

**1. Nature of Service:** This Power Supply Agreement ("Agreement") is by and between Entrust Energy East, Inc. ("Entrust") and the buyer named on the Pricing Attachment ("Buyer"), and consists of these Terms and Conditions and the Pricing Attachment. The Agreement shall become effective only upon (i) execution by Buyer of the Agreement; and (ii) the execution of this Agreement by Entrust. Upon such effectiveness, Entrust will provide electric generation services to meet Buyer's full electricity usage requirements at Buyer's Facility(ies) and Buyer will receive and pay for electric generation services to meet such usage requirements. Entrust will cause Electricity to be delivered to the Host Utility for ultimate delivery to Buyer's Facility(ies). Title to, control and possession of Electricity shall pass from Entrust to Buyer at the Point of Delivery to the Host Utility. As a condition to Entrust's obligations hereunder, Buyer must be accepted by Entrust and the Host Utility to receive a consolidated utility bill for Entrust's electric generation services and delivery services provided by the Host Utility.

**2. Qualification:** Buyer authorizes Entrust to obtain account and usage information for Buyer's Facility(ies) from the Host Utility and will provide required documentation where necessary. It is expressly understood that Entrust's provision of electric generation services is contingent on receiving this authorization.

**3. Term:** This Agreement shall be effective upon execution of the Agreement by both parties. Term shall start in the start month referenced in the Pricing Attachment. Entrust shall use reasonable efforts to commence service on the Facility(ies) first available meter read date in or after the start month stated on the Pricing Attachment. However, Buyer acknowledges that the commencement of service hereunder is dependent upon confirmation by the Host Utility of the completion of all required enrollment processes. Service shall continue for the number of months stated in the Pricing Attachment (the "Term") unless sooner terminated as provided herein. At the end of the Term, this Agreement shall automatically continue on a month-to-month basis ("Monthly Renewal") under a Variable rate as set forth in Section 4.

**4. Price:** Buyer's price ("Contract Price") and price structure will be confirmed on the Pricing Attachment. Price structure may be either (a) Fixed – where the Contract Price is as indicated on the Pricing Attachment and will not change during the Term except in the case provided for in Section 8; or (b) Variable – where the Contract Price may be adjusted monthly to reflect market conditions, including market pricing of commodity, transportation, profit, and other market factors, and where service continues on a month to month basis cancellable by the Buyer at any time without penalty. The Contract Price includes Energy procured; plus costs for Ancillary Services; losses; Capacity; any applicable network integration transmission service charges ("NITS"); Independent System Operator charges; Commercial Activity Tax ("CAT"); REC, ZEC, TOTS, applicable GRT charges and Entrust's fees. Any sales taxes, transactional taxes or other governmental or regulatory imposed taxes or surcharges to which Buyer may be subject which are not included in the Contract Price shall be passed through to the Buyer. The Contract Price shall not include any charges for delivery services provided by the Host Utility.

Buyer acknowledges that any other costs assessed by the Host Utility or any third party as a result of the provision of services hereunder, are not included in the Contract Price and shall be the responsibility of Buyer.

**5. Billing and Payment:** Buyer will receive from Host Utility a monthly invoice, incorporating both the services provided under this Agreement and Host Utility charges, in accordance with the Host Utility's meter reading and billing cycle schedule. Entrust shall have the right to assign to Host Utility all amounts due from Buyer to Entrust and Buyer is to remit payment in full to the Host Utility. If Buyer fails to remit payment in full in any month, a late payment charge will be assessed at the same rate and in the same manner as Host Utility applies late payment charges to its unpaid charges. The Host Utility may, at its option, disconnect all services to Buyer for any failure by Buyer to make full payment of all amounts billed in accordance with the rules of the applicable state utility commission. In the case of such disconnection, Buyer shall be responsible for any and all charges required to reconnect service. If Buyer is disconnected, this Agreement shall terminate and Buyer shall be responsible for Actual Damages. If for any reason during the Term of this Agreement, Buyer is terminated, suspended or withdraws from the utility consolidated bill program, Entrust, at its sole option, may either terminate this Agreement, in which case Buyer would be responsible for Actual Damages, or continue to provide electric generation service to Buyer on a dual bill basis. If Entrust decides to provide a dual bill, Entrust will bill Buyer directly for electric generation service and the Host Utility will bill Buyer directly for the Host Utility's delivery charges.

**6. Credit:** Entrust may request that Buyer provide financial information sufficient for Entrust to complete a credit review at any time during the term of this Agreement if Entrust has good faith concerns about the Buyer's ability to pay a Host Utility or Entrust invoice

and requests reasonable credit assurance. Buyer's failure to provide the requisite credit assurance shall be an Event of Default and Buyer shall be responsible for Actual Damages in liquidating the Electricity purchased to serve Buyer under this Agreement.

**7. Load Change Information:** In order to assist Entrust in providing accurate expected usage information to Buyer's Host Utility, Buyer shall timely notify Entrust of any anticipated significant changes in its actual usage. Without limiting Buyer's obligation to provide such notice, Buyer shall give Entrust at least thirty (30) days' notice ("Notice of Load Change") prior to removing a Facility(ies) from service hereunder as a result of ceasing operations (closing of the Facility(ies) or sale of the Facility(ies) to an unrelated third party) at such Facility(ies). Buyer shall be responsible for payment of any Actual Damages incurred by Entrust, if any, as a result of any such changes.

Also, if Buyer has a change in operations that results in a 100% or greater change in monthly usage and/or capacity or transmission obligation, Entrust may pass through any increases in cost that result from such a change to Buyer. If Entrust elects to pass through such cost increases, Entrust will calculate the amount of such costs in a commercially reasonable manner and submit an invoice to Buyer.

**8. Change in Law:** If regulatory changes shift costs from the Host Utility or ISO to Entrust, then such costs may be passed through to the Buyer. If any laws, orders, decisions or regulations are passed, modified, implemented or interpreted differently by judicial or regulatory administrative proceeding or legislative enactment, or if there is a change in rate class which applies to Buyer's Facilities, or any changes are instituted to the utility consolidated bill program which creates additional costs not currently included in the Contract Price or increases in the regulated cost components of the Contract Price ("Incremental Charges"), then Entrust may pass through such Incremental Charges to be paid by Buyer in addition to the Contract Price and in accordance with the payment terms in this Agreement.

**9. Limitation of Liability Disclaimer:** EXCEPT WITH RESPECT TO REMEDIES OTHERWISE SPECIFICALLY PROVIDED FOR IN THIS AGREEMENT, LIABILITY IS LIMITED TO DIRECT DAMAGES AS THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE EXPRESSLY WAIVED. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR ANY BUSINESS INTERRUPTION DAMAGES. EACH PARTY AGREES THAT IT HAS A DUTY TO MITIGATE DAMAGES AND COVENANTS THAT IT WILL USE COMMERCIALY REASONABLE EFFORTS TO MINIMIZE ANY DAMAGES IT MAY INCUR AS A RESULT OF THE OTHER PARTY'S PERFORMANCE OR NON- PERFORMANCE OF THIS AGREEMENT. TO THE MAXIMUM EXTENT POSSIBLE UNDER LAW, ARTICLE 2 OF THE UNIFORM COMMERCIAL CODE SHALL APPLY TO ELECTRICITY SOLD HEREUNDER. ENTRUST MAKES NO REPRESENTATIONS OR WARRANTIES OTHER THAN THOSE EXPRESSLY SET FORTH IN THIS AGREEMENT, AND EXPRESSLY DISCLAIMS AND NEGATES ALL OTHER REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

**10. Termination:** This Agreement may be terminated at any time after the date hereof (i) by mutual consent in writing by the parties, (ii) by Entrust if there has been an Event of Default that is not cured within fifteen (15) calendar days of Buyer's receipt of written notice from Entrust, (iii) by Entrust if Buyer fails to provide the credit assurance requested, pursuant to Section 6 within seven (7) days of being requested by Entrust, or (iv) during a Monthly Renewal pursuant to Section 3, by either party upon providing the other party with thirty (30) days prior written notice.

**11. Effect of Termination:** In the event of termination as provided in this Agreement, all further obligations of the parties under this Agreement shall terminate without further liability of the parties, except for the payment by the owing party of any sums due and owing to the other party for services rendered prior to the termination date, any Actual Damages (in the event of termination under subsection (ii) or (iii) of Section 10 above), any confidentiality obligation of either party which has arisen hereunder and any other obligation hereunder which by its nature survives the termination of this Agreement.

**12. Applicable Law:** As to all matters of construction and interpretation, this Agreement shall be construed, interpreted, and governed under and by the laws of the state of the Host Utility, without regard to its choice of law provisions.

**13. Parties, Assignment:** This Agreement shall inure to and benefit the parties hereto and their permitted successors and assigns. Buyer may not assign this Agreement without the prior written consent of Entrust, which consent shall not be unreasonably withheld. Entrust may, without the consent of Buyer, assign its rights and obligations under this Agreement.

**14. Notices and Correspondence:** Any notice or document or instrument to be given hereunder or executed pursuant hereto, including without limitation any termination or disconnection notices, shall be in writing and shall be delivered to either the address specified below or the address to which bills are sent to Buyer. Notice sent by facsimile or other electronic means shall be deemed to have been received by the close of the business day on which it was transmitted or such earlier time as is confirmed by the receiving party. Notice delivered by mail shall be deemed to have been received at the end of the third business day after the date of mailing by prepaid first class mail, except that when there is a strike affecting delivery of mail, all notices shall be delivered by courier or by facsimile or other electronic means.

Notice to Entrust:           Entrust Energy East, Inc.  
                                   1301 McKinney, Suite 1200  
                                   Houston, TX 77010  
                                   Attn: General Counsel

Notice to Buyer:            To the address specified in the Pricing Attachment.

**15. Confidentiality:** Neither party will disclose the terms of this Agreement, or any information of the other party which it knows or reasonably should know to be confidential or proprietary (other than to the party's employees, lenders, counsel, consultants, agents or accountants who have agreed to keep such terms confidential) except when disclosure may be required by law, is required to carry out the terms of this Agreement or with the prior written consent from the other party. The parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with this confidentiality obligation. This provision shall survive the termination of this Agreement for a period of two (2) years.

**16. Representations and Warranties:** As a material inducement to entering into this Agreement, each party, with respect to itself, hereby represents and warrants to the other party as follows, and agrees to cause each of its respective representations and warranties to remain true and correct throughout the term of this Agreement:

- (a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and is qualified to conduct its business in those jurisdictions necessary to perform this Agreement;
- (b) the execution and delivery of this Agreement are within its powers, have been duly authorized by all necessary actions and/or board approvals, and do not violate any of the terms or conditions in its governing documents or any contract to which it is a party or any law applicable to it;
- (c) this Agreement constitutes a legal, valid and binding obligation of such party enforceable against it in accordance with its terms, subject to bankruptcy, insolvency, reorganization, and other laws affecting creditors' rights generally and with regard to equitable remedies, subject to the discretion of the court before which proceedings to obtain same may be pending;
- (d) there are no bankruptcy, insolvency, reorganization, receivership or other similar proceedings pending or being contemplated by it or, to its knowledge, threatened against it;
- (e) if a broker has been involved in this transaction, such broker is an agent of Buyer in this transaction and may receive a commission to be paid by Entrust from payments received from Buyer under this Agreement;
- (f) if it is a property management company acting on behalf of the owner of the Facility(ies), it has the authority to execute and bind the Facility(ies) to this Agreement for the term stated in the Pricing Attachment and that the term of its property management agreement with the owner of the Facility(ies) is equal to or greater than the term of this Agreement; and
- (g) the Facility(ies) to be provided the services described herein are not contractually bound by another agreement for Electricity services that will overlap with the term stated in the Pricing Attachment and meet the qualifications of this Agreement is set forth in Section 2 herein.

Each party covenants that it shall cause its respective representations and warranties to remain true and correct throughout the term of this Agreement.

**17. Miscellaneous:**

- (a) Waiver: No waiver by either party of any default or defaults by the other party under this Agreement shall operate as a waiver of any future default or defaults, whether of a like or different character or nature. No delay or failure by Entrust in enforcing any part of this Agreement shall be deemed a waiver of any of its rights or remedies.

- (b) Counterparts: This Agreement may be executed in one or more than one counterpart and each executed counterpart shall be considered an original, provided that such counterpart is delivered to the other party by facsimile, mail, courier or electronic mail, all of which together shall constitute one and the same Agreement.
- (c) Severability: The various provisions of this Agreement are severable. The invalidity, illegality or unenforceability of any portion or provision shall not affect the validity, legality, or enforceability of any other portion or provision of this Agreement.
- (d) Entire Agreement: These Terms and Conditions and the Pricing Attachment contain the entire understanding of the parties with respect to the subject matter contained herein. There are no promises, covenants or understanding other than those expressly set forth herein. This Agreement may only be amended by a written instrument executed by both parties.
- (e) The host utility may charge switching fees for changing suppliers.
- (f) Buyer has the right to request, twice within a 12-month period, up to 24 months of payment history without charge.
- (g) To the extent not addressed in the Agreement, it is understood that the parties will work together to resolve any disputes that may arise under the Agreement.
- (h) Contact information for the New York Public Service Commission is NYS Department of Public Service, 3 Empire State Plaza, Albany, NY 12223. Department hotline is 888-697-7728.

**18. Definitions:** As used herein, unless the context clearly indicates otherwise, the following terms shall have the meaning set forth below:

- (a) "Actual Damages" means the total amount of the loss that Entrust would experience as a result of termination. As to each terminated transaction, Actual Damages shall be deemed to equal: (A) the positive difference, if any, between the Contract Price of the Electricity for the remaining term of such terminated transaction and the market price of the Electricity for the remaining term of such terminated transaction, in each case as determined by Entrust in a commercially reasonable manner, multiplied by the estimated volume associated with Buyer's Facility(ies) for the remaining Term, plus any commercially reasonable attorney's fees incurred in connection with enforcing its rights hereunder.
- (b) "Ancillary Services" means wholesale electric services and products required to facilitate delivery of Energy to the Host Utility.
- (c) "Capacity" means the Capacity obligations met through the provisions of the applicable Independent System Operator.
- (d) "Distribution" means all delivery service for Energy and applicable Ancillary Services provided by the Host Utility.
- (e) "Electricity" means the combination of Energy and Ancillary Services which are provided by Entrust under this Agreement.
- (f) "Energy" means electrical energy, as measured in kilowatt hours (kWh) or megawatt hours (MWh).
- (g) "Event of Default" means: (A) the failure of Buyer to make, when due, any payment that is required under this Agreement; (B) any representation or warranty made by Buyer that proves to be false or misleading in any material respect; (C) the failure of Buyer to perform its obligations under this Agreement, except to the extent such failure is excused by a Force Majeure event; (D) Buyer's failure to cooperate with Entrust as reasonably required in order for Entrust to perform its obligations under this Agreement.
- (h) "Facility(ies)" means the electric account meter(s) located at the service addresses for which Buyer has the authority to purchase Electricity under this Agreement and which are set forth on the Pricing Attachment.
- (i) "Force Majeure" means any "Act of God" or other unexpected and disruptive event beyond the reasonable control of either party that interferes with either party's ability to perform its obligations under this Agreement, except for the obligation to pay monies due. Any party which is unable to perform its obligations hereunder as a result of a Force Majeure event shall provide written notice to the other party of the existence of such event and exercise due diligence to remove such event with all reasonable dispatch, but shall in no event be required to incur any commercially unreasonable expense in doing so. It is expressly understood by the parties that the ability of Entrust to sell the products and services provided hereunder at a price greater than the Contract Price paid by Buyer shall not constitute an event of Force Majeure. Conversely, the ability of Buyer to purchase the products and services provided hereunder for an amount less than the Contract Price shall not constitute an event of Force Majeure. Buyer acknowledges that while Entrust may take title to Energy provided hereunder, Entrust does not own or operate transmission or distribution systems through which Energy is delivered to Buyer, and the Parties.
- (j) "Host Utility" means any investor-owned utility, municipal utility, public utility, or other provider of electric lines whose system is directly interconnected with and which provides Distribution to Buyer's Facility(ies).
- (k) "Point(s) of Delivery" shall mean the points where Energy is delivered to the Host Utility.
- (l) "Reliability Must Run" or "RMR" is a unit that must run for operational or reliability reasons, regardless of economic considerations, also referred to as a reliability agreement.
- (m) "Renewable Portfolio Standard" or "RPS" is a regulation that requires the increased production of energy from renewable energy sources.