

University of California
Office of the President

Vice President—
Research & Graduate Studies

Research Administration Office

Memo

Operating Guidance

No. 09 – 024

April 8, 2009

CONTRACT AND GRANT OFFICERS

Subject: Idaho National Laboratory Advanced Test Reactor User Facility Agreement

Attached is a new User Facility Agreement approved for use all campuses for work to be performed at the Battelle Energy Alliance, LLC, Idaho National Laboratory Advanced Test Reactor. A separate new User Agreement is required for each *User Research Proposal*, Appendix A, and *Statement of Work*, Appendix B, accepted by the Laboratory.

User Agreements generally do not involve any exchange of funding. Therefore, the costs and expenses referenced in Article 2 are not set forth in this document. Should a specific Agreement involve paying the Laboratory for campus expenses incurred at the User Facility, funding terms and conditions may be added under Appendix C and will require individual review.

Appendix D, *Intellectual Property Clauses*, may be used for work involving nor not involving Proprietary Information, depending on which version of Clause G is used.

The term for each individual Agreement is stated in Article 15.

Contact: Kathleen Nolan
Kathleen.nolan@ucop.edu
(510) 987-9840

Samuela A. Evans
Contract and Grant Officer

Attachment

**USER FACILITY AGREEMENT FOR USE OF THE
IDAHO NATIONAL LABORATORY ADVANCED TEST REACTOR**

A DOE DESIGNATED USER FACILITY

This User Facility Agreement is entered into by

BATTELLE ENERGY ALLIANCE, LLC, (CONTRACTOR),

which manages and operates the IDAHO NATIONAL LABORATORY (INL), under Contract No. DE-AC07-05ID14517 (PRIME CONTRACT) with the U.S. Government as represented by the U.S. Department of Energy (DOE),

and

_____(USER),

(Collectively, the PARTIES).

ARTICLE 1: SCOPE OF SERVICES

The USER will be granted access to the Idaho National Laboratory Advanced Test Reactor and associated facilities, equipment, services, information, and other associated material (FACILITY) for the conduct of research under the terms and conditions of this Agreement. The research must first receive programmatic approval of the CONTRACTOR and is subject to the FACILITY being available. The CONTRACTOR's grant or denial of approval and determination of the FACILITY being available is final.

To receive such approval, the USER must provide a User Research Proposal attached as Appendix A disclosing a non-proprietary functional description of the research. Any User Research Proposal that is not approved by the CONTRACTOR shall be returned to the USER and the CONTRACTOR, and DOE shall obtain no rights in such proposal. Upon approval of a User Research Proposal by CONTRACTOR, USER and CONTRACTOR will endeavor to jointly develop a mutually acceptable Statement of Work (SOW) attached as Appendix B under which all research will be conducted hereunder.

ARTICLE 2: COSTS and EXPENSES

The USER will bear its own costs and expenses associated with the research to be conducted under this Agreement which are not explicitly addressed in attached Appendix C and will comply with the terms and conditions regarding any funding to be provided to CONTRACTOR in accordance with the funding terms and conditions set forth in attached Appendix C.

ARTICLE 3: ADMISSION REQUIREMENTS

- A. **General** – The USER is subject to the administrative and technical supervision and control of CONTRACTOR and will comply with all applicable rules of CONTRACTOR and DOE with regard to admission to and use of the FACILITY, including, but not limited to, safety, security, operations, health-physics procedures, environmental protection, access to equipment and information, hours of work, and conduct. The USER is required to obtain documentation and agreements from each of its employees or

Approved as to legal form: W.A. Eklund 8/11/08
William A. Eklund Date 1
University Counsel
Office of General Counsel

representatives as necessary to implement the provisions of this Agreement. USER's employees, agents, and representatives will not be considered employees of CONTRACTOR or DOE for any purpose.

- B. Environmental, Safety, Health, and Security** - USER shall take all reasonable precautions to protect the safety, health, integrity of all individuals, property, and the environment during all phases of USER's research and activities at the FACILITY. The USER shall comply with all applicable safety, security, operational, health, and environmental regulations and requirements of the FACILITY, the CONTRACTOR, and the U.S. Government, including the requirements of 10 CFR 851 as applicable. If for any reason the CONTRACTOR determines or suspects that USER is failing to comply with any applicable regulations or requirements or is creating an unacceptable risk to safety, health, or security, the CONTRACTOR or DOE may, without prejudice to any other legal or contractual rights, issue an immediate stop work order stopping all or any part of USER's activities at the FACILITY.
- C. ISMS** - CONTRACTOR's Integrated Safety Management System ("ISMS") must be used by all employees, contractors, consultants and other representatives of CONTRACTOR and USER to establish work planning and control requirements so that all work is planned and implemented properly, hazards and risks are identified and controlled, resources are scheduled and coordinated, and appropriate feedback mechanisms are in place. Work includes, but is not limited to, any activities that involve the design, conduct and completion of research, testing, and experiments by the CONTRACTOR or USER.
- D. Training** - CONTRACTOR has established methods and training programs in accordance with best practices and regulatory requirements for work to be performed, hazards that may be encountered, areas to be accessed, potential for risk, and general and specific site requirements. CONTRACTOR's Training and Qualifications Program ensures that employees, contractors, consultants, and other representatives of CONTRACTOR and USER are trained and qualified to perform their assigned tasks and job functions.
- E. Employees** - Individuals for whom USER is responsible, including employees of USER and individuals who are not actual employees of USER, shall complete all training and execute all documents required by CONTRACTOR or DOE to access and use the FACILITY.

ARTICLE 4: PROPERTY AND MATERIALS

USER may furnish CONTRACTOR approved equipment, tooling, test apparatus, or materials necessary to assist in the performance of its research and experiment(s) at the FACILITY. Such items shall remain the property of USER. Unless the PARTIES otherwise agree by written amendment to this Agreement, all such property furnished by USER or equipment and test apparatus provided by USER will be removed by USER within one (1) calendar month of termination of this Agreement, or within one (1) calendar month of termination of the relevant experiment or work set forth in the SOW, whichever occurs first, and will be disposed of in accordance with this Agreement and at the cost of USER if not explicitly addressed in the App. C. Any equipment that becomes integrated into the FACILITY shall become the property of the U.S. Government. USER acknowledges that any material supplied by USER may be damaged, consumed or lost. Materials (including residues and/or other contaminated material or wastes) remaining after performance of the SOW will be removed in their then condition through appropriate waste streams available to CONTRACTOR as addressed in the SOW, and USER will be responsible for the associated costs as set forth in App. C. USER, at its expense, will return FACILITIES and equipment utilized to their original condition except for normal wear and tear.

CONTRACTOR shall have no responsibility for USER's property in CONTRACTOR's possession.

USER shall be responsible for stewardship of U.S. Government property if provided or acquired for use under this Agreement. Specific requirements will be described in an attachment to this Agreement when applicable.

ARTICLE 5: AVAILABILITY & SCHEDULING

CONTRACTOR will have sole responsibility and sole discretion for determining suitability, availability, allocating, and scheduling usage of the FACILITY, personnel, and equipment needed for or involved in the research and experimentation set forth in the SOW. The Parties acknowledge that it may be necessary for

CONTRACTOR, in its sole discretion, to require the SOW to be modified or amended in order for the research and experimentation to be conducted.

ARTICLE 6: INTELLECTUAL PROPERTY

The rights of the USER regarding Subject Inventions, patents, Technical Information, Proprietary Information, copyrights or other intellectual property that may arise under this Agreement are set forth in attached Appendix D: Intellectual Property Provisions issued by DOE in _____, 2008.

Individuals and third parties for whom USER is responsible, but who are not actual employees of USER, shall be considered employees of USER solely for the purposes of ownership of intellectual property in accordance with Attachment D.

ARTICLE 7: EXPORT CONTROLS

USER is responsible for and acknowledges that its export of goods or Technical Information may require some form of export license from the U.S. Government and that failure to obtain such export license may result in criminal liability under the laws of the United States.

ARTICLE 8: PUBLICATIONS

USER and CONTRACTOR will provide each other copies of articles of publication of information generated pursuant to this Agreement for review and comment at least two (2) calendar weeks prior to intended publication.

USER will not use the name of the Idaho National Laboratory, CONTRACTOR, or the U.S. Government or their employees in any promotional activity, such as advertisements, with reference to any product or service resulting from this Agreement, without prior written approval of the U.S. Government and CONTRACTOR. See Appendix D – Intellectual Property Provisions for other terms and conditions that may be applicable.

ARTICLE 9: ADMINISTRATION OF THE AGREEMENT

This Agreement is entered into by CONTRACTOR under the authority of its PRIME CONTRACT with DOE. CONTRACTOR will administer this Agreement in all respects in accordance with the PRIME CONTRACT. Administration of this Agreement may be transferred from CONTRACTOR to DOE or its designee with notice of such transfer to USER, and CONTRACTOR will have no further responsibilities except as set forth in Article 16 of this Agreement.

ARTICLE 10: DISPUTES

The PARTIES will attempt to jointly resolve all disputes arising from this Agreement. If the PARTIES are unable to jointly resolve a dispute within a reasonable period of time, the dispute will be decided by the DOE Contracting Officer. After the Contracting Officer's decision is made, the PARTIES may, upon mutual written agreement, request that the dispute be addressed by arbitration in accordance with the then current and applicable rules of the American Arbitration Association. Judgment upon the decision rendered by the Arbitrator(s) shall be nonbinding on the PARTIES, and any costs incurred in conducting the arbitration shall be divided equally between the PARTIES.

ARTICLE 11: CONFLICT OF TERMS

Subject to the terms of CONTRACTOR'S PRIME CONTRACT with DOE taking precedence to this Agreement, this Agreement constitutes the primary document which governs the work described in the SOW. In the event of any conflict between the terms of this Agreement and any other document executed, issued, or relied upon by the PARTIES, the terms of this Agreement will prevail.

ARTICLE 12: INDEMNITY AND LIABILITY

- A. **Personnel Relationships** – USER shall be responsible for the acts or omissions of its employees and agents and of all other persons that USER allows to participate in the activities under this Agreement.
- B. **Product Liability** – To the extent not prohibited by applicable law, and except for any liability resulting from the negligence or willful misconduct of CONTRACTOR or the U.S. Government, the USER shall indemnify and hold harmless BEA, the U.S. Government, and others acting on their behalf from any and all liability including damages, costs, attorney's fees, and expenses, arising from injury or death of persons or other living things or injury to or destruction of property that occurs as a result of all work performed under this Agreement, including the making, using, or selling of a product, process, or service by or on behalf of the USER, its assignees, or licensees resulting from the research, experimentation, work, and activities performed hereunder.
- C. **General Liability** – To the extent not prohibited by applicable law, and except for any liability resulting from the negligence or willful misconduct of CONTRACTOR or U.S. Government, the USER shall indemnify and hold harmless the CONTRACTOR, the U.S. Government, and others acting on their behalf, from any and all liability including damages, costs, attorney's fees, and expenses arising from injury or death of persons or other living things or injury to or destruction of property that occurs as a result of all work performed under this Agreement, including the research, experimentation, work, activities, intellectual property, information, data, or products made, developed, or provided under this Agreement by any person including the USER.
- D. **Intellectual Property Liability** – See Clause I of Appendix D – Intellectual Property Provisions.
- E. **General Disclaimer** – Except to the extent of their negligence or willful misconduct, neither the U.S. Government, the CONTRACTOR, nor persons acting on their behalf will be responsible for any injury to or death of persons or other living things or damage to or destruction of property or for any other loss, damage, or injury of any kind whatsoever resulting from the research, experimentation, work, and activities or furnishings of materials hereunder, unless provided otherwise by applicable law.
- THE U.S. GOVERNMENT AND CONTRACTOR MAKE NO EXPRESS OR IMPLIED WARRANTY AS TO THE CONDITIONS OF THE RESEARCH, EXPERIMENTATION, WORK, OR ACTIVITIES OR ANY INTELLECTUAL PROPERTY, GENERATED INFORMATION OR DATA, OR PRODUCT OR SERVICE MADE OR DEVELOPED UNDER THIS AGREEMENT, OR THE OWNERSHIP, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE RESEARCH OR RESULTING PRODUCT; THAT THE GOODS, SERVICES, MATERIALS, PRODUCTS, PROCESSES, INFORMATION, OR DATA TO BE FURNISHED HEREUNDER WILL ACCOMPLISH INTENDED RESULTS OR ARE SAFE OR USEFUL FOR ANY PURPOSE INCLUDING THE INTENDED PURPOSE; OR THAT ANY OF THE ABOVE WILL NOT INTERFERE WITH PRIVATELY OWNED RIGHTS OF OTHERS. NEITHER THE U.S. GOVERNMENT NOR CONTRACTOR SHALL BE LIABLE FOR SPECIAL, CONSEQUENTIAL, OR INCIDENTAL DAMAGES ATTRIBUTED TO SUCH RESEARCH, EXPERIMENTATION, WORK, ACTIVITIES, OR ANY RESULTING PRODUCT, INTELLECTUAL PROPERTY, GENERATED INFORMATION OR DATA, OR PRODUCT MADE OR DELIVERED UNDER THIS AGREEMENT.
- F. **Funding Representation** – USER represents that, if the funding it brings to this Agreement has been secured through other agreements, such other agreements do not have any terms or conditions (including intellectual property) that conflict with the terms or conditions of this Agreement.
- G. **Waiver of Immunity** – To the extent not prohibited by applicable law and only to the extent necessary to effectuate any indemnity provisions of this Agreement, the USER hereby waives any immunity it may have under any applicable worker compensation law or other law.

ARTICLE 13: APPLICABLE LAW

To the extent not prohibited by applicable law, this Agreement will be governed and construed under the laws of the State of Idaho without regard to its conflict of laws provisions. Where required by law or the PRIME CONTRACT between CONTRACTOR and DOE, issues arising under this Agreement, including issues

associated with environmental protection, safety, health, and security, will be governed by and construed under the laws of the United States. To the extent not prohibited by applicable law, any lawsuits relating to this Agreement will be brought in a state or federal court of competent jurisdiction located within the state of Idaho:

ARTICLE 14: ENTIRE AGREEMENT

It is expressly acknowledged by the PARTIES that this Agreement constitutes the entire and only contract between the PARTIES with respect to the SOW to be conducted at the FACILITY; that there are no other agreements, understandings or covenants between the PARTIES of any kind, nature or description, express or implied, oral or otherwise which have not been referenced in this Agreement and that this Agreement cannot be modified, altered, amended or changed, nor any provision thereof waived or abrogated, except by an instrument in writing and executed on behalf of each of the PARTIES by a duly authorized representative of each PARTY who has been expressly authorized in writing to execute such an instrument.

ARTICLE 15: TERM & TERMINATION

This Agreement will become effective when fully executed by the PARTIES and will remain in effect until _____ unless expressly earlier terminated by at least one PARTY or extended by written amendment by the PARTIES. Either PARTY may terminate this Agreement for any reason at any time by giving not less than one (1) calendar month prior written notice to the other PARTY. Notice will be deemed made as of the day of receipt. The obligations of any clause of this Agreement, which by their nature, including but not limited to Articles 10, 11, 12, and 13, will survive and extend beyond termination and shall remain in full force and effect until fulfilled.

(USER's Formal Name)

By _____
(Signature)

Name _____

Title _____

Date _____

Mailing Address:

BATTELLE ENERGY ALLIANCE, LLC:

By _____
(Signature)

Name _____

Title _____

Date _____

Mailing Address:

APPENDIX A
USER RESEARCH PROPOSAL

APPENDIX B
STATEMENT OF WORK

APPENDIX C

ATR USER FACILITY COST WORKSHEET

APPENDIX D

INTELLECTUAL PROPERTY CLAUSES

**USE ONLY DOE APPROVED
NON-PROPRIETARY OR PROPRIETARY VERSION
OF APPENDIX D AS APPROPRIATE**

APPENDIX D

INTELLECTUAL PROPERTY CLAUSES (NON-PROPRIETARY VERSION)

Issued by DOE _____, 2008

CLAUSE I. INTELLECTUAL PROPERTY INDEMNITY-LIMITED

USER shall, to the extent not prohibited by applicable law, fully indemnify the U.S. Government and CONTRACTOR and their officers, managers, agents, and employees for all liabilities, including damages, costs and attorney fees, for infringement of any United States patent, copyright, or other intellectual property rights arising out of research, experimentation, work, or any acts required or directed by USER to be performed under the Agreement to the extent such are not normally performed at the FACILITY. The foregoing indemnity shall not apply unless USER shall have been informed as soon as practicable by CONTRACTOR or the U.S. Government of the suit or action alleging such infringement, and such indemnity shall not apply to a claimed infringement that is settled without the consent of USER unless required by a court of competent jurisdiction.

CLAUSE II. INVENTION RIGHTS

A. Definitions

1. USER means the person or entity with which the Agreement is made in which these Patent and Technical Data Clauses pertain.
2. CONTRACTOR means the "M&O Contractor," i.e., the Management and Operating Contractor, which manages and operates the Government-owned, contractor-operated facility where the work under this Agreement is to be performed.
3. "Subject Invention" means any invention or discovery conceived or first actually reduced to practice under this Agreement and which is or may be patentable or otherwise protectable under Title 35 of the United States Code or any novel variety of plant that is or may be protectable under the Plant Variety Protection Act (7 U.S.C. § 2321 et seq.)
4. "USER Subject Invention" means any Subject Invention of USER, conceived or first actually reduced to practice under this Agreement.
5. "CONTRACTOR Subject Invention" means any Subject Invention of CONTRACTOR, conceived or first actually reduced to practice under this Agreement.
6. "DOE Patent Counsel" means the DOE Counsel for Intellectual Property assisting the DOE Contracting activity.
7. "FACILITY" means the Idaho National Laboratory Advanced Test Reactor and associated facilities, equipment, services, information, and other associated material.
8. "SOW" means the Statement of Work mutually agreed to by the Contractor and User in which research is to be conducted under this Agreement.

B. Subject Inventions

CONTRACTOR and USER agree to disclose to each other each and every Subject Invention, which may be patentable or otherwise protectable.

C. CONTRACTOR's Rights

Except as provided below in the case of Joint Inventions, any invention or discovery that CONTRACTOR may make or conceive under this Agreement will be governed by the provisions of CONTRACTOR'S Prime Contract for operation of the FACILITY.

D. USER's Rights

Subject to the provisions herein, USER may elect title to any USER Subject Invention and in any resulting patent secured by USER. Where appropriate, the filing of patent applications by USER is subject to DOE security regulations and requirements. If the USER does not elect to retain title to a USER Subject Invention, the CONTRACTOR may elect title in that invention.

E. Joint Inventions

For Subject Inventions conceived or first actually reduced to practice under this Agreement that are joint Subject Inventions made by CONTRACTOR and USER, each Party shall have the option to elect and retain title to its undivided rights in such joint Subject Inventions. Where both Parties elect to retain title to their undivided rights in such joint Subject Inventions, title shall be jointly owned by CONTRACTOR and USER. If a Party elects not to retain title to its undivided rights in any such joint Subject Invention, then the other Party shall have the option to elect to retain title to the non-electing Party's undivided rights.

F. Rights of Government

1. USER agrees to timely assign to the Government the entire right, title, and interest in any country to each USER Subject Invention where USER:
 - a. Does not elect, and the CONTRACTOR does not elect, pursuant to this Appendix D, to retain such rights; or
 - b. Fails to timely have a patent application filed in that country on the USER Subject Invention; or
 - c. Decides not to continue prosecution or not to pay the maintenance fees covering the Invention; or
 - d. At any time, no longer desires to retain title.
2. USER shall provide the Government a copy of any application filed on a USER Subject Invention promptly after such application is filed, including its serial number and filing date.
3. USER agrees to submit on request periodic reports to DOE no more frequently than annually on the utilization of a USER Subject Invention or on efforts to obtain such utilization that are being made by USER or its licensees or assignees.
4. USER hereby grants to the Government a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the USER Subject Invention throughout the world.
5. USER acknowledges that the DOE has certain March-in Rights to any USER Subject Inventions elected by the USER in accordance with 48 C.F.R. 27.304-1(g) and that the USER is subject to the requirements with respect to preference for U.S. industry pursuant to 35 U.S.C. § 204 to any USER Subject Inventions elected by the USER.
6. Facilities License: USER agrees to and does hereby grant to the Government a nonexclusive, nontransferable, irrevocable, paid-up license in and to any inventions or discoveries, regardless of when conceived or actually reduced to practice or acquired by USER, which are incorporated in the FACILITY as a result of this Agreement to such an extent that the FACILITY is not restored to the condition existing prior to the Agreement (1) to practice or to have practiced by or for the Government at the FACILITY, and (2) to transfer such licenses with the transfer of that FACILITY. The acceptance or exercise by the Government of the aforesaid rights and license shall not prevent the Government at any time from contesting the enforceability, validity or scope of, or title to, any rights or patents herein licensed.

G. Invention Report and Election

1. USER shall furnish the DOE Patent Counsel a written report containing full and complete technical information concerning each USER Subject Invention within six (6) months after conception or first actual reduction to practice, whichever occurs first, in the course of or under this Agreement, but in any event prior to any on sale, public use, or publication of such Subject Invention known to USER. The report shall identify the contract and inventor and shall be sufficiently complete in technical detail and appropriately illustrated by sketch or diagram to convey to one skilled in the art to which the USER Subject Invention pertains a clear understanding of the nature, purpose, operation, and to

the extent known, the physical, chemical, biological, or electrical characteristics of the Invention. If USER wishes to elect title to the Subject Invention, such report shall contain USER's notice of election of title.

2. When a Subject Invention is reported under this paragraph G, it shall be presumed to have been made in the manner specified in Section (a)(1) and (2) of 42 U.S.C. § 5908.

H. Limitation of Rights

Nothing contained in this patent rights clause shall be deemed to give the U.S. Government any rights with respect to any invention other than a USER Subject Invention and except as set forth in the facilities license of Paragraph F.

CLAUSE III. RIGHTS IN TECHNICAL INFORMATION

A. Definitions:

1. "Technical Information" means recorded information or data regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research, experimental, developmental, demonstration, or engineering work to be usable or used to define a design or process, or to procure, produce, support, maintain, or operate material. The data may be graphic or pictorial delineations in media such as drawings or photographs, text in specifications or related performance or design type documents, or computer software (including computer programs, computer software databases, and computer software documentation). Technical Information as used herein does not include financial reports, costs analyses, and other information incidental to Agreement administration.
2. "Proprietary Information" means Technical Information which embody trade secrets developed at private expense outside of this Agreement, such as design procedures or techniques, chemical composition of materials, or manufacturing methods, processes, or treatments, including minor modifications thereof, provided that such data:
 - a. Are not generally known or available from other sources without obligation concerning their confidentiality;
 - b. Have not been made available by the owner to others without obligation concerning their confidentiality;
 - c. Are not already available to the CONTRACTOR or the Government without obligation concerning their confidentiality; and
 - d. Are marked as "Proprietary Data."
3. "Unlimited Rights" means right to use, disclose, reproduce, prepare derivative works, distribute and perform publically and display publically, Technical Data, in whole or in part, in any manner and for any purpose whatsoever, and to permit others to do so.
4. "Contracting Officer" means the DOE entity having contract authority over CONTRACTOR and the Facility Operator.

B. Allocation of Rights

1. The U.S. Government shall have Unlimited Rights in Technical Information first produced or specifically used in the performance of the Agreement except as otherwise provided in the Agreement.
2. USER shall have the right to use for its private purposes, subject to patent, security or other provisions of this Agreement, Technical Information it first produces in the performance of this Agreement provided the Deliverables of this Agreement have been met as of the date of the private use of such Technical Information, and Technical Information first produced by CONTRACTOR under the SOW, if any, under this Agreement. USER agrees that to the extent it receives or is given access to Proprietary Information or other technical, business or financial data in the form of recorded information from DOE or a DOE contractor or subcontractor, USER shall treat such data in accordance with any restrictive legend contained thereon, unless use is specifically authorized by prior written

approval of the Contracting Officer.

C. Deliverables

USER agrees to furnish to DOE or CONTRACTOR information and data, if any, which are (a) specified to be delivered in the SOW, (b) essential to the performance of work by DOE or CONTRACTOR or subcontractor personnel or (c) necessary for the health and safety of such personnel in the performance of the work or the protection of the environment. Any information or data furnished to DOE or CONTRACTOR shall be deemed to have been delivered with unlimited rights unless marked as "Proprietary Information" of USER.

Upon completion or termination of the project, USER agrees to deliver to DOE and CONTRACTOR a nonproprietary report describing the work performed under this Agreement.

D. Legal Notice

The following legal notice shall be affixed to each report or publication resulting from this Agreement which may be distributed by USER:

DISCLAIMER NOTICE This document was prepared by (Institution name of USER) as a result of the use of facilities at the Idaho National Laboratory of the U.S. Department of Energy (DOE), which is managed and operated by Battelle Energy Alliance, LLC, acting under Contract No. DE-AC07-05ID14517. Neither Battelle Energy Alliance, LLC, DOE, or the U.S. Government, nor any person acting on their behalf: (a) make any warranty or representation, express or implied, with respect to the information contained in this document; or (b) assume any liabilities with respect to the use of, or damages resulting from the use of any information contained in the document.

E. Copyrighted Material

1. USER agrees to, and does hereby grant to the U.S. Government, and to its officers, agents, servants, contractors, and employees acting within the scope of their duties:
 - a. A royalty-free, nonexclusive, irrevocable license to reproduce, translate, publish, use, and dispose of and to authorize others so to do, all copyrightable material first produced or composed in the performance of this Agreement by USER, its employees or any individual or concern specifically employed or assigned to originate and prepare such material; and
 - b. A license as aforesaid under any and all copyrighted or copyrightable works not first produced or composed by USER in the performance of the Agreement but which are incorporated in the material furnished or delivered under the Agreement, provided that such license shall be only to the extent USER now has, or prior to completion or final settlement of the Agreement may acquire, the right to grant such license without becoming liable to pay compensation to others solely because of such grant.
2. USER agrees that it will not knowingly include any third party copyrightable material furnished or delivered under this Agreement without a license as provided for in subparagraph 1(b) hereof, or without the consent of the copyright owner, unless it obtains specific written approval of the Contracting Officer for the inclusion of such copyrighted materials.

F. Early Termination of Agreement

The terms and conditions of this Appendix D shall survive the Agreement in the event that the Agreement is terminated before completion of the SOW.

G. Non Disclosure of Proprietary Information

1. Proprietary Information will, to the extent permitted by law, be maintained in confidence and disclosed or used by CONTRACTOR (under suitable protective conditions) only for the purpose of carrying out CONTRACTOR's responsibilities under the Agreement. Upon completion of work or activities under the Agreement, such Proprietary Information will be disposed of as requested by USER. Before CONTRACTOR releases information associated with the Agreement to anyone,

USER will be afforded the opportunity to review that information to ascertain whether it is Proprietary Information and to mark it as such.

2. Each Party agrees to not disclose Proprietary Information provided by the other Party under the Agreement to anyone other than the providing Party without the written approval of the providing Party, except to U.S. Government employees who are subject to 18 U.S.C. § 1905, even after termination (see Article 16 of this Agreement). The U.S. Government and CONTRACTOR shall have the right, at reasonable times up to three (3) years after the termination or completion of the Agreement, to inspect any information designated as Proprietary Information. The USER is solely responsible for the removal of all of its Proprietary Information from the FACILITY by or before termination of the Agreement. The U.S. Government and CONTRACTOR shall have Unlimited Rights in any information which is not removed from the FACILITY by termination of the Agreement. The U.S. Government and CONTRACTOR shall have Unlimited Rights in any Proprietary Information which is incorporated into the FACILITY or equipment under the Agreement to such extent that the FACILITY or equipment is not restored to the condition existing prior to such incorporation.

Note: Contractor may delete the clauses pertaining to Proprietary Information if the Contractor decides to prohibit the USER from bringing Proprietary Information into the User Facility. In such cases, the Contractor may substitute the following for Section G:

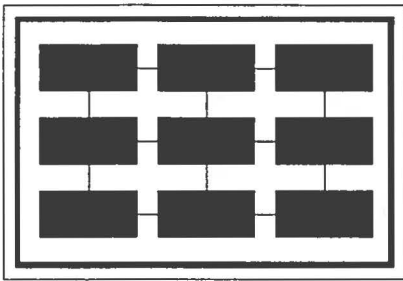
G. No Proprietary Information to be Disclosed to Contractor (Alternate G)

The USER shall not bring Proprietary Information into the FACILITY except at USER's own risk. Any such information, regardless how it is marked, shall be deemed Technical Information and shall be treated according to Clause III hereof.

Clause IV. NOTICE AND ASSISTANCE REGARDING PATENT OR COPYRIGHT INFRINGEMENT

- A. USER shall report to U.S. Government or CONTRACTOR, promptly and in reasonable written detail, each notice or claim of infringement of patents or copyrights based on or arising out of the performance of the Agreement of which the USER has knowledge.
- B. In the event of any claim or suit against U.S. Government or CONTRACTOR on account of any alleged patent or copyright infringement arising out of the performance of the Agreement or out of the use of any equipment or supplies furnished or work or services performed under the Agreement, USER shall furnish to U.S. Government or CONTRACTOR, all evidence and information in possession of USER pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the U.S. Government except where USER has agreed to indemnify the U.S. Government or CONTRACTOR.

The standard terms and conditions of these INTELLECTUAL PROPERTY CLAUSES (Non-Proprietary) of the User Facility Agreement for the INL ATR has been reviewed and approved by DOE. No change to this Appendix D may be made without DOE approval.



University of California
Office of the President

Vice President—
Research & Graduate Studies

Research Administration Office

Memo

Operating Guidance

No. 09 – 04
Supp. 1
July 1, 2009

CONTRACT AND GRANT OFFICERS

Subject: Idaho National Laboratory Advanced Test Reactor Non-Proprietary User Facility Agreement

Attached is the subject User Facility Agreement approved for use all campuses for work to be performed at the Battelle Energy Alliance, LLC, Idaho National Laboratory (INL) Advanced Test Reactor (ATR). As of July 1, 2009, this new Non-Proprietary User Facility Agreement replaces the one published with Operating Guidance Memo 09-04, *unless your campus has already executed the User Agreement in that memo*. If your campus has an in-place version of the INL User Agreement published in Memo 09-04, then that User Agreement remains in force for the period stated in it.

While User Agreements generally do not involve any exchange of funds, Battelle INL may provide researchers with funds for supplies and travel. If INL provides the University researcher with funds for the proposed project, a Funding Statement as Attachment 2, (See Article III) will be included with each new approved Scope of Work as Attachment 1. (See Article I.) In addition, when this User Agreement includes funding, INL will provide the campus with a separate Standard Research Subcontract (Attached to this Memo). A Statement of Work, Subcontractor Requirements Manual Applicability, and Occurrence Notifications and Reporting by the Supplier will be Attachments 1, 2, and 3 to this Standard Research Subcontract. Indirect costs are not covered by Battelle INL for funding related to the User Agreement. (See waiver no. 09R-192.) Applicable federal indirect costs apply when the Standard Research Subcontract is for a campus research project.

Under Article 4. d., IRS Forms, in the Standard Research Subcontract, Battelle requires the subcontractor to submit a completed IRS Form W-9. This should be completed by the campus as the recipient of the funds, with the campus federal employer identification number, not the Principal Investigator.

Article 10., Subcontractor Personnel Performing Work at Contractor's Facility, states that Battelle will provide any required hazards training for personnel visiting INL. The University Principal Investigator and any other University personnel visiting INL under this User Agreement are responsible for complying with INL's health and safety rules.

July 1, 2009

Page 2

The term of this User Agreement will generally be five years from the date that it is fully executed. (See Article II.)

Contact: Samuela A. Evans

(510) 987-9849

Samuela.evans@ucop.edu



Samuela A. Evans

Contract and Grant Officer

Attachments: INL Non-Proprietary User Agreement
Standard Research Subcontract

Idaho National Laboratory

Non-Proprietary User Agreement

User Facility Agreement No. ____BETWEEN

BATTELLE ENERGY ALLIANCE, LLC

(" CONTRACTOR")

Operator of The Idaho National Laboratory (hereinafter "Laboratory") under U.S. Department of
Energy Contract No. DE-AC07-05ID14517

AND

("USER")

(Collectively, "the Parties")

The obligations of the above-identified DOE Contractor may be transferred to and shall apply to any successor in interest to said Contractor continuing the operation of the DOE Non-Proprietary User Facility involved in this User Agreement.

ARTICLE I. FACILITIES AND SCOPE OF WORK

Subject to the terms and conditions of this Agreement, CONTRACTOR will make available to employees, consultants and representatives of USER (hereinafter called "Participants") certain Laboratory Non-Proprietary User facilities, which may include equipment, services, information and other material, with or without Laboratory scientist collaboration, for purposes as described in the attached Scope of Work and in accordance with the attached Funding Statement, both of which are incorporated by this reference and are made a part of this Agreement. Amendments to the attached Scope of Work and Funding Statement may be submitted by USER for identifying facilities and purposes during the term of this Agreement (see Article II). Such amendments will be considered to be part of this Agreement upon written acceptance by CONTRACTOR. The attached Scope of Work sets forth a specific project, including deliverables, to be performed pursuant to this Agreement. The Scope of Work and abstracts thereof, shall not be considered proprietary information and shall be publicly releasable. The Parties agree that an initial abstract of the work to be performed shall be deliverable under this Agreement.

ARTICLE II. TERM OF THE AGREEMENT

This Agreement shall have a term of ____ months/years from the effective date. The term of this Agreement shall be effective as of the date on which it is signed by the last of the Parties.

ARTICLE III: COST

Each Party will bear its own costs and expenses associated with this Agreement unless otherwise agreed to by the Parties as specified in the attached Funding Statement.

ARTICLE IV: ADMISSION REQUIREMENTS

USERS and Participants are subject to the administrative and technical supervision and control of CONTRACTOR; and will comply with all applicable rules of CONTRACTOR and DOE with regard to admission to and use of the User facility, including safety, operating and health-physics procedures, environment protection, access to information, hours of work, and conduct. Participants shall execute any and all documents required by CONTRACTOR acknowledging and agreeing to comply with such applicable rules of CONTRACTOR. Participants will not be considered employees of CONTRACTOR for any purpose.

ARTICLE V: PROPERTY AND MATERIALS***

USER may be permitted by Contractor to furnish equipment, tooling, test apparatus, or materials necessary to assist in the performance of its experiment(s) at the USER facility. Such items shall remain the property of USER. Unless the Parties otherwise agree, all such property furnished by USER or equipment and test apparatus provided by USER will be removed by USER within sixty (60) days of termination or expiration of this Agreement or will be disposed of as directed by USER at User's expense. Any equipment that becomes integrated into the facility shall be the property of the Government. USER acknowledges that any material supplied by USER may be damaged, consumed or lost. Materials (including residues and/or other contaminated material) remaining after performance of the work or analysis will be removed in their then condition by USER at USER's expense. USER will return facilities and equipment utilized in their original condition except for normal wear and tear.

CONTRACTOR shall have no responsibility for USER's property in CONTRACTOR's possession other than loss or damage caused by willful misconduct or gross negligence of CONTRACTOR or its employees.

Personal property produced or acquired during the course of this Agreement shall be disposed of as directed by the owner at the owner's expense.

ARTICLE VI: SCHEDULING***

USER understands that CONTRACTOR will have sole responsibility and discretion for allocating and scheduling usage of the User Facilities and equipment needed for or involved under this Agreement.

ARTICLE VII: INDEMNITY AND LIABILITY***

- A. Personnel Relationships** - USER shall be responsible for the acts or omissions of Participants.
- B. Product Liability** - To the extent permitted by US and US State law, if USER utilizes the work derived from this Agreement in the making, using, or selling of a product, process or service, then USER hereby agrees to hold harmless and indemnify CONTRACTOR and the United States Government, their officers, agents and employees from any and all liability, claims, damages, costs and expenses, including attorney fees, for injury to or death of persons, or damage to or destruction of property, as a result of or arising out of such utilization of the work by or on behalf of USER, its assignees or licensees.
- C. General Indemnity** - To the extent permitted by US and US State law, USER hereby agrees to indemnify and hold harmless CONTRACTOR and the United States Government, their officers, agents and employees from any and all liability, claims, damages, costs and expenses, including attorney fees, for injury to or death of persons, or damage to or destruction of property, to the extent such liability, claims, or damages is caused by or contributed to the negligence or intentional misconduct of USER or its employees or representatives during the performance of the work under this Agreement.
- D. Patent and Copyright Indemnity—Limited** - To the extent permitted by US and US State law, USER shall fully indemnify the Government and CONTRACTOR and their officers, agents, and employees for infringement of any United States patent or copyright arising out of any acts required or directed or performed by USER under the Agreement to the extent such acts are not normally performed at the facility.
- E.** The liability and indemnity provisions in paragraphs B, C and D above shall not apply unless USER shall have been informed as soon as practicable by CONTRACTOR or the Government of the suit or action alleging such infringement, and such indemnity shall not apply to a claimed infringement that is settled without the consent of USER unless required by a court of competent jurisdiction.
- F. General Disclaimer** -
THE GOVERNMENT AND CONTRACTOR MAKE NO EXPRESS OR IMPLIED WARRANTY AS TO THE CONDITIONS OF THE USER FACILITY FURNISHED HEREUNDER. IN ADDITION, THE GOVERNMENT, CONTRACTOR AND USER MAKE NO EXPRESS OR IMPLIED WARRANTY AS TO THE RESEARCH OR ANY INTELLECTUAL PROPERTY, GENERATED INFORMATION, OR PRODUCT MADE OR DEVELOPED UNDER THIS AGREEMENT, OR THE OWNERSHIP, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE RESEARCH OR RESULTING PRODUCT; THAT THE GOODS, SERVICES, MATERIALS, PRODUCTS, PROCESSES, INFORMATION, OR DATA TO BE FURNISHED HEREUNDER WILL ACCOMPLISH INTENDED RESULTS OR ARE SAFE FOR ANY PURPOSE INCLUDING THE INTENDED PURPOSE; OR THAT ANY OF THE ABOVE WILL NOT INTERFERE WITH PRIVATELY OWNED

RIGHTS OF OTHERS. THE GOVERNMENT, CONTRACTOR AND/OR USER SHALL NOT BE LIABLE FOR SPECIAL, CONSEQUENTIAL, OR INCIDENTAL DAMAGES ATTRIBUTED TO USE OF SUCH FACILITIES, RESEARCH OR RESULTING PRODUCT, INTELLECTUAL PROPERTY, GENERATED INFORMATION, OR PRODUCT MADE OR DELIVERED UNDER THIS AGREEMENT.

ARTICLE VIII: PATENT RIGHTS***

A. Definitions

1. "Subject Invention" means any invention or discovery conceived or first actually reduced to practice in the course of or under this Agreement.
2. "USER Invention" means any Subject Invention of USER.
3. "CONTRACTOR Invention" means any Subject Invention of CONTRACTOR.
4. "Patent Counsel" means the DOE Counsel for Intellectual Property assisting the DOE Contracting activity.

B. Subject Inventions

CONTRACTOR and USER agree to disclose their Subject Inventions, which includes any inventions of their Participants, to each other, concurrent with reporting such Subject Inventions to DOE.

C. CONTRACTOR's Rights

Except as provided below in the case of joint inventions, CONTRACTOR Inventions will be governed by the provisions of CONTRACTOR'S Prime Contract for operation of the User facility.

D. USER's Rights

Subject to the provisions herein, USER may elect title to any USER Invention and in any resulting patent secured by USER within one year of reporting the subject invention to DOE. The USER shall file a US patent application within a reasonable period of time. Where appropriate, the filing of patent applications by USER is subject to DOE security regulations and requirements.

E. Joint Inventions

For Subject Inventions conceived or first actually reduced to practice under this Agreement that are joint Subject Inventions made by CONTRACTOR and USER, each Party shall have the option to elect and retain title to its undivided rights in such joint Subject Inventions.

F. Rights of Government

1. USER agrees to timely assign to the Government, if requested, the entire right, title, and interest in any country to each USER Invention where USER:
 - a. Does not elect to retain such rights; or
 - b. Fails to timely have a patent application filed in that country on the USER Invention or decides not to continue prosecution or not to pay the maintenance fees covering the Invention; or
 - c. At any time, no longer desires to retain title.
2. USER shall provide the Government a copy of any application filed by USER promptly after such application is filed, including its serial number and filing date.
3. USER hereby grants to the Government a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the USER Invention made under said project throughout the world.
4. USER acknowledges that the DOE has certain March-in Rights to any USER Inventions elected by the USER in accordance with 48 C.F.R. 27.304-1(g) and that the USER is subject to the requirements with respect to preference for U.S. industry pursuant to 35 U.S.C. § 204 to any USER Inventions elected by the USER.
5. The USER agrees to include, within the specification of any U.S. patent applications and any patent issuing thereon covering a USER Invention, the following statement: “The Government has rights in this invention pursuant to a USER Agreement (specify number) between (USER name) and (CONTRACTOR Name), which manages and operates (name of Laboratory) for the US Department of Energy.”
6. USER agrees to submit on request periodic reports to DOE no more frequently than annually on the utilization of USER Inventions or on efforts to obtain such utilization that are being made by USER or its licensees or assignees.
7. Facilities License: USER agrees to and does hereby grant to the Government a nonexclusive, nontransferable, irrevocable, paid-up license in and to any inventions or discoveries, regardless of when conceived or actually reduced to practice or acquired by USER, which are incorporated in the User Facility as a result of this Agreement to such an extent that the facility is not restored to the condition existing prior to the Agreement (1) to practice or to have practiced by or for the Government at the facility, and (2) to transfer such licenses with the transfer of that facility. The acceptance or exercise by the Government of the aforesaid rights and license shall not prevent the Government at any time from contesting the enforceability, validity or scope of, or title to, any rights or patents herein licensed.

G. Invention Report and Election

USER shall furnish the Patent Counsel a written report concerning each USER Invention within six months after conception or first actual reduction to practice, whichever occurs first. If USER wishes to elect title to the Invention, a notice of election should be submitted with the report or within one year of such date of reporting.

ARTICLE IX: RIGHTS IN TECHNICAL DATA***

A. Definitions:

1. "Technical Data" means recorded information regardless of form or characteristic, of a scientific or technical nature. Technical Data as used herein does not include financial reports, costs analyses, and other information incidental to Agreement administration.
2. "Proprietary Data" means Technical Data which embody trade secrets developed at private expense, outside of this agreement, such as design procedures or techniques, chemical composition of materials, or manufacturing methods, processes, or treatments, including minor modifications thereof, provided that such data:
 - a. Are not generally known or available from other sources without obligation concerning their confidentiality.
 - b. Have not been made available by the owner to others without obligation concerning their confidentiality
 - c. Are not already available to the CONTRACTOR or the Government without obligation concerning their confidentiality.
 - d. Are marked as "Proprietary Data."
3. "Unlimited Rights" means right to use, duplicate, or disclose Technical Data, in whole or in part, in any manner and for any purpose whatsoever, and to permit others to do so.

B. Allocation of Rights

1. The Government shall have Unlimited Rights in Technical Data first produced or specifically used in the performance of this Agreement except as otherwise provided in this Agreement.
2. USER shall have the right to use for its private purposes, subject to patent, security or other provisions of this Agreement, Technical Data it first produces in the performance of this Agreement provided the data delivery requirements of this Agreement have been met as of the date of the private use of such data; and Technical Data first produced by CONTRACTOR, if any, under this Agreement. USER agrees that to the extent it receives or is given access to Proprietary Data or other technical, business or financial data in the form of recorded information from DOE or a DOE contractor or subcontractor, USER shall treat such data in accordance with any restrictive legend contained thereon, unless use is specifically authorized by prior written approval of the Contracting Officer.

C. Deliverables

1. USER agrees to furnish to DOE or CONTRACTOR those data, if any, which are (a) specified to be delivered in Appendices, (b) essential to the performance of work by CONTRACTOR personnel or (c) necessary for the health and safety of such personnel in the performance of the work. Any data furnished to DOE or CONTRACTOR shall be deemed to have been delivered with unlimited rights unless marked as "Proprietary Data" of USER.
2. Upon completion or termination of the project, USER agrees to deliver to DOE and CONTRACTOR a nonproprietary report describing the work performed under this Agreement.

D. Legal Notice

The following legal notice shall be affixed to each report or publication resulting from this Agreement which may be distributed by USER:

DISCLAIMER NOTICE

This document was prepared by __ as a result of the use of facilities of the U.S. Department of Energy (DOE), which are managed by Battelle Energy Alliance, LLC, acting under Contract No.DE-AC-07-05ID14517. Neither Battelle Energy Alliance, LLC, DOE, the U.S. Government, nor any person acting on their behalf: (a) make any warranty or representation, express or implied, with respect to the information contained in this document; or (b) assume any liabilities with respect to the use of, or damages resulting from the use of any information contained in the document.

E. Copyrighted Material

1. USER agrees to, and does hereby grant to the Government, and to its officers, agents, servants and employees acting within the scope of their duties:
 - a. A royalty-free, nonexclusive, irrevocable license to reproduce, translate, publish, use, and dispose of and to authorize others so to do, all copyrightable material first produced or composed in the performance of this Agreement by USER, its employees or any individual or concern specifically employed or assigned to originate and prepare such material; and
 - b. A license as aforesaid under any and all copyrighted or copyrightable works not first produced or composed by USER in the performance of this Agreement but which are incorporated in the material furnished or delivered under the Agreement, provided that such license shall be only to the extent USER now has, or prior to completion or final settlement of the Agreement may acquire, the right to grant such license without becoming liable to pay compensation to others solely because of such grant.
2. USER agrees that it will not knowingly include any copyrightable material furnished or delivered under this Agreement without a license as provided for in subparagraph 1(b)

hereof, or without the consent of the copyright owner, unless it obtains specific written approval of the Contracting Officer for the inclusion of such copyrighted materials.

F. Disclosure of Proprietary Data

In the absence of a properly executed and effective non disclosure agreement between USER and CONTRACTOR, the USER shall not bring Proprietary Data into the USER facility except at USER's own risk and any such data, regardless how it is marked, shall be deemed Technical Data and shall be treated according to this article of this Agreement.

ARTICLE X. LABORATORY SITE ACCESS, SAFETY AND HEALTH***

As a precondition to using CONTRACTOR facilities, Participants must complete all CONTRACTOR Site Access documents and requirements. USER and 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. Participants must comply with all applicable safety, health, access to information, security and environmental regulations and the requirements of the Department and CONTRACTOR, including the specific requirements of the User Facility covered by this Agreement. In the event that USER or Participant fails to comply with said regulations and requirements, CONTRACTOR may, without prejudice to any other legal or contractual rights, issue and order stopping all or any part of USER's activities at the User Facility.

ARTICLE XI. PERSONNEL RELATIONSHIPS***

Participants will remain employees or representatives of the USER at all times during their participation in the work under this Agreement, and shall not be considered employees of CONTRACTOR or DOE for any purpose. Participants shall be subject to the administrative and technical supervision and control of CONTRACTOR during and in connection with the Participant's activities under this Agreement.

ARTICLE XII: EXPORT CONTROLS***

USER acknowledges that the export of goods or Technical Data may require some form of export control license from the U.S. Government and that failure to obtain such export control license may result in criminal liability under the laws of the United States.

ARTICLE XIII: PUBLICATIONS***

- A. USER and CONTRACTOR will provide each other copies of articles of any publication of information generated pursuant to this Agreement for review and comment 14 days prior to publication.
- B. USER will not use the name of CONTRACTOR or the United States Government or their employees in any promotional activity, such as advertisements, with reference to any product or service resulting from this Agreement, without prior written approval of the Government and CONTRACTOR.

ARTICLE XIV: DISPUTES***

The parties will attempt to jointly resolve all disputes arising under this agreement. If the parties are unable to jointly resolve a dispute within a reasonable period of time, either party may contact the laboratory's Technology Transfer Ombudsman (TTO) to provide assistance. The TTO may work directly to resolve the dispute or, upon mutual agreement of the parties, contact a third party neutral mediator to assist the parties in coming to a resolution. The costs of the mediator's services will be shared equally by the parties. In the event that an agreement is not reached with the aid of the ombudsman or mediator, the parties may agree to have the dispute addressed by neutral evaluation. The decision rendered by the neutral evaluator shall be nonbinding on the parties, and any costs incurred there from shall be divided equally between the parties. Upon mutual agreement, the parties may request a final decision by the DOE Contracting Officer. Absent resolution, either party may seek relief in a court of competent jurisdiction.

ARTICLE XV. CONFLICT OF TERMS***

This Agreement constitutes the primary document which governs the work described in the attached Appendices. In the event of any conflict between the terms of this document and any other document issued by either Party, the terms of this document shall prevail.

ARTICLE XVI: TERMINATION***

Either Party may terminate this Agreement for any reason at any time by giving not less than thirty (30) days prior written notice to the other Party. Notice will be deemed made as of the day of receipt. The obligations of any clause of this Agreement, which by their nature extend beyond its termination, shall remain in full force and effect until fulfilled.

BATTELLE ENERGY ALLIANCE, LLC (CONTRACTOR):

BY: _____
Signature

NAME: _____
Printed

TITLE: _____

DATE: _____

User's Formal Name (USER):

BY: _____
Signature

NAME: _____
Printed

TITLE: _____

DATE: _____

ADDRESS: _____

TELEPHONE: _____

***** Any changes to the *** or substantive changes to the non *** provisions will require formal written approval by DOE.**

E-Award

**STANDARD RESEARCH
SUBCONTRACT NO.**

**FACILITY USER SUPPORT FUNDING FOR
THE UNIVERSITY OF CALIFORNIA -
EXPERIMENT IN THE
ADVANCED TEST REACTOR (A
NATIONAL SCIENTIFIC USER FACILITY
PROJECT)**

Battelle Energy Alliance, LLC (BEA)
2525 Fremont Avenue
P. O. Box 1625
Idaho Falls, ID 83415-3890

Subcontractor:
The Regents of the University of California
University of California

Contractor's Procurement Representative

Lynda Keller
Subcontract Administrator
208-526-5597
208-526-5780
Lynda.Keller@inl.gov

Period of Performance: **Award Amount:**

Introduction

This is a cost-reimbursement, no-fee, standard subcontract for unclassified research and development work, not related to nuclear, chemical, biological, or radiological weapons of mass destruction or the production of special nuclear material. This Subcontract is between Battelle Energy Alliance, LLC (BEA) (Contractor) and The Regents of the University of California, University of California, (Subcontractor). The Subcontract is issued under Prime Contract No. DE-AC07-05ID14511 between the Contractor and the United States Department of Energy (DOE) for the management and operation of the Idaho National Laboratory (INL).

Agreement

The parties agree to perform their respective obligations in accordance with the terms and conditions of the Schedule and the General Provisions and other documents attached or incorporated by reference, which together constitute the entire Subcontract and supersedes all prior discussions, negotiations, representations, and agreements.

**BATTELLE ENERGY ALLIANCE, LLC
(BEA)**

**THE REGENTS OF THE UNIVERSITY
OF CALIFORNIA
UNIVERSITY OF CALIFORNIA,**

By: _____
Name: Lynda Keller
Title: Subcontract Administrator
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

SCHEDULE OF ARTICLES

1. Statement of Work

The Subcontractor shall perform certain research and development work identified as Facility User Support Funding for the University of California, Experiment in the Advanced Test Reactor (a National Scientific User Facility Project), and more fully described in the Statement of Work, dated _____.

The Subcontractor's Principal Investigator assigned to this work is _____ The Principal Investigator shall not be replaced or reassigned without the advance written approval of the Contractor's Subcontract Administrator.

The Subcontractor shall submit three copies of the final and any intermediate reports to the Contractor's Technical Representative upon completion of the work and, when the Subcontract contains milestone requirements, on the indicated milestone dates. When requested by the Contractor's Technical Representative, the Subcontractor shall submit a draft copy of the final report for review prior to finalization. The Contractor's Technical Representative need not approve the Subcontractor's reported conclusions of the research.

2. Report Preparation Requirements

- a. These instructions apply to all formal reports, including the final report, required by the Subcontract.
- b. The final report shall contain a comprehensive summary of all work results and conclusions. All reports shall fairly and completely describe the efforts applied to and the results obtained toward achievement of objectives of the subcontract work. If an objective is not accomplished, such failure shall be fully documented and explained in the report.
- c. Reports shall include the following elements: (a) a brief abstract of the report which describes the overall objectives and results; (b) a full statement of each objective and description of the effort performed and the accomplishments achieved; (c) a list of any publication or information release made of material developed or maintained through the performance of the subcontract; and (d) any other relevant information.

3. Period of Performance

The work described in the Statement of Work is effective _____ and shall be completed on _____ or before _____.

4. Costs and Payments

- a. The estimated cost of the work called for in this Subcontract is _____.
- b. The Contractor will pay the Subcontractor for performance of this Subcontract, unless excluded or limited by other provisions of this Subcontract, the allowable direct costs incident to performance, plus the allocable portion of the allowable indirect costs of the Subcontractor. Allowable and allocable costs shall be determined in accordance with the cost principles of the Allowable Cost and Payment clause of the General Provisions.
- c. Indirect cost shall not be applied to this effort.

d. IRS Forms:

Pursuant to U.S. tax law, BEA is required to report certain payments to the Internal Revenue Service (IRS). The Subcontractor agrees to furnish a completed IRS Form W-9, (for U.S. persons), W-8 (for non-U.S. persons) or other applicable IRS form to BEA prior to any request for payment. Forms can be accessed at <http://www.irs.gov/formspubs/lists/0,,id=97817,00.html>. Forms may be submitted electronically to: AcctPay@inl.gov.

5. **Invoices for Payment**

- a. Payments for Subcontract work shall be made monthly based on invoices submitted by the Subcontractor for work performed. Invoices shall bear the following certification (or similar language) signed by a responsible official of the Subcontractor:

"The undersigned certifies that the information set forth herein is true and correct and may be used as a basis for payment for work."

- b. Invoices must identify the subcontract number, the period covered, and the total expenditures claimed for each of the following categories: salaries, fringe benefits, travel, materials and supplies, equipment, subcontracts/consultants, other direct costs such as rent, when applicable, and indirect or Facility and Administration costs.

- c. Invoices shall be mailed to:

Lynda Keller
P. O. Box 1625
Idaho Falls, ID 83415-3890.

- d. Payments shall be mailed to:

The Regents of the University of California
University of California,

- e. The Contractor will use its best efforts to process invoices for payment within 30 days of receipt; provided, however, that payments made more than 30 days after receipt of an invoice shall not be subject to penalty, interest, or late charges.
- f. Invoices, which include the cost of property acquired by the Subcontractor shall include a description of the property, the manufacturer, the Serial number and model number, the acquisition date, the unit price, quantity, and total cost of the property; and the location of the property.

6. **Contractor-Furnished and Subcontract-Acquired Property**

- a. The Contractor shall furnish the Subcontractor the materials, equipment, and supplies listed in Contractor-Furnished Government Property to this Subcontract.
- b. Purchase of equipment or other tangible personal property, which is not identified in the Subcontractor's cost proposal for this Subcontract and for which the Subcontractor is entitled to be reimbursed as a direct item of cost under this Subcontract, shall be approved in advance by the Contractor's Subcontract Administrator.

- c. All property furnished by the Contractor or acquired by the Subcontractor, as a direct cost under the Subcontract, title to which vests in the Government, shall be identified, controlled, and protected as required by the Government Property clause of the General Provisions of this Subcontract. Disposition of such property upon completion of this Subcontract shall be as directed by the Contractor's Property Management organization.
- d. If the Contractor provides the Subcontractor property that is marked as "high risk property" for use under this award, the Subcontractor shall ensure that adequate safeguards are in place, and adhered to, for the handling, control and disposition of this property in accordance with the policies, practices and procedures for property management contained in the DOE Property Management regulations (41 CFR 109-1.53). Title to all property marked as "high risk property" vests in the Government.

7. Subcontract Administration

- a. The Contractor's Subcontract Administrator for this Subcontract is Lynda Keller. The Subcontract Administrator is the only person authorized to make changes in the requirements of this Subcontract or make modifications to this Subcontract, including changes or modifications to the Statement of Work and the Schedule. The Subcontractor shall direct all notices and requests for approval required by this Subcontract to the Subcontract Administrator.

Any notices and approvals required by this Subcontract from the Contractor to the Subcontractor shall be issued by the Subcontract Administrator.

- b. The Contractor's Technical Representative for this Subcontract is Julie Foster. The Technical Representative is the person designated to monitor the Subcontract work and to interpret and clarify the technical requirements of the Statement of Work. The Technical Representative is not authorized to make changes to the work or modify this Subcontract.
- c. The Subcontractor's Subcontract Administrator for this Contract is Stephanie May.

8. Travel Requirements

- a. All travel not included in the Subcontractor's cost proposal must be approved in advance by the Contractor.
- b. All foreign travel must be approved in advance by the Contractor, even if the cost is included in the Subcontractor's cost proposal for this Subcontract.

9. Performance of Work

The Subcontractor will perform the work at a location other than a DOE Facility. Subcontractor will be on site to witness tests and attend meetings.

10. Subcontractor Personnel Performing Work at Contractor's Facility

- a. Hazards Training:

Pursuant to 29 CFR 1910.1200, BEA will provide Subcontractor's personnel with necessary information and training for any hazards to which Subcontractor's personnel may be exposed while working at the INL.

- b. Sensitive Information:

When Subcontractor's employee(s) will, or could have, access to sensitive information pertaining to any business or government agency, Subcontractor shall ensure that its

employee(s) is aware of the necessity to safeguard such information by not disclosing it to individuals or companies outside of BEA.

c. Idaho National Laboratory Environmental Policy:

Subcontractor shall adhere to the INL Environmental Policy found at <http://www.inl.gov/environmentalpolicy/>.

11. Supplier Performance Evaluation System (SPES)

BEA evaluates subcontractor performance in accordance with the SPES. The Subcontractor shall be formally evaluated no less than quarterly as applicable, and upon completion of the work. A minimum score of 80 points out of 100 is required to maintain approved status.

12. Lower-tier Subcontractors

Subcontractor shall not subcontract performance of any portion of the work being performed at the INL without the advanced written approval of BEA, (excluding material deliveries). Lower-tier subcontracts and purchase orders must include provisions to secure all rights and remedies of BEA and the Government provided under this Release, and must impose upon the lower-tier subcontractor all of the general duties and obligations required to fulfill this Release. Subcontractor is responsible for the performance and oversight of all lower-tier subcontractors

13. Incorporated Documents

The following documents are hereby incorporated as Attachments to this Subcontract:

- a. Statement of Work, entitled, "Facility User Support Funding for the University of California, Santa Barbara Experiment in the Advanced Test Reactor (ATR) (A National Scientific User Facility Project)", SOW-6742, dated September 25, 2008, Attachment 1.
- b. Subcontractor Requirements Manual, Revision 5, dated 05/29/07, required parts identified in Form 540.10S, "Subcontractor Requirements Manual (SRM) Applicability," applicable to Contract No. 00080440 (<http://www.inl.gov/procurement/forms.shtml>), Attachment 2. The SRM is modified as follows: Replace all references to "LMITCO" and "BBWI" with "Contractor". The Subcontractor and all lower-tiers shall perform work in accordance with the SRM, to the extent specified in Form 540.10. The Subcontract Administrator (SA) shall notify the Subcontractor of a proposed change(s) to the SRM. The Subcontractor shall notify the SA within 15 days of the notification if any material impact on cost or schedule would result from the proposed SRM change(s). The notice shall include an assessment of the cost or schedule impact associated with the proposed SRM change(s). The SA shall provide direction to proceed or not proceed with the SRM change(s). If direction is provided to proceed, the Subcontractor must proceed with the execution of the work as modified by the SRM change and a request for equitable adjustment may be submitted by the Subcontractor consistent with the Changes article of General Provisions incorporated in Contract No. 00080440.
- c. Form PROC-1861, Occurrence Notification and Reporting by the Supplier, Attachment 3.

GENERAL PROVISIONS

CLAUSE 1 - PUBLICATIONS

- A. The Subcontractor shall closely coordinate with the Contractor's Technical Representative regarding any proposed scientific, technical or professional publication of the results of the work performed or any data developed under this Subcontract. The Subcontractor shall provide the Contractor an opportunity to review any proposed manuscripts describing, in whole or in part, the results of the work performed or any data developed under this Subcontract at least forty-five (45) days prior to their submission for publication. The Contractor will review the proposed publication and provide comments. A response shall be provided to the Subcontractor within forty-five (45) days; otherwise, the Subcontractor may assume that the Contractor has no comments. Subject to the requirements of Clause 9, the Subcontractor agrees to address any concerns or issues identified by the Contractor prior to submission for publication.
- B. Subcontractor may acknowledge the Contractor and Government sponsorship of the work as appropriate.

CLAUSE 2 - NOTICES

- A. The Subcontractor shall immediately notify the Contractor's Subcontract Administrator in writing of: (1) any action, including any proceeding before an administrative agency, filed against the Subcontractor arising out of the performance of this Subcontract; and (2) any claim against the Subcontractor, the cost and expense of which is allowable under the terms of this Subcontract.
- B. If, at any time during the performance of this Subcontract, the Subcontractor becomes aware of any circumstances which may jeopardize its performance of all or any portion of the Subcontract, it shall immediately notify the Contractor's Subcontract Administrator in writing of such circumstances, and the Subcontractor shall take whatever action is necessary to cure such defect within the shortest possible time.

CLAUSE 3 - ASSIGNMENTS

The Contractor may assign this Subcontract to the Government or its designee(s). Except as to assignment of payment due, the Subcontractor shall have no right to assign or mortgage this Subcontract or any part of it without the prior written approval of the Contractor's Subcontract Administrator, except for subcontracts already identified in the Subcontractor's proposal.

CLAUSE 4 - DISPUTES

A. Informal Resolution

- 1. The parties to a dispute shall attempt to resolve it in good faith, by direct, informal negotiations. All negotiations shall be confidential. Pending resolution of the dispute, the Subcontractor shall proceed diligently with the performance of this Subcontract, in accordance with its terms and conditions.
- 2. The parties, upon mutual agreement, may seek the assistance of a neutral third party at any time, but they must seek such assistance no later than 120 days after the date of the Contractor's receipt of a claim. The requirement to seek the assistance of a neutral third party may be waived or modified only with the consent of all parties. The parties may

request the assistance of an established Ombudsman Program, where available, or hire a mutually agreeable mediator, or ask the DOE Office of Dispute Resolution to assist them in selecting a mutually agreeable mediator. The cost of mediation shall be shared equally by both parties. If requested by both parties, the neutral third party may offer a non-binding opinion as to a possible settlement. All discussions with the neutral third party shall be confidential.

3. In the event the parties are unable to resolve the dispute by using a neutral third party or waive the requirement to seek such assistance, the Contractor will issue a written decision on the claim.

B. Formal Resolution

1. If a dispute has not been resolved by informal resolution, it may be submitted to binding arbitration upon agreement of both parties, by and in accordance with the Commercial Arbitration Rules of the American Arbitration Association (AAA). If arbitration is agreed to by both parties, such decision is irrevocable and the outcome of the arbitration shall be binding on all parties.
2. Each party to the arbitration shall pay its pro rata share of the arbitration fees, not including counsel fees or witness fees or other expenses incurred by the party for its own benefit.
3. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction.

C. Litigation

If arbitration is declined for such disputes, the parties may pursue litigation in any court of competent jurisdiction.

D. Governing Law

This Subcontract shall be interpreted and governed in accordance with all applicable federal and state laws and all applicable federal rules and regulations.

CLAUSE 5 - RESPONSIBILITY FOR TECHNOLOGY EXPORT CONTROL

The parties understand that materials and information resulting from the performance of this Subcontract may be subject to export control laws and that each party is responsible for its own compliance with such laws.

CLAUSE 6 - COST ACCOUNTING STANDARDS (CAS) LIABILITY

[Applicable to Subcontracts exceeding \$500,000]

Clause 10 below incorporates into these GENERAL PROVISIONS clauses entitled, "COST ACCOUNTING STANDARDS" and "ADMINISTRATION OF COST ACCOUNTING STANDARDS." Notwithstanding the provisions of these clauses, or of any other provision of the Subcontract, the Subcontractor shall be liable to the Government for any increased costs, or interest thereon, resulting from any failure of the Subcontractor, with respect to activities carried on at the site of the work, or of a subcontractor, to comply with applicable cost accounting standards or to follow any practices disclosed pursuant to the requirements of such clause.

CLAUSE 7 - DISCLOSURE AND USE RESTRICTIONS FOR LIMITED RIGHTS DATA

Generally, delivery of Limited Rights Data (or Restricted Computer Software) should not be necessary. However, only if Limited Rights Data will be used in meeting the delivery requirements of the subcontract, the following disclosure and use restrictions shall apply to and shall be inserted in, any FAR 52.227-14 Limited Rights Notice on any Limited Rights Data furnished or delivered by the Subcontractor or a lower-tier subcontractor:

- A. These "Limited Rights Data" may be disclosed for evaluation purposes under the restriction that the "Limited Rights Data" be retained in confidence and not be further disclosed;
- B. These "Limited Rights Data" may be disclosed to other contractors participating in the Government's program of which this Subcontract is a part for information or use in connection with the work performed under their contracts and under the restriction that the "Limited Rights Data" be retained in confidence and not be further disclosed; and
- C. These "Limited Rights Data" may be used by the Government or others on its behalf for emergency repair or overhaul work under the restriction that the "Limited Rights Data" be retained in confidence and not be further disclosed.

CLAUSE 8 - ORDER OF PRECEDENCE

Any inconsistencies in the documents comprising this Subcontract shall be resolved by giving precedence in the following order: (a) the SCHEDULE OF ARTICLES and this Subcontract Signature Page; (b) these GENERAL PROVISIONS; (c) other referenced documents, exhibits, and attachments; and (d) any referenced specification or *Statement of Work*.

CLAUSE 9 - SECURITY REQUIREMENTS

- A. This Subcontract is intended for unclassified, publicly releasable research or development work. The Contractor does not expect that results of the research project will involve classified information or Unclassified Controlled Nuclear Information (UCNI) (See 10 CFR part 1017). However, the Contractor may review the research work generated under this Subcontract at any time to determine if it requires classification or control as UCNI.
- B. If, subsequent to the date of this Subcontract, a review of the information reveals that classified information or UCNI is being generated under this Subcontract, then the security requirements of this Subcontract must be changed. If such changes cause an increase or decrease in costs or otherwise affect any other term or condition of this Subcontract, the Subcontract shall be subject to an equitable adjustment as if the changes were directed under the Changes clause of this Subcontract.
- C. If the security requirements are changed, the Subcontractor shall exert every reasonable effort compatible with its established policies to continue the performance of work under the Subcontract in compliance with the change in the security requirements. If the Subcontractor determines that continuation of the work under this Subcontract is not practicable because of the change in security requirements, the Subcontractor shall notify the Contractor's Procurement Representative in writing. Until the Contractor's Procurement Representative provides direction, the Subcontractor shall protect the material as directed by the Contractor.
- D. After receiving the written notification, the Contractor's Procurement Representative shall explore the circumstances surrounding the proposed change in security requirements and shall

endeavor to work out a mutually satisfactory method to allow the Subcontractor to continue performance of work under this Subcontract.

- E. Within 15 days of receiving the written notification of the Subcontractor's stated inability to proceed, the Contractor's Procurement Representative must determine whether (1) these security requirements do not apply to this contract or (2) a mutually satisfactory method for continuing performance of work under this Subcontract can be agreed upon. If this determination is not made, the Subcontractor may request the Contractor's Procurement Representative to terminate the Subcontract in whole or in part. The Contractor's Procurement Representative shall terminate the Subcontract in whole or in part, as may be appropriate, and the termination shall be deemed a termination under the terms of the Termination for the Convenience of the Government clause.

CLAUSE 10 - CLAUSES INCORPORATED BY REFERENCE

The FEDERAL ACQUISITION REGULATION (FAR) and the U.S. DEPARTMENT OF ENERGY ACQUISITION REGULATION (DEAR) clauses listed below, which are located in Chapters 1 and 9, respectively, of Title 48 of the Code of Federal Regulations, are incorporated by this reference as a part of these GENERAL PROVISIONS with the same force and effect as if they were given in full text, as prescribed below.

The full text of the clauses may be accessed electronically at <http://www.arnet.gov/far/> (FAR) and <http://professionals.pr.doe.gov/ma5/MA-5Web.nsf/Procurement/Acquisition+Regulation> (DEAR).

As used in the clauses, the term "contract" shall mean this Subcontract; the term "Contractor" shall mean the Subcontractor; the term "subcontractor" shall mean the Subcontractor's subcontractor, and the terms "Government" and "Contracting Officer" shall mean the Contractor, except in FAR clause 52.227-14, and DEAR clauses 970.5227-4, 952.227-11, 970.5232-3 and 52.245-5 Alternate I, in which clauses "Government" shall mean the United States Government and "Contracting Officer" shall mean the DOE/NNSA Contracting Officer for Prime Contract DE-AC07-05ID14517 with the Contractor. As used in DEAR clauses 952.204-72 and 952.227-9, the term "DOE" shall mean DOE/NNSA or the Contractor.

The modifications of these clause terms are intended to appropriately identify the parties and establish their contractual and administrative reporting relationship, and shall not apply to the extent they would affect the U.S. Government's rights. The Subcontractor shall include the listed clauses in its subcontracts at any tier, to the extent applicable.

APPLICABLE TO ALL SUBCONTRACTS UNLESS OTHERWISE INDICATED BELOW:

DEAR 952.204-71	SENSITIVE FOREIGN NATIONS CONTROLS (APR 1994). Applies if the Subcontract is for unclassified research involving nuclear technology.
DEAR 952.204-77	COMPUTER SECURITY (AUG 2006)
FAR 52.216-7	ALLOWABLE COST AND PAYMENT (DEC 2002). Substitute 31.3 in subcontracts with educational institutions and 31.7 in subcontracts with nonprofit organizations for 31.2 in paragraph (a).
FAR 52.216-15	PREDETERMINED INDIRECT COSTS RATES APR 1998).
FAR 52.222-21	PROHIBITION OF SEGREGATED FACILITIES (FEB 1999).
FAR 52.222-26	EQUAL OPPORTUNITY (APR 2002).

FAR 52.223-3	HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA SHEETS (JAN 1997) AND ALTERNATE I. Applies only if Subcontract involves delivery of hazardous materials.
FAR 52.225-13	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (DEC 2003).
DEAR 970.5227-4	AUTHORIZATION AND CONSENT (AUG 2002), Paragraph (a).
DEAR 952.227-9	REFUND OF ROYALTIES (FEB 1995). Applies if "royalties" of more than \$250 are paid by a subcontractor at any tier.
DEAR 952.227-11	PATENT RIGHTS - RETENTION BY THE CONTRACTOR (SHORT FORM) (FEB 1995). (Applies only if Subcontractor is a nonprofit organization as set forth in 48 CFR 27.301. If Subcontractor does not qualify in accordance with 48 CFR 27.301, it may request a patent waiver pursuant to 10 CFR 784.)
FAR 52.227-14	[Check provision below that applies OR include only applicable provision]. ____ RIGHTS IN DATA-GENERAL (JUN 1987) with ALTERNATE V and DEAR 927.409 Paragraphs (a) and (d)(3). Applies if the Subcontract is for development work, or for basic and applied research where computer software is specified as a Deliverable in the Statement of Work or other special circumstances apply as specified in the agreement. ____ RIGHTS IN DATA-GENERAL (JUN 1987) with ALTERNATE IV, subparagraph (c)(1) and DEAR 927.409, subparagraph (a) Definitions. Applies if the Subcontract is for basic or applied research and computer software is not specified as a Deliverable in the Statement of Work, and no other special circumstances apply per DEAR 927.409.
FAR 52.227-23	RIGHTS TO PROPOSAL DATA (TECHNICAL) (JUNE 1987). Applies if the Subcontract is based upon a technical proposal.
FAR 52.229-10	STATE OF NEW MEXICO GROSS RECEIPTS AND COMPENSATING TAX (APR 2003). Applies if any part of this Subcontract is to be performed in the State of New Mexico.
FAR 52.232-20	LIMITATION OF COST (APR 1984). Applies if the Subcontract is fully funded.
FAR 52.232-22	LIMITATION OF FUNDS (APR 1984). Applies if the Subcontract is incrementally funded.
DEAR 952.235-71	RESEARCH MISCONDUCT (JUL 2005)
FAR 52.242-15	STOP-WORK ORDER (AUG 1989) with ALTERNATE I (APR 1984).
FAR 52.243-2	CHANGES – COST-REIMBURSEMENT (AUG 1987), WITH ALTERNATE V
FAR 52.244-2	SUBCONTRACTS (AUG 1998). Insert in Paragraph (e): "Any subcontract or purchase order for other than "commercial items" exceeding the simplified acquisition threshold. ("Commercial item" has the meaning contained in FAR 52.202-1, Definitions.)"
DEAR 970.5245-1	PROPERTY (DEC 2000).
FAR 52.246-9	INSPECTION OF RESEARCH AND DEVELOPMENT (SHORT FORM) (APR 1984).

FAR 52.247-63	PREFERENCE FOR U. S. FLAG AIR CARRIERS (JUNE 2003). Applies if the Subcontract involves international air transportation.
FAR 52.247-64	PREFERENCE FOR PRIVATELY OWNED U.S.-FLAG COMMERCIAL VESSELS (APR 2003).
DEAR 952.247-70	FOREIGN TRAVEL (DEC 2000).
FAR 52.249-5	TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (EDUCATIONAL AND OTHER NONPROFIT INSTITUTIONS) (SEP 1996).
DEAR 952.217-70	ACQUISITION OF REAL PROPERTY (APR 1984). Applies if the Subcontract involves leased space that is reimbursed.
DEAR 970.5232-3	ACCOUNTS, RECORDS, AND INSPECTION (DEC 2000)

APPLICABLE IF THE SUBCONTRACT IS FOR \$10,000 OR MORE:

FAR 52.222-35	EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA AND OTHER ELIGIBLE VETERANS (DEC 2001).
FAR 52.222-36	AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUNE 1998).
FAR 52.222-37	EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA AND OTHER ELIGIBLE VETERANS (DEC 2001).

APPLICABLE IF THE SUBCONTRACT EXCEEDS \$100,000:

FAR 52.203-5	COVENANT AGAINST CONTINGENT FEES (APR 1984)
FAR 52.203-6	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (JULY 1995).
FAR 52.203-7	ANTI-KICKBACK PROCEDURES (JULY 1995), excluding Paragraph (c)(1).
FAR 52.203-10	PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997).
FAR 52.203-12	LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (JUNE 2003).
FAR 52.219-8	UTILIZATION OF SMALL BUSINESS CONCERNS (MAY 2004).
FAR 52.222-04	CONTRACT WORK HOURS AND SAFETY STANDARDS ACT - OVERTIME COMPENSATION (SEP 2000).
DEAR 970.5227-5	NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (AUG 2002).

APPLICABLE IF THE SUBCONTRACT EXCEEDS \$500,000:

FAR 52.215-10	PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA (OCT 1997) if subcontract exceeds \$550,000.
---------------	-------------------------------------------------------------------------------------------------

- FAR 52.215-11 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA-MODIFICATIONS (OCT 1997) not used when 52.215-10 is included. In subcontracts greater than \$550,000.
- FAR 52.215-12 SUBCONTRACTOR COST OR PRICING DATA (OCT 1997). Applies if 52.215-10 applies.
- FAR 52.215-13 SUBCONTRACTOR COST OR PRICING DATA-MODIFICATIONS (OCT 1997). Applies if 52.215-11 applies.
- FAR 52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (JAN 2002). Applies unless there are no subcontracting possibilities.
- FAR 52.227-16 ADDITIONAL DATA REQUIREMENTS (JUNE 1987).
- FAR 52.230-2 COST ACCOUNTING STANDARDS (APR 1998), excluding paragraph (b). Applies to nonprofit organizations if they are subject to full CAS coverage as set forth in 48 CFR Chapter 99, Subpart 9903.201-2 (FAR Appendix B).
- FAR 52.230-3 DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES (APR 1998), excluding paragraph (b). Applies to nonprofit organizations if they are subject to modified CAS coverage as set forth in 48 CFR Chapter 99, Subpart 9903.201-2 (FAR Appendix B).
- FAR 52.230-5 COST ACCOUNTING STANDARDS – EDUCATIONAL INSTITUTION (APR 1998), excluding paragraph (b).
- FAR 52.230-6 ADMINISTRATION OF COST ACCOUNTING STANDARDS (NOV 1999).

(END OF GENERAL PROVISIONS)

Document ID: SOW-
Revision ID:

STATEMENT OF WORK

FACILITY USER SUPPORT FUNDING
FOR THE
UNIVERSITY OF CALIFORNIA

IN THE
ADVANCED TEST REACTOR
(A NATIONAL SCIENTIFIC USER FACILITY
PROJECT)

SERVICES
SUBCONTRACTOR REQUIREMENTS MANUAL (SRM)
APPLICABILITY

Page 1 of 1

Work Identifier/Description: University of California Experiment Support	Rev.	01	Date	10/27/08
The Subcontractor Requirements Manual (SRM) is applicable to the work performed under this subcontract. Work shall be performed in accordance with the SRM to the extent specified herein.				
The SRM in effect for this Subcontract is: TOC-732 Revision [17].				
The most current version of the SRM is available online at: http://www.inl.gov/procurement/forms.shtml				
Work Category: Service (Non Davis-Bacon Covered Work)				
1000 Administration <input checked="" type="checkbox"/> PDD-1001 Subcontractor Requirements Program Description <input type="checkbox"/> RD-1001 10 CFR 851 Occupational Medicine Requirements <input checked="" type="checkbox"/> RD-1002 Safeguards and Security Requirements <input checked="" type="checkbox"/> RD-1003 General Requirements <input checked="" type="checkbox"/> RD-1004 Motor Vehicle Safety <input type="checkbox"/> RD-1008 Training and Indoctrination		References: TOC-732, Table of Contents LST-359, Glossary (Terms & Definitions)		
Safety and Health Requirements for Service Subcontracts are Governed by 29CFR1910 <i>General Industry</i>				
2000 Safety & Health Applicable to Hazardous Work (29 CFR 1910) <input type="checkbox"/> RD-2000 Work Coordination & Hazard Control RD-2001 Personal Protective Equipment RD-2002 Fall Protection RD-2004 Scaffolding RD-2005 Walking and Working Surfaces RD-2006 Aerial Lifts & Elevating Work Platforms RD-2007 Hoisting & Rigging RD-2009 Compressed Gases RD-2010 Welding, Cutting, and Other Hot Work RD-2011 Electrical Safety RD-2012 Lockout & Tagout RD-2013 Concrete & Masonry RD-2014 Excavations & Surface Penetrations RD-2015 Hand & Portable Power Tools RD-2016 Material Handling Storage, and Disposal RD-2020 Heavy Industrial Vehicles RD-2022 Safety Signs, Color Codes, & Barriers RD-2023 Temporary Facilities RD-2024 Demolition RD-2025 Explosives Safety RD-2101 Hazard Communication RD-2102 Disease Control RD-2103 Asbestos RD-2105 Lead RD-2107 Heat & Cold Stress RD-2108 Hearing Conservation RD-2109 Respiratory Protection RD-2110 Confined Spaces RD-2111 Exposure Assessments RD-2112 Lasers RD-2201 Flammable & Combustible Liquid Storage RD-2202 Fire Protection		3000 Radiological Control <input type="checkbox"/> RD-3001 Radiological Control 5000 Quality Assurance <input type="checkbox"/> RD-5000 Subcontractor Quality Assurance Program Requirements <input type="checkbox"/> RD-5002 Change Control <input type="checkbox"/> RD-5003 Vendor Data Control <input type="checkbox"/> RD-5004 Procurement Document Control <input type="checkbox"/> RD-5005 Procedure Development <input type="checkbox"/> RD-5006 Subcontractor/Supplier Quality Plan (SQP) <input type="checkbox"/> RD-5007 Document Control <input type="checkbox"/> RD-5008 Control of Purchased Items <input type="checkbox"/> RD-5009 Material Traceability <input type="checkbox"/> RD-5010 Weld Record Packages & Piping Testing Packages <input type="checkbox"/> RD-5012 Survey Equipment Calibration & Control <input type="checkbox"/> RD-5014 Test Control <input type="checkbox"/> RD-5015 Control of Measuring & Testing Equipment <input type="checkbox"/> RD-5016 Material and Equipment Storage, Handling and Maintenance <input type="checkbox"/> RD-5017 Inspection & Test Status <input type="checkbox"/> RD-5018 Control of Nonconformance <input type="checkbox"/> RD-5019 Radiological Control of Field Radiography Operations 8000 Environmental <input type="checkbox"/> RD-8000 Environmental Requirements for Subcontractor Equipment and Service NOTE: There are currently no RD's for Series 4000, 6000, or 7000		

OCCURRENCE NOTIFICATIONS AND REPORTING BY THE SUPPLIER

Subcontractor shall report to Contractor any unusual occurrence or unplanned event occurring within the boundaries of the INL during the performance of this Subcontract. The report shall be provided, either orally or in writing, to the Contractor's Technical Representative. Occurrence/events which require reporting include any out-of-the-ordinary situations which occur. A list of situations that require reporting are shown below. The list is not all-inclusive, but provides necessary guidance.

1. Any activity which adversely affects the safety of another operating or construction contractor.
2. Any release of contamination beyond the facility fence, including contaminated personnel and equipment.
3. Suspected contamination, requiring survey of an employee's or visitor's house, vehicle, or other possessions.
4. Any unplanned activation of an emergency system.
5. Violation of Technical Specifications including Administrative Limits.
6. Any unplanned event which could result in public concern, (whether valid or not), e.g., report of a contaminated roadway which upon investigation proves incorrect.
7. Any discharge of hazardous or toxic material (planned or unplanned) to the environment.
8. Personnel contamination involving skin or personal clothing, resulting from inadequate work practices, procedures, or engineered systems.
9. Frequent, widespread, or systemic difficulty with quality and/or operability of new equipment and instrumentation.
10. Fire or property damage incidents less than Type A or B as defined in DOE Order 5484.1 "Environmental protection, Safety and Health Protection Information Requirements".
11. Serious physical injury to personnel.
12. Any other unscheduled outage or shutdown resulting in a delay of more than eight (8) hours.
13. Equipment or personnel actions that adversely affect facility operation.
14. Major theft or loss of equipment, material, components, plans or items.
15. Use of flammable, toxic, explosive, or other unsafe or dangerous processes, chemicals, materials, or methods previously banned or prohibited.