

## Terms and Conditions

### New York Residential Electricity

**1. Agreement to Sell and Purchase Energy.** This is an agreement between Agera Energy LLC (“Agera”), an independent energy services company, and the undersigned customer (“Customer”) under which Customer shall initiate electricity service and begin enrollment with Agera (the “Agreement”). Subject to the terms and conditions of this Agreement, Agera agrees to sell and deliver, and Customer agrees to purchase and accept the quantity of electricity, as estimated by Agera, necessary to meet Customer’s requirements based upon consumption data obtained by Agera or the delivery schedule of the Local Distribution Utility (the “LDC”). Agera is not affiliated with and does not represent the LDC. The amount of electricity supplied under this Agreement is subject to change based upon data reflecting Customer’s consumption obtained by Agera or the LDC’s delivery schedule. The LDC will continue to deliver the electricity supplied by Agera.

**2. Term.** The Term is set forth on the Customer Disclosure Statement. This Agreement shall commence as of the date Customer’s enrollment to Agera is deemed effective by the LDC and shall continue thereafter for the number of month(s) set forth on the Customer Disclosure Statement (the “Initial Term”). Unless otherwise agreed to, upon completion of the Initial Term, the Agreement will renew on a month-to-month basis with a monthly variable rate methodology as set forth in Section 19 herein. At least 30 days and no more than 60 days prior to the renewal date, Agera will notify Customers in writing of the terms of renewal of this Agreement and the Customer’s right to renew, reject or renegotiate the Agreement. Customer shall have 3 business days from receipt of the first billing statement of the Renewal Term to reject renewal terms and cancel the renewal agreement. While receiving service on a month-to-month basis, such notification will be provided only for the first renewal occurring at the end of the term, and Customer or Agera may cancel or terminate this Agreement by providing 30 days’ advance written notice of termination to the other party.

**3. Pricing, Billing, and Termination.** Unless otherwise agreed to in writing, the price for all electricity sold under this Agreement shall be as set forth in the Customer Disclosure Statement. The LDC will separately bill for, and Customer will be obligated to pay, all LDC delivery related rates and charges. If there is a material adverse change in the business or financial condition of Customer (as determined by Agera at its discretion) or if Customer fails to meet its obligations under this Agreement or pay or post any required security deposit, then, in addition to any other remedies that it may have, Agera may terminate this Agreement upon 15 days’ written notice to Customer. If Customer taking service under the Fixed Full Requirements or Three for All Rate, terminates this Agreement prior to the end of the Initial or Renewal Term or if Agera terminates this Agreement due to Customer’s breach, the Customer shall pay Agera, in addition to any other applicable charges, the Early Termination Fee described in the Customer Disclosure Statement.

You will either receive energy-related invoices issued by LDC (“Consolidated Billing”) or Agera (“Dual Billing”) as Specified

above. If billed by the LDC, terms are defined by the LDC’s tariff; if billed by Agera, net terms are 10 days. For all “Dual Billing” options, customer will receive a bill for delivery costs from the LDC and a bill from Agera for energy-related costs. In the event of non-payment of any charges owed to Agera, Customer may be subject to termination of commodity service and suspension of distribution service in accordance with the Home Energy Fair Practices Act (“HEFPA”). For “Dual Bill” options, Agera will invoice Customer monthly for electricity supplied under this Agreement, as measured by the LDC. Customer shall pay each Dual Bill invoice in full within 10 days of the invoice date, or be subject to a late payment charge of 1.5% per month. In the event of failure to pay for timely invoiced services rendered, Customer shall be liable for all costs of collection including the late payment interest rate set forth in this Agreement, reasonable attorneys’ fees (if suit is filed) and reasonable collection agency fees. A \$35 fee will be charged for all returned payments. Customer shall make all payments due to the appropriate deposit account, subject to change upon notice to Customer.

**4. Assignment.** Customer may not assign its interests in and delegate its obligations under this Agreement without the express written consent of Agera. Agera may sell, transfer, pledge, or assign the accounts, revenues, or proceeds hereof, in connection with any financing agreement or receivables purchase program, and may assign this Agreement to another energy supplier, energy services company or other entity as authorized by the DPS.

**5. Information Release Authorization.** Customer authorizes Agera to obtain and review information regarding Customer’s credit history from credit reporting agencies and the following information from the LDC: consumption history; billing determinants; account number; credit information; and information pertaining to PSL § 33, tax status and eligibility for economic development or other incentives. This information may be used by Agera to determine whether it will commence and/or continue to provide energy supply service to Customer and will not be disclosed to a third party unless required by law. Customer’s execution of this Agreement shall constitute authorization for the release of this information to Agera. This authorization will remain in effect during the Initial Term and any Renewal Term. Customer may rescind this authorization at any time by providing written notice thereof to Agera or by calling Agera at 1.844.692.4372. Agera reserves the right to cancel this Agreement in the event Customer rescinds the authorization.

**6. Consumer Protections.** The services provided by Agera to Customer are governed by the terms and conditions of this Agreement and HEFPA. Agera will provide at least 15 days’ notice prior to the cancellation of service to Customer. Customer may obtain additional information by contacting Agera at 1-844.692.4372 Monday through Friday 8:30 a.m. - 6:00 p.m. EST (contact center hours subject to change). Customer may write to Agera at: Agera, 555 Pleasantville Road, Suite S-107, Briarcliff Manor, N. Y. 10510, or email Agera at [customer@ageraenergy.com](mailto:customer@ageraenergy.com), or by writing to the DPS at: New York State Department of Public Service, Office of

Consumer Services, Three Empire State Plaza, Albany, New York 12223, or through its website at: <http://www.dps.state.ny.us>. You may also contact the DPS ESCO hotline for inquiries regarding the competitive retail energy market at 1.888.697.7728.

**7. Rescission.** Customer may rescind this Agreement within 3 business days after signing or receipt of this Agreement whichever comes first, by calling the Agera at 1844-692-4372, or by writing to the address above. A Customer is liable for all Agera charges until Customer returns to the LDC or goes to another supplier. A final bill will be rendered within sixty (60) days after the final scheduled meter reading or if access is unavailable, an estimate of consumption will be used in the final bill, which will be trued up subsequent to the final meter reading.

**8. Agency-Electric:** Customer hereby designates Agera as agent to; (a) arrange and administer contracts and service agreements between Customer and Agera and those entities including the New York Independent System Operator ("NYISO") engaged in the generation, transmission and delivery of Customer electricity supplies; and (b) nominate and schedule with the appropriate entities including the LDC for the delivery of electricity to the Delivery Point and the Customer's end-use premises. Agera as agent for the Customer will schedule the delivery of adequate supplies of electricity that meet the Customer's requirements as established by the LDC and in response to information provided by the LDC. The Delivery Points for the electricity will be a point at the NYISO Agera load bus (located outside of the municipality where Customer resides). These services are provided on an arm's length basis and market-based compensation is included in the price noted above. end-use premises; and (c) aggregate Customer's electricity.

**9. Title.** Customer and Agera agree that title to, control of, and risk of loss to the electricity supplied by Agera under this Agreement will transfer from Agera to the Customer at the Delivery Point(s).

**10. Warranty.** This Agreement, including any enrollment form and applicable attachments, as written makes up the entire Agreement between Customer and Agera. Agera makes no representations or warranties other than those expressly set forth in this Agreement. Agera expressly disclaims all other warranties, express or implied.

**11. Force Majeure.** Agera will make commercially reasonable efforts to provide electricity hereunder but Agera does not guarantee a continuous supply of electricity to Customer. Certain causes and events out of the control of Agera ("Force Majeure Events") may result in interruptions in service. Agera will not be liable for any such interruptions caused by a Force Majeure Event, and Agera is not and shall not be liable for damages caused by Force Majeure Events.

**12. Liability.** The remedy in any claim or suit by Customer against Agera will be solely limited to direct actual damages (which will not exceed the amount of Customer's single largest monthly invoice amount in the immediately preceding 12 months). All other remedies at law or in equity are hereby waived. In no event will either Agera or Customer be liable for consequential, incidental,

indirect, special or punitive damages. These limitations apply without regard to the cause of any liability or damages. There are no third-party beneficiaries to this Agreement.

**13. Dispute Resolution.** In the event of a billing dispute or a disagreement involving Agera's service Customer should contact Agera's Customer Service center as provided above. The dispute or complaint relating to a residential customer may be submitted by either party at any time to the DPS pursuant to its Complaint Handling Procedures ("Procedures") or calling the DPS at 1.800.342.3377. Customer must pay the bill in full, except for the specific disputed amount, during the pendency of the dispute, and such payment shall be refunded if warranted by the decision of DPS.

**14. Choice of Laws.** Venue for any lawsuit brought to enforce any term or condition of this Agreement or to construe the terms hereof shall lie exclusively in the State of New York. This Agreement shall be construed under and shall be governed by the laws of the State of New York without regard to the application of its conflicts of law principles.

**15. Taxes and Laws.** Except as otherwise provided in the Agreement or provided by law, all taxes of whatsoever kind, nature and description due and payable with respect to service provided under this Agreement, other than taxes based on Agera's net income, shall be paid by Customer, and Customer agrees to indemnify Agera and hold Agera harmless from and against any and all such taxes.

**16. Regulatory Changes.** This Agreement is subject to present and future legislation, orders, rules, regulations or decisions of a duly constituted governmental authority having jurisdiction over this Agreement or the services to be provided hereunder. If at some future date there is a change in any law, rule, regulation, tariff, or regulatory structure ("Regulatory Change") which impacts any term, condition or provision of this Agreement including, but not limited to price, Agera shall have the right to modify this Agreement to reflect such Regulatory Change by providing 30 days' written notice of such modification to the Customer.

**17. Emergency Service.** The LDC will continue to respond to leaks and emergencies. In the event of a gas leak, service interruption or other emergency, Customer should immediately call the LDC at Con Edison 1.800.490.0045 (Long Island); Orange and Rockland at 1.877.434.4100; Niagara Mohawk at 1.800.892.2345; Central Hudson at 1.800.527.2714; RG&E at 1.800.743.1701; NYSEG at 1.800.527.2714; and emergency personnel.

**18. Parties Bound.** This Agreement is binding upon the parties hereto and their respective successors and legal assigns.

**19. Electric Variable Rate** Electric Variable Rate shall each month reflect the cost of electricity obtained from all sources (including energy, capacity, settlement, ancillaries), related transmission and distribution charges and other market-related factors, plus all applicable taxes, fees, charges or other assessments and costs, expenses and margins. There is no limit to the amount the rate will

increase or decrease.

**20. Electric Fixed Rate.** The fixed rate includes the fees associated with providing electric services such as capacity, transmission costs, ancillaries, and delivery costs plus all other applicable taxes, fees, charges or assessment. Customer is subject to additional charges by the LDC.

**21. Usage.** You authorize Agera to access your historical usage records from your utility. You agree to notify Agera in writing whenever you have reason to believe your demand will depart materially from such historical usage for example, because of addition or reduction of equipment usage thereof, providing good faith estimates of such departures. In the event that your usage indicates that you belong to another rate class Agera will notify and ask you to sign a contract indicating your correct rate class. This may result in a change in price.