

<b>Form RD 4288-5</b> (March 22, 2010)	<b>U.S. DEPARTMENT OF AGRICULTURE</b> Rural Development - Energy Division	For Official Use Only
		Agreement Number
<b>REPOWERING ASSISTANCE PROGRAM - AGREEMENT</b>		<b>Effective Date of Agreement:</b> _____ (enter the date the Agreement becomes effective)
<p>NOTE : The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a) and the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), as amended. The authority for requesting the following information is Section 9001 of the Food, Conservation, and Energy Act of 2008 (P.L. 110-234). The information will be used to complete the terms of a payment Agreement between the biorefinery owner (Biorefinery) and the Agency. Furnishing the requested information is voluntary, however, without it, eligibility to enter into an agreement with the Agency cannot be determined. This information may be provided to other agencies, IRS, Department of Justice, or other State and Federal law enforcement agencies, and in response to a court magistrate or administrative tribunal. The provisions of criminal and civil fraud statutes, including 15 USC 714m; 18 USC 286, 287, 371, 641, 1001, 1014; and 31 USC 3729, may be applicable to the information provided.</p> <p>According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0570-0058. The time required to complete this information collection is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. <b>RETURN THIS COMPLETED FORM TO THE REPOWERING ASSISTANCE PROGRAM AT THE ADDRESS SHOWN IN SUBPART C (1) BELOW.</b></p>		

1. Operating name of Biorefinery		
2. Mail Address (Regular Mail)		
3A. Contact Person		4. IRS Tax Identification Number of Producer
3B. Contact Person's Title		5. DUNS Number
6. Telephone No. (Include Area Code)	7. FAX No. (Include Area Code)	8. E-Mail Address

## PART A – TERM OF AGREEMENT

**THIS AGREEMENT** is entered into between the Rural Business-Cooperative Service (Agency) on the behalf of the United States Department of Agriculture and the undersigned owner of a biorefinery (Biorefinery), (collectively referred to as Parties) for the repowering assistance identified in Form RD 4288-4. The terms and conditions of the Repowering Assistance Program (Program) contained in any applicable Notice published in the Federal Register (Notice), regulation, or statutes are incorporated by reference within this Agreement. By signing this Agreement, the undersigned Biorefinery agrees to comply with the terms contained herein including any applicable local, state, and Federal statutes, Notices, and regulations.

Once signed by the Agency, this Agreement continues in force unless terminated in writing by the Agency or at the mutual agreement of the Parties or in accordance with applicable Program Notices and regulations. The Agency may also terminate this Agreement without prior notice when required to do so by Programmatic requirements, the expiration of authorizing legislation, or the exhaustion of funds. All Program payments are subject to the availability of funds and limits placed on the use of funds. Payments will only be allowed in accordance with this Agreement.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call (202) 720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.

**PART B - AGREEMENT SCOPE**

The Biorefinery agrees that payments are to be made based on the actual documented quantity of renewable biomass that is consumed as a replacement for fossil fuel usage. The Biorefinery agrees to allow verification by the Agency of all information provided. Data furnished by the Biorefinery will be used to determine Program eligibility and Program payments. The Biorefinery agrees to submit Payment Applications to the Agency, as specified in applicable Program Notices and regulations, at the address shown in subpart C (1) of this form. The Agency agrees to make an initial payment, and subsequent semiannual payments, based on the actual renewable biomass consumed as a replacement for fossil fuels in accordance with applicable Program Notices, regulations and funding.

**PART C - PROGRAM ADDRESS AND PHONE NUMBER**

1. Submissions under this Program shall be made to the Agency at following address:

Rural Development Energy Division  
1400 Independence Avenue, SW, Stop 3225  
Washington DC 20250-3225

Fax Number: 202-720-6561

2. Payment Requests may be sent by fax to the number shown in subpart C (1). However, the originals of the faxed documents must be received by the Agency at the address shown in Subpart C (1) within 30 days. If you send Payment Requests by express or over night mail or hand deliver, then you must mark your envelope in the lower left corner "Submission under the Repowering Assistance Program."

**PART D - PAYMENTS**

The Agency will issue payments to eligible Biorefineries according to applicable Program Notices and regulations.

The Agency will issue electronic payments to Biorefineries no later than 30 business days after the Payment Application and all supporting documents are received.

**PART E - AUDIT OF RECORDS AND ACCESS TO PREMISES**

The Biorefinery agrees that the Agency, the Inspector General of USDA, and the Comptroller General of the United States, through their duly authorized representatives, shall have access to and the right to examine any books, documents, papers, and records of the Biorefinery involving transactions relating to this Agreement and any other records as may be reasonably needed to confirm payment eligibilities. The Biorefinery shall make available at the Biorefinery's office at all reasonable times the materials described in this Agreement for examination, audit, or reproduction until 3 years after the date of any payment issued under this Agreement. Records must be retained and may be inspected for a longer period of time in the event that there is a dispute that arises before the end of the 3-year period, or where there is reason to expect such a dispute.

**PART F - APPEALS**

Appeals of adverse decisions made by the Agency will be handled in accordance with 7 CFR part 11.

**PART G – The Biorefinery’s Owners and management agree to comply with requirements of RD Form 400-4 “Assurance Agreement” and Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and Title XI of the Education Amendment Act and the requirements of 7 CFR Part 1901-E**

**PART H - CERTIFICATION OF BIOREFINERY DOCUMENTATION AND ACCEPTANCE**

<b>CERTIFICATION AND ACCEPTANCE</b>	
I certify that the information included with this Agreement is true and correct to the best of my knowledge and belief.	
<b>1. BIOREFINERY</b>	<b>2. RURAL BUSINESS –COOPERATIVE SERVICE</b>
A. _____ (Biorefinery Name)	A. By: _____ (Approval Official)
B. By: _____ (Officer, Member, Partner, Proprietor)	B. Effective Date: _____
C. Title: _____	
D. Date: _____	