**{DISCLOSING\_PARTY}**

**CONFIDENTIALITY AND NONDISCLOSURE AGREEMENT**

This CONFIDENTIALITY AND NONDISCLOSURE AGREEMENT (the "Agreement") is entered into as of the \_\_\_ day of \_\_\_\_\_\_\_\_\_, 2020, ("Effective Date") by and between the {DISCLOSING\_PARTY}, a {ENTITY\_TYPE} of the State of California acting by and through its {ACTOR} (the "Disclosing Party") and the California Data Collaborative, a fiscally-sponsored project of Social and Environmental Entrepreneurs (SEE), Inc., a Delaware nonprofit corporation (the "Interested Party"). The Disclosing Party and Interested Party are sometimes referred to herein individually as a "Party" and collectively as the "Parties."

**RECITALS**

A. Disclosing Party maintains confidential information and data relating to its customers, real property, water facilities and infrastructure (the "Confidential Information," as defined below).

B. Certain water agencies in California have formed the California Data Collaborative (the “CaDC”), a nonprofit organization for a collaborative project to improve the management and organization of California water data statewide. The CaDC will maintain a centralized customer-level water usage database whereby the participating water agencies will provide raw customer data and other relevant water efficiency data to the Interested Party, who will be conducting the scope of work as approved by the CaDC Steering committee.

C. The Disclosing Party has elected to participate in the CaDC (the “Purpose”). Participation by Disclosing Party is contingent upon the execution of this Agreement which provides for the security, privacy, and nondisclosure of the Confidential Information provided to Interested Parties by Disclosing Party.

D. Except with respect to the limited manner in which the Confidential Information may be utilized by Interested Party as provided in this Agreement, the Parties to this Agreement desire to mutually maintain the confidentiality of the Confidential Information. The purpose of this Agreement is to enable the Interested Party to deliver each scope of work described in the annual analytics agreement and approved by the CaDC Steering committee while preserving the confidential and proprietary character of the Confidential Information.

NOW, THEREFORE, in consideration of the foregoing Recitals and the mutual covenants and agreements set forth below, the Parties hereto agree as follows:

1. **Confidential Information**

(a) For purposes of this Agreement, the term "Confidential Information" shall be deemed to be used in the most comprehensive and broadest sense and means any and all proprietary or confidential information of the Disclosing Party disclosed by the Disclosing Party under this Agreement, including, without limitation, Disclosing Party's customer information, customer names, meter numbers, utility usage data, addresses, telephone numbers, facsimile numbers and/or e-mail addresses, and any other information that, by its nature, should reasonably be considered confidential or proprietary.

(b) The Parties agree that the Confidential Information is and shall remain the sole and exclusive proprietary property of Disclosing Party, and except for the Purpose set forth in this Agreement, and that the Interested Party (with respect to Confidential Information of Disclosing Party) shall not acquire any license or other right whatsoever in the Confidential Information by virtue of this Agreement or by virtue of any disclosure of the Confidential Information pursuant hereto. The Interested Party shall, upon written request and as directed by the Disclosing Party, return or destroy all documents or materials containing or representing Disclosing Party’s Confidential Information in its possession or under its control together with all copies thereof, and shall certify to the Disclosing Party such destruction or return by written confirmation executed by a senior executive officer authorized to make such statements.

1. **No Disclosure**

(a) Except as provided below in this Section 2, the Interested Party agrees to use Confidential Information of the Disclosing Party solely in connection with the Purpose. The Interested Party shall (i) hold and maintain the Confidential Information in the strictest confidence, using the same degree of care the Interested Party uses in protecting its own most confidential information, but in no event less than a reasonable degree of care, and (ii) shall not disclose all or any portion of the Confidential Information to any other party without Disclosing Party's prior written consent. Interested Party shall not disclose or permit the disclosure of all or any portion of the Confidential Information to any employee, agent, or other representative of Interested Party and/or its affiliate(s) other than those with a need to know, who have been advised of this Agreement and Interested Party's obligations hereunder, and who represent and warrant to Interested Party in writing that he, she, or it agrees to be bound by the terms of this Agreement.

(b) In the event the Interested Party is required to disclose Confidential Information of Disclosing Party pursuant to a valid order of a court or other governmental body or pursuant to any law, the Interested Party shall promptly provide written notice thereof to the Disclosing Party and shall cooperate with the Disclosing Party to protect against or limit the scope of such disclosure. Notwithstanding the foregoing, to the fullest extent permitted by law, the Receiving Party will continue to protect as confidential and proprietary all Confidential Information disclosed in connection with the foregoing.

For example, and not by way of limitation, the Parties agree, within the requirements of the Public Records Act and any other applicable state or federal law, to protect all Confidential Information from disclosure and preserve any and all applicable exemptions under the Public Records Act and any applicable legal privileges for such Confidential Information, to the same degree of care and legal responsibility as each Party protects their own confidential and proprietary information from disclosure.

1. **Indemnification**

Interested Party agrees to hold and maintain all of Disclosing Party’s Confidential Information for the Purpose set forth in this Agreement, and shall not use the Confidential Information for any purpose other than pursuant to the terms of this Agreement and any other contract entered into by and between Disclosing Party and Interested Party. . Interested Parties shall indemnify and hold harmless Disclosing Party from and against any and all claims, liabilities, expenses or damages, including reasonable attorneys' fees, for any damages, claims arising from this Agreement, including breach of this Agreement

1. **Injunctive Relief**

Interested Party agrees that should it breach or threaten to breach any provision of this Agreement, Disclosing Party may suffer irreparable damages and, if so, its remedies at law will be inadequate. Therefore, if Interested Party threatens or actually breaches the disclosure obligations outlined in this Agreement, Disclosing Party may be entitled, in addition to all other remedies available to it at law or in equity, to the following: (a) equitable relief, including specific performance and injunctive relief to enforce any provision hereof and to restrain Interested Party from using or disclosing, in whole or in part, directly or indirectly, any Confidential Information; and (b) recovery for damages, losses, and expenses of any nature (including, but not limited to, reasonable attorneys’ fees) directly related to such breach or threatened breach.

1. **Term**

The term of this Agreement shall commence on the Effective Date and shall remain in effect unless or until all Confidential Information that has been provided to Interested Party has been returned to Disclosing Party or otherwise deleted or removed from the possession of Interested Party in the manner as determined in Disclosing Party's sole discretion.

1. **General Provisions**

(a) **Governing Law** This Agreement shall be governed by California law. Disclosing Party and Interested Party each hereby specifically agree that any legal action regarding this Agreement shall be commenced and maintained solely in, and hereby specifically consent to venue in, and the jurisdiction of, the State and Federal District Courts located in Los Angeles County, California.

(b) **Binding Agreement** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective affiliates, successors and assigns. This Agreement may be waived, altered, amended or repealed, in whole or in part, only upon the written consent of all Parties.

(c) **Partial Invalidity** If any part of this Agreement is declared invalid for any reason, such determination or ruling shall not affect the validity of the rest of the Agreement. The other parts of the Agreement shall remain in effect as if the Agreement had been executed without the invalid part. The Parties hereby declare that they intend and desire that the remaining parts of the Agreement continue to be effective without any part or parts that have been declared invalid.

(d) **Counterparts** This Agreement may be executed in counterparts, each of which shall be deemed an original. The signature of a Party by facsimile will be effective provided that an original is concurrently sent to all other Parties.

(e) **No Waiver** The failure of any Party hereto at any time to enforce any of the provisions of this Agreement, or to require at any time performance of any of the provisions hereof, shall in no way be construed to be a waiver of such provisions or to affect either the validity of this Agreement or the right of any Party to thereafter enforce each and every provision of this Agreement.

(f) **Assignment** This Agreement may not be sold, issued, assigned, or otherwise transferred by either Party, and any such attempted assignment shall be void and of no effect without the advance written consent of the other Party, which shall not be unreasonably withheld or delayed.

(g) **Force Majeure** Neither Party shall be liable for any damages or penalty for any delay in performance of, or failure to perform, any obligation hereunder or for failure to give the other Party prior notice thereof, if such delay or failure is due to civil disturbances, military, state, health, or national emergencies, natural disasters, acts of God, or other similar causes beyond that Party’s reasonable control.

(h) **Independent Contractor** Interested Party is an independent contractor and neither this Agreement nor any of its provisions shall preclude Interested Party from providing services of any kind to any other Party during the Term of this Agreement.

(i) **Amendments** This Agreement may be modified in writing only, signed by the parties in interest at the time of the modification.

(j) **Signature** The individual signing this Agreement on behalf of Disclosing Party has the legal authority to enter into an agreement of this type for Disclosing Party.

(k) **Entire Agreement** This Agreement, including the recitals set forth above, constitutes the entire agreement between and among the Parties to this Agreement pertaining to the subject matter of this Agreement and supersedes all prior and contemporaneous agreements, representations and understandings of the Parties.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first set forth above.

Disclosing Party:

**{DISCLOSING\_PARTY}**

By:

Date:

Interested Party:

**Social and Environmental Entrepreneurs (SEE)**

By:

Jennifer Hoffman  
  
Executive Director

Date: