

NON-DISCLOSURE AGREEMENT No. AGMT-XXXX

BETWEEN

**U.S. DEPARTMENT OF ENERGY
NATIONAL ENERGY TECHNOLOGY LABORATORY (hereinafter "NETL")**

and

PARTICIPANT (hereinafter "Participant")

both being hereinafter referred to singly as "Party" and jointly as "Parties"

This Non-Disclosure Agreement, as authorized under 35 U.S.C. 205 and 18 U.S.C. 1905, is by and between NETL and the Participant,

WHEREAS NETL wishes to provide to Participant certain information, data, and/or samples relating to **description of Potentially Patentable information** that NETL considers to be of a potentially patentable nature (hereinafter "Potentially Patentable Information"), and the Participant wishes to receive the Potentially Patentable Information for the purpose of performing a review and evaluation of the Potentially Patentable Information (hereinafter "Purpose for Receiving Potentially Patentable Information"), and

WHEREAS the Participant wishes to provide to NETL certain information, data, and/or samples relating to **description of Participant's proprietary information** that the Participant considers to be Proprietary Information (trade secrets and privileged commercial or financial information) but the Participant is willing and able to provide the Proprietary Information under the terms and conditions hereinafter set forth, and NETL wishes to receive the Proprietary Information for the purpose of performing a review and evaluation of the Proprietary Information (hereinafter "Purpose for Receiving Proprietary Information").

NOW WHEREFORE NETL and the Participant agree that the Potentially Patentable Information and the Proprietary Information shall be provided under the following terms and conditions:

1. Potentially Patentable Information:

- 1.1 All Potentially Patentable Information that is conveyed by NETL to the Participant shall be so identified and marked by NETL at the time it is conveyed to the Participant, which marking shall include the following legend:

PATENT HOLD

This Potentially Patentable Information is made available in confidence solely for use in performing a review and evaluation of the Potentially Patentable Information, and such Potentially Patentable Information may not be published

or otherwise disseminated, disclosed, or used for any purpose before patent approval for such release or use has been secured, upon request, from the NETL Patent Counsel, U.S. Department of Energy, 3610 Collins Ferry Road, Morgantown, WV 26507.

1.2 To the extent that the Participant receives or is given access to any such identified and marked Potentially Patentable Information, the Participant shall use its best efforts to treat such Potentially Patentable Information in accordance with the Patent Hold legend contained thereon, to use such Potentially Patentable Information only for the Purpose for Receiving Potentially Patentable Information, and to make no further disclosure of such Potentially Patentable Information until approval for release or use has been obtained from NETL Patent Counsel.

1.3 In the event the Participant receives oral disclosure of Potentially Patentable Information or visits facilities of NETL and is given access to Potentially Patentable Information, NETL shall, at the time of the disclosure: advise the Participant of the Potentially Patentable Information, provide Participant within thirty (30) days following such disclosure or access with a document containing a brief description of the Potentially Patentable Information so disclosed, note on the brief description that the disclosure comprised Potentially Patentable Information, and include on such description the above Patent Hold legend.

1.4 The Participant agrees not to pass the Potentially Patentable Information, its progeny or derivatives, on to any other party or use them for commercial purposes without the express written consent of the NETL Patent Counsel. No other right or license to the Potentially Patentable Information, its progeny or derivatives, is granted or implied as a result of providing the Potentially Patentable Information to the Participant.

1.5 All such identified and marked Potentially Patentable Information provided to the Participant by NETL shall remain the property of NETL and upon completion of the Purpose for Receiving Potentially Patentable Information, shall be returned to NETL with all copies made therefrom.

2. Proprietary Information:

2.1 All Proprietary Information that is conveyed by the Participant to NETL shall be so identified and marked by the Participant at the time it is conveyed to NETL with the following legend:

LIMITED RIGHTS LEGEND

This Proprietary Information, furnished under a Non-Disclosure Agreement dated _____ between the National Energy Technology Laboratory (NETL) and **PARTICIPANT**, may be reproduced and used only as is necessary to enable NETL to perform a review and evaluation of the Proprietary Information and may not be disclosed to anyone without the prior written permission of **PARTICIPANT**,

other than to Government employees who are subject to the statutory provisions against disclosure of confidential information set forth in the Trade Secrets Act (18 USC 1905), or employees of NETL contractors who have agreed to keep the Proprietary Information confidential, and whose access to the Proprietary Information is necessary for performing the review and evaluation of the Proprietary Information. This Legend shall be marked on any reproduction, in whole or in part, of this Proprietary Information.

2.2 To the extent that NETL receives or is given access to any such identified and marked Proprietary Information by the Participant, NETL shall use its best efforts to treat such Proprietary Information in accordance with the Limited Rights Legend contained thereon, to use such Proprietary Information only for the Purpose for Receiving Proprietary Information, and to make no further disclosure of such Proprietary Information. NETL shall not be liable for any inadvertent disclosure of Proprietary Information where at least a reasonable degree of care has been exercised, provided that upon discovery of such inadvertent disclosure, it shall have endeavored to correct the effects thereof and to prevent any further inadvertent disclosure.

2.3 In the event NETL receives oral disclosures of Proprietary Information or visits facilities of the Participant and is given access to Proprietary Information, the Participant shall, at the time of the disclosure: advise the recipient of the Proprietary Information, provide NETL within thirty (30) days following such disclosure or access with a document containing a brief description of the Proprietary Information so disclosed, note on the brief description that the disclosure comprised Proprietary Information, and include on such description the above Limited Rights Legend.

2.4 All such identified and marked Proprietary Information provided to NETL by the Participant shall remain the property of the Participant and, upon completion of the Purpose for Receiving Proprietary Information, shall be returned to the Participant with all copies made thereof.

3. The points of contact for the Parties are as follows:

NETL

Technical Contact:

NAME OF NETL POC

Department of Energy
626 Cochrans Mill Road
P.O. Box 10940
Pittsburgh, PA 15236-0940
Phone: 412.386.XXXX
Email: EMAIL

OR

Department of Energy
3610 Collins Ferry Rd
P.O. Box 880
Morgantown, WV 26507-0880
Phone: 304.285.XXXX
Email: EMAIL

OR

Department of Energy
1450 SW Queen Ave
Albany, OR 97321-2198
Phone: 541.xxx.xxxx
Email: EMAIL

Administrative Contact:
Jessica Lamp
Department of Energy
626 Cochrans Mill Road
P.O. Box 10940
Pittsburgh, PA 15236-0940
Phone: 412.386.7417
Email: jessica.lamp@netl.doe.gov

Participant

Technical Contact:

NAME
ADDRESS
PHONE
EMAIL

Administrative Contact:

NAME
ADDRESS
PHONE
EMAIL

Any communications shall be deemed made if mailed by postage prepaid first-class U.S. Mail addressed to the point of contact of the receiving Party as of the day of receipt of such communication by the addressee or on the date given if by verified facsimile or on the date given by if by electronic mail. Changes to the points of contact identified in this Article or their addresses shall be given in accordance with this Article and shall be effective thereafter.

4. The obligations of this Non-Disclosure Agreement shall not extend or apply to Potentially Patentable Information or Proprietary Information which now or hereafter (i) becomes publicly

known without the fault of the receiving Party; (ii) comes into the receiving Party's possession from a third party that is not subject to a confidentiality obligation; (iii) is independently developed by the receiving Party's employees who did not have access to the Potentially Patentable Information or Proprietary Information; (iv) is intentionally released by the disclosing Party to a third party without restriction; or (v) is released for disclosure with the written consent of the disclosing Party.

5. This Non-Disclosure Agreement shall terminate [redacted] years from the effective date, unless earlier terminated upon written notification by NETL.

6. The obligation of confidentiality with respect to the Potentially Patentable Information and Proprietary Information shall survive for [redacted] years from the termination date of this agreement, unless NETL requests an extension of the time for good cause shown.

7. This Non-Disclosure Agreement may be signed in one or more counterparts, each of which shall be deemed an original, and all of which taken together shall be deemed one and the same instrument.

8. This Non-Disclosure Agreement is effective on the date affixed hereto by the Party last signing this Non-Disclosure Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Non-Disclosure Agreement,

FOR Department of Energy:

FOR Participant:

BY: _____
Bryan D. Morreale
Executive Director
NETL, Research & Innovation Center

BY: _____
NAME
TITLE

DATE: _____

DATE: _____