

**USER AGREEMENT
FOR A FEDERAL AGENCY**

THIS AGREEMENT, entered into this ____ day of _____, _____, by and between **BROOKHAVEN SCIENCE ASSOCIATES, LLC** (hereinafter called "**Contractor**" or "**Facility Operator**"), managing the Brookhaven National Laboratory under Prime Contract No. **DE-AC02-98CH10886** with the **UNITED STATES OF AMERICA** (hereinafter called the "Government"), as represented by the **UNITED STATES DEPARTMENT OF ENERGY** (hereinafter called "DOE"), and [Insert Name of Federal Agency] (hereinafter called the "User"):

ARTICLE I — SCOPE OF SERVICES

Subject to the terms and conditions set forth below, the Contractor shall make available to designated employees or representatives (hereinafter referred to as "Participants," individually or collectively, as the context suggests) of User certain facilities, equipment, services, information and/or material (hereinafter referred to as the "Activity") as described in Appendix A, which is attached hereto and hereby made a part of this Agreement.

ARTICLE II — COSTS

Upon request by User and at the Contractor's discretion, limited support services may be provided to the User. Should such support be provided, the Contractor will retain its employees assigned to User support functions on its payroll, and costs associated with the User support services will be paid by the User to the account of DOE in accordance with DOE's pricing policy, which will be provided to the User when applicable. Otherwise, each Party shall bear its own costs and expenses with this Agreement.

ARTICLE III — BILLING

The Contractor will invoice the User for the appropriate level of activity as defined in Appendix A, at the intervals and to the billing address specified therein. Each such invoice shall be paid promptly by User upon receipt and in accordance with instructions furnished therewith.

ARTICLE IV — ADMISSION; PERSONNEL RELATIONSHIPS

- A. Each admission or readmission of a Participant to the Activity under this Agreement shall be subject to and implemented under the applicable admission regulations and procedures of the Contractor and DOE.
- B. Participants shall be considered employees or representatives of User during all activities under this Agreement and shall not be considered employees of the Contractor or DOE for any purpose. However, the occupational activities of Participants shall be subject to the administrative and technical oversight of the Contractor during and in connection with such participation in the Activity, and the Participants shall therefore abide by and comply with all applicable rules, regulations and requirements of the Contractor and DOE with regard to such

Activity including, but not limited to, those pertaining to security, safety, operating and health-physics procedures, environmental protection, access to information, hours of work, computer security and conduct. User shall obtain such agreements from each Participant as necessary to implement the provisions of this Agreement.

- C. "Admission" shall be construed to include both physical access to the Contractor site and remote access by electronic means.
- D. For activities that involve Contractor computers, data storage systems, or communication networks, all Participants must comply with the Contractor Computer Use Policy, which is available on the Contractor's website. **THE USE OF CONTRACTOR RESOURCES TO STORE, MANIPULATE, OR REMOTELY ACCESS ANY NATIONAL SECURITY INFORMATION IS EXPRESSLY PROHIBITED.** This includes, but is not limited to, classified information, unclassified controlled nuclear information (UCNI), naval nuclear propulsion information (NNPL), the design or development of nuclear, radiological, biological, or chemical weapons or of any weapons of mass destruction. DOE and Contractor shall have the unrestricted right to inspect all codes and data to ensure compliance with this clause.

ARTICLE V — SCHEDULING

The User understands and agrees (a) that the Activity is subject to the priority of the Contractor's work for the Government and on a nonpriority basis in regard to other users, and (b) that the Contractor, through its cognizant user facility administrator, shall have sole responsibility and discretion for allocating and scheduling usage of the facilities, equipment, services, materials and/or information needed for or involved in the Activity.

ARTICLE VI — MATERIALS

It is recognized that any material to be supplied by the User may be damaged, consumed, or lost. Materials (including residues and/or other contaminated material) remaining after performance of the work or analysis will be removed in their then condition by the User at the User's expense.

ARTICLE VII — PATENT AND TECHNICAL DATA PROVISIONS (Deviation for a Federal Agency)

As a Federal agency of the United States Government, Intellectual Property created by User as a result of work conducted under this agreement shall be owned by the U.S. Government and shall be governed by applicable Federal law and regulation. Pursuant to Title 17 U.S.C. section 105, any data or work created by Federal employees is not subject to copyright protection within the United States. All other rights are reserved to the United States Government.

ARTICLE VIII: RESERVED ARTICLES:

The following articles that are standard in User Agreements have been reserved since this Agreement is between a DOE National Laboratory operating under its Prime Contract and a U. S. Government Agency or Department:

- A) Indemnity & Liability (including Disclaimers)
- B) Export Controls
- C) Title and Administration

ARTICLE IX — ENTIRE AGREEMENT

It is expressly agreed by the parties hereto that this Agreement constitutes the entire and only Agreement between the parties with respect to the subject matter herein; and that this Agreement cannot be amended nor any provision thereof waived except by an instrument in writing and duly executed on behalf of each of the parties hereto by the duly authorized representative of each party.

ARTICLE X — TERMINATION

Either party hereto may terminate this Agreement for any reason at any time by giving not less than thirty (30) days' prior written notice to the other party. The Contractor reserves the right to immediately cancel this Agreement without regard to the aforesaid written notice when cancellation of this Agreement is determined to be necessary to the national defense and security of the United States. Such termination shall only affect the term of this Agreement, and shall otherwise be without prejudice to the rights of the parties hereunder which may have previously accrued.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day, month, and year first above written.

FOR USER

FOR BROOKHAVEN SCIENCE ASSOCIATES, LLC

BY: _____

BY: _____

NAME (typed): _____

NAME (typed): Susan White-DePace

TITLE: _____

TITLE:

DATE: _____

DATE: _____

Appendix A

User Agreement for a Federal Agency

Activities (as defined in Article 1 of the attached Agreement) proposed to a DOE designated user facility or NY Blue at Brookhaven National Laboratory (BNL) by User in order to conduct User research objectives at the DOE designated user facility or NY Blue. No funding transfer between User and BNL will occur unless a separate funding document is executed.

The term of the Agreement shall be five (5) years from the date that the Agreement is entered into.