



## NON-DISCLOSURE AGREEMENT

This Non-disclosure and Confidentiality Agreement ("Agreement") is made between the Piedmont Municipal Power Agency (the "Agency"), having its principal place of business at 121 Village Drive, Greer, South Carolina 29651 and \_\_\_\_\_ [RESPONDENT NAME], having its principal place of business at \_\_\_\_\_ [RESPONDENT ADDRESS], each sometimes may be referred to hereinafter individually as a "Party" or jointly as "Parties".

References herein to "Discloser" shall mean the Party who discloses information or items to the other Party. References herein to "Recipient" shall mean the Party who receives information or items from the other Party.

The Parties have entered into discussions wherein both Parties acknowledge it is necessary to disclose certain information and/or items to each other, relating to the conduct of Agency Business, the development of applications for Agency use, and the business relationships between the Agency and its Members.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, the Parties hereto agree as follows:

1. For the purposes of this Agreement, Confidential Information shall mean any information and data of a confidential nature, including but not limited to proprietary, technical, developmental, marketing, sales, operating, performance, cost, know-how, business and process information, computer programming techniques, and all record-bearing media containing or disclosing such information and techniques which are disclosed pursuant to this Agreement.
2. Discloser agrees to make known to Recipient, and Recipient agrees to receive, Confidential Information for the sole purpose of evaluating the same to determine their respective interests in a mutually attractive business agreement.
3. All Confidential Information delivered pursuant to this Agreement:
  - a. May, if in written form, be marked "Confidential" or "Proprietary" or similarly legend by Discloser before being turned over to Recipient. All oral disclosures of information of the nature defined in paragraph 1 shall be considered Confidential Information;
  - b. Shall not be distributed, disclosed, or disseminated in any way or form by Recipient to anyone except its own employees who have a reasonable need to know said Confidential Information;
  - c. Shall be treated by Recipient with the same degree of care to avoid disclosure to any third party as is used with respect to Recipient's own information of like importance which is to be kept secret. Recipient shall be liable for disclosure of

- Confidential Information of the Discloser only if such care is not used. The burden shall be upon Recipient to show that such care was used;
- d. Shall not be used by Recipient for its own purposes, except as otherwise expressly stated herein, without the express prior written permission of Discloser; and
  - e. Shall remain the property of and be returned to Discloser (along with all copies thereof) within thirty (30) days of receipt by Recipient of a written request from Discloser setting forth the Confidential Information to be returned. Such request shall be made not later than three (3) months after termination of this Agreement.
4. The obligations of paragraph 3 shall not apply, however, to any information which:
    - a. Is already in the public domain at the time of disclosure or becomes available to the public through no breach of this Agreement by Recipient;
    - b. Was in Recipient's possession prior to receipt from Discloser as proven by its written records;
    - c. Is received by Recipient independently from a third party free to disclose such information to the Recipient; or
    - d. Is subsequently independently developed by Recipient as proven by its written records.
  5. Confidential Information shall not be deemed to be in the public domain merely because any part of said information is embodied in general disclosures or because individual features, components, or combinations thereof are now, or become, known to the public.
  6. Recipient's obligations hereunder with respect to each item of Confidential Information shall terminate three (3) years from the date of the receipt thereof by the Recipient.
  7. Recipient shall have the right to refuse to accept any Confidential Information under this Agreement if it believes the receipt of such information would limit or restrict in any way the use of its own technology or otherwise impair its business interests and nothing herein shall obligate Discloser to disclose to Recipient any particular information.
  8. The Parties hereto shall not be obligated to compensate each other for disclosure of any information under this Agreement and agree that no warranties of any kind are given with respect to such information, as well as any use thereof, except as otherwise provided for herein.
  9. Recipient shall have no obligation to enter into any further agreement with Discloser except as Recipient, in its sole judgment, may deem advisable. It is understood that no patent, copyright, trademark or other proprietary right or license is granted by this Agreement. The disclosure of Confidential Information and materials which may accompany the disclosure shall not result in any obligation to grant Recipient rights therein.



**Piedmont Municipal Power Agency**

121 Village Drive  
Greer, SC 29651

(864) 877-9632  
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- 10. This Agreement shall be effective as of the date of the last signature as written below. It may be terminated with respect to further disclosures upon thirty (30) days' prior notice in writing. This Agreement shall automatically terminate three (3) years from its effective date. The rights and obligations accruing prior to termination as set forth herein shall, however, survive the termination as specified in this Agreement.
- 11. Discloser warrants and represents that Discloser possesses all necessary powers, rights and authority to lawfully make the disclosure subject to this Agreement. No other warranties are made by either Party under this Agreement. Any information exchanged under this Agreement is provided "AS IS".
- 12. This Agreement represents the entire understanding and agreement of the Parties and supersedes all prior communications, agreements, and understandings relating to the subject matter hereof. The provisions of this Agreement may not be modified, amended, or waived, except by a written instrument duly executed by both Parties. This Agreement may not be assigned by either Party without the prior written consent of the other Party. All disputes between the Parties in connection with this Agreement shall first be discussed in good faith between the Parties in order to try to find an amicable solution. If no solution can be found to settle the dispute within forty-five (45) days after giving notice to the disputing Party, then the dispute will be submitted to a court of competent jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina, U.S.A.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives on the dates specified below:

PMPA

Respondent

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Authorized Signature

Joel D. Ledbetter  
\_\_\_\_\_  
Name

\_\_\_\_\_  
\_\_\_\_\_  
Name

General Manager  
\_\_\_\_\_  
Title

\_\_\_\_\_  
\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date