

**Sample Other Transaction Agreements for
DE-FOA-0003612**



Genesis Mission

The Genesis Mission: Transforming Science and Energy with AI

Contents

- Genesis Mission Funding Agreement – Milestones
- Genesis Mission Funding Agreement – Reimbursement
- IP Appendix II – Patent Rights – 401.14
- IP Appendix II – Patent Rights – Simplified
- IP Appendix III – Data Rights – Open
- IP Appendix III – Data Rights – Proprietary
- Genesis Mission Project Agreement – Data Use Agreement
- Genesis Mission Project Agreement – AI Bridge Agreement

Each OT agreement will DOE will be comprised of:

- 1 Funding Agreement (Milestones or Reimbursement);
- 1 Appendix I (Milestone or Technical Objectives) to be negotiated;
- 1 Patent Rights Appendix II (401.14 or Simplified); and
- 1 Data Rights Appendix III (Open or Proprietary).

The application team will also be expected to negotiate a Project Agreement amongst their team, which may include:

- a Data Use Agreement; and/or
- an AI Bridge agreement (for use with DOE/NNSA labs).

Editable Word versions of these documents will be shared during award negotiation.

Posted on Tuesday, March 31, 2026

OTHER TRANSACTION AGREEMENT FOR ADVANCING THE GENESIS MISSION
BETWEEN

THE UNITED STATES DEPARTMENT OF ENERGY

AND

[AWARDEE ENTITY NAME]

The Genesis Mission is a historic national effort to catalyze new industries, create high-skill jobs, and usher a new golden era of American discovery through artificial intelligence (AI) innovation. Under the leadership of the United States Department of Energy (DOE or Agency) and the White House Office of Science and Technology Policy, and in partnership with industry, academia, and the National Laboratories, the Genesis Mission will build the American Science and Security Platform to combine supercomputing, AI, next-generation quantum systems, and America’s most advanced scientific instruments into a single, integrated engine of discovery that leverages the singular scientific datasets and expertise of the DOE and National Nuclear Security Administration (NNSA) Laboratory complex. The Genesis Mission is designed to ensure that the United States leads in AI-enabled scientific discovery, energy innovation, and national security capabilities.

This Genesis Mission Funding Agreement (“Agreement”) is made and entered into as of the Effective Date by and between the United States Department of Energy (DOE), an agency of the United States Government (Government), and [Awardee Entity Name] (Awardee)(collectively the Parties), a [type of entity] organized and existing under the laws of [place of incorporation or organization]. Further operational and technical details for the Awardee’s collaboration, including with DOE/NNSA National Laboratories, will be governed by a Project Agreement, including allocation of intellectual property between the collaborating parties.

NOW, THEREFORE, in consideration of the foregoing and for the mutual promises hereinafter set forth, the Parties agree as follows:

Contents

Contents	1
SECTION I: Purpose and Scope of Work	2
SECTION II: Authority to Enter into the Agreement	3
SECTION III: Intellectual Property	3
SECTION IV: Intellectual Property Warranty	3
SECTION V: Research, Technology and Economic Security (RTES)	3
SECTION VI: Reporting Requirements and Approvals	6
SECTION VII: Modifications, Disputes, Termination, and Assignment	7
SECTION VIII: Miscellaneous	10
SECTION IX: DEFINED TERMS	14

The following is intended to be understood using the definitions defined in Section IX.

SECTION I: Purpose and Scope of Work

The purpose of this Agreement is to establish a public-private partnership that advances the Genesis Mission’s core objectives: to accelerate breakthroughs in energy dominance, discovery science, and national security through the development and deployment of self-improving AI models and integrated scientific workflows. By combining DOE/NNSA’s unique data assets and research infrastructure with the agile development practices and specialized expertise of private industry, this partnership will drive innovation at scale and speed, directly supporting the nation’s strategic goals.

Through this Agreement, the Awardee will conduct research and development activities aligned with the milestones set forth herein, contributing to the creation of the American Science and Security Platform. The outcomes of this partnership are intended to double U.S. research and development productivity within a decade, strengthen U.S. competitiveness, and ensure that America leads in AI-enabled scientific discovery, energy innovation, and national security capabilities.

This Agreement reflects the urgency and ambition of the Genesis Mission: to move with speed and purpose, uniting government, industry, and academia in a coordinated national effort that will fundamentally transform how science and engineering are conducted for the benefit of the American people.

Authorization and funding for subsequent Milestones will be contingent upon DOE approval that Milestone completion criteria have been met and the availability of funding to continue work under this Agreement.

Article 1.1: Period of Performance

This Agreement governs the performance of the Milestones.

The Awardee shall commence performance of this Agreement in accordance with the Agreement terms and conditions on the Effective Date and continue until the completion or upon expiration of the deadline, i.e., “Quarter Due (from project start)” for all the Milestones, unless otherwise agreed upon by the parties in writing. Additionally, DOE may terminate the agreement upon a failure to achieve a milestone by such deadline. The completion date for this Agreement is [TBD]. This date may be extended by written mutual agreement of the Parties.

Article 1.2: Financial Obligation

A. Obligation

DOE’s liability to make Milestone Payments is limited to only those funds detailed in this Agreement and the availability of appropriated funding to continue work under this Agreement.

B. Cost-Share

The Awardee must provide any applicable “Awardee Cost Share” identified for each Milestone. The cost share must:

- Be verifiable when the application is submitted.
- Be cash, cash equivalents, or in-kind contributions.
- Come from non-federal sources (unless otherwise allowed by law), such as project participants, state or local governments, or other third-party financing.

Unless otherwise agreed upon before completion of Milestone 1, the Cost Share must meet requirements set forth in 2 C.F.R. § 200.306 and 910.130, and the cost principles set forth in 2 C.F.R. §§ 200.400-476 and 2 C.F.R. §§ 910.352.

SECTION II: Authority to Enter into the Agreement

Article 2.1: Authority

This is a research, development, and/or demonstration agreement entered into pursuant to DOE’s OT Authorities, including 42 U.S.C. § 7256(a), (g).¹ This Agreement between DOE and Awardee is a transaction other than a procurement, grant, cooperative agreement, or loan. Accordingly, only those terms, conditions, provisions and requirements set forth in this Agreement and any other terms, conditions, provisions and requirements prescribed by law and regulations for other transaction agreements under DOE’s OT Authorities, including 42 U.S.C. § 7256(a), (g),² some of which are expressly incorporated herein by reference, apply to this Agreement.

This Agreement is valid only if it is in writing and is signed, including electronically, by the AO and by the Awardee’s authorized representative.

SECTION III: Intellectual Property

Intellectual Property Rights are governed by the provisions of Appendix II – Patent Rights and Appendix III – Data Rights.

SECTION IV: Intellectual Property Warranty

The Awardee represents and warrants that any data used in the performance of Milestones, including but not limited to AI Artifacts, would not infringe upon any intellectual property right of any third party, such as any patent, copyright, trade secret, or other intellectual property right and that it has all necessary rights in said data for delivery as described in the Milestones.

Awardee agrees that it has exercised reasonable efforts and diligence in making this representation and warranty. The foregoing representation and warranty shall be ongoing during the term of the Agreement.

SECTION V: Research, Technology and Economic Security (RTES)

¹ 2 C.F.R. § 930.

² 2 C.F.R. § 930.

Article 5.1: Foreign Entity Participation

A Foreign Entity is not eligible to participate as either an Awardee or Subawardee. In limited circumstances DOE may approve a waiver to allow a foreign entity to participate.

The Awardee must work with the DOE Laboratory to ensure compliance with all applicable safety, health, access to information, security and environmental regulations and the requirements of the Department and the DOE Laboratory. In the event the Awardee fails to comply with said regulations and requirements, the DOE Laboratory may, without prejudice to any other legal or contractual rights, issue an order stopping all or any part of Awardee's activities with the DOE Laboratory.

Article 5.2: Prohibition on Incorporation in or Ownership or Control by Foreign Countries of Concern

Throughout the life of the Agreement, the Awardee, parent company, and project team members shall not be solely incorporated in, or owned or controlled by, or subject to the direction of a Foreign Country of Concern. If there is a change in ownership or control that increases foreign ownership or control by Foreign Country of Concern or a change that effectively makes the entity subject to the direction of a Foreign Country of Concern, the Awardee must immediately alert the AO.

Article 5.3: Entity of Concern Prohibition

No Entity of Concern as defined in [Section 10114 of Public Law 117-167 \(42 USC 18912\)](#) may participate in the performance of the Milestones.

Article 5.4: Malign Foreign Talent Recruitment Program Prohibition

Individuals participating in a Malign Foreign Talent Recruitment Program, as defined in Section 10638(4) of P.L. 117-167 (42 USC 19237(4), 19232), are prohibited from participating in the performance of the Milestones.

Article 5.5: Due Diligence Reviews and Disclosures

The Agreement is subject to a post-selection and ongoing research, technology, and economic security risk review and monitoring to identify potential risks of undue foreign influence. As part of the review, the Awardee must cooperate with DOE requests for information, including the following required disclosures and certifications for all covered individuals listed on the application and entities which must be updated within fifteen (15) business days of any changes except advanced notice to DOE must be given for changes relating to a Foreign Country of Concern: DOE [Common Form for Current and Pending \(Other\) Support](#) (42 USC 6605)

including a Malign Foreign Talent Recruitment Program certification³, DOE Common Form for Biosketch (NSPM-33), and Transparency of Foreign Connections Transparency of Foreign Connections | Department of Energy (NSPM-33). New covered individuals listed on the application and entities added during the term of the Agreement must provide the disclosures above and receive DOE approval before participating. DOE may share information regarding the risks identified as part of the RTES due diligence review process or monitoring with other Federal agencies.

In the event an RTES risk is identified, or the required disclosures, certifications, or updates, are not submitted, or there is non-compliance with any provision of this Section V, DOE may require risk mitigation measures, including but not limited to, requiring that an individual or entity not participate in the performance of this Agreement, or implementing other controls such as data access restrictions, enhanced monitoring, or project scope adjustments, as determined necessary by DOE to safeguard national security and economic interests. If significant risks are identified and cannot be sufficiently mitigated, DOE may withhold or recapture a Milestone Payment or terminate the OT Agreement.

³ All covered individuals must provide a separate disclosure statement listing the required information above regarding current and pending support. Each Covered Individual must sign and date their respective certification statement:

I, [Full Name and Title], understand that I have been designated as a covered individual by the Federal funding agency.

I certify to the best of my knowledge and belief that the information contained in this Current and Pending Support Disclosure Statement is true, complete, and accurate. I understand that any false, fictitious, or fraudulent information, misrepresentations, half-truths, or omissions of any material fact, may subject me to criminal, civil, or administrative penalties for fraud, false statements, false claims, or otherwise. (18 U.S.C. §§ 1001 and 287, and 31 U.S.C. §§ 3729-3733 and 3801-3812). I further understand and agree that (1) the statements and representations made herein are material to DOE's funding decision, and (2) I have a responsibility to update the disclosures during the period of performance of the award should circumstances change which impact the responses provided above.

I also certify that, at the time of submission, I am not a party in a malign foreign talent recruitment program. I further understand should I take action to involve myself with a Malign Foreign Talent Recruitment Program during the period of performance of the award, I must notify the Awardee's Authorized Agent immediately, but no later than five business days of taking such action and immediately recuse myself from all DOE awards.

DOE's decision regarding a due diligence review is not appealable.

Article 5.6: Performance of Work in the United States

All work in performance of the Milestones must be performed in the United States (i.e., the Awardee must expend 100% of the total project cost in the United States), unless the Awardee requests and receives advance written authorization from the AO to perform certain work outside of the United States. This provision does not apply to the acquisition of materials or components of the Awardee's project unless otherwise instructed in writing by the AO.

Article 5.7: Conflicts of Interest

The Awardee shall adopt and maintain a conflict of interest policy⁴ under this Agreement, which shall be provided to DOE upon request. This conflict of interest policy shall address both individual conflicts of interest as related to Key Personnel and Organizational Conflicts of Interest, including but not limited to financial conflicts of interest (FCOI) (i.e., managed and unmanaged/unmanageable).

The Awardee shall disclose in writing to the AO any potential or actual Conflict of Interest as soon as reasonably practical after discovery thereof. The Awardee and the DOE shall jointly develop a mitigation plan to address Conflicts of Interest as they arise.

SECTION VI: Reporting Requirements and Approvals

Article 6.1: Milestones- Review, Acceptance or Rejection of Milestones

1. The Awardee shall be responsible for the on-time delivery and satisfactory completion of all Milestones. Unless otherwise specified by the AO, in writing, in advance of the deadline, all documents, including reports, are to be furnished to the DOE via email to the AO.
2. DOE shall accept or reject delivered Milestones as promptly as practicable after delivery, unless otherwise specified in the Agreement. DOE shall determine adequacy of each deliverable promptly and will notify the Awardee in writing of the acceptance or rejection of the deliverable within ten (10) business days. DOE's failure to review and accept or reject the work shall not relieve the Awardee from responsibilities under this Agreement, nor create liability for the Government. Acceptance will not be unreasonably withheld or delayed.
3. If DOE rejects the deliverable, the notice of rejection will provide the Awardee a specific description of the identified nonconformity. The Awardee will have the opportunity to cure under a timeline agreed to by the Awardee and the AO.
4. Payment for Milestones.

⁴ See <https://www.energy.gov/management/department-energy-interim-conflict-interest-policy-requirements-financial-assistance>

- a. Milestone Payment may only be requested after DOE has notified the Awardee of its acceptance of the Milestone deliverable and verified that the Milestone completion criteria have been met. DOE will provide payment for the completed Milestone within 30 calendar days of receipt of a Milestone payment request submitted in accordance with the paragraphs below. Only the Awardee may submit payment requests to DOE. Subawardees may not submit payment requests directly to DOE.
- b. Milestone Payment Request Submittal. The Awardee is required to submit payment requests electronically through DOE's Oak Ridge Financial Service Center Vendor Inquiry Payment Electronic Reporting System (VIPERS). To access and use VIPERS, they are required to enroll and login to the VIPERS website (<https://vipers.doe.gov/> or <https://vipers.doe.gov/RequestAccess.aspx>). DOE will disburse payments under this Agreement through the Automated Clearing House (ACH) VIPERS. The Awardee may check the status of its payments at the VIPERS website. All payments are made by electronic funds transfer to the bank account identified on the ACH Vendor/Miscellaneous Payment Enrollment Form (SF 3881) filed by the Awardee.
- c. Before any payment is submitted, the Awardee shall provide a disclosure of each Subject Invention and a properly executed Invention Certification as required by Article IV.

SECTION VII: Modifications, Disputes, Termination, and Assignment

Article 7.1: Modifications

Proposals for modifications will be documented in writing and submitted by the Awardee to the AO, or by DOE to the Awardee. Parties may request the technical, schedule, and financial impact of the proposed modification as appropriate.

Any modification, including changes to the Milestones, to this Agreement shall be executed in writing and signed by an authorized representative of DOE and the Awardee. The DOE is not obligated to pay for costs related to modifications. Further, the Awardee is not obligated to accomplish work prior to mutual agreement between the AO and the Awardee and performs work at risk of not being compensated without mutual agreement, in writing.

For minor or administrative modifications (e.g., changes to the paying office or appropriation data), Awardee approval is not required, unless Awardee timely objects, in writing, to such a proposed minor or administrative modification. In the event of any objection, the modification must be bilaterally executed.

Article 7.2: Disputes

- A. A party that believes there is a dispute about an issue under this Agreement will submit to the other party, via email with receipt acknowledged by the other party, a summary of the dispute. Disputes will be raised by the Awardee to the AO or by the AO to the Awardee point of contact. The AO and awardee will work together to resolve issues or disputes, including using any alternative dispute mechanisms to the maximum extent practicable.

Informal resolution, including resolution through an alternative dispute resolution mechanism, will be preferred over formal procedures, to the extent practicable.

- B. DOE Final Determination. If a dispute is not resolved informally between the DOE AO and the Awardee, DOE shall provide a written determination signed by the AO, setting forth DOE's final disposition of such dispute. The determination will include a summary of the dispute and the factual, legal, and if appropriate, policy reasons for DOE's disposition of the dispute.

C. Right of Appeal:

- a. The final determination under this Article may only be appealed to the cognizant Senior Procurement Executive (SPE), as defined by 41 U.S.C. 1702(c) for the following actions:
 - i. A DOE determination that the awardee has failed to comply with the applicable requirements of the Agreement;
 - ii. termination of an award, in whole or in part, by DOE;
 - iii. the application of DOE of an indirect cost rate; and
 - iv. DOE disallowance of costs.
- b. The appeal must be received by DOE within 90 days of receipt of the final determination. The mailing address for the DOE SPE is 1000 Independence Ave., SW., Washington DC 20585.
- c. In reviewing disputes authorized under this article, the SPE will be bound by the applicable law, statutes, and rules, including the requirements of this Article, and by the terms and conditions of this Agreement.
- d. The decision of the SPE shall be the final decision of DOE.

Article 7.3: Termination

A. Noncompliance. In the event the Awardee failed to comply with the terms and conditions of this Agreement, the AO shall give written notice to the Awardee to comply, including the factual and legal basis for the determination of noncompliance, the corrective actions, and the date by which they must be taken (not less than 30 days), and which of the actions authorized under 2 CFR § 930.345(a) DOE may take if the Awardee does not achieve compliance within the time specified in the written notice. Failure to comply may result in termination of this Agreement;

B. The Parties may mutually agree to terminate in whole or in part this Agreement by providing at least 30 days advance written notice to the other party, provided such notice is preceded by consultation between the Awardee and DOE and a reasonable determination by either party that this Agreement will not produce beneficial results commensurate with the expenditure of resources. Awardee and DOE will negotiate the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. If either the Awardee or the DOE determines in the case of partial termination that the reduced or modified portion of the Agreement will not accomplish its intended purpose, the Agreement may be terminated in its entirety;

B. DOE may terminate the agreement in whole or in part if the Awardee materially fails to comply with the articles or terms and conditions of an agreement, whether stated in a Federal statute, regulation, assurance, application, plan, or the notice of award fails to comply with the articles and requirements of the Agreement. DOE shall promptly provide Awardee with a Cure Notice identifying the Material Breach. Within ten (10) days after receipt of the Cure Notice, Awardee shall respond in writing to the Cure Notice and provide DOE with a Cure Plan;

C. DOE may terminate the agreement if the Awardee files a bankruptcy petition that is not dismissed within ten (10) business days, the Awardee is adjudicated bankrupt or is otherwise insolvent, or the Awardee ceases to do business or otherwise terminates its business operations; and

D. DOE may terminate the agreement if the Awardee fails to achieve a Milestone within the time period specified in the Milestones.

E. Either party may terminate without cause upon thirty (30) days written notice to the other party. If DOE terminates without cause, the Awardee shall submit an invoice to DOE based on the prorated fixed price for any remaining Milestone and such proration will be based on effort expended from the last Milestone payment up to the point of termination. The AO, in their discretion, will determine if and how much of an appropriate prorated payment is warranted. Selectee acknowledges and agrees that no other compensation, of any nature or type, shall be payable hereunder following the termination of this Agreement.

F. In the event of termination, DOE and the Awardee shall meet to affect an orderly termination of any ongoing or planned activities and will negotiate in good faith for the disposition of the Awardee's Limited Rights Data in the possession of DOE, if applicable. In no case will the Government be liable for expenses or other financial obligations of the Awardee incurred due to early termination.

G. In the event this Agreement is terminated for any reason under paragraphs A-D of this Article, DOE has the right to unilaterally not pay for funding not yet disbursed pursuant to the Milestones in Appendix I. Mutual termination does not impose any requirement that DOE pay in whole or part for milestones not achieved.

H. In the event of any termination by DOE, neither DOE nor the Awardee shall be liable for any loss of profits, revenue, or any indirect or consequential damages incurred by the other Party, its contractors, subcontractors, or customers as a result of any termination of this Agreement. DOE's or the Awardee's liability for any damages under this Agreement is limited solely to direct damages, incurred by the other Party, as a result of any termination of this Agreement subject to mitigation of such damages by the complaining party. However, in no instance shall DOE's liability for termination exceed the total amount due under the milestone towards which the Awardee is currently working under this Agreement.

Article 7.4 Assignment

Neither this Agreement nor any interest arising under it will be assigned by the Awardee or DOE without the express written consent of the other party.

SECTION VIII: Miscellaneous

Article 8.1: Export Control

Awardee is responsible for ensuring compliance with all applicable United States Export Control laws and regulations relating to any work performed under a resulting Agreement. The Awardee must immediately report to DOE any export control violations related to this Agreement and provide the corrective action(s) to prevent future violations.

Article 8.2: Communication

- A. Administration. Unless otherwise provided in this Agreement, approvals permitted or required to be made by DOE, or any other document that binds the government, may be made only by the DOE Agreements Officer who has a warrant including the award of Other Transaction Agreements. Administrative and contractual matters under this Agreement shall be referred to the following representatives of the Parties:

DOE Agreements Officer: XXXX

DOE Grants and Agreements Specialist: XXXX

DOE Patent Counsel: Michael Dobbs, (331) 465-1317, mike.dobbs@science.doe.gov (for all questions regarding Intellectual Property matters)

Awardee: XXXX

- B. **Milestone Deliverables.** Milestone deliverable matters under this Agreement shall be referred to the following representative:

DOE Program Manager: XXXX

Awardee: XXXX

- C. **Technical.** Technical matters under this Agreement shall be referred to the following representatives:

DOE Program Manager: XXXX

Awardee: XXXX

- D. Change of Designated Representative. Each party may change its representatives named in this Article by written notification to the other party.

Article 8.3: Closeout

Upon Agreement completion, the AO must close out the Agreement in accordance with the Federal-Wide Research Terms and Conditions and DOE Standard Research Terms and Conditions Agency Specific Requirements, Financial Assistance Handbook Chapter 30A -

Closeout of Financial Assistance Instruments, 2 *CFR* § 930, and the DOE Office of Scientific and Technical Information (OSTI) E-Link website (<https://www.osti.gov/elink/>), including ensuring all deliverables have been accepted and any audits completed. The Awardee agrees to provide DOE all relevant documents requested to closeout this Agreement.

Article 8.4: Resolution of Conflicting Conditions

Any apparent inconsistency between Federal statutes and regulations and the terms and conditions contained in this Agreement must be referred to the AO for guidance.

Article 8.5: Suspension and Debarment

The Awardee shall not contract with entities that are currently listed on the System for Award Management as suspended or debarred in support of this Agreement. In accordance with Executive Orders 12549 and 12689, the regulations at 2 *CFR* part 180, Guidance for Governmentwide Debarment and Suspension (Non procurement) are applicable to this Agreement.

Article 8.6: Inspector General

- A. The Awardee is required to provide any information, documents, site access, or other assistance requested by DOE or Federal auditing agencies (e.g., DOE Inspector General, Government Accountability Office, Defense Contracting Audit Agency, United States Digital Service, Department of Government Efficiency) for work related to this Agreement. Single Audits are not required under this Agreement.
- B. In the event that the Awardee has Federal funding from another Federal agency or entity, in accordance with 42 U.S.C. § 7137, the Comptroller General of the United States, or any of his duly authorized representatives, shall have access to and the right to examine any books, documents, papers, records, or other recorded information of the Awardee of Federal funds or assistance under this Agreement, including contracts between the Awardee and other entities.

Article 8.7: System for Award Management

The Awardee is required to be registered in the System for Award Management (SAM, www.sam.gov). The Awardee agrees to opt in to SAM notifications and monitor SAM for DOE issued information.

Article 8.8: Insolvency, Bankruptcy or Receivership

- A. The Awardee shall immediately notify DOE of the plans for, or significant likelihood of, any of the following events: (i) the Awardee or the Awardee's parent's filing of a voluntary case seeking liquidation or reorganization under the Bankruptcy Act; (ii) the Awardee's consent to the institution of an involuntary case under the Bankruptcy Act against it or its parent; (iii) the filing of any similar proceeding for or against the Awardee or the Awardee's parent, or its consent to, the dissolution, winding-up or readjustment of its debts, appointment of a receiver, conservator, trustee, or other officer with similar powers over it, under any other

applicable state or federal law; or (iv) the Awardee's insolvency due to its inability to pay its debts generally as they become due.

- B. Such notification shall be in writing and shall: (i) specifically set out the details of the occurrence of an event referenced in paragraph A; (ii) provide the facts surrounding that event; and (iii) provide the impact such event will have on the project being funded by this Agreement.
- C. Upon the occurrence of any of the four events described in the first paragraph, DOE reserves the right to conduct a review of the Awardee's agreement to determine their compliance with the required elements of the agreement. If the DOE review determines that there are significant deficiencies or concerns with the Awardee's performance under the agreement, DOE reserves the right to impose additional requirements, as needed.
- D. Failure of the Awardee to comply with this term may be considered a Material Breach of this Agreement.

Article 8.9: Fraud, Waste and Abuse

The Awardee shall disclose, in a timely manner, in writing to DOE all violations of Federal criminal law involving fraud, bribery, or gratuity violations by Awardee, its employees, and agents that potentially affect the agreement. Compliance with the Rules of Professional Conduct does not violate this paragraph. The DOE Office of Inspector General maintains a Hotline for reporting allegations of fraud, waste, abuse, or mismanagement. To report such allegations, please visit <https://www.energy.gov/ig/ig-hotline>.

Article 8.10: Choice of Law

The Awardee acknowledges that this Agreement is subject to federal law of the United States.

Article 8.11 NONDISCLOSURE AND CONFIDENTIALITY AGREEMENTS ASSURANCES

- A. By entering into this Agreement, the Awardee does not and will not require its employees or contractors to sign internal nondisclosure or confidentiality agreements or statements prohibiting or otherwise restricting its employees or contractors from lawfully reporting waste, fraud, or abuse to a designated investigative or law enforcement representative of a federal department or agency authorized to receive such information.
- B. The undersigned further attests that Awardee will not implement or enforce any nondisclosure and/or confidentiality policy, form, or agreement it uses in the performance of the Milestones unless it contains the following provisions:
 - (1) These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (a) classified information, (b) communications to Congress, (c) the reporting to an Inspector General or the Office of Special Counsel of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (d) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling

Executive orders and statutory provisions are incorporated into this agreement and are controlling.

(2) The limitation above shall not contravene requirements applicable to Standard Form 312, Form 4414, or any other form issued by a Federal department or agency governing the nondisclosure of classified information.

C. Notwithstanding provision listed in paragraph (A), a nondisclosure or confidentiality policy form or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the activity for which such document is to be used. Such form or agreement shall, at a minimum, require that the person will not disclose any classified information received during such activity unless specifically authorized to do so by the United States Government. Such nondisclosure or confidentiality forms shall also make it clear that they do not bar disclosures to Congress, or to an authorized official of an executive agency or the Department of Justice, that are essential to reporting a substantial violation of law.

Article 8.12 CORPORATE FELONY CONVICTION AND FEDERAL TAX LIABILITY ASSURANCES

By entering into this Agreement, the undersigned attests that the Awardee has not been convicted of a felony criminal violation under Federal law in the 24 months preceding the date of signature.

The undersigned further attests that Awardee does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

For purposes of these assurances, the following definitions apply: A Corporation includes any entity that has filed articles of incorporation in any of the 50 states, the District of Columbia, or the various territories of the United States [but not foreign corporations]. It includes both for-profit and non-profit organizations.

Article 8.13 LOBBYING RESTRICTIONS

The Awardee agrees that none of the funds under this Agreement shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. § 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.

Article 8.14 INDEMNIFICATION

The Awardee will indemnify the Government and its officers, agents, or employees for any and all liability, including litigation expenses and attorneys' fees, arising from suits, actions, or claims of any character for death, bodily injury, or loss of or damage to property or to the environment, resulting from the project, except to the extent that such liability results from the direct fault or negligence of Government officers, agents or employees, or to the extent

such liability may be covered by applicable allowable costs provisions.

Article 8.15 STATEMENT OF FEDERAL STEWARDSHIP

DOE will exercise normal Federal stewardship in overseeing the project activities performed under this Agreement. Stewardship activities include, but are not limited to, conducting site visits; reviewing performance and financial reports; providing technical assistance and/or temporary intervention in unusual circumstances to correct deficiencies which develop during the project; assuring compliance with terms and conditions; and reviewing technical performance after project completion to ensure that the Technical Objectives have been accomplished.

Article 8.16 SITE VISITS

DOE authorized representatives have the right to make site visits at reasonable times to review project accomplishments and management control systems and to provide technical assistance, if required. You must provide, and must require your subrecipients to provide, reasonable access to facilities, office space, resources, and assistance for the safety and convenience of the government representatives in the performance of their duties. All site visits and evaluations must be performed in a manner that does not unduly interfere with or delay the work.

SECTION IX: DEFINED TERMS

In addition to terms defined in other provisions of this Agreement, the terms and phrases as defined below, when used herein as the defined term shall have the following meanings:

“AO” shall mean DOE Agreements Officer.

“AI Artifact” shall mean any dataset, code, scripts, pipelines, models (including architectures, parameters, and weights), prompts, outputs, documentation, metadata, test/evaluation suites, synthetic data, and system/model/data cards created, used, or improved under the Project Agreement.

“Covered Individual” means an individual who (a) contributes in a substantive, meaningful way to the scientific development or execution of the scope of work of the agreement, and (b) is designated as a covered individual by DOE. DOE designates as covered individuals any principal investigator (PI); project director (PD); co-principal investigator (Co-PI); co-project director (Co-PD); project manager; and any individual regardless of title that is functionally performing as a PI, PD, Co-PI, Co-PD, or project manager. Submission of a current and pending support disclosure and/or biosketch/resume for a particular person serves as an acknowledgement that DOE designates that person as a covered individual. DOE may further designate covered individuals during the agreement period of performance.

“Curated Data” shall mean any Data generated in Milestone 2.

“Data” shall mean recorded information, regardless of form or the media on which it may be recorded, including Technical Data. The term does not include information incidental to Other Transaction (OT) Agreement administration, such as financial, administrative, cost or pricing or management information.

“Data and Intellectual Property Rights Certification” shall mean a formal written statement, signed by an authorized representative of the Awardee, delivered as part of a Milestone, which attests that the Awardee has the necessary legal and contractual rights to all data, software, and intellectual property used in a delivered AI Artifact, sufficient to enable its deployment and use as contemplated under this Agreement.

“Effective Date” shall mean the date upon which the Agreement will enter into force which will be the date of the last signatory to the Agreement.

“Foreign Country of Concern” shall mean the People's Republic of China, the Russian Federation, the Democratic People's Republic of Korea, the Islamic Republic of Iran, and Belarus, or any other country determined to be a foreign country of concern by the Secretary of State, and including countries of risk designated by DOE. This list is subject to change. DOE reserves the right, in the exercise of its absolute discretion, to add or subtract any foreign country determined to be of risk consistent with DOE policies by a unilateral amendment to this Agreement.

“Foreign Entity” shall mean any corporation, business association, partnership, trust, society, or any other entity or group that is not incorporated or organized to do business in the United States, as well as international organizations, foreign governments and any agency or subdivision of foreign governments including state-owned enterprises. The term “Foreign Countries of Concern” and “Foreign National” are separate terms and not necessarily covered under the definition of a Foreign Entity although “Foreign Countries of Concern” are also “Foreign Entities”.

“Foreign National” shall mean any individual other than a U.S. citizen.

“Government” shall mean the Federal government of the United States of America including its agencies and departments.

“Intellectual Property” shall mean any and all subject inventions, copyrights, and trademarks developed by an Awardee.

“Key Personnel” shall mean the voting board members, C-suite executives, and other senior personnel identified by Awardee.

“Limited rights data” shall mean data developed at private expense and first produced outside the performance of this agreement that embody trade secrets, or are commercial, or financial, and confidential or privileged.

“Material Breach” shall mean a breach by the Awardee or DOE of any of its obligations under this Agreement including those which result, or are likely to result, in the inability of the Awardee or DOE to effectively complete the Milestones. This includes but is not limited to the failure to achieve Milestones, breach of provisions included in the Agreement.

“Milestone” shall mean a deliverable identified in Appendix I - Milestones, Reporting, Deliverables.

“Milestones” shall mean the collective deliverables identified in Appendix I - Milestones, Reporting, Deliverables.

“Milestone Payment” shall mean DOE’s payment to the Awardee for achievement of a Milestone.

“Model Data” shall mean any data generated in the performance of Milestone 3.

“Non-Public Data” shall mean Data that has not been publicly distributed to others without restriction on further dissemination. Specifically excluded from this definition is data shared at a conference, public talk or other public forum if the data shared is shared without restriction on further dissemination.

“Organizational Conflicts of Interest” shall mean where the Awardee is unable, or appears to be unable, to be impartial in conducting activities under this agreement due to its relationships with affiliates, organizations, or any other interested party.

“Project Agreement” means an agreement between the Awardee and their partners/collaborators in the performance of the Technical Objectives, which is intended to address all data rights, including allocation of rights to Project AI Artifacts. The Project Agreement includes agreements with DOE National Laboratory, preferably using the preapproved AI Bridge Agreement containing a Data Use Agreement (DUA) template that complies with Article 3.2.

“Project AI Artifact” shall mean AI Artifacts developed in performance of the Milestones, including a Project Agreement.

“Unlimited Rights” shall mean the right of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose, and to have or permit others to do so.

IN WITNESS WHEREOF, the Parties have executed this Agreement.

U.S. DEPARTMENT OF ENERGY

AWARDEE

By: _____
[NAME]
Agreements Officer

By: _____
[NAME]
TITLE

Dated: _____

Dated: _____

APPENDIX I

Milestones, Reporting, Deliverables

<u>Mile- stone #</u>	<u>Milestone Title</u>	<u>Milestone Description (including Completion Criteria)</u>	<u>Data Protection</u>	<u>Quarter Due (from project start)</u>	<u>Estimated Total Cost (\$) ⁵</u>	<u>Federal payment upon completion (\$)</u>	<u>Awardee Cost Share(\$)</u>
1	Agreements and Alignment	The execution of all agreements within the Application Team within 90 days of award. 1. DOE must be provided with a copy of the executed Project Agreement showing execution by at least the Application Team and meeting all requirements of the award, including requirements listed in Article 3.2(1)(d). The Team is encouraged to leverage templates provided by DOE, especially when working with a DOE Laboratory.	All data delivered to DOE must be delivered with unlimited rights. The Awardee may redact business sensitive portions of the Project Agreement that are not relevant to confirming execution of the agreement amongst the party and compliance with the award terms.	1	\$TBD	\$TBD	

⁵ All contributions estimated to achieve milestones, including in kind contribution.

<u>Mile- stone #</u>	<u>Milestone Title</u>	<u>Milestone Description (including Completion Criteria)</u>	<u>Data Protection</u>	<u>Quarter Due (from project start)</u>	<u>Estimated Total Cost (\$) ⁵</u>	<u>Federal payment upon completion (\$)</u>	<u>Awardee Cost Share(\$)</u>
2	Data Curation	<p>The curation of all scientific data within the Application Team so that the data is structured, cleaned, and preprocessed in a way that makes it suitable for use in artificial intelligence and machine learning models no later than XXX.</p> <ol style="list-style-type: none"> 1. The curated data must include [Insert a Specific description of the data to be curated] 2. The curated data will be delivered to [Insert Where Curated Data must be delivered. This should typically include delivery to the American Science Cloud] with the following rights: [Insert Specific Data rights approved by cognizant DOE Patent Counsel] 3. The curated data must: [Insert specific requirements] [including adherence to data 	<p>All data delivered to DOE may be identified as Protected Data except:</p> <ol style="list-style-type: none"> 1. a summary report; and 2. (a) general test or performance results demonstrating technical breakthroughs, milestones or achievements; (b) general data demonstrating progress toward meeting DOE's technical targets and (c) any research data contained in publications resulting from the 	XX			

<u>Mile- stone #</u>	<u>Milestone Title</u>	<u>Milestone Description (including Completion Criteria)</u>	<u>Data Protection</u>	<u>Quarter Due (from project start)</u>	<u>Estimated Total Cost (\$) ⁵</u>	<u>Federal payment upon completion (\$)</u>	<u>Awardee Cost Share(\$)</u>
		<p>quality standards as may be established by the National Science and Technology Council (NSTC) Machine Learning and AI Subcommittee or other relevant Federal guidance, to ensure suitability for artificial intelligence and machine learning models, and specifically for use in developing next-generation microelectronics and accelerating innovation in discovery science and engineering for new energy technologies via the American science cloud, while maintaining appropriate privacy and confidentiality protections.]</p> <p>4. As a condition of Milestone completion, the Awardee shall deliver to the</p>	work under the agreement.				

<u>Mile- stone #</u>	<u>Milestone Title</u>	<u>Milestone Description (including Completion Criteria)</u>	<u>Data Protection</u>	<u>Quarter Due (from project start)</u>	<u>Estimated Total Cost (\$) ⁵</u>	<u>Federal payment upon completion (\$)</u>	<u>Awardee Cost Share(\$)</u>
		<p>Agreements Officer (AO) a signed Data and Intellectual Property Rights Certification for the delivered model and all its constituent components. This certification shall, at a minimum, attest to the following:</p> <p>a. That the Awardee has conducted a thorough review of all datasets, software libraries, pre-trained models, and any other intellectual property (collectively, “Model Components”) used in the creation, training, and operation of the delivered AI model.</p> <p>b. That the Awardee possesses sufficient rights to all Model Components to permit the deployment of the model on the American Science Cloud, consistent with the terms of this Agreement, the</p>					

<u>Milestone #</u>	<u>Milestone Title</u>	<u>Milestone Description (including Completion Criteria)</u>	<u>Data Protection</u>	<u>Quarter Due (from project start)</u>	<u>Estimated Total Cost (\$)</u> ⁵	<u>Federal payment upon completion (\$)</u>	<u>Awardee Cost Share(\$)</u>
		<p>associated Project Agreement, and the requirements of Public Law 119-21, as applicable.</p> <p>c. That the deployment and use of the model as described in this Agreement does not infringe upon any third-party patent, copyright, trade secret, or other intellectual property right.</p> <p>5. d. That all data sourcing and licensing documentation has been archived and is available for inspection by DOE upon request.</p>					
3	Creation of an Artificial Intelligence Model	<p>Creation of artificial intelligence models no later than XXX.</p> <ol style="list-style-type: none"> The delivered model must have been created using the data curated in milestone two. The model must perform the following functionality: [INSERT SPECIFIC 	All data delivered to DOE may be identified as Protected Data except: <ol style="list-style-type: none"> a summary of the report; and (a) general test or performance 				

<u>Mile- stone #</u>	<u>Milestone Title</u>	<u>Milestone Description (including Completion Criteria)</u>	<u>Data Protection</u>	<u>Quarter Due (from project start)</u>	<u>Estimated Total Cost (\$) ⁵</u>	<u>Federal payment upon completion (\$)</u>	<u>Awardee Cost Share(\$)</u>
		<p>DETAILS ON THE PERFORMANCE CHARACTERISTICS OF A SUCCESSFUL MODEL] [and demonstrate capabilities for interpretability, control, and robustness against adversarial attacks, as well as incorporating secure-by-design principles to mitigate risks of misuse or unauthorized access. Furthermore, the models shall be designed for seamless integration with and provision to the scientific community through the American science cloud, adhering to its operational and data sharing standards to accelerate innovation in discovery science and engineering for new energy technologies.]</p>	<p>results demonstrating technical breakthroughs, milestones or achievements; (b) general data demonstrating progress toward meeting DOE's technical targets and (c) any research data contained in publications resulting from the work under the agreement.</p>				

<u>Mile- stone #</u>	<u>Milestone Title</u>	<u>Milestone Description (including Completion Criteria)</u>	<u>Data Protection</u>	<u>Quarter Due (from project start)</u>	<u>Estimated Total Cost (\$) ⁵</u>	<u>Federal payment upon completion (\$)</u>	<u>Awardee Cost Share(\$)</u>
		<p>3. The model will be:</p> <ul style="list-style-type: none"> a. provided to the scientific community through the American science cloud to accelerate innovation in discovery science and engineering for new energy technologies; and b. deployed to accelerate innovation in discovery science and engineering for new energy technologies by: [DESCRIBE HOW THE MODEL WILL BE DEPLOYED CONSISTENT WITH P.L. 119-21, §50404] <p>4. As a condition of Milestone completion, the Awardee shall deliver to the Agreements</p>					

<u>Mile- stone #</u>	<u>Milestone Title</u>	<u>Milestone Description (including Completion Criteria)</u>	<u>Data Protection</u>	<u>Quarter Due (from project start)</u>	<u>Estimated Total Cost (\$) ⁵</u>	<u>Federal payment upon completion (\$)</u>	<u>Awardee Cost Share(\$)</u>
		<p>Officer (AO) a signed Data and Intellectual Property Rights Certification for the delivered model and all its constituent components. This certification shall, at a minimum, attest to the following:</p> <p>a. That the Awardee has conducted a thorough review of all datasets, software libraries, pre-trained models, and any other intellectual property (collectively, “Model Components”) used in the creation, training, and operation of the delivered AI model.</p> <p>b. That the Awardee possesses sufficient rights to all Model Components to permit the deployment of the model on the American Science Cloud, consistent with the terms of this Agreement, the associated Project Agreement, and</p>					

<u>Mile- stone #</u>	<u>Milestone Title</u>	<u>Milestone Description (including Completion Criteria)</u>	<u>Data Protection</u>	<u>Quarter Due (from project start)</u>	<u>Estimated Total Cost (\$) ⁵</u>	<u>Federal payment upon completion (\$)</u>	<u>Awardee Cost Share(\$)</u>
		<p>the requirements of Public Law 119-21, as applicable.</p> <p>c. That the deployment and use of the model as described in this Agreement does not infringe upon any third-party patent, copyright, trade secret, or other intellectual property right.</p> <p>d. That all data sourcing and licensing documentation has been archived and is available for inspection by DOE upon request.</p>					

OTHER TRANSACTION AGREEMENT FOR ADVANCING THE GENESIS MISSION
BETWEEN

THE UNITED STATES DEPARTMENT OF ENERGY

AND

[AWARDEE ENTITY NAME]

The Genesis Mission is a historic national effort to catalyze new industries, create high-skill jobs, and usher a new golden era of American discovery through artificial intelligence (AI) innovation. Under the leadership of the United States Department of Energy (DOE or Agency) and the White House Office of Science and Technology Policy, and in partnership with industry, academia, and the National Laboratories, the Genesis Mission will build the American Science and Security Platform to combine supercomputing, AI, next-generation quantum systems, and America’s most advanced scientific instruments into a single, integrated engine of discovery that leverages the singular scientific datasets and expertise of the DOE and National Nuclear Security Administration (NNSA) Laboratory complex. The Genesis Mission is designed to ensure that the United States leads in AI-enabled scientific discovery, energy innovation, and national security capabilities.

This Genesis Mission Funding Agreement (“Agreement”) is made and entered into as of the Effective Date by and between the United States Department of Energy (DOE), an agency of the United States Government (Government), and [Awardee Entity Name] (Awardee)(collectively the Parties), a [type of entity] organized and existing under the laws of [place of incorporation or organization]. Further operational and technical details for the Awardee’s collaboration, including with DOE/NNSA National Laboratories, will be governed by a Project Agreement, including allocation of intellectual property between the collaborating parties.

NOW, THEREFORE, in consideration of the foregoing and for the mutual promises hereinafter set forth, the Parties agree as follows:

Contents

SECTION I: Purpose and Scope of Work..... 2

SECTION II: Authority to Enter into the Agreement 4

SECTION III: Intellectual Property 4

SECTION IV: Intellectual Property Warranty 4

SECTION V: Research, Technology and Economic Security (RTES) 5

SECTION VI: Reporting Requirements and Approvals 7

SECTION VII: Modifications, Disputes, Termination, and Assignment..... 7

SECTION VIII: Miscellaneous..... 10

SECTION IX: DEFINED TERMS 14

The following is intended to be understood using the definitions defined in Section IX.

SECTION I: Purpose and Scope of Work

The purpose of this Agreement is to establish a public-private partnership that advances the Genesis Mission's core objectives: to accelerate breakthroughs in energy dominance, discovery science, and national security through the development and deployment of self-improving AI models and integrated scientific workflows. By combining DOE/NNSA's unique data assets and research infrastructure with the agile development practices and specialized expertise of private industry, this partnership will drive innovation at scale and speed, directly supporting the nation's strategic goals.

Through this Agreement, the Awardee will conduct research and development activities aligned with the milestones set forth herein, contributing to the creation of the American Science and Security Platform. The outcomes of this partnership are intended to double U.S. research and development productivity within a decade, strengthen U.S. competitiveness, and ensure that America leads in AI-enabled scientific discovery, energy innovation, and national security capabilities.

This Agreement reflects the urgency and ambition of the Genesis Mission: to move with speed and purpose, uniting government, industry, and academia in a coordinated national effort that will fundamentally transform how science and engineering are conducted for the benefit of the American people.

Authorization and funding for subsequent Milestones will be contingent upon DOE approval that Milestone completion criteria have been met and the availability of funding to continue work under this Agreement.

Article 1.1: Period of Performance

This Agreement governs the performance of the Budget.

The Awardee shall commence performance of this Agreement in accordance with the Agreement terms and conditions on the Effective Date and continue until the completion of the Budget. The completion date for this Agreement is [TBD] though this date may be extended by written mutual agreement of the Parties.

Article 1.2: Financial Obligation

1. Obligation

- (a) DOE's liability to make Payments is limited to only those funds detailed in the Technical Objectives of this Agreement and the availability of appropriated funding to continue work under this Agreement.

(b) Cost Share

The Awardee must provide any applicable “Awardee Cost Share” identified for each Technical Objective. This Cost share must

- Be verifiable when the application is submitted.
- Be cash, cash equivalents, or in-kind contributions.
- Come from non-federal sources (unless otherwise allowed by law), such as project participants, state or local governments, or other third-party financing.

Unless otherwise agreed upon before award, the Cost Share must meet requirements set forth in 2 C.F.R. § 200.306 and 910.130, and the cost principles set forth in 2 C.F.R. §§ 200.400-476 and 2 C.F.R. §§ 910.352.

Article 1.3 PAYMENT PROCEDURES - ADVANCES THROUGH THE AUTOMATED STANDARD APPLICATION FOR PAYMENTS (ASAP) SYSTEM

- Method of Payment.** Payment will be made by advances through the Department of Treasury's ASAP system.
- Requesting Advances.** Requests for advances must be made through the ASAP system. You may submit requests as frequently as required to meet your needs to disburse funds for the Federal share of project costs. If feasible, you should time each request so that you receive payment on the same day that you disburse funds for direct project costs and the proportionate share of any allowable indirect costs. If same-day transfers are not feasible, advance payments must be as close as is administratively feasible to actual disbursements.
- Adjusting payment requests for available cash.** You must disburse any funds that are available from repayments to, and interest earned on, a revolving fund, program income, rebates, refunds, contract settlements, audit recoveries, credits, discounts, and interest earned on any of those funds before requesting additional cash payments from DOE.
- Payments.** All payments are made by electronic funds transfer to the bank account identified on the ASAP Bank Information Form that you filed with the U.S. Department of Treasury.

Article 1.4 REBUDGETING AND RECOVERY OF INDIRECT COSTS - REIMBURSABLE INDIRECT COSTS AND FRINGE BENEFITS

- If actual allowable indirect costs are less than those budgeted and funded under the Agreement, you may use the difference to pay additional allowable direct costs during the project period. If at the completion of the Agreement the Government's share of total allowable costs (i.e., direct and indirect), is less than the total costs reimbursed, you must refund the difference.
- Recipients are expected to manage their indirect costs. DOE will not amend an Agreement solely to provide additional funds for changes in indirect cost rates. DOE recognizes that the inability to obtain full reimbursement for indirect costs means the recipient must absorb the

underrecovery. Such underrecovery may be allocated as part of the organization's required cost sharing.

Article 1.5 APPROVAL OF BUDGET PERIODS – FULLY FUNDED AWARDS (FEBRUARY 2015)

In the event that the Recipient does not submit a continuation application for subsequent Budget Periods or DOE disapproves a continuation application for subsequent Budget Periods, the maximum DOE liability to the Recipient is the total amount of funds available for the approved Budget Period(s). In such an event, DOE reserves the right to not pay out any remaining funds.

SECTION II: Authority to Enter into the Agreement

Article 2.1: Authority

This is a research, development and/or demonstration agreement entered into pursuant to DOE's OT Authorities, including 42 U.S.C. § 7256(a), (g)¹. This Agreement between DOE and Awardee is a transaction other than a procurement, grant, cooperative agreement, or loan. Accordingly, only those terms, conditions, provisions and requirements set forth in this Agreement and any other terms, conditions, provisions and requirements prescribed by law and regulations for other transaction agreements under DOE's OT Authorities, , including 42 U.S.C. § 7256(a), (g)², some of which are expressly incorporated herein by reference, apply to this Agreement.

This Agreement is valid only if it is in writing and is signed, including electronically, by the AO and by the Awardee's authorized representative.

SECTION III: Intellectual Property

Intellectual Property Rights are governed by the provisions of Appendix II – Patent Rights and Appendix III – Data Rights.

SECTION IV: Intellectual Property Warranty

The Awardee represents and warrants that any data used in the performance of Milestones, including but not limited to AI Artifacts, would not infringe upon any intellectual property right of any third party, such as any patent, copyright, trade secret, or other intellectual property right and that it has all necessary rights in said data for delivery as described in the Milestones. Awardee agrees that it has exercised reasonable efforts and diligence in making this representation and warranty. The foregoing representation and warranty shall be ongoing during the term of the Agreement.

¹ 2 C.F.R. § 930

² 2 C.F.R. § 930

SECTION V: Research, Technology and Economic Security (RTES)

Article 5.1: Foreign Entity Participation

A Foreign Entity is not eligible to participate as either an Awardee or Subawardee. In limited circumstances DOE may approve a waiver to allow a foreign entity to participate.

The Awardee must work with the DOE Laboratory to ensure compliance with all applicable safety, health, access to information, security and environmental regulations and the requirements of the Department and the DOE Laboratory. In the event the Awardee fails to comply with said regulations and requirements, the DOE Laboratory may, without prejudice to any other legal or contractual rights, issue an order stopping all or any part of Awardee's activities with the DOE Laboratory.

Article 5.2: Prohibition on Incorporation in or Ownership or Control by Foreign Countries of Concern

Throughout the life of the Agreement, the Awardee, parent company, and project team members shall not be solely incorporated in, or owned or controlled by, or subject to the direction of a Foreign Country of Concern. If there is a change in ownership or control that increases foreign ownership or control by Foreign Country of Concern or a change that effectively makes the entity subject to the direction of a Foreign Country of Concern, the Awardee must immediately alert the AO.

Article 5.3: Entity of Concern Prohibition

No Entity of Concern as defined in [Section 10114 of Public Law 117-167 \(42 USC 18912\)](#) may participate in the performance of the Technical Objectives.

Article 5.4: Malign Foreign Talent Recruitment Program Prohibition

Individuals participating in a Malign Foreign Talent Recruitment Program, as defined in Section 10638(4) of P.L. 117-167 (42 USC 19237(4), 19232), are prohibited from participating in the performance of the Technical Objectives.

Article 5.5: Due Diligence Reviews and Disclosures

The Agreement is subject to a post-selection and ongoing research, technology, and economic security risk review and monitoring to identify potential risks of undue foreign influence. As part of the review, the Awardee must cooperate with DOE requests for information, including the following required disclosures and certifications for all covered individuals listed on the application and entities which must be updated within fifteen (15) business days of any changes except advanced notice to DOE must be given for changes relating to a Foreign Country of

Concern: DOE [Common Form for Current and Pending \(Other\) Support](#) (42 USC 6605) including a Malign Foreign Talent Recruitment Program certification³, DOE Common Form for Biosketch (NSPM-33), and Transparency of Foreign Connections Transparency of Foreign Connections | Department of Energy (NSPM-33). New covered individuals listed on the application and entities added during the term of the Agreement must provide the disclosures above and receive DOE approval before participating. DOE may share information regarding the risks identified as part of the RTES due diligence review process or monitoring with other Federal agencies.

In the event an RTES risk is identified, or the required disclosures, certifications, or updates, are not submitted, or there is non-compliance with any provision of this Section V, DOE may require risk mitigation measures, including but not limited to, requiring that an individual or entity not participate in the performance of this Agreement, or implementing other controls such as data access restrictions, enhanced monitoring, or project scope adjustments, as determined necessary by DOE to safeguard national security and economic interests. If significant risks are identified

³ All covered individuals must provide a separate disclosure statement listing the required information above regarding current and pending support. Each Covered Individual must sign and date their respective certification statement:

I, [Full Name and Title], understand that I have been designated as a covered individual by the Federal funding agency.

I certify to the best of my knowledge and belief that the information contained in this Current and Pending Support Disclosure Statement is true, complete, and accurate. I understand that any false, fictitious, or fraudulent information, misrepresentations, half-truths, or omissions of any material fact, may subject me to criminal, civil, or administrative penalties for fraud, false statements, false claims, or otherwise. (18 U.S.C. §§ 1001 and 287, and 31 U.S.C. §§ 3729-3733 and 3801-3812). I further understand and agree that (1) the statements and representations made herein are material to DOE's funding decision, and (2) I have a responsibility to update the disclosures during the period of performance of the award should circumstances change which impact the responses provided above.

I also certify that, at the time of submission, I am not a party in a malign foreign talent recruitment program. I further understand should I take action to involve myself with a Malign Foreign Talent Recruitment Program during the period of performance of the award, I must notify the Awardee's Authorized Agent immediately, but no later than five business days of taking such action and immediately recuse myself from all DOE awards.

and cannot be sufficiently mitigated, DOE may withhold or recapture a Payment or terminate the OT Agreement.

DOE's decision regarding a due diligence review is not appealable.

Article 5.6: Performance of Work in the United States

All work in performance of the Technical Objectives must be performed in the United States (i.e., the Awardee must expend 100% of the total project cost in the United States), unless the Awardee requests and receives advance written authorization from the AO to perform certain work outside of the United States. This provision does not apply to the acquisition of materials or components of the Awardee's project unless otherwise instructed in writing by the AO.

Article 5.7: Conflicts of Interest

The Awardee shall adopt and maintain a conflict of interest⁴ policy under this Agreement, which shall be provided to DOE upon request. This conflict of interest policy shall address both individual conflicts of interest as related to Key Personnel and Organizational Conflicts of Interest, including but not limited to financial conflicts of interest (FCOI) (i.e., managed and unmanaged/unmanageable).

The Awardee shall disclose in writing to the AO any potential or actual Conflict of Interest as soon as reasonably practical after discovery thereof. The Awardee and the DOE shall jointly develop a mitigation plan to address Conflicts of Interest as they arise.

SECTION VI: Reporting Requirements and Approvals

Article 6.1: Technical Objectives

1. The Awardee shall be responsible for the on-time delivery and satisfactory completion of all Technical Objectives. Unless otherwise specified by the AO, in writing, in advance of the deadline, all documents, including reports, are to be furnished to the DOE via email to the AO.

SECTION VII: Modifications, Disputes, Termination, and Assignment

Article 7.1: Modifications

Proposals for modifications will be documented in writing and submitted by the Awardee to the AO, or by DOE to the Awardee. Parties may request the technical, schedule, and financial impact of the proposed modification as appropriate.

Any modification, including changes to the Technical Objectives, to this Agreement shall be executed in writing and signed by an authorized representative of DOE and the Awardee. The DOE is not obligated to pay for costs related to modifications. Further, the Awardee is not

⁴ See <https://www.energy.gov/management/department-energy-interim-conflict-interest-policy-requirements-financial-assistance>

obligated to accomplish work prior to mutual agreement between the AO and the Awardee and performs work at risk of not being compensated without mutual agreement, in writing.

For minor or administrative modifications (e.g., changes to the paying office or appropriation data), Awardee approval is not required, unless Awardee timely objects, in writing, to such a proposed minor or administrative modification. In the event of any objection, the modification must be bilaterally executed.

Article 7.2: Disputes

- A. A party that believes there is a dispute about an issue under this Agreement will submit to the other party, via email with receipt acknowledged by the other party, a summary of the dispute. Disputes will be raised by the Awardee to the AO or by the AO to the Awardee point of contact. The AO and awardee will work together to resolve issues or disputes, including using any alternative dispute mechanisms to the maximum extent practicable. Informal resolution, including resolution through an alternative dispute resolution mechanism, will be preferred over formal procedures, to the extent practicable.
- B. DOE Final Determination. If a dispute is not resolved informally between the DOE AO and the Awardee, DOE shall provide a written determination signed by the AO, setting forth DOE's final disposition of such dispute. The determination will include a summary of the dispute and the factual, legal, and if appropriate, policy reasons for DOE's disposition of the dispute.
- C. **Right of Appeal:**
 - a. The final determination under this Article may only be appealed to the cognizant Senior Procurement Executive (SPE), as defined by 41 U.S.C. 1702(c) for the following actions:
 - i. A DOE determination that the awardee has failed to comply with the applicable requirements of the Agreement;
 - ii. termination of an award, in whole or in part, by DOE;
 - iii. the application of DOE of an indirect cost rate; and
 - iv. DOE disallowance of costs.
 - b. The appeal must be received by DOE within 90 days of receipt of the final determination. The mailing address for the DOE SPE is 1000 Independence Ave., SW., Washington DC 20585.
 - c. In reviewing disputes authorized under this article, the SPE will be bound by the applicable law, statutes, and rules, including the requirements of this Article, and by the terms and conditions of this Agreement.
 - d. The decision of the SPE shall be the final decision of DOE.

Article 7.3: Termination

A. Noncompliance. In the event the Awardee failed to comply with the terms and conditions of this Agreement, the AO shall give written notice to the Awardee to comply, including the factual and legal basis for the determination of noncompliance, the corrective actions, and the

date by which they must be taken (not less than 30 days), and which of the actions authorized under 2 CFR 930.345(a) DOE may take if the Awardee does not achieve compliance within the time specified in the written notice. Failure to comply may result in termination of this Agreement;

B. The Parties may mutually agree to terminate in whole or in part this Agreement by providing at least 30 days advance written notice to the other party, provided such notice is preceded by consultation between the Awardee and DOE and a reasonable determination by either party that this Agreement will not produce beneficial results commensurate with the expenditure of resources. Awardee and DOE will negotiate the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. If either the Awardee or the DOE determines in the case of partial termination that the reduced or modified portion of the Agreement will not accomplish its intended purpose, the Agreement may be terminated in its entirety;

B. DOE may terminate the agreement in whole or in part if the Awardee materially fails to comply with the articles or terms and conditions of an agreement, whether stated in a Federal statute, regulation, assurance, application, plan, or the notice of award fails to comply with the articles and requirements of the Agreement. DOE shall promptly provide Awardee with a Cure Notice identifying the Material Breach. Within ten (10) days after receipt of the Cure Notice, Awardee shall respond in writing to the Cure Notice and provide DOE with a Cure Plan;

C. DOE may terminate the agreement if the Awardee files a bankruptcy petition that is not dismissed within ten (10) business days, the Awardee is adjudicated bankrupt or is otherwise insolvent, or the Awardee ceases to do business or otherwise terminates its business operations; and

D. DOE may terminate the agreement if the Awardee fails to achieve a Technical Objectives within the Performance Period of the Agreement.

E. Either party may terminate without cause upon thirty (30) days written notice to the other party. If DOE terminates without cause, the Awardee shall submit an invoice to DOE based on the prorated fixed price for any remaining Milestone and such proration will be based on effort expended from the last Milestone payment up to the point of termination. The AO, in their discretion, will determine if and how much of an appropriate prorated payment is warranted. Selectee acknowledges and agrees that no other compensation, of any nature or type, shall be payable hereunder following the termination of this Agreement.

F. In the event of termination, DOE and the Awardee shall meet to affect an orderly termination of any ongoing or planned activities and will negotiate in good faith for the disposition of the Awardee's Limited Rights Data in the possession of DOE, if applicable. In no case will the Government be liable for expenses or other financial obligations of the Awardee incurred due to early termination.

G. In the event this Agreement is terminated for any reason under paragraphs A-D of this Article, DOE has the right to unilaterally not pay the Awardee. Mutual termination does not impose any requirement that DOE pay in whole or part for Budget Periods not started.

H. In the event of any termination by DOE, neither DOE nor the Awardee shall be liable for any loss of profits, revenue, or any indirect or consequential damages incurred by the other Party, its contractors, subcontractors, or customers as a result of any termination of this Agreement. DOE's or the Awardee's liability for any damages under this Agreement is limited solely to direct damages, incurred by the other Party, as a result of any termination of this Agreement subject to mitigation of such damages by the complaining party. However, in no instance shall DOE's liability for termination exceed the total amount of the Agreement.

Article 7.4 Assignment

Neither this Agreement nor any interest arising under it will be assigned by the Awardee or DOE without the express written consent of the other party.

SECTION VIII: Miscellaneous

Article 8.1: Export Control

Awardee is responsible for ensuring compliance with all applicable United States Export Control laws and regulations relating to any work performed under a resulting Agreement. The Awardee must immediately report to DOE any export control violations related to this Agreement and provide the corrective action(s) to prevent future violations.

Article 8.2: Communication

- A. **Administration.** Unless otherwise provided in this Agreement, approvals permitted or required to be made by DOE, or any other document that binds the government, may be made only by the DOE Agreements Officer who has a warrant including the award of Other Transaction Agreements. Administrative and contractual matters under this Agreement shall be referred to the following representatives of the Parties:

DOE Agreements Officer: XXXX

DOE Grants and Agreements Specialist: XXXX

DOE Patent Counsel: Michael Dobbs, (331) 465-1317, mike.dobbs@science.doe.gov (for all questions regarding Intellectual Property matters)

Awardee: XXXX

- B. **Technical Objectives.** Technical Objectives under this Agreement shall be referred to the following representative:

DOE Program Manager: XXXX

Awardee: XXXX

- C. **Technical.** Technical matters under this Agreement shall be referred to the following representatives:

DOE Program Manager: XXXX

Awardee: XXXX

- D. Change of Designated Representative. Each party may change its representatives named in this Article by written notification to the other party.

Article 8.3: Closeout

Upon Agreement completion, the AO must close out the Agreement in accordance with the Federal-Wide Research Terms and Conditions and DOE Standard Research Terms and Conditions Agency Specific Requirements, Financial Assistance Handbook Chapter 30A - Closeout of Financial Assistance Instruments, 2 *CFR* § 930, and the DOE Office of Scientific and Technical Information (OSTI) E-Link website (<https://www.osti.gov/elink/>), including ensuring all deliverables have been accepted and any audits completed. The Awardee agrees to provide DOE all relevant documents requested to closeout this Agreement.

Article 8.4: Resolution of Conflicting Conditions

Any apparent inconsistency between Federal statutes and regulations and the terms and conditions contained in this Agreement must be referred to the AO for guidance.

Article 8.5: Suspension and Debarment

The Awardee shall not contract with entities that are currently listed on the System for Award Management as suspended or debarred in support of this Agreement. In accordance with Executive Orders 12549 and 12689, the regulations at 2 *CFR* part 180, Guidance for Governmentwide Debarment and Suspension (Non procurement) are applicable to this Agreement.

Article 8.6: Inspector General

- A. The Awardee is required to provide any information, documents, site access, or other assistance requested by DOE or Federal auditing agencies (e.g., DOE Inspector General, Government Accountability Office, Defense Contracting Audit Agency, United States Digital Service, Department of Government Efficiency) for work related to this Agreement. Single Audits are not required under this Agreement.
- B. In the event that the Awardee has Federal funding from another Federal agency or entity, in accordance with 42 U.S.C. § 7137, the Comptroller General of the United States, or any of his duly authorized representatives, shall have access to and the right to examine any books, documents, papers, records, or other recorded information of the Awardee of Federal funds or assistance under this Agreement, including contracts between the Awardee and other entities.

Article 8.7: System for Award Management

The Awardee is required to be registered in the System for Award Management (SAM, www.sam.gov). The Awardee agrees to opt in to SAM notifications and monitor SAM for DOE issued information.

Article 8.8: Insolvency, Bankruptcy or Receivership

- A. The Awardee shall immediately notify DOE of the plans for, or significant likelihood of, any of the following events: (i) the Awardee or the Awardee's parent's filing of a voluntary case seeking liquidation or reorganization under the Bankruptcy Act; (ii) the Awardee's consent to the institution of an involuntary case under the Bankruptcy Act against it or its parent; (iii) the filing of any similar proceeding for or against the Awardee or the Awardee's parent, or its consent to, the dissolution, winding-up or readjustment of its debts, appointment of a receiver, conservator, trustee, or other officer with similar powers over it, under any other applicable state or federal law; or (iv) the Awardee's insolvency due to its inability to pay its debts generally as they become due.
- B. Such notification shall be in writing and shall: (i) specifically set out the details of the occurrence of an event referenced in paragraph A; (ii) provide the facts surrounding that event; and (iii) provide the impact such event will have on the project being funded by this Agreement.
- C. Upon the occurrence of any of the four events described in the first paragraph, DOE reserves the right to conduct a review of the Awardee's agreement to determine their compliance with the required elements of the agreement. If the DOE review determines that there are significant deficiencies or concerns with the Awardee's performance under the agreement, DOE reserves the right to impose additional requirements, as needed.
- D. Failure of the Awardee to comply with this term may be considered a Material Breach of this Agreement.

Article 8.9: Fraud, Waste and Abuse

The Awardee shall disclose, in a timely manner, in writing to DOE all violations of Federal criminal law involving fraud, bribery, or gratuity violations by Awardee, its employees, and agents that potentially affect the award. Compliance with the Rules of Professional Conduct does not violate this paragraph. The DOE Office of Inspector General maintains a Hotline for reporting allegations of fraud, waste, abuse, or mismanagement. To report such allegations, please visit <https://www.energy.gov/ig/ig-hotline>.

Article 8.10: Choice of Law

The Awardee acknowledges that this Agreement is subject to Federal law of the United States.

Article 8.11 NONDISCLOSURE AND CONFIDENTIALITY AGREEMENTS ASSURANCES

- A. By entering into this Agreement, the Awardee does not and will not require its employees or contractors to sign internal nondisclosure or confidentiality agreements or statements prohibiting or otherwise restricting its employees or contractors from lawfully reporting waste, fraud, or abuse to a designated investigative or law enforcement representative of a

federal department or agency authorized to receive such information.

B. The undersigned further attests that Awardee will not implement or enforce any nondisclosure and/or confidentiality policy, form, or agreement it uses in the performance of the Technical Objectives unless it contains the following provisions:

(1) These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to: (a) classified information, (b) communications to Congress, (c) the reporting to an Inspector General or the Office of Special Counsel of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (d) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling.

(2) The limitation above shall not contravene requirements applicable to Standard Form 312, Form 4414, or any other form issued by a Federal department or agency governing the nondisclosure of classified information.

C. Notwithstanding provision listed in paragraph (A), a nondisclosure or confidentiality policy form or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the activity for which such document is to be used. Such form or agreement shall, at a minimum, require that the person will not disclose any classified information received during such activity unless specifically authorized to do so by the United States Government. Such nondisclosure or confidentiality forms shall also make it clear that they do not bar disclosures to Congress, or to an authorized official of an executive agency or the Department of Justice, that are essential to reporting a substantial violation of law.

Article 8.12 CORPORATE FELONY CONVICTION AND FEDERAL TAX LIABILITY ASSURANCES

By entering into this Agreement, the undersigned attests that the Awardee has not been convicted of a felony criminal violation under Federal law in the 24 months preceding the date of signature.

The undersigned further attests that Awardee does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

For purposes of these assurances, the following definitions apply: A Corporation includes any entity that has filed articles of incorporation in any of the 50 states, the District of Columbia, or the various territories of the United States [but not foreign corporations]. It includes both for-profit and non-profit organizations.

Article 8.13 LOBBYING RESTRICTIONS

The Awardee agrees that none of the funds under this Agreement shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. § 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.

Article 8.14 INDEMNIFICATION

The Awardee will indemnify the Government and its officers, agents, or employees for any and all liability, including litigation expenses and attorneys' fees, arising from suits, actions, or claims of any character for death, bodily injury, or loss of or damage to property or to the environment, resulting from the project, except to the extent that such liability results from the direct fault or negligence of Government officers, agents or employees, or to the extent such liability may be covered by applicable allowable costs provisions.

Article 8.15 STATEMENT OF FEDERAL STEWARDSHIP

DOE will exercise normal Federal stewardship in overseeing the project activities performed under this Agreement. Stewardship activities include, but are not limited to, conducting site visits; reviewing performance and financial reports; providing technical assistance and/or temporary intervention in unusual circumstances to correct deficiencies which develop during the project; assuring compliance with terms and conditions; and reviewing technical performance after project completion to ensure that the Technical Objectives have been accomplished.

Article 8.16 SITE VISITS

DOE authorized representatives have the right to make site visits at reasonable times to review project accomplishments and management control systems and to provide technical assistance, if required. You must provide, and must require your subrecipients to provide, reasonable access to facilities, office space, resources, and assistance for the safety and convenience of the government representatives in the performance of their duties. All site visits and evaluations must be performed in a manner that does not unduly interfere with or delay the work.

SECTION IX: DEFINED TERMS

In addition to terms defined in other provisions of this Agreement, the terms and phrases as defined below, when used herein as the defined term shall have the following meanings:

“Allowable Cost” shall mean a cost incurred by a recipient that is: (1) reasonable for the performance of the award; (2) allocable; (3) in conformance with any limitations or exclusions set forth in the Federal cost principles applicable to the organization incurring the cost or in the Agreement documents as to the type or amount of cost; (4) consistent with regulations, policies, and procedures of the recipient that are applied uniformly to both federally supported and other activities of the organization; (5) accorded consistent treatment as a direct or indirect cost; (6) determined in accordance with generally accepted accounting principles; and (7) not included as

a cost in any other federally supported award (unless specifically authorized by statute). See 2 C.F.R. § 200.403.

“AO” shall mean DOE Agreements Officer.

“AI Artifact” shall mean any dataset, code, scripts, pipelines, models (including architectures, parameters, and weights), prompts, outputs, documentation, metadata, test/evaluation suites, synthetic data, and system/model/data cards created, used, or improved under the Project Agreement.

“Covered Individual” means an individual who (a) contributes in a substantive, meaningful way to the scientific development or execution of the scope of work of the agreement, and (b) is designated as a covered individual by DOE. DOE designates as covered individuals any principal investigator (PI); project director (PD); co-principal investigator (Co-PI); co-project director (Co-PD); project manager; and any individual regardless of title that is functionally performing as a PI, PD, Co-PI, Co-PD, or project manager. Submission of a current and pending support disclosure and/or biosketch/resume for a particular person serves as an acknowledgement that DOE designates that person as a covered individual. DOE may further designate covered individuals during the agreement period of performance.

“Curated Data” shall mean any Data generated in Milestone 2.

“Data” shall mean recorded information, regardless of form or the media on which it may be recorded, including Technical Data. The term does not include information incidental to Other Transaction (OT) Agreement administration, such as financial, administrative, cost or pricing or management information.

“Data and Intellectual Property Rights Certification” shall mean a formal written statement, signed by an authorized representative of the Awardee, delivered as part of a Milestone, which attests that the Awardee has the necessary legal and contractual rights to all data, software, and intellectual property used in a delivered AI Artifact, sufficient to enable its deployment and use as contemplated under this Agreement.

“Effective Date” shall mean the date upon which the Agreement will enter into force which will be the date of the last signatory to the Agreement.

“Foreign Country of Concern” shall mean the People's Republic of China, the Russian Federation, the Democratic People's Republic of Korea, the Islamic Republic of Iran, and Belarus, or any other country determined to be a foreign country of concern by the Secretary of State, and including countries of risk designated by DOE. This list is subject to change. DOE reserves the right, in the exercise of its absolute discretion, to add or subtract any foreign country determined to be of risk consistent with DOE policies by a unilateral amendment to this Agreement.

“Foreign Entity” shall mean any corporation, business association, partnership, trust, society, or any other entity or group that is not incorporated or organized to do business in the United States,

as well as international organizations, foreign governments and any agency or subdivision of foreign governments including state-owned enterprises. The term “Foreign Countries of Concern” and “Foreign National” are separate terms and not necessarily covered under the definition of a Foreign Entity although “Foreign Countries of Concern” are also “Foreign Entities”.

“Foreign National” shall mean any individual other than a U.S. citizen.

“Government” shall mean the Federal government of the United States of America including its agencies and departments.

“Intellectual Property” shall mean any and all subject inventions, copyrights, and trademarks developed by an Awardee.

“Key Personnel” shall mean the voting board members, C-suite executives, and other senior personnel identified by Awardee.

“Limited rights data” shall mean data developed at private expense and first produced outside the performance of this agreement that embody trade secrets, or are commercial, or financial, and confidential or privileged.

“Material Breach” shall mean a breach by the Awardee or DOE of any of its obligations under this Agreement including those which result, or are likely to result, in the inability of the Awardee or DOE to effectively comply with the terms of this Agreement.

“Model Data” shall mean any data generated in the performance of Milestone 3.

“Budget” shall mean the financial plan for the project or program that the DOE approves during the Federal award process or in subsequent amendments to the Federal award. It may include the Federal and non-Federal share or only the Federal share, as determined by DOE.

“Non-Public Data” shall mean Data that has not been publicly distributed to others without restriction on further dissemination. Specifically excluded from this definition is data shared at a conference, public talk or other public forum if the data shared is shared without restriction on further dissemination.

“Organizational Conflicts of Interest” shall mean where the Awardee is unable, or appears to be unable, to be impartial in conducting activities under this Agreement due to its relationships with affiliates, organizations, or any other interested party.

“Project Agreement” means an agreement between the Awardee and their partners/collaborators in the performance of the Technical Objectives, which is intended to address all data rights, including allocation of rights to Project AI Artifacts. The Project Agreement includes agreements with DOE National Laboratory, preferably using the preapproved AI Bridge Agreement containing a Data Use Agreement (DUA) template that complies with Article 3.2.

“Project AI Artifact” shall mean AI Artifacts developed in performance of the Technical Objectives, including a Project Agreement.

“Technical Objectives” shall mean the objectives identified in Appendix I – Technical Objectives.

“Unlimited Rights” shall mean the right of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose, and to have or permit others to do so.

IN WITNESS WHEREOF, the Parties have executed this Agreement.

U.S. DEPARTMENT OF ENERGY

AWARDEE

By: _____

[NAME]

Agreements Officer

By: _____

[NAME]

TITLE

Dated: _____

Dated: _____

APPENDIX I

Technical Objectives, Reporting, Deliverables

<u>Technical Objectives#</u>	<u>Technical Objective Title</u>	<u>Technical Objective Description</u>	<u>Data Protection</u>	<u>Quarter Due (from project start)</u>	<u>Federal Share</u>	<u>Awardee Cost Share (\$)</u>
1	Agreements and Alignment	<p>The execution of all agreements within the Application Team within 90 days of award.</p> <ol style="list-style-type: none"> DOE must be provided with a copy of the executed Project Agreement showing execution by at least the Application Team and meeting all requirements of the award, including requirements listed in Article 3.2(1)(d). The Team is encouraged to leverage templates provided by DOE, especially when working with a DOE Laboratory. 	<p>All data delivered to DOE must be delivered with unlimited rights.</p> <p>The Awardee may redact business sensitive portions of the Project Agreement that are not relevant to confirming execution of the agreement amongst the party and compliance with the award terms.</p>	1		

<u>Technical Objectives#</u>	<u>Technical Objective Title</u>	<u>Technical Objective Description</u>	<u>Data Protection</u>	<u>Quarter Due (from project start)</u>	<u>Federal Share</u>	<u>Awardee Cost Share (\$)</u>
2	Data Curation	<p>The curation of all scientific data within the Application Team so that the data is structured, cleaned, and preprocessed in a way that makes it suitable for use in artificial intelligence and machine learning models no later than XXX.</p> <ol style="list-style-type: none"> 1. The curated data must include [Insert a Specific description of the data to be curated] 2. The curated data will be delivered to [Insert Where Curated Data must be delivered. This should typically include delivery to the American Science Cloud] with the following rights: [Insert Specific Data rights approved by cognizant DOE Patent Counsel] 	<p>All data delivered to DOE may be identified as Protected Data except:</p> <ol style="list-style-type: none"> 1. a summary report; and 2. (a) general test or performance results demonstrating technical breakthroughs, Technical Objectives or achievements; (b) general data demonstrating progress toward meeting DOE's technical targets and (c) any research data contained in publications resulting from the 			

<u>Technical Objectives#</u>	<u>Technical Objective Title</u>	<u>Technical Objective Description</u>	<u>Data Protection</u>	<u>Quarter Due (from project start)</u>	<u>Federal Share</u>	<u>Awardee Cost Share (\$)</u>
		<p>3. The curated data must: [Insert specific requirements] [including adherence to data quality standards as may be established by the National Science and Technology Council (NSTC) Machine Learning and AI Subcommittee or other relevant Federal guidance, to ensure suitability for artificial intelligence and machine learning models, and specifically for use in developing next-generation microelectronics and accelerating innovation in discovery science and engineering for new energy technologies via the American science</p>	work under the agreement.			

<u>Technical Objectives#</u>	<u>Technical Objective Title</u>	<u>Technical Objective Description</u>	<u>Data Protection</u>	<u>Quarter Due (from project start)</u>	<u>Federal Share</u>	<u>Awardee Cost Share (\$)</u>
		<p>cloud, while maintaining appropriate privacy and confidentiality protections.]</p> <p>4. As a condition of Technical Objective completion, the Awardee shall deliver to the Agreements Officer (AO) a signed Data and Intellectual Property Rights Certification for the delivered model and all its constituent components. This certification shall, at a minimum, attest to the following:</p> <p>a. That the Awardee has conducted a thorough review of all datasets, software libraries, pre-trained models, and any other intellectual</p>				

<u>Technical Objectives#</u>	<u>Technical Objective Title</u>	<u>Technical Objective Description</u>	<u>Data Protection</u>	<u>Quarter Due (from project start)</u>	<u>Federal Share</u>	<u>Awardee Cost Share (\$)</u>
		<p>property (collectively, “Model Components”) used in the creation, training, and operation of the delivered AI model.</p> <p>b. That the Awardee possesses sufficient rights to all Model Components to permit the deployment of the model on the American Science Cloud, consistent with the terms of this Agreement, the associated Project Agreement, and the requirements of Public Law 119-21, as applicable.</p> <p>c. That the deployment and use of the model as described in this Agreement does not infringe upon any third-party patent, copyright, trade secret, or other intellectual property right.</p> <p>5. d. That all data sourcing and licensing</p>				

<u>Technical Objectives#</u>	<u>Technical Objective Title</u>	<u>Technical Objective Description</u>	<u>Data Protection</u>	<u>Quarter Due (from project start)</u>	<u>Federal Share</u>	<u>Awardee Cost Share (\$)</u>
		documentation has been archived and is available for inspection by DOE upon request.				
3	<u>Creation of an Artificial Intelligence Model</u>	<p>Creation of artificial intelligence models no later than XXX.</p> <ol style="list-style-type: none"> 1. The delivered model must have been created using the data curated in Technical Objective two. 2. The model must perform the following functionality: [INSERT SPECIFIC DETAILS ON THE PERFORMANCE CHARACTERISTICS OF A SUCCESSFUL MODEL] [and demonstrate capabilities for interpretability, control, and robustness against adversarial attacks, as well as 	<p>All data delivered to DOE may be identified as Protected Data except:</p> <ol style="list-style-type: none"> 1. a summary of the report; and 2. (a) general test or performance results demonstrating technical breakthroughs, Technical Objectives or achievements; (b) general data demonstrating progress toward meeting DOE's technical targets and (c) any research 			

<u>Technical Objectives#</u>	<u>Technical Objective Title</u>	<u>Technical Objective Description</u>	<u>Data Protection</u>	<u>Quarter Due (from project start)</u>	<u>Federal Share</u>	<u>Awardee Cost Share (\$)</u>
		<p>incorporating secure-by-design principles to mitigate risks of misuse or unauthorized access. Furthermore, the models shall be designed for seamless integration with and provision to the scientific community through the American science cloud, adhering to its operational and data sharing standards to accelerate innovation in discovery science and engineering for new energy technologies.]</p> <p>3. The model will be:</p> <p style="padding-left: 40px;">a. provided to the scientific community through the American science cloud to</p>	<p>data contained in publications resulting from the work under the agreement.</p>			

<u>Technical Objectives#</u>	<u>Technical Objective Title</u>	<u>Technical Objective Description</u>	<u>Data Protection</u>	<u>Quarter Due (from project start)</u>	<u>Federal Share</u>	<u>Awardee Cost Share (\$)</u>
		<p>accelerate innovation in discovery science and engineering for new energy technologies; and</p> <p>b. deployed to accelerate innovation in discovery science and engineering for new energy technologies by: [DESCRIBE HOW THE MODEL WILL BE DEPLOYED CONSISTENT WITH P.L. 119-21, §50404]</p> <p>4. As a condition of Technical Objective</p>				

<u>Technical Objectives#</u>	<u>Technical Objective Title</u>	<u>Technical Objective Description</u>	<u>Data Protection</u>	<u>Quarter Due (from project start)</u>	<u>Federal Share</u>	<u>Awardee Cost Share (\$)</u>
		<p>completion, the Awardee shall deliver to the Agreements Officer (AO) a signed Data and Intellectual Property Rights Certification for the delivered model and all its constituent components. This certification shall, at a minimum, attest to the following:</p> <p>a. That the Awardee has conducted a thorough review of all datasets, software libraries, pre-trained models, and any other intellectual property (collectively, “Model Components”) used in the creation, training, and operation of the delivered AI model.</p> <p>b. That the Awardee possesses sufficient rights to all Model Components to permit the deployment of the model on</p>				

<u>Technical Objectives#</u>	<u>Technical Objective Title</u>	<u>Technical Objective Description</u>	<u>Data Protection</u>	<u>Quarter Due (from project start)</u>	<u>Federal Share</u>	<u>Awardee Cost Share (\$)</u>
		<p>the American Science Cloud, consistent with the terms of this Agreement, the associated Project Agreement, and the requirements of Public Law 119-21, as applicable.</p> <p>c. That the deployment and use of the model as described in this Agreement does not infringe upon any third-party patent, copyright, trade secret, or other intellectual property right.</p> <p>a. d. That all data sourcing and licensing documentation has been archived and is available for inspection by DOE upon request.</p>				

37 CFR 401.14 DOE Modified Patent Rights Clause*

**the standard patent rights clause at 37 CFR 401.14 has been modified to (1) reflect DOE required subcontracting instructions pursuant to 37 CFR 401.5(a) as well as the deletion of the definition of contractor that does not apply based on the subcontracting instructions; (2) change acquisition terms of contractor, contract and subcontract to financial assistance terms of Awardee, Agreement, subaward or agreement pursuant to 37 CFR 401.5(c); and (3) include paragraph (n) U.S. competitiveness provision pursuant to the Determination of Exceptional Circumstances under the Bayh-Dole Act to Further Promote Domestic Manufacture of DOE Science and Energy Technologies executed by DOE on June 7, 2021.*

(a) Definitions

(1) Invention means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code, or any novel variety of plant which is or may be protected under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.).

(2) Subject invention means any invention of the Awardee conceived or first actually reduced to practice in the performance of work under this agreement, provided that in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act, 7 U.S.C. 2401(d)) must also occur during the period of agreement performance.

(3) Practical Application means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or government regulations, available to the public on reasonable terms.

(4) Made when used in relation to any invention means the conception or first actual reduction to practice of such invention.

(5) Small Business Firm means a small business concern as defined at section 2 of Pub. L. 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in government procurement and subcontracting at 13 CFR 121.3-8 and 13 CFR 121.3-12, respectively, will be used.

(6) Nonprofit Organization means a university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c) and exempt from taxation under section 501(a) of the Internal Revenue Code (25 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

(7) Statutory period means the one-year period before the effective filing date of a claimed invention in a patent application during which exceptions to prior art exist per 35 U.S.C. 102(b) as amended by the Leahy-Smith America Invents Act, Public Law 112-29.

(b) Allocation of Principal Rights

The Awardee may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause and 35 U.S.C. 203. With respect to any subject invention in which the Awardee retains title, the Federal government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

(c) Invention Disclosure, Election of Title and Filing of Patent Application by Awardee

(1) The Awardee will disclose each subject invention to the Federal agency within two months after the inventor discloses it in writing to Awardee personnel responsible for patent matters. The disclosure to the agency shall be in the form of a written report and shall identify the agreement under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention, and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the agency, the Awardee will promptly notify the agency of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the Awardee. If required by the Federal agency, the Awardee will provide periodic (but no more frequently than annual) listings of all subject inventions which were disclosed to the agency during the period covered by the report, and will provide a report prior to the close-out of a funding agreement listing all subject inventions or stating that there were none.

(2) The Awardee will elect in writing whether or not to retain title to any such invention by notifying the Federal agency within two years of disclosure to the Federal agency. However, in any case where a patent, a printed publication, public use, sale, or other availability to the public has initiated the one year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by the agency to a date that is no more than 60 days prior to the end of the statutory period.

(3)(i) The Awardee will file its initial patent application on a subject invention to which it elects to retain title within one year after election of title or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use.

(ii) If the Awardee files a provisional application as its initial patent application, it shall file a non-provisional application within 10 months of the filing of the provisional application. So long as there is a pending patent application for the subject invention and the statutory period wherein valid patent protection can be obtained in the United States has not expired, additional provisional applications may be filed within the initial 10 months or any extension period granted under paragraph (c)(5) of this clause. If an extension(s) is granted under paragraph (c)(5) of this clause, the

Awardee shall file a nonprovisional patent application prior to the expiration of the extension(s) or notify the agency of any decision not to file a nonprovisional application prior to the expiration of the extension(s), or if earlier, 60 days prior to the end of any statutory period wherein valid patent protection can be obtained in the United States.

(iii) The Awardee will file patent applications in additional countries or international patent offices within either ten months of the first filed patent application or six months from the date permission is granted by the Commissioner of Patents to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(iv) If required by the Federal agency, the Awardee will provide the filing date, patent application number and title; a copy of the patent application; and patent number and issue date for any subject invention in any country in which the Awardee has applied for a patent.

(4) For any subject invention with Federal agency and Awardee co-inventors, where the Federal agency employing such co-inventor determines that it would be in the interest of the government, pursuant to 35 U.S.C. § 207(a)(3), to file an initial patent application on the subject invention, the Federal agency employing such co-inventor, at its discretion and in consultation with the Awardee, may file such application at its own expense, provided that the Awardee retains the ability to elect title pursuant to 35 U.S.C. 202(a).

(5) Requests for extension of the time for disclosure, election, and filing under paragraphs (1), (2), and (3) of this clause may, at the discretion of the Federal agency, be granted. When a Awardee has requested an extension for filing a non-provisional application after filing a provisional application, a one-year extension will be granted unless the Federal agency notifies the Awardee within 60 days of receiving the request.

(6) In the event a subject invention is made under funding agreements of more than one agency, at the request of the Awardee or on their own initiative the agencies shall designate one agency as responsible for administration of the rights of the government in the invention.

(d) Conditions When the Government May Obtain Title

(1) A Federal agency may require the Awardee to convey title to the Federal agency, of any subject invention -

(i) If the Awardee fails to disclose or elect title to the subject invention within the times specified in paragraph (c) of this clause, or elects not to retain title.

(ii) In those countries in which the Awardee fails to file patent applications within the times specified in paragraph (c) of this clause; provided, however, that if the Awardee has filed a patent application in a country after the times specified in paragraph (c) of this clause, but prior to its receipt of the written request of the Federal agency, the Awardee shall continue to retain title in that country.

(iii) In any country in which the Awardee decides not to continue the prosecution of

any non-provisional patent application for, to pay a maintenance, annuity or renewal fee on, or to defend in a reexamination or opposition proceeding on, a patent on a subject invention.

(iv) Upon breach of paragraph (n) U.S. Competitiveness of this Patent Rights clause.

(2) A Federal agency at its discretion, may waive the requirement for the Awardee to convey title to any subject invention.

(e) Minimum Rights to Awardee and Protection of the Awardee Right to File

(1) The Awardee will retain a nonexclusive royalty-free license throughout the world in each subject invention to which the Government obtains title, except if the Awardee fails to disclose the invention within the times specified in (c), above. The Awardee's license extends to its domestic subsidiary and affiliates, if any, within the corporate structure of which the Awardee is a party and includes the right to grant sublicenses of the same scope to the extent the Awardee was legally obligated to do so at the time the agreement was awarded. The license is transferable only with the approval of the Federal agency except when transferred to the successor of that party of the Awardee's business to which the invention pertains.

(2) The Awardee's domestic license may be revoked or modified by the funding Federal agency to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions at 37 C.F.R. § part 404 and agency licensing regulations (if any). This license will not be revoked in that field of use or the geographical areas in which the Awardee has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the funding Federal agency to the extent the Awardee, its licensees, or the domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, the funding Federal agency will furnish the Awardee a written notice of its intention to revoke or modify the license, and the Awardee will be allowed thirty days (or such other time as may be authorized by the funding Federal agency for good cause shown by the Awardee) after the notice to show cause why the license should not be revoked or modified. The Awardee has the right to appeal, in accordance with applicable regulations in 37 CFR part 404 and agency regulations (if any) concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of the license.

(f) Awardee Action to Protect the Government's Interest

(1) The Awardee agrees to execute or to have executed and promptly deliver to the Federal agency all instruments necessary to (i) establish or confirm the rights the Government has throughout the world in those subject inventions to which the Awardee elects to retain title, and (ii) convey title to the Federal agency when requested under paragraph (d) above and to enable the government to obtain patent protection throughout the world in that subject invention.

(2) The Awardee agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Awardee each subject invention made under agreement in order that the Awardee can comply with the disclosure provisions of paragraph (c) of this clause, to assign to the Awardee the entire right, title and interest in and to each subject invention made under agreement, and to execute all papers necessary to file patent applications on subject inventions and to establish the government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by paragraph (c)(1) of this clause. The Awardee shall instruct such employees through employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) For each subject invention, the Awardee will, no less than 60 days prior to the expiration of the statutory deadline, notify the Federal agency of any decision: Not to continue the prosecution of a non-provisional patent application; not to pay a maintenance, annuity or renewal fee; not to defend in a reexamination or opposition proceeding on a patent, in any country; to request, be a party to, or take action in a trial proceeding before the Patent Trial and Appeals Board of the U.S. Patent and Trademark Office, including but not limited to post-grant review, review of a business method patent, inter partes review, and derivation proceeding; or to request, be a party to, or take action in a non-trial submission of art or information at the U.S. Patent and Trademark Office, including but not limited to a pre-issuance submission, a post-issuance submission, and supplemental examination.

(4) The Awardee agrees to include, within the specification of any United States patent applications and any patent issuing thereon covering a subject invention, the following statement, "This invention was made with government support under awarded by U.S. Department of Energy. The government has certain rights in the invention."

(g) Subaward/Contract

(1) The Awardee will include this clause, suitably modified to identify the parties, in all subawards/contracts, regardless of tier, for experimental, developmental, or research work. The subAwardee/contractor will retain all rights provided for the Awardee in this clause, and the Awardee will not, as part of the consideration for awarding the subaward/ contract, obtain rights in the subAwardee's/contractor's subject inventions.

(2) The above requirement in (g)(1) does not apply for any agreement with a DOE laboratory. The Awardee and the DOE laboratory shall use a technology transfer agreement (e.g., Bridge Agreement, Strategic Partnership Project (SPP), Cooperative Research and Development Agreement (CRADA)) that is executed by the Awardee and the DOE laboratory and approved by DOE. The technology transfer agreement will provide the applicable patent rights clause for the work to be performed by the DOE laboratory.

(h) Reporting on Utilization of Subject Inventions

The Awardee agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the Awardee or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Awardee, and such other data and information as the agency may reasonably specify. The Awardee also agrees to provide additional reports as may be requested by the agency in connection with any march-in proceeding undertaken by the agency in accordance with paragraph (j) of this clause. As required by 35 U.S.C. 202(c)(5), the agency agrees it will not disclose such information to persons outside the government without permission of the Awardee.

(i) Preference for United States Industry

Notwithstanding any other provision of this clause, the Awardee agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any subject inventions in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the Federal agency upon a showing by the Awardee or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(j) March-in Rights

The Awardee agrees that with respect to any subject invention in which it has acquired title, the Federal agency has the right in accordance with the procedures in 37 CFR 401.6 and any supplemental regulations of the agency to require the Awardee, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Awardee, assignee, or exclusive licensee refuses such a request the Federal agency has the right to grant such a license itself if the Federal agency determines that:

- (1) Such action is necessary because the Awardee or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use.
- (2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Awardee, assignee or their licensees;
- (3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Awardee, assignee or licensees; or
- (4) Such action is necessary because the agreement required by paragraph (i) of this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

(5) Special Provisions for Agreements with Nonprofit Organizations If the Awardee is a nonprofit organization, it agrees that:

- (i) Rights to a subject invention in the United States may not be assigned without the approval of the Federal agency, except where such assignment is made to an organization which has as one of its primary functions the management of inventions, provided that such assignee will be subject to the same provisions as the Awardee;
- (ii) The Awardee will share royalties collected on a subject invention with the inventor, including Federal employee co-inventors (when the agency deems it appropriate) when the subject invention is assigned in accordance with 35 U.S.C. 202(e) and 37 CFR 401.10;
- (iii) The balance of any royalties or income earned by the Awardee with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, will be utilized for the support of scientific research or education; and
- (iv) It will make efforts that are reasonable under the circumstances to attract licensees of subject inventions that are small business firms and that, when appropriate, it will give a preference to a small business firm when licensing a subject invention;
- (v) The Federal agency may review the Awardee's licensing program and decisions regarding small business applicants, and the Awardee will negotiate changes to its licensing policies, procedures, or practices with the Federal agency when the Federal agency's review discloses that the Awardee could take reasonable steps to more effectively implement the requirements of paragraph (k)(4) of this clause; and
- (vi) The Federal agency may take into consideration concerns presented by small businesses in making such determinations in paragraph (k)(5) of this clause.

(k) Communication

All communications under this clause shall be submitted through iEdison <https://www.nist.gov/iedison> to the extent possible, unless otherwise directed by DOE Patent Counsel. For assistance with iEdison, please contact iedison@nist.gov. For assistance regarding DOE's administration of Subject Inventions or patents, please contact Intellectual Property Law (IPL) at (630) 283-7117 or Chicago- IP@science.doe.gov. All other questions should be directed to:

Michael J. Dobbs
Deputy Chief Counsel Intellectual Property Law
U.S. Department of Energy
9800 S. Cass Ave., Lemont, IL 60439
Email: Mike.Dobbs@science.doe.gov
Office: (331) 465-1317

(l) Electronic Filing.

(1) Unless otherwise requested or directed by the Federal agency --

- (i) The written disclosure required in (c)(1) of this clause shall be electronically filed;
- (ii) The written election required in (c)(2) of this clause shall be electronically filed; and
- (iii) If required by the agency to be submitted, the close-out report in paragraph (c)(1) of this clause and the patent information and periodic reporting identified in paragraph (c)(3) of this clause shall be electronically filed.

(2) Other written notices required in this clause may be electronically delivered to the agency or the contractor through an electronic database used for reporting subject inventions, patents, and utilization reports to the funding agency.

(m) U.S. Competitiveness

The Awardee agrees that any products embodying any subject invention or produced through the use of any subject invention will be manufactured substantially in the United States unless the Awardee can show to the satisfaction of DOE that it is not commercially feasible. In the event DOE agrees to foreign manufacture, there will be a requirement that the Government's support of the technology be recognized in some appropriate manner, e.g., alternative binding commitments to provide an overall net benefit to the U.S. economy. The Awardee agrees that it will not license, assign or otherwise transfer any subject invention to any entity, at any tier, unless that entity agrees to these same requirements. In the event that the Awardee or other such entity receiving rights in the Subject Invention undergoes a change in ownership amounting to a controlling interest, the Awardee or other such entity receiving rights shall ensure continual compliance with the requirements of this paragraph (n) and shall inform DOE, in writing, of the change in ownership within six months of the change. The Awardee and any successor assignee will convey to DOE, upon written request from DOE, title to any subject invention, upon a breach of this paragraph (n). The Awardee will include this paragraph (n) in all subawards/contracts, regardless of tier, for experimental, developmental or research work.

(n) The requirements, rights and administration of paragraph (n) are further clarified as follows:

1. Waivers. The Awardee (or any entity subject to paragraph (n)) may request a waiver or modification of paragraph (n). Such waivers or modifications may be granted when DOE determines that (1) the Awardee (or any entity subject to paragraph (n)) has demonstrated, with quantifiable data, that manufacturing in the United States is not commercially feasible and (2) a waiver or modification would best serve the interests of the United States and the general public.
2. Final determination of breach of paragraph (n). If DOE determines the Awardee is in breach of paragraph (n), the Department may issue a final written determination of such breach. If such determination includes a demand for title to the subject inventions under the award, the demand for title will cause an immediate conveyance and assignment of all rights to all subject inventions under the Agreement to the United States Government, including all pending U.S. and

foreign patent applications and all U.S. and foreign patents that cover any subject invention, without compensation. Any such final determination shall be signed by the cognizant DOE Contracting Officer with the concurrence of the Assistant General Counsel for Technology Transfer & Intellectual Property. Advanced notice will be provided for comment to the Awardee before any final written determination by DOE is issued.

3. Pursuant to Awardee's agreement in paragraph (n) to not license, assign or otherwise transfer rights to subject inventions at any tier unless the entity agrees to paragraph (n): any such license, assignment, or other transfer of right to any subject invention developed under the Agreement shall contain paragraph (n) suitably modified to properly identify the parties. If a licensee, assignee, or other transferee of rights to any subject invention is finally determined by DOE in writing to be in breach of paragraph (n), the applicable license, assignment or other transfer shall be deemed null and void. Advanced notice will be provided for comment to the non-complying party before any final written determination by DOE is made.

For clarity, if the forfeiture of title to any subject invention is due to a breach of paragraph (n), the Awardee shall not be entitled to any compensation, or to a license to the subject invention including the reserved license in section (e)(1), unless DOE grants a license through a separately agreed upon licensing

Article 3.1.1 Invention Certification

Upon closeout, the Awardee will provide an Invention Certification (available at <https://science.osti.gov/-/media/occ/pdf/Invention-Certification.pdf>) including a listings of all Subject Inventions

(a) Allocation of Principal Rights

The Awardee may retain the entire right, title, and interest throughout the world to each Subject Invention subject to the provisions of this clause. With respect to any Subject Invention in which the Awardee retains title, the Federal government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the Subject Invention throughout the world. This license specifically extends to the use of Subject Inventions within the “American science cloud” and for the development and dissemination of AI models for science and engineering as described in §50404 of P.L. 119-21.

(b) Invention Disclosure, Election of Title and Filing of Patent Application by Awardee

- (1)The Awardee will disclose each Subject Invention to DOE prior to the corresponding request for Milestone Payment or prior to termination of this Agreement that the Awardee has received from an inventor in writing with sufficient detail to enable a patent attorney to reasonably prepare a patent application. After the corresponding request for Milestone Payment, the Awardee will disclose any additional Subject Inventions to DOE within two months after the inventor discloses it in writing with sufficient detail to enable a patent attorney to reasonably prepare a patent application. The disclosure to DOE shall be in the form of a written report and shall identify the agreement under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding, to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention, and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to DOE, the Awardee will promptly notify DOE of the acceptance of any manuscript describing the invention for publication, or of any on sale or public use planned by the Awardee. The Awardee will provide an Invention Certification (available at <https://science.osti.gov/-/media/occ/pdf/Invention-Certification.pdf>) including a listings of all Subject Inventions disclosed to the Awardee by an inventor in writing with sufficient detail to enable a patent attorney to reasonably prepare a patent application and made in the performance of a Milestone or stating none prior to the request for Milestone Payment or termination of this Agreement.
- (2)The Awardee will elect in writing whether or not to retain title to any such invention by notifying DOE within two years of disclosure to DOE. However, in any case where a patent, a printed publication, public use, sale, or other availability to the public has initiated the one year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by the agency to a date that is no more than 60 days prior to the end of the statutory period.
- (3)The Awardee will file its initial patent application on a Subject Invention to which it elects to retain title within one year after election of title or, if earlier, prior to the

end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public.

- (4) Requests for extension of the time for disclosure, election, and filing under paragraphs (1), (2), and (3) of this clause may, at the discretion of DOE, be granted. When an Awardee has requested an extension for filing a non-provisional application after filing a provisional application, a one-year extension will be granted, unless DOE notifies the Awardee within 60 days of receiving the request.

(c) Conditions When the Government May Obtain Title

The Awardee will convey to DOE, upon written request, title to any Subject Invention –

- (1) If the Awardee fails to disclose a Subject Invention within the times specified in Paragraph (a) of this clause or if the Awardee fails to elect title to the Subject Invention within the times specified in paragraph (a) of this clause or elects not to retain title and the Awardee has been given at least 30 days to cure the failure to elect title.
- (2) In those countries in which the Awardee fails to file patent applications within the times specified in paragraph (c) of this clause; provided, however, that if the Awardee has filed a patent application in a country after the times specified in paragraph (a) of this clause, but prior to its receipt of the written request of the Federal agency, the Awardee shall continue to retain title in that country.
- (3) In any country in which the Awardee decides not to continue the prosecution of any non- provisional patent application for, to pay a maintenance, annuity or renewal fee on, or to defend in a reexamination or opposition proceeding on, a patent on a Subject Invention.
- (4) Upon breach of paragraph (k) U.S. Competitiveness of this Patent Rights clause.

(d) Awardee Action to Protect the Government's Interest

- (1) The Awardee agrees to execute or to have executed and promptly deliver to DOE a [Confirmatory License](#) to (i) establish or confirm the rights the Government has throughout the world in those Subject Inventions to which the Awardee elects to retain title.
- (2) The Awardee agrees to convey title to the Federal agency when requested under paragraph (b) above and to enable the government to obtain patent protection throughout the world in that Subject Invention. The Awardee agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Awardee each Subject Invention made under agreement in order that the Awardee can comply with the disclosure provisions of paragraph (a) of this clause
- (3) For each Subject Invention, the Awardee will, no less than 60 days prior to the expiration of the statutory deadline, notify DOE of any decision: Not to continue the prosecution of a non-provisional patent application; not to pay a maintenance, annuity or renewal fee; not to defend in a reexamination or opposition proceeding on a patent, in any country; to request, be a party to, or take action in a trial proceeding

before the Patent Trial and Appeals Board of the U.S. Patent and Trademark Office, including but not limited to post-grant review, review of a business method patent, inter partes review, and derivation proceeding; or to request, be a party to, or take action in a non-trial submission of art or information at the U.S. Patent and Trademark Office, including but not limited to a pre-issuance submission, a post-issuance submission, and supplemental examination.

- (4) The Awardee agrees to include, within the specification of any United States patent applications and any patent issuing thereon covering a Subject Invention, the following statement, “This invention was made with government support under awarded by U.S. Department of Energy. The government has certain rights in the invention.”

(e) Subawards

- (1) The Awardee will include this Appendix II, suitably modified to identify the parties, in all subawards and subcontracts, regardless of tier, for experimental, developmental or research work, unless otherwise approved in writing by DOE.
- (2) Notwithstanding the above, all agreements with DOE Laboratories must use an agreement approved by DOE.
- (3) DOE and the Awardee agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and DOE with respect to the matters covered by this clause.

(f) Reporting on Utilization of Subject Inventions

Upon the request of DOE, the Awardee agrees to submit periodic reports no more frequently than annually on the utilization of a Subject Invention or on efforts at obtaining such utilization that are being made by the Awardee or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Awardee, and such other data and information as the agency may reasonably specify. As required by 35 U.S.C. 202(c)(5), DOE agrees it will not disclose such information to persons outside the government without permission of the Awardee.

(g) Preference for United States Industry

Notwithstanding any other provision of this clause, the Awardee agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any subject inventions in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the Federal agency upon a showing by the Awardee or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(h) March-in Rights

The Awardee agrees that with respect to any subject invention in which it has acquired title, the Federal agency has the right in accordance with the procedures in 37 CFR 401.6 and any supplemental regulations of the agency to require the Awardee, an

assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Awardee, assignee, or exclusive licensee refuses such a request the Federal agency has the right to grant such a license itself if the Federal agency determines that:

- (1) Such action is necessary because the Awardee or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use.
- (2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Awardee, assignee or their licensees;
- (3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Awardee, assignee or licensees; or
- (4) Such action is necessary because the agreement required by paragraph (i) of this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

(i) Special Provisions for Agreements with Nonprofit Organizations

If the Awardee is a nonprofit organization, it agrees that:

- (1) Rights to a subject invention in the United States may not be assigned without the approval of the Federal agency, except where such assignment is made to an organization which has as one of its primary functions the management of inventions, provided that such assignee will be subject to the same provisions as the Awardee;
- (2) (ii) The Awardee will share royalties collected on a subject invention with the inventor, including Federal employee co-inventors (when the agency deems it appropriate) when the subject invention is assigned in accordance with 35 U.S.C. 202(e) and 37 CFR 401.10;
- (3) (iii) The balance of any royalties or income earned by the Awardee with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, will be utilized for the support of scientific research or education; and
- (4) (iv) It will make efforts that are reasonable under the circumstances to attract licensees of subject inventions that are small business firms and that, when appropriate, it will give a preference to a small business firm when licensing a subject invention;
- (5) (v) The Federal agency may review the Awardee's licensing program and decisions regarding small business applicants, and the Awardee will negotiate changes to its licensing policies, procedures, or practices with the Federal agency when the Federal agency's review discloses that the Awardee could take reasonable steps to more effectively implement the requirements of paragraph (4) of this clause (i); and
- (6) (vi) The Federal agency may take into consideration concerns presented by small businesses in making such determinations in paragraph (5) of this clause (i).

(j) All communications under this clause shall be submitted through iEdison

<https://www.nist.gov/iedison> to the extent possible, unless otherwise directed by DOE Patent Counsel. For assistance with iEdison, please contact iedison@nist.gov. For

assistance regarding DOE's administration of Subject Inventions or patents, please contact Intellectual Property Law (IPL) at (630) 283-7117 or Chicago-IP@science.doe.gov. All other questions should be directed to:

Michael J. Dobbs, Deputy Chief Counsel
Intellectual Property Law
U.S. Department of Energy
9800 S. Cass Ave., Lemont, IL 60439
Email: Mike.Dobbs@science.doe.gov
Office: (331) 465-1317
Mobile: (630) 631-8360

(k) U.S. Competitiveness

The Awardee agrees that any products embodying any subject invention or produced through the use of any subject invention will be manufactured substantially in the United States unless the Awardee can show to the satisfaction of DOE that it is not commercially feasible. In the event DOE agrees to foreign manufacture, there will be a requirement that the Government's support of the technology be recognized in some appropriate manner, e.g., alternative binding commitments to provide an overall net benefit to the U.S. economy. The Awardee agrees that it will not license, assign or otherwise transfer any subject invention to any entity, at any tier, unless that entity agrees to these same requirements. In the event that the Awardee or other such entity receiving rights in the Subject Invention undergoes a change in ownership amounting to a controlling interest, the Awardee or other such entity receiving rights shall ensure continual compliance with the requirements of this paragraph (k) and shall inform DOE, in writing, of the change in ownership within six months of the change. The Awardee and any successor assignee will convey to DOE, upon written request from DOE, title to any subject invention, upon a breach of this paragraph (k). The Awardee will include this paragraph (k) in all subawards/contracts, regardless of tier, for experimental, developmental or research work.

(l) The requirements, rights and administration of paragraph (k) are further clarified as follows:

1. Waivers. The Awardee (or any entity subject to paragraph (k)) may request a waiver or modification of paragraph (k). Such waivers or modifications may be granted when DOE determines that (1) the Awardee (or any entity subject to paragraph (n)) has demonstrated, with quantifiable data, that manufacturing in the United States is not commercially feasible and (2) a waiver or modification would best serve the interests of the United States and the general public.
2. Final determination of breach of paragraph (k). If DOE determines the Awardee is in breach of paragraph (k), the Department may issue a final written determination of such breach. If such determination includes a demand for title to the subject inventions under the award, the demand for title will cause an immediate conveyance and assignment of all rights to all subject inventions under the Agreement to the United States Government, including all pending U.S. and

foreign patent applications and all U.S. and foreign patents that cover any subject invention, without compensation. Any such final determination shall be signed by the cognizant DOE Contracting Officer with the concurrence of the Assistant General Counsel for Technology Transfer & Intellectual Property. Advanced notice will be provided for comment to the Awardee before any final written determination by DOE is issued.

3. Pursuant to Awardee's agreement in paragraph (k) to not license, assign or otherwise transfer rights to subject inventions at any tier unless the entity agrees to paragraph (k): any such license, assignment, or other transfer of right to any subject invention developed under the Agreement shall contain paragraph (n) suitably modified to properly identify the parties. If a licensee, assignee, or other transferee of rights to any subject invention is finally determined by DOE in writing to be in breach of paragraph (k), the applicable license, assignment or other transfer shall be deemed null and void. Advanced notice will be provided for comment to the non-complying party before any final written determination by DOE is made.

Data Rights Clause

(a) Definitions

(1) SECTION IX of the Other Transaction (OT) Agreement is incorporated herein by reference.

(b) The Awardee:

(1) shall have the right to establish claim to copyright subsisting in any Data first produced in the performance of this OT Agreement, without the prior approval of the DOE.

(2) expressly warrants that it has the necessary rights to distribute all data exchanged in the performance of the work under the OT Agreement and that it has provided all parties performing work under the OT Agreement and the Government with any licenses necessary to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly for all Data delivered.

(3) shall negotiate and execute a Project Agreement including the allocation of data rights comprising at least a warranty consistent with section (2) above, unless otherwise approved by the Agreement Officer.

(c) The Government shall:

(1) have Unlimited Rights in all delivered Data.

(2) at its sole discretion, disregard and remove any protective markings on any Data delivered. However, the Awardee shall be provided with at least 30 days to redeliver such data with corrected markings.

(3) have a paid-up nonexclusive, irrevocable, worldwide license to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government, for all Data delivered.

(d) The terms and conditions of this Appendix II shall survive this Agreement.

Data Rights

(a) Definitions

- (1) SECTION IX of the Other Transaction (OT) Agreement is incorporated herein by reference.
- (2) Limited rights Data, as used in this clause, means data (other than computer software) developed at private expense that embody trade secrets or are commercial or financial and confidential or privileged.
- (3) Restricted Computer Software, as used in this clause, means computer software developed at private expense and that is a trade secret; is commercial or financial and confidential or privileged; or is published copyrighted computer software; including modifications of such computer software.

(b) The Awardee shall:

- (1) have the right to protect the Limited Rights Data with the following notice.

Limited Rights Notice

- (a) These data are submitted with limited rights under Government agreement No. (and subaward/ contract No.). These data may be reproduced and used by the Government with the express limitation that they will not, without written permission of the Awardee, be used or disclosed outside the Government; except that the Government may disclose these data outside the Government for the following purposes, provided that the Government makes such disclosure subject to prohibition against further use and disclosure:
 - (i) Use by Federal support services contractors within the scope of their contracts, including, but not limited to, DOE Laboratories; or
 - (ii) for evaluation purposes to DOE Laboratories, and non-profit research institutions.
- (b) This Notice shall be marked on any reproduction of this data, in whole or in part.

(End of notice)

- (2) have the right to protect the Curated Data and the Model Data developed in the performance of work under the OT Agreement with the following notice.

Protected Rights Notice

- (1) These protected data were produced under agreement no. _____ with the U.S. Department of Energy and may not be published, disseminated, or disclosed to others outside the Government or its contractors until **[Insert term as authorized by DOE]** years after the date the data were first produced except for: (1) evaluation of work under the Other Transactions (OT) Agreement under the restriction that this data be will be retained in confidence and not be further disclosed or (2) disclosure to a DOE Laboratory Contractor under the restriction that this data be will be retained in confidence and not be further disclosed, unless express written authorization is obtained from the Awardee. Upon expiration of the period

of protection set forth in this Notice, the Government shall have unlimited rights in this data. This Notice shall be marked on any reproduction of this data, in whole or in part.

(End of notice)

- (3) Have the right to establish claim to copyright subsisting in any Data first produced in the performance of this Agreement, without the prior approval of the DOE.
 - (4) Obtain all Data and rights therein necessary to fulfill its obligations to the Government under this Agreement.
 - (5) Negotiate and execute a Project Agreement including the allocation of data rights comprising at least the following elements, unless otherwise approved by the Agreement Officer:
 - (i) All provisions required to be incorporated in subagreements by this OT Agreement, including, but not limited to, as required by this Appendix II.
 - (ii) An express warranty from each party that that it has the necessary rights to all information and data exchanged in the performance of work under the OT Agreement for the intended use, including that such data does not violate privacy, confidentiality, third-party IP, or contractual restrictions. The Parties shall agree to provide data source and license documentation upon request.
 - (iii) The protection of any data shared amongst the parties consistent with the OT Agreement, including its Appendices.
 - (iv) Allocation of rights in Project AI Artifacts generated in the performance of work under the OT Agreement.
- (c) The Government shall:
- (1) Have unlimited rights in all delivered Data not having the Protected Rights Notice listed in (b)(1) of this Appendix.
 - (2) At its sole discretion, disclose any delivered Data for use solely in the evaluation of work under the OT Agreement under the restriction that any Data provided with the above Protected Rights Notice will be retained in confidence and not be further disclosed.
 - (3) At its sole discretion, disregard and remove any protective markings not authorized by 1(a) and 1(b) of this Appendix. However, the Awardee shall be provided with at least 30 days to redeliver such data with corrected markings.
 - (4) At its sole discretion, disregard and remove any protective markings on Data delivered:
 - (i) at the end of the protection period;
 - (ii) upon breach of Section (d) entitled “Access Restrictions and Limited U.S. First Deployment”;
 - (iii) if the data becomes publicly known or available from other sources; or
 - (iv) if the Awardee disseminates or authorizes DOE or another to disseminate such data without obligations of confidentiality.
 - (5) Have a paid-up nonexclusive, irrevocable, worldwide license to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government, for all Data delivered. Notwithstanding the foregoing, Data properly marked with the above Protective Notice shall be prohibited from disclosure outside the Government as required by the Protective Notice.
- (d) **Access Restrictions and Limited U.S. First Deployment**
- (1) Definitions
 - (i) “AI Artifact” shall mean any dataset, code, scripts, pipelines, models (including

- architectures, parameters, and weights), prompts, outputs, documentation, metadata, test/evaluation suites, synthetic data, and system/model/data cards created, used, or improved under the Project Agreement.
- (ii) “Data” shall mean recorded information, regardless of form or the media on which it may be recorded, including Technical Data. The term does not include information incidental to Other Transaction (OT) Agreement administration, such as financial, administrative, cost or pricing or management information.
 - (iii) “Foreign Country of Concern” shall mean the People's Republic of China, the Russian Federation, the Democratic People's Republic of Korea, the Islamic Republic of Iran, and Belarus, or any other country determined to be a foreign country of concern by the Secretary of State, and including countries of risk designated by DOE. This list is subject to change. DOE reserves the right, in the exercise of its absolute discretion, to add or subtract any foreign country determined to be of risk consistent with DOE policies by a unilateral amendment to this Agreement.
 - (iv) “Foreign Entity” shall mean any corporation, business association, partnership, trust, society, or any other entity or group that is not incorporated or organized to do business in the United States, as well as international organizations, foreign governments and any agency or subdivision of foreign governments including state-owned enterprises. The term “Foreign Countries of Concern” and “Foreign National” are separate terms and not necessarily covered under the definition of a Foreign Entity although “Foreign Countries of Concern” are also “Foreign Entities”.
 - (v) “Foreign National” shall mean any individual other than a U.S. citizen.
 - (vi) “Government” shall mean the Federal government of the United States of America including its agencies and departments.
 - (vii) “Intellectual Property” shall mean any and all subject inventions, copyrights, and trademarks developed by an Awardee.
 - (viii) “Non-Public Data” shall mean Data that has not been publicly distributed to others without restriction on further dissemination. Specifically excluded from this definition is data shared at a conference, public talk or other public forum if the data shared is shared without restriction on further dissemination.
 - (ix) “Project Agreement” means an agreement between the Awardee and their partners/collaborators in the performance of the Milestones, which is intended to address all data rights, including allocation of rights to Project AI Artifacts. The Project Agreement includes agreements with DOE National Laboratory, preferably using the preapproved AI BRIDGE AGREEMENT containing a Data Use Agreement (DUA) template that complies with Article 3.2.
 - (x) “Project AI Artifact” shall mean AI Artifacts developed in performance of the Milestones, including a Project Agreement.
- (2) Access and Transfer Prohibition. Awardee agrees not to provide or allow others to provide access to any Non-Public Data or to license, assign or otherwise transfer any rights in Intellectual Property or Non-Public Data generated under this Agreement, at any tier, to entities with foreign ownership, interest, or control by a government or entity subject to the jurisdiction of a Foreign Country of Concern, without DOE’s prior written approval. Any failure to comply with this provision will be a breach of this Agreement and subject to available remedies for noncompliance. Specifically excluded from this restriction is a royalty free grant of a non-exclusive license of intellectual property to the

- general public (e.g. an open-source license or public domain).
- (3) Limited U.S. First Deployment. For a period of two years from the completion or termination of the Prime Agreement with DOE, the Awardee agrees not to provide or allow others to provide access to any Non-Public Data or to license, assign or otherwise transfer any rights in Intellectual Property or Non-Public Data generated under this Agreement, at any tier, to entities with foreign ownership, interest, or control by a government or entity not subject to the jurisdiction of the United States of America, without DOE's prior written approval. Specifically excluded from this restriction is a royalty free grant of a non-exclusive license of Intellectual Property or Non-Public Data to the general public (e.g. an open-source license or public domain). Any failure to comply with this provision will be a breach of this Agreement and subject to available remedies for noncompliance.
 - (4) Immediate Access Termination. Any access or transfer of rights in violation of the above terms shall be immediately null and void. In the event of any rights holder's bankruptcy or related financial proceeding, insolvency, or other material financial distress that, in the sole judgment of DOE, creates an unmanageable risk of unauthorized transfer or disclosure of Intellectual Property and/or Non-Public Data to a Foreign Country of Concern, all rights granted or access provided shall terminate immediately, and the Awardee shall take all necessary steps to secure and prevent further dissemination of such Intellectual Property and/or Non-Public Data.
 - (5) The Awardee shall include this clause, suitably modified to identify the parties, in all subawards/contracts, regardless of tier, that may include the exchange of Non-Public Data.
- (e) The terms and conditions of this Appendix II shall survive this Agreement.

Genesis Mission Project Data Use Agreement (DUA)

Parties	<i>[DOE National Laboratory Project Lead]</i>	<i>[Participant]</i>
Effective Date	[]	
Definitions	AI Artifact	any Data in the form of dataset, code, scripts, pipelines, models (including architectures, and Weights/Parameters), prompts, outputs, documentation, metadata, test/evaluation suites, synthetic data, and system/model/data cards created, used or improved under the AI Agreement.
	AI Project Agreement	[INSERT agreement No.] between Laboratory and Participant.
	Background AI Artifact	AI Artifacts owned or controlled by a Party prior to the Agreement.
	Content Provenance	Cryptographic or other mechanisms to attest to source/lineage or watermark synthetic outputs.
	Data	recorded information, regardless of form or the media on which it may be recorded, including technical data. The term does not include information incidental to contract administration, such as financial, administrative, cost or pricing or management information.
	Evaluation Data	Data used to validate, test, or benchmark models under the AI Agreement.
	Fine-Tuned Model	a model derived from a Foundation Model by additional training on task-specific or party-supplied data.
	Foreign Country of Concern	People’s Republic of China, the Russian Federation, the Democratic People's Republic of Korea, the Islamic Republic of Iran, Belarus, or any other country determined to be a country of concern by the Secretary of State, and including countries of risk designated by DOE. This list is subject to change. DOE reserves the right, in the exercise of its absolute discretion, to add or subtract any foreign country determined to be of risk consistent with DOE policies by a unilateral amendment to this AI Agreement.
	Foreign Entity	any corporation, business association, partnership, trust, society, or any other entity or group that is not incorporated or organized to do business in the United States, as well as international organizations, foreign governments and any agency or subdivision of foreign governments including state-owned enterprises. The term “Foreign Countries of

		Concern” and “Foreign National” are separate terms and not necessarily covered under the definition of a Foreign Entity although “Foreign Countries of Concern” are also “Foreign Entities”.
	Foreign National	any individual other than a U.S. citizen.
	Foundation Model	a pre-trained model that can be adapted to a wide range of tasks.
	<i>Generated Information</i>	<i>means information produced in the performance of this CRADA.</i>
	Government	the Federal government of the United States of America including its agencies and departments.
	High-Risk AI	AI systems whose misuse or failure could materially impact safety, security, critical infrastructure, biosafety, or national security.
	Non-Public Data	Data that has not been publicly distributed to others without restriction on further dissemination, including Data with Protected Data markings. Specifically excluded from this definition is data shared at a conference, public talk or other public forum if the data shared is shared without restriction on further dissemination.
	Project AI Artifact	AI Artifacts developed in performance of the AI Agreement.
	Project Models	the one or more models (including architectures, Weights/Parameters) developed in the performance of the AI agreement, including: (INSERT DESCRIPTION OF MODEL)
	Training Data	Data used to train or finetune models under the AI Agreement.
	Unlimited Rights	the right of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose, and to have or permit others to do so.
	Weights/Parameters	internal variables of a machine learning model, including weights and biases, that are optimized through training to enable the model to make predictions or decisions. Included in this definition are quantifiable values representing the strength or influence of connections within a machine learning model, particularly in neural networks.
“Protected Data” period	5 years	Project AI Artifacts may be marked by the generating party as Protected Data and will be treated in accordance with such markings, except as expressly identified in the Deployment Licenses below.

Ownership of AI Artifacts	<p>Solely Developed: Each Party owns Project AI Artifacts it solely develops.</p> <p>Jointly Developed: Jointly developed Project AI Artifacts are jointly owned by the Parties.</p>		
Ownership Rights of Fine-Tuned Models (Derived-Work)	<i>Option A: Weights/Parameters are owned by the developing Party, but any use or distribution remains subject to license conditions of the underlying Foundation Model and Background AI Artifacts.</i>	<i>Option B (Joint): Weights/Parameters of Fine-Tuned Models developed under the AI Agreement are jointly owned, subject to Background IP licenses needed to practice.</i>	<i>Option C (Split): Architecture and training code shall be owned by the [Laboratory]; Task-specific Weight/Parameters owned by [Participant]; both grant each other nonexclusive, royalty-free licenses for Government purposes and Project execution.</i>
Government Rights	<p>The Parties may assert copyright in any of their Generated Information. The Government or others acting on its behalf shall retain a nonexclusive, royalty-free, worldwide, irrevocable, non-transferable license to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government, all copyrightable works produced in the performance of this Agreement, subject to the restrictions this Agreement places on publication of Proprietary Information and Protected Data.</p>		
Background Licenses	<p>Each Party hereby grants all parties performing work under the AI Agreement a nonexclusive, royalty-free, revocable, limited license to use its Background AI Artifacts solely for AI Agreement performance. This license extends to other parties contractually bound to perform work under the AI Agreement.</p>		
Project Licenses	<p>Each Party hereby grants all parties contractually bound to perform work under the AI Agreement a nonexclusive license to use any Project AI Artifacts, solely for AI Agreement performance and internal, non-commercial R&D. Any external distribution or commercialization of Project AI Artifacts requires prior coordination between the Parties and compliance with export control and safety clauses herein.</p>		
Deployment License	<p><i>Option 1: Deployment by Participant</i></p> <p><i>Participant Deployment License: The Participant is granted a paid-up nonexclusive, irrevocable, worldwide license to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly all Project AI Artifacts for purposes of deploying the Project Models within the United States.</i></p> <p><i>Limited DOE and Laboratory License: DOE and the Laboratory each retain a non-exclusive, worldwide, royalty-free,</i></p>	<p><i>Option 2: Contractor Licensed</i></p> <p><i>Contractor Deployment License: The DOE and Contractor are granted a paid-up nonexclusive, irrevocable, worldwide license to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly for all Project AI Artifacts for purposes of deploying the Project Models within the United States.</i></p> <p><i>Limited Participant License: The Participant retains a non-exclusive, worldwide, royalty-free, perpetual,</i></p>	

	<i>perpetual, irrevocable license to use, reproduce, modify, prepare derivative works of, perform, display, and distribute Project AI Artifacts. However, for a period of two-years from AI Agreement completion or termination, DOE and the Laboratory will not distribute Non-Public Data that are Project AI Artifacts outside the Government, except to support contractors and laboratory operators pursuant to a Non-Disclosure Agreement (NDA) that explicitly prohibits further distribution.</i>	<i>irrevocable license to use, reproduce, modify, prepare derivative works of, perform, display, and distribute Non-Public Data that are Project Artifacts. However, the Participant will not distribute Project Artifacts, except to its support contractors pursuant to a Non-Disclosure Agreement (NDA) that explicitly prohibits further distribution.</i>
Open Source	If the parties agree to open-source release of Project AI Artifacts, such release must use a mutually agreed upon license (e.g., Apache-2.0, BSD-3, MIT, CC BY, or model-appropriate licenses) and must not impair Government rights.	
Warranties	Each Party warrants that it has the necessary rights to all information and data exchanged in the performance of work under the AI Agreement for the intended use, including that such data does not violate privacy, confidentiality, third-party IP, or contractual restrictions. Parties shall provide data source and license documentation upon request.	
Sensitive Data	No PII, PHI, CUI, export-controlled, classified or other 3 rd party-restricted data will be provided to the other Party unless explicitly authorized in writing and handled under applicable laws, DOE directives, and Protected Data provisions. If human subjects are involved, IRB/ethical approvals are required prior to data use.	
De-Identification	Training/Evaluation Data that is PII or PHI will be de-identified and assessed for re-identification risk; synthetic data will be used to test for memorization or leakage.	
Data Lineage	Parties will maintain data lineage, provenance records, and license terms for all datasets used in training or evaluation.	
Approved Services	<p>Only cloud or third-party services pre-approved by the Parties may be used, and they must provide controls preventing training/retention by the service provider and meet FedRAMP or equivalent security requirements where applicable.</p> <p>No Protected Data or Sensitive Data may be uploaded to public repositories or generative AI services unless explicitly approved by the data owner and configured to prohibit training on such data.</p>	
Framework	The Parties will implement a Responsible AI Plan aligned to NIST AI RMF 1.0 (or successor), including risk identification, measurement, mitigation, and documentation.	
Model/Data Cards	Each released model must include a model card and data card summarizing intended use, limitations, training sources, evaluation metrics, known risks, and recommended safeguards.	

Bias and Performance	Parties shall assess potential bias, robustness, security, privacy risks, and performance limitations using agreed test suites. Results will be provided upon reasonable request.
Human Oversight	Where applicable, a human-in-the-loop or approval workflow will be defined for safety-critical use cases.
Safety Review	Prior to release or external use of models or datasets that could enable harmful capabilities (e.g., pathogen design, chemical weaponization, critical infrastructure exploitation), the Parties will conduct red-team testing and a safety assessment (as described in the NIST standard applicable for the project).
Controlled Distribution	High-Risk AI Artifacts may be gated, access-controlled, or not publicly released. If released, they must include usage restrictions and technical safeguards commensurate with risk.
Export Control	The Parties will comply with ITAR/EAR and other applicable export controls. Export or Foreign National access to controlled AI Artifacts requires prior applicable government approvals.
Security Controls	Parties will apply security controls commensurate with data/model sensitivity, referencing NIST SP 800-53/800-171 for controlled data and lab policies. Access will be least-privilege with auditing and logging.
Incident Response	Security incidents affecting AI Artifacts must be promptly reported to the other Party, with coordinated remediation.
Content Provenance	Parties will embed watermarks or industry-standard provenance in synthetic outputs and document the method and limitations.
Pre-Publication Review	Publications, releases, and demos will be coordinated between the Parties to prevent disclosure of Protected Data, privacy-sensitive data, or export -controlled information. Model/data cards are part of the release package.
Benchmarking	Benchmark results may be published after review by both Parties.
Prohibited Uses	Project AI artifacts shall only be used in accordance with applicable laws, regulation, and U.S. national security requirements.
Prohibition against Safety-Critical Claims	No Party shall make clinical, diagnostic, safety-critical, or regulatory claims based on Project AI Artifacts without appropriate validation and approvals.
No Performance Guarantees	Project AI Artifacts and Project Models are provided “as-is” without warranties of accuracy, fitness, or non-infringement beyond the terms in the respective funding agreements referenced in the AI Agreement.
Output Responsibility	Each Party is responsible for its own downstream use of AI outputs and shall not attribute statements made by generative models to the other Party without consent.
Logs	Parties will retain training/evaluation logs, data lineage, and model versioning (including hyperparameters and seeds) sufficient to reproduce results and support safety audits.

<p>Access Restrictions and Limited U.S. First Deployment</p>	<p>(a) Definitions</p> <ul style="list-style-type: none"> a. “AI Artifact” shall mean any dataset, code, scripts, pipelines, models (including architectures, parameters, and weights), prompts, outputs, documentation, metadata, test/evaluation suites, synthetic data, and system/model/data cards created, used, or improved under the Project Agreement. b. “Data” shall mean recorded information, regardless of form or the media on which it may be recorded, including Technical Data. The term does not include information incidental to Other Transaction (OT) Agreement administration, such as financial, administrative, cost or pricing or management information. c. “Foreign Country of Concern” shall mean the People's Republic of China, the Russian Federation, the Democratic People's Republic of Korea, the Islamic Republic of Iran, and Belarus, or any other country determined to be a foreign country of concern by the Secretary of State, and including countries of risk designated by DOE. This list is subject to change. DOE reserves the right, in the exercise of its absolute discretion, to add or subtract any foreign country determined to be of risk consistent with DOE policies by a unilateral amendment to this Agreement. d. “Foreign Entity” shall mean any corporation, business association, partnership, trust, society, or any other entity or group that is not incorporated or organized to do business in the United States, as well as international organizations, foreign governments and any agency or subdivision of foreign governments including state-owned enterprises. The term “Foreign Countries of Concern” and “Foreign National” are separate terms and not necessarily covered under the definition of a Foreign Entity although “Foreign Countries of Concern” are also “Foreign Entities”. e. “Foreign National” shall mean any individual other than a U.S. citizen. f. “Government” shall mean the Federal government of the United States of America including its agencies and departments. g. “Intellectual Property” shall mean any and all subject inventions, copyrights, and trademarks developed by an Awardee. h. “Non-Public Data” shall mean Data that has not been publicly distributed to others without restriction on further dissemination. Specifically excluded from this definition is data shared at a conference, public talk or other public forum if the data shared is shared without restriction on further dissemination. i. “Project Agreement” means an agreement between the Awardee and their partners/collaborators in the performance of the Milestones, which is intended to address all data rights, including allocation of rights to Project AI Artifacts. The Project Agreement includes agreements with DOE National Laboratory, preferably using the preapproved AI BRIDGE AGREEMENT containing a Data Use
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	<p>Agreement (DUA) template that complies with Article 3.2.</p> <p>j. “Project AI Artifact” shall mean AI Artifacts developed in performance of the Milestones, including a Project Agreement.</p> <p>(b) Access and Transfer Prohibition. Awardee agrees not to provide or allow others to provide access to any Non-Public Data or to license, assign or otherwise transfer any rights in Intellectual Property or Non-Public Data generated under this Agreement, at any tier, to entities with foreign ownership, or control by a government or entity subject to the jurisdiction of a Foreign Country of Concern, without DOE’s prior written approval. Any failure to comply with this provision will be a breach of this Agreement and subject to available remedies for noncompliance. Specifically excluded from this restriction is a royalty free grant of a non-exclusive license of intellectual property to the general public (e.g. an open-source license or public domain).</p> <p>(c) Limited U.S. First Deployment. For a period of two years from the completion or termination of the Prime Agreement with DOE, the Awardee agrees not to provide or allow others to provide access to any Non-Public Data or to license, assign or otherwise transfer any rights in Intellectual Property or Non-Public Data generated under this Agreement, at any tier, to entities with foreign ownership, or control by a government or entity not subject to the jurisdiction of the United States of America, without DOE’s prior written approval. Specifically excluded from this restriction is a royalty free grant of a non-exclusive license of Intellectual Property or Non-Public Data to the general public (e.g. an open-source license or public domain). Any failure to comply with this provision will be a breach of this Agreement and subject to available remedies for noncompliance.</p> <p>(d) Immediate Access Termination. Any access or transfer of rights in violation of the above terms shall be immediately null and void. In the event of any rights holder's bankruptcy or related financial proceeding, insolvency, or other material financial distress that, in the sole judgment of DOE, creates an unmanageable risk of unauthorized transfer or disclosure of Intellectual Property and/or Non-Public Data to a Foreign Country of Concern, all rights granted or access provided shall terminate immediately, and the Awardee shall take all necessary steps to secure and prevent further dissemination of such Intellectual Property and/or Non-Public Data.</p> <p>(e) The Awardee shall include this clause, suitably modified to identify the parties, in all subawards/contracts, regardless of tier, that may include the exchange of Non-Public Data.</p>
Open-Source Contribution	Contributions to external open-source AI projects require prior review to ensure they do not disclose Protected Data or controlled capabilities.
Open-Source Attribution	Publications and open-source releases shall acknowledge DOE support and the Parties per the funding agreements referenced in the AI Agreement.
Access to Computing Resources	Use of DOE Laboratory HPC, on-site, or cloud resources shall comply with laboratory policies, user facility rules (including computing allocations), and security controls. Remote access is restricted to approved identities and endpoints.

Post-Term Rights	After the protection period, Project AI Artifacts not subject to export or safety restrictions may be released under agreed terms. Ongoing use of Background AI Artifacts is not permitted absent a separate license agreement.
Survival	Safety, export control, and misuse restrictions survive termination as applicable by law and funding agreements referenced in the AI Agreement.

Potential Attachments (if/as needed for operational clarity and tailoring)

Attachment A: AI Artifact Register (background vs project; ownership; licenses; encumbrances)

Attachment B: Data Inventory and Provenance (sources, licenses, privacy status, de-identification)

Attachment C: Approved Tools/Services (clouds, APIs; terms; retention/training settings)

Attachment D: Responsible AI and Safety Plan (NIST AI RMF alignment; evaluation metrics; red-team plan; release gating; content provenance)

Attachment E: Computing Resources and Access (allocations, environments, controls, contacts)

BRIDGE AGREEMENT FOR GENESIS MISSION PROJECTS

Authority 15 U.S.C. 3710a

[INSERT AGREEMENT IDENTIFIER] (“Agreement”)

[CONTRACTOR], as Management and Operating (M&O) Contractor for [DOE National Laboratory] is performing under [INSERT CONTRACT NUMBER] with the U.S. Department of Energy (DOE). The obligations of [CONTRACTOR] shall apply to any successor operator of [DOE NATIONAL LABORATORY].

1. LAB AGREEMENT NO. [Lab funding agreement]	2. [OTA IDENTIFIER] [Participant funding agreement]
3. TO: [LABORATORY CONTACT INFO]	4. FROM: [PARTICIPANT CONTACT INFO]
5. [DOE PROGRAM INFO]	6. DATA PROTECTION: <input type="checkbox"/> Protected Data (___ years identified in OTA)
7. PARTICIPANT’S GENESIS MISSION OTA AGREEMENT:	
<p>8. WORK:</p> <p>[Contractor] will collaborate with Participant for “Insert Project Title Here” in accordance with Appendix A, Statement of Work, dated [INSERT DATE].</p> <p>The Participant and Contractor will promptly finalize the GM Project Data Use Agreement (DUA) consistent with the OTA deliverables (e.g. Milestones or Technical Objectives).</p> <p>The work is subject to site access requirements, and first deployment requirements in the OTA, for example. foreign national access (DOE O 142.3B), foreign ownership or interests (DOE O 485.1), security review, and site access controls, and all Access Restrictions of the Laboratory.</p> <p>This Agreement expires [INSERT DATE CONSISTENT WITH SOW] (“Expiration Date”)</p>	
<p>9. AGREEMENT FUNDING AMOUNT (No Funds Exchanged)</p> <p style="padding-left: 40px;">Participant’s estimated contribution (in-kind): \$</p> <p style="padding-left: 40px;">Government’s estimated contribution to Contractor (provided directly to Contractor): \$</p>	
	TOTAL: \$XX,XXX

THIS AGREEMENT IS SUBJECT TO THE ATTACHED TERMS AND CONDITIONS

FOR: [CONTRACTOR]	FOR: [PARTICIPANT]
(Signature) (Date)	(Signature) (Date)
(Name)	(Name)
(Title)	(Title)

TERMS AND CONDITIONS

1. The Contractor, subject to available funding, and Participant, agree to collaborate as described in the Statement of Work attached as Appendix A. Each party's performance of work is subject to the funding agreement identified on the cover page of this agreement. Contractor and Participant are each referred to herein as Party and collectively as Parties. A Party may authorize others to perform work on its behalf subject to these same terms with the written consent of the other party.

2. To the extent that intellectual property is developed under this Agreement, rights between the Parties shall be as follows: For inventions, copyrightable information, and data generated by the Contractor under this Agreement, the Contractor's M&O Contract applies. For inventions, copyrightable information, and data generated by the Participant under this Agreement, the Participant's Other Transactions Agreement (OTA) applies. The Parties agree to disclose to each other each Subject Invention (as defined in their respective M&O Contract or OTA) within two (2) months after the inventor first discloses the Subject Invention in writing to the person(s) responsible for patent matters of the disclosing Party. Participant acknowledges that Contractor has offered to Participant an option to negotiate an exclusive license for a pre-negotiated field of use for reasonable compensation to any Contractor Subject Invention.

3. Information generated by the Parties under this Agreement may be marked as "Protected Data" by the generating Party as authorized in the Participant's OTA. The Parties and the Government shall have unlimited rights, *i.e.*, no nondisclosure or use limitations in all information generated under the Agreement not marked as Protected Data. Each Party agrees to not disclose to a third party properly marked Protected Data in accordance with the marking authorized by the Participant's OTA. Other than Protected Data, neither Party shall exchange information under this Agreement that it considers to be subject to disclosure restrictions except as may be authorized under a DUA that establishes the terms and conditions of such exchange. The Parties agree to secure pre-publication review from each other wherein the non-publishing Party shall provide within 30 days any written objections to be considered by the publishing Party.

4. Any tangible personal property produced or acquired in conducting the work under this Agreement shall be owned by the Party paying for it. There will be no jointly funded tangible personal property. Tangible personal property shall be disposed of as directed by the owner at the owner's expense. Additional terms applicable to tangible personal property may be addressed in an Appendix or separate agreement, with this Agreement controlling if there is a conflict with this Agreement.

5. This Agreement may be terminated by either Party with 30 days written notice to the other Party. The effective date of this Agreement shall be the signature date of the last of the Parties to sign this Agreement. If not earlier terminated by either Party this Agreement will expire on the Expiration Date listed above.

6. THE GOVERNMENT, THE PARTICIPANT, AND THE CONTRACTOR MAKE NO EXPRESS OR IMPLIED WARRANTY AS TO THE CONDITIONS OF THE RESEARCH OR ANY INTELLECTUAL

PROPERTY, GENERATED INFORMATION, OR PRODUCT MADE OR DEVELOPED UNDER THIS AGREEMENT, OR THE OWNERSHIP, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE RESEARCH OR RESULTING PRODUCT. NEITHER THE GOVERNMENT, THE PARTICIPANT, NOR THE CONTRACTOR SHALL BE LIABLE FOR SPECIAL, CONSEQUENTIAL, OR INCIDENTAL DAMAGES ATTRIBUTED TO SUCH RESEARCH OR RESULTING PRODUCT, INTELLECTUAL PROPERTY, GENERATED INFORMATION, OR PRODUCT MADE OR DEVELOPED UNDER THIS AGREEMENT.

7. To the extent permitted by state law and except for any liability resulting from any negligent acts, willful misconduct, or omissions of the Contractor or the Government, the Participant indemnifies the Government and the Contractor for all damages, costs, and expenses, including attorney's fees, arising from personal injury or property damage as a result of the making, using, or selling of a product, process, or service by or on behalf of the Participant, its assignees, or its licensees, which was derived from this Agreement.

8. EACH PARTY IS RESPONSIBLE FOR ITS OWN COMPLIANCE WITH EXPORT CONTROL LAWS AND REGULATIONS. EXPORT LICENSES OR OTHER AUTHORIZATIONS FROM THE U.S. GOVERNMENT MAY BE REQUIRED FOR THE EXPORT OF GOODS, TECHNICAL DATA, OR SERVICES UNDER THIS AGREEMENT.

9. The Parties shall attempt to jointly resolve all disputes arising from this Agreement. The Participant is encouraged to contact the Contractor's Technology Partnership Ombudsman to try to resolve any dispute. If the Parties are unable to resolve a dispute within a reasonable period of time, the Parties agree to submit the dispute to a third-party mediation process that is mutually agreed upon by the Parties. Any dispute under this Agreement shall be governed by U.S. Federal law.

10. If the Participant is performing work at Contractor's Laboratory, as a precondition to performing such work Participant must complete all Contractor's Site Access documents and requirements. Participant must comply with all applicable safety, health, access to information, security and environmental regulations and the requirements of DOE and Contractor. In the event the Participant fails to comply with said regulations and requirements, Contractor may, without prejudice to any other legal or contractual rights, issue an order stopping all or any part of Participant's activities at the Laboratory.

11. This Agreement, including the Appendix A Statement of Work and the DUA, represents the entire understanding between the Parties, and supersedes all other prior agreements, express or implied, between the Parties concerning the subject matter of this Agreement. Use of the name of a Party, or its employees in any promotional activity, including press releases, regarding this Agreement, requires written approval of the named Party. Any agreement to materially change any terms or conditions of this Agreement, the Appendix A, or the DUA shall be valid only if the change is made in writing, executed by the Parties hereto and approved by DOE.