

# Tri-County Electric Cooperative, Inc.

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Power Supply with Qualified Scheduling Entity  
Request for Proposals

Release Date: August 22, 2022  
Bids Due: October 3, 2022

**Introduction:**

Tri-County Electric Cooperative (“TCEC”) is a not-for-profit distribution cooperative owned and governed by its member-owners. Headquartered in Aledo, Texas, TCEC serves about 102,500 members through over 129,800 meters, and owns more than 9,780 miles of distribution lines in sixteen Texas counties. TCEC has an annual summer peak of approximately 760 MW and wholesale purchases totaling approximately 3,100,000 MWh annually.

TCEC is currently a member of Brazos Electric Power Cooperative, Inc. (“Brazos”) as a full-requirements wholesale customer. However, in connection with the pending Brazos Chapter 11 Bankruptcy case (*In re Brazos Elec. Power Coop.*, Case No. 21-30725 (Bankr. S.D.Tex.)), Brazos has developed a proposed exit plan (the “Consensual Plan”) which, among other things, proposes that the members of Brazos assume responsibility for procuring, managing, scheduling, and supplying their own power supply on March 1, 2023.

Therefore, TCEC desires and Brazos has agreed to authorize TCEC and its representatives to explore the competitive energy supply markets and indicative pricing for purchasing all of its wholesale electricity requirements from a supplier or suppliers other than Brazos under the terms set forth in the attached Right to Shop letter – attached hereto as Attachment A.

TCEC is issuing this Request for Proposal (“RFP”) for wholesale electric supply and QSE services to serve its load obligation within the service territory of TCEC beginning March 1, 2023, and extending through December 31, 2023, December 31, 2024, or December 31, 2025. Pertinent information will be distributed to all parties who have executed and delivered a Non-Disclosure Agreement (“NDA”) with TCEC. The form NDA is attached herein as Attachment B. Return of the signed NDA will serve as a formal indication of interest.

Through the issuance of this RFP, TCEC is soliciting proposals for wholesale power supply with the explicit understanding that TCEC’s ability to enter into any agreement with the Bidder is conditional on the confirmation of a Brazos Plan of Reorganization that provides for, among other things, an amendment to the Wholesale Power Contract to allow TCEC to purchase its wholesale energy requirements from a party other than Brazos. Additionally, acceptance of any proposal is conditional upon approval of TCEC’s Board of Directors.

***Request for Proposals:***

This RFP is intended to engage qualified wholesale electric providers to offer competitive proposals to supply TCEC’s full load requirements, commencing March 1, 2023. TCEC is also soliciting a Qualified Scheduling Entity (“QSE”) for scheduling services. TCEC prefers to contract with a single entity providing both power supply and QSE services but will accept and consider proposals for either power supply and/or QSE services.

TCEC will consider the following terms:

- March 1, 2023, through December 31, 2023
- March 1, 2023, through December 31, 2024
- March 1, 2023, through December 31, 2025

Proposals are to include all costs and provisions necessary to deliver full requirements service to the ERCOT North 345kV Trading Hub, per the ERCOT Protocols. Bidders should indicate whether they intend to represent TCEC’s load as the QSE.

***Key Objectives and Considerations:***

Proposals will be evaluated primarily on:

- Offer prices and overall economics inclusive of all costs
- Reliability and firmness of power supply
- Logistical, technical, economic, and commercial viability of Proposal

Other considerations reviewed to ensure completeness of Proposal include:

- Proposals for full requirements service and/or QSE services
  - QSE services should be itemized by QSE functions
  - All energy delivery schedules shall conform to Energy Trades and settlement per the ERCOT Protocols
  - Full Requirements power supply may be served from a portfolio, such as:
    - Firm (LD) energy and capacity deliveries, as defined in Schedule P: Products and Related Definitions of the Edison Electric Institute (EEI) Master Power Purchase & Sale Agreement
    - Blocks of power with varying or staggered purchase amounts
    - Wholesale market purchases
    - Direct off-take supply agreements from asset-based options, such as renewable resources
- Power purchase agreement contract relationship
  - Contract forms are intended to be based upon an EEI Master Purchase and Sales Agreement and accompanying transaction confirmation(s) or the Bidder’s Power Purchase Agreement terms and conditions.

- Term(s) proposed –
  - March 1, 2023, through December 31, 2023
  - March 1, 2023, through December 31, 2024
  - March 1, 2023, through December 31, 2025
  - Renewable energy terms, if applicable
- Pricing and economic risk, including:
  - All-in pricing estimate including all components of power supply, to the ERCOT North 345kV Hub;
  - Fixed price versus variable pricing; and
  - Length/duration for firm pricing components prior to extension periods where pricing is yet to be defined.
- QSE proposals should include and outline the responsibility for the planning, scheduling, and settlements for TCEC's full requirements
- Creditworthiness of counterparty and terms providing for continuity of delivery/service even through unforeseen credit conditions.

***Information Requirements:***

For each Proposal, at a minimum, please specify:

- Quantity – annual capacity/energy; expected pattern of energy delivery for the full requirements
- QSE services – itemized by QSE functions
- Term – confirm duration commencing March 1, 2023, and identify any extension periods available
- Settlement Delivery Point
- Ancillary Services obligation as defined by the ERCOT Protocols
- Whether Bidder plans to represent TCEC to ERCOT as its QSE
- Pricing:
  - Itemized price components
  - Indexes and/or price escalators upon which any price component is based, such as heat rate
  - Any pass-through components of power supply or load obligations
  - Any miscellaneous one-time or ongoing charges
  - Pricing components based on a natural gas market close of September 26, 2022
- Bidder's company background, including credit ratings
- Credit requirements/expectations of both parties

***Bidder Question Submission:***

Bidders are to submit any questions regarding this RFP in writing by September 12, 2022. Answers to all questions submitted will be communicated to all Bidders no later than September 23, 2022.

**Schedule:**

Request for Proposal Release Date	August 22, 2022
Non-Disclosure Agreement Due Date	September 6, 2022
Bidder Questions Submission Deadline	September 12, 2022
<b>RFP Response Date</b>	<b>October 3, 2022</b>
Short List Decision Date / Negotiations Begin	October 24, 2022
Meet the Marketers (in-person or virtual)	TBD Late October
Contract Negotiations Complete	December 1, 2022 (estimate)
Board Approval and Contract Execution	Mid-December 2022
Delivery Commencement	March 1, 2023

**Additional Information:**

- Attachment B includes the form Non-Disclosure Agreement for execution. Any interested Bidders should execute and return this NDA in its form if a satisfactory agreement is not currently in existence with TCEC. Upon receipt of Bidder's executed NDA, a link to a shared data room will be provided, granting access to additional financial and load data for consideration. All previous discussions pertaining to TCEC power supply commencing March 1, 2023, should now submit through this RFP process.
- All Bidders have the obligation and responsibility to clearly mark and identify any and all proprietary information included in their Proposal. TCEC and its consultants are not restricted from using or disclosing any data that is already obtainable from another public sources, without restriction. TCEC and its attorneys and consultants will use their best efforts to maintain the confidentiality of any submitted proprietary information, however, should such information be accidentally disclosed or required to disclose by a regulator or governmental body, Bidders agree that TCEC and its attorneys and consultants shall not be liable for such accidental disclosure.
- All Bidders are responsible for their costs related to the preparation of their respective Proposal(s).
- This RFP is not an offer or a contract. TCEC and/or EnerVision reserve the right to accept or reject any or all Proposals and are not obligated to contract for any of the products/services described in this RFP. TCEC is under no obligation to accept any Proposal, nor is TCEC obligated to accept the lowest cost Proposal, as there are many other factors which will be considered in the review and analysis of the Proposals. TCEC may at its sole option determine to revise this RFP at any time. All Bidders, by submitting a Proposal, agree that they will not seek any legal recourse against TCEC for rejection of their respective Proposal, or for any other matter related to actions or inactions on the Proposal.

**Contact Information:**

Address all RFP questions, correspondence, Confidentiality Agreements, and Proposal in writing to:

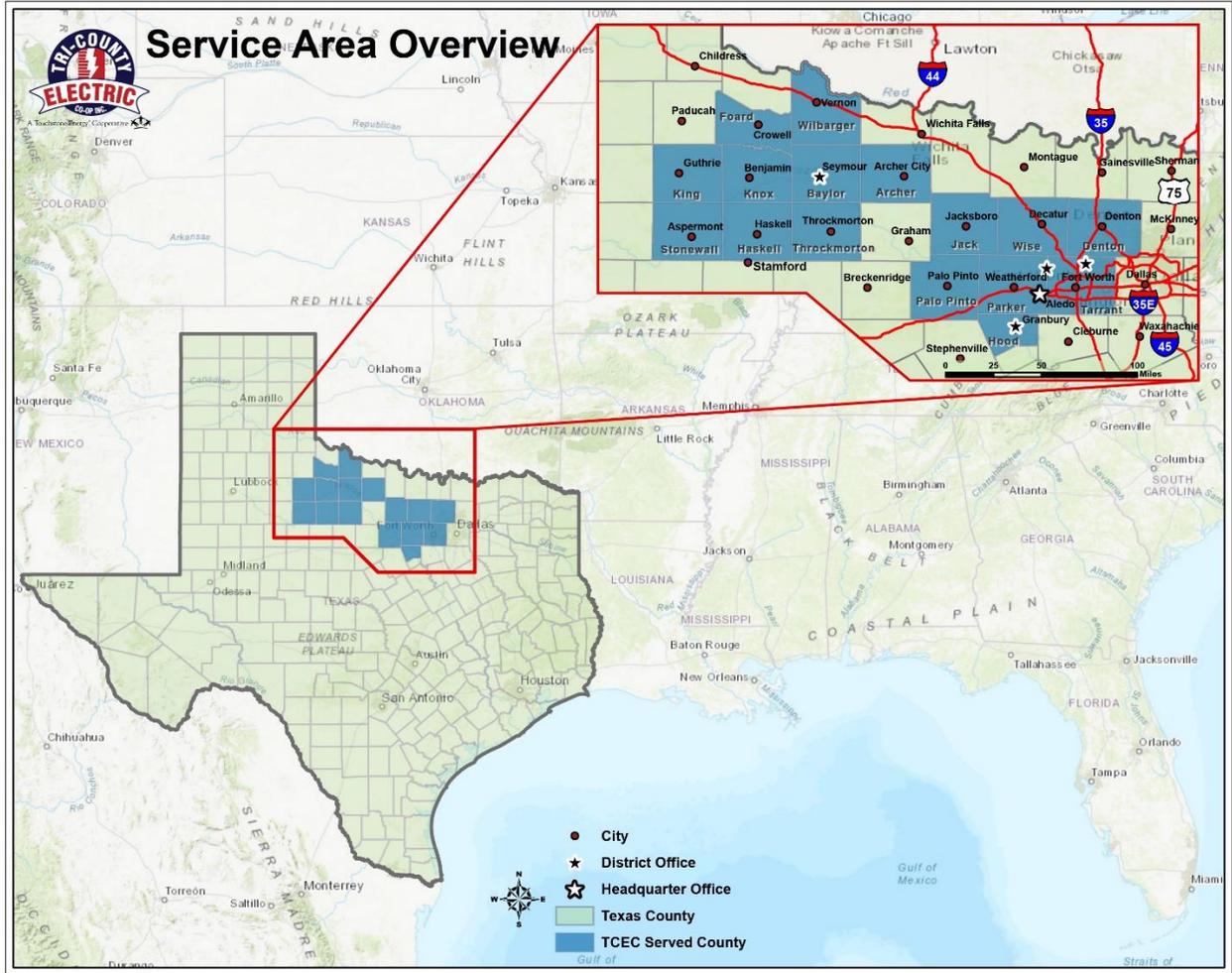
- Mary Ellen Cole, Partner, EnerVision Inc.
  - [Mary\\_Ellen.Cole@enervision-inc.com](mailto:Mary_Ellen.Cole@enervision-inc.com)

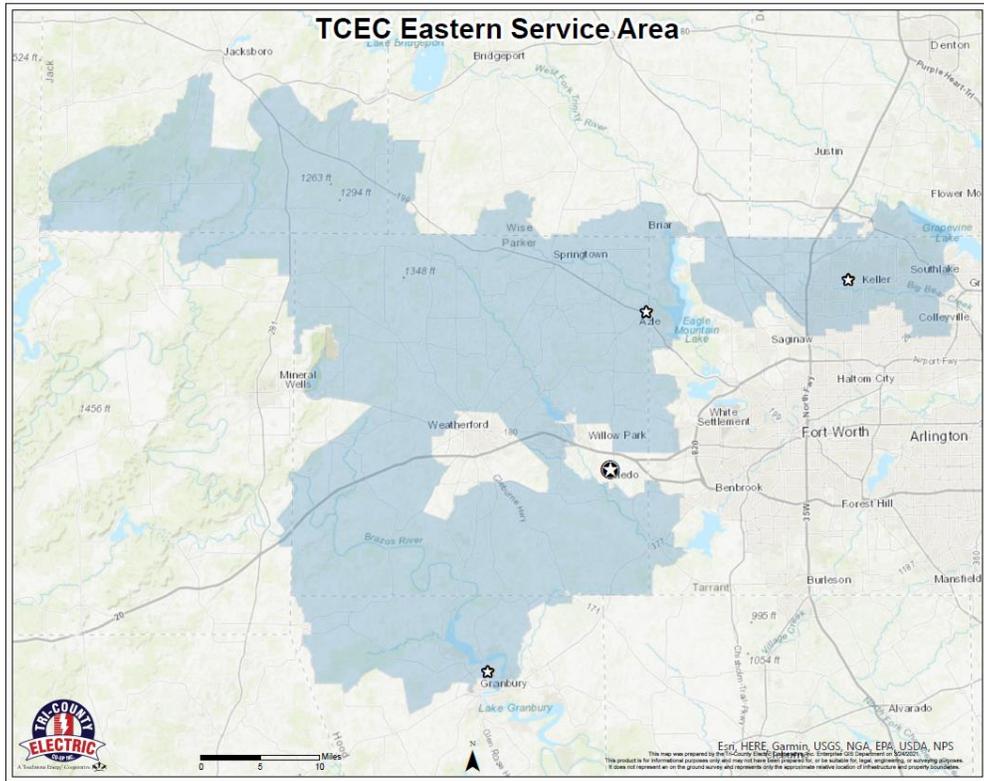
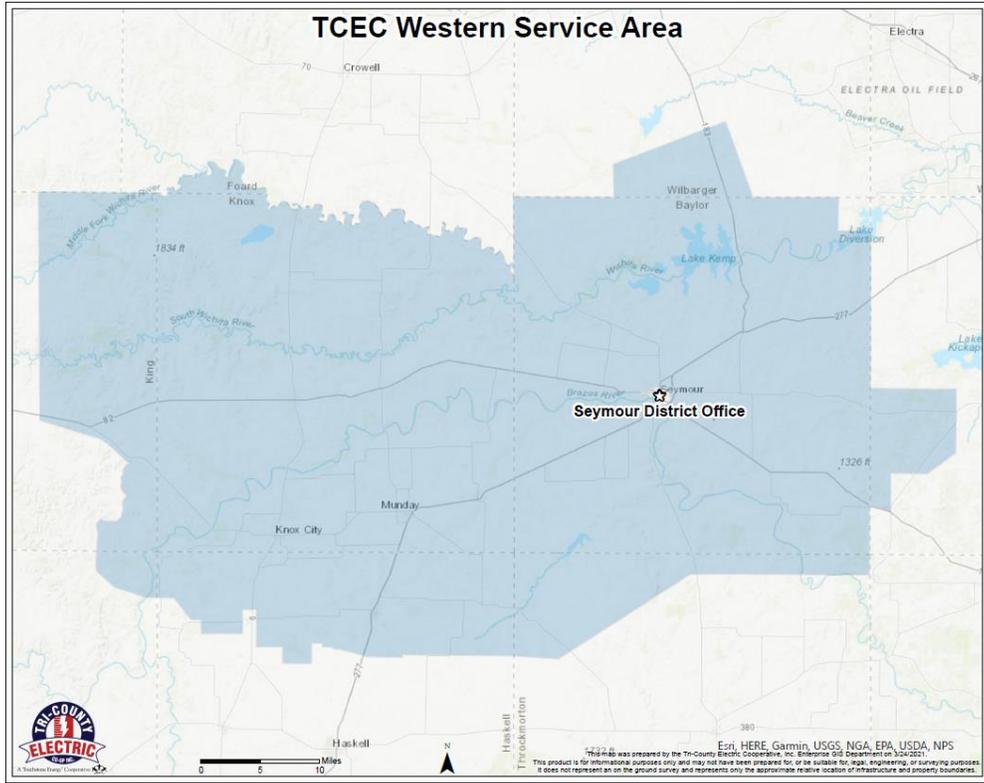
**Next Steps:**

- Return Attachment B Form NDA as Indication of Interest
- Distribution of additional TCEC data following executed NDA
- Ask clarifying questions; responses to FAQs will be distributed to all RFP Bidders
- Submit final Proposals

# Tri-County Electric Cooperative

## Territory Map





**Attachment A – Right to Shop Letter**



BRAZOS ELECTRIC POWER COOPERATIVE, INC.  
Debtor in Possession  
P.O. Box 2585, Waco, Texas 76702-2585  
7616 Bagby Ave., Waco, Texas 76712  
(254) 750-6500

July 13, 2022

To Whom It May Concern:

Brazos Electric Power Cooperative, Inc. (“Brazos”) and Tri-County Electric Cooperative, Inc. (the “Member”) are parties to a Wholesale Power Contract (the “WPC”) dated October 1, 1987, as amended and supplemented. Under the WPC, Brazos is obligated to supply and the Member is obligated to purchase and receive from Brazos all of the Member’s wholesale electric requirements through 2045. In connection with the pending Brazos chapter 11 bankruptcy case (*In re Brazos Elec. Power Coop., Inc.*, Case No. 21-30725 (Bankr. S.D. Tex.)), Brazos has developed an exit plan (the “Consensual Plan”) the terms and conditions of which have been affirmed by all sixteen (16) of its members on or about June 3, 2022 which, among other things, proposes amending and restating the WPC to terminate Brazos’s obligation to provide its members, including the Member, with their power requirements and correspondingly to terminate any responsibility that its members, including the Member, have to purchase wholesale power from Brazos. Brazos is also considering other potential exit scenarios that provide for Brazos to exit the provision of wholesale power supply to its members. Under the terms of the Consensual Plan and such other exit scenarios, it is proposed that members of Brazos assume responsibility for procuring, managing, scheduling and supplying their own power supply on March 1, 2023.

Therefore, the Member desires and Brazos has agreed to authorize the Member and its representatives to explore the competitive energy supply markets and indicative pricing for purchasing all of its wholesale electricity requirements from a supplier or suppliers other than Brazos under the terms set forth in this letter. Consistent with the preceding sentence, Brazos has agreed to allow the Member to explore options for potential alternative supplies of power, potential alternative QSEs, to establish a LSE relationship with ERCOT, and to take other actions necessary for it to assume full responsibility of its power supply and risk management responsibilities. Brazos has agreed that active exploration of these options shall not result in the Member’s breach of the WPC nor interference by any third party into the existing contractual relationship between the Member and Brazos. Nothing contained in this letter purports to nor should be construed to change the requirements and obligations contained in the WPC, Brazos’s bylaws and Board policies, and related documents, all of which remain in full force and effect in all respects. The WPC is an all-requirements contract and Brazos is not at this time waiving any of its rights under the WPC, either with respect to the Member or any third parties.

In order for the Member to prepare for potential contingencies associated with the Consensual Plan and any other exit scenarios that may be contemplated by Brazos in respect of the Member potentially providing for its own power supply and QSE services by March 1, 2023, Brazos has authorized the Member to communicate with potential alternative power suppliers, QSEs and ERCOT for purposes of exploring potential alternative power supplies. In furtherance of these

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communications, Brazos authorizes the Member, among other actions consistent with this letter, to issue request(s) for proposals ("RFP") for power suppliers and QSEs to meet the Member's total wholesale electric requirements consistent with the terms set forth in this letter.

To avoid any possible misunderstanding, the Member and Brazos agree that the Member will provide a copy of this letter to those third parties, including ERCOT, with whom the Member communicates concerning the possibility of the Member (a) purchasing all or a portion of its wholesale electricity requirements, (b) purchasing QSE services, and (c) taking other actions necessary for it to undertake responsibility for scheduling and supplying its power supply requirements. Further, any communication, RFP or other solicitation for power supply and risk management related services issued by the Member shall contain language that clearly states to potential bidders or suppliers that the Member's ability to enter into any agreement with the bidder is conditional on the confirmation of a Brazos plan of reorganization that provides for, among other things, an amendment to the WPC to allow the Member to purchase its wholesale electricity requirements from a party other than Brazos.

Unless further extended by mutual agreement between the parties, the terms and conditions of this letter shall terminate on March 1, 2023.

Sincerely,



Clifton Karnei  
Executive Vice President  
and General Manager

cc: Philip Segrest  
Senior Staff  
Kyle Minnix

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***Attachment B – Template Non-Disclosure Agreement***

See next page.

**MUTUAL CONFIDENTIALITY AND  
NON-DISCLOSURE AGREEMENT**

**THIS MUTUAL CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT** (the “*Agreement*”) is entered into as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the “*Effective Date*”) by and between (\_\_\_\_\_), a \_\_\_\_\_ (“\_\_\_\_\_”) and **Tri County Electric Cooperative Inc.**, (“*TCEC*”), a Texas corporation. TCEC and \_\_\_\_\_ are individually referred to as a “*Party*” and collectively as the “*Parties*”).

**WHEREAS**, the Parties intend to engage in discussions and negotiations (the “*Discussions*”) concerning the possible establishment of a business relationship between the Parties (the “*Relationship*”); and

**WHEREAS**, in connection with the Discussions and/or Relationship each Party is willing to provide the other with access to certain confidential and proprietary information, subject to the terms set forth herein (for purposes of this Agreement the Party providing such confidential information is referred to as the “*Provider*” and the Party receiving the information is referred to as the “*Recipient*”);

**NOW, THEREFORE**, for and in consideration for disclosure of certain proprietary and confidential information, each Party, on its own behalf and on behalf of its respective shareholders, directors, officers, employees, agents, subsidiaries, and advisers (collectively, “*Representatives*”), hereby agrees as follows:

1. **Confidential Information.** The Recipient and its Representatives will treat as confidential and, in accordance with the terms of this Agreement, will take or abstain from taking certain other actions herein set forth with respect to (a) any information (whether written or oral) furnished to the Recipient or its Representatives by or on behalf of the Provider, including but not limited to information contained on computer disks, emails and other forms of electronic or magnetic media and other information regarding the business, financial condition, customer lists, marketing strategy, names of employees, compensation amounts and formulas, billing amounts, operations and prospects of the Provider; (b) any analyses, compilations, forecasts, studies or other documents or records prepared by the Provider or its Representatives to the extent they contain, or otherwise are generated from or derived from, in whole or in part, the information described in clause (a) above; and (c) any copies, reproductions or summaries of any of the foregoing (collectively, the “*Confidential Information*”). The term “Confidential Information” shall not include any information which (x) is already in the Recipient’s possession, provided that such information is not subject to another confidentiality agreement with, or other obligation of secrecy to, the Provider or another party, (y) becomes generally available to the public other than as a result of disclosure by the Recipient or its Representatives, or (z) becomes available to the Recipient on a non-confidential basis from a source other than the Provider or its Representatives; *provided* that such source is not known by the Recipient after due inquiry to be bound by a confidentiality agreement with or other obligation of secrecy to the Provider or another party.

2. **Use of Confidential Information.** Unless otherwise agreed to by the Provider in writing, the Recipient will, and will cause its Representatives to, keep confidential all Confidential Information and neither (i) disclose or reveal any Confidential Information to any persons or entities other than to those Representatives who clearly need such access to actively and directly participate in the Discussions and the Relationship, nor (ii) use, disclose or reveal any Confidential Information for any purpose other than as necessary to facilitate the objectives of the Discussions and/or the Relationship. Furthermore, the Recipient will, and will cause its Representatives to, not use the Confidential Information in any way detrimental to the Provider or any of its employees or customers. Before any of the Representatives are given access to Confidential Information, the Recipient will advise each such Representative of the confidential nature thereof and the terms of this Agreement. The Recipient will be responsible for any breach of this Agreement by any of its Representatives.

3. **Required Disclosure.** In the event that the Recipient becomes legally compelled to disclose any Confidential Information, the Recipient agrees to provide the Provider with reasonable advance notice prior to any such disclosure to enable the Provider to seek a protective order or other appropriate remedy and agrees not to oppose any action by the Provider to obtain a protective order or other appropriate remedy. Whether or not such protective order or other remedy is obtained, or the Provider waives compliance with the terms of this Agreement, the Recipient agrees that it and its Representatives will furnish only that portion of the Confidential Information or other information which the Recipient is advised in writing by legal counsel is legally required.

4. **Return of Confidential Information.** In the event that at any time either Party terminates the Discussions and/or the Relationship, the Recipient agrees that it will (a) promptly return to the Provider all written Confidential Information and (b) not retain any copies, extracts or other reproductions (in any tangible medium of expression) in whole or in part of such written material. All Confidential Information consisting solely of information contained on computer tapes, computer disks or any other form of electronic or magnetic media, together with any analyses, compilations, studies or other documents, records or data prepared by the Recipient or its Representatives that contain or otherwise reflect or are generated from such information may, in lieu of being returned to the Provider, be destroyed in a manner that renders it incapable of being recovered or restored. Upon written request, such return, non-retention and destruction shall be certified in writing to the Provider by an authorized officer of the Recipient's organization supervising such return, non-retention and destruction. The obligations of the Recipient and its Representatives hereunder shall not terminate as a result of such return, non-retention and/or destruction.

5. **Equitable Remedy.** The Parties agree that in the event that the Recipient breaches or threatens to breach any of the provisions of this Agreement, monetary damages will be an inadequate remedy and, therefore, due to the immediate irreparable actual and substantial harm which will result from a breach or a threatened breach by the Recipient of the provisions of the Agreement, the Provider shall be entitled to specific performance and to obtain an immediate permanent injunction against such breach and such other equitable relief as is necessary or appropriate to enforce any and all of the provisions of this Agreement. The remedies afforded to the Provider by this paragraph shall be in addition to any and all other remedies available to the Provider for any violation, breach or threatened breach of this Agreement by the Recipient. The Recipient agrees to reimburse the Provider for all reasonable costs and expenses incurred by it in any proceeding commenced in connection with enforcing its rights hereunder, provided that the Provider in such proceeding is successful in establishing its entitlement to such an injunctive relief.

6. **Term.** This Agreement and the obligations hereunder shall continue for so long as the Discussions and/or the Relationship continue and for a period of two years thereafter; *provided, however*, that insofar as this Agreement shall relate to any information which may be a "trade secret" as defined by applicable law, this Agreement shall continue indefinitely without any durational limit as to such matter, but only for so long as such matter retains its status as a "trade secret" under such law.

7. **Miscellaneous.** This Agreement may not be amended or modified except in writing signed by each of the Parties hereto and shall be governed by and construed in accordance with the laws of the State of Texas. Each Party hereby irrevocably and unconditionally consents to submit to the exclusive jurisdiction of the courts of the State of Texas and of the United States District Courts located in the State of Texas for any lawsuits, claims or other proceedings arising out of or relating to this Agreement and agree not to commence any such lawsuit, claim or other proceeding except in such courts. Each Party hereby irrevocably and unconditionally waives any objection to the laying of venue of any lawsuit, claim or other proceeding arising out of or relating to this Agreement in the courts of the State of Texas or the United States District Courts located in the State of Texas, and hereby further irrevocably and unconditionally waive and agree not to plead or claim in any such court that any such lawsuit, claim or other proceeding brought in any such court has been brought in any inconvenient forum.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement to be effective as of the Effective Date.

By: \_\_\_\_\_  
(Signature)

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name typed or printed)

\_\_\_\_\_  
(Name typed or printed)

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_