledge that you have been provided with a full description of ATI/UT AUSTIN rules and procedures in the Guide to ATI Services and that you have read and agree to abide by those rules).

You may not allow another person, company or organization that is not listed on Attachment A to occupy or use all or part of your Accommodation without our prior written consent, which consent may be given or withheld at our sole discretion. Any contemplated use or occupancy by any other person, organization or company that is to take the place of your use of the Accommodation or is to result in the person, organization or company paying you a fee for the use is strictly prohibited.

## **1.3 PROVIDING THE SERVICES**

### *1.3.1 Access to your Accommodation*

We can enter your Accommodation at any time. However, unless there is an emergency we will, as a matter of courtesy, try to inform you in advance when we need access to your room or rooms.

### *1.3.2 At the start of your agreement*

If for any reason we cannot provide the number of rooms stated in this Agreement by the start date specified in Attachment A, we shall have no liability to you for any loss or damages, but you may cancel this Agreement without penalty. We will not charge you the Standard Fee for rooms that you cannot use until they become available.

### *1.3.3 Suspension of services*

We may suspend services (including access to your Accommodation) for reasons or events beyond our control, in which event our only obligation to you will be that the payment of the Standard Fee will be suspended or prorated for such period, as we deem appropriate under the circumstances.

### *1.3.4 Notice for repairs*

If you need a repair or service and if you have not caused that need, then we will undertake to

make the repair after you give us at least 2 days' prior written notice specifying the service or repair needed. We are not liable for any failure to make a repair or to provide a service that we are required to make or provide under this Agreement, but if we do not, then you may terminate this Agreement on not less than 30 days' prior written notice.

## 1.4 YOUR AGREEMENT

### 1.4.1 *The nature of your agreement*

This Agreement grants you a license, not a lease. The whole of the ATI/UT Facility and property remain our property and in our possession and control, subject to the terms hereof. You acknowledge that this Agreement creates no tenancy interest, leasehold estate or other real property interest in your favor with respect to the Accommodation. We are giving you just the right to share with us and others the use of the ATI/UT Facility and Accommodation so that we can provide the services to you that are specified in this Agreement. This Agreement is personal to you and cannot be transferred, directly or indirectly, to anyone else.

### 1.4.2 *Duration*

This Agreement is a month-to-month agreement, and will be extended automatically for successive periods until terminated by you or by us under Section 1.4.3 or 1.4.4. We reserve the right to increase monthly space utilization and other fees, but will provide you with at least 30 days' notice of any such increases. The maximum stay for your organization at ATI/UT Facility is 36 months, unless we agree to an extension in writing.

### 1.4.3 *Ending this Agreement and Occupancy*

Consistent with the month-to-month nature of this Agreement, either of us can terminate this Agreement and your occupancy at the ATI/UT Facility at any time by giving at least 30 days' prior written notice to the other. Any such notice may be given at any time, and need not be given at the end of a monthly period.

### 1.4.4 *Ending your Agreement and Occupancy Immediately*

We may end this Agreement and your occupancy rights at the ATI/UT Facility immediately by giving you written notice if:

- You are in arrears in any of your payment obligations to us for a period of 30 days or more;
- We have a reasonable basis to believe that you may not be able to pay fees or charges owed us hereunder on time;
- You are in breach of one of your obligations that cannot be remedied or as to which we have given you notice to remedy but which you have failed to remedy within 14 days of that notice; and
- Your conduct, or the conduct of someone who is at the ATI/UT Facility with your permission or at your invitation, is incompatible with ordinary office use.

If we terminate this Agreement for any of those reasons, you are still liable for all of the outstanding obligations that you may owe to us, and you must:

- pay for any additional services that you have used, and
- Indemnify us against all costs and losses that we incur as a result of the termination.

#### *1.4.5 If the ATI/UT Facility is not available*

If we are no longer able to provide the services and/or the Accommodation at the ATI/UT Facility stated in this Agreement, then this Agreement and your occupancy of the Accommodation will end immediately and you will only have to pay the Standard Fee and other charges hereunder up to the date that your occupancy ends and for any additional services you have used.

#### *1.4.6 When your agreement ends*

When this Agreement terminates, you shall vacate the Accommodation immediately, leaving it in the same condition as it was when you took it, reasonable wear and tear excepted. If you leave any of your property in the Accommodation or the ATI/UT Facility for more than five calendar days after the expiration or termination of this Agreement, then you hereby agree that we may dispose of it as abandoned property at your sole risk and expense without ATI/UT AUSTIN being liable for it or for any proceeds that we receive from selling it. You are responsible for any costs of disposal that we incur as a result of your leaving property in the Accommodation or the ATI/UT Facility.

If you continue to use the Accommodation after your occupancy rights have ended, then you are responsible for any direct, indirect or consequential cost, loss, claim or liability that we incur as a result of your failure to vacate on time. In addition, we reserve the right to assess you an additional surcharge of up to 100% of your normal fee, in addition to standard space utilization and other fees, if you continue to use the Accommodation after this Agreement terminates.

#### *1.4.7 Notices*

Notices given under this Agreement must be in writing. Our notices to you will be given to you at the Accommodation. All of your notices to ATI/UT AUSTIN will be given to Austin Technology Incubator at 3925 West Braker Lane, 3<sup>rd</sup> Floor, Austin, TX 78759. All notices must be given at least 24 hours in advance, unless otherwise specified in this Agreement.

#### *1.4.8 Confidentiality*

You shall not use, publish, or disclose to any third party any data, notes, information or records related to your performance of this Agreement or any data or information disclosed to you that is identified by us as confidential or proprietary data. In the event that you are required to disclose any data, notes, records, or information that is subject to this Paragraph, you shall notify us a reasonable time prior to such disclosure in order that we may take such action as may be available to prohibit the disclosure of the information.

#### *1.4.9 Indemnities*

You agree to indemnify, defend and hold Board of Regents of The University of Texas System, the University of Texas at Austin, Austin Technology Incubator and IC2 Institute, jointly and severally, harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses that may arise during or after the term of your occupancy, arising from the following:

- someone dying or becoming injured while in the Accommodation;
- a third party who makes a claim arising out of your use of the Accommodation or the ATI/UT Facility;
- a third party who makes a claim regarding our provision of services to you; and
- you are not complying with the terms of this Agreement.

- You must also pay any costs (including, but not limited to, court costs, costs of suit, and reasonable legal fees) that we incur in enforcing this Agreement.

#### *1.4.10 Insurance Requirement*

It is your responsibility to arrange insurance for your property that you bring into the ATI/UT Facility, and for your own liability to your employees, to third parties, and to us. You must carry throughout the term hereof, and shall name Austin Technology Incubator, IC2 Institute, The University of Texas at Austin and The University of Texas System Board of Regents as additional named insureds, a minimum of \$1 million in commercial general liability insurance issued by Texas-licensed insurance companies to cover liabilities for which you are obligated under this Agreement. You must provide us with an ACORD Form 27 Certificate of Insurance to verify both property and liability coverage before you move into the Accommodation, unless we agree to allow you a longer time in which to submit such Certificate of Insurance.

#### *1.4.11 Limitation of Liability*

If for any reason we cannot provide you with a service, our liability is limited to crediting or returning to you a fair proportion of the relevant fee for the services for which you have paid but that were not provided. TO THE EXTENT PERMITTED BY LAW, WE HAVE NO LIABILITY WHATSOEVER FOR ANY CONSEQUENTIAL LOSS THAT RESULTS FROM ANYTHING THAT WE, OUR STAFF OR EMPLOYEES DO OR FAIL TO DO, INCLUDING AS A RESULT OF OUR NEGLIGENCE. You agree to waive, jointly and severally (a) all rights of recovery against ATI/UT AUSTIN or any party affiliated with the ATI/UT AUSTIN or against or with respect to any assets of the ATI/UT AUSTIN; and (b) all claims against the ATI/UT AUSTIN or any party affiliated with the ATI/UT AUSTIN for consequential, incidental or punitive damages (including, without limitation, lost profits and business interruption) allegedly suffered by you. Neither the ATI/UT AUSTIN, the individual entities comprising ATI/UT Austin, nor their respective officers, directors, agents or employees have personal liability under this Agreement, including for any judgment or deficiency.

*1.4.12 State Law.* Notwithstanding anything to the contrary in this Agreement, you agree that (i) we shall not be required to perform any act or to refrain from any act if that performance or non-performance would constitute a violation of the constitution or laws of the State of Texas; and (ii) no provision in this Agreement shall constitute nor is it intended to constitute a waiver of the State of Texas' or our sovereign immunity to suit.

## **1.5 FEES**

#### *1.5.1 Standard services*

The Standard Fee is payable in advance, in full, by the 10th day of each month. For a period of less than a month, the Standard Fee will be apportioned on a daily basis. You agree to promptly pay (a) all sales, use, excise and any other taxes and license fees imposed on you by any governmental authority (and, at our request, will provide to us evidence of that payment); and (b) any taxes paid by us to any governmental authority that are attributable to the ATI/UT Facility Accommodation, including, without limitation, any gross receipts, space utilization and occupancy taxes, or tangible personal property taxes.

#### *1.5.2 Additional services*

Fees for additional services are invoiced in arrears on the 1st day of each month and payable by the 10th day of the month. See [Attachment B](#) for list of fees.

### 1.5.3 *Security Deposit*

We will hold the Security Deposit described in Attachment A, which will be not less than one full month's Standard Fee per Attachment A, as security for the performance of all your obligations under your agreement. We may pay to ourselves from the Security Deposit any amounts that you owe us under this Agreement. No interest is payable upon the Security Deposit. We may require you to deposit additional money to restore or increase the amount of the Security Deposit if:

- you are allocated additional rooms;
- your outstanding fees and charges exceed the Security Deposit held; or
- you fail to pay fees when due.
- The Security Deposit, or any balance after deducting outstanding fees and other costs due to us, will be returned to you in accordance with applicable law after the expiration or sooner termination of this Agreement and your occupancy of the Accommodation ends.

### 1.5.4 *Payment terms*

All payments are to be made on or before the required date.

### 1.5.5 *Late payment*

If you do not pay fees when due, we may charge interest on the amounts outstanding at the maximum lawful rate. If you are in arrears in your obligations to us for a period of 30 days or more, we may immediately terminate your agreement and occupancy at the ATI/UT Facility, as provided in Section 1.4.4.

### 1.5.6 *Withholding services*

In addition to any other remedies that we have under this Agreement or applicable law, we may withhold any or all services (including denying you access to your Accommodation) during any period that you are in breach of this Agreement.

### 1.5.7 *Relationship of the Parties*

The relationship created hereby shall be the relationship of licensor and licensee and shall not be construed in any manner to constitute a partnership, joint venture, or principal-agent relationship between the parties hereto, and neither party shall have authority to bind the other, except as expressly provided herein.

### 1.5.8 *Survival of Agreements.*

Your obligations under this Agreement to (i) pay us fees, costs and charges hereunder; and (ii) indemnify us against losses and claims, shall survive the expiration or sooner termination of this Agreement.

The remainder of this page is left intentionally blank.

Approved as to Content:

On behalf of [Company Name].

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Dr. Juan Sanchez

[Name and Title]

Vice President for Research

The University of Texas at Austin

[Company Name].

LICENSOR:

BOARD OF REGENTS OF THE UNIVERSITY  
OF TEXAS SYSTEM, for the use and benefit of  
The University of Texas at Austin

By: \_\_\_\_\_

Name: Amy Wanamaker  
Title: Campus Director of Real Estate  
Office of Vice-President and  
Chief Financial Officer  
The University of Texas at Austin

FOR SIGNATURES PLEASE USE BLUE INK

## 2. INITIAL SPACE AGREEMENT

ORIGINAL

Attachment A

| Client Details                               |  |
|--|--|
| Company Name:                                |  |
| Contact Name:                                |  |
| Title:                                       |  |
| Telephone:                                   |  |
| Email Address:                               |  |
| Nature of the Business:                      |  |
|  |  |
|  |  |
| Initial Space Allocation                     |  |
| Number of Rooms:                             |  |
| Room Numbers:                                |  |
|  |  |
|  |  |
| Total Square Footage:                        | square feet                              |
| Monthly Utilization Fee:                     | per square foot x total square feet \$ = |
| Security Deposit:                            | \$                                       |
| Initial Period For Which The Agreement Lasts |  |
| Start Date (MM/DD/YYYY)                      |  |
| End Date (MM/DD/YYYY)                        |  |

ORIGINAL

### **3. LIST OF FEES**

Attachment B

| Space Utilization Fee     |                                |
|---------------------------|--------------------------------|
| Office Space Utilization: | \$[ ] per square foot per year |

| University Of Texas Phone Charges  |   |
|--|---|
| Installation Charges   |   |
| Digital line & phone*  | \$150.00 each   |
| Digital side add-on  | \$ 90.00 each   |
| Analog phone*  | \$ 60.00 each   |
| Fax line and jack  | \$120.00 each   |
| Net Ethernet outlet-cabling  | \$119.00 each   |
| SOC –service order charge  | \$23.00 per work order (in addition to above charges) |
| SOTC-service order trip charge   | \$46.00 per work order (in addition to above charges) |
| *Includes phone set as well as the necessary line & jack activation charges. |   |
| Monthly Line Charges   |   |
| Fax line (no message waiting)  | \$21.00 each  |
| Digital instrument, first line   | \$21.00 each  |
| - additional lines on same instrument  | \$2.75 each   |
| Analog instruments, each line  | \$21.00 each  |
| Monthly Phone Set Rental Charges   |   |
| Analog phone set, (with speaker)   | \$ 6.25 each  |
| Digital phone sets:  |   |
| 16 button Model 2616 (w/speaker, w/display)                                  | \$15.00 each  |
| Digital side add on 22 button, add on Model M0022                            | \$ 6.20 each  |
|  |   |

|  |         |                            |                      |                       |
|--|---------|----------------------------|----------------------|-----------------------|
|  |         |                            |                      |                       |
| Voice Mail (see official Guide To Services for option descriptions)                  |         |                            |                      |                       |
| Option   | Monthly | Installation               | Service Order Charge |                       |
| SmartVoice   | \$4.50  | \$23.00                    | \$23.00              |                       |
| Long Distance Charges  |         |                            |                      |                       |
| Long distance calls will be billed at current University of Texas rates.             |         |                            |                      |                       |
| Auto Attendant   |         |                            |                      |                       |
| Auto Attendant allows you to use voice mail to answer your company's incoming calls. |         |                            |                      |                       |
| Auto Attendant (includes 3 ports)  |         | \$21.00 per port per month |                      | \$194.00 installation |
| Auto Attendant-additional ports  |         | \$16.55 per month costs    |                      | No installation costs |
| Auto Attendant Sub Menu  |         | \$10.50 per month          |                      | \$65.00 installation  |
|  |         |                            |                      |                       |
|  |         |                            |                      |                       |

| Other Charges                       |  |
|-------------------------------------|--|
| Photocopies:                        | \$0.06 per copy over 1000                    |
| Incoming/outgoing fax transmission: | No charge                                    |
| Beverage service (coffee / tea):    | No charge                                    |
| Shared broadband Internet access:   | No charge for up to 3 dedicated IP addresses |
| Parking Permit (UT "A" permit)      | \$138/year                                   |

## 4. PARTIAL LIST OF RULES

ORIGINAL

## Attachment C

We reserve the right to change, modify or amend these policies at any time. We will occasionally update our policies and we will post those updates in the main office and distribute them, if practicable. You are responsible for compliance with these policies and reviewing policy updates. See the "Guide to ATI Services" for full description of ATI Rules & Policies.

**BUILDING SECURITY**

- If you lose or forget your UT ID, you can obtain a temporary badge from the MCC Security Desk at the visitors' entrance.
- ALL visitors must be signed in at the front desk and given a temporary badge.

**UTILITIES**

- Please help us conserve energy. Turn off lights when leaving conference rooms and offices. Extremely energy intensive equipment is not allowed.

**NEW EMPLOYEE PROCEDURES/ BADGES**

- New employees should pick up a set of new employee forms from the ATI receptionist.
- The new employee form should be completed by the employee and company, and returned to the ATI front desk. The ATI receptionist then needs to sign the form. ATI keeps the original form. A copy should be given to the MCC security guard.
- Fee for lost UT ID: There will be a \$10.00 fee for each badge payable to UT Austin. The loss or theft of this badge should be reported immediately to the Austin Technology Incubator at 305-0000. UT IDs must be turned in to ATI upon termination of an employee.

**ISSUING AND RETURNING KEYS**

- Please see the ATI front desk receptionist to receive or return a key. To obtain a key to your office you must fill out a key form, available at the ATI front desk. Write the exact room number of your office (not the suite number.) There is a \$ 10.00 fee for lost keys.
- All keys and UT IDs must be returned to the ATI Receptionist upon graduation or termination of an employee. There is a \$ 10 fee for keys not returned (re-keying an office is charged to the company).

**PARKING**

- UT Austin "A" parking permits are required for all ½ time or greater employees. Please refer to the List of Fees.
- ATI company parking is in either the north lots (behind the building) or in the west lot (in front of the building). An "A" parking permit is required.
- Please do not park in visitor parking. There are a limited number of spaces, and these are reserved for your visitors as well as for visitors to other building occupants.

**ALCOHOLIC BEVERAGES**

- No alcoholic beverages are allowed in the ATI/UT Facility without our written prior authorization.

**BICYCLES**

- Bicycle racks are located in the Southeast corner of the MCC building. Please lock your bicycle in the bicycle rack. If you need to bring your bicycle into the building, please clean the bicycle and tires before you bring it into the building. You may store your bicycle only in your company's contained office space. Under no circumstances should bicycles be stored in ATI common areas, hallways, etc.

**ANIMALS**

- No pets / animals of any kind are allowed in the MCC building.

**WI-FI / WIRELESS NETWORK USAGE**

Resident companies and individuals at ATI are allowed to set up Wi-Fi networks within the MCC building provided only that setup/installation and operation of the network is approved by ATI according to the following process:

- 1) Company must inform ATI in writing prior to setting up and turning on the Wi-Fi network and provide it with all relevant information regarding the network as requested by ATI's IT team.
- 2) ATI's IT team will review the planned network setup and recommend changes to the setup as necessary so that it adheres to policies that ATI and UT have developed to ensure proper operation and security of the network.
- 3) Subject to the Company implementing the changes requested by ATI, if any, ATI will then, at its sole discretion, approve the Wi-Fi network. In the event that approval is not granted, the Company agrees not to set up the Wi-Fi network and to work with ATI's IT team on alternative solutions.

ATI will routinely audit Wi-Fi networks in the MCC building to ensure that only those which have been approved are in operation. In the event that an unauthorized network is discovered, Company agrees to shut it down until authorization is granted by ATI. Violation of this policy will be considered a violation of the Space Utilization Agreement which the Company has in place with ATI and will subject the Company to the same terms and penalties outlined therein.