

CONFIDENTIALITY AGREEMENT

THIS CONFIDENTIALITY AGREEMENT (“Agreement”), entered into and made effective as of the ____ day of _____ 2013, is by and between Guadalupe Valley Electric Cooperative, Inc. (“GVEC”) and _____ (“_____”) (collectively the “Parties”).

WITNESSETH:

WHEREAS, the Parties intend to conduct confidential discussions and negotiations concerning the possibility of entering into a power supply transaction (the “Project”); and

WHEREAS, the Parties have entered into this Agreement in order to assure the confidentiality of all such information and the confidentiality of the discussions between the Parties to prevent the disclosure of same to third parties except as permitted herein;

NOW, THEREFORE, in consideration of the mutual promises and covenants made herein, and with the intent to be legally bound hereby, the Parties agree as follows:

1. Confidential Information. The term “Confidential Information” as used in this Agreement shall mean the discussions between the Parties concerning the Project, any and all written, printed or other materials provided by either Party to any Party to this Agreement and the substance and content thereof, and all information ascertained through the discussions between employees or Representatives of the Parties concerning the Project. Confidential Information shall not include the following:
 - (a) information which at the time of disclosure by a Party (the “Disclosing Party”) is publicly available, or information which later becomes publicly available through no act or omission of the recipient (the “Receiving Party”);
 - (b) information which the Receiving Party can demonstrate was in its possession prior to disclosure by the Disclosing Party;
 - (c) information received by the Receiving Party from a third party who, to the best of the Receiving Party’s knowledge, did not acquire such information on a confidential basis either directly or indirectly from the Disclosing Party; and
 - (d) information which the Receiving Party can demonstrate was independently developed by it or for it and which was not obtained, in whole or in part, from the Disclosing Party.

2. Disclosure and Use of Confidential Information. The Parties agree to keep confidential all Confidential Information and shall not, without the other Party’s prior written consent, disclose to any third party, firm, corporation or entity such Confidential Information. The Parties shall limit the disclosure of the Confidential Information to only those officers, employees, agents and Representatives (including attorneys, accountants, bankers and consultants) of the Party reasonably necessary to evaluate the Project. Each Party shall use the Confidential Information only for the purpose of its internal evaluation of the Project. Neither Party shall make any other use, in whole or in part, of any such Confidential Information without the prior written consent of the other. The Parties agree to be responsible for any breach of this Agreement by their respective Representatives. As used in this Agreement, (a) the term “Representative” means, as to any person, such person’s Affiliates (as defined below) and their directors, officers, employees, agents,

advisors (including, without limitation, financial advisors, legal counsel and accountants) and controlling persons, and (b) “Affiliates” shall mean all entities which are controlling, controlled by or under common control with the Party.

3. Required Disclosure. A Party shall be permitted to disclose Confidential Information required to be disclosed by it by applicable law or regulation, pursuant to a subpoena or order of a court or for evidentiary purposes in any relevant action, proceeding or arbitration to which a Party or any of its partners, officers, directors or shareholders is a party. In the event that a Party receives a request to disclose any Confidential Information under such subpoena, order or otherwise, that Party will (a) promptly notify the other party thereof, (b) consult with the other party on the advisability of taking steps to resist or narrow such request, and (c) if disclosure is required or deemed advisable, reasonably cooperate with the other Party in any attempt that it may make to obtain an order or other reliable assurance that confidential treatment will be accorded to designated portions of the Confidential Information; provided, however, that such reasonable cooperation does not cause the Party to be in violation of any law, regulation, subpoena or order. The Parties agree to reimburse the other Party for its reasonable expenses, including the reasonable fees and expenses of its counsel, in connection with action taken at the Party’s request pursuant to this paragraph. Further, a Party shall be permitted to disclose Confidential Information that it (i) deems necessary to be in compliance with any applicable law and/or (ii) is requested to disclose to any regulatory, self-regulatory or legislative body of competent jurisdiction in connection with any regulatory or legislative report, audit or other request for information. In the event that a Party receives such a request, they will promptly notify the other Party thereof, provided that such notification does not violate the terms of such request.
4. Return of Documents. Either Party may elect at any time to terminate further access to the Confidential Information. The Parties further agree to return any and all Confidential Information as well as any other information disclosed to it by the other Party upon written request from the other Party therefore, including all originals, copies, translations, notes, or any other form of said material, without retaining any copy or duplicate thereof, and shall promptly destroy any and all written, printed or other material or information derived from the Confidential Information. Notwithstanding the foregoing, a Party may retain (i) that portion of the Confidential Information that is required to be retained pursuant to law and/or regulation and/or (ii) Confidential Information stored on automatic computer back-up archiving systems; provided, however, that any Confidential Information retained by a Party shall be maintained by such Party subject to confidentiality pursuant to the terms of this Agreement for so long as such Confidential Information is retained.
5. Survival of Obligations. 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.
6. Nature of Information. The Parties each hereby accept the representations of the other Party that the Confidential Information of the other Party is of a special, unique, unusual, extraordinary, and intellectual character and that money damages would not be a sufficient remedy for any breach of this Agreement by it or its Representatives and that

specific performance and injunctive or other equitable remedies for any such breach shall be available to it. The Parties also acknowledge that the interests of the other Party in such Confidential Information may be irreparably injured by disclosure of such Confidential Information. The remedy stated above may be pursued in addition to any other remedies applicable at law or equity for breach of this Agreement.

7. Governing Law. The validity and interpretation of this Agreement and the legal relations of the Parties to it shall be governed by the laws of the State of Texas.

8. No Representation or Warranties. With respect to any Confidential Information which either Party furnished or otherwise discloses to the other Party for the purpose of evaluating the Project, it is understood and agreed that the Party disclosing such information does not make any representations or warranties as to the accuracy, completeness or fitness for a particular purpose thereof. It is further understood and agreed that neither Party nor its Representatives shall have any liability or responsibility to the other Party (except as pursuant to this Agreement) or to any other person or entity resulting from the use of any Confidential Information so furnished or otherwise provided.

IN WITNESS WHEREOF, the Parties hereto have entered into this Agreement on the day and year first herein above written.

**Guadalupe Valley Electric
Cooperative, Inc.**

By: _____

By: _____

Name: _____

Name: Darren Schauer

Title: _____

Title General Manager and CEO

Date: _____

Date: _____