

## NON-DISCLOSURE AGREEMENT

This Non-Disclosure Agreement (the “Agreement”) is by and between DM RENEWABLES LLC, a Texas limited liability company, with an address at 2106 Sawgrass Ridge San Antonio, TX 78260 (“DMR”) and \_\_\_\_\_, with offices located at \_\_\_\_\_ (the “COMPANY”).

DMR and COMPANY specifically agree as follows:

1. Confidential Information and Purpose. COMPANY and DMR wish to evaluate a potential business relationship between the parties related to the power generation business and the sale of electricity in Texas (the “Purpose”), and certain confidential and/or proprietary information has been and may be disclosed in connection with such discussions. This Agreement shall govern the disclosure by DMR to COMPANY of written and oral confidential technical and business information and materials. “Confidential Information” shall include, without limitation, (i) all contracts and agreements, all financial models, all business and technical information disclosed directly or indirectly in writing, orally, or by inspection of facilities or tangible objects (including without limitation, data and information relating to existing or contemplated project sites, design, development, feasibility, construction, marketing, financing, funding, costs, business plans, sales, strategies, contracts, suppliers, equipment, customers, partners, know-how, trade secrets, methods, processes, development, design and/or construction of certain energy related products and services related to BESS, wind and solar power development projects, generation and sales of electricity, (ii) all information communicated by DMR to COMPANY that should reasonably be considered confidential under any circumstance, whether or not it is or was marked or labeled as “CONFIDENTIAL” at the time of disclosure, (iii) all information identified as confidential to which the receiving party has access in connection with the Purpose, (iv) the nature of any prospective or actual business relationship between the parties, including the fact that Confidential Information has been made available to the COMPANY, that discussions or negotiations are taking place concerning the Purpose, or any of the terms, conditions or other facts with respect thereto (including the status thereof), (v) this Agreement, and (vi) any trade secret.

2. Non-Use. COMPANY agrees that they will not use Confidential Information received from DMR except to evaluate or engage in discussions concerning the contemplated business relationship and/or to provide consulting services to DMR. COMPANY agrees that it will not use DMR's Confidential Information to circumvent, directly or indirectly, the business interests of DMR.

3. Non-Disclosure. COMPANY agrees as the recipient of Confidential Information hereunder, they will not disclose such information other than to those of its officers, employees, or consultants who require access to Confidential Information to accomplish the Purpose, and that all such disclosures shall be subject to contractual obligations of confidentiality at least as restrictive as those in this Agreement. COMPANY is responsible and liable for the acts or omissions of its officers, employees or consultants with respect to the obligations of this Agreement. Notwithstanding the foregoing, either party may disclose the Confidential Information of the other without liability hereunder to the extent required by an applicable court order or by law; provided, however, that the party that is so ordered or required to disclose (i) provide the other party prompt notice of such order or requirement so that an appropriate protective order may be sought by the non-disclosing party, who shall bear all of the costs of seeking such a protective

order, and (ii) reasonably limits the disclosure to the minimum amount that is legally required.

4. Preservation of Confidentiality. COMPANY shall take reasonable security precautions, at least as great as it employs, to protect from disclosure and to keep confidential the Confidential Information of DMR; provided however, that in no event shall the COMPANY in receipt of Confidential Information use less than reasonable care when handling of DMR's Confidential Information, including without limitation, protection of documents from theft, unauthorized duplication and discovery of contents, and restrictions on access by other persons to Confidential Information.

5. Exceptions to Obligations. The non-disclosure and non-use obligations agreed to herein shall not apply to Confidential Information which COMPANY can establish by competent evidence is:

a) already in the possession of the COMPANY without obligation of confidentiality at or before the time of disclosure hereunder;

b) now or hereafter publicly known through no breach of this Agreement or other wrongful act of COMPANY (provided that if Confidential Information becomes publicly known this shall not excuse a prior breach);

c) lawfully received, without obligation of confidentiality, from a third party (other than a third party with an obligation of confidentiality to DMR and other than in breach of this Agreement or other wrongful act of COMPANY); or

d) independently developed by COMPANY without use of or reference to Confidential Information of DMR, as demonstrated by contemporaneous documentation.

6. Return of Materials. Upon termination, cancellation or expiration of this Agreement, and upon DMR's written request, (i) all documents and other tangible things containing or representing the Confidential Information of DMR shall be promptly returned to DMR or destroyed, and (ii) COMPANY must certify in writing as to having returned or destroyed all Confidential Information.

7. Ownership / No License. All Confidential Information disclosed hereunder shall be and remain the property of DMR notwithstanding the integration of such Confidential Information into a new document by COMPANY. Disclosure of Confidential Information to COMPANY shall not constitute any grant, option or license under any patent, trade secret or other rights now or hereafter held by DMR. It is understood that DMR retains the right to disclose its own Confidential Information to third parties.

8. No Obligation. Nothing herein shall create any commitment, by implication or otherwise, of either party to continue discussions regarding any potential business transaction(s) or to enter into any further agreement.

9. No Warranty. ALL CONFIDENTIAL INFORMATION IS PROVIDED "AS IS". DMR MAKES NO WARRANTIES, EXPRESS, IMPLIED OR OTHERWISE, REGARDING ITS ACCURACY, COMPLETENESS, PERFORMANCE, AND / OR NONINFRINGEMENT OF THE

## INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES.

10. Term. The term of this Agreement shall run from the effective date set forth below for a period of five (5) years thereafter; provided, however, that COMPANY must continue to keep confidential (i) any trade secrets of DMR as long as that information remains a trade secret, (ii) the nature of any prospective or actual business relationship between the parties, including the fact that Confidential Information has been made available to COMPANY, that discussions or negotiations took place concerning the Purpose, or any of the terms, conditions or other facts with respect thereto (including the status thereof), and (iii) this Agreement.

11. Assignment. This Agreement may not be assigned or otherwise transferred by COMPANY without the prior written consent of DMR, which shall not be unreasonably withheld, conditioned or delayed. DMR may, without prior notice or consent, assign this Agreement and / or the rights and obligations hereunder to a third party. Any purported assignment or transfer in violation of this section shall be void. This Agreement shall be binding upon and inure to the benefit of the successors, permitted assigns and legal representatives of the parties.

12. Governing Law. This Agreement shall be construed and controlled by the laws of the State of Texas, without regard to principles of conflicts of law. Process may be served on either party by U.S. Mail, postage prepaid, certified or registered, return receipt requested, or by such other method as is authorized by the State of Texas.

13. Remedies. Recipient agrees that any violation or threatened violation of this Agreement may cause irreparable injury to DMR, entitling DMR to seek injunctive relief in addition to all legal remedies.

14. Entire Agreement. This Agreement constitutes the entire agreement between DMR and COMPANY with respect to the subject matters herein, and supersedes all prior communications, understandings and agreements with respect to such subject matter. This Agreement may not be amended except by a written agreement signed by both parties.

15. Counterparts. This agreement may be executed in counterparts, each of which shall be an original, and all of which shall constitute together but one and the same document. This Agreement may be executed by facsimile, electronic or digital signatures, including properly executed PDF versions of this Agreement, with each signature being as binding and enforceable as an original.

16. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable in any particular situation, such circumstance shall not affect the validity or enforceability of such provision in any other situation or the validity or enforceability of any other provision of this Agreement. The provisions of this Agreement shall be binding upon the Parties and their successors and assigns, and shall inure to the benefit of (and may be enforced by) each Party, and each of their respective successors and assigns. No amendment or waiver of any provision under this Agreement shall be valid unless executed in writing by the party to be bound thereby.

17. Non-circumvention. In addition to the “non-use” provision set forth in paragraph 2, the parties agree as follows:

The Confidential Information may contain the ranked locations of ERCOT points of interconnection from DMR's proprietary data, where DMR is currently soliciting site control agreements from surrounding landowners. COMPANY agrees that it will not share such Confidential Information. COMPANY also agrees that the project locations and ranked locations of ERCOT points of interconnection constitute trade secrets of DMR, and as such, COMPANY shall not disclose such trade secrets nor use them to benefit COMPANY.

This Agreement is dated effective on the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

DM RENEWABLES, LLC

COMPANY

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

Randy Delkus,  
Manager

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