

Nondisclosure Agreement

This Nondisclosure Agreement (this "Agreement"), effective as of _____, 201__ (the "Effective Date"), is by and between _____ ("Service Provider"), and PEDERNALES ELECTRIC COOPERATIVE, INC., a Texas electric cooperative corporation, located at 201 S. Avenue F, Johnson City, Texas 78636 ("PEC").

The parties acknowledge that it may be necessary for each of them (hereinafter, in such capacity, the "Discloser") to provide to the other (hereinafter, in such capacity, the "Recipient") certain information, including trade secret information, considered to be confidential, valuable and proprietary by Discloser, for the purpose of evaluating a potential business relationship and, if desired by the parties, negotiation and consummation of a business transaction (the "Purpose"). Such information may include, but is not limited to, technical, financial, marketing, staffing and business plans and information, strategic information, proposals, requests for proposals, specifications, drawings, prices, costs, procedures, proposed products, processes, business systems, software programs, techniques, services, and like information of, or provided by, Discloser, its Affiliates (as defined herein) or any of their third party suppliers or agents, and also includes the fact that such information has been provided by Discloser, the fact that the parties are in discussions regarding the Purpose and any terms, conditions or other facts relating to the Purpose (collectively, "Information"). Information provided by Discloser to Recipient or otherwise obtained by Recipient from Discloser before execution of this Agreement and in connection with the Purpose is also subject to the terms of this Agreement. "Affiliates" means any company that, now or in the future, in whole or in part, directly or indirectly, owns, is owned by, or is under common control with, Recipient or Discloser, as the case may be.

In consideration of the mutual promises and obligations contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Recipient shall protect Information provided to Recipient by or on behalf of Discloser, or otherwise learned by Recipient, from any use, distribution or disclosure except as permitted herein. Recipient shall use the same standard of care to protect Discloser's Information as Recipient uses to protect its own Information, but in no event less than a reasonable standard of care.
2. Recipient agrees to use Discloser's Information solely in connection with the Purpose, and for no other purpose. Recipient shall restrict the possession and use of Discloser's Information to Recipient's employees who: (a) have a substantive need to know such Information of Discloser in connection with the Purpose; (b) have been advised of the confidential and proprietary nature of such Information of Discloser; and (c) have personally agreed with Recipient in writing to protect from unauthorized disclosure all confidential and proprietary information, of whatever source and including Discloser's Information, to which they have access in the course of their employment or engagement, as the case may be.
3. All Information of Discloser will be provided to Recipient in written or other tangible or electronic form, orally or visually, regardless of whether it is marked or otherwise identified as confidential or proprietary. Notwithstanding the failure of Discloser to mark or designate Information as confidential, Information that by its nature or under the particular circumstances of disclosure should be understood by Recipient, exercising its reasonable judgment, to be the Information of Discloser shall be protected as set out in this Agreement.
4. Information does not include any information that:
 - a) is known to Recipient, as shown by its written records, at the time of its receipt of the information, provided that such knowledge was not gained from a third party having an obligation of confidentiality with respect to such information; or
 - b) is or becomes publicly available through no act or omission of Recipient in breach of this Agreement or any other contractual obligations; or
 - c) is subsequently disclosed to Recipient by a third party having no obligation of confidentiality with respect to such information; or
 - d) is independently developed by Recipient, as shown by its written records, without any breach of this Agreement.
5. If Recipient is required to provide Information to any court, government agency, individual, or other entity pursuant to written court order, subpoena, regulation or process of law regarding civil matters, Recipient must first provide Discloser with prompt written notice of such requirement and cooperate with Discloser to appropriately protect against or limit the scope of such disclosure. To the fullest extent permitted by law, Recipient shall continue to protect as confidential and proprietary all of Discloser's Information disclosed in response to a written court order, subpoena, regulation or process of law.
6. Recipient may make tangible or electronic copies, notes, summaries or extracts of Discloser's Information only as necessary for use in connection with the Purpose as authorized herein. All tangible or electronic copies, notes, summaries or extracts must be marked with the same confidential and proprietary notice as appears on the original, and all such copies, notes, summaries or extracts shall also constitute Discloser's Information hereunder.
7. Discloser's Information remains at all times the property of Discloser. Upon the earlier of Discloser's request, the expiration of this Agreement, or the termination of this Agreement, Recipient shall promptly return to Discloser or destroy, at Discloser's option, all or any requested portion of Discloser's Information (including, but not limited to, tangible and electronic copies, notes, summaries or extracts of any Discloser Information), and Recipient shall provide Discloser with written certification stating that such Discloser Information has been returned or destroyed; provided,

however, Recipient shall be under no obligation to return or destroy any Information which Recipient used for its own analysis.

8. Recipient agrees and acknowledges that Discloser is not making any representation or warranty, express or implied, as to the accuracy or completeness of the Information, and neither Discloser will have any liability to the Recipient or any other Person relating to or resulting from the use of or reliance on the Information or for any errors therein or omission therefrom.
9. Recipient shall not identify Discloser, Discloser's Affiliates, or any other owner of Discloser's Information in any advertising, sales material, press release, public disclosure or publicity without Discloser's prior written authorization. No license under any trademark, patent, copyright, trade secret or other intellectual property right is either granted or implied by disclosure of Discloser's Information to Recipient, except as otherwise expressly provided in writing as a part of such disclosure.
10. Recipient's obligations of confidentiality hereunder commence upon its receipt of any Discloser's Information and survive with respect to all Discloser's Information until the return or destruction of the Information. Recipient's obligations of confidentiality hereunder with respect to any Discloser's Information protected under applicable trade secret laws survive for as long as such Information continues to be protected under such laws.
11. This Agreement is not a commitment by either party to enter into any transaction or business relationship, nor is it an inducement for either party to spend funds or resources. No such agreement will be binding unless and until stated in a writing signed by both parties.
12. Recipient acknowledges and agrees that any breach or threatened breach of this Agreement is likely to cause Discloser and its Affiliates irreparable harm for which money damages may not be an appropriate or sufficient remedy. Recipient therefore expressly acknowledges and agrees that Discloser or its Affiliates are entitled to seek injunctive or other equitable relief to remedy or prevent any breach or threatened breach of this Agreement, without the obligation of posting bond. Such remedy is not the exclusive remedy for any breach or threatened breach of this Agreement, but is in addition to all other rights and remedies available at law or in equity.

13. No forbearance, failure or delay in exercising any right, power, or privilege is waiver thereof, nor does any single or partial exercise thereof preclude any other or future exercise thereof, or the exercise of any other right, power, or privilege.
14. If and to the extent any provision of this Agreement is held invalid or unenforceable by a court of competent jurisdiction, such provision will be deemed stricken from this Agreement and the remainder of this Agreement will continue in effect and be valid and enforceable to the fullest extent permitted by law.
15. This Agreement is binding upon and inures to the benefit of both parties hereto and their heirs, executors, legal and personal representatives, administrators, successors and assigns, as the case may be.
16. This Agreement shall be deemed executed in the State of Texas and is to be governed by and construed in accordance with Texas law, without regard to such state's choice-of-law rules. The parties agree that exclusive jurisdiction and venue for any action to enforce this Agreement are properly in the federal or state courts located in Blanco County, Texas.
17. This Agreement constitutes the entire agreement between the parties and supersedes all previous and contemporaneous agreements, negotiations and commitments between the parties related to the subject matter hereof, and shall not be changed or modified in any manner, except by a written instrument signed by a duly authorized officer of each of the parties.
18. Each party has read this Agreement, understands it, and agrees to be bound by its terms and conditions. There are no understandings or representations with respect to the subject matter hereof, express or implied, that are not stated herein. This Agreement may be executed in counterparts, and signatures exchanged by facsimile or other electronic means are effective for all purposes hereunder to the same extent as original signatures.
19. Regardless of any termination of any business relationship between the Parties, the obligations and commitments established by this Agreement shall remain in full force and effect for three (3) years from the day and year first hereinabove written or until such time as the Parties have entered into an agreement providing otherwise.

In witness whereof, the parties hereto have caused this Nondisclosure Agreement to be executed as of the date hereof.

PEDERNALES ELECTRIC COOPERATIVE, INC.		SERVICE PROVIDER: _____	
By:		By:	
	(Authorized Signature)		(Authorized Signature)
Name:		Name:	
	(Print or Type)		(Print or Type)
Title:		Title:	