

## POWERPERKS® TERMS AND CONDITIONS

These PowerPerks® Terms and Conditions (this “Agreement”) are between you (“you” or “Customer”) and AEP Energy, Inc. (“AEP Energy”), at 225 West Wacker Drive, Suite 600, Chicago, Illinois 60606, and govern our respective rights and obligations under the PowerPerks® program (as described herein, “PowerPerks®”) (each of AEP Energy and Customer referred to individually as a “Party” and collectively as the “Parties”). By checking the designated box on the Attachment A-1 under the Supply Agreement (as hereinafter defined), or clicking on the “Submit” button on the PowerPerks® website, as applicable, you are submitting an enrollment request for PowerPerks® (the “Enrollment Request”) and you are agreeing to these terms and conditions.

**1. PowerPerks® Program.** Customer requests through the Enrollment Request that AEP Energy enroll the interval-metered (Those for which electric usage is measured on an hourly basis) electric utility account service location(s) specified therein (each, a “Service Location”) in PowerPerks®. Customer acknowledges and agrees that AEP Energy may, in its sole discretion, refuse enrollment or continued participation by any Service Location in PowerPerks® for any reason whatsoever at any time. Following its receipt of the Enrollment Request, AEP Energy will determine Service Location eligibility, request any further documentation from Customer (e.g., a W-9 tax form) and attempt to establish a communication interface between the Parties. In the event AEP Energy determines Service Location eligibility and Customer confirms its interface through its response, AEP Energy shall send Customer an email confirmation notice of Customer’s enrollment of its Service Location(s) in PowerPerks®, as well as of the method of payment (bill credit), as described in Section 2 (Payment) and any other additional PowerPerks® rules or requirements (the “Confirmation Notice”). This Agreement shall be considered executed by AEP Energy only upon its issuance of the Confirmation Notice.

At any point during the Term (as defined below), AEP Energy may, but shall not be obligated to, identify time periods in the PJM system and wholesale electric markets when, if Customer curtails its electricity usage at such Service Location during such identified time period, AEP Energy will compensate Customer for such curtailed usage (each, a “Period”). For each Period and Service Location, AEP Energy will provide Customer advance notice of a Period (each such notice, a “Reduction Notice”), which shall be not less than one (1) hour prior to the start of the Period. Each Reduction Notice will specify the starting and ending hour of the Period and may be cancelled by AEP Energy at any time prior to the beginning of the Period. Customer may, in its sole discretion and without any obligation, reduce its usage accordingly.

**2. Payment.** Subject to the terms and conditions hereof and so long as Customer is current on its payments, and otherwise in good standing, under the Supply Agreement, AEP Energy shall pay Customer for the amount of its reduced electricity usage during each Period at the rate specified in the Reduction Notice (each such amount, a “Payment”). AEP Energy shall calculate each Payment in its commercially reasonable discretion, including among other factors, AEP Energy’s estimate of Customer’s baseline/comparison metered usage (had it not curtailed in response to the Reduction Notice) and actual metered usage (in response to the Reduction

Notice). Payment to Customer for each annual term will cover any Payment(s) earned during the first four (4) months of the relevant PJM planning year (June 1<sup>st</sup> through September 30<sup>th</sup>) and shall be paid by AEP Energy by December 31<sup>st</sup>. Each Payment shall take the form of bill credits on Customer’s charges under the electric supply agreement between the Parties (the “Supply Agreement”) during the Term and only to the extent the Supply Agreement is in effect. Notwithstanding the foregoing, AEP Energy may set off or net any Payment owed to Customer or any of Customer’s affiliates (collectively, “Customer Parties”) under this Agreement or any other agreement with AEP Energy or any of AEP Energy’s affiliates (each, a “Set-off Agreement”) against any sum or obligation owed by a Customer Party under any Set-off Agreement.

**3. Term and Termination; Supply Agreement.** The term of this Agreement (the “Term”) will be from the date of the Confirmation Notice through May 31<sup>st</sup> of the following calendar year, after which it shall automatically renew on an annual basis every June 1<sup>st</sup>. This Agreement may be terminated at any time by either Party upon thirty (30) days’ prior written notice and automatically and immediately terminates in the event the Supply Agreement is terminated with respect to any Service Location, for any reason, at which time all further obligations under this Agreement shall terminate without further liability of the Parties, including any credit or payment obligations for performance rendered prior to the termination date. Notwithstanding anything contained in the Supply Agreement to the contrary, during the Term, the defined term “Remaining Performance” contained in the “Events of Default” section of the Supply Agreement shall be deleted in its entirety with respect to the Service Location(s) enrolled in PowerPerks® under this Agreement and replaced with the following: “Remaining Performance” means the remaining performance, including kWhs, under this Agreement for the remainder of the relevant Term had it not been terminated early.

**4. Data and Disclosure; Further Assurances.** Customer hereby consents to the disclosure by electric utility(ies), retail supplier(s) and other data provider(s) to AEP Energy and any agent thereof used in connection with PowerPerks® of Customer information, including account number(s), meter number(s), meter read data, rate class, billing and payment information, account name, service address, billing address, email address and telephone number. At AEP Energy’s request, Customer agrees to take all such further action as AEP Energy may request in order to carry out the intent of the Parties under this Agreement.

**5. Warranty; Limitation of Liability.** AEP ENERGY PROVIDES ALL INFORMATION CONTAINED IN POWERPERKS® “AS IS,” “AS AVAILABLE” AND SPEAKING ONLY TO EVENTS OR CIRCUMSTANCES ON OR BEFORE THE DATE IT IS PRESENTED AND MAKES NO REPRESENTATION OR WARRANTY CONCERNING POWERPERKS® OR ANY SERVICES PROVIDED HEREUNDER AND DISCLAIMS ANY AND ALL WARRANTIES AND REPRESENTATIONS, EXPRESS OR IMPLIED, INCLUDING ANY OBLIGATION TO UPDATE OR CORRECT THE INFORMATION PROVIDED OR ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE. Customer assumes the entire risk related to its use of any information presented in any PowerPerks® marketing materials or the Confirmation Notice or any Reduction Notice (or cancellation thereof), and whether or how

Customer utilizes any such information is entirely Customer's responsibility. There is no guarantee that email transmissions will be secure or error-free or will not be corrupted, lost, or destroyed or arrive late or not at all, and AEP Energy is not liable for any loss or damage in connection therewith. AEP Energy is not acting as Customer's consultant or advisor and does not provide legal, tax, accounting or other advice, and Customer shall not rely on AEP Energy in evaluating the advantages or disadvantages of PowerPerks®, any product or service, predictions about savings, future energy prices or any other matter. Customer hereby acknowledges and agrees that AEP Energy makes no guarantee as to the continuation or ongoing existence of PowerPerks® or regarding the value of PowerPerks® or any PowerPerks® information. Customer's decision to enter into this Agreement and any other decisions or actions it may take, or not take, under this Agreement are, and will be, based solely upon its own analysis (or that of its advisors) and not in reliance on information or statements from AEP Energy.

IN NO EVENT WILL AEP ENERGY BE LIABLE TO CUSTOMER OR TO ANY THIRD PARTY FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES, TANGIBLE OR INTANGIBLE LOSSES, COSTS, EXPENSES OR LOST PROFITS UNDER ANY CAUSE OF ACTION ARISING HEREUNDER, INCLUDING LOSS OF USE OF FACILITIES, BUSINESS INTERRUPTION, LOSS OF BUSINESS, PROFITS OR INFORMATION, LOSS OF ANTICIPATED SAVINGS OR OTHER ECONOMIC LOSS, REGARDLESS OF WHETHER A CLAIM ARISES BY STATUTE, IN TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE. THE AGGREGATE LIABILITY OF AEP ENERGY TO CUSTOMER FOR DAMAGES UNDER OR IN ANY WAY RELATED TO THIS AGREEMENT SHALL NOT EXCEED AN AMOUNT EQUAL TO THE GREATER OF (1) TOTAL AMOUNT CREDITED OR PAID BY AEP ENERGY TO CUSTOMER UNDER THIS AGREEMENT DURING THE IMMEDIATELY PRECEDING TWELVE (12) MONTHS OR (2) \$500, AS THE SOLE AND EXCLUSIVE REMEDY. CUSTOMER MUST BRING ANY CAUSE OF ACTION ARISING UNDER THIS AGREEMENT WITHIN ONE (1) YEAR FROM THE TIME THE CAUSE OF ACTION ACCRUES AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE EXPRESSLY WAIVED. The foregoing limitations shall continue to apply even if an exclusive remedy provided herein fails of its essential purpose.

**6. Miscellaneous.** Customer shall be exclusively responsible for the payment of all taxes, fees, levies, penalties, interest, licenses, or charges imposed regarding any Payment. This Agreement constitutes the entire understanding of the Parties with respect to the subject matter hereof. There are no promises, covenants or understandings other than those expressly set forth herein. The word "including" shall be deemed to be followed by the phrase "without limitation." This Agreement may only be amended by a written instrument executed by both Parties. Any provision or section of this Agreement declared, rendered or deemed void, unlawful, or otherwise unenforceable shall not otherwise affect the lawful obligations that arise under this Agreement, and such provision or section shall be deemed amended to the extent necessary to make it valid while still giving effect to the agreement of the Parties, and all other provisions of this Agreement shall remain in force. Customer shall not assign this Agreement or its rights hereunder without AEP Energy's prior

written consent. Customer shall not disclose the terms or conditions related to, or information provided under, this Agreement to a third party, which obligation shall survive termination of this Agreement. As to all matters of construction and interpretation, this Agreement, with respect to any Service Location, shall be interpreted, governed by, and construed in accordance with the laws of the state where such Service Location is located, without regard to its choice of law provisions. Any action arising out of this Agreement shall be filed in any state or federal court within the state where the Service Location is located, in the plaintiff Party's sole discretion, and all Parties hereto irrevocably submit to the jurisdiction of said courts for purpose of any such actions. The Parties further consent to venue in said courts and specifically waive any objection to venue, including forum non conveniens. THE PARTIES ACKNOWLEDGE AND AGREE THAT THE RIGHT TO TRIAL BY JURY OF ANY SIZE IS IRREVOCABLY WAIVED. Any notice given hereunder shall be in writing and shall be delivered from Customer to AEP Energy at its business address specified above or shall be sent from AEP Energy to Customer at its business address or email address specified in the Enrollment Request, as applicable.

**END OF DOCUMENT**