

CENTER FOR BIORENEWABLE CHEMICALS

CONFIDENTIAL DISCLOSURE AGREEMENT

THIS Confidential Disclosure Agreement (“CDA”) is made by and among Iowa State University of Science and Technology (“ISU”) located at 1138 Pearson Hall, Ames, IA 50011-2207 through its Center for Biorenewable Chemicals (“CBiRC”), the Cooperators and Affiliates as defined below and each company entity with a signature affixed hereto (“Member”). ISU, Cooperators, Affiliates, and Members together are the “Parties” and ISU, each Member, each Cooperator and each Affiliate are each a “Party”. ISU, Cooperators, and Affiliates are each an “Institution” and together “Institutions.”

WHEREAS, ISU is the recipient of funding from the National Science Foundation (“NSF”) under Cooperative Support Agreement EEC-0813570 (“Prime Agreement”) and has joined together with committed subrecipient entities including: the University of New Mexico, the University of Virginia, the University of California-Irvine, The University of Wisconsin, and Rice University (individually a “Cooperator”; in any combination “Cooperators”) and the University of Michigan and the Salk Institute for Biological Studies (individually an “Affiliate”; in any combination “Affiliates”) to establish the Center for Biorenewable Chemicals (“CBiRC”) at ISU for the purpose of developing a platform to produce commodity and specialty chemicals from biorenewable carbon;

WHEREAS, Members have joined the CBiRC through a CBiRC Membership Agreement that contemplates and provides for the development of patentable subject matter, the licensing thereof, and the need to develop confidentiality understandings thereto in order to facilitate protection of such patentable subject matter;

WHEREAS, Institutions desire to disclose the results of CBiRC activities to other Parties in order to enable the performance of activities under the CBiRC; to NSF, in order to meet the reporting requirements of the Prime Agreement; and to Members, for review for patentable subject matter as contemplated in the CBiRC Membership Agreement.

WHEREAS, the purpose of this CDA is to set forth the expectations of confidentiality with respect to the submission and review of results that may contain patentable subject matter and to coordinate the necessities of collaborative research activity, publication, and reporting attendant thereto.

NOW THEREFORE, the Parties acknowledge and agree to the following:

1. Certain research activities of CBiRC may result in the development of subject matter by investigators that is of a scope and content deemed sufficient for consideration of patentability (“Inventions”). The Parties have a mutual interest in maintaining Inventions as confidential for a limited period of time to allow the filing of patent applications in a manner that preserves the patent rights that may be available under United States and foreign patent laws. In addition to the other terms and conditions set forth herein the Parties shall endeavor to develop awareness and operating procedures in order to coordinate the confidentiality expectations set forth in this CDA with the need for open collaborative activity among the Parties, the reporting obligations to NSF, and other publication rights and obligations.

2. The Institutions shall be a “disclosing party” and/or a “receiving party” as context dictates. Members shall be a “receiving party” only. “Confidential Information” shall mean any and all Inventions that are desired by a disclosing party to be reviewed for patentability and that are disclosed or provided by a disclosing party to a receiving party in written form, *provided that* Confidential Information shall not include information:
 - a. that is or becomes generally known or available to the public without breach of this Agreement;
 - b. that is known to the receiving party at the time of disclosure, as evidenced by written records of the receiving party;
 - c. that is independently developed by the receiving party, as evidenced by written records of the receiving party; or
 - d. that is disclosed to the receiving party in good faith by a third party who has an independent right to such subject matter and information; or
 - e. that is required to be disclosed by law.
5. A receiving party agrees to hold in confidence all Confidential Information, to not disclose any Confidential Information to any third party, and to use Confidential Information solely for consideration of patentability. A receiving party shall have the right to disclose Confidential Information of the disclosing party to employees, faculty, staff, students, agents, or consultants of its organization (“Representatives”) provided that the receiving party causes such Representatives to be bound to the terms of this Agreement.
6. Receiving parties will be informed in writing of Inventions. Members shall have thirty (30) days to comment in writing on the patentability of Inventions and, if desired, to express any interest in licensing and payment of patent costs thereto. By mutual written agreement, the involved Parties shall have the right to extend such review within the thirty (30) day period. Upon expiration of such thirty (30) days or any extension thereto, the disclosing party shall have the right to make public disclosure of Inventions, subject to Article 7 herein below. It is also anticipated that Members and/or Institutions may identify in advance preliminary or projected results that are likely to be patentable, and the Parties shall consider entering into more specific confidentiality arrangements thereto as circumstances dictate.
7. This CDA shall expire upon the dissolution of CBiRC. All Confidential Information shall be held confidential for a period of time which is the sooner of the time of either A) when the disclosing party notifies the receiving party in writing that the obligations of holding in confidence all or a portion of disclosing party’s Confidential Information (see Article 5 above) are terminated or B) two (2) years from the date at which the Confidential Information was first disclosed by the disclosing party.
8. Nothing contained in this CDA shall be construed as an obligation to enter into any further agreement concerning the Confidential Information, or as a grant of a license to the Confidential Information or to any patent or patent application existing now or in the future.

9. This CDA shall not be assignable or otherwise transferable by either Party without the consent of the other Party.
10. This CDA shall be the entire understanding between the Parties with respect to the subject matter hereto. Notwithstanding anything to the contrary in this Agreement, in the case of any conflict, inconsistency, ambiguity, or differences in interpretation between this CDA and the terms and conditions of the Prime Agreement and subcontracts thereof, the terms and conditions of the Prime Agreement and subcontracts thereof shall prevail.
11. The parties agree that this Agreement may be executed by facsimile or PDF copies and in two (2) or more counterparts, each of which shall be deemed an original and all of which together shall constitute but one.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date first set forth below ("Effective Date").

IOWA STATE UNIVERSITY

Agreed and Understood

 14/8/09
Name: Brent Shanks Date
Title: Director, CBiRC

Approved

 14/8/09
Name: Matthew Bailey Date
Title: Director of Industry Initiatives

Company _____

Approved

Name: /Date
Title: