

## NON-DISCLOSURE AGREEMENT ("Agreement")

This Agreement is entered into by and between **Alliance for Sustainable Energy, LLC** ("Alliance"), the Manager and Operator of the National Renewable Energy Laboratory ("NREL") under Prime Contract No. DE-AC36-08GO28308 for the U.S. Department of Energy ("DOE"), located at 15013 Denver West Parkway, Golden, CO 80401, and **COMPANY NAME**. ("Receiving Party"), whose place of business is located at **COMPANY ADDRESS**. Alliance and Receiving Party are also referred to herein collectively as the "Parties" and individually as a "Party". The effective date ("Effective Date") of this Agreement is the signature date of the last of the Parties to sign this Agreement.

### 1. DEFINITIONS AND PURPOSE

- a. As used herein, "Proprietary Information" means information that is exempt from public release under the Freedom of Information Act by Exemption 4 (5 U.S.C. § 552(b)(4)).
- b. As used herein, "NREL Protected Information" means information generated in the performance of, or pursuant to the performance of, the Prime Contract regardless of form or characteristic, which would be Proprietary Information had it been generated by a non-federal entity third party and which can be restricted from dissemination by the Bayh-Dole Act, 35 U.S.C. § 200 et seq., other applicable laws, or DOE rules or regulations.
- c. As used herein, the "Scope" means information related to **PROVIDE A NON-PROPRIETARY DESCRIPTION OF THE INFORMATION TO BE DISCLOSED, E.G., THE SERIAL NUMBER AND TITLE OF A NON-PUBLISHED PATENT APPLICATION, THE IDENTIFYING NUMBER AND TITLE OF AN INVENTION DISCLOSURE, ETC.**, which Alliance considers to be NREL Protected Information.
- d. For a period of **DEFINE THE PERIOD OF TIME FOR DISCLOSURE WHICH MUST BE 1-12** months from the Effective Date (the "Disclosing Period"), Alliance wishes to provide Receiving Party and Receiving Party wishes to obtain access to NREL Protected Information related to the Scope. Alliance is furnishing such information for **DESCRIBE THE PURPOSE, I.E., EVALUATION, TESTING, CONSIDERATION OF A POSSIBLE BUSINESS COLLABORATION, ETC.** (the "Purpose"). The "Confidentiality Period" for this Agreement is three (3) years from the disclosure date.

### 2. NREL PROTECTED INFORMATION

- a. Alliance will identify and mark its written NREL Protected Information disclosed hereunder as "NREL Protected Information" at the time it is conveyed to Receiving Party. For NREL Protected Information first disclosed orally (i.e., information expressed by spoken words) hereunder, Alliance will: (i) identify such information as NREL Protected Information at the time it is conveyed to Receiving Party; (ii) reduce such information to writing; and (iii) provide an appropriately identified and marked copy of such writing to Receiving Party within thirty (30) days of such disclosure.
- b. Receiving Party will treat NREL Protected Information that is within the Scope and that is disclosed in compliance with Paragraph 2.a, above, as confidential and proprietary, and will use such information only for the Purpose. Receiving Party will not disclose such information to any third party for the duration of the Confidentiality Period without the prior written approval of Alliance.
- c. Receiving Party will provide access to NREL Protected Information that is within the Scope and that is disclosed in compliance with Paragraph 2.a, above, only to Receiving Party's employees, agents, and independent contractors who are required to have access specifically related to the Purpose. Receiving Party will inform individuals having access to such NREL Protected

Information of the confidential nature of this information and the restrictions on its publication, disclosure, and use, and will require that such employees, agents, and independent contractors are bound by confidentiality obligations no less stringent than those stated in this Agreement.

- d. The obligations of confidentiality set forth in this Agreement do not apply to information which (i) becomes publicly known without the fault of Receiving Party; (ii) has been made available by Alliance (or the owner if other than Alliance) to others without obligation concerning its confidentiality; (iii) is already in the possession of Receiving Party without obligation concerning its confidentiality; (iv) is independently developed by employees of Receiving Party who did not have access to such NREL Protected Information; or (v) is required to be disclosed by U.S. law, including a court order from a court of competent jurisdiction, provided that Receiving Party promptly notifies Alliance and uses diligent efforts to limit such disclosure. Notwithstanding anything to the contrary herein, any disclosure permitted by (v) above will not relieve Receiving Party's confidentiality obligations as to disclosures to any other third party.

### **3. TERM AND TERMINATION**

- a. Either Party may terminate this Agreement with or without cause by giving the other Party thirty (30) days prior written notice.
- b. If not earlier terminated by either Party, this Agreement will terminate at the end of the Disclosing Period.
- c. Upon termination of this Agreement, Receiving Party will, within two (2) weeks of written request from Alliance, return all documents concerning the NREL Protected Information and all copies of any such documents to Alliance, or certify in writing their destruction, with the exception of copies of NREL Protected Information made as a matter of routine information technology or legal backup, provided that such copies will continue to be subject to the confidentiality obligations set forth in this Agreement and may only be used in resolving a dispute between the Parties regarding this Agreement.
- d. The obligations of confidentiality set forth in Section 2, above, will survive termination of this Agreement until the end of the Confidentiality Period.

### **4. MISCELLANEOUS**

- a. Disclosure of NREL Protected Information to Receiving Party does not constitute any grant, option, or license under any patent or other right now or hereinafter held by Alliance or DOE. No license—express or implied—in the NREL Protected Information or other proprietary right is granted hereunder other than to use the information in the manner and the extent authorized by this Agreement.
- b. Any Party receiving NREL Protected Information will adhere to U.S. Export Administration Laws and Regulations and will not export or re-export any such NREL Protected Information, any technical data, items, or products arising from such information to any country or person unless properly authorized by the U.S. Government.
- c. Nothing in this Agreement prohibits or otherwise restricts employees or subcontractors of the Parties from lawfully reporting waste, fraud, or abuse related to the performance of a government contract to a designated investigative or law enforcement representative of a federal department or agency authorized to receive such information (e.g., agency Office of the Inspector General).
- d. This Agreement contains the entire understanding between the Parties and it supersedes all prior or contemporaneous communications, agreements, or understandings between the Parties concerning Receiving Party's receipt of NREL Protected Information for the Purpose. This Agreement may be executed in counterparts and the sum of said counterparts will represent a

fully executed document. Facsimile signatures and electronic signatures are fully binding and constitute a legal method of executing this Agreement.

EXAMPLE