

Effective Date:

In order to protect certain Business Sensitive or Proprietary Information (Information), **UT-Battelle, LLC** (UT-Battelle), under the authority of its Prime Contract No. DE-AC05-00OR22725 with the U.S. Department of Energy (DOE) and having an address at **1 Bethel Valley Road, Oak Ridge, Tennessee 37830**, and _____ (Company), having an address at _____, hereinafter referred to individually as “Party” or collectively as “Parties” hereby agree:

1. **Disclosing Party:** The Party disclosing Information is
 - Out - UT-Battelle only
 - In - Company only
 - Mutual –Information disclosed bilaterally
2. **Representative:** Each Party’s representative for coordinating disclosure or receipt of Information is:
 Company:
 UT-Battelle:
3. **Description of Information:** The Information disclosed under this NDA relates to:
 Company:
 UT-Battelle:
3. **Restrictions:** The Party receiving Information (Recipient) shall maintain the Information in confidence and disclose the Information only to its employees having a need to know such Information, and any contractors, subcontractors, and agents of Recipient having a similar obligation of confidentiality, to fulfill the purpose described below:
 - Evaluation in anticipation of a business relationship between the Parties.
 - Developing a proposal for Discloser.
 - Other.

Except as otherwise required herein, if disclosure of Information to a third party becomes necessary, the Disclosing Party shall first enter into an NDA with such third party that is substantially similar to this NDA. All parties, whether Parties to this NDA or third parties, that have executed an NDA similar to this NDA for the same Information may share Information with each other. UT-Battelle shall have the right to disclose the Information to DOE or the designee thereof, as required under the Prime Contract between UT-Battelle and DOE. Information shall be protected against further disclosure by DOE employees under 18 USC 1905. If UT-Battelle is the Disclosing Party, Recipient shall ensure its employees receiving such disclosures are U.S. Citizens or foreign nationals having a green card.
4. **Confidentiality Period:** This NDA and Recipient’s duty to protect Information expires three (3) years from the Effective Date of this NDA as identified above or, in the absence of such Effective Date, the date this NDA is executed by UT-Battelle.
5. **Disclosure Period:** This NDA applies to Information described in Paragraph 3 that is actually disclosed to Recipient within two (2) years after the Effective Date identified above or, in the absence of such Effective Date, the date this NDA is executed by UT-Battelle.
6. **Standard of Care:** Recipient shall protect the Information received hereunder by using the same degree of care that Recipient uses to protect its own Information of a like nature, but no less than a reasonable degree of care, to prevent the unauthorized use, disclosure, dissemination, or publication of the Information.
7. **Marking:** Recipient’s obligations shall only extend to Information that is described in Paragraph 3, and that: (a) is marked as Business Sensitive or Proprietary at the time of disclosure; or (b) is unmarked (e.g., orally disclosed) but treated as Business Sensitive or Proprietary at the time of disclosure, and is designated as Business Sensitive or Proprietary in a written memorandum sent to Recipient’s representative within thirty (30) days of disclosure, sufficiently summarizing the Information to enable its identification.

- 8. **Exclusions:** This NDA imposes no obligation upon Recipient with respect to Information that: (a) was rightfully in Recipient’s possession before receipt from Discloser; (b) is or becomes a matter of public knowledge through no fault of Recipient; (c) is rightfully received by Recipient from a third party without a duty of confidentiality; (d) is disclosed by Discloser to a third party without imposing a duty of confidentiality on the third party; (e) is independently developed by employees of Recipient who did not have access to such Information; (f) must be disclosed under operation of law or regulation; or (g) is disclosed by Recipient with Discloser’s prior written approval.
- 9. **Warranty:** Each Discloser warrants that it has the right to make the disclosures under this NDA. **NO OTHER WARRANTIES, INCLUDING WARRANTIES AGAINST INFRINGEMENT, ARE MADE BY EITHER PARTY UNDER THIS NDA. ANY INFORMATION EXCHANGED UNDER THIS NDA IS PROVIDED “AS IS.”**
- 10. **Rights:** Neither Party acquires any intellectual property rights under this NDA except the limited rights necessary to carry out the Purpose set forth in Paragraph 4. This NDA shall not restrict reassignment of Recipient’s employees to perform similar or identical work for or with others, but such employees shall not use any information exchanged and subject to this NDA.
- 11. **Export Laws and Regulations:** The Parties agree to adhere to all applicable U.S. Export Laws and Regulations and that absent any required prior authorization from the Office of Export Licensing, U.S. Department of Commerce, they will not knowingly export or re-export (as defined in Part 779 of the Export Administration Regulations), directly or indirectly, through their affiliates, licensees, or subsidiaries, any of the Information (or any product, process, or service resulting directly therefrom) to any country restricted by U.S. law or governmental order.
- 12. **Economic Espionage Act:** The Information disclosed under this NDA is subject to the provisions of the Economic Espionage Act of 1996.
- 14. **Miscellaneous:**
 - 14a. This NDA imposes no obligation on either Party to purchase, transfer, or otherwise dispose of any technology, services or products.
 - 14b. This NDA does not create any agency or partnership relationship. Each Party is responsible for its own expenses incurred as a result of any discussions between the parties.
 - 14c. This NDA embodies the entire understanding between the Parties pertaining to the subject matter hereof. Any modifications to this NDA shall be made in writing and signed by all Parties to this NDA. Facsimile signatures are deemed equivalent to original signatures for purposes of this NDA.
 - 14d. This NDA shall be construed according to the substantive laws of the State of Tennessee, U.S.A.
 - 14e. This NDA and all Information received hereunder, if any, may be transferred to the DOE or its designee upon termination of UT-Battelle’s Prime Contract, if any, with the DOE.

UT-Battelle, LLC

Company

By: _____

By: _____

Printed Name: Joyce W. Shepherd

Printed Name: _____

Title: Director, Sponsored Research

Title: _____

Date: _____

Date: _____