

**AGREEMENT FOR
USE OF FACILITIES/EQUIPMENT OF
LEHIGH UNIVERSITY**

This Agreement is made this _____ day of _____, 20__ by and between Lehigh University ("Lehigh") and _____ (referred to herein as "User") to specify the terms and conditions by which Lehigh grants to User the limited and revocable permission to use a certain facility (the "Facility") or certain equipment (the "Equipment") owned by Lehigh conditioned upon User's compliance with the terms and conditions stated in this Agreement. (Lehigh and User shall each be referred to herein as a "Party" or collectively as the "Parties.")

The Parties, intending to be legally bound, hereby agree as follows:

1. **FACILITY/EQUIPMENT:** Lehigh grants User the limited and revocable permission to use the following:

a. Facility (specify in detail): _____

and / or

b. Equipment (specify in detail): _____

2. **PURPOSE OF USER'S USE OF FACILITY/EQUIPMENT:** User may use the Facility/Equipment only for purposes consistent with Lehigh's tax-exempt non-profit status. The purpose of User's use of the Facility/Equipment is as follows:

Does the project involve the use of:

- Radioactive material/radiation-producing equipment? ___No ___Yes
- Potentially infectious agents, incl. human blood/tissue? ___No ___Yes
- Human Carcinogens? ___No ___Yes
- In Vitro Formation of Recombinant DNA? ___No ___Yes
- Hazardous Materials/Gases? ___No ___Yes

3. **PERIOD OF USE:** The dates and times that Lehigh permits User to use the Facility/Equipment shall be as follows:

4. **FEES FOR USE:** In consideration for Lehigh's granting permission for User to use the Facility/Equipment, User agrees to pay Lehigh the following usage fees (referred to herein as the "Fees") as noted in Appendix A.

Upon receiving an invoice, such Fees shall be paid by check payable to "Lehigh University" and sent to:

Lehigh University
Attn: Jean Politi
Bursar's Office
27 Memorial Drive West
Bethlehem, PA 18015

5. **REVOCABILITY; LEHIGH'S RIGHTS TO TERMINATE USE:** Lehigh, as owner of the Facility/Equipment reserves all rights to revoke, limit, or terminate at any time the permission granted herein for User to use the Facility/Equipment and to do so for any reason whatsoever, including but not limited to intervening or competing needs of Lehigh, Lehigh's convenience, or other reasons which Lehigh may choose not to disclose to User. In the event User has paid Fees in advance of User's use of the Facility/Equipment (and provided Lehigh's revocation, limitation, or termination of use is not due to any User breach of this Agreement or an intervening event or changed circumstances as stated in Section 18 hereof), then Lehigh shall refund to User any pro rata portion of Fees paid in advance for which User was unable to use the Facility/Equipment.
6. **CONDUCT OF USER:** User shall be responsible for the conduct of any persons who are employees, agents, or others within User's control, supervision, or responsibility and who use the Facility/Equipment, including, without limitation, any damage caused by such persons. User and all such persons shall comply with all rules, regulations and policies of Lehigh.
7. **COMPLIANCE WITH LAWS:** User shall, at its own expense, comply with all municipal, state, and federal laws, ordinances, rules, and regulations including, without limitation, the obligation to obtain any licenses (including but not limited to patent, copyright, software, or other intellectual property licenses applicable to User's activities), permits, and government approvals required in connection with the User's use of the Facility/Equipment. User shall defend, indemnify, and hold Lehigh harmless for, and shall pay any fines or penalties assessed for failure to comply with such laws, ordinances, rules or regulations, and shall pay any expenses, legal or otherwise, incurred by Lehigh due to User's failure to so comply.
8. **DISCLAIMER OF WARRANTIES AND LIABILITY:** USER ACKNOWLEDGES THAT IT HAS INSPECTED OR BEEN AFFORDED AN OPPORTUNITY TO INSPECT THE FACILITY/EQUIPMENT, THAT THE FACILITY/EQUIPMENT IS MADE AVAILABLE UNDER THIS AGREEMENT TO USER IN "AS IS" CONDITION, AND THAT LEHIGH MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING BUT NOT LIMITED TO WARRANTIES AS TO THE CONDITION OF THE FACILITY/EQUIPMENT, ITS MERCHANTABILITY OR ITS FITNESS FOR ANY PARTICULAR PURPOSE. LEHIGH SHALL NOT BE LIABLE TO USER OR ANY THIRD PARTY FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, PUNITIVE, OR OTHER DAMAGES INCURRED BY USER OR ANY THIRD PARTY RESULTING FROM USE OF THE FACILITY/EQUIPMENT.
9. **LEHIGH PROPERTY:** User shall at all times take good care of Lehigh's real and personal property, and shall cause no waste or injury to any of it, reasonable wear and tear excepted. User shall be responsible for any damage to or loss or theft of Lehigh's property that is attributable to User's use of the Facility/Equipment.
10. **INDEMNIFICATION:** User shall defend, indemnify and hold harmless Lehigh and its trustees, officers, employees, students, and agents from and against any and all loss, claim, damage, liability or expense whatsoever (including attorneys' fees) arising out of User's use of the Facility/Equipment (including but not limited to all claims brought by employees, agents, or others within User's control, supervision, or responsibility) or arising from any breach by User or failure to comply with any of the terms and conditions of this Agreement.
11. **INSURANCE:** User shall obtain and maintain, at User's own expense during the period of User's use of the Facility/Equipment pursuant to this Agreement, Commercial General Liability Insurance naming Lehigh as an Additional Insured, subject to a combined single limit of at least One Million Dollars (\$1,000,000) for each occurrence and One Million Dollars (\$1,000,000) in the aggregate for bodily injury and property damage. A duly authenticated Acord Certificate of Insurance shall be provided to Lehigh at least five (5) days prior to User's use of the Facility/Equipment.
12. **TAXES:** User agrees to pay promptly any and all applicable taxes and license fees that may arise in connection with User's use of the Facility/Equipment, including without limitation any amusement taxes, and any sales taxes due in connection with concessions.

13. **RIGHT OF ENTRY:** Lehigh officers, employees and agents shall have the right at all times to enter the Facility/Equipment in the performance of their duties.
14. **PROHIBITED PRACTICES:** Neither User nor any person for whom User is legally responsible shall cause or produce any unusual, noxious or objectionable smoke, gas, vapor or odor; use any part of the Facility/Equipment for lodging or sleeping other than those facilities officially designated as residential; overload any floor, ceiling, wall or fixture therein; remove, replace or install any locks; perform any act or thing on Lehigh property which might invalidate any insurance policies carried by either Party to this Agreement; commit any nuisance; interfere with the effectiveness or accessibility of building mechanical systems (including lines, pipes, wires, conduits and equipment), concession stands, public areas, streets and sidewalks; use the Facility/Equipment for unlawful or immoral purposes or in any manner as to injure persons or property; or do any act or suffer any act to be done which will in any way mar, deface or injure any Lehigh property.
15. **TIME OF THE ESSENCE:** Time shall be of the essence of this Agreement. Without limiting the generality of the foregoing, the period of User's use of the Facility/Equipment pursuant to this Agreement shall not be extended, for the installation or removal of equipment or other property or for any other purpose, without the prior written permission of Lehigh, and User shall vacate the Facility/Equipment immediately upon the expiration of said period.
16. **BREACH OF AGREEMENT BY USER:** In the event of a breach by User of any term or condition of this Agreement, including, without limitation, a failure to pay the Fees when due, Lehigh may, by notice to User, declare this Agreement terminated, enter into possession of all parts of the Facility/Equipment, retain all Fees or sums of money previously received by Lehigh under this Agreement, recover any Fees or sums of money then or thereafter due under the terms hereof and, in addition thereto, be entitled to any other damages or remedies at law or in equity. In the event of such breach, User shall immediately vacate the Facility/Equipment, and any property of User may be removed by Lehigh from the Facility/Equipment, by force or otherwise.
17. **BREACH OF AGREEMENT BY UNIVERSITY:** In the event of a breach by Lehigh of its obligations under this Agreement, the liability of Lehigh shall be limited to repayment of the amount of any Fees paid by User or a pro-rated portion thereof.
18. **INTERVENING EVENTS; CHANGED CIRCUMSTANCES:** Lehigh shall not be liable in the event that User is prevented, interrupted or delayed in its use of the Facility/Equipment due to acts of God, storm, fire, flood, earthquake, roof-collapse, labor disturbances or strikes, war, terrorism, civil commotion, governmental order, rules or regulations, disruption of electrical or other utility service, lack of usual means of transportation, or any other cause or contingency beyond the control of Lehigh. User has informed Lehigh of the nature of User's intended use of the Facility/Equipment, and any change with respect thereto shall be subject to the prior written approval of Lehigh. If User changes its proposed use of the Facility/Equipment without Lehigh approval, Lehigh may cancel this Agreement and forbid the use of the Facility/Equipment by User if such change would, in the judgment of Lehigh, be dangerous, tend to cause damage to Lehigh, its image or reputation, or conflict with Lehigh policy. If Lehigh determines that additional security is necessary in connection with User's use of the Facility/Equipment and User refuses to pay for such additional security, Lehigh may cancel this Agreement. If Lehigh cancels this Agreement pursuant to this Section, then Fees due to Lehigh hereunder shall be abated, less costs or expenses incurred by Lehigh due to such cancellation.
19. **NON-ASSIGNMENT:** User shall not assign this Agreement or any rights hereunder or delegate any obligations hereunder without the prior written consent of Lehigh. Any attempted assignment or delegation without the prior written consent of Lehigh shall be void and shall constitute a breach of this Agreement.
20. **NOTICES:** Any notice required by this Agreement shall be hand-delivered, mailed first-class, postage prepaid, or delivered by commercial overnight delivery service to the addresses of the Parties as follows:

Lehigh:
Deanne Hoenscheid
Lehigh University - CAMN
5 E. Packer Avenue
Bethlehem, PA 18015

User:

- 21. **NON-DISCRIMINATION:** Lehigh does not discriminate against any person or group on the basis of age, color, disability, gender, gender identity, marital status, national or ethnic origin, race, religion, sexual orientation, or veteran status in the admission to or enjoyment of the use of its facilities. User shall not so discriminate in its activities under this Agreement.
- 22. **MISCELLANEOUS:** This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania in Northampton County irrespective of the conflict of laws principles of Pennsylvania or any other jurisdiction, contains the entire understanding between the Parties with respect to User’s use of the Facility/Equipment, and shall not be modified except by a written instrument signed by the Parties hereto. The Parties hereby submit to the jurisdiction of the courts of the Commonwealth of Pennsylvania in Northampton County and the Federal Court for the Eastern District of Pennsylvania for the resolution of any disputes relating to this Agreement. This Agreement is for the limited purposes set forth herein, and shall in no event be construed to establish a partnership, joint venture or any other relation between the Parties other than owner-user.

IN WITNESS WHEREOF, the Parties, intending to be legally bound, have executed this Agreement by their duly authorized officers as of the date(s) indicated.

LEHIGH UNIVERSITY

By: _____
Title: _____
Date: _____

USER _____ [Name of Organization]

By: _____
Title: _____
Date: _____

Appendix A
USE OF FACILITIES/EQUIPMENT OF
LEHIGH UNIVERSITY

CAMN Industrial Liaison Program		
Labor and Equipment Rates – Partial List		
<i>An administrative fee of 58.73% will be added to these rates</i>		
<i>Rates Subject to Change</i>		
Description	Research Rate	
	<i>(rates are per hour unless otherwise noted)</i>	
LABOR RATES (plus employee benefits charges of 0%-32.7%):		
Students	25	
Technicians	50-60	
Research Scientists	50-75	
Faculty	100	
EQUIPMENT RATES:		
SEM		
Hitachi 4300 FEGSEM	50	
JEOL 6400F CL SEM	35	
FEI Strata DB 235 FIB	50	
JEOL 733 EPMA Microprobe	35	
FEI XL30 ESEM (Environmental)	35	
TEM		
JEOL 2000FX TEM	40	
Philips EM 420 TEM	15	
JEOL 2200FS	55	
STEM		
VG HB 603 Scanning TEM	55	
GEMINI-LEO Electron Beam (Nanolithography) – <i>Sherman Fairchild Laboratory</i>	40	
Specimen Prep		
Ion Micro Mill (PIPS)	5/sample	
Evaporator	7/sample	
Plasma Cleaner	1/sample	
Atomic Force Microscopy (Nanoscope/Hysitron)	5	
Profilometer	20 up to 10 hrs; 1 over 10 hours	
Scientia ESCA 300 (equipment time only)	40 up to 8 hours; 25 over 8 hours	
Laser Raman System	50	
UV-Vis-NIR DRS Spectroscopy	50	
Description	Research Rate	
	<i>(rates are per hour unless otherwise noted)</i>	
Solid State NMR	10 (or 75/day)	

FTIR Spectrometer	24	
Light Optical Microscopy supplies	12/sample	
Leco Microhardness tester	20	
Leco M400, Leco M100	20	
Light Optical Metallographs (Olympus Vanox)	15	
Quantitative Scope (Nikon Microphet w/Digitalizing pad)	10	
Automatic Polishers	10/run	
Clemex (Imaging)	25	
Abrasive Cutting:		
Leco CM-20	3/cut	
Buehler Isomet	2/cut	
Struers Accuton-50	4/cut	
Furnaces (rate listed for up to 48 hrs; then \$3/hr)	4	
With gas (rate listed for up to 48 hrs; then \$5/hr)	6	
Salt Bath (rate listed for up to 48 hrs; then \$3/hr)	4	
X-Ray Facility	34	
Sputtering System	100/run	
TG/DTA Thermal Analysis (Dilatometer)	50/run	
High Speed Saw (Struers)	2/cut	
Wire Saw	4/cut	
Particle Size Analyzer (LA 910)	30/sample	
Resistance Furnace	2	
Isopress	25/run	
Hi Temp Furnace < 24 hrs	50/run (run=<24 hrs)	
Hi Temp Furnace > 24 hrs	2	
Vacuum Hot Press < 24 hrs	50/run (run=<24 hrs)	
Vacuum Hot Press > 24 hrs	2	
Diamond Saw	2	
Rheovibron	2	
Clean Room DI H2O system	1/gal	
Clean Room (15 minute minimum)	5	
Inst Cap Rheometer - Packard Lab	50	
Brabender Extruder – Packard Lab	40	
Rotary Viscometer – Packard Lab	40	
Description	Research Rate	
	<i>(rates are per hour unless otherwise noted)</i>	

Contract No: _____

Tetrahedron Press	14	
DSC/TGA	10	
DMA/TMA/DEA	10	
Rheometrics (without liquid nitrogen)	20/run	
Rheometrics (with liquid nitrogen)	30/run	
Flow Calorimetry	5/run	
Environmental Chambers	70/week	
Scanning Acoustic Microscope (C-SAM)	10	
UV Ozone Chamber	1 (30 minute minimum)	
Contact Angle Goniometer	10	
Met Mechanical Testing	20	
- w/extensometer	25	
Instron Fatigue w/computer	5	
Instron Fatigue w/o computer	2	
Evaporator System	10	
Thin Film Mech Test System	10/run	