

Memorandum of Understanding

This memorandum will serve as an agreement between the Center for Nanoscale Systems (“CNS”) at Harvard University (“UNIVERSITY”); CNS partially funded by the National Science Foundation (“NSF”) through the National Nanotechnology Coordinated Infrastructure (“NNCI”),

_____ (“INSTITUTION”), and

_____ (“USER”),

who is a non-Harvard University student, employee or representative of INSTITUTION, regarding the USER’s use of facilities in CNS.

1. Background

This Memorandum of Understanding (MOU) will serve to establish the terms and conditions under which the USER from INSTITUTION shall use CNS facilities at the UNIVERSITY to perform work that is part of the National Nanotechnology Coordinated Infrastructure (NNCI) program funded by the National Science Foundation (NSF).

By signature and approval of this MOU, the INSTITUTION and USER have read, understood and agreed to the terms of this Memorandum of Understanding, and have been provided information by UNIVERSITY and CNS regarding the use of CNS facilities, including safety training, and have reviewed and understand such information, and have been given the full opportunity to ask the UNIVERSITY and CNS questions it may have about such information.

2. NNCI Requirement

The USER, as well as the INSTITUTION, understands that the use of CNS facilities is controlled by the provisions of the NNCI program through which he/she has a project. Facility use shall be provided only for research work in conjunction with specific projects approved under the NNCI program.

Submission of an annual report for active projects is required by NSF as a provision of the NNCI program. The USER and INSTITUTION agree to provide a project title and brief description and summary of work accomplished during the year; the report should not contain confidential information, as it may be used in presentations to illustrate the range of research topics at CNS. The INSTITUTION also acknowledges that its identity may be made public in presentations and other materials describing CNS and the NNCI. The INSTITUTION further agrees that, where appropriate, the CNS and the NNCI will be acknowledged in any of its sponsored publications or presentations, resulting from substantive work performed at CNS.

3. Project Terms

a) Description of Work

A description of the work approved under the NNCI program and proposed to be performed at CNS shall be provided by the USER prior to the commencement of such work hereunder. No substantive deviation from said statement of work will be permitted unless agreed to in writing by CNS.

b) Reasonable Efforts

The USER and INSTITUTION acknowledge that USER retains ultimate responsibility for his/her project progress and development and that NEITHER CNS NOR UNIVERSITY IN ANY WAY WARRANT OR ASSURE ANY RESULTS, COMMERCIAL VIABILITY, MERCHANTABILITY OR USEFULNESS OF ANY PARTICULAR PROJECT(S). The USER and INSTITUTION fully understand and agree that any work done, or services provided, by CNS and its employees are on a reasonable efforts basis. The USER accepts full responsibility for the progress and results of his/her project(s).

c) Payment

The INSTITUTION acknowledges the responsibility for payment to the UNIVERSITY for purchases, materials costs, and use fees incurred by the USER for use of CNS facilities and at other UNIVERSITY departmental stockrooms. CNS shall invoice the INSTITUTION for costs incurred hereunder, and payment in full shall be made by INSTITUTION within thirty (30) days thereof. No terms in any form prepared by USER or INSTITUTION, including Purchase Orders, shall be construed to change any term in this Agreement, and the terms hereof shall strictly govern in the event of an inconsistency.

4. Status of USER

The USER understands that he/she is not an employee of UNIVERSITY and that UNIVERSITY provides no Worker's Compensation or other liability insurance coverage for the USER's benefit. The USER is deemed to be acting as a representative and employee of INSTITUTION for all purposes during work on a project in the CNS facilities. The USER must have his/her own health and accident insurance and the UNIVERSITY will not be responsible for any medical expenses that the USER may incur. The USER agrees to bear full responsibility for any liability resulting therefrom.

5. User Safety

While the USER will be informed regarding general safety policy prior to being allowed to use the facilities, the USER assumes responsibility for his/her own personal safety. It is expected that the USER will operate all instruments and equipment in a safe and professional manner, consistent with the operating instructions and the facility polices. The USER represents that his/her knowledge of laboratory practices is adequate to permit the safe pursuit of the research work in conjunction with the USER's specific project. The UNIVERSITY and CNS shall have the right to immediately prohibit further use by USER if CNS, in its sole discretion, believes that the USER has breached this representation.

6. Security of Property

The USER and INSTITUTION acknowledge responsibility for their personal property, which may include devices, cell cultures, masks, wafers, notebooks, chemicals, glassware, and other supplies and, as noted below, any intellectual property or proprietary or confidential information that resides thereon. CNS provides limited, unsecured storage as a courtesy, but CNS makes no guarantee against unauthorized access by non-INSTITUTION individuals. USER agrees to abide by all material storage policies including labeling and understands that items not in compliance with storage policy may be dispositioned at the discretion of CNS Staff. If a USER ceases to be affiliated with the INSTITUTION, or if the relationship between the INSTITUTION and CNS is terminated, the USER or INSTITUTION is then responsible for removing any personal property within 30 days, or it may be dispositioned at the discretion of CNS Staff.

7. Appropriate Conduct

The USER agrees to observe all applicable governmental, UNIVERSITY, and CNS policies, rules and regulations that pertain to his/her conduct on campus and at CNS facilities. The USER agrees that CNS or the UNIVERSITY may require him/her to leave CNS facilities if it believes that the USER has violated a policy, rule or regulation, or if it believes that the USER's conduct is inappropriate.

8. Liability

The INSTITUTION acknowledges responsibility for general liability and maintains such health and accident insurance as it may carry for the USER while he/she is working at CNS facilities. The USER knowingly assumes all the risks and responsibilities surrounding his/her use of and access to CNS facilities. The USER and the INSTITUTION understand that use of CNS facilities may involve exposure to potentially hazardous conditions including, but not limited to, chemical, mechanical, electrical, thermal, and radiation hazards. The USER and the INSTITUTION shall release, hold harmless and indemnify the UNIVERSITY, its officers, agents and employees from any and all claims, damages, costs (including reasonable attorney fees) and liabilities arising out of the USER's use of CNS facilities other than such as results from the gross negligence of UNIVERSITY, its current or former officers, faculty, staff, representatives, volunteers, employees, students, other trainees or agents, and current or former members of its governing boards (collectively, "UNIVERSITY INDEMNITEES"). The UNIVERSITY and UNIVERSITY INDEMNITEES shall hold no liability with respect to any loss, damages or claims incurred by the INSTITUTION or USER in connection with the USER's use of the facilities described. The INSTITUTION also

acknowledges that it is financially liable for equipment or other property damage if it is found to result from negligence or willful misconduct by the USER.

9. Intellectual Property

CNS operates as a shared-use facility, and the UNIVERSITY shall make no claim to co-own USER-created intellectual property based solely on the USER’s use of the UNIVERSITY’s facilities. However, the USER and INSTITUTION acknowledge that the commercial viability of any device or technique developed at CNS facilities is subject to the existing intellectual property rights of the UNIVERSITY and other third-party rightsholders. The UNIVERSITY makes no guarantee that devices or techniques developed at CNS facilities are not covered by its own or a third party’s intellectual property. The USER and the INSTITUTION further acknowledge that the UNIVERSITY may claim partial ownership of intellectual property that the USER co-develops with CNS staff or other UNIVERSITY personnel.

10. Confidentiality

The USER and INSTITUTION further acknowledge that the UNIVERSITY and CNS Staff have no obligation to preserve the confidentiality of information USER or INSTITUTION may disclose to CNS Staff.

11. CNS Requirements

The USER certifies that he or she will under no circumstances schedule time for facility use for another user in the USER’s name (whether other user is qualified or not), give out the USER’s CNS User Name and/or Password for use by other users, or give other users access to the USER’s facility access swipe card or otherwise assist others with access to any controlled facility. CNS reserves the right to deny future access to the USER in the event of willful breach of this policy. Anyone using a facility must be a fully qualified CNS User.

The USER and the INSTITUTION warrant that they have fully read and agree with this Agreement.

INSTITUTION: _____

Officer: _____ Title: _____

Signature: _____ Date: _____

USER: _____ Title: _____

Signature: _____ Date: _____

Principal Investigator: _____ Title: _____

Signature: _____ Date: _____

Center for Nanoscale Systems (CNS)
Harvard University

Officer: _____ Title: _____

Signature: _____ Date: _____