

This Confidentiality and Nondisclosure Agreement (“Agreement”) is made on [REDACTED], 200[REDACTED] by and between Exelon Business Services Company, LLC, acting for itself or on behalf of certain of its affiliated companies (“Exelon”) and [Vendor] (“Vendor”) (collectively, the “Parties”).

- A. Exelon and Vendor intend to engage in discussions concerning a potential business relationship whereby Vendor would provide to Exelon materials, equipment and services related to [insert description of transaction] (the “Proposed Transaction”).
- B. In connection with these discussions, Exelon may disclose to Vendor, orally, in writing, by inspection or otherwise, Confidential Information (as defined below).
- C. The Parties desire to formally set forth their understanding and agreement with respect to the treatment to be accorded to the Confidential Information and have done so in the provisions of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound hereby, agree as follows:

1. For purposes of this Agreement, the term “Confidential Information” is defined to mean any knowledge, data, statistics, business plans, records, trade secrets, business secrets, operational methods, customer lists, concepts, ideas, policies, any social security numbers, and/or other information or data disclosed by Exelon and/or its officers, employees, agents, consultants, or representatives to Vendor and/or its officers, employees, agents, consultants, or representatives (collectively “Vendor Employees”), which is not otherwise available to the public or Exelon’s competitors, including both the existence and contents of this Agreement. The term “Confidential Information” also includes, without limitation, the existence of the discussions between the Parties concerning the Proposed Transaction. The term “Confidential Information” does not include information which (1) is or becomes generally available to the public other than as a result of disclosure by Vendor Employees, (2) was within Vendor’s lawful possession on a non-confidential basis prior to being furnished by Exelon, (3) becomes available to Vendor on a non-confidential basis from a source other than Exelon Employees that is under no obligation to Exelon to keep such information confidential, or (4) is developed by or for Vendor without any use of or reliance upon Confidential Information.
2. Vendor acknowledges that a breach of the terms, covenants or conditions contained in this Agreement will cause irreparable damage to Exelon for which a remedy at law would not be adequate. In the event of such breach or threatened breach, Exelon shall be entitled to seek appropriate injunctive relief in any court of competent jurisdiction, restraining Vendor and Vendor Employees from any such threatened or actual violation of the provisions of this Agreement. This provision does not limit Exelon’s rights to seek monetary damages in addition to injunctive relief.
3. All Confidential Information obtained by Vendor or Vendor’s Employees prior to the execution of this Agreement shall also be subject to the terms of this Agreement.
4. Vendor shall retain any Confidential Information in strictest confidence and shall not use, exploit, or disclose, or permit the use, exploitation, or disclosure of any Confidential Information obtained from Exelon, except to persons or entities directly involved in the Proposed Transaction and then, only to the extent necessary in connection with the Proposed Transaction, or as otherwise required by law. Vendor shall inform Vendor Employees to whom Confidential Information is disclosed

of the existence of this Agreement and of its provisions, and that the Confidential Information has been shared with Vendor in strict confidence. Vendor shall take all measures to ensure that Vendor Employees keep any Confidential Information strictly confidential and not use or exploit any of the Confidential Information in any manner without the written consent of Exelon. Vendor will be responsible for any breach or anticipated breach of this Agreement by any Vendor Employee or third party to whom it discloses Confidential Information.

5. Vendor shall not, either directly or indirectly, publish or disclose any Confidential Information subject to this Agreement or use such Confidential Information for the benefit of itself or any third parties without the prior written consent of Exelon. In the event that Vendor terminates discussions with respect to the Proposed Transaction for any reason, Vendor shall immediately thereafter, either destroy (and supply confirmation thereof to Exelon) or deliver to Exelon, without retaining copies thereof, any and all Confidential Information obtained in connection with the Proposed Transaction. In any event, Vendor shall maintain confidentiality of Confidential Information after such return or destruction .
6. Vendor shall not, without the prior written consent of Exelon, make any public statement, announcement or release or publication with respect to the Proposed Transaction, including, without limitation, the existence of the discussions between the Parties concerning the Proposed Transaction. Notwithstanding the foregoing, either Party may make such disclosures as may be necessary to comply with the requirements of any applicable law, governmental order or regulation in connection therewith.
7. In the event that Vendor or Vendor's Employees, are requested or required to disclose any Confidential Information subject to this Agreement in a legal or regulatory proceeding, Vendor shall provide Exelon with prompt written notice of any such request or requirements in order to provide Exelon an opportunity to seek a protective order or other appropriate remedy. Vendor shall cooperate with Exelon and its counsel in Exelon's efforts to prevent or limit such disclosure of Confidential Information.
8. No Party, by execution of this Agreement, is committed to the consummation of the Proposed Transaction until such time as a definitive agreement is reached by and between the Parties.
9. Subject to the restrictions on the use and disclosure of Confidential Information in this Agreement, neither the discussions between the Parties with respect to the Proposed Transaction nor the disclosure of Confidential Information shall be construed as requiring any Party to refrain from engaging in any business the same as or similar to the business in which the other is now engaged.
10. Either Party may terminate this Agreement at any time, and for any reason, by sending written notice of its intent to do so to Vendor. Notwithstanding any such termination, all rights and obligations hereunder shall survive, with respect to Confidential Information disclosed prior to such termination, unless superseded by definitive other agreement of the Parties.
11. This Agreement shall be governed by the laws, but not the rules relating to choice of law, of the Commonwealth of Pennsylvania. The Parties agree that the federal and state courts sitting in the City of Philadelphia shall have personal jurisdiction over all Parties and any action involving a dispute under this Agreement shall have as its venue a court located in the City of Philadelphia.
12. This Agreement and all of its terms and provisions shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns, as may be permitted.

- 13. The invalidity or non-enforceability of any term or provision contained in this Agreement shall not void or impair this Agreement’s remaining provisions, which shall remain in full force and effect as if no such invalid or unenforceable provision existed.
- 14. Confidential Information is provided on an “As-Is” basis, with no warranty of any nature whether oral or written, statutory, express or implied.
- 15. Nothing contained in this Agreement shall be construed as granting or conferring any rights by license or otherwise in any Confidential Information disclosed to Vendor or in any intellectual property rights related thereto.
- 16. This Agreement may be executed in two or more counterparts, each of which shall be considered an original instrument, but all of which shall be considered one and the same agreement.
- 17. The undersigned certify that they are authorized to execute this Agreement on behalf of their respective companies.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed on the date first written above.

**EXELON BUSINESS SERVICES COMPANY,
LLC**

VENDOR: [INSERT VENDOR NAME]

By: _____
 Name: _____
 Title: _____

By: _____
 Name: _____
 Title: _____