

North Carolina State University

Services Order Form

NC State University

Molecular Education, Technology and
Research Innovation Center
Coordinator: _____

Mailing Address: 2620 Yarbrough Drive
Raleigh, NC 27695

Phone Number: _____
Fax Number: _____
E-mail Address: _____

Not to Exceed Cost: \$ _____
 Please check, if funds are being added to an
existing Order/ Project. Leave blank if new order.

Start Date _____ **End Date** _____
mm/dd/yyyy mm/dd/yyyy

Payment Terms: Net 30 days upon receipt of invoice
Make checks payable to: NC State University

Description of Services Requested (Use additional sheets if necessary):

Please provide the Facility you are requesting and the name of METRIC Contact/ Staff Scientist you plan to/have been working with.
Attach a Quote, if applicable.

Client

Name: _____

Contact Name: _____

Mailing Address: _____

Phone Number: _____
Fax Number: _____
E-mail Address: _____

Send Invoice to: (if different from above)

Name: _____

Mailing Address: _____

E-mail Address: _____

Client Purchase Order Number: _____

Terms and Conditions

1) Services. North Carolina State University ("NC State") possesses materials preparation, characterization and analysis expertise and related technologies, equipment, and facilities in its Molecular Education, Technology and Research Innovation Center ("Center"). Client has instructed NC State to undertake the specific services described above (the "Services"). In consideration of Client's payment to NC State in accordance with the terms stated herein, the Center shall perform the Services.

2) Reports. Center shall provide Client with a report regarding the data obtained in the course of the Services. The report shall be maintained as confidential pursuant to Section 3 below. The parties recognize that the results of the Services which do not disclose Confidential Information provided hereunder may be deemed publishable by Client or NC State, and that Client or NC State employees engaged in the Services shall be free to publish these results, consistent with the obligations imposed in Sections 4 and 6 of this Services Order Form ("Order").

3) Confidentiality. Confidentiality will be governed by the applicable Confidentiality Agreement entered into by the parties and attached as an Exhibit to this Order. If no Confidentiality Agreement exists, then the following shall control: any confidential or proprietary information disclosed by Client to NC State ("Confidential Information") shall be disclosed in writing and designated as confidential and/or proprietary, or if disclosed orally, shall be confirmed in writing and designated confidential and/or proprietary within thirty (30) days of such disclosure. NC State shall use the Confidential Information only for the purpose of this Order and further agrees that it will not disclose or publish such Confidential Information. The foregoing restrictions shall not apply to information disclosed by Client to NC State that: (a) is or becomes publicly known through no fault of NC State; (b) is learned from a third party entitled to disclose such information; (c) was already known to or developed by NC State prior to receipt hereunder, or is independently developed at any time by NC State personnel not privy to the Confidential Information, as shown by NC State's written records; or (d) is required to be disclosed by operation

of law (including, but not limited to, the North Carolina Public Records Act) or court order, provided that NC State provides prior written notice of such required disclosure, so that Client can seek a protective order (or equivalent) with respect to such disclosure. The obligation of confidentiality imposed by this Section 3 shall expire three (3) years following the expiration or termination of this Order. NC State will use a reasonable degree of care to prevent the inadvertent, accidental, unauthorized, or mistaken disclosure or use by its employees of Confidential Information. For avoidance of doubt, data, information, results, materials, or products of the Services shall be considered Confidential Information for the purposes of this Order.

4) Intellectual Property. It is not anticipated that intellectual property will arise in NC State's performance of the Services. However, in the event of an invention by at least one employee of NC State the intellectual property shall be owned as follows: a) Inventions which involve the use of, composition of, or improvement to Client-provided materials or information, or a derivative or analogue thereof ("Client Inventions") shall belong to Client; and b) Inventions which cover a scientific or analytical measurement process, technique, procedure, medium, device or other process which is not unique to characterizing or testing Client's proprietary materials or does not derive from Client-provided materials or Client's Confidential Information ("NC State Inventions") shall be owned by NC State. NC State will promptly notify Client of all potential Client Inventions, whether or not patentable or copyrightable, that arise in the performance of the Services. NC State hereby assigns to Client its entire right, title and interest in and to such Client Inventions, and shall not file any patent applications or seek other forms of statutory protection on Client Inventions without written consent of Client. NC State shall disclose to Client all information with respect to any Client Invention, and to cooperate as Client may reasonably request to allow Client to obtain and maintain patent rights, copyrights, and other similar intellectual property rights with respect to such Client Invention anywhere in the world, and provide Client with evidence related thereto as useful for any legal proceedings regarding such intellectual property rights. Client hereby assigns to NC State its entire right, title and interest in and to NC State Inventions, and shall not file any patent applications or seek other forms of statutory protection on NC State Inventions without written consent of NC State. Client shall disclose to NC State all information with respect to any NC State Invention, and to cooperate as NC State may reasonably request to allow NC State to obtain and maintain patent rights, copyrights, and other similar intellectual property rights with respect to such NC State Invention anywhere in the world, and provide NC State with evidence related thereto as useful for any legal proceedings regarding such intellectual property rights.

5) Client Materials. All samples and other materials provided by Client for the purposes of this Order, and all replicated forms and derivatives thereof ("Client Materials") shall remain the property of Client. NC State shall only use Client Materials to carry out the Services in accordance with this Order. NC State shall not: (a) analyze, modify or reverse engineer Client Materials; (b) file any patent applications or seek other forms of statutory protection on the Client Materials; or (c) disclose any information or data gained from the Client Materials without the prior written consent of Client. NC State shall use reasonable care in storing and handling Client Materials and shall not disclose, distribute or release any Client Materials to any third party, or use the Client Materials with or on behalf of any third party. At Client's request, NC State will destroy or return to Client, at Client's direction and expense, any Client Materials.

6) Publications. The parties agree that any proposed publication or presentation relating to the Services conducted under this Order will be submitted by the publishing or presenting party to the other party at least thirty (30) days prior to submission for publication or presentation. In the event that the proposed publication or presentation contains Confidential Information or subject matter that the other party believes needs patent protection, the publishing or presenting party will, upon written request that identifies such Confidential Information or potentially patentable subject matter within the 30-day review period, remove such Confidential Information, and/or delay the publication or presentation for a maximum of an additional sixty (60) days to allow for the filing of patent application(s).

7) Publicity. Neither party will use the name of the other party in any publicity, advertising, or news release without the prior written approval of the authorized representative of the other party.

8) Termination. Either party may terminate this Order upon prior written notice to the other party. All reasonable costs and non-cancelable obligations incurred by NC State at the time of said termination shall be reimbursed by Client. At the request of Client, all unused Client-provided materials at the time of termination shall either be returned to Client or destroyed by NC State at the Client's expense.

9) Independent Contractor. In the performance of the Services, NC State shall be deemed to be and shall be an independent contractor.

10) No Warranties and Indemnity. NC State makes no warranties, express or implied, regarding the quality of product produced under this Order Form. NC State shall use its reasonable efforts to perform the Services. NC State does not warrant or guarantee any results from a given project. NC State shall not be liable for Client's use of the report or other information provided by NC State. To the extent permitted by law, Client shall indemnify and hold harmless NC State against any claims and costs (including attorney's fees) arising out of Client's commercial sale or distribution of products or processes developed under or as a result of this Order.

11) Export Control. NC State will not accept export-controlled materials or technical information under this Order. Client hereby represents and warrants that materials and technical information provided to NC State do not require any license from the U.S. government before being exported.

12) Hazardous Materials. All materials provided by Client must be accompanied by the appropriate environmental and safety information for those materials as required by law.

13) Governing Law. This Order shall be governed and construed in accordance with the laws of the State of North Carolina.

Where Client is a Non-North Carolina state or federal governmental entity, including a state public institution or federal agency or laboratory, this Section will be deemed to be deleted and replaced with the following: "Nothing in this Agreement is intended to cause Client to waive the legal immunities and defenses provided under Federal or Client's State laws."

14) Entire Agreement. This Order contains the entire agreement between the parties respecting the subject matter and supersedes or cancels all previous negotiations, agreements, commitments and writings between the parties on the subject of this Order. Should processing of this Order require issuance of a purchase order or other contractual document, all terms and conditions of said document are hereby deleted in entirety. This Order may not be amended in any manner except by an instrument in writing signed by the duly authorized representatives of each of the parties hereto.

Check one:

No Client employees will work in NC State facilities in connection with this Order Form

Client employees will be performing work related to this Order Form in NC State facilities. A NC State Laboratory Use Agreement is required and must be signed by an authorized official of Client and NC State.

NORTH CAROLINA STATE UNIVERSITY

User

Dr. Joseph J. Barycki
Director for METRIC

Date: _____

User Name: _____

Title: _____

Company Name: _____

Date: _____

Dr. Genevieve Garland
Senior Associate Vice Chancellor for Research
Development and Operations

Date: _____