

**General Terms and Conditions of Contribution-In-Kind**

The below terms and conditions form the binding agreement between you, the participant ("You" or "Participant") and Nanometrics Inc., a Canadian corporation with its principal place of business at 3001 Solandt Road, Kanata, Ontario, Canada K2K 2M8 ("Nanometrics"). By submitting your application, You indicate your acceptance of and compliance with these terms and conditions which govern the research study described on the landing page from which You accessed these terms and conditions ("Study"); to be bound by the decisions of Nanometrics which shall be final; and, waive any right to claim ambiguity with respect to these agreement terms or the additional terms and information specific to the Study that are available on the landing page and related links.

**1. Background.** Nanometrics has recently announced a call for proposals with a goal to assist talented researchers, especially postgraduate students and early career scientists, in their research initiatives in the areas of earthquake, volcano and environmental monitoring, by providing a contribution-in-kind of 5 Pegasus Quick Deploy Stations ("Equipment") for a 6-month study to the successful applicant(s). The estimated value of the Equipment is \$40,000 (CAD).

**2. Provision of Equipment.** As a successful Participant, You will use the contributed Equipment solely for the purpose of the Study. There will be no substitutions or cash equivalents, and the Equipment cannot be transferred or assigned to any third party. Legal title of the Equipment will remain with Nanometrics at all times with all intellectual property rights being reserved by Nanometrics.

**i) Shipment.** The time period for shipment will be set out in the applicable quote, which may be revised by Nanometrics in its sole discretion and without liability. For clarity the Equipment will be shipped to Participant's location (not your deployment site) by no later than January 1, 2024. Nanometrics will deliver the Equipment using standard methods for packaging and shipping and will be subject to the Incoterms as set forth on the applicable quote.

**ii) Returns.** Participant's return of the Equipment will be subject to FOB Incoterms from Participant's location (not your deployment site), and in its original shipping packaging.

**iii) Risk of Loss.** Risk of loss passes to the Participant in accordance with the Incoterms set out in the applicable quote.

**iv) Access to Equipment.** Nanometrics will have a right of access to the Equipment for inspection at its discretion. Without prejudice to other rights available to Nanometrics, Nanometrics has the express right to recover and immediately suspend the Study in the event of any actual or reasonably anticipated breach of any provision under these terms and conditions.

**3. Eligibility.** Only those applications received by the published deadline and which meet all of the eligibility criteria set out on the landing page will be assessed. Nanometrics employees, officers, directors, agents, representatives and their family members are not eligible. Also ineligible are (i) residents of countries that are subject to Canadian embargo, (ii) any persons for whom it would be illegal to participate in the Study, or receive the Equipment. Participation in the Study is subject to all applicable laws and regulations, and is void where prohibited or where registration, bonding or language translation is required. Decisions about eligibility and award of Equipment are final and binding. Nanometrics reserves the right to (i) impose additional or amend these terms and conditions if appropriate, in its reasonable discretion; (ii) make no award if none of the applications meets the required eligibility criteria; or, (iii) suspend or withdraw the Study.

By entering your application and whether or not You are a successful applicant, You give Nanometrics permission to contact You regarding this application, or the Study.

**4. Selection and Notification.** The winning Participant will be determined by a 5-member judging panel that will include respected global industry thought leaders (chosen by Nanometrics in its discretion), who will evaluate your application against the criteria. The odds of being selected depend on the number of eligible applications received. Nanometrics will announce the winner at AGU23 in San Francisco, December 2023, on Nanometrics social media accounts and website. Nanometrics will also attempt to notify the successful Participant by email within approximately 15 days after selection. If You have not responded to Nanometrics within 7 days from receipt of notification, Nanometrics reserves the right to offer the Equipment to the next eligible Participant. Nanometrics will have no liability to the successful Participant for failure to receive notice due to spam, security settings or incorrect or non-functioning contact information. Selection of the successful Participant is final and binding.

While Nanometrics will endeavour to notify all applicants/Participants of the results, we are under no obligation to notify or debrief unsuccessful Participants.

**5. Privacy, Personal Information and Publicity.** By submitting your application, You: (i) grant Nanometrics the right to use your personal information provided, including your name, image or likeness (collectively the "Personal Information") for the purpose of administering the Study, including but not limited to contacting and announcing the winners and coordinating the provision of the Equipment; (ii) grant Nanometrics the right to use your Personal Information and summary of your proposal for publicity and promotional purposes relating to the Study in any and all media, including our website, social media or any similar marketing channels, without further compensation unless prohibited by law; and (iii) that Nanometrics may disclose your Personal Information to our third-party agents and service providers in connection with any of the activities listed in (i) and/or (ii) above. Please note that You may be required to sign a release.

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Nanometrics will use your Personal Information only for identified purposes, and protect your Personal Information in a manner that is consistent with the Nanometrics privacy policy that can be found here: <https://nanometrics.ca/privacy-policy>.

Any public statements made by You in relation to the Study must be approved by Nanometrics in advance.

**6. Participant Warranties.** Participant represents and warrants that:

- (i) You satisfy eligibility criteria and ensure all information is true, complete and accurate;
- (ii) You are submitting an original proposal that does not breach or infringe in any matter on third party intellectual rights, irrespective of registration or otherwise;
- (iii) You have obtained all authorizations, consents and permissions necessary to accept the Equipment, participate and carry out the Study;
- (iv) your participation does not create any real, perceived or potential conflict of interest,
- (v) your application or participation will not infringe any intellectual property rights, third party rights, confidentiality obligations or breach of any contractual obligation;
- (vi) You will comply with these terms and conditions and with due care, diligence and skill, including any additional terms that may presented to You upon your use, access, installation of the Equipment or related platforms, such as <https://nanometrics.ca/eula>;
- (vii) You will act lawfully, ethically and in good faith and comply with relevant laws, regulations and guidelines of the province of Ontario, of Canada, and of the countries or jurisdiction in which the Study will be conducted, including those related to research ethics and safety, privacy, freedom of information;
- (viii) You will be solely responsible for any applicable taxes on the Equipment and reporting thereof, any any other costs, fees and expenses relating to the Equipment or the Study; and,
- (viii) You will take all reasonable steps to safeguard and protect the Equipment and your use of the Equipment will be subject to and will comply with applicable operations and maintenance manuals, and any other documentation as provided by Nanometrics. Further, You will be responsible for and pay Nanometrics all expenses or costs associated with repairing or replacing any lost, damaged or malfunctioning Equipment as a result of your breach of the terms hereof.

**7. Confidentiality and Intellectual Property.** The Participant agrees to take all reasonable measures to keep in confidence Nanometrics' confidential data and information that You may be exposed to, know or access during the performance of this agreement, and shall not disclose, make available or assign such confidential information to any third party without the prior written consent of Nanometrics. For clarity, confidential information means information that is marked as confidential (or similar designation), or by its nature or using reasonable judgment is understood to be confidential.

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Any right, title, or interest (including intellectual property rights) in or to the Equipment is the property of Nanometrics, its licensors and suppliers, and/or its assignees, including all rights, title, and interest (including intellectual property rights) in all original works of authorship created in whole or in part by Nanometrics and all inventions discovered in whole or in part by Nanometrics pursuant to this agreement (whether or not patentable), including, but not limited to, software, data, materials, documentation, computer programs, images, film, audio, video, training videos, artistic works, including all worldwide rights therein under any patent, copyright, trade secret, trademark, confidential or proprietary information, or other property right, whether prior to the date of this agreement or in the future. All intellectual property rights in all pre-existing works and derivative works of such pre-existing works and other deliverables and developments made, conceived, created, discovered, invented or reduced to practice in the Equipment hereunder are and shall remain the sole and absolute property of Nanometrics. Except as expressly set forth in this Agreement, no rights or licenses are granted to successful applicants whether by implication, estoppel or otherwise.

**8. Applicable Use and Reverse Engineering.** You shall not, directly or indirectly: (a) engage in any activity that degrades the Equipment for other users or customers of Nanometrics; (b) attempt to compromise or otherwise circumvent the security or integrity of Equipment; (c) copy, duplicate, reproduce, publish, display, disclose, sell, rent, lease, modify, store, loan, distribute, or create derivative works of the Services or any part thereof; (d) reverse engineer, disassemble, reverse translate, decompile or in any other manner decode the Equipment or attempt to otherwise reveal any source code of the Equipment; or (e) use the Equipment, or any part thereof (i) for the benefit of any other person or entity, (ii) to create any hardware, software, data, services, components, designs or tools, including for the purpose of emulating the Equipment or enabling the replacement of the Equipment, or (iii) in competition with Nanometrics in any way. The successful Participant will not cause, assist or permit any third party to do any of the foregoing.

**9. Disclaimer, Indemnity and Limitation of Liability.** The Equipment, that is both manufactured and supplied by Nanometrics, will be provided to the successful Participant under Nanometrics' warranty set out here <https://www.nanometrics.ca/about-us/warranty-statement> (as may be updated or amended by Nanometrics from time to time in its sole discretion). THIS WARRANTY IS PROVIDED BY NANOMETRICS IN LIEU OF ALL OTHER WARRANTIES AND REPRESENTATIONS EITHER EXPRESS OR IMPLIED AND SUCH WARRANTY CONSTITUTES YOUR SOLE REMEDY WITH RESPECT TO ANY DEFECTS IN OR RELATING TO THE EQUIPMENT.

EXCEPT AS STATED IN THE ABOVE PARAGRAPH OF THIS SECTION, YOU UNDERSTAND AND AGREE THAT TO THE EXTENT PERMITTED BY LAW, THE EQUIPMENT IS PROVIDED ON AN "AS-IS", "WITH ALL FAULTS" AND "AS AVAILABLE" BASIS, WITHOUT ANY REPRESENTATIONS, WARRANTIES, CONDITIONS, OR GUARANTEES OF ANY KIND. NANOMETRICS DISCLAIMS ALL REPRESENTATIONS, WARRANTIES, CONDITIONS, AND GUARANTEES, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, LEGAL OR STATUTORY, INCLUDING WITH RESPECT TO QUALITY OR FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AVAILABILITY, ACCURACY,

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COMPLETENESS, USEFULNESS OR RELIABILITY. NANOMETRICS PROVIDES NO WARRANTY THAT THE EQUIPMENT WILL MEET YOUR REQUIREMENTS OR THAT THEIR OPERATION OR PROVISION WILL BE UNINTERRUPTED OR FREE OF ERRORS, VULNERABILITIES, VIRUSES/MALWARE OR OTHER HARMFUL CONDITIONS OR COMPONENTS. YOU ASSUME THE ENTIRE RISK OF THE USE, OPERATION, RESULTS, AND PERFORMANCE OF THE EQUIPMENT.

If You are applying or are receiving communications regarding your application or the Study through a social media platform, You agree that such social media platform will not be liable whatsoever for your application or participation in the Study and You release such social media platform of any claim concerning the Participant's application. The Participant acknowledges that the Study is in no way sponsored, endorsed or administered by, or associated with, the social media platform. Furthermore, You agree to comply with the respective social media platforms's terms concerning promotions and Participants found using multiple platforms or accounts will be disqualified.

By participating in the Study, You agree to release, discharge, indemnify and hold harmless Nanometrics and its respective affiliates, subsidiaries, officers, directors, employees, agents and representatives from all liability for any injury, loss or damage, including death or property damage, due in whole or part, directly or indirectly, to the participation in the Study or the acceptance, possession, use or misuse of the Equipment or breach of your warranties. Nanometrics has not made any warranty, representation, or guarantee, express or implied, in fact or in law, with respect to the Equipment, including, without limitation, to such Equipment's quality or fitness for a particular purpose. NANOMETRICS IS NOT RESPONSIBLE FOR LOST, LATE, STOLEN, INCOMPLETE, ILLEGIBLE, INACCURATE, UNDELIVERED, DELAYED OR MISDIRECTED ENTRIES, OR FOR ANY COMPUTER, THE INTERNET, EMAIL, TELEPHONE OR TECHNICAL MALFUNCTIONS OR DELAYS, OR FOR ANY HUMAN ERRORS THAT OCCUR IN THE PROCESSING, TRANSMISSION OR RECEIPT OF ENTRIES, OR FOR INACCURATE TRANSCRIPTION OF ENTRY INFORMATION, OR IF THE STUDY IS NOT CAPABLE OF BEING CONDUCTED AS PLANNED, INCLUDING BUT NOT LIMITED TO INFECTION BY COMPUTER VIRUSES, BUGS, TAMPERING, UNAUTHORIZED INTERVENTION, FRAUD, TECHNICAL FAILURES, OR OTHER CAUSES BEYOND THE CONTROL OF SPONSOR(S). IN NO EVENT SHALL NANOMETRICS OR ITS SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR REPRESENTATIVES BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES, OR ANY LIABILITY, COST, CLAIMS, TAXES, CHARGES OR EXPENSES, WHATSOEVER ARISING OUT OF OR IN CONJUNCTION WITH PARTICIPATION IN THE STUDY OR THE ACCEPTANCE, POSSESSION, USE OR MISUSE OF THE EQUIPMENT, WHETHER BASED ON WARRANTY, CONTRACT, TORT, STRICT LIABILITY, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT ANY OF THEM ARE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW. NANOMETRICS' TOTAL AND CUMULATIVE LIABILITY ARISING OUT OF OR IN CONNECTION WITH THE STUDY SHALL IN NO EVENT EXCEED THE TOTAL VALUE OF THE EQUIPMENT.

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**10. Insurance.** You agree to carry adequate insurance coverage to cover any liability arising from its participation in the Study.

**11. Term.** The term of the Study will be 6 months from successful Participant's deployment of the Equipment. Deployment must occur no later than June 1, 2024. Nanometrics has the right to terminate this agreement or the Study at any time with 2 weeks notice. Upon termination or expiration of this agreement, the Participant shall return the Equipment to Nanometrics as set out in the Returns clause (2. ii) of this agreement. For clarity, return of Equipment shall be no later than January 1, 2025.

**12. Miscellaneous.** *No Legal Partnership* - applicants agree their participation is on their own behalf and not on the behalf of Nanometrics, and said participation is not to be construed as creating the relationship of principal and agent, partnership in law, or joint venture. *Survival* - all representations and warranties, disclaimers, indemnification will survive the termination of this agreement or the completion of the Study. *Force Majeure* - No party to this agreement shall be responsible for its failure to perform to the extent due to unforeseen circumstances or causes beyond its reasonable control, including but not limited to acts of nature (lightning strikes, floods, earthquakes, fire), wars, terrorism, riots, embargoes, epidemics or pandemics, acts of civil or military authorities, accidents, or strikes, labor problems (other than those involving the employees of the affected party), or delays involving hardware, software or power systems not within a party's possession or reasonable control, prompt written notice of the failure to perform and the reason therefore is sent to the other party to this agreement. *Language* - parties agree to Agreement, all notices or communications, applications, reports, deliverables as a result of participation in this Study will be in English. *Governing Law* -these terms and conditions shall be governed and interpreted in accordance with the laws of Ontario and federal laws of Canada applicable therein, without regard to conflicts of law rules that would apply a different body of law. The parties irrevocably consent and submit the exclusive jurisdiction of the courts located in Ottawa, Ontario. However, nothing herein precludes either party from applying for injunctive remedies or other urgent relief in any jurisdiction.

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