

**MEMORANDUM OF AGREEMENT
BETWEEN
THE UNITED STATES DEPARTMENT OF ENERGY (DOE)
AND
THE NEXT GENERATION LIGHTING INDUSTRY ALLIANCE (NGLIA)**

ARTICLE I – PURPOSE

This Memorandum of Agreement (MOA) is entered into by and between the Next Generation Lighting Industry Alliance (NGLIA) and the U.S. Department of Energy (DOE) (“the Parties”) for the purpose of establishing a mutual framework governing the respective responsibilities of the Parties. The Parties will conduct activities in support of research, development, demonstration and deployment of solid state lighting (SSL) technologies for general lighting applications.

ARTICLE II - AUTHORITY

DOE enters into this MOA under the authority of, among others, the Department of Energy Organization Act (Pub. L. 95-91) section 301, 42 U.S.C. § 7151; and the Energy Reorganization Act of 1974 (Pub. L. 93-438) section 103, 42 U.S.C. § 5813.

ARTICLE III - OBJECTIVE

The objective of this MOA is to provide a partnership to conduct various activities in support of core technology research, development, demonstration and deployment activities targeted to the application of SSL technologies in energy efficient general lighting applications. In particular, this collaboration will support and enhance the Solid State Lighting Program of the Building Technologies/Lighting R&D Program within DOE’s Office of Energy Efficiency and Renewable Energy. The Parties believe that this cooperation will provide DOE with a manufacturing and commercialization focus in the development of research needs and goals for the DOE SSL Program. The quality of the SSL Program will be enhanced through the NGLIA’s willingness, at DOE’s discretion, to provide technical expertise for proposal and project reviews. The Parties further believe that the cooperation will accelerate the implementation of SSL technologies for the public benefit through communicating of SSL Program accomplishments within the SSL community, and through encouraging the development and dissemination of metrics, codes and standards. The partnership will stimulate the implementation of SSL technologies through the Parties’ efforts to promote demonstrations of SSL technologies for general lighting applications.

ARTICLE IV – SCOPE OF COLLABORATIVE ACTIVITIES

Collaboration under this MOA includes, but is not limited to, SSL activities in support of:

- Core Technology Research;
- Product Development and Systems Integration;
- Demonstration; and
- Market Conditioning

The SSL technologies that are the subject of this MOA include light emitting diodes (LEDs), organic light emitting diodes (OLEDs), and other semiconductor white-light producing devices.

ARTICLE V – FORMS OF COLLABORATIVE ACTIVITIES

Collaboration under this MOA may include, but is not limited to, the following forms of joint activities:

- Conducting workshops related to SSL technology and annual program reviews for projects in DOE's SSL Program. These workshops and program reviews will be open to the public;
- At DOE's discretion, participating in proposal reviews and individual project reviews for research projects in DOE's SSL Core Technology Program;
- Encouraging the development of metrics, codes, standards for measurement and utilization of SSL products for general illumination, and criteria for voluntary DOE deployment programs; and
- Planning and promoting demonstrations by NGLIA members of SSL technologies used for general illumination applications.

The NGLIA may designate a third party (e.g., contractor or organization member) to act on its behalf to conduct these collaborative activities. Due to conflict of interest considerations, some members of the NGLIA and/or their employees may be unable to participate in certain activities of the MOA.

All representatives of the NGLIA and its members must agree to non-disclosure of all confidential or proprietary information prior to participation in partnership activities such as proposal or project reviews that may disclose confidential or proprietary information from DOE SSL Program participants. Government employees are bound by the provisions of the Trade Secrets Act (18 USC 1905) to not disclose confidential or proprietary information obtained during the course of their Government employment.

ARTICLE VI – RESPONSIBILITIES OF THE PARTIES

A. Responsibilities of the Department of Energy:

- Identify a Federal employee as the point of contact (POC) to function as the interface between the SSL Program and the NGLIA to ensure that the collaborative activities conducted under this MOA are coordinated with

the schedule and progress of the SSL Program, and are free of conflicts of interest.

- Maintain a log of Core Technology Program projects and their selection dates.
- Arrange to provide the NGLIA with SSL Program- and project-related releasable information in accordance with the purpose, terms, and conditions of this MOA and as available from DOE's SSL projects.
- As set forth in the document titled "Statement of Analysis of Determination of Exception Circumstances for Work Proposed Under the Solid State Lighting Program," provide the NGLIA with information regarding patents and other intellectual property available for licensing from SSL Core Technology Program participants, as that information becomes available to NETL.
- Notify the NGLIA when DOE announces funding opportunities available to its membership and the public for research, development, and demonstration of SSL technologies.
- Participate with the NGLIA in planning of SSL demonstrations by their members, and create criteria for voluntary market conditioning programs, such as Energy Star.

B. Responsibilities of the NGLIA:

- Identify an individual as the POC to function as the interface between the NGLIA, its membership, and DOE to ensure that the collaborative activities conducted under this MOA are coordinated with the SSL Program and are free of conflicts of interest.
- Maintain a log of membership, including the effective dates of each company's membership.
- Provide a membership including a significant portion of the United States manufacturing base of SSL products for general lighting applications that, together with the staff of the NGLIA, will:
 - Provide administrative expertise and staffing to organize and support technical meetings and workshops related to SSL technologies.
 - At DOE's discretion, provide technical expertise to review SSL Core Technology Program proposals, participate in SSL project review meetings, and provide recommendations from individual NGLIA members on the direction of research, development, and demonstration of SSL technologies for general illumination.
 - Encourage efforts to develop metrics and standards for the application of SSL products for general lighting.
 - Recommend, develop, and technically and financially support demonstrations of SSL technologies, emphasizing those technologies developed in the DOE SSL Program.

- Develop processes and/or procedures to safeguard any business, programmatically or technically sensitive information provided under the terms of this MOA.

C. NGLIA and DOE mutually agree to the following:

- Within statutory limits and DOE regulations, work to promote SSL technologies to the common benefit of the DOE program and NGLIA membership.
- At times and locations acceptable to the NGLIA and DOE POCs, meet to discuss and plan the activities of the partnership. At the discretion of the POCs, these meetings may also include representatives of the NGLIA members, SSL Core Technology Program participants, and other DOE contractors.

ARTICLE VII – PUBLICATIONS

Each Party agrees to seek pre-publication review and comment from the other Party prior to any planned publication under this MOA by the Parties to this MOA. The Parties agree that any such publications shall not include Confidential Information designated confidential by a third party. Failure to receive a written response within thirty (30) calendar days from the date the document is provided for review shall be considered as concurrence with the publication. The author of any such publication shall not be obligated to incorporate or address any comments received from the other Party. In case of failure to agree on the manner of publication or interpretation of results, either Party publishing the results will give due credit to the cooperation of the other Party, but will assume full responsibility for any statements in which a difference of opinion exists.

Any public information release concerning the activities related to this agreement shall describe the contribution of both Parties to the activity. This does not apply to reports or records released pursuant to the Freedom of Information Act.

Publication may be joint or separate, always giving due credit to the cooperation and recognizing, within proper limits, the rights of individuals, including employees of NGLIA members and employees of SSL Program participants, who performed the work.

ARTICLE VIII - INTELLECTUAL PROPERTY

DOE will use its best efforts to require each awardee under its SSL Core Technology Program to enter into negotiations with NGLIA members intended to lead to the non-exclusive licensing of any patented subject invention made under its DOE agreement. To accomplish this, DOE will seek to execute a determination of exceptional circumstances under the Bayh-Dole Act for domestic nonprofit and small business participants in the DOE Core Technology Program. In addition, in the Core Technology Program, DOE will seek to include comparable provisions in any patent waivers granted to entities such as large businesses that do not qualify for a statutory patent waiver under the Bayh-Dole

Act. DOE will use its best efforts to ensure that information is provided to the NGLIA concerning inventions and other intellectual property developed by SSL Core Technology Program participants.

The Parties understand that:

- Individual companies will receive rights under the determination of exceptional circumstances and/or any patent waivers granted commencing on the date they become a member of the NGLIA. The NGLIA shall maintain a log of membership, including the effective date of each company's membership.
- An individual company will be entitled to the licensing benefits described above for subject inventions made under SSL Core Technology Program projects that have been selected for award after the time the company's membership in the NGLIA becomes effective. A project is selected for award when the DOE source selection official has signed the selection statement for the core technology solicitation under which it is proposed. The DOE will maintain a log of Core Technology Program projects and their selection dates.
- If an individual company elects to discontinue its membership in the Partnership, it will receive licensing benefits only for patent applications filed at the time when the company's membership ends.

All representatives of the NGLIA and its members must agree to non-disclosure of any and all confidential or proprietary information prior to participation in partnership activities such as proposal or project reviews or any activity that may disclose confidential or proprietary information from DOE SSL Program participants. Government employees are bound by the provisions of the Trade Secrets Act (18 USC 1905) to not disclose confidential or proprietary information obtained during the course of their Government employment.

ARTICLE IX – FUNDING AND IMPLEMENTATION

The Parties shall each bear the costs they incur for performing, managing, and administering their activities under this MOA. These costs include salaries, travel, and per diem for personnel, as well as any contract costs. This MOA shall not be used to obligate or commit funds or as the basis for the transfer of funds.

ARTICLE X – MISCELLANEOUS

A. Other Relationships or Obligations

This MOA shall not affect any pre-existing or independent relationships or obligations between the DOE and the NGLIA.

B. Survival

The provisions of this MOA which require performance after the expiration or termination of this MOA shall remain in force notwithstanding the expiration or termination of this MOA.

C. Severability

Nothing in this MOA is intended to conflict with current law or regulation or the directives of the Department of Energy. If any provision of this MOA is determined to be invalid or unenforceable, the remaining provisions shall remain in force and unaffected to the fullest extent performed by law and regulation.

D. Compliance with Laws

The Parties shall each be responsible for their own compliance with applicable laws and regulations, including export control laws, in performing the work scope of this MOA. The construction, validity, performance, and effect of this MOA for all purposes shall be governed by the laws applicable to the Government of the United States.

E. Effect on Third Parties

This MOA does not direct or apply to any person outside DOE and the Next Generation Lighting Industry Alliance. It shall not be construed to provide a right, benefit, or cause of action for or by any person or entity not a party to this MOA, enforceable by law or equity against DOE or the Next Generation Lighting Industry Alliance, their officers, or employees.

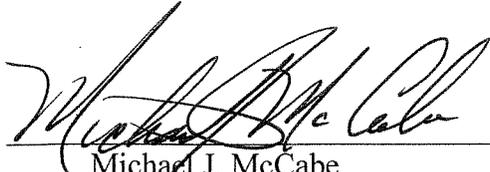
ARTICLE XI – AMENDMENT, MODIFICATION, AND TERMINATION

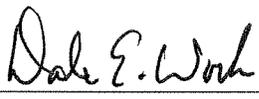
This MOA shall remain in effect for the period of 5 years from its effective date, and, if agreed upon by the Parties, may be extended for three additional 2-year periods for a total of eleven years. This MOA may be modified or amended only by written agreement of the Parties. Either Party may terminate this MOA by providing written notice to the other Party. The termination shall be effective upon the sixtieth calendar day following notice, unless an earlier or later date is agreed to by the Parties.

ARTICLE XII – EFFECTIVE DATE

This MOA will become effective upon the latter date of signature of the Parties.

Executed in duplicate on the dates indicated below:

By:  Date: 2/2/2005
Michael J. McCabe
Building Technologies Program Manager
U.S. Department of Energy
Office of Energy Efficiency and Renewable Energy

By:  Date: 2 Feb 05
Dale Work
Chair
Next Generation Lighting Industry Alliance

 Jonathan Beard 1/28/05
Consenting for the Office of
General Counsel