

**CONFIDENTIALITY AND NONDISCLOSURE  
AGREEMENT**

This Confidentiality and Nondisclosure Agreement ("Agreement") dated \_\_\_\_\_ is between **Guam Power Authority**, a Guam Public Corporation, and \_\_\_\_\_.

*In consideration of the promises contained herein, the Parties hereby agree as follows:*

1. Either party (the "Disclosing Party") may supply the other party (the "Recipient Party") with information or data that is confidential, proprietary, or secret to the Disclosing Party. This includes information pertaining to the Disclosing Party's activities, business, or work related to activities performed in support of Guam Power Authority's **Multi-Step Bid GPA-070-16, Renewable Energy Resource Phase II** (the "Intended Purpose"). Such information and data shall be deemed "Confidential Information" as discussed in this Agreement.
2. Information shall not be deemed to be Confidential Information where: (i) it is or becomes public information or otherwise generally available to the public through no act or fault of the Recipient Party; provided, Recipient Party shall not disclose such information unless, and then only to the extent, such information is obtained from a source other than the Disclosing Party and such source did not, to the reasonable knowledge of the Recipient Party, receive the same directly or indirectly from the Disclosing Party; (ii) it was, prior to the date of this Agreement, already in the possession of the Recipient Party and was not received by the Recipient Party directly or indirectly from the Disclosing Party; (iii) it is hereafter rightfully received by the Recipient Party from a third person who, to the reasonable knowledge of the Recipient Party, did not receive the same directly or indirectly from the Disclosing Party; or (iv) it is at any time independently developed by employees or consultants of the Recipient Party who have not had access to Confidential Information in the possession of the Recipient Party. The Recipient Party shall bear the burden of proof that such employees or consultants have not had access to Confidential Information. Specific information shall not be deemed to be within the exceptions of subparts (i) through (iv) merely because it is embraced by more general information within such exceptions, nor shall a combination of features be deemed to be within such exceptions merely because the individual features are within such exceptions.
3. The Recipient Party agrees that any Confidential Information which has been or will be disclosed directly or indirectly to it by or on behalf of the Disclosing Party shall be maintained in confidence, and shall not be disclosed to any third person, other than as required for the Intended Purpose, without the Disclosing Party's prior express written consent. Such consent may only be granted by a duly authorized representative of the Disclosing Party.
4. The Recipient Party agrees that it will not make use of any Confidential Information received pursuant to this Agreement except for the Intended Purpose for which expressly given without the express prior written consent of the Disclosing Party. Such consent may only be granted by a duly authorized representative of the Disclosing Party.
5. The Recipient Party may disclose Confidential Information to any governmental or regulatory authority requiring such disclosure under color of law, provided that: (i) the Recipient Party notifies the governmental or regulatory authority that the materials are Confidential Information; and (ii) prior to such disclosure, the Disclosing Party is given prompt notice, if not legally prohibited, of the required disclosure so that it may take whatever action it deems appropriate, including intervention in any proceeding and the seeking of an injunction to prohibit such disclosure.
6. This Agreement shall not be construed as a license or authorization to the Recipient Party to utilize the Confidential Information for any purpose other than the Intended Purpose.
7. This Agreement is for the benefit of the Disclosing Party and, without prejudice to the rights and remedies otherwise available to it, the Disclosing Party shall be entitled to seek equitable relief by way of injunction if the Recipient Party breaches or threatens to breach any of the promises of this Agreement. In addition, in any action to enforce or interpret this Agreement, the prevailing party shall be entitled to recover, as part of its judgment, reasonable attorney's fees and costs from the other party.
8. This Agreement shall be interpreted, governed, and construed under the laws of Guam excluding provisions thereof which refer to the laws of another jurisdiction.
9. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original.
10. This Agreement is effective as of the date fully executed by both Parties and shall terminate three (3) years thereafter.

GUAM POWER AUTHORITY

\_\_\_\_\_  
(COMPANY'S NAME)

By: \_\_\_\_\_  
John M. Benavente, P.E.

By: \_\_\_\_\_

Title: General Manager

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

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

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