

NEMO5 COMMERCIAL SOFTWARE LICENSE AGREEMENT

This Software License Agreement is between Purdue Research Foundation (“Licensor”) whose address is 1281 Win Hentschel Blvd., West Lafayette, IN 47906 and

_____ (“Licensee”) whose address is

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

1. DEFINITIONS. As used in the Agreement, these terms shall have the following definitions:

- 1.1 “Agreement” means collectively (i) these Terms and Conditions, and (ii) the Software License Agreement.
- 1.2 “Effective Date” means the date of last signature of the Agreement.
- 1.3 “Licensed Software” means the software identified as: Nanoelectronic Modeling Tool Suite – NEMO5.
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- 1.6 “Updates” and “Upgrades” have the meanings given in Section 2.7 below.
- 1.7 “Reference” means that use the code or a modified version of the Licensed Software must cite reference of published and/or submitted work as follows:
Sebastian Steiger, Michael Povolotskyi, Hong-Hyun Park, Tillmann Kubis, Gerhard Klimeck, "NEMO5: A Parallel Multiscale Nanoelectronics Modeling Tool", IEEE Transactions on Nanotechnology, Vol10, pg. 1464, (2011); doi:10.1109/TNANO.2011.2166164

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8. INDEMNIFICATION. Licensee shall indemnify and hold harmless PRF, Purdue University, and the State of Indiana and each of their respective current and future regents, directors, trustees, officers, faculty, medical and professional staff, employees, students, trainees, and agents, and their respective successors, heirs, and assigns against any claim, liability, cost, damage, deficiency, loss, expense or obligation of any kind or nature (including without limitation reasonable attorneys’ fees, expert

witness fees, court costs and other costs and expenses of litigation at trial and appellate levels) incurred by or imposed upon any one of them in connection with any claims, suits, actions, demands or judgments that may arise from any actions or omissions in connection with this Agreement by Licensee, its personnel, or any other person acting on behalf of or under authorization from Licensee.

9. TERM AND TERMINATION

9.1. **Term.** The term of the Agreement shall commence on the Effective Date and shall continue for the period one (1) year, unless terminated earlier as set forth below.

9.2. **Effect of Termination.** At the termination or expiration of the Agreement, (a) Licensee must destroy all copies of the Licensed Software (except those already incorporated into Licensee Products), data, and results. The following terms of the Agreement shall survive any expiration or termination: Sections 1 (Definitions), 2.8 (Licensor Intellectual Property Rights), 3 (Licensee's Obligations), 6 (Warranty Disclaimer), 7 (Limitation of Liability), 8 (Indemnification), 9 (Term and Termination), and 10 (General Provisions).

10. GENERAL PROVISIONS

10.1. **Use of Names.** Each party agrees to obtain the written approval of the other party prior to making use of their names for any commercial purpose, except as required by law. As an exception to the foregoing, both LICENSEE and PRF shall have the right to publicize the existence of this Agreement; however, neither LICENSEE nor PRF shall disclose the terms and conditions of this Agreement without the other party's consent, except as required by law.

10.2. **Notices.** Any notice or reports required or permitted to be given under the Agreement shall be given in writing and shall be delivered in a manner that provides confirmation or acknowledgement of delivery. Notices to Licensor shall be sent to the address set forth in this Agreement. Notices to Licensee shall be sent to the address set forth in this Agreement.

10.3. **Export Regulations.** Neither Licensor nor Licensee shall export, directly or indirectly, any information acquired under the Agreement or any Licensed Software utilizing any such information to any country for which the U.S. Government or any agency thereof at the time of export requires an export license or other government approval without first obtaining such license or approval.

10.4. **Severability.** If any provision hereof shall be held illegal, invalid or unenforceable, in whole or in part, such provision shall be modified to the minimum extent necessary to make it legal, valid and enforceable, and the remaining provisions of the Agreement shall not be affected thereby.

10.5. **Headings.** The paragraph headings and captions of the Agreement are included merely for convenience of reference and are not to be considered part of, or to be used in interpreting the Agreement and in no way limit or affect any of the contents of the Agreement or its provisions.

10.6. **Governing Law.** This Agreement is made and construed in accordance with the laws of the State of Indiana without regard to choice of law issues. Each party consents to the jurisdiction of the Circuit Court of Tippecanoe County, Indiana for any suit against the other

party relating to this Agreement, and agrees to file any such suit in one of those courts. The parties exclude in its entirety the application to the Agreement of the United Nations Convention on Contracts for the International Sale of Goods.

10.7. **Assignment.** Licensee shall not directly or indirectly sell, transfer, assign, convey, pledge, encumber or otherwise dispose of the Agreement.

10.8. **Relationship of the Parties.** Nothing contained in the Agreement shall be construed as creating any agency, partnership, or other form of joint enterprise between the parties. The relationship between the parties shall at all times be that of independent contractors. Neither party shall have authority to contract for or bind the other in any manner whatsoever. The Agreement confers no rights upon either party except those expressly granted herein.

10.9. **Counterparts.** The Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

10.10. **Entire Agreement.** The Agreement is the complete, entire, final and exclusive statement of the terms and conditions of the agreement between the parties. The Agreement supersedes, and the terms of the Agreement govern, any prior or collateral agreements between the parties with respect to the subject matter hereof. The Agreement may not be modified except in a writing executed by duly authorized representatives of the parties. The terms and conditions of the Agreement shall prevail notwithstanding any variance with the terms and conditions of any other instrument submitted by Licensee.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this Software License Agreement.

PURDUE RESEARCH FOUNDATION

LICENSEE:

Elizabeth Hart-Wells

Name

Assistant Vice President and Director of Office of
Technology Commercialization

Printed Name

Date: _____

Title: _____

Date: _____