

Guest Scientist Privileges

with the Center for Nanotechnology and Molecular Materials at Wake Forest University

THIS AGREEMENT, made effective as of the ____ day of ____ (month), ____ (year), is by and between:

Name:

Address:

(hereinafter “the Guest”)

and

Wake Forest University, a private non-profit institution with a place of business at 1834 Wake Forest Road, Winston-Salem, North Carolina 27106, USA.

(hereinafter “WFU”)

Statement of Purpose

WHEREAS, WFU agrees to extend specific and limited privileges of use in the facilities of the Center for Nanotechnology and Molecular Materials at 501 Deacon Blvd. Winston-Salem NC 27105 to a guest, this agreement defines the conduct and responsibilities of that guest, restricts the disclosure of information originating in the facility, restricts the use of real property and assets of WFU, prevents the removal of any materials from the facility, and establishes a “sponsoring faculty member,” who will oversee all aspects of guest activities within the facility.

Sponsoring Faculty Member

WHEREAS, the guest will have limited access to facilities of WFU, the guest is obligated to meet specific requirements of WFU and requirements laid down by the sponsoring faculty member as a full member of their research group. A sponsoring faculty member must be a tenure or tenure track faculty member of WFU, a recognized member of the Center for Nanotechnology and Molecular Materials, and is obligated to disclose the guest arrangement with the chair of their department as well as the vice provost for research at WFU (Reynolda campus). This agreement establishes:

Name:

Department:

as the sponsoring faculty member.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein the parties hereto agree as follows:

Definitions

1. "Equipment" "Assets" and "Instruments" is defined to mean all the real and permanent property of WFU contained within and surrounding the Center for Nanotechnology and Molecular Materials at 501 Deacon BLVD in Winston-Salem NC 27105 ("NanoCenter" or "NANOTECH"). This includes computers, microscopes, measurement devices, materials preparation devices and implements, furnishings, and properties associated with the building structure and its surrounding real-estate.
2. "Proper" use is defined to mean the use for which any given piece of equipment is intended.
3. "Approved" use is defined to mean that the equipment has been approved for use in a specific manner by the facilities manager.
4. "Materials" is defined to mean all consumable goods, supplies, chemicals, samples, demonstration devices, written or recorded information and notes, and electronic media including files.
5. "Authorized Purpose" is defined to mean the determination of any and all interests pertaining to ongoing research and development at WFU's NanoCenter or joint interests between the guest and WFU.
6. "Intellectual Property" means all Proprietary Information and all information and materials directly related to the Authorized Purpose, in any form, including oral, written, physical, computer or other form, and all copies, notes or other reproductions or partial reproductions thereof created by the guest including but not limited to, technologies development, or scientific discovery.
7. "Proprietary Information" means information including trade secrets that is provided to the guest by any representative of NanoCenter and that relates in any way to NanoCenters/WFU's business interests or science/technology development activities and relates to the Authorized Purpose.
8. "Representatives" of NanoCenter shall mean the students, postdocs, directors, officers, employees, agents, faculty consultants and other representatives of NanoCenter.

WFU Requirements

1. All equipment use is subject to training and must be approved by the facilities manager of NanoCenter.
2. The guest agrees that access to facilities is granted only during operational hours of 9 am to 4:30 pm Monday through Friday.
3. The guest agrees that access to facilities is granted only when one other representative of NanoCenter is present in the facility. This access is limited to 501 Deacon Blvd. Winston Salem NC 27105.
4. The guest accepts all responsibilities for proper and approved use of equipment. Any damage or injury to the guest or any other user, due to unauthorized or improper use by the guest is subject to the responsibilities of the guest.
5. The guest must present appropriate proof of insurance for liability before he/she is allowed to use the facility or any of its assets.

6. The guest agrees that WFU, NanoCenter, or any of their representatives is not responsible for any injury that may result from the use of NanoCenter assets, materials, or other properties. The University, nor its representatives, may be held in liability for injury in any form whether accidental or due to unapproved use of assets by the guest or any other user.
7. The guest agrees to attend regularly scheduled safety seminars provided by WFU for laboratory personnel. This is to be recorded by the facilities manager.
8. The guest agrees that WFU, NanoCenter and their representatives assumes a level of scientific knowledge and technical expertise for activities within the NanoCenter that are consistent with the safe use of chemicals, electrical measurement devices, high voltage devices and implements, lasers, high temperature processing equipment, chemical glassware, high intensity sonic equipment, microwave equipment, and any other equipment in the NanoCenter assets. Responsibility for appropriate safety protocols within the NanoCenter lies solely with the guest. The guest assumes responsibility for any breakages of equipment, loss of material, or injury to themselves or others that might result from not following established and expected safety protocols.
9. The guest agrees that WFU, NanoCenter, or their representatives assume NO liability for injury or harm that might result from accidental equipment failure or materials release. WFU, NanoCenter, or their representatives assumes NO liability for injury or harm that might result from any other user – whether a representative of WFU/NanoCenter or not.
10. The guest agrees that disclosure of confidential information to WFU or NanoCenter representatives must be covered by a separate disclosure agreement to this and filed with the appropriate WFU authorities in the OSRP.
11. The guest agrees that disclosure of intellectual property gained through association with WFU / NanoCenter or its representatives is strictly limited and proscribed and subject to complete oversight and approval by the sponsoring faculty member. This is enforced for a time period given by the sponsoring faculty member. This includes but is not limited to patents, publications, press releases, and disclosure to any third party.
12. The guest agrees that any intellectual property that results in, or may result in a patentable property is subject to the patent and intellectual properties policies of Wake Forest University established at the time of the enactment of this agreement.
13. The guest agrees that they shall not represent themselves as a representative of NanoCenter or of WFU.
14. The guest agrees that the use of the name “Wake Forest University, WFU NanoCenter, or other representations that imply association with WFU including logos, trademarks etc. are strictly controlled and must be in compliance with Wake Forest University policies.
15. The guest agrees that they will comport in behavior and act, with the policies of Wake Forest University at all times when present on WFU property.
16. The guest agrees that the period of enforcement of this agreement is at the sole discretion of the sponsoring faculty member.

Requirements by the Sponsoring Faculty Member

WHEREAS, WFU has developed certain non-public and Proprietary Information that may be subject to confidentiality and may wish to furnish or exchange this information with the guest, or that the guest may be made aware of through contact with NanoCenter representatives, WFU desires to protect its interests by preventing the guest and his/her representatives from disclosing the Proprietary Information to third parties or making unauthorized use of the Proprietary Information.

1. Term. All Proprietary Information of WFU NanoCenter disclosed under or pursuant to this Agreement shall remain subject to guest's obligations to maintain the confidentiality thereof for a period of five (5) years from the date of disclosure of the specific Proprietary Information.
2. Breach of Agreement/Specific Performance. The parties acknowledge that the restrictions contained in this Agreement are reasonably necessary to protect the legitimate interests of WFU and that any violation hereof may result in irreparable injury to WFU. WFU, in addition to any other remedies it may have at law or in equity, may be entitled to a restraining order, injunction, specific performance or other similar remedy in order to specifically enforce this Agreement. Such remedy shall not be deemed to be the exclusive remedy for breach of this Agreement, but may be in addition to all other remedies available at law or equity.
3. Ownership of Confidential Information. WFU is the owner of all rights in the Proprietary Information. Except for the limited right to use the Proprietary Information for the Authorized Purpose, WFU does not grant any express, implied, or other license or right to guest under patents, trade secrets, trademarks, or copyrights or any other right of WFU by disclosing the Proprietary Information. WFU shall be under no obligation by virtue of this Agreement to continue to disclose any Proprietary Information to the guest.
4. Subpoena or Court Order. If the guest or their representatives receive a request to disclose all or any part of the information under the terms of a subpoena or other order issued by a court of competent jurisdiction or by a government agency, the Recipient shall:
 - (a) Promptly notify WFU of the existence, terms and circumstances surrounding such a request;
 - (b) If disclosure of Proprietary Information is required, furnish only such portion of the Proprietary Information as the guest is advised by counsel is legally required to be disclosed;
 - (c) Cooperate with WFU in its efforts to obtain an order or other reliable assurance that confidential treatment will be accorded to that portion of the Proprietary Information that is required to be disclosed.
5. No Warranty. ALL PROPRIETARY INFORMATION IS PROVIDED BY WFU HEREUNDER "AS IS" AND WITHOUT WARRANTY OF ANY KIND, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT. GUEST'S RELIANCE UPON ANY PROPRIETARY INFORMATION IS AT GUEST'S SOLE RISK.

The Agreement

1. No Further Agreement Obligation/No Agency. Neither party shall be obligated to enter into any further agreement relating to the Proprietary Information or any other matter. This Agreement shall not be construed as creating, nor shall it create, a partnership, joint venture, or agency between the parties or an obligation of disclosure or continued disclosure by WFU.
2. Amendments. Any modification or amendment of any provision of this Agreement must be made in writing and signed by an authorized representative of each party.
3. Severability. In case any provision of this Agreement shall be invalid, illegal or unenforceable, it shall to the extent practicable, be modified so as to make it valid, legal and enforceable and to retain as nearly as practicable the intent of the parties, and the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.
4. Entire Agreement. This Agreement constitutes the entire agreement between the parties regarding confidentiality of the Confidential Information pertaining to the Authorized Purpose superseding any and all previous oral or written representations, communications, or understandings.
5. Consent and Waiver. No waiver of any provision of this Agreement shall be valid unless in writing and signed by an authorized representative of the waiving party. No consent to or waiver of any provision of this Agreement shall be deemed a consent to or waiver of any other provision hereof, whether or not similar, or a continuing consent or waiver unless otherwise specifically provided.
6. Binding Effect/Assignability. This Agreement shall be binding upon, shall inure to the benefit of, and shall be enforceable by the parties hereto and their respective successors and assigns. Recipient shall immediately notify disclosing party of any purported assignment event.
7. Headings. Section headings contained in this Agreement have been inserted herein only as a matter of convenience and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision hereof.
8. Counterparts/Facsimile Signatures. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument, and may be executed by means of signatures transmitted by facsimile.
9. Signatory Warranty. Each person executing this Agreement represents that: (a) he or she is authorized to execute this Agreement on behalf of the party for whom he or she signs this Agreement; and (b) the party on behalf of which execution is made can rightfully enter into this Agreement and receive a confidential disclosure of the Confidential Information without violating any other agreement to which such party is bound.
10. Export Control. All transfers of information, including data, under the terms of this Agreement shall at all times be subject to the export control and other applicable laws and regulations of the United States. Each party agrees that it shall not make any disposition, by way of trans-shipment, re-export, diversion or otherwise, except as said laws and regulation may expressly permit, of information or data furnished under this Agreement.
11. Use of Names. The guest shall not use the name of WFU or any contraction or derivative thereof or the name(s) of faculty members, employees, or students, as applicable, in any advertising, promotional, sales literature, or fundraising documents without prior written consent from the other party.
12. Collaborative Research. The parties intend to perform collaborative research under this Agreement and intend that this Agreement qualify as a collaborative research agreement for the purposes of 35 U.S.C. § 103(c). However, no party shall invoke the CREATE ACT without written consent of the other party.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their respective duly authorized representatives, all as of the day and year first above written.

GUEST

WFU

By:_____

By:_____

Name:

Name:

Title:

Date:_____

Date:_____