

## CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement (this “Agreement”) is entered into as of this \_\_\_ day of \_\_\_\_\_, 2019, between the South Carolina Department of Administration (the “Department”) and [Participant Name] (“Participant”) (each of the Department and Participant individually referred to as a “party”, and collectively, the “parties”). References herein to each “party” shall include any subsidiaries, affiliates and divisions of such party.

### 1. Confidentiality.

(a) In connection with the process established by the Department (the “Santee Cooper Process”) to receive competitive proposals for a possible sale of some or all of the South Carolina Public Service Authority (“Santee Cooper”) and to receive management proposals for a possible business transaction that does not involve a sale of Santee Cooper but is designed to improve the efficiency and cost-effectiveness of Santee Cooper’s electric operations (the “Transactions” and each, a “Transaction”) in accordance with the Joint Resolution (A95, R113, H4287) passed by the General Assembly of the State of South Carolina (the “General Assembly”) on May 21, 2019 and approved by the Governor of the State of South Carolina on May 22, 2019 (the “Joint Resolution”), (i) the Department is prepared to make available to Participant certain information concerning the business, financial condition, operations, assets and liabilities of Santee Cooper and certain other information obtained by or made available to the Department that the Department considers relevant to the Santee Cooper Process, and (ii) Participant may disclose to the Department certain information concerning its business, financial condition, operations, assets and liabilities.

(b) Each party acknowledges that such information may include nonpublic information, trade secrets or other business information, the disclosure of which could harm the party furnishing such information. In consideration for, and as a condition of, such information being furnished to the receiving party and the receiving party’s directors, servants, officers, employees, agents, financial and other professional advisors (including, without limitation, attorneys, accountants, consultants and any representatives of such advisors), and potential sources of debt financing for the Transactions (collectively, “Representatives”), each party receiving information hereunder agrees to treat any information concerning the other party or Santee Cooper that is, has been or will be (during the term of this Agreement) furnished to the receiving party or to the receiving party’s Representatives (regardless of the manner or form in which it is furnished, including without limitation all written, oral and electronic communications), together with any notes, analyses, compilations, studies, interpretations, documents or records containing, referring, based upon or derived from such information, in whole or in part (collectively, the “Confidential Material”), in accordance with the provisions of this Agreement, and to take or abstain from taking certain other actions hereinafter set forth. For all purposes under this Agreement, Representatives of the Department shall not be considered Representatives of Santee Cooper, and Representatives of Santee Cooper shall not be considered Representatives of the Department.

(c) The term “Confidential Material” does not include information that (i) is or becomes generally available to the public other than as a result of a disclosure by the receiving party or its Representatives in breach of this Agreement, (ii) was within the receiving party’s or its

Representatives' possession prior to its being furnished to it by the other party or is independently developed by the receiving party or its Representatives without violation of any of its other obligations hereunder, or (iii) becomes available to the receiving party or its Representatives on a non-confidential basis from a source other than the disclosing party or any of its Representatives; provided, that in the case of (ii) and (iii) above, the source of such information was not known by the receiving party to be bound by a confidentiality agreement with or other contractual, legal or fiduciary obligation of confidentiality to the other party or any other party with respect to such information.

2. Use of Information. Each party hereby agrees that it and its Representatives shall (a) use the Confidential Material solely for the purpose of the Transactions, (b) keep the Confidential Material confidential in accordance with and subject to the terms of this Agreement and (c) not disclose any of the Confidential Material in any manner whatsoever to any other person not bound hereby, including without limitation any member of the General Assembly, the Governor of the State of South Carolina, and any of their respective staff members (the "Restricted Government Personnel"), except as otherwise permitted by this Agreement; provided, however, that (i) each party may make any disclosure of the Confidential Materials to which the other party gives its prior written consent, (ii) the Department may make disclosures of Confidential Material as reasonably necessary or appropriate in connection with the Santee Cooper Process and the Department's other obligations under the Joint Resolution, including without limitation disclosures by the Department to the General Assembly or any member or committee thereof in connection with the recommendations contemplated by Section 9 of the Joint Resolution, and (iii) any Confidential Material may be disclosed to a party's Representatives who need to know such information for the sole purpose of the Transactions and who agree to be bound by the terms hereof to the same extent as if they were parties hereto; provided further, however, that, except as otherwise set forth in Section 8 of the Joint Resolution, in no event shall members of the General Assembly, the Governor, or their respective staff be provided with, or have access by any means to, the information obtained by the parties during the Santee Cooper Process, including, for the avoidance of doubt, the Confidential Material and Transaction Information (as defined below). In any event, each party shall be responsible for any breach of this Agreement by its Representatives and agrees, at its sole expense, to take all reasonable measures (including, but not limited to, court proceedings) to restrain its Representatives from disclosure or use of the Confidential Material in breach of this Agreement.

3. Confidentiality of Negotiations. Participant agrees that, without the prior written consent of the Department, neither it nor its Representatives will disclose to any other person the fact that the Confidential Material exists or has been made available to it, that discussions or negotiations are or have been taking place concerning a Transaction or any of the terms, conditions or other facts with respect thereto, including the status or timing thereof (the foregoing information, collectively, "Transaction Information"), or have any communications whatsoever with any other person, including without limitation, Santee Cooper, any Restricted Government Personnel or any person who may be participating in the Santee Cooper Process, concerning either Transaction; provided, however, that Participant may make such disclosure if (a) it has been advised in writing by its outside legal counsel that such disclosure is required by applicable law, regulation or legal process, (b) Participant limits the disclosure to only that information required to be disclosed, and (c) Participant consults with the Department in writing prior to making such disclosure and provides the Department with a draft of, and the ability to comment on, such

disclosure at least five business days prior to its issuance. Participant acknowledges and agrees that it shall not be entitled to receive Confidential Material provided to the Department or its Representatives by or on behalf of any other participant (other than Confidential Material provided by Santee Cooper pursuant to the Santee Cooper Process).

4. Third Party Requests to Disclose Information. In the event that either party or any of its Representatives is legally required or requested, as advised by its outside legal counsel, to disclose any Confidential Material pursuant to a subpoena, court order, civil investigative demand or similar judicial process or similar request issued by a court of competent jurisdiction or by a governmental or regulatory authority, it shall promptly notify the other party in writing in accordance with paragraph 15 of the existence, terms and circumstances surrounding such request, so that the other party may seek (at its sole expense) a protective order or other appropriate remedy or waive compliance with the applicable provisions of this Agreement. Each party agrees to reasonably cooperate with the other party in connection with seeking any such order or other appropriate remedy. If and to the extent, in the absence of a protective order or the receipt of a waiver by the disclosing party, the receiving party or any of its Representatives is legally required, as advised by its outside legal counsel, to disclose any Confidential Material to any court or governmental or regulatory authority or else suffer exposure to censure or civil or criminal fine or penalty, the receiving party or its Representatives may, without liability hereunder, disclose only that portion of the Confidential Material that such counsel advises is legally required to be disclosed and shall use reasonable efforts (at the disclosing party's expense) to obtain reliable assurances that confidential treatment will be accorded to any Confidential Material that the receiving party is so required to disclose in accordance with the terms of this Agreement. Notwithstanding the foregoing, the Department may without liability hereunder disclose, and the foregoing provisions of this paragraph 4 shall not apply to any disclosure of, Confidential Material and Transaction Information as required in connection with the Joint Resolution or as required under the SC Freedom of Information Act (SC Code of Laws Title 30, Chapter 4) (the "SC FOIA"); provided, however, that the Department shall not disclose Confidential Materials or Transaction Information pursuant to Section 30-4-40 of the SC FOIA without the prior written consent of Participant, and that the limitations on and exclusions from disclosure pursuant to the SC FOIA that are set forth in the Joint Resolution shall be applicable and this Agreement shall be subject to and applied in accordance with such limitations and exclusions.

5. Communications Protocols.

(a) Participant agrees that neither it nor its Representatives will initiate or maintain contact with Santee Cooper, Central Electric Power Cooperative, Inc. ("Central"), any member of Central, any other customer of Santee Cooper, or any of their respective Representatives regarding the business, operations, prospects or finances of Santee Cooper, Central, or any member of Central, except with the express permission of the Department.

(b) Participant agrees to submit all (i) communications regarding the Santee Cooper Process or Transactions, (ii) requests for additional information, (iii) requests for facility tours or management meetings, and (iv) questions regarding procedures only to persons specifically designated by the Department for that purpose.

(c) In accordance with Section 8 of the Joint Resolution, Participant agrees that neither it nor its Representatives will advocate for or against, directly or indirectly, any recommendation provided by the Department to the General Assembly pursuant to Section 9 of the Joint Resolution.

6. Termination of Interest; Return or Destruction of Material. If either party decides that it does not wish to proceed with the Transactions, it will promptly inform the other party of that decision in writing in accordance with paragraph 15. In that case, or at any time upon the request of the disclosing party for any reason, the receiving party will promptly certify the destruction or deliver to the disclosing party (at the disclosing party's sole expense) all Confidential Material in its or its Representatives' possession; provided, that (a) each party and its Representatives may retain one copy of the Confidential Material in a sealed envelope with its outside legal counsel for use in connection with any dispute concerning information covered herein, (b) each party and its Representatives shall not be required to destroy or deliver Confidential Material to the extent that it is "backed-up" on electronic information management and communication systems or servers and cannot reasonably be destroyed or returned, (c) after the Recommendation Date, the Participant shall have no right to request the return or destruction of Confidential Material, and the Department shall have no obligation to return or destroy Confidential Material with respect to requests delivered after such date, and (d) the Department may retain any Confidential Information as necessary to comply with the SC FOIA. Notwithstanding the return, destruction or retention of the Confidential Material, each party and its Representatives will continue to be bound by its obligations of confidentiality and other obligations hereunder for the term hereof.

7. No Representations and Warranties. Participant understands and acknowledges that neither the Department nor Santee Cooper nor any of their respective Representatives makes any representation or warranty, express or implied, as to the accuracy or completeness of the Confidential Material. Participant agrees that neither the Department nor Santee Cooper nor any of their respective Representatives shall have any liability to Participant or to any of Participant's Representatives relating to or resulting from the use of the Confidential Material or any errors therein or omissions therefrom. Only those representations or warranties that are made in a written contract executed by all parties thereto pursuant to Section 9(A)(2) of the Joint Resolution (a "Transaction Submission Contract") or in a Definitive Agreement (as defined in the next sentence) regarding the Transactions, when, as and if executed, and subject to such limitations and restrictions as may be specified therein, will have any legal effect. The term "Definitive Agreement" means, in the case of a Transaction involving a sale of some or all of Santee Cooper, the written purchase and sale agreement executed by all parties thereto for such Transaction, and in the case of a Transaction involving a management proposal for Santee Cooper, the written management, joint venture or other agreement being entered into in order to implement such management proposal, which, in each case, binds the parties thereto to close the Transaction, subject to and in accordance with the terms and conditions set forth therein. A "Definitive Agreement" does not include an executed letter of intent or any other preliminary written agreement, nor does it include any written or verbal acceptance of an offer or bid.

8. No Obligations.

(a) Each party understands and agrees that, except to the extent set forth in a Transaction Submission Contract, if any, no contract or agreement providing for a Transaction between the Department or Santee Cooper, on the one hand, and the Participant, on the other hand, shall be deemed to exist between the parties thereto unless and until a Definitive Agreement has been executed and delivered by the parties thereto. Each party also agrees that, except to the extent set forth in a Transaction Submission Contract, if any, or required by the Joint Resolution, unless and until a Definitive Agreement regarding a Transaction between them has been executed and delivered, neither party will be under any legal obligation of any kind whatsoever with respect to such Transaction by virtue of this Agreement except for the matters specifically agreed to herein. Participant further acknowledges and agrees that (i) the Department and its Representatives will be free to conduct the Santee Cooper Process, if any, for the Transactions as it in its sole discretion determines (including, without limitation, negotiating with any person and entering into a Definitive Agreement without prior notice to Participant) and (ii) any procedures relating to a Transaction may be changed by the Department at any time.

(b) Nothing in this Agreement shall be deemed to limit or restrict the right of the Department, in its sole discretion, for any reason or no reason, to reject any and all proposals made to it or its Representatives with regard to a Transaction and to terminate discussions and negotiations with the Participant or any other person at any time; provided, that this Agreement shall thereafter continue in full force and effect as provided herein.

9. Non-Solicit. For a period of two years after the date hereof, Participant will not employ or solicit for employment (including as an independent contractor) any officer or employee of Santee Cooper of whom Participant becomes aware as part of its participation in the Santee Cooper Process; provided, however, that the foregoing provisions will not prevent Participant from employing any such person who contacts Participant in response to general advertisements in periodicals including newspapers, trade publications and job posting and similar websites and online services.

10. Privilege; Joint Defense. To the extent that any Confidential Material may include materials or information subject to the attorney-client privilege, work product doctrine or any other applicable privilege concerning pending or threatened legal proceedings or governmental investigations, each party understands and agrees that the parties have a commonality of interest with respect to such matters and it is the desire, intention and mutual understanding of the parties that the sharing of such materials is not intended to, and shall not, waive or diminish in any way the confidentiality of such material or its continued protection under the attorney-client privilege, work product doctrine or other applicable privilege. All Confidential Material that is entitled to protection under the attorney-client privilege, work product doctrine or other applicable privilege shall remain entitled to such protection under these privileges, this Agreement, and under the joint defense doctrine.

11. Specific Performance. Each party to this Agreement acknowledges that money damages would not be a sufficient remedy for any breach of this Agreement by it or any of its Representatives and consents to a court of competent jurisdiction entering an order finding that the non-breaching party has been irreparably harmed as a result of any such breach and to the granting

of injunctive relief as a remedy for any such breach. Such remedies shall not be deemed to be the exclusive remedies for a breach of this Agreement but shall be in addition to all other remedies available at law or equity to the non-breaching party.

12. Governing Law; Jurisdiction.

(a) This Agreement and all disputes or controversies arising out of or related to this Agreement shall be governed by and construed in accordance with the internal laws of the State of South Carolina, without reference to its conflicts of law principles.

(b) Each party irrevocably agrees that any legal action or proceeding arising out of or relating to this Agreement brought by the other party or its successors or assigns shall be brought and determined in any South Carolina State or federal court sitting in the State of South Carolina, Richland County, and each party hereby irrevocably submits to the exclusive jurisdiction of the aforesaid courts for itself and with respect to its property, generally and unconditionally, with regard to any such action or proceeding arising out of or relating to this Agreement. Each party agrees not to commence any action, suit or proceeding relating thereto except in the courts described above in South Carolina, other than actions in any court of competent jurisdiction to enforce any judgment, decree or award rendered by any such court in South Carolina as described herein. Each party further agrees that service of any process, summons, notice or document by U.S. registered mail to the respective addresses set forth herein shall be effective service of process for any action, suit or proceeding brought against either party in any such court and the parties further waive any argument that such service is insufficient.

13. Miscellaneous.

(a) The term “person” as used in this Agreement shall be broadly interpreted to include the media and any corporation, partnership, group, individual or other entity.

(b) No provision in this Agreement can be waived or amended except by the written consent of each party. Any attempted waiver or modification in violation of this provision shall be void.

(c) It is understood and agreed that no failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or future exercise thereof or the exercise of any other right, power or privilege hereunder.

(d) The provisions of this Agreement shall be severable in the event that any of the provisions hereof are held by a court of competent jurisdiction to be invalid, void or otherwise unenforceable, and the remaining provisions shall remain enforceable to the fullest extent permitted by law.

(e) This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed original, and all such counterparts shall together constitute one and the same instrument.

(f) This Agreement shall be solely for the benefit of the parties hereto, and no other person shall be deemed to be entitled to any benefits or rights hereunder, nor authorized or entitled to enforce any rights, claims or remedies hereunder or by reason hereof.

14. Termination. This Agreement, and each of the obligations herein stated, shall terminate on the earlier of (a) the second anniversary of the date of completion of a Transaction or (b) December 31, 2022.

15. Notice. All notices, requests, claims, consents, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given when delivered by hand or by Federal Express or similar overnight courier (providing proof of delivery); or when successfully transmitted by email (with a confirming copy of such communication to be sent as provided below).

(a) If to the Department:

South Carolina Department of Administration  
1200 Senate Street, Suite 460  
Columbia, South Carolina 29201  
Attention: [●]  
Email: [●]

with copies (which shall not constitute notice) to:

Gibson, Dunn & Crutcher LLP  
1801 California Street  
Denver, Colorado 80202  
Attention: Gerald P. Farano  
Email: JFarano@gibsondunn.com

(b) If to Participant:

[●]

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

**THE SOUTH CAROLINA DEPARTMENT OF  
ADMINISTRATION**

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

Name:

Title:

**[PARTICIPANT NAME]**

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

Name:

Title: