

# H-Prize: Hydrogen Shot Incubator



U.S. DEPARTMENT OF ENERGY

## VOUCHER GUIDELINES

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# VOUCHER GUIDELINES

## 1. INTRODUCTION

The **H-Prize: Hydrogen Shot Incubator** is a \$2.6M program that seeks to award funding to novel technologies that show potential to produce affordable clean hydrogen.<sup>1</sup> The Department of Energy (DOE) Hydrogen and Fuel Cell Technologies Office (HFTO) launched this prize in support of the Hydrogen Program's efforts to quickly identify, develop, and test disruptive technologies to decrease the cost of clean hydrogen production and meet the Hydrogen Energy Earthshot (Hydrogen Shot) goal of \$1/kg of clean hydrogen in one decade.

This prize consists of two phases, **Propose!** and **Prove!** This prize aims to fast-track efforts to identify, develop, and test disruptive technologies to decrease the cost of clean hydrogen production. Entrepreneurs and inventors can compete for cash prizes, vouchers, and an opportunity to work with experts to help accelerate the development of their novel concepts and improve the opportunities for transformative and disruptive technologies.

This document provides details about how winners can use non-cash prize awards in the form of vouchers<sup>2</sup> to access tools, equipment, and expertise at national laboratories. The intent of this voucher system is to allow prize winners from the **Propose!** and **Prove!** phases to leverage the capabilities of national laboratories. As Prize Administrator, the National Renewable Energy Laboratory (NREL) will manage administrative activities related to vouchers.

## 2. VOUCHER OVERVIEW

As noted in Section 1, prize vouchers will allow winners from the **Propose!** and **Prove!** phases to access tools, equipment, and expertise at national laboratories—supporting the development, testing, and validation of their innovative solutions. The guidelines in this document are applicable to **Propose! Phase** winners, who each receive a \$50,000 voucher, and **Prove! Phase** winners, who each receive a \$300,000 voucher.

Winners of the **Propose!** and **Prove!** phases (collectively, winners) have the opportunity to use vouchers at DOE's national laboratories, otherwise known as Voucher Service Providers (VSPs), specified in the Voucher Capabilities Menu. Winners in applicable phases will receive a Voucher Digest, which details steps to redeem voucher services, as well as select national lab capabilities in hydrogen.

VSPs may provide winners with technical support, including:

- Access to hardware and development tools
- Access to national laboratories
- Specialized facilities with additive, reductive, and digital manufacturing support
- Testing and validation capabilities
- Other expert services, which may be negotiated between the winners and the lab.

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<sup>1</sup> Clean hydrogen means hydrogen produced with a carbon intensity equal to or less than 2 kilograms of carbon dioxide-equivalent produced at the site of production per 1 kilogram of hydrogen produced, as defined in Section 40315 of the Bipartisan Infrastructure Law.

<sup>2</sup> 15 U.S. Code § 3719 - Prize Competitions

VSPs are prohibited from being used for non-technical support (communications, marketing etc.) Details on how applications will be reviewed and approved, as well as additional VSP use policies, are discussed in subsequent sections.

### 3. VOUCHER PROCESS

The process for vouchers issued to *Propose!* and *Prove!* phase winners consists of the following steps, which are designed to pair winners with VSPs that can provide valuable assistance for their specific projects.

**Any team that wins the *Propose!* and *Prove!* phase and intends to utilize their voucher must:**

1. **Learn:** Winners of the *Propose!* and *Prove!* phase will receive a Voucher Capabilities Menu from the Prize Administrator. Winners must review the offerings and capabilities provided by national labs to identify prospective VSPs.
2. **Voucher Slide:** Winners based on the Voucher Capabilities Menu will create a voucher work slide. A sample of the voucher work slide is available within the Voucher Capabilities Menu. Teams must submit this slide for review in the timeline specified in the Voucher Capabilities Menu.
3. **Collaboratory:** In coordination with HFTO and national laboratories participating in the voucher process, the Prize Administrator will review the voucher slides and assign teams to a national laboratory.
4. **Assignment:** The Prize Administrator will contact teams with their national laboratory assignment.
5. **Complete Statement of Work:** A full statement of work (SOW) must be drafted jointly with the VSP, using a template provided by the Prize Administrator. Teams must complete the SOW (including all negotiations with the VSP) no later than 45 calendar days after the *Propose!* or *Prove!* winner announcements. Failure to comply with process requirements and timeline may result in the forfeit of the voucher.
6. **Contract:** Once the approved SOW is in place, teams enter into a formal agreement with the VSP. Qualified activities relate to work that is directly in alignment with progressing the solution or product and must adhere to the policies described in these guidelines. It is expected that an agreement between the winner and VSP will be in place prior to the *Prove!* submission date and that significant work has been completed.

National labs also require a cooperative research and development agreement (CRADA). Please note that the CRADA would be a separate agreement between the parties to be approved by DOE, including a joint work statement describing the purpose, scope, schedule, and estimated

cost of a proposed CRADA, as explained in section 6.<sup>3</sup> Any lab or participant background intellectual property (IP) needed to perform CRADA work or practice results may be handled in a background IP attachment to the CRADA. Each lab's CRADA process and CRADA agreement vary slightly. An example CRADA and joint work statement for NREL is included in Appendix E.

7. **Begin Work:** Once the agreement between the winner and VSP is in place, work can begin. For vouchers awarded to *Propose! Phase* winners, the majority of the work should be completed in the eight months leading up to the *Prove! Phase* submission deadline. However, work may continue for one year after the voucher is awarded at the *Propose! Phase*. Winners and VSPs can renegotiate and resubmit the SOW if changes are needed over time.

## 4. VOUCHER SERVICE PROVIDERS

VSPs are any of the DOE national laboratories specified in the [Voucher Capabilities Menu](#) found under the resources tab on the Hydrogen Shot Incubator HeroX page.

## 5. VOUCHER USE POLICIES

The following terms specify the voucher use policy for *Propose!* and *Prove!* phase winners:

- **Voucher Recipients:** Only *Propose!* and *Prove!* phase winners will receive vouchers. *Propose! Phase* winners are expected to use vouchers in preparation for the *Prove! Phase*. Winners of the *Prove! Phase* will receive vouchers to develop their concepts in preparation for the Pitch Event.
- **Voucher Timeline:** *Propose! Phase* vouchers must be used within 1 year of winning, and most work should be completed by the *Prove! Phase* submission deadline.

*Propose! Phase* vouchers must be used within 18 months of winning, and most work should be completed by Pitch Day.

- **Approved VSP:** Winners may use a voucher only at a DOE national lab specified in the [Voucher Capabilities Menu](#).
- **Allowable work:** All work conducted by the VSPs and funded through vouchers must be exclusively dedicated to advancing the winner's innovation selected in the *Propose! Phase*. Additionally, funds must be used for developing, prototyping, testing, or validating the innovation. When considering whether work will advance a particular innovation, the Prize Administrator will look to tangible and measurable outcomes related to advancing the innovation. The costs of the work must be reasonable. No alcohol, food, travel, or other personal expenses will be allowed.

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<sup>3</sup> Please note that to the extent that there is any inconsistency between the prize rules and the CRADA terms and conditions, such as the Government purpose license (e.g., Appendix C, articles VI.C. and VII.C.) and a U.S. competitiveness requirement (e.g., Appendix C, article VIII) applicable to intellectual property developed in the performance of the CRADA, according to the CRADA terms and conditions, for example, the CRADA would take precedence.

- **Best Value Due Diligence:** Winners are solely responsible for engaging national labs and establishing scopes of work under the voucher system. The Prize Administrator staff will not intervene, mediate, or negotiate on behalf of winners for the use of vouchers at any point in this program.
- **Responsibility:** The winner is also solely responsible for managing the process and the work products, including any changes, delays, risks, conflicts, or disputes. If, for whatever reason, the work is not completed or a dispute arises between the winner and a VSP, resolution is entirely the responsibility of the winner. The Prize Administrator will not intervene or mediate in such cases and will not bear any costs for dispute resolution among the parties.
- **Protecting Innovation Intellectual Property (IP):** There are some IP restrictions and controls if the voucher payments are processed through a CRADA or Memorandum Purchase Order (MPO) options, as described briefly in Section 3. Review the full details in Section 6.
- **Arms-Length Transactions:** The relationship between a winner and a VSP should avoid actual conflicts of interest or the appearance of conflicts of interest. A winner and a VSP should act independently and should not have any relationship with each other beyond providing services. All parties must act in their own self-interest and not be subject to any pressure or duress from the other party.
- **Process Compliance:** All winners agree to adhere to the requirements contained in this document. Failure to follow these requirements may limit winners' ability to acquire voucher funds.
- **Use or Lose:** Winners must submit a completed Voucher Prize Acceptance Form for Prize Administrator review within 45 days of the **Propose! Phase** winner announcement. Failure to do so may result in the forfeiture of voucher funds. Vouchers will expire 1 year after the winners of the **Propose! Phase** are announced. Vouchers will expire 18 months after the winners of the **Prove! Phase** are announced. Vouchers cannot be redeemed for cash and may not be transferred to other parties.

## 6. VOUCHER AGREEMENTS AND PAYMENTS

### Work with NREL

To work with NREL, participants are required to enter into a Cooperative Research & Development Agreement (CRADA). A signed CRADA gives a winner maximum collaborative flexibility with a national lab and allows additional private funds to be used to expand the SOW. It also defines ownership of any intellectual property developed during voucher-funded work as well as other specifics of the collaboration. Even if participants do not win a **Propose! Phase** prize, they may still enter into a CRADA using private funds. In order to enter into a CRADA with NREL, the following documents must be completed:

- **Participant Data Sheet:** To be completed as soon as possible after winning the Propose or Prove Phase, a completed Participant Data Sheet begins the process. A sample Participant Data Sheet can be found in Appendix C.
- **Joint Work Statement:** All projects must have a joint work statement (JWS) describing the proposed project scope to be covered with the voucher funds. A joint work statement template is included in Appendix D. The JWS should be developed collaboratively by the teams and the lab staff who will be conducting work for them and must include a budget for the proposed work.
- **Signed CRADA:** Once the Participant Data Sheet and Joint Work Statement are complete, NREL's Tech Transfer Office will have teams sign a CRADA. It is expected that the CRADA will be accepted without any changes to the terms and conditions. The sample CRADA is found in Appendix E. It is expected that winners will have a signed CRADA in place in time to complete the proposed scope of work by the **Prove! Phase** submission deadline for vouchers won in the **Propose! Phase** or by the Pitch Day for vouchers won during the **Prove! Phase**. However, depending on timing and what the teams require, there may be a delay in getting access to specific equipment or researchers. NREL will do its best to try to expedite requests from Hydrogen Shot Incubator Prize teams as much as possible. Once a CRADA is signed, the Prize Administrator will transfer funds directly to the NREL researcher for use.

NREL will share an informational webinar on CRADAs and partnerships with NREL prior to the **Propose! Phase** deadline.

### Work with Other National Labs

When working with a national lab other than NREL, the winner must work directly with that lab to complete a Statement of Work no later than 45 calendar days after winning the Propose Phase. This Statement of Work must be submitted to the Prize Administrator ([HydrogenShotPrize@nrel.gov](mailto:HydrogenShotPrize@nrel.gov)) with indications of approval by both the winner and the national lab.

Once NREL receives this Statement of Work, NREL will work with the Hydrogen and Fuel Cell Technologies Office to designate funds at the desired lab for use. The actual timing for each lab funds transfer will depend on the individual labs, but the Prize Administrator will work closely with all selected labs to ensure a smooth and quick funds transfer process.

# APPENDIX A – FAQs

## **How do I know which national lab to work with?**

After winning the **Propose! Phase**, you will receive a Voucher Capabilities Menu that contains a list of hydrogen technologies and advanced manufacturing-focused capabilities for specific national labs. If you see a capability on that list that matches your needs, please include this lab in your voucher slide.

## **How long do I have to use my voucher?**

Your voucher expires one year after it is awarded at the conclusion of the **Propose! Phase**. All voucher work must be completed by that date. The majority of the voucher work should be completed by the **Prove! Phase** submission deadline. Your voucher awarded at the **Prove! Phase** expires eighteen months after it is awarded.



# APPENDIX B – VOUCHER PRIZE ACCEPTANCE FORM

You will be asked to complete this form within 30 business days of winning the *Propose! Phase*.

In addition to the cash prize, you have won \$50,000 in vouchers to use at a national lab. This form serves as an agreement between the Prize Administrator and the winning team and documents the team's intent to utilize vouchers.

By signing this document, you are acknowledging that you understand and will adhere to the following:

- You will be responsible for understanding all of the requirements for utilizing vouchers as outlined in the Voucher Guidelines.
- You must decide on the technical Statement of Work (SOW) and how you intend to utilize the voucher within 1 month from winning the Propose Phase. This includes documenting which lab, facility you are planning to work with. If you do not intend to utilize the full voucher amount, the remaining balance of voucher funds will be forfeited at the time the SOW is approved.
- All SOWs must be approved by the Prize Administrator prior to work commencing.

**Tell us how you will redeem your \$50,000 voucher** (If you are splitting your voucher between up to three entities, select multiple choices below):

I intend to redeem my voucher at NREL                      Amount: \$ \_\_\_\_\_

I understand that a CRADA will need to be established to work with NREL on collaborative research. I agree to complete the Joint Work Statement with the NREL PI within one month of being awarded this voucher. I understand that failure to complete this Joint Work Statement may result in the forfeit of the voucher.

I intend to redeem my voucher at one or more national labs that is not NREL. Fill out each line below with budget information on each non-NREL lab.

Lab #1 Amount: \$ \_\_\_\_\_

Lab #2 Amount: \$ \_\_\_\_\_

I will work directly with the national lab to put a SOW in place. I agree to share the finalized SOW and budget with the Prize Administrator within one month of being awarded this voucher. I understand that failure to have a SOW in place with the national lab of my choice within 1 month may result in the forfeit of the voucher.

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

# APPENDIX C – WORK WITH NREL: PARTICIPANT DATA SHEET

NREL is a U.S. Department of Energy owned laboratory. The information given below is for informational purposes only.

<b>1.0 POINTS OF CONTACT.</b> Identify specific points of contact (POCs) within your company.		
Company name:		
Technical POC. Please identify the technical POC within your company with whom NREL’s technical staff will work.		
Name:		
Business address:		Email:
City:	State:	Country:
Zip/postal code:	Phone:	Fax:
Business POC. This agreement is likely to involve the negotiation of business terms and conditions between your company and NREL. Please identify the POC within your company who will negotiate these business issues.		
Name:		
Express mail address:		Email:
City:	State:	Country:
Zip/postal code:	Phone:	Fax:
<b>2.0 EMPLOYEE HISTORY.</b> Are any employees, consultants, or contractors to the company listed in Section 1.0, who are involved in negotiating this agreement or working on the project, either current or recent (“recent” meaning within the last two years):		
<input type="checkbox"/> Current <input type="checkbox"/> Recent <input type="checkbox"/> No	NREL employees?	
<input type="checkbox"/> Current <input type="checkbox"/> Recent <input type="checkbox"/> No	Department of Energy employees?	
For “Current” or “Recent” responses, identify the individual(s) and their associations.		
<b>3.0 BUSINESS CATEGORIZATION.</b> The company identified in Section 1.0 is (check all that apply)		
<input type="checkbox"/> A small business (less than 500 employees) pursuant to 15 U.S.C. 632(a), Small Business Regulations. <b>Provide the NAICS number if one has been assigned to the company.</b>		
<input type="checkbox"/> A large business (500 or more employees)		
<input type="checkbox"/> A non-profit organization or business under the Internal Revenue Code Sections 501 or 503		
<input type="checkbox"/> Other. <b>Describe.</b>		
<b>4.0 COUNTRY INFORMATION.</b> The company listed in Section 1.0 is:		
<input type="checkbox"/> A U.S.-owned business	<input type="checkbox"/> A non-U.S.-owned business	<b>State of incorporation:</b>
<input type="checkbox"/> A U.S.-controlled business	<input type="checkbox"/> Controlled by a non-U.S. entity	<b>Country of incorporation:</b>

- A multi-national company (i.e., U.S.-owned with foreign research and/or manufacturing facilities).  
If this box is checked, does the company have operations in the United States?
- Yes  
 No

**5.0 INTELLECTUAL PROPERTY**

<input type="checkbox"/> Yes <input type="checkbox"/> No	Are any participant employees or outside individuals, who will have direct or indirect access to the information that may be generated or supplied by NREL, foreign nationals? If so, provide the following information on these individuals.		
	<b>Name</b>	<b>Country of Citizenship</b>	<b>Green Card Holder?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No
	<b>Name</b>	<b>Country of Citizenship</b>	<b>Green Card Holder?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No
	<b>Name</b>	<b>Country of Citizenship</b>	<b>Green Card Holder?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No
	<b>Name</b>	<b>Country of Citizenship</b>	<b>Green Card Holder?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No

**6.0 ELIGIBILITY**

<input type="checkbox"/> Yes <input type="checkbox"/> No	Is the company listed in Section 1.0 debarred, suspended, or an ineligible contractor as defined in the Federal Acquisition Regulation 9.4?
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**7.0 RELEASE OF INFORMATION**

<input type="checkbox"/> Yes <input type="checkbox"/> No	Do you agree to allow NREL to release your company name in a public forum such as a press release or NREL’s Web site?
<input type="checkbox"/> Yes <input type="checkbox"/> No	Do you agree to allow NREL to identify the value of the agreement in a public forum such as a press release or NREL’s Web site?
<input type="checkbox"/> Yes <input type="checkbox"/> No	Are you willing to work with NREL to create a communication, such as a press release, that both parties can use?

**8.0 SIGNATURE.** I hereby represent that the above information may be used for purposes of entering into the proposed agreement.

Printed Name	Signature
Title	Date

# APPENDIX D – WORK WITH NREL: JOINT WORK STATEMENT

**Title:** [Winners should use their Hydrogen Shot Incubator Prize project title]

**Abstract of CRADA work:** The American-Made Hydrogen Shot Incubator Prize is a prize competition from the U.S. Department of Energy designed to catalyze manufacturing innovation in the American hydrogen industry by harnessing the rapid advances additive manufacturing can provide in improving tool design, fabrication, and functionality. The competition aims to support the growth of U.S. hydrogen energy and revitalize American energy innovation by tapping into America’s competitive spirit and the nation's unparalleled innovation ecosystem leveraging national labs. Finalists have been chosen to develop their concepts in advance of the Prove Phase and of the Pitch Day anticipated to be held in January 2025.

**Participant Name and Address:** To be completed for each partner

Name:

Address:

City, State Zip Code:

Phone number:

Email:

## Participant Type

Small Business [ ]

Large Business [ ]

## Schedule

The Period of Performance for this effort is .

## Purpose

To provide the tools and expertise to help projects succeed and is comprised of an unparalleled hydrogen innovation system. These resources will provide technical insight, product validation, and strategic support to teams throughout the competition.

## Statement of Work

### Task Descriptions

#### The Participant will:

Task 1: The Participant will participate in a monthly check-in with the NREL Principal Investigator. If a check-in meeting is missed two months in a row, the agreement may be canceled by the American-Made Challenges Hydrogen Shot Incubator Prize team.

Task 2:

Task 3:

Etc.

**NREL will:**

Technical and business support provided by NREL to develop finalist concepts in advance of Demo Day events. The technical advisement will include:

- Task 1.
- Task 2.
- Task 3:
- Etc.

Task x: The Principal Investigator agrees to provide the following to DOE Office of Scientific and Technical Information (OSTI): (1) an initial abstract suitable for public release at the time the CRADA is executed; (2) a final report, within thirty (30) days upon completion or termination of this CRADA, to include a list of Subject Inventions; and (3) other scientific and technical information in any format or medium that is produced as a result of this CRADA.

**Schedule of deliverables and Estimated Completion Dates:**

:

<b>Participant:</b>	<b>Dates:</b>
1.	
2.	
3.	
<b>NREL:</b>	<b>Dates:</b>
1.	
2.	
3.	

**Funding Table**

Estimated Costs	4. NREL Shared Resources	5. Participant Shared Resources	6. Participant Funds In	7. Totals
Year 1	\$ 00.00	\$ 00.00		\$ 00.00
TOTALS	\$ 00.00	\$ 00.00		\$ 00.00

# APPENDIX E – WORK WITH NREL: CRADA

## AMERICAN-MADE CHALLENGES VOUCHER PROGRAM COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENT (hereinafter "CRADA") NO.

### BETWEEN

\_\_\_\_\_, Operator of  
\_\_\_\_\_  
Laboratory  
under its U.S. Department of Energy Contract No.

Address  
City, State ZIP

### I. (hereinafter "Contractor") AND

Company Name  
Address  
City, State ZIP

### II. (hereinafter "Participant")

both being hereinafter jointly referred to as the "Parties."

**Task Title:**

**Field of Use:**

### ARTICLE I: DEFINITIONS

- A. "Government" means the United States of America and agencies thereof.
- B. "DOE" means the Department of Energy, an agency of the United States of America.
- C. "Contracting Officer" means the DOE employee administering the Contractor's DOE contract.
- D. "Generated Information" means information produced in the performance of this CRADA.
- E. "Proprietary Information" means information which is developed at private expense outside of this CRADA, is marked as Proprietary Information, and embodies (i) trade secrets or (ii) commercial or financial information which is considered privileged or confidential under the Freedom of Information Act (5 USC 552 (b)(4)).
- F. "Protected CRADA Information" means Generated Information which is marked as being Protected CRADA Information by a Party to this CRADA and which would have been Proprietary Information had it been obtained from a non-federal entity.
- G. "Subject Invention" means any invention of the Contractor or Participant conceived of or first actually reduced to practice in the performance of work under this CRADA.

- H. "Intellectual Property" means patents, trademarks, copyrights, mask works, Protected CRADA Information and other forms of comparable property rights protected by Federal law and other foreign counterparts.
- I. "Background Intellectual Property" means the Intellectual Property, if any, identified by the Parties in an Appendix titled "Background Intellectual Property", which was in existence prior to or is first produced outside of this CRADA, except that in the case of inventions in those identified items, the inventions must have been conceived outside of this CRADA and not first actually reduced to practice under this CRADA to qualify as Background Intellectual Property.

### **III. ARTICLE II: STATEMENT OF WORK, TERM, FUNDING AND COSTS**

- A. Annex A is the Statement of Work.
- B. Notices: The names, postal addresses, telephone and email addresses for the Parties are provided in the Statement of Work. Any communications required by this CRADA, if given by postage prepaid first class U.S. Mail or other verifiable means addressed to the Party to receive the communication, shall be deemed made as of the day of receipt of such communication by the addressee, or on the date given if by email. Address changes shall be made by written notice and shall be effective thereafter. All such communications, to be considered effective, shall include the number of this CRADA.
- C. The effective date of this CRADA shall be the latter date of (1) the date on which it is signed by the last of the Parties or (2) the date on which it is approved by DOE. The work to be performed under this CRADA shall be completed within \_\_\_\_\_ months/years from the effective date.
- D. The Participant's estimated contribution is \$\_\_\_\_\_, which includes \$\_\_\_\_\_ funds-in. The Government's estimated contribution, which is provided through Contractor's contract with DOE, is \$\_\_\_\_\_, subject to available funding.
- E. [Reserve paragraph if Participant is not providing funding to Contractor.] For CRADAs that include (non-Federal) funding on a funds-in basis, the Participant shall provide Contractor, prior to any work from being performed, a budgetary resource sufficient to cover the anticipated work that will be performed during the first billing cycle. In addition, the Participant shall provide sixty (60) days of additional funding to ensure that funds remain available for project during subsequent billing cycles. Failure of Participant to provide the necessary advance funding is cause for termination of this CRADA in accordance with the Termination article of this CRADA. A billing cycle is the period of time between billings, usually thirty (30) days. The billing cycle is complete when the customer is billed for services rendered.

### **IV. ARTICLE III: PERSONAL PROPERTY**

All tangible personal property produced or acquired under this CRADA shall become the property of the Participant or the Government, depending upon whose funds were used to obtain it unless identified in the Statement of Work as being owned by the other Party.

Personal property shall be disposed of as directed by the owner at the owner's expense.

All jointly funded property shall be owned by the Government. The Participant shall maintain records of receipts, expenditures, and the disposition of all Government property in its custody related to the CRADA.

## **V. ARTICLE IV: DISCLAIMER**

THE GOVERNMENT, THE PARTICIPANT, AND THE CONTRACTOR MAKE NO EXPRESS OR IMPLIED WARRANTY AS TO THE CONDITIONS OF THE RESEARCH OR ANY INTELLECTUAL PROPERTY, GENERATED INFORMATION, OR PRODUCT MADE OR DEVELOPED UNDER THIS CRADA, OR THE OWNERSHIP, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE RESEARCH OR RESULTING PRODUCT. NEITHER THE GOVERNMENT, THE PARTICIPANT, NOR THE CONTRACTOR SHALL BE LIABLE FOR SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES ATTRIBUTED TO SUCH RESEARCH OR RESULTING PRODUCT, INTELLECTUAL PROPERTY, GENERATED INFORMATION, OR PRODUCT MADE OR DEVELOPED UNDER THIS CRADA.

## **VI. ARTICLE V: PRODUCT LIABILITY**

Except for any liability resulting from any negligent acts, or willful misconduct or omissions of Contractor or Government, Participant agrees to hold harmless the Government and the Contractor for all damages, cost and expenses, including attorney's fees, arising from personal injury or property damage as a result of the making, using, or selling of a product, process or service by or on behalf of the Participant, its assignees or licensees, which was derived from the work performed under this CRADA.

## **VII. ARTICLE VI: RIGHTS TO SUBJECT INVENTIONS**

Wherein DOE has granted the Participant and the Contractor the right to elect to retain title to their respective Subject Inventions.

- A. Each Party shall have the first option to elect to retain title to any of its Subject Inventions and that election shall be made: (1) for the Participant, within 12 months of disclosure of the Subject Invention to DOE or (2) for the Contractor, within the time period specified in its prime contract for electing to retain title to Subject Inventions. However, such election shall occur not later than 60 days prior to the time when any statutory bar might foreclose filing of a U.S. Patent application. The electing Party has one year to file a patent application after such election unless any statutory bar exists. If a Party elects not to retain title to any of its Subject Inventions or fails to timely file a patent application, the other Party shall have the second option to elect to obtain title to such Subject Invention within the time period specified in paragraph B below. For Subject Inventions that are joint Subject Inventions of the Contractor and the Participant, title to such Subject Inventions shall be jointly owned by the Contractor and the Participant.
- B. The Parties agree to assign to DOE, as requested by DOE, the entire right, title and interest in any country to each Subject Invention where the Parties (1) do not elect pursuant to this article to retain/obtain such rights, or (2) elect to retain/obtain title to a Subject Invention but



fail to have a patent application filed in that country on the Subject Invention or decide not to continue prosecution or not to pay any maintenance fees covering the Subject Invention. If DOE is granted a patent on Participant's Subject Invention, the Participant may request a non-exclusive license and DOE will determine whether to grant such license pursuant to statutory authority.

- C. The Parties acknowledge that the Government retains a nonexclusive, nontransferable, irrevocable, paid-up license to practice or to have practiced for or on behalf of the United States every Subject Invention under this CRADA throughout the world. The Parties agree to execute a Confirmatory License to affirm the Government's retained license.
- D. The Parties agree to disclose to each other each Subject Invention which may be patentable or otherwise protectable under U.S. patent law. The Parties agree that the Contractor and the Participant will disclose their respective Subject Inventions to DOE and each other within two (2) months after the inventor first discloses the Subject Invention in writing to the person(s) responsible for patent matters of the disclosing Party.

These disclosures should be in sufficiently complete technical detail to convey a clear understanding, to the extent known at the time of the disclosure, of the nature, purpose, and operation of the Subject Invention. The disclosure shall also identify any known actual or potential statutory bars, e.g., printed publications describing the Subject Invention or the public use or "on sale" of the Subject Invention. The Parties further agree to disclose to each other any subsequently known actual or potential statutory bar that occurs for a Subject Invention disclosed but for which a patent application has not been filed. All Subject Invention disclosures shall be marked as confidential under 35 U.S.C. 205.

- E. The Parties agree to include within the beginning of the specification of any U.S. patent applications and any patent issuing thereon (including non-U.S. patents) covering a Subject Invention, the following statement: "This invention was made under a CRADA (identify CRADA number) between (name the Participant) and (name the laboratory) operated for the United States Department of Energy. The Government has certain rights in this invention."
- F. The Parties acknowledge that DOE has certain march-in rights to any Subject Inventions in accordance with 48 CFR 27.304-1(g) and 15 U.S.C. 3710a(b)(1)(B) and (C).
- G. The Participant shall, at a minimum, retain a paid-up, royalty-free, nonexclusive, non-transferable, license without the right to sublicense, in a limited Field of Use as specified on the first page of this CRADA for any Subject Invention in which the Contractor retains title.

After four (4) years from the end of this CRADA, the Participant license may be revoked or modified by the Contractor to extent necessary to achieve expeditious practical application of the Subject Invention pursuant to an application for an exclusive license by a third party. The Participant license will not be revoked in any field of use or the geographical areas in which the Participant has achieved practical application and continues to make the benefits of the Subject Invention reasonably accessible to the public.

Before revocation or modification of the license, the Contractor will furnish the Participant a written notice of its intention to revoke or modify the license, and the Participant will be allowed thirty (30) days after the notice to show cause why the license should not be revoked or modified. The Participant has the right to appeal to DOE any decision concerning the revocation or modification of its license.

Notwithstanding the license above, the Contractor has sole discretion on whether to exercise any of its rights under this Article including the right to elect to retain title to any of its Subject Inventions and whether and where to pursue patent protection for any of its Subject Inventions.

In addition to the above nonexclusive license, for each Subject Invention of the Contractor, the Participant has the option for six (6) months from the date that the Subject Invention was disclosed to the Participant to choose an exclusive license, for reasonable compensation, in the limited Field of Use as specified on the first page of this CRADA to the Subject Invention.

## **VIII. ARTICLE VII: RIGHTS IN DATA**

- A. The Parties agree that they shall have no obligations of nondisclosure or limitations on their use of, and the Government shall have unlimited rights in, all Generated Information produced and information provided by the Parties under this CRADA, except for restrictions and copyright on data provided for in this Article or data disclosed in a Subject Invention disclosure being considered for Patent protection.
- B. PROPRIETARY INFORMATION: Each Party agrees to not disclose Proprietary Information provided by the other Party to anyone other than the Participant, Contractor and its subcontractors (if any) performing work under this CRADA without written approval of the providing Party, except to Government employees who are subject to the statutory provisions against disclosure of confidential information set forth in the Trade Secrets Act (18 U.S.C. 1905). Government employees shall not be required to sign non-disclosure agreements due to the provisions of the above-cited statute.

If Proprietary Information is orally disclosed to a Party, it shall be identified as such, orally, at the time of disclosure and confirmed in a written summary thereof, appropriately marked by the disclosing Party, within ten (10) days as being Proprietary Information.

All Proprietary Information shall be protected for a period of five (5) years from the effective date of this CRADA, unless such Proprietary Information becomes publicly known without the fault of the recipient, shall come into recipient's possession without breach by the recipient of any of the obligations set forth herein, can be demonstrated by the recipient by written record that it is known prior to receipt from disclosing party, is disclosed by operation of law, or is independently developed by recipient's employees who did not have access to such Proprietary Information.

Proprietary Information in tangible form shall be returned to the disclosing Party or

destroyed with a certificate of destruction submitted to the disclosing Party upon termination or expiration of this CRADA, or during the term of this CRADA upon request by the disclosing Party. Notwithstanding the foregoing destruction of copies shall not extend to archival copies maintained in computer system backup files, permanent business records, or as may otherwise be required by receiving Party's internal document retention policies.

- C. PROTECTED CRADA INFORMATION: Each Party may designate and mark as Protected CRADA Information any Generated Information produced by its employees, which meets the definition in Article I and, with the agreement of the other Party, so designate any Generated Information produced by the other Party's employees which meets the definition in Article I. All such designated Protected CRADA Information shall be appropriately marked.

For a period of five (5) years from the date Protected CRADA Information is produced, the Parties agree not to further disclose such information and to use the same degree of care and discretion, but no less than reasonable care and discretion, to avoid disclosure, publication or dissemination of such information to a third party, as the Party employs for similar protection of its own information which it does not desire to disclose, publish, or disseminate except:

- (1) as necessary to perform this CRADA;
- (2) as published in a patent application or an issued patent before the protection period expires;
- (3) as provided in Article X [REPORTS AND ABSTRACTS];
- (4) as requested by the DOE Contracting Officer to be provided to other DOE facilities for use only at those DOE facilities solely for Government use only with the same protection in place and marked accordingly.
- (5) to existing or potential licensees, affiliates, customers, or suppliers of the Parties in support of commercialization of the technology with the same protection in place. Disclosure of the Participant's Protected CRADA Information under this subparagraph shall only be done with the Participant's consent; or
- (6) as mutually agreed to by the Parties in advance.

The obligations of this paragraph shall end sooner for any Protected CRADA Information which shall become publicly known without fault of either Party, shall come into a Party's possession without breach by that Party of the obligations of paragraph above, or shall be independently developed by a Party's employees who did not have access to the Protected CRADA Information. Federal Government employees who are subject to 18 USC 1905 may have access to Protected CRADA Information and shall not be required to sign non-disclosure agreements due to the provisions of the statute.

COPYRIGHT: The Parties may assert copyright in any of their respective Generated Information.

The Parties hereby acknowledge that the Government or others acting on its behalf shall retain a nonexclusive, royalty-free, worldwide, irrevocable, non-transferable license to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government, all copyrightable works produced in the performance of this CRADA, subject to the restrictions this CRADA places on publication of Proprietary Information and Protected CRADA Information.

When a Party writes computer software produced in the performance of this CRADA, the Party will provide the source code, object code, and expanded abstract, and the minimum support documentation needed by a competent user to understand and use the software to DOE's Energy Science and Technology Software Center (ESTSC) via [www.osti.gov/estsc](http://www.osti.gov/estsc). The Party shall inform ESTSC when it abandons or no longer commercializes the computer software. Until such notice to ESTSC, the Government has for itself and others acting on its behalf, a royalty-free, nontransferable, nonexclusive, irrevocable worldwide copyright license to reproduce, prepare derivative works, and perform publicly and display publicly, by or on behalf of the Government (narrow license) After the Party owning the Computer Software abandons or no longer commercializes the Computer Software, the Government has for itself and others acting on its behalf, a royalty-free, nontransferable, nonexclusive, irrevocable worldwide copyright license to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government. (broad license)

The Participant shall, at a minimum, retain a paid-up, royalty-free, nonexclusive, non-transferable, license without the right to sublicense, in a limited Field of Use as specified on the first page of this CRADA to reproduce, prepare derivative works, distribute copies to the public, and perform and display publicly any computer software produced in the performance of this CRADA by the Contractor. This license may be revoked or modified under the same conditions and process as the license for Contractor's Subject Inventions in Article VI(G) of this CRADA.

The Parties agree to place Copyright and other notices, as appropriate for the protection of Copyright, in human-readable form onto all physical media, and in digitally encoded form in the header of machine-readable information recorded on such media such that the notice will appear in human-readable form when the digital data are off loaded or the data are accessed for display or printout.

## **IX. ARTICLE VIII: U.S. COMPETITIVENESS**

The Parties agree that a purpose of this CRADA is to provide substantial benefit to the U.S. economy.

A. In exchange for the benefits received under this CRADA, the Participant therefore agrees to the following:

1. Products embodying Intellectual Property developed under this CRADA shall be

substantially manufactured in the United States, and

2. Processes, services, and improvements thereof which are covered by Intellectual Property developed under this CRADA shall be incorporated into the Participant's manufacturing facilities in the United States either prior to or simultaneously with implementation outside the United States. Such processes, services, and improvements, when implemented outside the United States, shall not result in reduction of the use of the same processes, services, or improvements in the United States.

- B. The Contractor agrees to a U.S. Industrial Competitiveness clause in accordance with its prime contract with respect to any licensing and assignments of its Intellectual Property arising from this CRADA, except that any licensing or assignment of its intellectual property rights to the Participant shall be in accordance with the terms of paragraph A of this Article.

## **X. ARTICLE IX: EXPORT CONTROL**

EACH PARTY IS RESPONSIBLE FOR ITS OWN COMPLIANCE WITH EXPORT CONTROL LAWS AND REGULATIONS. EXPORT LICENSES OR OTHER AUTHORIZATIONS FROM THE U.S. GOVERNMENT MAY BE REQUIRED FOR THE EXPORT OF GOODS, TECHNICAL DATA OR SERVICES UNDER THIS AGREEMENT. THE PARTIES ACKNOWLEDGE THAT EXPORT CONTROL REQUIREMENTS MAY CHANGE AND THAT THE EXPORT OF GOODS, TECHNICAL DATA OR SERVICES FROM THE U.S. WITHOUT AN EXPORT LICENSE OR OTHER APPROPRIATE GOVERNMENTAL AUTHORIZATION MAY RESULT IN CRIMINAL LIABILITY.

## **XI. ARTICLE X: REPORTS AND ABSTRACTS**

The Parties agree to produce the following deliverables: an initial abstract suitable for public release; and a final report, to include a list of Subject Inventions. It is understood that the Contractor has the responsibility to provide this information at the time of its completion to the DOE Office of Scientific and Technical Information. The Participant agrees to provide the above information to the Contractor to enable full compliance with this Article.

The Parties agree to submit, for a period of five years from the expiration of this CRADA and, upon request of DOE, a non-proprietary report no more frequently than annually on the efforts to utilize any Intellectual Property arising under the CRADA.

The Parties agree that neither will use the name of the other Party or its employees in any promotional activity, such as advertisements, with reference to any product or service resulting from this CRADA, without prior written approval of the other Party.

## **XII. ARTICLE XI: FORCE MAJEURE**

No failure or omission by the Contractor or the Participant in the performance of any obligation under this CRADA shall be deemed a breach of this CRADA or create any liability if the same shall arise from any cause or causes beyond the control of the Contractor or the Participant, including but not limited to the following, which, for the

purpose of this CRADA, shall be regarded as beyond the control of the Party in question: Acts of God, acts or omissions of any government or agency thereof, compliance with requirements, rules, regulations, or orders of any governmental authority or any office, department, agency, or instrumentality thereof, fire, storm, flood, earthquake, accident, acts of the public enemy, war, rebellion, insurrection, riot, sabotage, invasion, quarantine, restriction, transportation embargoes, or failures or delays in transportation.

### **XIII. ARTICLE XII: DISPUTES**

The Parties shall attempt to jointly resolve all disputes arising from this CRADA. In the event a dispute arises under this CRADA, the Participant is encouraged to contact Contractor's Technology Partnership Ombudsman in order to further resolve such dispute before pursuing third-party mediation or other remedies. If the Parties are unable to jointly resolve a dispute within a reasonable period of time, they agree to submit the dispute to a third-party mediation process that is mutually agreed upon by the Parties. To the extent that there is no applicable U.S. Federal law, this CRADA and performance thereunder shall be governed by the laws of the State of Colorado, without reference to that state's conflict of laws provisions.

### **XIV. ARTICLE XIII: ENTIRE CRADA, MODIFICATIONS AND TERMINATION**

This CRADA with its annexes contains the entire agreement between the Parties in performing the research described in the Statement of Work (Annex A) and becomes effective on the later date of either the date the last Party signs the document or receipt of advance funding, if any. Any agreement to materially change any terms or conditions of the CRADA and annexes shall be valid only if the change is made in writing, executed by the Parties hereto, and approved by DOE.

The Contractor enters into this CRADA under the authority of its prime contract with DOE. The Contractor is authorized to and will administer this CRADA in all respects unless otherwise specifically provided for herein. Administration of this CRADA may be transferred from the Contractor to DOE or its designee with notice of such transfer to the Participant, and the Contractor shall have no further responsibilities except for the confidentiality, use and/or nondisclosure obligations of this CRADA.

This CRADA may be terminated by either Party with thirty (30) days written notice to the other Party. If Article II provides for advance funding, this CRADA may also be terminated by the Contractor in the event of failure by the Participant to provide the necessary advance funding. Each Party will be responsible for its own costs arising out of or as a result of this termination. The obligations of any clause of this CRADA that were intended to survive the expiration of the period of performance, for example, confidentiality, use and/or non-disclosure obligations, shall also survive any termination of this CRADA.

**XV. ARTICLE XIV: BACKGROUND INTELLECTUAL PROPERTY**

Each Party may use the other Party’s Background Intellectual Property identified in an Annex to this CRADA solely in performance of research under the Statement of Work. This CRADA does not grant to either Party any option, grant, or license to commercialize, or otherwise use the other Party’s Background Intellectual Property. Licensing of Background Intellectual Property, if agreed to by the Parties, shall be the subject of separate licensing agreements between the Parties. Each Party has used reasonable efforts to list all relevant Background Intellectual Property, but Background Intellectual Property may exist that is not identified. Neither Party shall be liable to the other Party because of failure to list Background Intellectual Property.

**FOR CONTRACTOR:**

**FOR PARTICIPANT:**

**BY** \_\_\_\_\_

**BY** \_\_\_\_\_

**TITLE** \_\_\_\_\_

**TITLE** \_\_\_\_\_

**DATE** \_\_\_\_\_

**DATE** \_\_\_\_\_

# APPENDIX F – WORK WITH OTHER NATIONAL LABS: STATEMENT OF WORK

STATEMENT OF WORK  
"(Title of the Project)"

NATIONAL LABORATORY:

HYDROGEN SHOT INCUBATOR PRIZE TEAM NAME:

\*(Date of the Statement of Work)

## 1.0 BACKGROUND

This work is to be conducted in support of the American Made Challenges Hydrogen Shot Incubator Prize. The intent is to connect winning teams with national laboratories that can help accelerate the development of innovative solutions and products. Teams who have won the Propose and Prove! Phases are eligible to utilize vouchers at national laboratories to advance their ideas.

## 2.0 OBJECTIVE (provide the specific objective)

\*

## 3.0 SCOPE OF WORK (describe the scope of work)

\*

## 4.0 TASKS (high level description of the tasks to be performed)

4.1 \*

## 5.0 REVIEW MEETINGS AND TRAVEL REQUIREMENTS (if required)

\*

## 6.0 DELIVERABLES (describe the agreed upon deliverables)

\*

## 7.0 SOLE SOURCE JUSTIFICATION (explain why the lab is uniquely qualified)

## 8.0 BUDGET (provide a high-level budget in support of the work mentioned above)

*Note – winning Propose teams can utilize up to \$50K worth of vouchers at a national laboratory. They may also choose to split the funding up to three laboratories as outlined in the Voucher Prize Acceptance Form (Appendix B). The budget submission must not exceed \$50K for the Propose! Phase*



*Note – winning Prove teams can utilize up to \$300K worth of vouchers at a national laboratory. They may also choose to split the funding up to two laboratories as outlined in the Voucher Prize Acceptance Form (Appendix B). The budget submission must not exceed \$300K for the Propose! Phase*

**9.0 SCHEDULE (provide a project schedule)**