

## IMNI FACILITIES/EQUIPMENT TERMS OF USE

This IMNI Facilities/Equipment Terms of Use (“Terms”) specifies the requirements prescribed by Brown University (“Brown”) on behalf of its Instrumentation for Molecular and Nanoscale Innovation (“IMNI”) that must be adhered to by all external organizations (“Organizations”, individually “Organization”) on behalf of their individual approved users (“Users”, individually “User”) of IMNI facilities identified in Applications and associated equipment (“Core Facilities”) in order to commence and retain approval to use IMNI Core Facilities. Executed and active Terms are required for any User’s access to IMNI facilities. Exhibit A contains a list of Organization’s approved Users.

User access to IMNI Core Facilities is subject to approval by IMNI of the User’s individual Application for External User to Use the IMNI Core Research Facilities (“Application”, collectively “Applications”) and the Organization’s acceptance of these Terms.

As to itself, and its individual Users, Organization agrees to the following:

1. Organization and Users have read and, where applicable, agree to comply with the information and documents found on [www.brown.edu/imni](http://www.brown.edu/imni) as they may be updated from time-to-time in Brown’s sole discretion. These documents include, but are not limited to: (1) Guidelines for Use of IMNI Core Research Facilities by External Users (“Guidelines”); and (2) IMNI Core Research Facilities, Rate Schedule for External Brown Users. Organization agrees that it will ensure that Users are familiar with this information and these documents as they may be updated from time-to-time, and that Users will comply with all current and applicable requirements, including safety procedures, contained therein.
2. Organization represents and warrants each User has completed the required training sessions detailed in the Guidelines.
3. Organization will review, acknowledge, and sign each Application before such Applications are submitted by User to IMNI.
4. The Parties will update Exhibit A as new Users are approved by IMNI. Organization will maintain and provide an accurate list of approved users upon request by IMNI.
5. Each User’s Application is incorporated into and made a part hereof these Terms. Organization represents and warrants its Users Applications are complete and accurate. Organization agrees to comply with each Application.
6. Organization hereby releases and discharges Brown, its trustees, officers, agents and employees from, and agrees to assume full responsibility and liability for, any damages, claims, losses, suits, costs and expenses (including but not limited to reasonable attorney’s fees) on account of injury or death of any person or damage to property arising directly or indirectly from acts or omissions connected with these Terms and each User Application, or the use of IMNI Core Facilities and Brown property, by and /or the presence upon the Brown campus of Users or Organization, including its employees, agents, and others acting through it or on its behalf.  
Any liability of Brown to Organization and/or Users arising from these Terms or Applications, or Brown’s performance or non-performance of any obligations hereunder, whether such liability is based on warranty, negligence, strict liability or otherwise, shall be limited to the amount of the fees to be paid to Brown under the applicable Applications. Brown shall not be liable to Organization and/or Users for loss of anticipated profits, loss resulting from the cancellation/termination of these Terms, any Application, or use of Core Facilities, or a User’s inability to use the Core Facilities, or incidental or consequential loss or damage of any nature arising from any cause whatsoever.

7. Organization represents and warrants it has and will maintain, at its sole expense, for the duration of these Terms and all User Applications, applicable insurance sufficient in coverage, including but not limited to: (i) Workers' Compensation covering all Users as required by law; (ii) Commercial General Liability Insurance, including but not limited to Contractual Liability, Products/Completed Operation, Fire Legal Liability, and Property Damage, and injuries to persons and property occurring on or about Core Facilities; and (iii) "All Risk" property insurance, insuring against damage to or loss of any personal property of the User, and if available such insurance shall contain a waiver of any right of subrogation which such insurance carrier might have against BROWN, its servants, or invitees.  
Certificate(s) of Insurance shall name Brown University as "Additional Insured." Organization, its broker(s) and insurance carrier(s) hereby agree and certify that the insurance policies, coverage and limits will be promptly and properly endorsed to reflect Brown's additional insured status. Such Certificates of Insurance shall be delivered to Brown upon signature of these Terms and as necessary at Brown's request.
8. Organization acknowledges and agrees Brown makes and has made no representation or claim as to the following: (1) the condition of its Core Facilities except as provided in these Terms; and (2) the suitability or fitness of any Core Facilities, processes or practices available in its Core Facilities, for the uses, purposes, or requirements of Users and that the duty to determine said fitness or suitability lies entirely with the Organization and Users.  
By signing these Terms and permitting Users to submit Applications, Organization acknowledges that the Core Facilities are in satisfactory condition for use by Users. Organization further acknowledges that it shall have a continuing obligation to inspect the Core Facilities, which obligation may be fulfilled through its Users, and that the continued use of the Core Facilities shall constitute an acknowledgment by Organization and Users that they are in satisfactory condition for use by Users. Additionally, Organization accepts full and complete responsibility for Users' operation of the Core Facilities during said times User is permitted use of the same, including but not limited to assuming responsibility for assuring that anyone using the Core Facilities through the Organization or any of its Users is familiar with the operation of the Core Facilities and knows how to use them safely.
9. Organization agrees it or its Users will pay all IMNI Core Facilities fees associated with any Application or use of IMNI Core Facilities within thirty (30) days of an invoice.
10. Organization shall pay for and supply all requisite licenses it and/or Users require for the use of Core Facilities. It shall be the obligation of Organization to assure that use of the Core Facilities, complies with any and all conditions of all such licenses and with applicable laws, ordinances, regulations and orders of federal, state and municipal authorities. Organization further agrees to comply with any Brown rules and regulations applicable to the use of the Core Facilities, as well as any applicable standards in the industry
11. In the event that Core Facilities, the halls, and/or the remaining portions of any Brown property are damaged by the acts or omissions of any User or Organization, its officers, servants, employees, authorized agents, licensees, or any other person or entity claiming by, through or under Organization, Brown may require Organization to: (i) reimburse Brown for the full cost of Brown's repair or replacement, (ii) provide funds to Brown in advance of Brown's repair or replacement for the full cost of repair or replacement, or (iii) repair damage at Organization's expense, under the direction of Brown. Organization shall provide funds to Brown for the cost of repair within thirty (30) days of the date of Brown invoicing Organization for the cost of repair. If Organization or any User shall become aware of any needed repairs, replacements or restorations to the Core Facilities, or any Brown property, notice shall be promptly given to Brown by

Organization or User. There shall be no liability whatsoever upon Brown arising out of its failure to make repairs in accordance with the provisions of this paragraph.

12. Organization agrees not to use Brown's name, trademarks, logos, or like indicia, in connection with publication, advertising, marketing, or in any other matter without the prior written approval of Brown.
13. Organization acknowledges and agrees IMNI's primary purpose is to provide a venue for science and engineering research and recognizes that inventions may be made in the course of Users' use of Core Facilities. Organization agrees any invention made solely by a User while using the facilities shall be the property of the Organization or User provided, however, that in the event such invention constitutes an improvement to or new experimental techniques involving Core Facilities or related equipment, Organization shall grant Brown a royalty-free, non-exclusive license to use such inventions for the purpose of education and research. If research is undertaken that is jointly between the User and/or Organization and a Brown employee, Organization agrees that joint research must be covered under a different agreement that describes the intellectual property rights of and between Brown and Organization for that work.
14. Organization agrees Brown shall have the unilateral and unrestricted right to immediately cancel use of the Core Facilities by any or all Users, immediately cancel these Terms, and/or immediately terminate Brown's obligations to Organization and/or Users, without liability to Organization and/or Users and without prejudice to Brown's other rights and remedies, and without relieving Organization and/or Users of their obligations and duties under these Terms and any associated Applications. Brown may exercise this right for any reason in Brown's sole discretion, including but not limited to: (i) the unavailability of Core Facilities for any reason; (ii) changes to Brown policies; (iii) the Organization's and/or any User's failure to make payment when due; (iv) Brown's determination that it is or may be unable to perform any of its obligations due to forces beyond its control, including, without limitation, inclement weather, fire, flood, strike or other labor dispute, acts of God, epidemic, pandemic, acts of governmental officials or agencies, or any other cause; and/or (v) the Organization's or any User's failure to perform and observe all the requirements under these Terms or any associated Applications.
15. Upon cancellation of these Terms or termination of any Applications, Organization and/or Users shall immediately vacate, quit and surrender their rights to the use of the Core Facilities, remove all their items and possessions from the Core Facilities, and return to Brown all items belonging to Brown, including but not limited to access cards. The sections of these Terms and/or associated Applications which, by their nature, are intended to survive termination or expiration of these Terms or any associated Applications shall so survive.
16. Organization acknowledges the expiration or termination of any Application shall not terminate these Terms or Organization's requirements under these Terms. Upon expiration or termination of any Application, Organization will require the relevant User to immediately vacate, quit and surrender the User's rights to the use of the Core Facilities, remove all their items and possessions from the Core Facilities, and return to Brown all items belonging to Brown, including but not limited to access cards. Unless terminated sooner in accordance with section 14 of these Terms, these Terms shall expire on the five (5) year anniversary of the date of approval by IMNI of Organization's first User Application, unless there are any active Applications and Users on that anniversary. If there are any active Applications and Users on the five (5) year anniversary, these Terms shall govern those Applications and Users until Organization executes a new Facilities/Equipment Terms of Use. Organization and User shall be obligated to make payment for fees pro-rated as of the date of early termination of any Application by User or Brown.

17. In the event that any taxes, licenses or fees are assessed against Brown as a result of Organization's or Users' use of the Core Facilities, Organization agrees to pay such taxes, licenses, or fees within thirty (30) days of receiving request for payment from Brown.
18. Organization agrees these Terms and all Applications will be governed by and construed in accordance with the laws of the State of Rhode Island, and that any and all proceedings relating to the subject matter hereof shall be maintained exclusively in the state and federal courts of the State of Rhode Island.
19. Organization agrees the failure of Brown to insist in any one or more instance upon the strict and literal performance of any of the requirements or conditions of these Terms or any Application shall not be construed as a waiver for the future of such requirements or conditions, but the same shall continue and remain in full force and effect. No waiver of any covenant, term or condition shall be deemed to have been made by Brown, unless made or acknowledged in writing by an authorized representative of Brown.
20. Organization agrees if any provision or requirement of these Terms is held invalid, illegal or otherwise unenforceable, the validity, legality, and enforceability of the remaining provisions or requirements shall not be affected or impaired thereby.
21. Organization acknowledges and agrees these Terms are effective only upon the approval by IMNI of Organization's first User Application. Thereafter, Organization acknowledges and agrees no Application for any User is effective unless and until such Application is approved by IMINI.
22. Organization acknowledges and agrees to deliver all notices related to these Terms, any Application, or the use of Core Facilities by any Users to the following address: IMNI Core Facilities Specialist, IMNI Box M, Brown University, Providence RI 02912.

Organization's signature on behalf of itself and its Users indicates its agreement to comply with the Terms. The individual signing below on behalf of Organization represents and warrants that they are duly authorized and has legal capacity to execute and deliver these Terms.

**ORGANIZATION**

Organization:	
Signature:	
Name:	
Date:	

