



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

MUTUAL CONFIDENTIALITY AGREEMENT

Between the U.S. Environmental Protection Agency and

[full name of company, association, etc.]

This AGREEMENT is made and entered into by and between

[full name of company, association, etc.] (also provide abbreviated name, e.g., Battelle instead of "Battelle Memorial Institute", or initials, e.g. "GM" instead of "General Motors"("XXX")),

having a principal place of business at

[insert street address, state and ZIP code]

and

[the laboratory, center, or program office]

on behalf of the U.S. Environmental Protection Agency ("EPA" or the "Agency")(together, the "PARTIES").

WITNESSETH:

A. WHEREAS, the parties to this AGREEMENT are engaged in
[describe activity]

(the "PROJECT");

B. WHEREAS, in the course of the PROJECT, [Cooperator]
intends to voluntarily disclose to EPA
[describe information]

which may reveal patentable subject matter, trade secrets, know-how, business methods
or other proprietary information, or which is otherwise confidential information related to
[Cooperator] 's business;

C. WHEREAS, [Cooperator] claims that all or part of the information
that it will disclose to EPA during the course of the PROJECT is confidential.

D. WHEREAS, in the course of the PROJECT, EPA may disclose confidential information
(hereinafter referred to as "CONFIDENTIAL INFORMATION");

E. WHEREAS, [Cooperator] wishes to receive and evaluate such
CONFIDENTIAL INFORMATION solely for the purpose of carrying out the PROJECT;
and

F. WHEREAS, EPA has determined that sharing such CONFIDENTIAL INFORMATION
with [Cooperator] for the PROJECT is in the public interest and is
consistent with the Agency's mission;

NOW THEREFORE, in consideration of the mutual promises, covenants and conditions
herein contained, the PARTIES agree as follows:

1. Identifying Confidential Business Information. EPA agrees to protect information
claimed as confidential business information ("CBI") from unauthorized disclosure to the
extent permitted by law and consistent with EPA's regulations under 40 C.F.R. Part 2,
Subpart B. In asserting a claim for protection, [Cooperator] must mark its
written information as "CLAIMED AS CONFIDENTIAL BUSINESS
INFORMATION." Documents that are marked as "CLAIMED AS CONFIDENTIAL
BUSINESS INFORMATION" represent that [Cooperator] is asserting a
confidentiality claim. The foregoing shall not apply to information that is or becomes
publicly available or which is disclosed to EPA without a confidentiality obligation. Any
oral disclosures from [Cooperator] to EPA containing information that
[Cooperator] wishes to assert as confidential business information shall
be identified as such at the time of the disclosure and by written notice, marked in the
manner stated above, delivered to EPA within thirty (30) days after the date of the oral
disclosure.

2. Use of CBI. EPA agrees that, to the extent permitted by law, neither EPA nor any of its branches, divisions, employees, independent contractors, or other persons or organizations over which it has control will, at any time during or after this PROJECT, directly or indirectly use any claimed CBI disclosed to EPA for the PROJECT for any purpose not associated with the PROJECT.

3. Information Not Considered CBI under Applicable Laws. EPA's obligations under this AGREEMENT do not extend to any information that:
 - a. can be demonstrated to have been in the public domain or publicly known and reasonably obtainable to the trade or the public prior to the date of any possible disclosure;
 - b. can be demonstrated to have been in EPA's possession or reasonably obtainable by EPA from another source prior to any possible disclosure;
 - c. becomes part of the public domain or publicly known by publication or otherwise, provided such availability is not due to any unauthorized act of EPA;
 - d. is obtained by EPA for enforcement purposes or other purposes that are independent of this PROJECT;
 - e. [Cooperator] agrees to disclose for any purpose, including promotion of this PROJECT.

4. Disclosures to [Cooperator]. [Cooperator] agrees to protect information claimed as confidential information from unauthorized disclosure. EPA will clearly and plainly mark as "CONFIDENTIAL" any written information it submits to [Cooperator] as part of this PROJECT and that it wishes to be treated in accordance with the terms of this AGREEMENT. If EPA discloses information to [Cooperator] which the Agency orally claims as CONFIDENTIAL INFORMATION, EPA will promptly notify [Cooperator] in writing if it wants such information treated in accordance with this AGREEMENT.

5. Effect of Other Disclosure Authorities. These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling. The PARTIES acknowledge that EPA's obligations under this AGREEMENT do not bar disclosures to Congress or to an authorized official of an executive agency or the Department of Justice where such disclosures are essential to reporting a substantial violation of law.

6. Binding Effect. This AGREEMENT shall be binding on the PARTIES and upon their respective executors, administrators, legal representatives, successors, and assigns.
7. Governing Law. The construction, interpretation, validity, performance, and effect of this AGREEMENT for all purposes shall be governed by the laws applicable to the U.S. Government.
8. Effective Date. This AGREEMENT shall enter into force as of the date of the last signature of the PARTIES.

Authorized Representative Signatures

FOR THE EPA

By: _____

Date: _____

[insert title, program, and email address]

FOR [COOPERATOR NAME]

By: _____

Date: _____

[insert title, email address]

Signed Agreements sent to:

Kathleen Graham
FTTA Program Coordinator
Graham.kathleen@epa.gov
(303) 312-6137
FTTA@epa.gov