

MOU Number: MOU-15-402

**Amended and Restated Memorandum of Understanding (MOU)
among
The Alliance for Sustainable Energy LLC, Manager and
Operating Contractor for the National Renewable Energy Laboratory,
IP Group, Inc., and
FedIMPACT, LLC
Regarding
Intended Collaboration
Relating to IP Commercialization**

This Memorandum of Understanding (“**MOU**”) among the Alliance for Sustainable Energy, LLC, (“**Alliance**”), Manager and Operating Contractor for the National Renewable Energy Laboratory (“**NREL**”), (collectively “**Alliance/NREL**”) under Contract No. DE-AC36-08GO28308 (the “**Prime Contract**”) with the U.S. Department of Energy (“**DOE**”), located at 15013 Denver West Parkway, Golden, CO 80401, IP Group, Inc., a Delaware corporation with a mailing address of 1 Righter Parkway, Suite 260, Wilmington, DE 19803 (“**IPG**”) and FedIMPACT, LLC a Delaware Limited Liability Company, with a mailing address of 1 Righter Parkway, Suite 260, Wilmington, DE 19803 (“**FedIMPACT**”). The foregoing may each be referred to individually as a “**Participant**” and collectively as the “**Participants**”.

BACKGROUND

- A. It is Alliance’s mission to encourage and facilitate the successful commercialization of intellectual property created by or at NREL, consistent with its Prime Contract and for the benefit of the United States.
- B. On May 3, 2016, FedIMPACT and Alliance signed a Memorandum of Understanding Regarding Intended Collaboration Relating to IP Commercialization MOU-15-402 (the “**Original MOU**”) that established an IP Commercialization Collaboration (the “**Collaboration**”) whereby IPG, through FedIMPACT, could identify and execute early stage opportunities which commercialize technologies licensed from Alliance/NREL.
- C. On June 15, 2017, FedIMPACT underwent a corporate restructuring whereby IPG and its affiliates acquired one hundred percent (100%) of FedIMPACT. IPG is an intellectual property commercialization company that specializes in building businesses based on early stage technology emanating from universities and U.S. Federal Laboratories. IPG plans to continue to use FedIMPACT as an incubation vehicle to provide funding for early stage technology projects (each a “**Project**”) at various U.S. Federal Laboratories, including NREL.
- D. The Participants recognize that the purpose of the MOU is to continue developing a framework of cooperation and open discussion. No exclusive relationship is established by virtue of the MOU. Furthermore, the Participants recognize that no special or preferential treatment should be provided to IPG or FedIMPACT by Alliance/NREL as a result of this MOU.

- E. The Participants desire to modify and replace the Original MOU as set forth by this MOU.

Accordingly, the Participants have reached the following understanding:

1. INVESTMENT FOCUS

As part of Participants' independently programmed activities, the following technology areas should continue to be considered:

- 1.1.1 energy, materials and clean technology;
 - 1.1.2 health and life sciences and information technology;
 - 1.1.3 electronics, communications and robotics; and
 - 1.1.4 such other areas as the Participants may mutually decide from time to time.
- 1.2 This MOU has the potential to directly benefit Alliance's mission to develop and commercialize technology in accordance with the terms of Alliance's Prime Contract with DOE to manage and operate NREL.

2. TERM

- 2.1 Cooperative activity under this MOU may commence upon the date of the last signature by the Participants (the "**Effective Date**") and may, except as provided in Section 8 of this MOU, continue for a five-year period. This MOU may be extended for additional five-year periods by mutual written agreement of the Participants.

3. FEDIMPACT CONTACTS

- 3.1 Nominated representative(s) of IPG (collectively, the "**Representative**") plan to continue to work in collaboration with Alliance/NREL in assessing technology opportunities and establishing funding support for Projects at NREL. Said Representatives intend to be subject to the terms of the Non-Disclosure Agreement referred to below in Section 11.1.
- 3.2 IPG expects that at least once per year, during the term of the MOU, the Representative will arrange a meeting with the key manager of Alliance/NREL's technology licensing in order to discuss the then current status of the Collaboration and activities over the preceding year, to exchange ideas on best practices, and if necessary, propose modifications to this MOU.

4. TECHNOLOGY TRANSFER COLLABORATIONS

- 4.1 Alliance notes that, as of the Effective Date, it protects the rights and intellectual property ("**IP**") developed at Alliance/NREL in accordance with the requirements of Alliance's Prime Contract with DOE, IP policy, employment policies and/or engagement practices, transfers of IP and/or other agreements or arrangements in relation to IP with staff and

others and/or by operation of the provision of contracts, agreements, statutes or legislation. Typically, protection of IP developed at Alliance/NREL and intended for commercialization is evidenced by election of title to the IP by Alliance into what is referred to as the Government Funded Technology Transfer portfolio.

- 4.2 Typically, IP developed at Alliance/NREL is currently commercialized by out licensing the relevant IP or by licensing the relevant IP to a spin out company in return for negotiated consideration, including equity, lump sum payments, milestone payments and/or royalty payments in/from that spin out company.
- 4.3 For the avoidance of doubt, the Participants acknowledge this MOU does not create any legally binding obligations between or among the Participants. It is the expectation of the Participants that after having conducted its standard diligence process, Alliance/NREL should endeavor to enter into negotiations with entities affiliated with IPG or IPG itself to license IP deemed relevant by Alliance/NREL, IPG and/or FedIMPACT under Section 5 below (to the extent it is available). The standard Alliance/NREL option, license and sponsored research agreement templates are typically used as a starting point for these engagements.
- 4.4 The Participants recognize that applicable DOE guidelines and policies, as well as pre-existing obligations to third party providers of research funding, may have an impact upon Alliance/NREL's ability to license or transfer IP.
- 4.5 Prior to any out licensing of IP in furtherance of the Participants intent under this MOU under a separate appropriate agreement, Alliance/NREL, at its absolute discretion, is to be responsible for determining the manner and/or method of protection of IP (at Alliance/NREL's cost).
- 4.6 Alliance/NREL may, in its sole discretion, consult with and request feedback from IPG on any issues relating to the protection of Alliance/NREL IP in so far as it relates to a possible commercialization opportunity identified by the Participants under Section 5 below.

5. INVESTMENT OPPORTUNITIES

Identifying commercialization opportunities

- 5.1 IPG intends to support and work in co-operation with Alliance/NREL in the identification of potential commercialization opportunities in or relating to technologies developed within Alliance/NREL that are available for commercialization by way of a spin out company or via sponsored research at NREL funded through FedIMPACT. Typically, the Participants intend that this may include the members of IPG conducting monthly reviews with members from Alliance/NREL in order to identify a 'pipeline' of commercialization opportunities. Notwithstanding the foregoing, IPG may, at its discretion, attend more regular or ad hoc reviews as Alliance/NREL reasonably requests during the term of this MOU.

- 5.2 Once an opportunity has been identified which all Participants mutually decide is one which has the potential for commercialization through the incorporation of a spin out company or via sponsored research to NREL funded by FedIMPACT (hereafter referred to as a “**Potential Opportunity**”), the Participants intend to undertake an initial assessment of each such Potential Opportunity.
- 5.3 Following the presentation of the findings of any initial assessment and Alliance/NREL diligence of a Potential Opportunity, IPG intends to make its own assessment of the Potential Opportunity within six (6) weeks (the “**Assessment Period**”) and to decide as to whether it is one which IPG wishes to become an **Investment Opportunity** as outlined below.

Developing Investment Opportunities

- 5.4 Once an opportunity has been identified, evaluated and assessed by IPG during the Assessment Period as defined in Section 5.3 above, IPG intends to have the option to put it forward as an “**Investment Opportunity**”. In practice, this means that IPG has decided to move forward to make a formal financial investment in the Project as described below. Alliance/NREL makes no guarantees of availability of its staff to scope and execute on Projects.
- 5.5 Once IPG has decided that a Potential Opportunity is an Investment Opportunity as contemplated by Section 5.4 above, the Participants intend to enter a period of up to six months (“**Investment Execution Period**”), during which all Participants plan to execute a financial investment by way of a pre-seed, proof of principle stage investment, typically up to \$250,000 from FedIMPACT to Alliance/NREL (“**Grub Funding**”) based on a Project Plan, as defined below, and utilizing a sponsored research agreement (which may be ACT, SPP, or CRADA) or such other form of agreement that the Participants may establish subject to DOE approval.
- 5.6 To the extent possible and practicable, these sponsored research agreements are to typically provide at least an option for FedIMPACT (or the newly formed spin out company) to license the IP arising from these agreements (“**Project IP**”) and Alliance acknowledges that without at least this protection in respect of the Project IP, IPG may elect at its discretion to withdraw any decision by it to proceed with any such Grub Funding. It is the intention of Alliance/NREL during the Investment Execution Period of any Investment Opportunity not to option or license the IP underlying the Investment Opportunity to any third party.
- 5.7 The initial typical investment is likely to be by way of Grub Funding, against a project plan (with milestones) to be drafted by the relevant Alliance/NREL staff and agreed with IPG (the “**Project Plan**”) and incorporated in a sponsored research agreement. Examples of uses of the Grub Funding may be to enable the achievement of technical proof of principle for the given technology, the development of a prototype and the exemplification of a newly filed patent application. IPG, at its sole discretion and risk, may then decide whether or not to use the results of these Projects as a factor in determining whether it desires to make further investments into the spin out company

("Seed Investment") (which, if the Grub Funding has been made pre-incorporation, would then be incorporated for this purpose). When Alliance/NREL staff agree to a Project Plan and the Participants have executed an appropriate sponsored research agreement, it is the intention of Alliance/NREL to assure availability of its staff to scope and execute on Projects.

- 5.8 Alliance/NREL will endeavor to (i) provide IPG, or such persons as IPG may reasonably specify for this purpose, reasonable access to information and the relevant staff involved in the Investment Opportunity, and (ii) provide IPG with documentation and information surrounding the Project and the Project IP arising under that Investment Opportunity. If determined by Alliance/NREL to be required, disclosures to IPG are to be made under separate confidentiality and non-disclosure agreements.

6. FUNDING AND INVESTMENT

Completion of Investment

- 6.1 In the event of a decision by IPG to invest either by way of Grub Funding and/or Seed Investment, the Participants intend to use their respective reasonable endeavors to proceed to the completion of all matters relating to the Grub Funding or Seed Investment, and the license of the Project IP to such spin-out company in a timely manner.

Existing and non-Grub Funded Companies

- 6.2 The Participants expect that it may be appropriate for existing spin out companies at the Effective Date and/or other commercialization opportunities, which may not have received Grub Funding from IPG under the terms of this MOU to be considered for Seed Investment. The Participants should discuss and agree on such opportunities and the basis on which IPG shall be provided the opportunity to consider potential investment.

Documentation

- 6.3 The starting point for any negotiation on investment by IPG, either by way of Grub Funding or Seed Investment, will typically be IPG's standard investment documentation including any Stock Investment Agreement, Convertible Promissory Note, Shareholders' Agreement and Certificate of Incorporation, which should each be tailored by agreement to reflect the specifics of any one IPG investment, whether by way of Grub Funding or Seed Investment. The Participants expect to discuss these documents in more detail at the appropriate time.
- 6.4 Unless otherwise determined by the Participants in writing, each Participant is responsible for the costs it incurs in participating in the Collaboration contemplated by this MOU, including all administrative costs, overhead expenses, labor costs, insurance costs, travel expenses and similar costs.
- 6.5 This MOU is neither a fiscal nor a funding obligation document. Nothing in this MOU authorizes or is intended to obligate the Participants to expend, exchange, or reimburse funds, services, or supplies or transfer or receive anything of value.

7. FUTURE COLLABORATIONS

- 7.1 This MOU does not create any legally binding obligations between or among the Participants. It serves only as a record of the Participants' Collaboration on areas of independently programmed activities. Each participant should conduct the Collaboration in accordance with all applicable laws and regulations to which it is subject.
- 7.2 The Participants may propose to each other separate joint collaborative Projects related to the subject matter of the MOU.
- 7.3 If the Participants mutually decide to undertake joint collaborative projects, they intend to develop a separate written agreement for each collaborative project, setting out each Participant's contribution, deliverables, responsibilities, and IP rights and obligations.

8. DISCONTINUATION

- 8.1 The Participants may discontinue the Collaboration contemplated by this MOU at any time by mutual consent in writing. Alternatively, any Participant that desires to discontinue its participation in the Collaboration contemplated by this MOU should endeavor to provide sixty (60) days advance written notice to the other Participants. Such discontinuation is without prejudice to any Project agreement existing at the time of discontinuation.

9. ASSIGNMENT

- 9.1 No Participant may assign this MOU without the prior written consent of the other Participants (which consent should not be unreasonably withheld or delayed). Notwithstanding the foregoing, Alliance may assign this MOU to a successor contractor of NREL.

10. ANNOUNCEMENTS

- 10.1 No Participant should issue any press release or other public document containing, or make any public statement containing, or otherwise disclose to any person who is not a Participant, information which relates to or is connected with or arises out of this MOU or the matters contained in it, without the prior written approval of the other Participant as to its content and the manner and extent of its publication. No Participant may use the name, logo or symbols of another Participant for any reason whatsoever without the prior written consent of the other Participant. The provisions of this Section 10 do not apply to disclosure of matters required to be made:
 - (a) by any court, arbitrator or governmental or administrative authority competent to require the same; or
 - (b) by any applicable law or regulation.
- 10.2 Notwithstanding the foregoing, IPG may acknowledge the existence of the Collaboration on its website.

11. CONFIDENTIALITY

- 11.1 To the extent that trade secrets and/or confidential or proprietary information may need to be shared between or among any Participants in order to facilitate the Collaboration under this MOU, such information may be shared pursuant to that certain Unilateral (OUT) Non-Disclosure Agreement No. 18-13522, dated March 1, 2018.

12. MODIFICATION

The Participants may modify this MOU at any time by mutual consent in writing.

13. COUNTERPARTS

This MOU may be signed in any number of counterparts, each of which constitute an original, and all the counterparts together constitute one and the same document. Delivery of an executed signature page to this MOU by e-mail or other electronic transmission is to be effective as delivery of a manually signed copy of this MOU.

[Remainder of page intentionally left blank. Signature page follows.]

Signed

**FOR THE ALLIANCE FOR SUSTAINABLE
ENERGY, LLC:**

By: W.T. Farris

Name: **William T. Farris**

Title: **Associate Laboratory Director
Innovation Partnering & Outreach**

Date: **8/27/18**

FOR IP GROUP, INC.:

By: Michael Burychka

Name: **Michael Burychka**

Title: **President and CEO**

Date: **August 7, 2018**

FOR FEDIMACT, LLC:

By: Michael Burychka

Name: **Michael Burychka**

Title: **Executive Vice President**

Date: **August 7, 2018**