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RESOLUTION NO. 7-2015

A RESOLUTION AUTHORIZING THE EXECUTION OF THE NECESSARY SALES AGREEMENT(S) TO PROCURE ELECTRICITY SUPPLY IN ORDER TO "LOCK IN" AND SECURE COMPETITIVE PRICING WITH PROVIDENT ENERGY

WHEREAS, market characteristics make it necessary for the County to position itself to respond swiftly and timely to changes in market pricing and conditions.

WHEREAS, the County desires to bid its Electricity demand as part of an aggregated competitive bid managed by Provident Energy according to the terms and conditions of the Services Agreement/ Marketing And Procurement Agreement with Provident Energy, dated November 6, 2013.

WHEREAS, recommendations of electricity supplier and pricing is expected to be received by the County from Provident Energy on or about March 23, 2015. In order to "lock in" and secure competitive pricing, supply contracts must be signed by close of business the day of bid receipt.

NOW THEREFORE, IT IS HEREBY RESOLVED BY THE BOARD OF COMMISSIONERS OF DAUPHIN COUNTY, PENNSYLVANIA THAT:


Authority is hereby provided to allow Scott Burford, Deputy Chief Clerk, to execute on behalf of the Dauphin County Board of Commissioners the necessary sales agreement(s) to procure electricity supply In order to "lock in" and secure competitive pricing by close of business the day of bid receipt. It is understood that supply contracts must be signed as part of the lock-in, therefore the authority extends to terms and general pricing options as part of the requisite 12, 24 or 36 months bid package allowing the best rate.

ADOPTED AND RESOLVED, by the Board of Commissioners of Dauphin County, Pennsylvania, in lawful session duly assembled, on the 11 day of March 2015.

ATTEST:



Chad Saylor
Chief Clerk/Chief of Staff

DAUPHIN COUNTY
BOARD OF COMMISSIONERS


Jeffrey T. Haste, Chairman



Michael Pries, Vice Chairman



George P. Hartwick, III, Secretary

(SEAL)



RETAIL ELECTRICITY AGREEMENT

This Retail Electricity Agreement ("Agreement") sets forth the terms and conditions for the sale of electricity from Seller to Buyer. This Agreement authorizes a change to, or a continuation of Seller as, Buyer's supplier of electricity. It consists of two parts, the Purchase Order and the Terms and Conditions. If there is a conflict between the Purchase Order and the Terms and Conditions, the Purchase Order shall control. **Buyer must return an executed Agreement to Seller by 4:00 pm on 3/24/2015 or the Contract Price shall be invalid and of no effect. Seller is not bound by this Agreement until it has been signed below.**

PART I: PURCHASE ORDER

BUYER AND SELLER INFORMATION

Buyer: County of Dauphin	Seller: PPL EnergyPlus, LLC	
Buyer Contact: Scott Burford Phone: (717) 780-6307 Fax (717) 257-1604 Email: sburford@dauphin.org	Seller Account Manager: Annette Durnack Phone: 610-774-3182 Fax: 484-801-1434 Email: AMDurnack@pplweb.com Customer Care Center: 888-289-7693	
Buyer Business Address: 101 Market St, Room 106 Harrisburg, PA 17101	Seller Business Address: Two North Ninth Street Allentown, PA 18101-1179	
Buyer Notice Address: 101 Market St, Room 106 Harrisburg, PA 17101	Seller Notice Address: Two North Ninth Street Allentown, PA 18101-1179 Attn: Contract Administration (GENPL7)	
Buyer Account ID (Seller Internal Use Only):	Payment to Seller by wire: BNY Mellon, Pittsburgh, PA Account Number: 38561490 ABA Number: 021052053	Payment to Seller by mail: P.O. Box 9001660 Louisville, KY 40290-1660 Phone: 1-800-281-2000

COMMERCIAL TERMS

Contract Price	6 527 ¢/kwh + Reliability Must Run (RMR) charges + GRT + all applicable taxes
Delivery Point	PPL Zone (PJM)
Delivery Period	
▪ Target Start Month/ Target Start Date	1/2016
▪ Contract Length (months)	24
Facility Billing Address	101 Market St, Room 106 Harrisburg, PA 17101
Total Number of Accounts	39
Special Provisions	<ul style="list-style-type: none"> ▪ This Agreement will automatically renew on a month to month basis until EDC notifies Seller all the Accounts have been dropped or it is terminated by either party on 30 days' prior written notice at the price Hourly LMP Charge + Passthrough Costs + Reliability Must Run (RMR) charges + 0.999 ¢/kWh (Adder) + GRT + all applicable taxes. Seller reserves the right to increase the amount of the Adder at any time during this renewal term ▪ Contract Price applies to total metered quantity actually received by Buyer during any month exceeding 0% of Contract Quantity but less than 200% of Contract Quantity ▪ If the metered quantity actually received by Buyer from Seller at any EDC Account during any month exceeds 200% of the Contract Quantity specified for that EDC Account for that month (including quantities delivered in any month for which no Contract Quantity has been specified), Buyer shall pay Seller for each such kWh an



	<p>amount equal to the sum of the Hourly LMP Charge + Passthrough Costs + Reliability Must Run (RMR) charges + 0.999 ¢/kWh (Adder) + GRT + all applicable taxes.</p> <ul style="list-style-type: none"> ■ If the metered quantity actually received by Buyer from Seller at any EDC Account during any month is less than 0% of the Contract Quantity specified for that EDC Account for that month, Buyer shall pay the Contract Price for 0% of the Contract Quantity specified for that EDC Account for that month and Seller shall credit Buyer with an amount equal to the Hourly LMP Charge for the amount of such shortfall. ■ With 30 days advanced written notice to Seller, Buyer may add or drop accounts without change to the Contract Price, provided the total metered quantity actually received by Buyer is not less than 90% of Contract Quantity but does not exceed 110% of Contract.
<p>PA State Sales Tax Status</p>	<p>Is the Facility exempt from PA State Sales Tax? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If Yes, please provide exemption percentage and a copy of the PA state sales tax exemption certificate for the Facility.</p>

* Account Information for 39 accounts follows



COMMERCIAL TERMS (cont)

Buyer Name: County of Dauphin

Account Reference	EDC Account Number	EDC	Rate Type	Premise Address	Sales Tax Exempt	Exempt % (Default exemption is zero.)
1	0035062018	PPL	GS1	1025 Peters Mountain Rd, Dauphin, PA 17018	<input type="checkbox"/>	
2	0115206016	PPL	GS1	102 Agnes St, Harrisburg, PA 17102	<input type="checkbox"/>	
3	0413101014	PPL	GS1	538 S 29th St, Harrisburg, PA 17104	<input type="checkbox"/>	
4	0627149044	PPL	GS3	1100 South Cameron Street, Harrisburg, PA 17104	<input type="checkbox"/>	
5	1288067015	PPL	GS3	25 S Front St, Harrisburg, PA 17101	<input type="checkbox"/>	
6	1348067015	PPL	GS3	Front and Market St, Harrisburg, PA 17101	<input type="checkbox"/>	
7	1368067011	PPL	GS3	2nd and Market St, Harrisburg, PA 17101	<input type="checkbox"/>	
8	1382775010	PPL	GS1	573 E Main St, Hummelstown, PA 17036	<input type="checkbox"/>	
9	1408067015	PPL	GS3	112 Market St, Harrisburg, PA 17101	<input type="checkbox"/>	
10	1514065001	PPL	GS1	Rt 225 and Rt 325, Dauphin, PA 17018	<input type="checkbox"/>	
11	2383369008	PPL	GS1	Ellendale Forge, 911 Twr, Dauphin, PA 17018	<input type="checkbox"/>	
12	2493741005	PPL	GS3	919 Gibson Blvd, Steelton, PA 17113	<input type="checkbox"/>	
13	2898074016	PPL	GS3	1520 Walnut St, Harrisburg, PA 17105	<input type="checkbox"/>	
14	3411061029	PPL	GS1	1281 S 28th St, Harrisburg, PA 17111	<input type="checkbox"/>	
15	3460138008	PPL	GS1	Irrigation Pump House, Wisconsin Park, Millersburg, PA 17061	<input type="checkbox"/>	
16	3471061018	PPL	LP4	28th and Pexton St, Harrisburg, PA 17111	<input type="checkbox"/>	
17	3727966002	PPL	GS1	100A Wildwood Pk Dr, Garage, Harrisburg, PA 17110	<input type="checkbox"/>	
18	3837964005	PPL	GS1	Heckton Church, 5260 N Front St, Harrisburg, PA 17110	<input type="checkbox"/>	
19	5319086000	PPL	L4L	100 Wildwood Way, Harrisburg, PA 17110	<input type="checkbox"/>	
20	6040111015	PPL	GS1	Reservoir Park, 18th and Walnut St, Harrisburg, PA 17103	<input type="checkbox"/>	



21	6233083019	PPL	GS1	Manor Rd RR 1 Box 440A, Elizabethtown, PA 17023	<input type="checkbox"/>
22	6640133004	PPL	GS1	Romberger and Water Company Rd, Millersburg, PA 17061	<input type="checkbox"/>
23	6691080016	PPL	GS1	4013 State Rd, Lykens, PA 17048	<input type="checkbox"/>
24	6692063019	PPL	GS1	5201 Jonestown Rd, 1st Flr, Harrisburg, PA 17112	<input type="checkbox"/>
25	7417321028	PPL	GS3	245 State Dr, Elizabethtown, PA 17023	<input type="checkbox"/>
26	7671062013	PPL	GS3	911 Gibson Blvd, Steelton, PA 17113	<input type="checkbox"/>
27	7711062017	PPL	GS3	919 Gibson Blvd, Harrisburg, PA 17113	<input type="checkbox"/>
28	8891077006	PPL	GS1	Glenn Rd, Lykens, PA 17048	<input type="checkbox"/>
29	9252064019	PPL	GS1	105 Fort Hunter Rd, Harrisburg, PA 17109	<input type="checkbox"/>
30	9312064019	PPL	GS1	5395 N Front St, Harrisburg, PA 17110	<input type="checkbox"/>
31	9352064002	PPL	GS1	100 Ft Hunter Rd, Harrisburg, PA 17110	<input type="checkbox"/>
32	9372064008	PPL	GS1	113 Fort Hunter Rd, Harrisburg, PA 17110	<input type="checkbox"/>
33	9451659009	PPL	GS1	1 Laurel Ln, Millersburg, PA 17061	<input type="checkbox"/>
34	9526063015	PPL	GS1	2967 N 7th St, Harrisburg, PA 17110	<input type="checkbox"/>
35	9652064017	PPL	GS1	Main Bldg Fort Hunter, 5415 N Front St, Harrisburg, PA 17110	<input type="checkbox"/>
36	9672064013	PPL	RS	Apt 2, 5415 N Front St, Harrisburg, PA 17110	<input type="checkbox"/>
37	9692064064	PPL	RS	Apt 1, 5415 N Front St, Harrisburg, PA 17110	<input type="checkbox"/>
38	9712064017	PPL	GS1	Old Bait Shop, 5415 N Front St, Harrisburg, PA 17110	<input type="checkbox"/>
39	9752064000	PPL	GS1	103 Fort Hunter Rd, Harrisburg, PA 17109	<input type="checkbox"/>



Buyer: County of Dauphin
 Contract Quantity: Buyer confirms the following quantities to be purchased from Seller at the Contract Price are representative of Buyer's historical monthly volumes and that Buyer has no reason to believe its usage during the Delivery Period will materially vary from the following

Monthly Quantities in kWh

Account Reference	EDC Account Number	January	February	March	April	May	June	July	August	September	October	November	December
1	0035062018	2,805	2,748	2,643	2,486	2,571	2,809	2,956	2,855	2,651	2,419	2,502	2,837
2	0115206016	3,105	3,041	2,926	2,752	2,845	3,109	3,272	3,160	2,945	2,677	2,770	3,140
3	0413101014	4,982	4,881	4,696	4,417	4,586	4,990	5,251	5,071	4,727	4,297	4,444	5,039
4	0627149044	34,522	33,819	32,536	30,603	31,641	34,577	36,386	35,136	32,751	28,772	30,797	34,919
5	1288057015	102,469	100,382	96,575	90,838	93,919	102,631	108,002	104,291	97,213	88,370	91,411	103,649
6	1348067015	99,719	97,687	93,983	88,399	91,398	99,876	105,103	101,492	94,603	85,998	88,959	100,866
7	1368067011	127,564	124,966	120,227	113,084	116,920	127,766	134,452	129,832	121,020	110,012	113,798	129,033
8	1382775010	3,677	3,603	3,466	3,260	3,371	3,683	3,876	3,743	3,489	3,171	3,281	3,720
9	1408067015	62,698	61,421	59,092	55,581	57,467	62,797	66,084	63,813	59,482	54,072	55,932	63,420
10	1514065001	21,197	20,765	19,978	18,791	19,428	21,231	22,342	21,574	20,110	18,281	18,910	21,441
11	2383369008	2,420	2,371	2,281	2,146	2,218	2,424	2,551	2,463	2,296	2,087	2,159	2,448
12	2493741005	46,159	45,228	43,513	40,923	42,316	46,242	48,661	46,989	43,800	39,816	41,186	46,700
13	2898074016	7,350	7,200	6,927	6,516	6,737	7,362	7,747	7,481	6,973	6,339	6,557	7,435
14	3411061029	1,311	1,284	1,235	1,162	1,201	1,313	1,381	1,334	1,243	1,130	1,169	1,326
15	3460138006	1	1	1	1	1	1	1	1	1	1	1	1
16	3471061018	307,199	300,941	289,529	272,327	281,566	307,684	323,786	312,561	291,439	264,930	274,048	310,735
17	3727396002	13	13	12	11	12	13	14	13	12	11	12	13
18	3837964005	185	182	175	164	170	186	196	189	176	150	155	188
19	5319086000	7,113	6,988	6,704	6,306	6,520	7,125	7,497	7,240	6,748	6,135	6,346	7,195
20	6040111015	3,320	3,253	3,129	2,943	3,043	3,326	3,500	3,379	3,150	2,863	2,962	3,359
21	6233083019	5,665	5,550	5,340	5,022	5,193	5,674	5,971	5,766	5,375	4,886	5,054	5,731
22	6640133004	77	75	73	68	71	77	81	78	73	69	69	78
23	6691080016	5	5	5	5	5	5	5	5	5	4	5	5
24	6692063019	1,547	1,516	1,458	1,371	1,418	1,549	1,631	1,575	1,468	1,334	1,360	1,565
25	7417321028	16,869	16,525	15,899	14,954	15,462	16,896	17,780	17,169	16,004	14,548	15,049	17,063
26	7671062013	95,732	93,782	90,226	84,865	87,744	95,883	100,901	97,434	90,821	82,560	85,401	96,834
27	7711062017	50,695	49,662	47,779	44,940	46,465	50,775	53,432	51,596	48,094	43,720	45,224	51,278
28	8891077006	1	1	1	1	1	1	1	1	1	1	1	1
29	9252064019	346	339	326	307	317	346	365	352	328	298	309	350



30	9312064018	279	273	247	255	279	294	283	264	240	248	282
31	9352064002	1,516	1,486	1,344	1,390	1,519	1,598	1,543	1,439	1,308	1,353	1,534
32	9372064008	1,185	1,161	1,051	1,086	1,187	1,249	1,206	1,125	1,022	1,057	1,199
33	9451559009	3,652	3,577	3,237	3,347	3,658	3,849	3,717	3,465	3,149	3,258	3,694
34	9526063015	3,366	3,297	2,954	3,085	3,371	3,548	3,426	3,193	2,903	3,003	3,405
35	9652064017	9	9	8	8	9	9	9	8	8	8	9
36	9672064013	1	1	1	1	1	1	1	1	1	1	1
37	9692064064	7	7	6	6	7	7	7	6	6	6	7
38	9712064017	1	1	1	1	1	1	1	1	1	1	1
39	9752064000	248	243	220	227	248	261	252	235	214	221	251
Estimated Total		109,621	98,265	96,740	98,397	102,651	107,403	103,156	96,746	87,681	96,905	100,751



Disclosure Statement:

PPL EnergyPlus, LLC is an unregulated subsidiary of PPL Corporation. PPL EnergyPlus, LLC is not the same company as PPL Electric Utilities Corporation, the electric utility. The prices of PPL EnergyPlus, LLC are not regulated by the Pennsylvania Public Utility Commission, and you do not have to buy electricity or other products from PPL EnergyPlus, LLC in order to receive the same quality regulated services from PPL Electric Utilities Corporation

BUYER: County of Dauphin

By: *J Scott Burford*
Name: *J Scott Burford*
Title: *Deputy Chief Clerk*

SELLER: PPL EnergyPlus, LLC

By: *Annette M. Durnack*
Name: **Annette M. Durnack**
Title: **Director - Retail Energy**

Effective as of the date first above written



PART II: TERMS AND CONDITIONS

1. Definitions. Capitalized terms not defined in these Terms and Conditions have the meaning set forth in the Purchase Order.

"Adder" means a price for all costs (except LMP and Passthrough Costs) to supply Buyer Electricity, including but not limited to ancillary services, green costs and Seller's administrative costs, expressed in $\$/kWh$.

"Bundled Adder" means a price for all costs (except LMP) to supply Buyer Electricity, including but not limited to capacity, transmission, ancillary services, green costs and Seller's administrative costs, expressed in $\$/kWh$.

"Commencement Date" means with respect to each account listed in the Purchase Order the later of (i) Buyer's first meter reading made by the EDC after Buyer becomes eligible to receive service from Seller under the EDC's retail access program; or (ii) the date on which Seller is authorized to supply Electricity to Buyer under the EDC's retail access program, but in any event, the Commencement Date shall occur no earlier than one (1) month prior to the Target Start Month.

"Contract Price" means the amounts specified in Part I hereof, Purchase Order.

"Delivery Point" means the PJM zonal Delivery Point at which the EDC receives the Electricity as set forth in the Purchase Order.

"EDC" means the electric distribution company that provides the electric lines, both above ground and below ground, that deliver the Electricity to the Facility

"EGS" means an electric generation supplier that is permitted to sell Electricity to customers in Pennsylvania

"Electricity" means the electricity that Buyer is purchasing from Seller pursuant to this Agreement and that will be delivered to the Delivery Point by Seller.

"Facility" means the commercial or industrial facility of Buyer at the address(es) set forth in the Purchase Order.

"Force Majeure" means an event which is not within the reasonable control of, and not due to the fault or negligence of, the party claiming suspended performance, and which, by the exercise of due diligence such party is unable to overcome or avoid or cause to be avoided. Force Majeure includes: (i) physical events such as flood, tornado, hurricane, other unusually severe storm, lightning, earthquake, fire, explosion, (ii) interruption of firm transmission by any transmission provider; (iii) acts of others such as strikes, lockouts or other industrial disturbances, riots, sabotage, insurrections, terrorism or war and (iv) order by any governmental authority.

"Gross Receipts Tax" or "GRT" means the tax imposed upon the Seller's gross receipts derived from sales of electric energy to retail electric customers in the Commonwealth of Pennsylvania, but does not include gross receipts from sales for resale to persons subject to the tax imposed upon gross receipts, or gross receipts from sales that are otherwise exempt under section 1101 of the Tax Reform Code of 1971 (72 P. S. § 8101)

"Hourly LMP Charge" or "Hourly Locational Marginal Price Charge" means the cost to serve each Buyer's kWh of load at the Delivery Point, as determined for the applicable location and time period in the PJM Interconnection, L.L.C. ("PJM") day ahead hourly energy market increased by the Buyer's appropriate loss factor.

"kW" means kilowatt and "kWh" means kilowatt-hour.

"Passthrough Costs" means all capacity and transmission charges as charged to Seller by PJM for supply of Electricity to Buyer.

"PLR Service" means electric generation service provided by the supplier of last resort.

"PUC" means the Pennsylvania Public Utility Commission and any successor thereto

"Target End Month" means, with respect to each account listed in the Purchase Order, the billing month during which service for that particular account under this Agreement is scheduled to end and the final meter read is to be taken. Buyer acknowledges that service may end following the Target End Month due to circumstances outside of Seller's control, including, without limitation, the action (or inaction) of Buyer's EDC in reading Buyer's meter.

"Target Start Month" shall mean, with respect to each account listed in the Purchase Order, the month set forth in the column specified on the Purchase Order. The Target Start Month is the billing month during which the parties anticipate service for that particular account under this Agreement will begin. While the parties will endeavor to have service under this Agreement begin during the Target Start Month, Buyer acknowledges that service may actually begin following the Target Start Month or in the month immediately prior to the Target Start Month due to circumstances outside of Seller's control, including without limitation the action (or failure to act) of Buyer's EDC in enrolling Buyer or reading Buyer's meter. Buyer agrees that in the event service for any particular account begins in the month prior to the Target Start Month, Buyer will make no claim that such event constitutes an improper switching of Buyer's supplier of electricity pursuant to the regulations of the PUC governing Standards for Changing a Buyer's Electricity Generation Supplier (52 Pa Code Chapter 57, Subchapter M), and Buyer agrees to be liable to pay for any service provided by Seller at the prices specified in the Purchase Order for such event.

"Target Start Date" shall mean, with respect to each account listed in the Purchase Order, the date set forth in the column specified on the Purchase Order. The Target Start Date shall fall within the month in which Buyer and Seller anticipate service to commence under



PPL EnergyPlus

this Agreement for a particular account. While the parties anticipate that service under this Agreement will begin on the Target Start Date, Buyer acknowledges that service may in fact begin on a date before or after the Target Start Date due to circumstances outside of Seller's control, including without limitation the action (or failure to act) of Buyer's EDC in enrolling Buyer or reading Buyer's meter.

Buyer agrees that in the event service for any particular account begins prior to the Target Start Date, Buyer will make no claim that such event constitutes an improper switching of Buyer's supplier of electricity pursuant to the regulations of the PUC governing Standards for Changing a Buyer's Electricity Generation Supplier (52 Pa. Code Chapter 57, Subchapter M), and Buyer agrees to be liable to pay for any service provided by Seller at the prices specified in the Purchase Order for such event.

"Termination Date" means, with respect to each account listed in the Purchase Order, the date during the Target End Month on which the final meter read (or estimate) under this Agreement is taken by the EDC, or if there is no final meter read (or estimate) during the Target End Month, the date during the next succeeding month on which the final meter read (or estimate) is taken by the EDC

2 Sale and Purchase Commencing as of the Commencement Date, Seller shall sell and deliver, or be responsible for delivery of and Buyer shall purchase and receive its full Electricity requirements at the Facility through the end of the Delivery Period. The Contract Price includes the Electricity and associated costs of delivering the Electricity to Buyer's EDC for delivery to Buyer and will be applied to the total kWhs of Electricity usage purchased from Seller as metered (or estimated) by Buyer's EDC during each billing period. If the EDC's meter read or billing cycle ("EDC Cycle") is not a calendar month, Seller may adjust the monthly periods in the Delivery Period to align to the extent practical to the EDC Cycle to begin during the Target Start Month or on the Target Start Date and to end during the Target End Month. In the event that service continues beyond the Target End Month for any reason, Buyer agrees that it will continue to be liable to pay for any service provided by Seller at the prices specified in the Purchase Order.

The sole and exclusive remedy of the parties for breach of the obligations in this Section 2 of Seller to deliver and of Buyer to receive Electricity shall be recovery of either of the following (i) in the event of a breach by Seller, Seller shall reimburse Buyer the commercially reasonable amount paid by Buyer to replace undelivered quantities, plus any applicable EDC penalties associated with non-delivery by Seller, minus an amount equal to the Contract Price multiplied by such undelivered quantities, or (ii) in the event of a breach by Buyer, Buyer shall pay Seller an amount equal to the Contract Price multiplied by the nonreceived quantities less any commercially reasonable amount received by Seller through resale of the nonreceived quantities plus any applicable EDC penalties associated with non-receipt by Buyer. The amount as calculated above shall be payable five business days after presentation of the performing party's invoice, which shall set forth the basis upon which such amount was calculated

3 Buyer Obligations. Buyer shall provide Seller cooperation and assistance as Seller reasonably requests in connection with this Agreement, including signing authorizations for the EDC. Buyer shall (i) make and maintain all arrangements with the EDC so that delivery service is provided to the Facility by the EDC; (ii) keep Seller informed of any material changes in its usage (cessation of all usage at any one account shall be deemed to be material), (iii) notify Seller whenever Buyer plans to commit to reduce its consumption for any reason, including but not limited to demand response, energy efficiency or the like, and (iv) reimburse Seller, in addition to all amounts due under Sections 9 and 10, for all costs and expense Seller incurs as a direct or indirect result of Buyer's failure under either (ii) or (iii) above. Buyer expressly acknowledges that Seller has no financial or other obligation relating to EDC delivery service.

Buyer understands that by executing this Agreement, Seller will be provided certain basic information about Buyer by the EDC, including, but not limited to, account number, data about meter readings, rate class and electric usage, Buyer's address(es) and telephone number, and whether or not Buyer is on a budget billing plan or payment arrangement or as otherwise approved by the PUC Bureau of Consumer Services. Buyer further understands that the EDC is required by PUC to communicate with Buyer following a notice of change of EGS to confirm the change was authorized and that such communication may indicate that Buyer may cancel or rescind the change within a certain period of time. Buyer acknowledges that a change to (or continuation of) Seller as EGS is authorized by this Agreement, that such notice does not afford Buyer an opportunity to rescind a duly executed supply agreement without penalty and that a cancellation or rescission in response to such notice would be an Event of Default by Buyer hereunder

4. Price Buyer shall pay Seller for the Electricity at the Contract Price, plus all other charges provided for in the Purchase Order

5. Payment Terms Seller or the EDC shall invoice Buyer monthly, or in accordance with the EDC rules, for Electricity delivered to the Delivery Point in the preceding month. Buyer shall pay the amount of each invoice either in accordance with the EDC's payment terms or on or before the twentieth day after the applicable invoice date. If Buyer does not pay the invoice, or a party does not pay any other amounts as and when due hereunder, including a Termination Amount, by the applicable due date, then the non-paying party shall (i) pay interest on any overdue amounts at the lesser rate of 1.5% per month or the highest rate permitted by law until paid in full

All invoices and billings issued by Seller or EDC are conclusively presumed final and accurate unless objected to in writing, with detailed supporting explanation and documentation, within six months after the date of the applicable invoice or billing. If Buyer disputes any invoice, Buyer shall nonetheless timely pay the undisputed portion, as well as all charges and fees imposed by the EDC.

6. Taxes. Seller shall bill and collect from Buyer sales and use taxes, including any Gross Receipts Tax, to the extent that such taxes are or become applicable. Upon billing by Seller, Buyer shall promptly pay the amount of such taxes to Seller, and Seller will report and remit such taxes to the appropriate governmental authority. In the event Buyer is exempt, in whole or in part, from state and local taxes, Buyer must provide Seller a copy of the applicable tax exemption certificate. Seller shall collect taxes until Buyer has provided Seller such certificate. Buyer represents and warrants that any tax exemption certificate delivered hereunder shall, at the time of



delivery, set forth the proper amount of the applicable exemption, and Buyer agrees to promptly notify Seller of any changes in such exemption. Failure to provide Seller the relevant tax exemption certificate will result in full sales and use taxes being assessed against Buyer. Buyer shall indemnify and hold harmless Seller from any and all losses or claims arising from or related to Seller's reliance on Buyer's tax exemption certificate.

Seller shall be responsible for all applicable taxes imposed on, or with respect to, Electricity prior to the delivery to the Delivery Point. Buyer shall pay, or cause to be paid, all other taxes or fees imposed on, or with respect to, Electricity upon and after its delivery to the Delivery Point, including, without limitation, any and all federal, state, or local taxes or fees that may be imposed by any valid taxing authority on any transaction undertaken pursuant to this Agreement. If any such taxes that are the responsibility of Buyer are required to be paid by Seller, Buyer agrees to promptly reimburse Seller for such payment.

7. Title, Indemnity and Disclaimer. Title to Electricity shall pass from Seller to Buyer at the Delivery Point. Between Buyer and Seller, Seller will be liable for risk of loss of Electricity prior to its delivery at the Delivery Point, and Buyer will be liable for risk of loss of Electricity at and after its delivery to the Delivery Point. Further, as between the parties, each party shall indemnify, defend and hold harmless the other party from and against any claims, liabilities, losses or costs (including reasonable attorneys' fees) arising from or out of any event, circumstance, act or incident first occurring or existing during the period when title to Electricity is vested in such party. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN SECTION 17 OF THESE TERMS AND CONDITIONS, EACH PARTY HEREBY DISCLAIMS ANY AND ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, OF ANY KIND WHATSOEVER. SELLER HEREBY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO ELECTRICITY INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

8. Term. The term of this Agreement shall begin on the date Seller executes this Agreement and shall remain in effect until the expiration of the Delivery Period, including any period after the Delivery Period prior to the EDC meter read transferring service to another EGS or PLR Service. Seller shall have no obligation to provide Buyer notice of the expiration of this Agreement but shall have the right following any termination or expiration of this Agreement, to the extent allowed by applicable law, to cause any remaining Facility to be transferred by the EDC to either a new EGS selected by Buyer or PLR Service.

9. Events of Default. It shall be an event of default (an "Event of Default") under this Agreement if a party (i) makes an assignment or any general arrangement for the benefit of creditors; (ii) files a petition or otherwise commences, authorizes, or acquiesces to a proceeding under any bankruptcy law or has a bankruptcy petition filed or proceeding commenced against it; (iii) has a liquidator, administrator, receiver or similar official appointed with respect to a substantial portion of its assets, (iv) otherwise becomes bankrupt or insolvent (however evidenced), including general inability to pay debts as due, (v) fails to pay any amount due under this Agreement, which failure is not cured within 3 days after notice of such failure, (vi) fails to perform any non-payment material obligation hereunder, which failure is not cured within 30 days after notice of such failure, or (vii) in the case of Buyer, fails to provide Performance Assurance in accordance with Section 14.

10. Termination. Upon the occurrence of any Event of Default, the non-defaulting party shall have the right to terminate this Agreement by providing a notice of termination to the defaulting party designating a day, no earlier than the day of such notice and no later than 10 days after such notice, as an early termination date ("Early Termination Date") for the liquidation and termination of this Agreement. On the Early Termination Date, this Agreement will terminate and be valued in accordance with Section 11. In addition, if Buyer is the defaulting party, Seller may, without prejudice to its other remedies under this Agreement or applicable law, suspend deliveries of Electricity to Buyer hereunder and transfer each Facility to PLR Service or another EGS to the extent allowed by applicable law, provided that Buyer shall remain liable to pay Seller for service provided hereunder until the date of such transfer. Each party reserves to itself all rights of set-off, counterclaim, and other defenses to which it is or may be entitled under applicable law. All rights and obligations of the parties that must survive termination in order to give full force and effect to the terms of this Agreement shall so survive.

11. Termination Amount. As of the Early Termination Date, the non-defaulting party shall determine, in good faith and in a commercially reasonable manner, (i) the amount owed (whether or not then due) by each party with respect to all Electricity delivered and received before, on or after the Early Termination Date and all other applicable charges relating to such deliveries and receipts (including any amounts owed under Section 2), for which payment has not yet been made and (ii) the Market Value, as defined below, of this Agreement. The non-defaulting party shall (x) liquidate and accelerate this Agreement at its Market Value, so that an amount equal to the difference between the Market Value and the Contract Value, as defined below, of this Agreement shall be due to Buyer if such Market Value exceeds the Contract Value and to Seller if the opposite is the case (no amount shall be due to the defaulting party under this subsection (x) and if such would be the case the resulting amount shall be deemed to be zero); and (y) where appropriate, discount each amount then due under clause (x) above to present value in a commercially reasonable manner as of the Early Termination Date (to take account of the period between the date of liquidation and the date on which such amount would have otherwise been due pursuant to this Agreement).

For purposes of this Section, "Contract Value" means the amount of Electricity remaining to be delivered under this Agreement based on the remaining months in the Delivery Period ("Remaining Contract Quantity") multiplied by the Contract Price, and "Market Value" means the Remaining Contract Quantity multiplied by the market price for a similar transaction determined by the non-defaulting party in a commercially reasonable manner. To ascertain the Market Value, the non-defaulting party may consider, among other valuations,



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quotations from leading dealers in energy swap contracts or physical electricity trading markets, similar sales or purchases and any bona fide third-party offers, all adjusted for the length of the term and differences in Delivery Point. A party shall not be required to enter into a replacement transaction in order to determine the Market Value. The non-defaulting party shall net or aggregate, as appropriate, any and all amounts owing between the parties under this Section, so that all such amounts are netted or aggregated to a single liquidated amount payable by the defaulting party to the non-defaulting party (the "Termination Amount")

At its sole option and without prior notice to the defaulting party, the non-defaulting party may setoff (i) any Termination Amount owed to the non-defaulting party against any payment security or other collateral held by it in connection with this Agreement or (ii) any amount payable to the defaulting party against any amount payable by the defaulting party to the non-defaulting party under any other agreement or arrangement between the parties. If any obligation that is to be included in any netting, aggregation or setoff pursuant to this Section is unascertained, the non-defaulting party may in good faith estimate that obligation and net, aggregate or setoff, as applicable, in respect of the estimate, subject to the non-defaulting party accounting to the defaulting party when the obligation is ascertained. Any amount not then due which is included in any netting, aggregation or setoff pursuant to this Section shall be discounted to net present value in a commercially reasonable manner determined by the non-defaulting party. As soon as practicable after a termination, the non-defaulting party shall give notice to the defaulting party including reasonable explanation of the calculation of the Termination Amount.

The Termination Amount shall be paid by the close of business on the second business day following such notice, which date shall not be earlier than the Early Termination Date. The non-defaulting party's remedies under this Section shall be the sole and exclusive remedies of the non-defaulting party with respect to the occurrence of an Early Termination Date.

12. Limitation of Liability. The parties confirm that the express remedies and measures of damages in this Agreement satisfy its essential purposes. For breach of any provision for which an express remedy or measure of damages is provided, such express remedy or measure of damages shall be the sole and exclusive remedy. If no remedy or measure of damages is expressly provided, a party's liability shall be limited to direct actual damages. In either case, all other remedies at law or in equity are waived, including incidental, punitive, special, exemplary, indirect or consequential damages, including lost profits and business interruption damages, whether arising by statute, in tort or contract or otherwise. To the extent damages under this Agreement are liquidated, the parties acknowledge that such damages are difficult or impossible to determine and constitute a reasonable approximation of the harm or loss.

13. Confidentiality. Neither party may disclose to a third party the terms of this Agreement or any confidential information of the other party relating to this Agreement, other than to the extent necessary to perform its obligations under this Agreement, as may be authorized in this Agreement or as may be required by applicable law. Each party shall be permitted to disclose such information to (a) its officers, managers, directors, employees, agents, accountants, attorneys, consultants and affiliates to the extent such persons or entities need to know such information and agree to keep such information confidential in accordance with this Agreement, (b) current and prospective lenders, purchasers or similar parties who have entered into a non-disclosure agreement and their advisors, counsel and consultants agree to keep such information confidential and (c) as required by applicable law or to any national securities exchange or similar entity as required by the rules of such entity, provided that the disclosing party uses commercially reasonable efforts to obtain confidential treatment of such information. The obligations imposed by this Section 13 shall survive for a period of two years after the earlier to occur of the expiration or termination of this Agreement.

14. Credit. To the extent not provided by Buyer to Seller within 5 business days of Seller's request therefor, Buyer hereby authorizes Seller to obtain credit information regarding Buyer (including from the EDC that provides service to Buyer and its facilities) and to make such inquiries as Seller considers to be necessary to obtain such credit information. On request from Seller, Buyer will cooperate fully to provide such credit information from Buyer's bank. If Seller has reasonable grounds for insecurity regarding Buyer's creditworthiness, Seller may require, in its sole discretion and without prejudice to other legal and equitable remedies, that Buyer provide payment security in an amount and form reasonably satisfactory to Seller ("Performance Assurance"). Buyer shall provide such Performance Assurance within three business days after Seller's request for same.

15. Waiver of Jury Trial. EACH PARTY TO THIS AGREEMENT KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ITS RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY ACTION OR OTHER LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT.

16. Force Majeure. If a party is unable due to Force Majeure to perform its obligations under this Agreement and that party provides notice thereof to the other party as soon as practicable after its occurrence, the obligations of the party affected by the Force Majeure (other than the payment of amounts due and owing hereunder) shall be suspended for the duration of the Force Majeure event. The Delivery Period shall not be extended due to any event of Force Majeure.

17. Representations and Warranties. Each party represents and warrants to the other that (a) it has the power and authority to perform this Agreement; and (b) the execution, delivery and performance of this Agreement has been duly authorized by all necessary action and this Agreement is its legal, valid and binding obligation. In addition, Buyer represents and warrants to Seller that (i) it is a non-residential business customer that does not receive service under a small commercial, small industrial or small business rate classification and has a maximum registered peak load in excess of 25 kW within the last 12 months, (ii) it is a commercial user of Electricity, (iii) it is acting as principal and not as agent for any other party, (iv) it is entering into this Agreement with a full understanding of the risks thereof and (v) it understands that the Electricity usage and related information it has provided to Seller forms the basis for



the economic terms and conditions of this Agreement and to the best of its knowledge such information is true and accurate as of the date furnished to Seller.

18. Assignment. No assignment of this Agreement, in whole or in part, may be made without the prior written consent of the non-assigning party, which consent shall not be unreasonably withheld, conditioned or delayed, and any attempted assignment in violation of the foregoing is void, provided that without the other party's prior approval but upon prior written notice (a) either party may assign this Agreement to an affiliate (b) Buyer may assign this Agreement to the purchaser or lessor of the Facility, (c) Seller may assign this Agreement (i) in connection with a financing transaction, (ii) to any entity succeeding to all or a substantial portion of Seller's assets, and (iii) in connection with a sale or other transfer of this Agreement to any entity, provided that in the case of items (a), (b) and (c)(ii), (x) the creditworthiness of the assignee or successor is, in the reasonable judgment of the non-assigning party, equal to or better than that of the assigning party and (y) the assignee agrees in writing to assume this Agreement in all respects. Upon any permitted assignment under items (a), (b), (c)(ii) and (c)(iii) the assigning party shall be released from any further obligations under this Agreement except for payment of amounts accrued or due prior to the date of such assignment.

19. Recordings. Unless a party expressly objects to a recording at the beginning of a telephone conversation, each party consents to the creation of a tape or electronic recording of all telephone conversations between the parties to this Agreement, and that any such recordings will be retained in confidence, secured from improper access, and may be submitted in evidence in any proceeding or action relating to this Agreement. Each party waives any further notice of such monitoring or recording, and agrees to notify its officers and employees of such monitoring or recording and to obtain any necessary consent of such officers and employees.

20. Miscellaneous. All matters arising under or related to this Agreement shall be governed by the laws of the Commonwealth of Pennsylvania, without reference to its choice of law rules. If a change in any law or regulation is enacted, promulgated, modified or repealed on a temporary or permanent basis after the date of this Agreement, the EDC or independent system operator alters market structure, rules or Delivery Point, which results in new or modified fees, costs of performance or other charges being incurred by Seller and other market participants, including but not limited to changes that increase transmission, delivery or other market charges incurred by retail suppliers or changes to the Delivery Point at which Buyer electricity consumption is settled by the EDC, such as zonal to nodal, then Seller may reasonably allocate and bill the incremental amounts thereof to Buyer.

Unless otherwise provided, all written notices under this Agreement shall be provided by regular mail, email (confirmed receipt), overnight courier, facsimile or hand delivery, to the addresses and persons specified for the applicable type of notice in the Purchase Order.

Nothing in this Agreement constitutes or implies a joint venture, partnership, association or imposes or implies any fiduciary or similar duty between the parties.

This Agreement may not be amended or modified except in a written document signed by both parties. The failure of either party to demand strict performance of the terms of, or to exercise any right conferred in, this Agreement shall not be construed as a waiver or relinquishment of such party's right to assert or rely upon any such term or right upon a subsequent breach of a violation of that provision or as a waiver of any breach or violation of any other provisions of this Agreement. The prevailing party shall be entitled to receive its reasonable attorneys' fees and all other costs and expenses it incurs in any legal proceeding against the other party related to this Agreement.

This Agreement supersedes all prior or contemporaneous discussions, representations, understandings and agreements, whether written or oral, between the parties concerning the subject matter of this Agreement and constitutes Buyer's and Seller's full and final agreement with respect to all matters herein.

To the extent a provision is ruled unclear or unenforceable by a court of law or regulatory authority having jurisdiction over the parties, the provision shall be modified if possible or covered such that the remaining provisions of this Agreement remain in effect and the obligations of the parties under this Agreement are enforced. A facsimile copy of this Agreement or copy of this Agreement sent via electronic mail in a portable document format ("PDF") will be considered an original.

The Uniform Commercial Code as adopted by Pennsylvania applies to this Agreement and Electricity is deemed a "good" for such purposes. This Agreement constitutes a "forward contract" within the meaning of the United States Bankruptcy Code, 11 U.S.C. § 101, *et seq.*

There are no third party beneficiaries to this Agreement.