

**LBNL MODEL CRADA**

STEVENSON-WYDLER (15 USC 3710a)  
COOPERATIVE RESEARCH AND DEVELOPMENT  
AGREEMENT (hereinafter "CRADA") NO. -----

BETWEEN

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA  
ERNEST ORLANDO LAWRENCE BERKELEY NATIONAL LABORATORY

under its U. S. Department of Energy  
Contract No. DE-AC02-05CH11231 (hereinafter "The Regents")

AND

\_\_\_\_\_ (hereinafter "Participant"),  
both being hereinafter jointly referred to as the "Parties."

**ARTICLE I: DEFINITIONS**

- A. "Background Intellectual Property" means the Intellectual Property identified by the Parties in Annex B, Background Intellectual Property, which was in existence prior to or is first produced outside of this CRADA, except that in the case of inventions in those identified items, the inventions must have been conceived outside of this CRADA and not first actually reduced to practice under this CRADA to qualify as Background Intellectual Property.
- B. "Contracting Officer" means the DOE employee administering The Regents' DOE contract.
- C. "Computer Software" means (i) computer programs that comprise a series of Instructions, rules, routines, or statements, regardless of the media in which recorded, that allow or cause a computer to perform a specific operation or series of operations; and (ii) recorded information comprising source code listings, design details, algorithms, processes, flow charts, formulas, and related material that would enable the computer program to be produced, created, or compiled.
- D. "DOE" and "Department" means the Department of Energy, an agency of the Federal Government.

- E. “Generated Information” means information, including data, produced in the performance of this CRADA.
- F. “Government” means the Federal Government of the United States of America and agencies thereof.
- G. “Intellectual Property” means patents, copyrights, trademarks and mask works protected by Federal law and foreign counterparts, except trade secrets.
- H. “Laboratory Tangible Research Products” or “LTRP” means tangible material results of research that: (i) can be used for replication, reproduction, evaluation or confirmation of the research effort, or to evaluate its potential commercial utility; (ii) are not materials generally commercially available; and (iii) were made by one or more of the Parties in the performance of this CRADA. LTRP includes, without limitation, “Laboratory Biological Materials,” which is a biological material that can be replicated or reproduced, such as plasmids, deoxyribonucleic acid molecules, ribonucleic acid molecules, living organisms of any sort and their progeny, including viruses, prokaryote and eukaryote cell lines, transgenic plants and animals, and any derivatives or modifications thereof or products produced through their use or associated biological products.
- I. “Other Protected Data” means data first produced in the performance of an award, contract, or other agreement with DOE or another federal agency which is marked as being protected from public disclosure or other uses, for the particular period of time in accordance with that award, contract, other agreement or other statutory authority.
- J. “Proprietary Information” means information, including data, which is developed at private expense outside of this CRADA, is marked as Proprietary Information, and embodies (i) trade secrets or (ii) commercial or financial information which is privileged or confidential under the Freedom of Information Act (5 U.S.C. 552 (b)(4)).
- K. “Protected CRADA Information” means Generated Information which is marked as being Protected CRADA Information by a Party to this CRADA and which would have been Proprietary Information had it been obtained from a non-Federal entity.
- L. “Subject Invention” means any invention of The Regents or Participant conceived or first actually reduced to practice in the performance of work under this CRADA.

## **ARTICLE II: STATEMENT OF WORK, TERM, FUNDING AND COSTS**

- A. The Statement of Work is attached as Annex A.
- B. Notices: The names, postal addresses, telephone and email addresses for the Parties are provided in the Statement of Work. Any communications required by this CRADA, if given by postage prepaid first class U.S. Mail or other verifiable means addressed to the Party to receive the communication, shall be deemed made as of the day of receipt of such communication by the addressee, or on the date given if by email. Address changes shall be

made by written notice and shall be effective thereafter. All such communications, to be considered effective, shall include the number of this CRADA.

- C. The effective date of this CRADA shall be the latter date of (1) the date on which it is signed by the last of the Parties or (2) the date on which it is approved by DOE. The work to be performed under this CRADA shall be completed within \_\_\_\_ months/years from the effective date.
- D. The Participant's estimated contribution is \$\_\_\_\_, of which \$\_\_\_\_ is fund-in to the Laboratory. The Government's estimated contribution, which is provided through The Regents' contract with DOE, is \$\_\_\_\_, subject to available funding.
- E. [Reserve paragraph if Participant is not providing funding to The Regents.]

The Participant shall pay The Regents the following advance payment and monthly invoice payments (Partial Advance):

- 1. **Advance Payment.** The Participant shall advance the following amount at the time shown:

<u>Amount Due</u>	<u>Date Due</u>
\$ .	00/00/00

This is a partial advance for the estimated cost. Once received, this advance will be held to pay for approximately the last four months of incurred costs on the project (or until the amounts on the month invoices plus the advance payment equals the contractual cost limitation level authorized under this agreement).

All advance payments must be made in US dollars. For foreign wire transfers, please add \$30 to the invoice amount to cover payment charges levied by the Participant's banking institution.

- 2. **Monthly Invoice Payments.**

Once each month during the Agreement term The Regents shall invoice the Participant for costs incurred in the previous month. Payment for such costs shall be due upon receipt of the invoice.

The Regents is not obligated to continue the work unless it is holding an adequate advance and may stop work if the monthly invoices are not paid on a timely basis.

When the advance payment plus the amounts paid in response to the monthly invoices equals the contractual cost limitation, the advance payment will be applied to pay for the remaining costs incurred on the agreement. From that time forth,

monthly Expense Statements showing actual costs incurred for the month and the balance remaining in the agreement are mailed to the Participant for information only. The expense statements are not requests for payment.

Upon completion of the project there will be a reconciliation of the total costs incurred to total payments received and a final expense statement along with any remaining advance will be returned to the Participant.

3. The Participant shall provide its Purchase Order number if applicable and the name, address, and other contact information, of the person or department who will be making the invoice payments. This information is mandatory. Any terms and conditions associated with a Purchase Order number are not applicable to this Agreement.

Participant Reference No. if applicable:

Contact Name:

Street Address:

City, State, Zip Code:

Country:

Telephone with area code:

Email:

Tax ID Number (TIN):

DUNS Number:

### **ARTICLE III: PERSONAL PROPERTY**

Participant shall have title to any tangible personal property The Regents produces (other than Laboratory Tangible Research Products, to which title shall vest in The Regents) or acquires using solely the Participant's funds under this CRADA whose cost is greater than \$5,000 (unless identified otherwise in Annex A). The Government shall have title to all other tangible personal property produced or acquired by the Regents. The Participant shall maintain records of receipts, expenditures, and the disposition of all Government property in its custody related to the CRADA and with a value greater than \$5,000.

### **ARTICLE IV: DISCLAIMER**

*THE GOVERNMENT, THE PARTICIPANT, AND THE REGENTS MAKE NO EXPRESS OR IMPLIED WARRANTY AS TO THE CONDITIONS OF THE RESEARCH OR ANY INTELLECTUAL PROPERTY, GENERATED INFORMATION, OR PRODUCT MADE OR DEVELOPED UNDER THIS CRADA, OR THE OWNERSHIP, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE RESEARCH OR RESULTING PRODUCT. NEITHER THE GOVERNMENT,*

*THE PARTICIPANT, NOR THE REGENTS SHALL BE LIABLE FOR SPECIAL, CONSEQUENTIAL, OR INCIDENTAL DAMAGES ATTRIBUTED TO SUCH RESEARCH OR RESULTING PRODUCT, INTELLECTUAL PROPERTY, GENERATED INFORMATION, OR PRODUCT MADE OR DEVELOPED UNDER THIS CRADA.*

#### **ARTICLE V: PRODUCT LIABILITY**

The Participant indemnifies the Government and The Regents for all damages, costs, and expenses, including attorney's fees, arising from personal injury or property damage occurring as a result of the making, using, or selling of a product, process, or service by or on behalf of the Participant, its assignees, or licensees, which was derived from the work performed under this CRADA. In respect to this article, neither the Government nor The Regents shall be considered assignees or licensees of the Participant, as a result of reserved Government and The Regents rights. The indemnity set forth in this paragraph shall apply only if the Participant shall have been informed as soon and as completely as practical by The Regents and/or the Government of the action alleging such claim and shall have been given an opportunity, to the maximum extent afforded by applicable laws, rules, or regulations, to participate, in and control its defense, and The Regents and/or the Government shall have provided all reasonably available information and reasonable assistance requested by the Participant. No settlement for which the Participant would be responsible shall be made without the Participant's consent unless required by final decree of a court of competent jurisdiction.

#### **ARTICLE VI: RIGHTS IN SUBJECT INVENTIONS**

Wherein DOE has granted the Participant and The Regents the right to elect to retain title to their respective Subject Inventions,

- A. Each Party shall have the first option to elect to retain title to any of its Subject Inventions and that election shall be made: (1) for the Participant, within 12 months of disclosure of the Subject Invention to DOE or (2) for The Regents, within the time period specified in its prime contract for electing to retain title to Subject Inventions. However, such election shall occur not later than 60 days prior to the time when any statutory bar might foreclose filing of a U.S. Patent application. The electing Party has one year to file a patent application after such election unless any statutory bar exists. If a Party elects not to retain title to any of its Subject Inventions or fails to timely file a patent application, the other Party shall have the second option to elect to obtain title to such Subject Invention within the time period specified above. For Subject Inventions that are joint Subject Inventions of The Regents and the Participant, title to such Subject Inventions shall be jointly owned by The Regents and the Participant. Subject Invention(s) conceived or reduced to practice by employees of both Parties jointly shall be the joint property of both Parties, each having an undivided one half (1/2) interest. Each Party's undivided interest shall be available for use and licensing without obligation to account to the other party.

Until a Party elects, nothing in this Article may be construed as requiring either Party to file any patent application on any Subject Invention, except as agreed to by the Parties.

- B. If a patent application is filed by the non-inventing Party ("Filing Party") on a Subject Invention other than a joint Subject Invention, the inventing Party shall reasonably cooperate and assist the Filing Party, at the Filing Party's expense, in executing a written assignment of the Subject Invention to the Filing Party and in otherwise perfecting the



patent application, and the Filing Party shall have the right to control the prosecution of the patent application. The Parties shall agree among themselves as to who will file patent applications on any joint Subject Invention.

- C. The Parties agree to assign to DOE, as requested by DOE, the entire right, title and interest in any country to each Subject Invention where the Parties (1) do not elect pursuant to this article to retain/obtain such rights, or (2) elect to retain/obtain title to a Subject Invention but fail to have a patent application filed in that country on the Subject Invention or decide not to continue prosecution or not to pay any maintenance fees covering the Subject Invention. If DOE is granted a patent on Participant's Subject Invention, the Participant may request a non-exclusive license and DOE will determine whether to grant such license pursuant to statutory authority.
- D. The Parties acknowledge that the Government retains a nonexclusive, nontransferable, irrevocable, paid-up license to practice or to have practiced for or on behalf of the United States every Subject Invention under this CRADA throughout the world. The Parties agree to execute a Confirmatory License to affirm the Government's retained license.
- E. The Parties agree to disclose to each other each Subject Invention that may be patentable or otherwise protectable under U.S. patent law. The Parties agree that The Regents and the Participant will disclose their respective Subject Inventions to DOE and each other within two (2) months after the inventor first discloses the Subject Invention in writing to the person(s) responsible for patent matters of the disclosing Party.
- These disclosures should be in sufficiently complete technical detail to convey a clear understanding, to the extent known at the time of the disclosure, of the nature, purpose, and operation of the Subject Invention. The disclosure shall also identify any known actual or potential statutory bars, e.g., printed publications describing the Subject Invention or the public use or "on sale" of the Subject Invention. The Parties further agree to disclose to each other any subsequently known actual or potential statutory bar that occurs for a Subject Invention disclosed but for which a patent application has not been filed. All Subject Invention disclosures shall be marked as confidential, under 35 U.S.C. 205.
- F. The Parties agree to include within the beginning of the specification of any U.S. patent applications and any patent issuing thereon (including non-U.S. patents, as permitted by the non-U.S. patent office) covering a Subject Invention, the following statement: "This invention was made under a CRADA (identify CRADA number) between (name the Participant) and (name the laboratory) operated for the United States Department of Energy. The Government has certain rights in this invention."
- G. The Parties acknowledge that DOE has certain march-in rights to any Subject Inventions in accordance with 48 CFR 27.304-1(g) and 15 U.S.C. 3710a(b)(1)(B) and (C).
- H. The Participant agrees to submit, for a period of five (5) years from the date of termination or completion of this CRADA and upon request of DOE, a nonproprietary report no more frequently than annually on efforts to utilize any Intellectual Property arising under the CRADA including information regarding compliance with U.S.

Competitiveness provision of this CRADA.

- I. The Participant acknowledges that The Regents has offered to the Participant the option to choose an exclusive license within a field of use for reasonable compensation and subject to reasonable terms for any Subject Invention made in whole or in part by a Regents employee ("Option"). The term of the Option shall be six (6) months from the date of Participant's receipt of disclosure of The Regents' Subject Invention.

#### **ARTICLE VII: RIGHTS IN DATA**

- A. The Parties agree that they shall have no obligations of nondisclosure or limitations on their use of, and the Government shall have unlimited rights in, all Generated Information produced and information provided by the Parties under this CRADA, except for restrictions on data provided for in this Article or data disclosed in a Subject Invention disclosure being considered for patent protection.
- B. PROPRIETARY INFORMATION: Each Party agrees to not disclose Proprietary Information or other Protected Data provided by the other Party to anyone other than the CRADA Participant, The Regents and its subcontractors (if any) performing work under this CRADA without written approval of the providing Party, except to Government employees who are subject to the statutory provisions against disclosure of confidential information set forth in the Trade Secrets Act (18 U.S.C. 1905). Government employees shall not be required to sign non-disclosure agreements due to the provisions of the above-cited statute.

If Proprietary Information or Other Protected Data is orally disclosed to a Party, it shall be identified as such, orally, at the time of disclosure and confirmed in a written summary thereof, appropriately marked by the disclosing Party, within 30 days as being Proprietary Information or Protected Data.

All Proprietary Information or Other Protected Data shall be protected for a period of three years from the effective date of this CRADA, unless such Proprietary Information or Other Protected Data becomes publicly known without the fault of the recipient, shall come into recipient's possession without breach by the recipient of any of the obligations set forth herein, can be demonstrated by the recipient by written record that it is known prior to receipt from disclosing party, is disclosed by operation of law, is independently developed by recipient's employees who did not have access to such Proprietary Information, is released by the disclosing Party to a third party without restriction, or is released for disclosure with the written consent of the disclosing Party.

- C. PROTECTED CRADA INFORMATION: Except where a Participant's funding agreement prohibits such protection, the Participant may designate and mark as Protected CRADA Information any Generated Information produced by its employees, which meets the definition in Article I. Because The Regents is part of an institution of higher education and intends to conduct its activities as fundamental research under the U.S. Export Administration Regulations, The Regents does not intend to mark any of its Generated Information as Protected CRADA Information. All such designated Protected CRADA Information shall be appropriately marked.

For a period of three years from the date Protected CRADA Information is produced, the Parties agree not to further disclose such information and to use the same degree of care and discretion, but no less than reasonable care and discretion, to avoid disclosure, publication or dissemination of such information to a third party, as the Party employs for similar protection of its own information which it does not desire to disclose, publish, or disseminate except:

- (1) as necessary to perform this CRADA;
- (2) as published in a patent application or an issued patent before the protection period expires;
- (3) as provided in Article X [REPORTS AND PUBLICATIONS];
- (4) as requested by the DOE Contracting Officer to be provided to other DOE facilities for use only at those DOE facilities solely for Government use only with the same protection in place and marked accordingly;
- (5) when a specific maximum time period for delaying the public release of data is authorized in the terms of a Government funding agreement used to fund this CRADA and that maximum period is shorter than the time period set forth in this Article for protecting Protected CRADA Information;
- (6) to existing or potential licensees, affiliates, customers, or suppliers of the Parties in support of commercialization of the technology with the same protection in place. Disclosure of the Participant's Protected CRADA Information under this subparagraph shall only be done with the Participant's consent; or
- (7) as mutually agreed to by the Parties in advance.

The obligations of this paragraph shall end sooner for any Protected CRADA Information which shall become publicly known without fault of either Party, shall be independently developed outside of the CRADA by a Party's employees who did not have access to the Protected CRADA Information, or is disclosed through a product released by the Participant. If recipient receives without any obligation of confidentiality any information independently developed by a third party that is similar to Protected CRADA Information, disclosure by recipient of such third party information shall not be a breach of this CRADA. Federal Government employees who are subject to 18 USC 1905 may have access to Protected CRADA Information and shall not be required to sign non-disclosure agreements due to the provisions of the statute.

- D. **COPYRIGHT:** The Parties may assert Copyright in any of their Generated Information. Assertion of Copyright generally means to enforce or give an indication of an intent or right to enforce such as by marking or securing Federal registration. Copyrights in co-authored works by employees of the Parties shall be held jointly, and use by either Party shall be without accounting.

**COMPUTER SOFTWARE:** For all Computer Software produced in the performance of this CRADA, the Parties shall provide an Announcement Notice, AN 241.4 Software Announcement Notice, along with providing the source code, the executable object code and



the minimum support documentation needed by a competent user to understand and use the Computer Software to DOE's Energy Science and Technology Software Center (ESTSC) via [www.osti.gov/estsc](http://www.osti.gov/estsc). The source code of the Computer Software may be marked as Protected CRADA Information in accordance with this Article; however, the Government's use of the executable object code is governed by the applicable license below.

Under a separate agreement, The Regents will grant the Participant a license in The Regents' Computer Software, if required for the performance of this CRADA. If the grant is for an exclusive license, the separate agreement will include "march-in rights."

For Generated Information that is Copyrighted Computer Software produced by a Party, the Party shall inform DOE's ESTSC when it abandons or no longer commercializes the Copyrighted Computer Software. Until such notice to ESTSC, the Government has for itself and others acting on its behalf, a royalty-free, nontransferable, nonexclusive, irrevocable worldwide copyright license to reproduce, prepare derivative works, and perform publicly and display publicly, by or on behalf of the Government. (narrow license) After the Party owning the Copyrighted Computer Software abandons or no longer commercializes the Copyrighted Computer Software, the Government has for itself and others acting on its behalf, a royalty-free, nontransferable, nonexclusive, irrevocable worldwide copyright license to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government. (broad license)

For all other Generated Information where a Party asserts copyright in copyrightable works produced in the performance of this CRADA, the Government has for itself and others acting on its behalf, a royalty-free, nontransferable, nonexclusive, irrevocable worldwide copyright license to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government, subject to the restrictions this Article places on publication of Proprietary Information and Protected CRADA Information. The Parties agree to place Copyright and other notices, as appropriate for the protection of Copyright, in human-readable form onto all physical media, and in digitally encoded form in the header of machine-readable information recorded on such media such that the notice will appear in human-readable form when the digital data are off loaded or the data are accessed for display or printout.

## **ARTICLE VIII: U.S. COMPETITIVENESS**

The Parties agree that a purpose of this CRADA is to provide substantial benefit to the U.S. economy.

- A. In exchange for the benefits received under this CRADA, the Participant therefore agrees to the following:
- (1) Products embodying Intellectual Property developed under this CRADA shall be substantially manufactured in the United States, and
  - (2) Processes, services, and improvements thereof which are covered by Intellectual Property developed under this CRADA shall be incorporated into the Participant's

manufacturing facilities in the United States either prior to or simultaneously with implementation outside the United States. Such processes, services, and improvements, when implemented outside the United States, shall not result in reduction of the use of the same processes, services, or improvements in the United States.

- B. The Regents agrees to a U.S. Industrial Competitiveness clause in accordance with its prime contract with respect to any licensing and assignments of its Intellectual Property arising from this CRADA, except that any licensing or assignment of its intellectual property rights to the Participant shall be in accordance with the terms of paragraph A of this Article.

#### **ARTICLE IX: EXPORT CONTROL**

- A. THE PARTIES UNDERSTAND THAT MATERIALS AND INFORMATION RESULTING FROM THE PERFORMANCE OF THIS CRADA MAY BE SUBJECT TO EXPORT CONTROL LAWS AND THAT EACH PARTY IS RESPONSIBLE FOR ITS OWN COMPLIANCE WITH SUCH LAWS. EXPORT LICENSES OR OTHER AUTHORIZATIONS FROM THE U.S. GOVERNMENT MAY BE REQUIRED FOR THE EXPORT OF GOODS, TECHNICAL DATA OR SERVICES UNDER THIS AGREEMENT. THE PARTIES ACKNOWLEDGE THAT EXPORT CONTROL REQUIREMENTS MAY CHANGE AND THAT THE EXPORT OF GOODS, TECHNICAL DATA OR SERVICES FROM THE U.S. WITHOUT AN EXPORT LICENSE OR OTHER APPROPRIATE GOVERNMENTAL AUTHORIZATION MAY RESULT IN CRIMINAL LIABILITY.
- B. Participant acknowledges that The Regents has many foreign employees and students. The Participant agrees that The Regents will conduct this project as fundamental research with no restrictions on publication. Accordingly, The Regents does not intend to mark any of its Generated Information as Protected CRADA Information and the Participant agrees not to direct The Regents to create export controlled information and not to transfer to Principal Investigator or to other employees or students of The Regents any Proprietary Information or Protected CRADA Information that is export controlled under the Export Administration Regulations, the International Traffic in Arms Regulations, or 10 CFR 810.

#### **ARTICLE X: REPORTS AND PUBLICATIONS**

- A. The Parties agree to produce the following deliverables to DOE Office of Scientific and Technical Information (OSTI):
- (1) an initial abstract suitable for public release at the time the CRADA is executed;
  - (2) a final report, upon completion or termination of this CRADA, to include a list of Subject Inventions; and
  - (3) other scientific and technical information in any format or medium that is produced as a result of this CRADA that is useful to the Government or the public as specified

by and upon request from DOE no later than two years from submission of the final report to OSTI.

The Parties acknowledge that The Regents has the responsibility to timely provide the above information to OSTI. Furthermore, item (2) above should also be provided to the DOE field office.

- B. The Parties agree to secure pre-publication review from each other wherein the non-publishing Party shall provide within 30 days any written objections to be considered by the publishing Party.
- C. The Parties agree that neither will use the name of the other Party or its employees in any promotional activity, such as advertisements, with reference to any product or service resulting from this CRADA, without prior written approval of the other Party.

#### **ARTICLE XI: FORCE MAJEURE**

No failure or omission by The Regents or the Participant in the performance of any obligation under this CRADA shall be deemed a breach of this CRADA or create any liability if the same shall arise from any cause or causes beyond the control of The Regents or the Participant, including but not limited to the following, which, for the purpose of this CRADA, shall be regarded as beyond the control of the Party in question: Acts of God, acts or omissions of any government or agency thereof, compliance with requirements, rules, regulations, or orders of any governmental authority or any office, department, agency, or instrumentality thereof, fire, storm, flood, earthquake, accident, acts of the public enemy, war, rebellion, insurrection, riot, sabotage, invasion, quarantine, restriction, transportation embargoes, or failures or delays in transportation.

#### **ARTICLE XII: DISPUTES**

The Parties shall attempt to jointly resolve all disputes arising from this CRADA. In the event a dispute arises under this CRADA, the Participant is encouraged to contact The Regents' Technology Partnerships Ombudsman in order to further resolve such dispute before pursuing third-party mediation or other remedies. If the Parties are unable to jointly resolve a dispute within 60 days, they agree to submit the dispute to a third-party mediation process that is mutually agreed upon by the Parties. To the extent that there is no applicable U.S. Federal law, this CRADA and performance thereunder shall be governed by the laws of the State of California, without reference to that state's conflict of laws provisions.

#### **ARTICLE XIII: ASSIGNMENT OF PERSONNEL**

- A. Each Party may assign personnel to the other Party's facility as part of this CRADA to participate in or observe the research to be performed under this CRADA. Such personnel assigned by the assigning Party shall not during the period of such assignments be considered employees of the receiving Party for any purpose.

- B. The receiving Party shall have the right to exercise routine administrative and technical supervisory control of the occupational activities of such personnel during the assignment period and shall have the right to approve the assignment of such personnel and/or to later request their removal by the assigning Party.
- C. The assigning Party shall bear any and all costs and expenses with regard to its personnel assigned to the receiving Party's facilities under this CRADA. The receiving Party shall bear facility costs of such assignments.

#### **ARTICLE XIV: LABORATORY SITE ACCESS, SAFETY AND HEALTH**

As a precondition to performing work at The Regents' Laboratory, Participant must complete all The Regents' Site Access documents and requirements. Participant shall take all reasonable precautions in activities carried out under this Agreement to protect the safety and health of others and to protect the environment. Participant must comply with all applicable safety, health, access to information, security and environmental regulations and the requirements of the Department and The Regents, including the specific requirements of the Laboratory. In the event that the Participant fails to comply with said regulations and requirements, The Regents may, without prejudice to any other legal or contractual rights, issue an order stopping all or any part of Participant's activities at the Laboratory.

#### **ARTICLE XV: ENTIRE CRADA, MODIFICATIONS, ADMINISTRATION AND TERMINATION**

- A. This CRADA with its annexes contains the entire agreement between the Parties with respect to the subject matter hereof, and all prior representations or agreements relating hereto have been merged into this document and are thus superseded in totality by this CRADA.
- B. Any agreement to materially change any terms or conditions of this CRADA or the annexes shall be valid only if the change is made in writing, executed by the Parties hereto, and approved by DOE.
- C. The Regents enters into this CRADA under the authority of its prime contract with DOE. The Regents is authorized to and will administer this CRADA in all respects unless otherwise specifically provided for herein. Administration of this CRADA may be transferred from The Regents to DOE or its designee with notice of such transfer to the Participant, and The Regents shall have no further responsibilities except for the confidentiality, use and/or nondisclosure obligations of this CRADA.
- D. This CRADA may be terminated by either Party upon 90 days written notice to the other Party. If Article III provides for advance funding, this CRADA may also be terminated by The Regents in the event of failure by the Participant to provide the necessary advance funding or to promptly pay the invoices rendered by The Regents as agreed in Article III.

In the event of termination by either Party, each Party shall be responsible for its share of the costs incurred through the effective date of termination, as well as its share of the costs

incurred after the effective date of termination, and which are related to the termination.

FOR THE REGENTS:

BY \_\_\_\_\_

TITLE \_\_\_\_\_

DATE \_\_\_\_\_

FOR PARTICIPANT:

BY \_\_\_\_\_

TITLE \_\_\_\_\_

DATE \_\_\_\_\_

SAMPLE



Annex A: Statement of Work

**[PROJECT TITLE]**

**EXPECTED ACCOMPLISHMENTS AND GOALS**

*[Describe what products the Participant might be manufacturing or commercializing as a result of the efforts under this CRADA. { If no products can be identified, then state so.}]*

**TECHNICAL OBJECTIVES**

*[Provide an explanation of the means of achieving the result/product(s).]*

**TASKS, RESPONSIBILITIES, AND SCHEDULE**

*[Summarize the tasks, noting which party is responsible for each task. Explain the relationship between phases, including timing if relevant. Provide a schedule of work in terms of the time needed to complete each milestone and/or phase. You may use the table below, modified for months or quarters as needed.]*

Task/Milestone	Work Done by:		Completion, Quarters After Start of Project															
	LBNL	[Part]	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16

**DELIVERABLES**

*[List the items (reports, prototypes, etc.) to be delivered for each phase or task. Give due dates in terms of months from project start and note which party is responsible for each deliverable]*

**TOTAL FUNDING SUMMARY**

*[Insert section A.5., Funding Table, from the JWS.]*

Statement of Work Notices (contact information):

Contact Name: \_\_\_\_\_

Postal address \_\_\_\_\_

\_\_\_\_\_

Telephone \_\_\_\_\_

Email: \_\_\_\_\_

SAMPLE

Annex B: Background Intellectual Property

Each Party may use the other Party's Background Intellectual Property identified in this Annex \_\_\_ solely in performance of research under the Statement of Work. This CRADA does not grant to either Party any option, grant, or license to commercialize, or otherwise use the other Party's Background Intellectual Property. Licensing of Background Intellectual Property, if agreed to by the Parties, shall be the subject of separate licensing agreements between the Parties.

Each Party has used reasonable efforts to list all relevant Background Intellectual Property, but Background Intellectual Property may exist that is not identified. Neither Party shall be liable to the other Party because of failure to list Background Intellectual Property.

The Regents' Background Intellectual Property:

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Participant's Background Intellectual Property:

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