

ACCESS AGREEMENT

This agreement is between the Regents of the University of California, a California constitutional corporation, on behalf of the University of California, Irvine Materials Research Institute (IMRI) (hereinafter "University") and _____ (hereinafter, USER).

This Agreement covers access to the IMRI facilities (at 140 Engineering Tower, 1121, 1131, 1141, 1150, 1151 Engineering Hall and 1302/1301/1322 CalIT2 Building); it does not provide access to any other University laboratories or facilities. Nothing in this Agreement guarantees availability or access to these facilities and any such use will be secondary to University needs as determined solely by the University.

1. Safety

Safety procedures must be followed at all times and all USER's. Failure to follow safety procedures or requests from campus authorities may result in loss of access to the facility.

2. The following attachments are incorporated by reference as a part of the agreement:

Attachment I: Waiver/Release Agreement – must be completed by each person entering facility.

Rate Schedule

Rates shall be charged at the current Rate Schedule as posted at: <http://www.imri.uci.edu/> any services or equipment not listed will be charged as quoted and may only be used with special permission.

3. Period of Performance:

A. This contract shall commence on full execution and will terminate on June 30th, 2019.

4. Training Fees, Equipment Fees and Technical Staff Assistance Fees: These fees together with billing policies are listed in detail at <http://www.imri.uci.edu/content/billing>. These Fees could be either a flat charge or on an hourly basis. Equipment Fees are based on hourly usage and have associated minimums. Refer to Current Rate Schedule for rates and fees all rates and fees are subject to change, additional costs may be associated with consumables or items that have not been identified.

5. Payment Schedule: User will be invoiced on a monthly basis with all charges due and payable within 30 days. Checks are to be made payable to "UC Regents" and are to be drawn from a bank located in the United States of America. Credit card payment is acceptable with additional 2% credit card charge fee.

6. Equipment Rules and training: Every user must receive adequate proper training from IMRI staff for each function of any instrument prior to use this function. Only equipment listed on the rate sheet may be utilized without special authorization. All policies and procedures, including training requirements shall be completed by each user prior to any use. Special training, certification and forms are required for

use of X-Ray equipment. Users are responsible for obeying all safety rules, completing and documenting training and wearing appropriate Personal Protective Equipment at all times. USER shall ensure that their personnel are adequately trained and protected based upon the nature of the work and the equipment being used by them or others nearby.

7. Chemical Compliance:

Any chemicals or hazardous materials to be brought into the lab must be approved in advance by the lab manager and be accompanied by an appropriate MSDS sheet.

8. Materials

User is to Provide:

Special SEM stubs, consumables and other needed supplies and appropriate Personal Protective Equipment.

9. Other Costs:

A. Miscellaneous Materials: Liquid nitrogen for TEM and other materials provided by UCI to be billed at current UCI rate.

10. Personal Property and Liability Waiver:

A. User is solely responsible for their personal property. All personnel must sign a liability waiver prior to entry. UCI shall have no responsibility for injury or damages to USER unless caused by the gross negligence or intentional acts of UCI.

11. Indemnification:

User shall defend, indemnify and hold harmless University, its officers, employees, and agents from and against any and all liability, loss, expenses (including reasonable attorney's fees), or claims for injury or damages arising out of the performance of this Agreement and the acts and omissions of themselves, their employees officers and agents and invitees, excepting only those claims and injuries resulting from the sole or gross negligence of University.

12. Insurance:

If User or its personnel shall access the lab and not simply have work performed by UCI then User, at its sole cost and expense, shall insure its activities in connection with this Agreement and obtain, keep in force, and maintain insurance as follows:

(1.) Comprehensive or Commercial Form General Liability Insurance
(Bodily injury, property damage and contractual liability included) with the following limits:

Each Occurrence: \$1,000,000

General Aggregate: \$2,000,000

Policies must be Occurrence Based, Claims Made forms are not acceptable.

(2.) Workers Compensation and Employers Liability Insurance in a form and amount covering User's full liability under the Workers' Compensation Insurance and Safety Act of the State of California as amended from time to time. This coverage may not be necessary for individuals or sole proprietors.

(3.) Such other insurance in such amounts which from time to time may be reasonably required by the mutual consent of University and User against other insurable risks relating to performance.

It should be expressly understood, however, that the coverage's required under this section shall not in any way limit the liability of User.

The coverage's referenced in this paragraph, with exception to Workers' Compensation, shall be endorsed to include The Regents of the University of California as an additional insured. User, upon the execution of this Agreement shall furnish University with Certificates of Insurance evidencing compliance with all requirements. Certificates shall further provide for thirty (30) days advance written notice to University of any modification, change or cancellation of any of the above insurance coverage. Payment of premiums on all required insurance is User's responsibility.

13. Compliance with Applicable Laws and Regulations:

(1.) Users agree to comply with all federal, state, and local laws, rules, regulations, and ordinances (EPA, OSHA, CALOSHA, AQMD, etc.) that are now or may, in the future, become applicable to User and/or University.

(2.) Export Controls: User warrants that any and all of its activities (including access to the facility) under this Agreement comply with all U.S. export control laws and regulations. User shall notify University in writing to exportcontrol@research.uci.edu if any ITAR (International Traffic in Arms Regulations) or EAR (Export Administration Regulations) restricted technology or data is to be provided to University under this Agreement or if data that User is requesting University to produce during the course of work under this Agreement is ITAR or EAR restricted. In such cases User shall provide University the applicable USML (United States Munitions List) category or Commerce Control List, ECCN (Export Control Classification Number). University shall have the right to decline ITAR or EAR restricted technology or data or tasks requiring production of such information.

14. Governing Law: The terms and conditions of this Agreement shall be governed by the laws of the State of California with venue in Orange County, California.

15. Dates and Times of Hours Lab Use:

A. The laboratory is generally available for use from 9am to 5pm Monday through Friday, during those days when the University is open. All usage must be

scheduled in advance, and may be subject to change. Access outside of these hours may be possible by special agreement (e.g., with supervision of an IMRI staff member or by obtaining authorization to use specific equipment available 24 Hours/ 7 days per week).

B. The laboratory will be closed during periods of University shutdown. Access may be available by special arrangement (e.g., with supervision of a faculty member or by obtaining specific permit).

16. Termination of Agreement:

A. This agreement can be canceled, without cause, with 30 days written notice by either party. Payment and indemnification obligations shall survive termination.

B. This agreement may be terminated immediately by the University, and/or User employees may be barred from the laboratory if in the sole opinion of the University there is good cause including but not limited to unsafe practices, unprofessional behavior (for example, harassment, defacing the work of others) and failure to comply with the law or the terms specified in this agreement including timely payment.

Acknowledged and Accepted by:

Company/non-UC universities/organizations and individual users:

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| Name and title | Signature | Date |
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| Name and title | Signature | Date |
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| Name and title | Signature | Date |
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University of California, Irvine:

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|------------------------|------|
| Director of Facilities | Date |
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| Chief Procurement Officer | Date |
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