



ELECTRICITY SALES AGREEMENT (GENERAL TERMS AND CONDITIONS)

1. Sales, Term. energy.me will sell to Customer, and Customer will buy from energy.me, electricity to satisfy its Energy Requirements subject to this Agreement. Customer will provide Customer Information to energy.me and will assist energy.me in implementing this Agreement. Customer will notify energy.me of any circumstance likely to cause a change to the Energy Requirements at any Location.

In all events, (i) this Agreement will continue in effect until final invoices are paid, and (ii) all obligations of confidentiality, indemnity, and payment of Taxes will survive termination, but as to confidentiality, for 1 year.

2. Billing, Payment, Credit, Taxes. Customer will be billed and will pay pursuant to the Cover Page. All electricity delivered to a Location is measured pursuant to the LDC's tariff by the LDC at each Location. Customer agrees that timely and accurate invoicing is dependent on the LDC and RTO furnishing energy.me information, in the absence of which energy.me may invoice Customer on estimated data, subject to later adjustment. If Customer disputes an invoice, Customer will pay energy.me the undisputed amount. Upon resolution, Customer will pay the amount owed with interest at the Interest Rate from the date the amount was originally due to, but excluding, the date the amount is paid. energy.me's obligation to sell electricity to Customer is conditioned upon energy.me's ongoing review and approval of Customer's creditworthiness. Customer will, on energy.me's request from time to time, (i) provide financial information and (ii) if Customer's creditworthiness declines, provide performance assurance, all reasonably satisfactory to energy.me. Customer is responsible for and indemnifies energy.me for all Taxes arising from or measured by electricity sold or services provided or energy.me's receipts from the electricity sold or services provided, whether the Law imposes the Taxes on energy.me or Customer. energy.me may collect Taxes from Customer by including them on the energy.me invoice. energy.me will recognize a lawful sales tax exemption on a prospective basis only after Customer provides proper documentation to energy.me. If Customer is due a Tax refund because of energy.me's failure to timely recognize valid exemption documentation, energy.me may credit the overpaid Tax to Customer's account. Customer is responsible for petitioning the taxing authority for all other Tax refunds.

3. Consumption Change. Customer will promptly notify energy.me in writing (a "Notice") of any event or circumstance that is likely to cause a significant change to the load at any Location(s) ("**Load Change**"), including Customer's plans for new construction, facility replacement or equipment modification, planned closures, applications for new construction permits, or new environmental limits. Upon receipt of a Notice or upon the occurrence of a Load Change, energy.me may notify Customer (an "**Adjustment Notice**") of adjusted Benchmark Quantities and Contract Price reflecting the incremental effect of the change (the "**Adjustment**"). Customer may accept the Adjustment by executing the Adjustment Notice and returning it to energy.me within 5 business days of its date, in which case the Benchmark Quantities and Contract Price will be adjusted accordingly effective as of the next succeeding meter read date after energy.me's receipt of the executed Adjustment Notice. If Customer does not timely execute and return the Adjustment Notice, the Benchmark Quantities and Contract Price will not be adjusted, and energy.me will have the right to cancel this

Agreement upon 30 days prior notice to Customer. If energy.me cancels this Agreement, then Customer will pay energy.me Termination Damages and remain liable to pay energy.me timely for all charges for electricity sold until each Location is Switched. Any election by energy.me not to exercise its rights under this **Section 3** will not preclude energy.me's exercise of those rights at a later date.

4. Default. "Non-Defaulting Party" may establish a date (the "**Early Termination Date**") on which this Agreement will be terminated upon the occurrence of any of the following defaults by "**Defaulting Party**," if the default is not cured within 5 business days after notice (except for an Insolvency Event or the failure to provide performance assurance which are immediate defaults):

- (i) Failure to make, when due, any payment; or
- (ii) Any representation or warranty proves to have been false or misleading in any material respect; or
- (iii) Failure to perform any covenant; or
- (iv) An Insolvency Event occurs.

No waiver by a Party of a default will be construed as a waiver of any other default. If Non-Defaulting Party terminates this Agreement, (i) Customer, or if allowed by Law, energy.me, as Non-Defaulting Party, may Switch Customer's service to the BESP or a new ARES, and (ii) Defaulting Party will pay the Termination Damages to Non-Defaulting Party. The Parties agree that if Customer causes a default switching away one or more Locations to another BESP prior to the expiration of the Initial Term, the Early Termination Date will be the earliest date a Location is Switched. Regardless of which Party is Defaulting Party, if this Agreement is terminated, Customer will remain liable to pay energy.me timely for all charges for electricity sold until each Location is Switched. Defaulting Party will pay the Termination Damages within 15 business days of receipt of notice and it will accrue interest at the Interest Rate from the Early Termination Date to, but excluding, the date paid. On the date due, each Party will pay to the other Party all additional amounts payable by it after all amounts have been netted and aggregated with the Termination Damages. In case of dispute, the prevailing party shall be entitled to attorneys fees and collection costs incurred in connection with enforcement efforts.

5. Limitation of Liabilities. Liabilities not excused by reason of Force Majeure or otherwise will be limited to direct actual damages. energy.me will not be liable to Customer or any third party for consequential, incidental, punitive, exemplary or indirect damages. energy.me is not liable for interruptions to, or shortages of, electricity supply, nor is it liable for any resulting associated loss or damage. These limitations apply without regard to the cause of any liability or damage.

6. Representations. Customer represents that (i) it is a commercial user of electricity and has entered into this Agreement solely for related non-speculative purposes, (ii) it will not resell any of the electricity it buys from energy.me, (iii) it has experience in business matters that enable it to enter into and perform this Agreement, (iv) no Location will have generation that is synchronously connected to the LDC (the Parties acknowledge that synchronously connected generation does not include emergency back-up power generation), and (v) this Agreement constitutes a valid and binding obligation of Customer, enforceable against it in accordance with its terms, except as may be limited by general equitable principles and

by bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally. **The Parties make no representations or warranties except those expressly stated in these terms, and disclaim all other warranties, express or implied, including merchantability, conformity to models or samples, and fitness for a particular purpose.**

7. Force Majeure. If a Party is unable because of Force Majeure to perform its obligations and it notifies the other Party as soon as practicable, then its obligations (other than payment for energy received, and performance of obligations incurred, before the Force Majeure event) will be suspended for the duration of the Force Majeure event. Customer agrees that under no circumstances will energy.me be required, because of a Force Majeure event, to supply electricity except to the Locations.

8. Law, Waivers, Confidentiality, Documentation. This Agreement will be governed by Illinois law, without regard to its conflict of law principles. The Uniform Commercial Code of Illinois applies to this Agreement and electricity is deemed a "good". If either Party or its activities related to this Agreement are affected by any Law enacted after the Effective Date ("**Change in Law**") that makes performance of this Agreement unenforceable or illegal, then either Party may terminate this Agreement on notice to the other Party, without any obligation or other liability (other than payment for energy received, and performance of obligations incurred, before the Change in Law). If a Change in Law occurs relating to the wholesale or retail electricity market in the RTO resulting in new or modified fees, costs of performance, or other charges being incurred by energy.me and/or other RTO market participants, then to the extent incurred by energy.me, all of the incremental amounts may be reasonably allocated and billed to Customer as an authorized charge or adjustment to the Contract Price. Neither Party will disclose these terms to a third party (other than a Party's and its affiliates' employees, lenders, counsel, permitted assignees, consultants, accountants, or prospective purchasers who have agreed to confidentiality), except in order to comply with Law. If a provision becomes unlawful or unenforceable, the other provisions will remain in effect. Except as provided in the Cover Page, only a written amendment signed by the Parties is enforceable.

9. Assignment. Neither Party may assign this Agreement without the other Party's prior written consent, which consent may not be unreasonably withheld, except that energy.me may, without Customer's consent, (i) as part of any financing or other financial arrangements, assign, sell or pledge this Agreement or its accounts, revenues, or proceeds, or (ii) assign this Agreement to an affiliate of energy.me, to any person or entity succeeding to all or a substantial portion of the assets of energy.me, or to a certified ARES, in which case energy.me will have no further obligations for future performance other than payment of amounts owing. There are no third-party beneficiaries to this Agreement.

10. Customer Acknowledgement. Customer acknowledges that Electricity prices may be subject to substantial volatility based on economic conditions fuel prices and other factors, and that past results regarding electricity products are not necessarily an indication of future results.

11. Agency. Customer hereby grants energy.me the authority to contract and deal with third parties (e.g., BESP and RTOs) to accomplish the terms and provisions in this Agreement. Such grant is limited to the scope of the immediately preceding sentence.

12. Notices. All notices, requests, and invoices must be furnished in writing and delivered by regular mail (including registered or certified mail, return receipt requested), electronic mail (confirmed receipt), overnight carrier, facsimile, or hand delivery.

13. Definitions. The term "**including**" means including, without limitation. All internal references are to this Agreement unless stated otherwise.

"**Actual Consumption**" means the electricity measured or reported by the LDC or estimated by energy.me for each Location.

"**Adjusted Consumption**" means the product of Actual Consumption multiplied by the Loss Factor multiplied by (1 minus the Marginal Loss De-rating Factor).

"**Ancillary Charges**" means, for each Location, all charges assessed by an RTO for services necessary to maintain reliable operation of the transmission system to support transmission of electricity from the source of generation to the points of demand.

"**ARES**" means Alternative retail Electric Supplier as defined by 220 ILCS 5/16-102.

"**Basic Electric Service Provider**" or "**BESP**" means an **ARES** or **LDC** that provides electric service to **Customers** within a **LDC's** service territory.

"**Benchmark Quantity**" means Customer's expected monthly kWh electricity consumption for the Term based on Customer Information and the 12 months of electricity consumption by Customer before the Effective Date, or for new facilities, Customer Information and electricity consumption of comparable facilities, each as may be adjusted pursuant to this Agreement. The Parties agree that the Benchmark Quantity is a reasonable estimate of electricity consumption.

"**Capacity Auction Price**" or "**CAP**" means, in any calendar month, the capacity price in effect for the then-current Planning Year, established by the RTO as a result of its periodic capacity auctions. Price changes may become effective as of the first meter read date after the start of each Planning Year. The CAP for each Location is the CAP for the Locational Deliverability Area (as defined in the RTO tariff) in which the Location is situated. If the CAP becomes unavailable or is not in effect during a calendar month in which it is required, energy.me and Customer agree to promptly negotiate a mutual satisfactory alternate capacity price ("**Alternate Capacity Price**"). During any period in which an Alternate Capacity Price is necessary, until the Alternate Capacity Price is established, the last valid and effective CAP shall continue to be the CAP.

"**Customer Information**" means information that accurately substantiates Customer's Energy Requirements forming a basis for the Contract Price and Benchmark Quantity.

"**Location(s)**" means Customer's facilities described in the Cover Page.

"**Daily DA Op Reserve Rate**" means the rate established by the RTO for the Day Ahead Op Reserve Charge in \$/kWh, published each Operating Day. If the calculation of Daily DA Op Reserve Rate is discontinued or is re-constituted by the RTO in such a manner as to render it unusable for the purposes intended by the Parties, Customer and energy.me agree to substitute an alternative mechanism that most closely reflects the Daily DA Op Reserve Rate as it was constituted at the time of execution of this Agreement.

"**Energy Requirements**" means electricity equal to 100% of the actual electricity requirements of Location(s) for the Delivery Term, not to exceed the LDC's facilities' capabilities or contravene Law.

"Force Majeure" means an event not within the reasonable control of the Party claiming suspension, not caused by the negligence of that Party, and which, by the exercise of due diligence, that Party is unable to overcome or obtain a commercially reasonable substitute therefore. Force Majeure includes a Force Majeure occurring with respect to the LDC, a suspension, curtailment, or service interruption by the LDC, or acts of terrorism, civil insurrection, war, or acts of God.

"Insolvency Event" means making an assignment or arrangement for the benefit of creditors, filing a petition, or authorizing or acquiescing in the commencement of a proceeding under Law for protection of creditors, or having a similar petition filed against it, or otherwise becoming insolvent or unable to pay debts as due.

"Interest Rate" means a rate of 1.5% per month, but the Interest Rate charged and collected will never exceed in the aggregate, taking into account all payments constituting interest under applicable Law, the maximum rate permitted by applicable Law.

"Law" means any law, statute, regulation, rule, protocol, exchange rule, decision, writ, order, decree or judgment, or any interpretation of any of them by any court, agency, or instrumentality having jurisdiction, including the RTO.

"LDC" (Local Delivery Company) means the entities that have custody of the electricity sold and purchased and own or control electric transmission or distribution equipment for transmitting or distributing electricity to a Location.

"LDC Zone" means an area within the ISO Control Area, as set forth in the RTO Open Access Transmission Tariff and the Reliability Assurance Agreement, as may be amended hereafter.

"Loss Factor" means the loss factor established by LDC and published in the LDC tariff, as adjusted from time to time by LDC. In calculating the Energy Charge, Loss Factor is the value by which Actual Consumption at each Location shall be adjusted to account for system losses. If the Loss Factor is no longer published in the LDC tariff, Customer and energy.me agree to substitute an alternative mechanism to determine the Loss Factor.

"MISO" means Midwest Independent Transmission Operator, Inc.

"Marginal Loss De-ration Factor" means the value by which Actual Consumption at each Location will be adjusted to account for system marginal losses in conjunction with the Loss Factor. The Marginal Loss De-ration Factor is computed hourly by the RTO for each zone. If the calculation of the Marginal Loss De-ration Factor is discontinued or is re-constituted by the RTO in such a manner as to render it unusable for the purposes intended by the Parties, Customer and energy.me agree to substitute an alternative mechanism that most closely reflects the Marginal Loss De-ration Factor as it was constituted at the time of execution of this Agreement.

"Network Integration Transmission Obligation" means for each Location, the demand obligation (kilowatt, "kW") used by the RTO to determine energy.me's daily transmission requirement. Any change made by the RTO to the demand obligation may become effective the first meter read following the change. If calculation of Network Integration Transmission Obligation or Unforced Capacity Obligation is discontinued or re-constituted by the RTO in a manner as to render it unusable for the purposes intended by the Parties, Customer and energy.me agree to substitute an alternative demand obligation mechanism that most closely reflects the Network Integration Transmission Obligation or Unforced Capacity Obligation, respectively, as it was constituted at the time of execution of this Agreement.

"Network Integration Transmission Rate" means for each Location, the rate set by the RTO to compensate the applicable LDC for services to allow an entity using transmission service to integrate, economically dispatch, and regulate its network resources to serve its network load in a manner comparable to that in which that LDC utilizes its transmission system to serve its native load customers, expressed in (\$/kW-day). Any change made by the RTO to the NITS rate may become effective the first meter read following the change.

"NIT Charge" means for each Location an amount equal to the product of the Network Integration Transmission Rate and the Network Integration Transmission Obligation for each day of Actual Consumption.

"Op Reserve Charge" means, for each billing period, the daily sum of the hourly Adjusted Consumption multiplied by the Daily DA Op Reserve Rate. For purposes of calculating the Op Reserve Charge, all consumption is subject to any applicable adjustments for losses and taxes.

"Operating Day" means the 24-hour period of any day from hour ending 1 (one) to hour ending 0 (zero) as defined by the ISO.

"Party" and collectively, **"Parties"**, means energy.me and Customer.

"PJM" means PJM Interconnection, L.L.C.

"Planning Year" is defined by PJM as June 1 through the following May 31.

"Public Utilities Tax" means Taxes imposed with respect to gross receipts from sale or use of Energy and utility service that vendors of Energy or utility service are required to pay under Section 2 of the Illinois Public Utilities Revenue Act, 35 ILCS 620 et seq., and/or the Illinois Public Utilities Tax, 220 ILCS 5/2-202.

"RTO" means Regional Transmission Organization, either PJM or MISO as applicable to the Locations.

"Switch" means an authorized change in Customer's electricity supplier.

"Switch Date" means for each Location the date that all actions have been taken by the LDC and RTO (i) for energy.me to sell electricity to Customer and for Customer to receive same, or (ii) for another ARES or BESP to sell electricity to Customer and for Customer to receive same, as the context requires.

"Taxes" means all federal, state, and local taxes, fees, governmental charges, and assessments, presently or hereafter imposed on Customer as purchaser of Energy, on energy.me as seller of Energy, or on the Energy Transactions, including but not limited to Illinois Public Utilities Taxes, Illinois Electricity Taxes, Illinois Distribution Taxes, Municipality taxes, Illinois State taxes, franchise taxes, municipal administrative fees on ARESs; and generation, utility, regulatory, Btu, or electricity taxes and assessments, but excluding taxes imposed on net income.

"Termination Damages" means (i) where Customer is Non-Defaulting Party, the positive difference, if any, obtained by subtracting (a) the present value of this Agreement had it not been terminated, using the Benchmark Quantity applicable to the Locations for the remaining period of the Term ("**Terminated Contract**") from (b) the present value of a replacement contract, using the Benchmark Quantity applicable to the Locations and market prices that are reasonably expected to be available in the market for the remaining period of the Term ("**Replacement Contract**"); and (ii) where energy.me is Non-Defaulting Party, the positive difference, if any, obtained by subtracting (a) the present

value of a Replacement Contract from (b) the present value of the Terminated Agreement, in each case plus Non-Defaulting Party's reasonable costs associated with the valuation of the replacement contract.

"Unforced Capacity Charge" is the amount determined by calculating the product of the Capacity Auction Price multiplied by the Unforced Capacity Obligation (kW) for each day of Actual Consumption.

"Unforced Capacity Obligation" means, for each Location, the demand obligation (kW) used by the RTO to determine energy.me's daily capacity requirement. Any change made by the RTO to the demand obligation may become effective the first meter read following the change. If calculation of Network Integration Transmission Obligation or Unforced Capacity Obligation is discontinued or re-constituted by the RTO in a manner as to render it unusable for the purposes intended by the Parties, Customer and energy.me agree to substitute an alternative demand obligation mechanism that most closely reflects the Network Integration Transmission Obligation or Unforced Capacity Obligation, respectively, as it was constituted at the time of execution of this Agreement.

"Zonal Locational Marginal Price" or **"Zonal LMP"** means the hourly integrated market clearing marginal price for energy for the Location's LDC Zone, expressed in \$/kWh as defined and published by the ISO for the real time market in PJM. If the calculation and publication of Zonal LMPs is discontinued or is re-constituted by RTO in such a manner as to render it unusable for the purposes intended by the Parties, Customer and energy.me agree to substitute an alternative mechanism that most closely reflects the Zonal LMP as it was constituted at the time of execution of this Agreement.

"Zonal Day Ahead Locational Marginal Price" or **"Zonal DA LMP"** means the hourly integrated market clearing marginal price for energy for the Location's LDC Zone in \$/kWh as defined and published by the ISO for the day ahead market in PJM. It is the Parties' intent to use Zonal DA LMP to track the actual hourly market prices for Energy available to serve Locations located within a LDC Zone. If the calculation and publication of Zonal DA LMP is discontinued or is re-constituted by the ISO in such a manner as to render it unusable for the purposes intended by the parties, Customer and energy.me agree to substitute an alternative mechanism that most closely reflects the Zonal DA LMP as it was constituted at the time of execution of this Agreement.