**Disclaimer**

This Non-Disclosure Agreement (NDA) was drafted by GridBright, Inc. as part of the Department of Energy (DOE) Advanced Research Project Agency-Energy (ARPA-E) project DE-AR0001030, “Secure Grid Data Exchange (SGDX)”, and with input from the Secure Grid Data Exchange Working Group (SGDX WG) of BetterGrids Foundation, Inc. Visit arpa-e.energy.gov for more information about ARPA-E, and GRIDEON.com for more information about the SGDX project.

An NDA is used to protect the disclosure of sensitive grid data to unauthorized parties, thereby reducing the risk of physical and cyberattacks on the grid. Many organizations use their own customer NDA. The motivation for creating the attached NDA is to provide a publicly available NDA that could be used by all organizations free of charge, including smaller organizations that do not have their own custom NDAs and prefer not to spend money on legal fees to create one. The team working on this NDA has made best effort to base it on best practices used across the industry, including NDAs used by several ISOs and transmission reliability organizations. If the attached NDA receives wide adoption in the utility industry, it could lead to a “standard” NDA that would become generally acceptable to all parties, saving the utility industry unnecessary legal fees and time spent in negating thousands of custom NDAs each year.

Neither GridBright nor BetterGrids Foundation claims any intellectual property rights in the NDA: GridBright and BetterGrids Foundation claim no copyright ownership in the NDA, and they explicitly declare their express intention to submit this NDA to the public domain as a document free of and unprotected by copyright. Accordingly, you may freely copy, use, and modify this NDA for all your purposes. IF YOU CHOOSE TO USE IT, YOUR ACT OF USING THE NDA SIGNIFIES THAT YOU ACKNOWLEDGE AND AGREE (A) THAT YOU ARE USING THE NDA SOLELY AT YOUR OWN RISK; (B) THAT YOU ASSUME ALL LIABILITY IN REGARD TO YOUR USE OF THE NDA; (C) THAT NEITHER GRIDBRIGHT NOR BETTERGRIDS FOUNDATION MAKES ANY WARRANTY OR REPRESENTATION OF ANY KIND ABOUT THE LEGAL SUFFICIENCY OF THE NDA; AND (D) THAT NEITHER GRIDBRIGHT NOR BETTERGRIDS FOUNDATION SHALL HAVE ANY LIABILITY OF ANY KIND WHATSOEVER EITHER TO YOU OR TO ANY PERSON IN ANY WAY RELATED TO YOUR USE OF THE NDA.

GridBright is a small business focused on Secure Grid Integration. GridBright mission is to help the electric industry keep the lights on in the face of increasing intensity of natural disasters, frequency of cyber-attacks, and penetration of renewable and distributed energy resources. Visit GridBright.com for more information on GridBright.

BetterGrids Foundation is a non-profit public research charity dedicated to the support of the BetterGrids Grid Data Repository. The Repository provides grid researchers easy access to many non-sensitive grid models. GridBright created the Repository with funding from the DOE under the ARPA-E project DE-AR000716. Visit BetterGrids.org for more information about the BetterGrids Repository and the Foundation.

The SGDX WG was created under the Technical Committee of BetterGrids to represent BetterGrids in the DOE ARPA-E SGDX project and to help create uniform and standardized processes and non-disclosure agreements (NDAs) for access to sensitive grid data by legitimate parties including grid researchers. SGDX project team members include GridBright, BetterGrids Foundation, Midcontinent independent system operator (misoenergy.org, and Mid-Carolina Electric Cooperative (www.mcecoop.com).

More than 100 organizations in the utility industry have voluntarily contributed time and input to the research activities referenced above.

**ONE WAY NON-DISCLOSURE AGREEMENT**

This Non-Disclosure Agreement (***“Agreement”***) is entered by and between the signatories of this agreement on \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“***Effective Date***”), individually referred to as party, and collectively as parties.

WHEREAS, Disclosing Party is prepared to disclose confidential information under this Agreement to Receiving Party in connection with Disclosing Party’s business with, or possible engagement of, Receiving Party (the "Purpose");

WHEREAS, Receiving Party represents that it desires to receive confidential information pursuant to this Agreement;

NOW THEREFORE, in consideration of the mutual promises, covenants, representations and agreements contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree to the following:

1. standard terms in Schedule A (***Standard Terms***),
2. the exceptions to Standard Terms in Schedule B (***Exceptions to Standard Terms***), and
3. the list of employees, agents, or consultants in Schedule C who are subject to the Agreement (***Employees***).

The representative of each party hereby acknowledges and agrees that he/she is duly authorized to execute this Agreement on behalf of the party and that this Agreement shall bind and be enforceable by and against the Employees. The authorized representative of party further acknowledges and agrees that only those individuals who are listed on the attached Schedule C incorporated herein shall be authorized to receive confidential information directly from Disclosing Party and that he/she will notify Disclosing Party in writing of any modification to Schedule C prior to releasing Confidential Information to those individuals listed on Schedule C.

This Agreement shall be construed and governed by the laws of the state of <State> (State), without giving effect to its conflicts of law principles. The parties hereby submit to the personal jurisdiction of the State and agree that any legal proceeding with respect to or arising under this Agreement shall be brought solely in, the state or federal courts located in the State. If any legal action or proceeding is commenced in connection with any dispute arising under, relating to or otherwise concerning this Agreement, the prevailing party, as determined by the court, shall be entitled to recover its attorneys’ and experts’ fees and all costs and necessary disbursements actually incurred in connection with such action or proceeding.

Each party acknowledge that it has read the Agreement, had the opportunity to discuss it with counsel, and is executing it with an understanding of its provisions. This Agreement may be executed in two or more counterparts, each of which will be deemed an original and all of which together will constitute one and the same document.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives effective as of the Effective Date.

**DISCLOSING PARTY: <NAME> RECEIVING PARTY <NAME>**

By By

Name Name

Title Title

Date Date

Address Address

City/State/Zip City/State/Zip

Fax Fax

**SCHEDULE A**

**Standard Terms**

1. **Confidential Information.** "Confidential Information" as used in this Agreement means all information disclosed to Receiving Party by Disclosing Party in connection with the Purpose. Confidential Information includes, without limitation, (i) any and all business, technical, marketing, financial or other information, whether in electronic, oral or written form; (ii) trade secrets, business plans, techniques, methods, or systems, data, know-how, formulae, compositions, designs, sketches, mock-ups, prototypes, photographs, charts, graphs, forms, documents, drawings, samples, inventions, ideas, research and development, customer and vendor lists (including, without limitation, the identity, characteristics, contact persons, product and service needs thereof), rates, price lists, computer software programs and systems, financial statements, and budgets; (iii) all memoranda, summaries, notes, analyses, compilations, studies or those portions of other documents prepared by Receiving Party to the extent they contain or reflect such information of, or the contents of discussions with the Disclosing Party ("Receiving Party's Material"), including the contents or existence of discussions or negotiations related to the Purpose; (iv) information not generally known or readily ascertainable; (v) information that provides a competitive advantage for Disclosing Party; and (vi) information that is marked "Confidential" or nonpublic information which under the circumstances surrounding disclosure a reasonable person would conclude should be treated as confidential.

Confidential Information shall not include information that (a) is or becomes part of the public domain other than as a result of disclosure by Receiving Party, (b) becomes available to Receiving Party on a non-confidential basis from a source other than Disclosing Party, provided that, to the best of Receiving Party’s knowledge, such source is not prohibited from transmitting such information by a contractual, legal, or other obligation, or (c) was in Receiving Party’s possession prior to disclosure of the same by Disclosing Party.

2. **Nondisclosure Obligations.** Receiving Party agrees not to disclose, discuss, use, reproduce, duplicate, distribute, copy, reconstruct or in any way communicate, directly or indirectly, the Confidential Information for purposes other than in connection with the Purpose. Receiving Party shall not disclose, discuss, use, reproduce, duplicate, distribute or in any way communicate, directly or indirectly, the Confidential Information to any other party and will use all reasonable efforts to protect the confidentiality of such information. Receiving Party will require that Receiving Party’s employees, officers, directors, agents, contractors, representatives, consultants and advisors who need to have access to such Confidential Information in order to assist Receiving Party in connection with the Purpose (1) are aware of the Receiving Party’s confidentiality obligation hereunder, and (2) agree to be bound by such confidentiality obligations. Receiving Party shall notify Disclosing Party immediately of any loss, misuse, or misappropriation of any Confidential Information of which Receiving Party becomes aware.

3. **Ownership and Return.** All Confidential Information, including Receiving Party's Material, shall be and remain the property of Disclosing Party, and no right or license is granted to Receiving Party with respect to any Confidential Information. No transfer or creation of ownership rights in any intellectual property comprising Confidential Information is intended or shall be inferred by the disclosure of Confidential Information by Disclosing Party, and any and all intellectual property comprising Confidential Information disclosed and any derivations thereof, shall continue to be the exclusive intellectual property of Disclosing Party. Upon the termination by any Party of the Purpose, or sooner if so requested, Receiving Party agrees to immediately return all Confidential Information, including Receiving Party's Material, to Disclosing Party or to destroy all Confidential Information, including all copies of the same, however, Receiving Party shall not be required to destroy Confidential Information that has become embedded in Receiving Party’s planning models. Upon request, the fact of any such destruction shall be certified in writing to Disclosing Party by Receiving Party. Nothing in this Agreement obligates Disclosing Party to disclose any information to Receiving Party or creates any agency or partnership relation between them.

4. **Warrantee.** ALL CONFIDENTIAL INFORMATION FURNISHED UNDER THIS AGREEMENT IS PROVIDED BY DISCLOSING PARTY “AS IS, WITH ALL FAULTS.” DISCLOSING PARTY DOES NOT MAKE ANY WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE ACCURACY, COMPLETENESS, PERFORMANCE, MERCHANTABILITY, FITNESS FOR USE, NONINFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHTS, OR ANY RIGHT OF PRIVACY, ANY RIGHTS OF THIRD PERSONS OR OTHER ATTRIBUTES OF ITS CONFIDENTIAL INFORMATION.

5. **Compliance and Protection of Confidential Information**. Receiving Party represents and warrants that it has practices and procedures adequate to protect against the unauthorized release of Confidential Information received. Receiving Party must educate its employees, agents, and assigns in the provisions of this Agreement and provide to Disclosing Party upon request any information necessary to determine compliance with the terms of this Agreement.

6. **Indemnification.** Receiving Party agrees to indemnify, hold harmless and defend Disclosing Party, its employees, principals (owners, partners, shareholders or holders of an ownership interest, as the case may be), agents, contractors, representatives, consultants and/or advisors against any and all liability, loss, costs, damages, expenses, claims or actions, joint or several, arising out of or by reason of any breach of this Agreement by Receiving Party and/or Receiving Party's employees, agents, contractors, representatives or consultants, or arising out of or by reason of any act or omission of Receiving Party and/or Receiving Party's employees, agents, contractors, representatives or consultants in the execution, performance, or failure to adequately perform their obligations under this Agreement. For purposes of this Section, to "indemnify" means to defend and pay all expenses (including reasonable attorneys’ fees) and satisfy all judgments (including costs and reasonable attorneys’ fees) which may be incurred or rendered against Disclosing Party, its employees, principals (owners, partners, shareholders or holders of an ownership interest, as the case may be), agents, contractors, representatives, consultants and/or advisors.

7. **Compelled Disclosure.** If Receiving Party is requested or required by legal or administrative process to disclose any Confidential Information, Receiving Party shall promptly notify Disclosing Party of such request or requirement so that Disclosing Party may seek an appropriate protective order or other relief. In any case, Receiving Party will (a) disclose only that portion of the Confidential Information that its legal counsel advises is required to be disclosed, (b) use its reasonable efforts to ensure that such Confidential Information is treated confidentially, including seeking an appropriate protective order, and (c) notify Disclosing Party as soon as reasonably practicable of the items of Confidential Information so disclosed.

8. **Remedies.** The Parties acknowledge that remedies at law may be inadequate to protect Disclosing Party against any actual or threatened breach of this Agreement by Receiving Party, and, without prejudice to any other rights and remedies otherwise available to Disclosing Party, agree to the immediate granting of preliminary and final injunctive relief (without prior notice and without posting any bond) in favor of Disclosing Party to enjoin and restrain any breach or violation, either actual or anticipatory, of this Agreement.

9. **Limitations.** None of the Parties will be under any legal obligation of any kind whatsoever with respect to the Purpose by virtue of this Agreement, except for the matters specifically agreed to herein. No representation or warranty is made by the Disclosing Party as to the accuracy or completeness of any information provided to the Receiving Party.

10. **Term and Termination.** Receiving Party's obligations under this Agreement shall be effective on the Effective Date and shall be perpetual, notwithstanding any expiration, cancellation or termination of this Agreement. Upon termination of the Agreement, Receiving Party shall either promptly (1) deliver or cause to be delivered to Disclosing Party or (2) certify to the Disclosing Party the destruction of, all Confidential Information, including all copies of the Confidential Information in Receiving Party's possession or control including, without limitation, originals and copies of documents, customer lists, prospect lists, price lists, operations manuals, and all other documents reflecting or referencing the Confidential Information, as well as all other materials furnished to or acquired by Receiving Party to facilitate the Purpose of the Agreement.

11. **Agency.** This Agreement is binding on Receiving Party, its employees, agents, contractors, representatives, consultants, advisors, successors and assigns. In the event of a dispute regarding liability for breach of this Agreement, common law agency principles apply.

12. **Waiver.** No waiver of any of the provisions of this Agreement will be deemed or will constitute a waiver of any other provision, whether or not similar, nor will any waiver constitute a continuing waiver. No waiver will be binding unless executed in writing by an authorized representative of the Party making the waiver. The failure of either Party in any one or more instances to insist upon strict performance of any of the terms and conditions of this Agreement will not be construed as a waiver or relinquishment, to any extent, of the right to assert or rely upon any such terms or conditions on any future occasion.

13. **Modification.** This Agreement may not be amended except in a writing signed by authorized representatives of both Parties.

14. **Severability and Survival.** Should any clause, portion or paragraph of this Agreement be unenforceable or invalid for any reason, such unenforceability or invalidity will not affect the enforceability or validity of the remainder of this Agreement, and any court having jurisdiction is specifically authorized and encouraged by the Parties to hold inviolate all portions of this Agreement that are valid and enforceable without consideration of any invalid or unenforceable portions hereof. The headings of the sections in this Agreement are for the purposes of convenient reference only and are not intended to be part of this Agreement, or to limit or affect the meaning or interpretation of any of the terms hereof.

15. **Assignment and Succession.** This Agreement shall inure to the benefit of and be binding upon the successors and permitted assigns of the Parties hereto. Any successor to or assignee of Disclosing Party shall assume its rights and obligations under this Agreement with or without notice to Receiving Party. Receiving Party may not assign its rights hereunder without the written permission of Disclosing Party.

16. **Attorney's Fees.** If Receiving Party breaches or defaults in the performance of any of the covenants, agreements, representations, or warranties described in this Agreement, then in addition to any and all of the rights and remedies which Disclosing Party may have against Receiving Party, Receiving Party will also be liable to and pay Disclosing Party its court costs and reasonable attorney's fees incurred in enforcing Disclosing Party's covenants, agreements, representations and warranties herein.

17. **Notices.** All notices and other communications hereunder shall be in writing and shall be deemed given if delivered personally or by commercial delivery service, or mailed by registered or certified mail (return receipt requested) or sent via facsimile (with acknowledgment of complete transmission) to the parties.

18. **Entire Agreement.** The Parties agree that this Agreement, including Appendix A incorporated herein and as modified, constitute their entire agreement with respect to the subject matter hereof and that it supersedes any prior agreements or understandings between them, whether written or oral.

**SCHEDULE B**

**Exceptions to Standard Terms**

The parties acknowledge and agree that the Provisions below of this Schedule “A” shall form an integral part of the Agreement as if contained therein and are incorporated into the Agreement by this reference. To the extent of any inconsistency or discrepancy between the Agreement and the Provisions below of this Schedule “A”, the Provisions below shall govern and take precedence. Unless otherwise noted, capitalized terms contained in this Schedule “A” shall have the same meaning as in the Agreement.

| **Article/Heading** | **Provision** |
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**SCHEDULE C**

**Employees**

<Receiving Party> Employees, Agents, or Consultants subject to Confidentiality Agreement as of this day of , 20 :

Print Name Title E-mail Address

1.

2.

3.

4.

5.

6.

7.

8.

9.

10.

(Attach Additional Pages If Necessary)