

WORK FOR OTHERS AGREEMENT WITH NON-FEDERAL SPONSORS

WORK FOR OTHERS AGREEMENT NO. _____

BETWEEN

UCHICAGO ARGONNE, LLC
AS OPERATOR OF ARGONNE NATIONAL LABORATORY
OPERATING UNDER PRIME CONTRACT NO. DE-AC02-06CH11357
FOR THE
U. S. DEPARTMENT OF ENERGY

AND

The obligations of UChicago Argonne, LLC, as Operator of ARGONNE NATIONAL LABORATORY shall apply to any successor in the interest of continuing the operation of ARGONNE NATIONAL LABORATORY.

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ARTICLE I. - PARTIES TO THE AGREEMENT

UChicago Argonne, LLC as operator of ARGONNE NATIONAL LABORATORY operating under Prime Contract No. DE-AC02-06CH11357 for the U. S. DEPARTMENT OF ENERGY), hereinafter referred to as the "Laboratory," has been requested by _____, hereinafter referred to as the "Sponsor," to perform the work on a best effort basis as set forth under Work For Other (WFO) Proposal No. _____, attached hereto as Appendix A. It is understood by the Parties that, except for the intellectual property provisions of this Agreement, the Laboratory is obligated to comply with the terms and conditions of its Agreement with the United States Government (hereinafter called the "Government") represented by the United States Department of Energy (hereinafter called the "Department" or "DOE") when providing goods, services, products, processes, materials, or information to the Sponsor under this Agreement.

ARTICLE II. - TERM OF THE AGREEMENT

The Laboratory estimated period of performance for completion of the Statement of Work is _____ months. The term of this Agreement shall be effective as of the date on which it is signed by the last of the Parties thereto.

ARTICLE III. - COSTS

- A. The Laboratory estimated cost for the work to be performed under this Agreement is _____.
- B. The Laboratory has no obligation to continue or complete performance of the work at a cost in excess of its estimated cost, including any subsequent amendment.

ARTICLE IV. - FUNDING AND PAYMENT

The Sponsor shall pay the Laboratory the following advance payment and monthly invoice payments:

- A. Advance Payment. The Sponsor shall advance the following amount at the time shown:

<u>Amount Due</u>	<u>Date Due</u>
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Advance payment shall be recorded in the Laboratory's account until the last three (3) months of the Agreement term at which time it shall be liquidated by charging costs incurred during that period to the advance payment account. Advance payment in excess

of total costs incurred by the Laboratory under this Agreement shall be refunded to the Sponsor.

- B. Monthly Invoice Payments. Once each month during the Agreement term the Laboratory shall invoice the Sponsor for costs incurred in the previous month. Payment for such costs shall be due not later than thirty (30) days after the invoice date, except to the extent the invoice states that costs are being charged to the advance payment account as provided in Paragraph A above.
- C. Applicable Currency. All payments due the Laboratory under this Agreement, including cost estimates and obligations of funds, shall be in United States dollars (U.S.\$).

ARTICLE V. - SOURCE OF FUNDS

The Sponsor hereby warrants and represents that, the funding it brings to this Agreement does not include any federal funds, and there are no other agreements that have terms and conditions including intellectual property conflicting with this Agreement.

ARTICLE VI. - PROPERTY

Unless the Parties otherwise agree in writing, each piece of equipment having a value in excess of \$5,000.00 produced or acquired with funds provided by the Sponsor shall be disposed of as instructed by the Sponsor, and any and all costs associated with the disposal of such property shall be at the Sponsors expense. Any piece of equipment produced or acquired under \$5,000.00 shall become property of the Laboratory on behalf of the Government.

ARTICLE VII. - PUBLICATION MATTERS

The publishing Party shall provide the other Party a thirty (30) day period in which to review and comment on proposed publications prepared under this Agreement that disclose technical developments and/or research findings generated in the course of this Agreement. The publishing Party shall not publish or otherwise disclose Proprietary Information identified by the other Party, except as provided by law.

ARTICLE VIII. - LEGAL NOTICE

The Parties agree that the following legal notice shall be affixed to each report furnished to the Sponsor under this Agreement and to any report resulting from this Agreement which may be distributed by the Sponsor:

THIS MATERIAL WAS PREPARED AS AN ACCOUNT OF WORK SPONSORED BY _____. NEITHER THE AUTHORS, UNITED STATES GOVERNMENT NOR ANY AGENCY THEREOF, NOR UCHICAGO ARGONNE, LLC, NOR ANY OF THEIR EMPLOYEES OR OFFICERS, MAKES ANY WARRANTY, EXPRESS OR IMPLIED, OR ASSUMES ANY LEGAL LIABILITY OR RESPONSIBILITY FOR THE ACCURACY, COMPLETENESS, OR USEFULNESS OF ANY INFORMATION,

APPARATUS, PRODUCT, OR PROCESS DISCLOSED, OR REPRESENTS THAT ITS USE WOULD NOT INFRINGE PRIVATELY OWNED RIGHTS. REFERENCE HEREIN TO ANY SPECIFIC COMMERCIAL PRODUCT, PROCESS, OR SERVICE BY TRADE NAME, TRADEMARK, MANUFACTURER, OR OTHERWISE, DOES NOT NECESSARILY CONSTITUTE OR IMPLY ITS ENDORSEMENT, RECOMMENDATION, OR FAVORING BY THE UNITED STATES GOVERNMENT OR ANY AGENCY THEREOF. THE VIEW AND OPINIONS OF AUTHORS EXPRESSED HEREIN DO NOT NECESSARILY STATE OR REFLECT THOSE OF THE UNITED STATES GOVERNMENT OR ANY AGENCY THEREOF.

ARTICLE IX. - DISCLAIMER

THE GOVERNMENT AND THE LABORATORY 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 WORK FOR OTHERS AGREEMENT, OR THE OWNERSHIP, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE RESEARCH OR RESULTING PRODUCT; THAT THE GOODS, SERVICES, MATERIALS, PRODUCTS, PROCESSES, INFORMATION, OR DATA TO BE FURNISHED HEREUNDER WILL ACCOMPLISH INTENDED RESULTS OR ARE SAFE FOR ANY PURPOSE INCLUDING THE INTENDED PURPOSE; OR THAT ANY OF THE ABOVE WILL NOT INTERFERE WITH PRIVATELY OWNED RIGHTS OF OTHERS. NEITHER THE GOVERNMENT NOR THE LABORATORY SHALL BE LIABLE FOR SPECIAL, CONSEQUENTIAL, OR INCIDENTAL DAMAGES ATTRIBUTED TO SUCH RESEARCH OR RESULTING PRODUCT, INTELLECTUAL PROPERTY, GENERATED INFORMATION, OR PRODUCT MADE OR DELIVERED UNDER THIS WORK FOR OTHERS AGREEMENT.

ARTICLE X. - GENERAL INDEMNITY

The Sponsor agrees to indemnify and hold harmless the Government, the Department, the Laboratory, and persons acting on their behalf from all liability, including costs and expenses incurred, to any person, including the Sponsor, for injury to or death of persons or other living things or injury to or destruction of property arising out of the performance of the Agreement by the Government, the Department, the Laboratory, or persons acting on their behalf, or arising out of the use of the services performed, materials supplied, or information given hereunder by any person including the Sponsor, and not directly resulting from the fault or negligence of the Government, the Department, the Laboratory, or persons acting on their behalf.

ARTICLE XI. - PRODUCT LIABILITY INDEMNITY

Except for any liability resulting from any negligent acts or omissions of the Government or the Laboratory, the Sponsor agrees to indemnify the Government and the Laboratory for all damages, costs, and expenses, including attorney's fees, arising from personal injury or property damage occurring as a result of the making, using, or selling of a product, process, or service by or on behalf of the Sponsor, its assignees, or licensees, which was derived from the work

performed under this Work for Others Agreement. In respect to this Article, neither the Government nor the Laboratory shall be considered assignees or licensees of the Sponsor, as a result of reserved Government and Laboratory rights. The indemnity set forth in this paragraph shall apply only if the Sponsor shall have been informed as soon and as completely as practical by the Laboratory and/or the Government of the action alleging such claim and shall have been given an opportunity, to the maximum extent afforded by applicable laws, rules, or regulations, to participate in and control its defense, and the Laboratory and/or Government shall have provided all reasonably available information and reasonable assistance requested by the Sponsor. No settlement for which the Sponsor would be responsible shall be made without the Sponsor's consent unless required by final decree of a court of competent jurisdiction.

ARTICLE XII. - INTELLECTUAL PROPERTY INDEMNITY - LIMITED

The Sponsor shall indemnify the Government and the Laboratory and their officers, agents, and employees against liability, including costs, for infringement of any United States patent, copyright, or other intellectual property arising out of any acts required or directed by the Sponsor to be performed under this Agreement to the extent such acts are not already performed at the facility. Such indemnity shall not apply to a claimed infringement that is settled without the consent of the Sponsor unless required by a court of competent jurisdiction.

ARTICLE XIII. - NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT

The Sponsor shall report to the Department and the Laboratory, promptly and in reasonable written detail, each claim of patent or copyright infringement based on the performance of this Agreement of which the Sponsor has knowledge. The Sponsor shall furnish to the Department and the Laboratory, when requested by the Department or the Laboratory, all evidence and information in the possession of the Sponsor pertaining to such claim.

ARTICLE XIV. - PATENT RIGHTS (RESERVED)

Reserved Article.

ARTICLE XV - RIGHTS IN TECHNICAL DATA (RESERVED)

Reserved Article.

ARTICLE XVI. - ASSIGNMENT

Neither this Agreement nor any interest therein or claim thereunder shall be assigned or transferred by either Party, except as authorized in writing by the other Party to this Agreement, provided, the Laboratory may transfer it to the Department, or its designee, with notice of such transfer to the Sponsor, and the Laboratory shall have no further responsibilities except for the confidentiality, use, and/or non-disclosure obligations of this Agreement.

ARTICLE XVII. - SIMILAR OR IDENTICAL SERVICES

The Government and/or Laboratory shall have the right to perform similar or identical services in the Statement of Work (SOW) for other Sponsors as long as the Sponsor's Proprietary Information is not utilized.

ARTICLE XVIII. - EXPORT CONTROL

Each Party is responsible for its own compliance with laws and regulations governing export control.

ARTICLE XIX. - TERMINATION

Performance of work under this Agreement may be terminated at any time by either Party, without liability, except as provided herein, upon giving a thirty (30) day written notice to the other Party. Such notice will be effective upon receipt of written notice by the other Party. In the event of termination, the Sponsor shall be responsible for the Laboratory's costs (including closeout costs), through the effective date of termination, but in no event shall the Sponsor's cost responsibility exceed the total cost to the Sponsor as described in Article III, above.

It is agreed that any obligations of the Parties regarding Proprietary Information or other intellectual property will remain in effect, despite early termination of this Agreement.

ARTICLE XX - APPLICABLE LAW

The Parties shall attempt to jointly resolve all disagreements arising from this Agreement. If the Parties are unable to jointly resolve a disagreement within a reasonable period of time after submission of the disagreement for resolution, said disagreement shall be adjudicated in a court of competent jurisdiction in the State of Illinois. To the extent that there is no applicable U.S. Federal law, this Agreement and performance thereunder shall be governed by the law of the State of Illinois.

(See signature blocks on next page.)

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT.

FOR UCHICAGO ARGONNE, LLC

(As Operator of ARGONNE NATIONAL LABORATORY):

By: _____

Title: Contract Specialist

Date: _____

FOR:

By: _____

Title: _____

Date: _____