

Sponsor: McDuffa

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FLORENCE, ALABAMA, that the attached Multi-Party Nondisclosure Agreement between the City of Florence, Southwire Company, LLC, and the Tennessee Valley Authority, regarding the TVA PowerFlex Program, is hereby approved, ratified and confirmed.

BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF FLORENCE, ALABAMA, that the Mayor is hereby authorized to execute said Agreement on behalf of the City of Florence.

ADOPTED this _____ day of _____, 2025.

CITY COUNCIL

APPROVED this _____ day of _____, 2025.

MAYOR

ADOPTED & APPROVED this _____ day of _____, 2025.

CITY CLERK - TREASURER

MULTI-PARTY NONDISCLOSURE AGREEMENT

Contract No. 131510981 Supp. No. 1

This Agreement is among SOUTHWIRE COMPANY, LLC ("**Company**"), a Delaware limited liability company; the CITY OF FLORENCE, ALABAMA ("**Distributor**"), an Alabama municipal corporation; and TENNESSEE VALLEY AUTHORITY ("**TVA**"), a corporate agency and instrumentality of the United States of America, created and existing under and by virtue of the Tennessee Valley Authority Act of 1933, as amended.

The parties plan to engage in discussions, concerning participation in TVA's PowerFlex program ("**Purpose(s)**"), and it may be necessary for one of the parties to disclose information and data considered by the disclosing party proprietary and/or confidential.

Each party owns and considers to be proprietary or is under an obligation to a third party to maintain as proprietary, and treats as secret or confidential, certain information in oral, written, electronic, or physical form, which one party may disclose ("**Discloser**") to the other party ("**Receiver(s)**"). The parties are willing to keep information and data disclosed to them by another party confidential in accordance with the terms and conditions of this Agreement.

Therefore, the parties agree as follows:

SECTION 1 - TERM

This Agreement will remain in effect from the effective date through September 30, 2029, unless amended, extended, or superseded by a separate written agreement, fully executed by the parties. The parties' obligations under this Agreement will continue and survive the termination of this Agreement, for any reason, for a period of three years.

SECTION 2 - IDENTIFICATION OF CONFIDENTIAL INFORMATION

"**Confidential Information**" means only such information and data, which:

- (a) if disclosed in written, electronic, or other tangible form, the Discloser clearly and reasonably marks, designates, or labels as confidential, proprietary, restricted, or sensitive, or with similar words, prior to disclosure of such information and data to Receiver(s); or
- (b) if disclosed orally or visually, the Discloser identifies to Receiver(s), before or upon such disclosure, what portion thereof the Discloser deems to be proprietary or confidential and will provide a written record of such disclosure to Receiver(s) identifying such portion(s) as confidential, proprietary, restricted, or sensitive, or with similar words, within five business days after such disclosure and in compliance with applicable laws.

The parties agree that Confidential Information disclosed by Discloser to Receiver(s) is subject to the terms and conditions of this Agreement only if it is identified consistent with subsections 2(a) or 2(b) above, as applicable.

Receiver(s) will not: (i) permit the removal of any marking, designation, or label, pursuant to subsection 2(a), located on or in the Confidential Information, or (ii) reproduce the Confidential Information except to the extent authorized in advance in writing by Discloser, in which event Receiver(s) must reproduce any marking, designation, or label on any such approved reproductions as such appear in or on the original.

SECTION 3 - NONDISCLOSURE TO THIRD PARTIES

Receiver(s) will not disclose, copy, or replicate Discloser's Confidential Information to any third party, including, but not limited to, any agent, parent organization, affiliate, representative, consultant, or

contractor, without the Discloser's prior written consent, except in compliance with this Agreement or as required by law or as required in order to comply with an applicable governmental authority's regulations and orders.

If any Receiver receives a request, claim, or order for disclosure of Confidential Information as required by applicable laws (including a ruling or order from a judicial authority with valid jurisdiction over the parties), Receiver(s) must notify Discloser promptly and in writing, so that Discloser may, with the cooperation of Receiver(s), take reasonable and timely action to limit, restrict, or enjoin the content or extent of the Confidential Information subject to the request, claim, or order. If any Receiver is legally required to disclose Confidential Information, it must notify the other party promptly and in writing, in sufficient time so that the party that owns or controls the Confidential Information may take action to prevent or limit the scope of such legally required disclosure or take any other action it deems appropriate to protect the Confidential Information.

No legally required disclosure will alter the nature or Discloser's designation of the Confidential Information, and the terms and conditions of this Agreement will remain in full force and effect except as specifically modified or superseded by law or formal order of a judicial authority with valid jurisdiction over the parties.

SECTION 4 - PUBLICITY

No party will publicly announce the terms or conditions of this Agreement, or advertise or release any publicity regarding this Agreement, the nature of the Confidential Information, or the Purpose(s), without the prior written consent of the other parties.

SECTION 5 - OWNERSHIP AND USE OF INFORMATION

All Confidential Information disclosed by Discloser to Receiver(s) is and will remain the property of Discloser. Receiver(s) must promptly, at Discloser's option and upon its written request to Receiver(s), either return all such Confidential Information and any copies thereof to Discloser or destroy such Confidential Information and any copies thereof. Receiver(s) will not use Discloser's Confidential Information for any purpose except for the Purpose(s). Receiver(s) will protect Discloser's Confidential Information from further disclosure using, at minimum, the same security procedures and care in handling, storage, and destruction for Discloser's Confidential Information as Receiver(s) provide(s) for its own confidential or proprietary information and data.

SECTION 6 - NO INTELLECTUAL PROPERTY RIGHT OR LICENSE

Neither this Agreement nor any Confidential Information disclosed hereunder grants or will be construed to grant Receiver(s) any intellectual property right or license of any kind (including, without limitation, any patent, copyright, or design license or rights of use under similar intellectual property rights, which now or hereafter may exist) in or with respect to the Confidential Information received from Discloser.

SECTION 7 - ACCESS TO AND CONTROL OF INFORMATION

Receiver(s) will restrict access to Confidential Information to those individuals for whom such access is necessary for the Purpose(s). Receiver(s) will advise each such individual of the confidential nature of the Confidential Information prior to granting such access, and such individual(s) will agree, consistent with Receiver's(s') internal policies and applicable laws, to be bound by the terms and conditions of this Agreement.

SECTION 8 - EXCEPTIONS

The parties' respective obligations contained herein will not apply to:

- (a) Confidential Information that is now in or hereinafter enters the public domain without a breach of this Agreement.
- (b) Confidential Information known to the Receiver(s) prior to the time of disclosure by the Discloser or independently developed by employees of the Receiver(s) without access to the Confidential Information.
- (c) Confidential Information disclosed in good faith to the Receiver(s) by a third person legally entitled to disclose the same.

SECTION 9 - ACCURACY OF CONFIDENTIAL INFORMATION

Discloser makes no representations or warranties regarding the basis, accuracy, or completeness of Confidential Information. Confidential Information may not contain all current data regarding Discloser's infrastructure. If Receiver(s) elects to rely on any Confidential Information provided by Discloser, it does so solely at its own risk. All Confidential Information is provided "AS IS".

SECTION 10 - NO LIABILITY FOR USE OR MISUSE OF CONFIDENTIAL INFORMATION

Discloser is neither liable nor responsible for Receiver's(s') use (or the results of such use), reliance on, or misuse of any Confidential Information furnished hereunder, and Receiver(s) releases Discloser from any and all liabilities with respect to or resulting from any such use or misuse of Confidential Information.

SECTION 11 - AUTHORITY TO DISCLOSE

Discloser represents to Receiver that it has the authority to disclose Confidential Information to Receiver(s), but Discloser makes no representations or warranties, express or implied, as to the quality, accuracy, completeness, or reliability of the Confidential Information.

SECTION 12 - COMPLIANCE WITH EXPORT CONTROL LAWS

With respect to any Confidential Information disclosed hereunder, the parties must comply with the export control laws and regulations of the United States government, specifically including, without limitation, the United States Department of Energy's restrictions on exports governing nuclear materials and technology under 10 C.F.R. Part 810 (Assistance to Foreign Atomic Energy Activities), and the United States Department of Commerce's Export Administration Regulations under 15 C.F.R. §§ 730-774. Each party will cooperate in good faith with the reasonable requests of the other party, made for purposes of its compliance with such applicable laws and regulations.

SECTION 13 - NO OBLIGATION TO DISCLOSE

Nothing in this Agreement will be construed or implied to obligate any party to disclose any Confidential Information to the other party or parties.

SECTION 14 - REMEDIES

Unauthorized use or disclosure of Confidential Information could cause irreparable damage to Discloser. Therefore, Discloser may seek an injunction, specific performance, a restraining order, or other equitable relief to prevent or remedy such unauthorized use or disclosure, or Receiver's other breach(es) of this Agreement. Discloser may exercise all other remedies available in either law or equity to enforce the Receiver's compliance with this Agreement, provided that, because officers and employees of TVA may be subject to criminal liability under 18 U.S.C. § 1905 for wrongful disclosure of Confidential Information,

Discloser's remedies against TVA and its officers, agents, and employees are limited to any and all gains wrongfully acquired, directly or indirectly, from unauthorized disclosure of any Confidential Information.

SECTION 15 - GOVERNING LAW, VENUE, AND WAIVER OF JURY TRIAL

Federal law governs the validity, interpretation, and enforceability of this Agreement. If federal law states no rule of decision with respect to a particular matter or dispute related to this Agreement, the laws of the State of Tennessee, excluding its "choice of law" or "conflict of law" rules, will apply. The U.S. District Court for the Eastern District of Tennessee has exclusive jurisdiction over, and venue is proper therein for, any dispute related to this Agreement. The parties hereby irrevocably waive any objection to that court's jurisdiction, or venue therein, and further **WAIVE ANY RIGHT TO TRIAL BY JURY**.

SECTION 16 - NO OTHER OBLIGATION

This Agreement does not obligate any party to enter into any separate business or contractual relationship, investment, or transaction, or buy or sell any good or service, with, from, or to the other party or parties. Any party may at any time, at its sole discretion with or without cause, terminate discussions or negotiations with the other parties, in connection with the Purpose(s) or otherwise.

SECTION 17 - ASSIGNMENT

This Agreement binds and inures to the benefit of the parties and their permitted successors and assigns, provided that no party will assign the right to access, review, or use Confidential Information without the prior, written consent of the other parties. Any purported assignment without such prior approval is null and void and constitutes an unauthorized use or disclosure of Confidential Information under Section 14, above.

SECTION 18 - NO WAIVER

A party's failure to enforce any provision of this Agreement does not waive or affect the validity of such provision or the Agreement. No such failure prejudices the right of such party to enforce each and every provision of this Agreement.

SECTION 19 - SEVERABILITY

If a judicial authority with valid jurisdiction over the parties rules that any provision of this Agreement is invalid or illegal, or enjoins enforcement of it, then (a) all other provisions of this Agreement will remain in full force and effect, and (b) the parties will negotiate in good faith to modify this Agreement to render it compliant with the ruling of the judicial authority and applicable laws.

SECTION 20 - COUNTERPARTS

The parties may execute this Agreement in any number of parts, each of which when executed is deemed to be an original, and all of which taken together comprise one and the same document. A facsimile or PDF format (or its functional equivalent) copy hereof suffices as an original.

SECTION 21 - PRECEDENCE

The terms and conditions of this Agreement take precedence over specific legends, notations, or statements associated with the Confidential Information when delivered and received.

SECTION 22 - ENTIRE AGREEMENT

This Agreement states the entire understanding and agreement of the parties regarding the Purpose(s), and supersedes all prior discussions, agreements, communications, and representations between them,

