

DOE-FUNDED TECHNICAL ASSISTANCE PILOT AGREEMENT (hereinafter "TAPA")		Date: Agreement:
TO: [Requestor] ("REQUESTOR") Address: Contact Name: Contact Phone Number: Contact Email:	FROM: [DOE National Laboratory] Address: Contact Name: Contact Phone Number: Contact Email:	
[CONTRACTOR], as Management and Operating Contractor for the [DOE National Laboratory] ("CONTRACTOR"), under its U.S. Department of Energy Contract No. _____ to operate the [DOE National Laboratory] ("M&O Contract"), agrees to provide the technical assistance described below in accordance with the terms and conditions enumerated in this TAPA.		
SCOPE OF WORK		
(a) Description of Work:		
(b) Field of Use for potential license:		
(c) Deliverables:		
(d) Period of Performance:		
(e) Total Cost Estimate:	(f) Contribution from REQUESTOR (at least 20%) Shared Resources: Non-federal Funds:	
REQUESTOR ACCEPTANCE Signature: _____ Title: _____ Date: _____	CONTRACTOR ACCEPTANCE Signature: _____ Title: _____ Date: _____	

TERMS AND CONDITIONS OF AGREEMENT

1. It is understood by the REQUESTOR that, except for the intellectual property provisions of this TAPA, CONTRACTOR is obligated to comply with the terms and conditions of its M&O Contract.
2. CONTRACTOR's estimated period of performance for completion of the SCOPE OF WORK is the term of this TAPA. The term shall be effective as the later date of (1) the date on which this TAPA is signed by the last of the parties and approved by DOE or (2) the date on which CONTRACTOR receives advance payment, if applicable, from REQUESTOR. CONTRACTOR may terminate this TAPA at any time if CONTRACTOR determines that termination is in CONTRACTOR's or the U.S. Government's interest.
3. CONTRACTOR has no obligation to continue or complete performance of the technical assistance at a cost in excess of the original Total Cost Estimate or any subsequent amendment. CONTRACTOR agrees to provide at least thirty (30) days' notice to REQUESTOR if the actual cost to complete the technical assistance will exceed estimated cost.
4. If REQUESTOR is providing non-federal funds to CONTRACTOR under this TAPA, REQUESTOR is required to provide the non-federal funds to CONTRACTOR 90 days in advance of the CONTRACTOR incurring the costs to be paid for by such funds. CONTRACTOR has no obligation to incur the costs in the absence of the advance funding.

5. CONTRACTOR agrees that all information obtained by Contractor through the work described herein shall be made available to REQUESTOR at any reasonable time during CONTRACTOR's working hours subject to the terms and conditions of this TAPA, and that CONTRACTOR will communicate to REQUESTOR information developed under and pertinent to this TAPA.
6. REQUESTOR understands that CONTRACTOR does not endorse products or services, nor did it undertake this TAPA for advertising, sales promotion, or endorsement of REQUESTOR. Therefore, REQUESTOR agrees that it will not use the name or any marks of CONTRACTOR, the NATIONAL LABORATORY, or the U.S. Government, including but not limited to the United States Department of Energy, or use any portion of CONTRACTOR's reports, for advertising, promotional purposes, raising of capital, recommending investments, or in any way that implies endorsement except with prior written approval from an officer of CONTRACTOR responsible for such matters. CONTRACTOR does not undertake TAPAs for the purposes of litigation or to assign fault or blame and does not provide expert witness services. Therefore, REQUESTOR agrees not to use any TAPA results in any dispute, litigation, or other legal action. Notwithstanding the foregoing, REQUESTOR may comply with a lawfully issued subpoena which requires the production of documents.
7. In view of the nature of the work contemplated under this TAPA, which shall not include any research and development, CONTRACTOR's responsibility shall be limited to applying reasonable efforts in the performance of the work by competent staff within the limits of the time and funds available.
8. NEITHER CONTRACTOR, THE U.S. DEPARTMENT OF ENERGY (DOE), NOR PERSONS ACTING ON THEIR BEHALF, MAKE ANY WARRANTY, EXPRESS OR IMPLIED: (A) WITH RESPECT TO THE MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, COMPLETENESS, OR USEFULNESS OF ANY SERVICES, MATERIALS, OR INFORMATION FURNISHED; (B) THAT THE USE OF ANY SUCH SERVICES, MATERIALS, OR INFORMATION MAY NOT INFRINGE PRIVATELY OWNED RIGHTS; OR (C) THAT THE SERVICES, MATERIALS, OR INFORMATION FURNISHED WILL BE ADEQUATE OR SAFE FOR ANY PURPOSE OR WILL ACCOMPLISH ANY RESULTS OR PURPOSE. FURTHERMORE, CONTRACTOR AND DOE HEREBY SPECIFICALLY DISCLAIM ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, FOR ANY PRODUCTS MANUFACTURED, USED OR SOLD BY THE REQUESTOR. NEITHER CONTRACTOR NOR DOE SHALL BE LIABLE FOR CONSEQUENTIAL DAMAGES IN ANY EVENT. FURTHERMORE, REQUESTOR WILL INDEMNIFY AND HOLD HARMLESS CONTRACTOR AND DOE FROM ANY LOSS BY REQUESTOR OR THIRD PARTIES ARISING OUT OF OR RESULTING OUT OF OR RESULTING FROM UTILIZATION OF ANY SUCH SERVICES, MATERIALS, INFORMATION, OR PRODUCTS.
9. It is understood that CONTRACTOR and its employees do not, and will not, have comprehensive knowledge of the uses REQUESTOR will make of the technical assistance provided by this TAPA. The REQUESTOR assumes all responsibility to conduct whatever surveys, studies, test samplings and other activities that are needed to ensure the marketing and ultimate use of safe, efficient, and reliable products and services.
10. For a period of time extending 5 years from the expiration of this TAPA, REQUESTOR and CONTRACTOR are obligated to participate in an evaluation of the downstream impacts of work performed by CONTRACTOR through the execution of this TAPA. Participation in this evaluation includes, but is not limited to, providing pertinent business and technological information to a third-party evaluator and working directly with DOE on an on-going basis. The evaluator collecting and assessing the information from REQUESTOR and CONTRACTOR is authorized to use collected information solely for the purpose of developing a DOE-sponsored and managed evaluation report.
11. Neither REQUESTOR nor CONTRACTOR shall exchange information under this TAPA that it considers to be proprietary and not subject to further disclosure. If the parties mutually determine that there is a need to exchange proprietary information, they will enter into a separate written Non-Disclosure Agreement establishing the terms and conditions of such exchange.

12. It is recognized that employees of CONTRACTOR will at all times remain subject to their employment agreement with CONTRACTOR, and that any inventions or copyrightable work made or created by said employees will be governed by provisions of CONTRACTOR's prime contract, _____, with DOE.
13. REQUESTOR and CONTRACTOR do not intend to use this TAPA to make or create valuable intellectual property. Nonetheless, in the event that a copyrightable work is created ("Copyrightable Work") or an invention is conceived by CONTRACTOR in the performance of work under this TAPA ("Subject Invention") the rights and requirements with the respect to that Copyrightable Work or Subject Invention will be governed by the provisions of the M&O Contract. To the extent it is able to do so, CONTRACTOR will grant REQUESTOR, a paid-up, royalty-free, nonexclusive license, without the right to sublicense, in and to any Copyrightable Work or Subject Invention for a limited Field of Use as specified on the first page of this TAPA. Any license will be subject to provisions required under the M&O Contract and subject to REQUESTOR agreeing to substantially manufacturing in the U.S. any products that embody or are made through the use of the licensed Copyrighted Work or Subject Invention. After four (4) years from the end of this TAPA, the license may be revoked or modified by CONTRACTOR to extent necessary to achieve expeditious practical application of a Copyrightable Work or a Subject Invention pursuant to an application for an exclusive license by a third party. Notwithstanding the license above, CONTRACTOR has sole discretion on whether to pursue and maintain patent protection for any Subject Invention made by CONTRACTOR.
14. General Indemnity. REQUESTOR agrees to indemnify and hold harmless the Government, CONTRACTOR, and persons acting on their behalf from all liability, including costs and expenses incurred, to any person, including REQUESTOR, for injury to or death of persons or other living things or injury to or destruction of property arising out of the performance of this TAPA by the Government CONTRACTOR, 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 REQUESTOR, and not directly resulting from the fault or negligence of the Government, CONTRACTOR, or persons acting on their behalf.
15. Product Liability Indemnity. Except for any liability resulting from any negligent acts or omissions of the Government or CONTRACTOR, REQUESTOR agrees to indemnify the Government and CONTRACTOR 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 REQUESTOR, its assignees, or licensees, which was derived from the work performed under this TAPA. In respect to this paragraph, neither the Government nor CONTRACTOR shall be considered assignees or licensees of REQUESTOR, as a result of reserved Government and CONTRACTOR rights. The indemnity set forth in this paragraph shall apply only if REQUESTOR shall have been informed as soon and as completely as practical by the Government and/or CONTRACTOR 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 Government and/or CONTRACTOR shall have provided all reasonably available information and reasonable assistance requested by REQUESTOR. No settlement for which REQUESTOR would be responsible shall be made without REQUESTOR's consent unless required by final decree of a court of competent jurisdiction.
16. No modification to this TAPA shall be valid unless in writing and signed by an authorized representative of CONTRACTOR and REQUESTOR. This TAPA 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 TAPA.