CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
NON-DISCLOSURE AND USE OF INFORMATION AGREEMENT FOR PROTECTED DATA

This Non-Disclosure and Use of Information Agreement for Protected Data ("Agreement") is made and entered into as of_____, by and between the California Independent System Operator Corporation ("ISO") and _____ ("Receiving Party").

WHEREAS, pursuant to ISO FERC Electric Tariff Section 6.5.10, the Receiving Party seeks to obtain certain confidential or proprietary information from the ISO pertinent to the ISO's market systems collectively referred to as the "Protected Data" as further discussed below; and

WHEREAS, the ISO is willing to provide the Protected Data to the Receiving Party under suitable contractual limits and protection concerning the disclosure and use of confidential or proprietary information.

NOW, THEREFORE, in consideration of the mutual covenants in this Agreement, the ISO and the Receiving Party agree as follows:

1.   Purpose, Scope and Definition. The purpose of this Agreement is to permit the Receiving Party to review and use the Protected Data disclosed by the ISO, solely in connection with the Receiving Party's review and analysis of the ISO markets, which consist of any of the markets administered by the ISO under the ISO FERC Electric Tariff, including without limitation the day-ahead market, the hour-ahead scheduling process, the real-time market, transmission and congestion revenue rights. However, the Receiving Party may use the Protected Data and related studies in pleadings before the Federal Energy Regulatory Commission, provided the Receiving Party requests confidential treatment of all information subject to this Agreement. Protected Data provided in various forms through the ISO's systems under this Agreement consists of Transmission Constraints Enforcement List, Day-Ahead Load Distribution Factors, Power Transfer Distribution Factors and Transmission Constraints Limits, as further defined in the ISO Tariff.

The Protected Data includes portions of documents, records and other material forms or representations which the Receiving Party may create, including without limitation handwritten notes or summaries, that contain or are derived from such Protected Data.

2.   Non-Disclosure. Subject to Paragraph 4 below, the Receiving Party shall keep the Protected Data in strict confidence and shall not disclose such information or otherwise make it available in any form or manner to any other person or entity (a "third party"), other than to its employees, agents or clients who have executed Exhibit A to the Receiving Party's Agreement, without the prior written consent of the ISO. The Receiving Party will cause each of its

employees and consultants who will have access to the Protected Data to acknowledge that they have read this Agreement and agree to abide by all of its terms regarding use and disclosure of the Protected Data by execution of Exhibit A. It is the ongoing responsibility of the Receiving Party to ensure that (i) each Exhibit A is accurate, (ii) each Exhibit A permits access only to a current employee, consultant or agent of the Receiving Party, and (iii) each new Exhibit A and any notice of cancellation of an Exhibit A is immediately submitted to the ISO. The Receiving Party shall immediately report to the ISO any unauthorized access to the Protected Data or other breach of this Agreement.

The Receiving Party shall complete and return to the ISO Exhibit B to this Agreement in order to facilitate the ISO's confirmation of the Receiving Party's identity and eligibility to receive Protected Data. If the Receiving Party is a Consulting Entity, Exhibit C must also be executed.

3.   Use of Protected Data.

(a)   The Receiving Party shall use the Protected Data received hereunder only for the purposes identified herein. Any other use shall be only with the prior written consent of the ISO.

(b)   It is understood and agreed by the Receiving Party that the Protected Data constitutes confidential and/or proprietary information of the ISO. The Receiving Party shall maintain the Protected Data in strict confidence and shall not disclose, duplicate or otherwise reproduce the Protected Data, directly or indirectly, in whole or part. Further, the Receiving Party understands that California Public Utilities Code Section 352.7 may apply to the terms of this Agreement. For purposes of this Agreement, the Receiving Party shall not be in violation for reproducing, duplicating or otherwise copying the Protected Data for purposes of data recovery or storage, provided that the Protected Data remains in the control of the Receiving Party.

4.   Exceptions to Non-Disclosure.

Notwithstanding Paragraph 2 above, the Receiving Party shall not have breached any obligation under this Agreement if the Protected Data is disclosed to a third party when the Protected Data:

(a)   was in the public domain at the time of such disclosure or is subsequently made available to the public consistent with the terms of this Agreement; or

(b)   had been received by the Receiving Party at the time of disclosure through other means without restriction on its use, or had been independently developed by the Receiving Party as shown through documentation; or

(c)   is subsequently disclosed to the Receiving Party by a third party without restriction on use and without breach of any agreement or legal duty; or

(d)   subject to the provisions of Paragraph 5, is used or disclosed pursuant to statutory duty or an order, subpoena or other lawful process issued by a court or other governmental authority of competent jurisdiction.

5.   Notice of Pending Third Party Disclosure.

(a)   In the event that a court or other governmental authority of competent jurisdiction issues an order, subpoena or other lawful process requiring the disclosure of the Protected Data, the Receiving Party shall, to the extent legally permitted to do so, notify the ISO immediately upon receipt thereof to facilitate the ISO's efforts to prevent such disclosure or otherwise preserve the confidentiality of the Protected Data.

(b)   In the event that the Receiving Party is a federal, state or local governmental entity and/or is subject to public records law or regulation, including without limitation the federal Freedom of Information Act (FOIA), 5 U.S.C. § 552, as amended, or the California Public Records Act, California Governmental Code Sections 6250, et seq., or applicable municipal ordinance, the Receiving Party shall (i) notify the ISO immediately upon receipt of a request for public records that include all or part of the Protected Data, and (ii) treat the requested Protected Data as exempt from disclosure.

(c)   The Receiving Party shall not be in violation of this Agreement if it complies with an order of a court or governmental authority, or a public records law or regulation, requiring disclosure of the Protected Data, after giving the ISO ten (10) days following the Receiving Party's notice to the ISO of the requirement to disclose either to seek to maintain the confidentiality of such information as provided herein, or to notify the Receiving Party in writing that it will take no action to maintain such confidentiality.

6.   Term. This Agreement shall remain in effect unless terminated by either party in accordance with this paragraph. This Agreement shall terminate only upon the occurrence of one of the following events:

(a)   ten (10) days' prior written notice by either party; or

(b)   upon breach of this Agreement by the Receiving Party.

Termination shall not extinguish any claim, liability or cause of action under this Agreement existing at the time of termination.

7.   Provisions Surviving Termination. The provisions of Paragraphs 2, 3, 4 and 5 shall survive the termination of this Agreement for a period of ten (10) years. The provisions of Paragraph 8 shall continue after termination until satisfied.

8.   Return or Destruction of Protected Data. Upon termination of this Agreement, all Protected Data in the possession or control of the Receiving Party, including its employees, shall be returned to the ISO, including all copies of such information in any form whatsoever, unless otherwise instructed in writing by the ISO. However, if the Confidential Information is retained in the computer backup system of the Receiving Party, the Confidential Information will be destroyed in accordance with the regular ongoing records retention process of the Receiving Party, or the Confidential Information will be retained under applicable law, court order, stock market regulation or competent authority of any governmental body. In lieu of return, the Receiving Party may certify to the ISO in writing that all such information, in any form whatsoever, has been destroyed.

9.   Notices.

(a)   Representatives and Addresses. All notices, requests, demands and other communications required or permitted under this Agreement shall be in writing, unless otherwise agreed by the parties, and shall be delivered in person or sent by certified mail, postage prepaid, by overnight delivery, or by electronic mail or facsimile transmission with an original sent immediately thereafter by postage prepaid mail, and properly addressed as follows:

Receiving Party:

Name of Entity: _____

Name of Contact (person or position):

_____

Address: _____

_____

Telephone: _____

Facsimile: _____

Email: _____

ISO: Legal & Regulatory Department
California Independent System
Operator Corporation
250 Outcropping Way
Folsom, CA 95630
Facsimile: (916) 608-7222
E-mail: CAISONDA@caiso.com

(b) Changed Representatives and Addresses. A party hereto may from time to time change its representative or address for the purpose of notices to that party by a similar notice specifying a new representative or address, but no such change shall be deemed to have been given until such notice is actually received by the party being so notified.

(c) Effective Date of Notices. All notices and other communications required or permitted under this Agreement that are addressed as provided in this Paragraph 9 shall be effective upon delivery if delivered personally, by overnight delivery, by electronic mail, or by facsimile transmission; if delivered by mail, such notices shall be effective three (3) days following deposit in the United States mail, postage prepaid.

10. Complete Agreement; No Other Rights.

(a) This Agreement contains the complete and exclusive agreement of the parties with respect to the subject matter hereof, and supersedes all discussions, negotiations, representations, warranties, commitments, offers, contracts and writings prior to the date of this Agreement with respect to its subject matter. No change to this Agreement shall be effective unless agreed to in writing by the parties hereto.

(b) This Agreement is not intended to create any right in or obligation of any party or third party other than those expressly stated herein.

11. No Warranties or Representations. Any Protected Data disclosed by the ISO under this Agreement carries no warranty or representation of any kind, either express or implied. The Receiving Party shall not be entitled to rely on the accuracy, completeness or quality of the Protected Data, even for the purpose stated in Paragraph 1.

12. Injunctive Relief. The Receiving Party agrees that, in addition to whatever other remedies may be available to the ISO under applicable law, the ISO shall be entitled to obtain injunctive relief with respect to any actual or threatened violation of this Agreement by the Receiving Party or any third party. The Receiving Party agrees that it shall bear all costs and expenses, including reasonable attorneys' fees, that may be incurred by the ISO in enforcing the provisions of this paragraph, only if the ISO prevails in the litigation.

13. Compliance with Export Laws. The Receiving Party agrees to comply in all respects with any governmental laws, orders or other restrictions which may be imposed from time to time by the government of the United States regarding exports ("Export Laws") to assure that neither the Protected Data nor any direct product thereof are (i) exported, directly or indirectly, in violation of the Export Laws, or (ii) are intended to be used for any purposes prohibited by the Export Laws, including without limitation nuclear, chemical or biological weapons proliferation. The Receiving Party certifies that it will not transfer or export any product, process or service that is a direct product of the Protected Data.

14. Governing Law. This Agreement is made in the State of California and shall be governed by and interpreted in accordance with its laws.

15. Assignment. This Agreement shall be binding upon the parties and their successors and assigns. The Receiving Party shall not assign this Agreement without the ISO's prior written consent.

16. Construction of Agreement. Ambiguities or uncertainties in the wording of this Agreement shall not be construed for or against any party, but shall be construed in the manner that most accurately reflects the parties' intent as of the date they executed this Agreement.

17. Signature Authority. Each person signing below warrants that he or she has been duly authorized by the party for whom he or she signs to execute this Agreement on behalf of that party.

18. Counterparts. This Agreement may be executed in two or more counterparts, all of which shall be considered one and the same Agreement.

19.   Consistency with Federal Laws and Regulations. Nothing in this Agreement shall compel any person or federal entity to: (1) violate federal statutes or regulations; or (2) in the case of a federal agency, to exceed its statutory authority, as defined by any applicable federal statutes, regulations or orders lawfully promulgated thereunder. If any provision of this Agreement is inconsistent with any obligation imposed on any person or federal entity by federal law or regulation to that extent, it shall be inapplicable to that person or federal entity. No person or federal entity shall incur any liability by failing to comply with a provision of this Agreement that is inapplicable to it by reason of being inconsistent with any federal statutes, regulations or orders lawfully promulgated thereunder; provided, however, that such person or federal entity shall use its best efforts to comply with the Agreement to the extent that applicable federal laws, regulations and orders lawfully promulgated thereunder permit it to do so.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the dates set forth below.

CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION

By: _____

Name: Mark Rothleder

Title: Senior Vice President and
             Chief Operating Officer

Date:

RECEIVING PARTY:

Entity: _____

By: _____

Name:

Title:

Date:

Exhibit A

INDIVIDUAL AGREEMENT TO BE BOUND BY NON-DISCLOSURE AND USE OF INFORMATION AGREEMENT FOR PROTECTED DATA

The undersigned, _____ (print or type name), employed by _____, hereby acknowledges that he or she has received a copy of the Non-Disclosure and Use of Information Agreement for Protected Data dated _____ between the California Independent System Operator Corporation and the Receiving Party designated therein ("Agreement"). The undersigned hereby acknowledges that the undersigned has read the Agreement and understands the importance of maintaining the confidentiality of Protected Data (as defined in the Agreement), the provisions of the Agreement relating to such confidentiality and the limitations on the use of Protected Data. In consideration thereof, the undersigned agrees to be bound by all of the provisions of the Agreement.

Dated:_____

Signed: _____

Name (print): _____

Email: _____

Phone: _____

RECEIVING PARTY INFORMATION STATEMENT FOR THE NON-DISCLOSURE AND USE OF INFORMATION AGREEMENT FOR PROTECTED DATA

Name of Receiving Party: _____ Effective date of NDA: _____

The Receiving Party under the Non-Disclosure and Use of Information Agreement for Protected Data must indicate whether it is eligible under the definitions set forth in ISO Tariff section 6.5.10:

Receiving Party is a Market Participant as defined in Appendix A of the ISO Tariff. If so, please provide any of the following information as applicable:
☐ Name and SCID of Scheduling Coordinator: _____
☐ Name used in and date of CRR Entity Agreement: _____
☐ CRR Entity Candidate: _____
☐ Name used in and date of Convergence Bidding Entity Agreement: _____
Receiving Party is not a Market Participant as defined in Appendix A of the ISO Tariff. Please provide a statement of legitimate need of the Protected Data as set forth in ISO Tariff section 6.5.10:
Receiving Party is a Consulting Entity (**Exhibit C must also be executed**)

By:_____

Name:_____

Title:_____

Date:_____

<u>Exhibit C</u>

<u>CONSULTANT STATEMENT</u>

Name of Consulting Entity: _____

Effective Date of NDA: _____

Type of business and state in which business organization formed [e.g., a California corporation]

_____

_____

Located at (address of Consulting Entity):

_____

_____

_____

Has been engaged to provide technical support and analysis to the following entities:

2) Consulting Entity acknowledges and agrees that its review of Protected Data is solely for the purpose of providing consultancy services to the Receiving Parties and that its use of Protected Data shall be limited to the same. To the extent that Consulting Entity provides technical support and analysis to parties who are not eligible to receive the Protected Data, and so are not eligible to sign the ISO NDA, Consulting Entity agrees that disclosure of Protected Data to such parties is prohibited by the terms and conditions of the ISO NDA.

3) The undersigned agrees that he or she is authorized by the Consulting Entity to execute this Consultant Statement to the ISO NDA.

_____
(Name of Consulting Entity)

By:_____
(Signature)
Name:_____
(Print)
Title:_____

Date:_____

Phone:_____

Email:_____