

## **NON-DISCLOSURE AGREEMENT**

**WHEREAS**, KCE CT 8, LLC (“KCE”) has filed with the Connecticut Siting Council certain materials and information in response to Council’s Interrogatories issued in Petition 1581; and

**WHEREAS**, the information contained in said materials provided in response to the Interrogatories contains confidential and proprietary business information of KCE (“Confidential Information”); and

**WHEREAS**, disclosure of the Confidential Information would result in the disclosure of confidential, proprietary information to KCE and thus harm its ability to compete in a competitive marketplace; and

**WHEREAS**, KCE desires to protect the Confidential Information from disclosure to the public.

**NOW, THEREFORE**, it is hereby agreed, that the following procedure is adopted for the protection of Confidential Information:

1. All Confidential Information provided by KCE to the Siting Council in response to the Interrogatories will be governed by the terms of this Non-Disclosure Agreement (“Agreement”). The Agreement is applicable to all such Confidential Information, whether in hard copy or electronic, and whether in the form of notes, analyses, documents, transcripts, data, studies, computer tapes or discs, or oral communication.

2. Signatories to this Agreement agree to be bound by its terms and shall not use the Confidential Information except for purposes of evaluating KCE’s proposed project in Petition 1581. All parties, including consultants, in receipt of the Confidential Information under

the Agreement shall maintain a written log of all individuals granted access to said Confidential Information. All persons granted access to the Confidential Information shall neither use nor disclose the Confidential Information for purposes of business or competition, or for any other purpose, other than for purposes of the evaluation of KCE's submittals in Petition 1581 as contemplated herein and shall in good faith take all reasonable precautions to keep the Confidential Information secure in accordance with the purposes and intent of the Agreement.

3. If the Confidential Information is used in any manner in any interrogatory, letter, petition, brief or other writing ("Document"), then all reference to the Confidential Information in the Document shall be either:

- (a) in a separate document, prominently labeled "Proprietary Information," which document shall be safeguarded in accordance with a protective order to be issued by an applicable regulatory agency or court; or
- (b) solely by title or exhibit reference, in a manner reasonably calculated not to disclose the Confidential Information.

4. If the Confidential Information is used in any manner in any proceeding or during the course of a public hearing before a regulatory agency or court ("Hearing"), then the Hearing shall not be held before, nor any record of it made available to, any party, intervenor, or other person or entity not a signatory to this Agreement, other than as directed by that agency or court.

5. All persons granted access to Confidential Information shall take all reasonable precautions to keep this information secure in accordance with the purposes and

intent of this Agreement. No copies shall be made of the Confidential Information unless expressly agreed to by KCE.

6. Nothing herein shall be construed as a final determination that any of the Confidential Information will be admissible as substantive evidence at any hearing or trial. Confidential Information otherwise properly discovered, even though also subject to the terms of this Agreement, shall not be considered protected by this Agreement.

7. If Confidential Information is disclosed to any person other than in the manner authorized by this Agreement, then the party responsible for such disclosure shall immediately upon learning of the disclosure, inform KCE of all pertinent facts relating to such disclosure and shall make every effort to prevent disclosure by each unauthorized person who received such information.

8. Each party hereto acknowledges that a breach of the provisions of this Agreement cannot reasonably or adequately be compensated in damages in an action at law and that a breach of any of the provisions contained in such section will cause irreparable injury and damage. By reason thereof, the parties hereby agree that KCE shall be entitled, in addition to any other remedies it may have under this Agreement or otherwise, to preliminary and permanent injunctive and other equitable relief to prevent or curtail any actual or threatened breach of this Agreement; provided, however, that no specification in this Agreement of a specific legal or equitable remedy shall be construed as a waiver or prohibition against the pursuing of other legal or equitable remedies in the event of such a breach. Each party further agrees to indemnify the other for, and hold it harmless from, all loss, cost, damage and expense (including reasonable compensation, fees, and out-of-pocket expenses of legal counsel) that may be sustained or incurred as a result of any breach of this Agreement by such party.

9. The terms of this Agreement shall be governed by, interpreted and construed in accordance with the laws of the State of Connecticut, but without regard to those of such laws as may rely upon or refer to the law of any other jurisdiction in the resolution of conflicts of law.

10. This Agreement constitutes the entire agreement between the parties hereto covering the disclosure of Confidential Information, and supersedes all previous communications, whether oral or written, between the parties, and no modifications or amendments shall be binding upon any party hereto except by the mutual agreement of the parties in writing.

*Remainder of page is blank*

**NONDISCLOSURE AGREEMENT AND AGREEMENT  
TO BE BOUND BY THE TERMS OF THE NON-DISCLOSURE AGREEMENT**

The undersigned hereby acknowledges review of the Agreement with respect to the Confidential Information provided by KCE CT 8, LLC and hereby agrees to be bound and abide by the terms thereof in exchange for being given access to such Confidential Information.

Name of Company: \_\_\_\_\_

Name & Title: \_\_\_\_\_  
(Print)

\_\_\_\_\_  
(Signature)

Date: \_\_\_\_\_