**AgileBioFoundry MODULAR CRADA**

**STEVENSON-WYDLER (15 U.S.C. 3710a)**

**COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENT**

**(hereinafter “CRADA”)**

**Among**

**XXX DOE Lab under its U.S. Department of Energy Contract**

**No. XXX (hereinafter “XXX”)**

**And**

**XXX DOE Lab under its U.S. Department of Energy Contract**

**No. XXXX (hereinafter “XXX”)**

**And**

**XXX DOE Lab under its U.S. Department of Energy Contract**

**No. XXXX (hereinafter “XXX”)**

**Hereinafter being individually referred to as “Contractor” or jointly referred to as "Contractors"**

**And**

**Name of Participant**

**(hereinafter “Participant”)**

**All being hereinafter jointly referred to as the “Parties” or individually as a “Party”.**

**ARTICLE I: DEFINITIONS**

1. “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.
2. “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.
3. “Contracting Officer” means the DOE employees administering the Contractors’ DOE contracts.
4. “DOE” means the Department of Energy, an agency of the Federal Government.

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| 1. “Foreign Interest” is defined as any of the following: A foreign government or foreign government agency; Any form of business enterprise organized under the laws of any country other than the United States or its possessions; Any form of business enterprise organized or incorporated under the laws of the United States, or a State or other jurisdiction within the United States, which is owned, controlled, or influenced by a foreign government, agency, firm, corporation or person; or Any person who is not a U.S. citizen. |

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| 1. “Foreign ownership, control, or influence (FOCI)” means the situation where the degree of ownership, control, or influence over a Participant by a foreign interest is such that a reasonable basis exists for concluding that compromise of classified information or special nuclear material, as defined in 10 CFR Part 710.5, may result. |

1. “Generated Information” means information including data, produced in the performance of this CRADA.
2. “Government” means the Federal Government of the United States of America and agencies thereof.
3. “Intellectual Property” means patents, trademarks, copyrights, mask works, Protected CRADA Information, and other forms of comparable property rights protected by Federal law and foreign counterparts, except trade secrets.
4. “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.

1. “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)).
2. “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.

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| 1. “Subcontractor” means a subcontractor of a Contractor or Participant at any tier. |

1. “Subject Invention” means any invention of a Party conceived or first actually reduced to practice in the performance of work under this CRADA.

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

1. Annex A, The Statement of Work is an integral part of this CRADA.
2. 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.
3. 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 24 months of the effective date.
4. The Participant's estimated contribution is comprised of $XXXXX in-kind and $0 funds-in. The Government's total estimated contribution, which is provided through the Contractors' contracts with DOE, is $XXXX subject to available funding, and is comprised of the following individual Contractor contributions. Each Contractor's estimated contribution is as follows: XXX’s estimated contribution is $XXXX, subject to available funding; XXXX’s estimated contribution is $XXXX, subject to available funding; and XXXXX's estimated contribution is $XXXX, subject to available funding. An estimated breakdown of costs is set forth in Annex A, Statement of Work. For CRADAs that include non-Federal funding on a funds-in basis, sufficient advance funds shall be obtained to maintain approximately a 90-day advance of funds during the entire period of work covered by the funds provided by the Participant under the CRADA. No work will begin before the receipt of a cash advance. Failure of Participant to provide the necessary advance funding is cause for termination of the CRADA in accordance with the Termination article of the CRADA.
5. No Party shall have an obligation to continue or complete performance of its work at a contribution in excess of its estimated contribution as contained in Article II.D., above, including any subsequent amendment.

**ARTICLE III: PERSONAL PROPERTY**

All tangible personal property produced or acquired under this CRADA (specifically excluding Intellectual Property rights, Background Intellectual Property, Proprietary Information, and LTRPs) shall become the property of the Participant or the Government, depending upon whose funds were used to obtain it. Personal property shall be disposed of as directed by the owner at the owner’s expense. There shall not be any jointly funded property under this CRADA except by the mutual agreement of the Parties. The Participant shall maintain records of receipts, expenditures, and the disposition of all Government property in its custody related to the CRADA. Any LTRPs remaining after the Statement of Work has been completed, shall be distributed equally among any Parties requesting the LTRPs, and title shall vest with the Party to which they are distributed.

**ARTICLE IV: DISCLAIMER**

THE GOVERNMENT, THE PARTICIPANT, AND THE CONTRACTORS 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 OR NON-INFRINGEMENT OF THE RESEARCH OR RESULTING PRODUCT. ALL WORK PERFORMED HEREUNDER BY ANY PARTY IS PROVIDED “AS IS” WITH ALL FAULTS, ERRORS AND OMISSIONS. NEITHER THE GOVERNMENT, THE PARTICIPANT, NOR THE CONTRACTORS 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**

Except for any liability resulting from any negligent acts, willful misconduct or omissions of a Contractor and the Government, the Participant indemnifies the Government and the Contractors 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 Contractors shall be considered assignees or licensees of the Participant, as a result of reserved Government and Contractors 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 Contractors 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 Contractors 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 Contractors the right to elect to retain title to their respective Subject Inventions, and wherein the Participant has the option to choose an exclusive license, for reasonable compensation, for a pre-negotiated field of use to the Contractors’ Subject Inventions,

1. Each Party shall have the first option to elect to retain title to any of its Subject Inventions and that election shall be made:
2. for the Participant, within 12 months of disclosure of the Subject Invention to DOE, or
3. for the Contractors, within the time period specified in their prime contracts for electing to retain title to Subject Inventions.

However, such election shall occur no 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 Parties shall have the second option to elect to obtain such title, either by each electing Party having an equal undivided interest or by other arrangement agreed to by all the electing Parties. The electing Parties shall have the second option to elect to obtain title to such Subject Invention within one year of notification and file a patent application within one year after such election, or no less than 30 days prior to a statutory bar, if any. For Subject Inventions that are joint Subject Inventions of the Contractor(s) and the Participant, title to such Subject Inventions shall be jointly owned by the inventing Parties.

1. 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
2. do not elect pursuant to this article to retain/obtain such rights, or
3. 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.

1. 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.
2. The Parties agree to disclose to one another each Subject Invention that may be patentable or otherwise protectable under U.S. patent law. The Parties agree that the Contractors and the Participant will disclose their respective Subject Inventions to DOE and one another 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 one another 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.

1. 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) covering a Subject Invention, the following statement: “This invention was made under a CRADA (identify CRADA number) between (name the Participant) and (name the laboratories) operated for the United States Department of Energy. The Government has certain rights in this invention.”
2. 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).
3. The Participant agrees to submit, for a period of five (5) years from the date of termination or completion of this CRADA and upon the 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 the U.S. Competitiveness provision of this CRADA.
4. For a period of 6 months after each Contractor Subject Invention is disclosed to the Participant, the Participant shall have the opportunity, pursuant to 15 U.S.C. 3710a, to obtain a license to that Contractor’s Subject Invention. In particular, the Participant shall have the option to obtain an exclusive license to the Contractor’s Subject Invention within a defined field of use on agreed-upon reasonable terms and conditions, including the payment of negotiated license fees and royalties (“Exclusive License Option”). At Participant’s complete discretion, instead of the 6-month Exclusive License Option, Participant may choose an 18-month option to obtain a non-exclusive license to the Contractor’s Subject Invention in all fields of use on agreed-upon reasonable terms and conditions, including the payment of negotiated licensing fees and/or royalties (“Extended Non-Exclusive Option”). The Extended Non-Exclusive Option period shall begin when the Contractor Subject Invention is disclosed to the Participant. Within forty-five days after the Contractor Subject Invention is disclosed to the Participant, Participant shall notify the Contractor that owns the Subject Invention whether it elects the Exclusive License Option or the Extended Non-Exclusive Option. In the case of a jointly-owned Subject Invention, the Participant shall notify each owning Contractor.
5. Each Party may use another Party’s Background Intellectual Property identified in Annex B of this CRADA solely in performance of research under the Statement of Work. This CRADA does not grant to any Party any option, grant, or license to commercialize, or otherwise use another Party’s Background Intellectual Property. Licensing of Background Intellectual Property, if agreed to by the Parties, shall be the subject of the 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. No Party shall be liable to another Party because of failure to list Background Intellectual Property.

**ARTICLE VII: RIGHTS IN DATA**

1. 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.
2. PROPRIETARY INFORMATION: Each Party agrees to not disclose Proprietary Information provided by another Party to anyone other than the CRADA Participant, Contractors and their respective 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 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 thirty (30) days as being Proprietary Information. All Proprietary Information shall be protected by the recipient for a period of five (5) years from the effective date of this CRADA, unless such Proprietary Information 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, or is independently developed by recipient’s employees who did not have access to such Proprietary Information.

Upon request, Proprietary Information in tangible form shall be returned, at the disclosing Party’s expense, to the disclosing Party or destroyed with a certificate of destruction submitted to the disclosing Party upon termination or expiration of this CRADA, or during the term of this CRADA upon request by the disclosing Party. Notwithstanding the foregoing, destruction of copies shall not extend to archival copies maintained in computer system backup files, permanent business records, or as may otherwise be required by receiving Party’s internal document retention policies.

1. PROTECTED CRADA INFORMATION: Except where a Participant’s Federal funding agreement prohibits such protection, each Party may designate and mark as Protected CRADA Information any Generated Information produced by its employees or subcontractors, which meets the definition in Article I and, with the agreement of another Party, so designate any Generated Information produced by that other Party’s employees or subcontractors which meets the definition in Article I. All such designated Protected CRADA Information shall be appropriately marked.

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| 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. |

For a period of three (3) 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 the 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 any Party, shall come into a Party’s possession without breach by that Party of the obligations of paragraph above, or shall be independently developed by a Party’s employees who did not have access to the Protected CRADA Information. 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.

1. COPYRIGHT: The Parties may assert Copyright in any of their respective 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 more than one Party shall be held jointly by those Parties and use by any such Party shall be without accounting.
2. 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.

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 in 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.

1. In exchange for the benefits received under this CRADA, the Participant therefore agrees to the following:
2. Products embodying Intellectual Property developed under this CRADA shall be substantially manufactured in the United States, and
3. 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.
4. Each Contractor 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.
5. If the Participant later finds that it cannot meet the requirements of Paragraph A above, the Participant will submit a plan for providing net benefit to the US economy to DOE. If such plan is approved by DOE, it shall be incorporated into this CRADA by an amendment to be executed by the Parties. If the CRADA is completed or terminated and DOE approves of the plan, the DOE Contracting Officer shall issue an approval letter.

**ARTICLE IX: EXPORT CONTROL**

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.

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| The Parties acknowledge that The Regents has many foreign employees and students. The Parties agree 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 Parties agree 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 known to be export controlled under the Export Administration Regulations, the International Traffic in Arms Regulations, or 10 CFR 810. |

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| The Participant has a continuing obligation to provide the Contractors written notice of any changes in the nature and extent of Foreign Ownership, Control or Influence over the Participant that would affect the Participant’s answers to the previously completed FOCI certification. |

**ARTICLE X: REPORTS AND PUBLICATIONS**

1. The Parties agree to produce the following deliverables to DOE Office of Scientific and Technical Information (OSTI):
2. an initial abstract suitable for public release at the time the CRADA is executed;
3. a final report, upon completion or termination of this CRADA, to include a list of Subject Inventions; and
4. 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 Contractors have the responsibility to timely provide the above information to OSTI. Furthermore, item (2) above should also be provided to the DOE field office.

1. The Parties agree to secure pre-publication review from one another wherein the non-publishing Party shall provide within 30 days any written objections to be considered by the publishing Party.
2. The Parties agree that they will not use the name of another 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 such other Party.

**ARTICLE XI: FORCE MAJEURE**

No failure or omission by a Contractor 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 such Contractor 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 mutually resolve all disputes arising from this CRADA. In the event a dispute arises under this CRADA, the Participant is encouraged to contact the Contractor’s Technology Partnerships Ombudsman for the Contractor involved, in order to further resolve such dispute before pursuing third-party mediation or other remedies. If the Parties are unable to mutually 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 state laws of the locale of a court of competent jurisdiction, without reference to that state’s conflict of laws provisions.

**ARTICLE XIII: ENTIRE CRADA, MODIFICATIONS, ADMINISTRATION, AND TERMINATION**

1. This CRADA with its annexes contains the entire agreement among 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.
2. 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.
3. The Contractors enter into this CRADA under the authority of their prime contracts with DOE. The Contractors are authorized to and will administer this CRADA in all respects unless otherwise specifically provided for herein. Any Contractor’s administration of this CRADA may be transferred from that Contractor to DOE or its designee with notice of such transfer to the Parties, and that Contractor shall have no further responsibilities except for the confidentiality, use and/or nondisclosure obligations of this CRADA.
4. Any Party may terminate its participation in this CRADA upon thirty (30) days written notice to the other Party(ies). If Article II provides for advance funding, any Contractor may also terminate its participation in this CRADA in the event of failure by the Participant to provide the necessary advance funding to/for such Contractor(s). If Participant terminates its participation in this CRADA, such termination will also terminate this CRADA in whole. If a Contractor terminates its participation in this CRADA, the CRADA will continue in force and effect as to the Participant and the remaining Contractors unless they otherwise terminate this CRADA.

In the event of termination by any Party as to its participation in this CRADA, each Party shall be responsible for its share of the costs incurred through the effective date of such termination of participation, as well as its share of the costs incurred after the effective date of termination of its participation, and which are related to such termination of participation.

The confidentiality, use, and/or non-disclosure obligations of this CRADA shall survive any termination of this CRADA, whether in whole or as to just one or more Parties, as well as provisions of this CRADA which would naturally survive termination or expiration of this CRADA.

This Agreement may be signed in one or more counterparts, each of which shall be deemed an original, and all of which taken together shall be deemed one and the same instrument.

FOR <insert lab name>:

BY

TITLE

DATE

This Agreement may be signed in one or more counterparts, each of which shall be deemed an original, and all of which taken together shall be deemed one and the same instrument.

FOR <insert lab name>:

BY

TITLE

DATE

This Agreement may be signed in one or more counterparts, each of which shall be deemed an original, and all of which taken together shall be deemed one and the same instrument.

FOR <insert lab name>:

BY

TITLE

DATE

This Agreement may be signed in one or more counterparts, each of which shall be deemed an original, and all of which taken together shall be deemed one and the same instrument.

FOR PARTICIPANT:

BY

TITLE

DATE