

## ELECTRICITY PURCHASE AND SALE TERMS AND CONDITIONS

<b>1. Seller Information:</b> Constellation NewEnergy, Inc. [Constellation address] (“Constellation”)
<b>2. Pricing:</b> For the Initial Term, the Price shall be [rate]¢ per kilowatt-hour, which does not include the Utility’s delivery charges or any applicable taxes.
<b>3. Term and Renewal:</b> This Agreement shall become binding on the Effective Date, provided however, the obligations of Constellation to sell and schedule electricity for the Utility’s delivery to the Accounts and your obligations to purchase, take and pay for electricity for the Accounts at the Price will commence on the [insert date] meter read date through the [enter date] meter read date (“Initial Term”), unless terminated pursuant to the terms of this Agreement. Between 30 and 60 days prior to the end of the Initial Term or Renewal Term, Constellation will send you a contract expiration notice and offer to renewal for another term (“Renewal Term”). This notice will include, without limitation, the new product, pricing, the length of the Renewal Term, and any other changes to the terms and conditions (“Offer”). You will have 21 days from the date of the Offer to reject the Offer. Otherwise, the Offer will be deemed accepted by you without the need for further signature or other affirmative action by you. If you reject the Offer in the manner directed in the Offer, your Accounts will be returned to Utility service at the end of the current Term. Constellation will also provide a secondary notice by e-mail, text message/SMS, postcards, or phone calls. You consent to receiving the secondary notice in any of these formats.
<b>4. Early Termination Fee:</b> You may terminate this Agreement at any time without an early termination fee.
<b>5. Deposit and Switching Fees:</b> Constellation will not charge or collect a deposit or prepayment. Constellation will not charge switching fees to switch to Constellation’s service. Your current supplier and/or the Utility may charge such fees.
<b>6. Savings:</b> Savings are NOT guaranteed.
<b>7. Rescission:</b> You have a right to rescind (stop) your utility enrollment within 10 days after your Utility has received your order to switch suppliers. You may call Constellation at [number] to accomplish this or, if you are a residential customer, you may also contact your Utility at [number(ComEd: include residential and commercial numbers)] to accomplish this.
<b>8. General Disclosures:</b> Constellation is an independent seller of electric power and energy services, certified by the Illinois Commerce Commission. Constellation is not representing, endorsed by or acting on behalf of the Utility, governmental bodies, program of a governmental body, or consumer groups. The prices of Constellation are not regulated by the Illinois Commerce Commission. You do not have to buy Constellation electricity supply or any other product in order to receive the same quality regulated service from the Utility. The Utility remains responsible for the delivery of electric power and energy to your premises and will continue to respond to any service calls and emergencies. Switching to Constellation will not impact your electric service reliability. You will receive written notification from the Utility confirming a switch of your electricity supplier.
<b>9. Toll-free Phone Numbers:</b> You may find the following telephone numbers helpful: -Constellation NewEnergy, Inc.: [insert applicable phone number] -Illinois Commerce Commission’s Consumer Services Division Contact Information: 1-800-524-0795 or 1-800-858-9277 for TTY hearing-impaired customers. -Utility: [insert ComEd (residential or commercial) or Ameren] [insert applicable phone number]
<b>10. Purchase of Electricity Supply:</b> (“Municipality”), pursuant to the aggregation authority conferred upon it by referendum, which passed by a majority of the vote and the ordinance establishing the aggregation program (“Program”), selected Constellation NewEnergy, Inc. (“Constellation”) to supply the Program and to administer enrollments as described herein. Constellation agrees to sell and the customer responsible for the service address identified in the cover letter hereto (“you”) agree to buy your full requirements of electricity and any other service identified herein for the accounts associated with the service address identified on the letter accompanying this document (“Account”) in accordance with the terms of these Electricity Purchase and Sale Terms and Conditions and the Uniform Disclosure Statement provided herewith (collectively, this “Agreement”). The “Effective Date” shall be the first calendar day following the Opt-Out Date. Both you and Constellation may be referred to herein as a “Party” and, collectively, you and Constellation may be referred to as the “Parties”.
<b>11. Opt-Out Enrollment:</b> Enrollment is automatic if you do not opt-out, but participation is voluntary. <b>IF YOU DO NOT WISH TO PARTICIPATE, YOU MUST OPT-OUT BY [date] (“OPT-OUT DATE”) BY (I) RETURNING THE POSTCARD POSTMARKED NO LATER THAN THE OPT-OUT DATE, (II) OPTING OUT BY TELEPHONE BY CALLING [phone] OR (III) BY OPTING-OUT ON SELLER’S WEBSITE AT WWW.CONSTELLATION.COM/IL-[site].</b> To be eligible for the Program and to allow for successful enrollment, you and the Account must meet the following eligibility requirements (the “Eligibility Requirements”) (1) must be located within the Municipality’s jurisdictional boundaries, (2) must be served by the Utility on a residential or eligible small commercial rate class, provided such small commercial account consumes less than 15,000 kWh annually, (3) may not be under contract with another competitive supplier, on the Utility’s real-time pricing, on bundled hold with the

utility, or franchised service with a municipal account, (4) must meet Seller's minimum usage requirements, (5) must be eligible for the Utility's purchase of receivables program; and (6) must not be enrolled in a community solar or other program which reduces the amount of usage or payments to be received by Constellation.

**12. Billing and Payment:** You will be invoiced for Constellation's charges and the Utility's delivery charges by the Utility on the invoice(s) you receive from the Utility. Such billing and payment shall be subject to the applicable Utility rules regarding billing and payment procedures. Constellation's charges or credits not invoiced through the Utility shall be invoiced directly by Constellation. If Constellation invoices you for charges not invoiced through the Utility, you shall pay within twenty (20) days from the invoice date. Payments not received by Constellation by the due date are deemed past due and shall accrue interest daily on the unpaid balance from the due date until payment is received at the lesser of 1.5% per month or the maximum amount allowable by law. Constellation may correct or cause the Utility to correct previous invoices in the event of invoicing errors.

**13. Taxes:** Any tax levied against Constellation by any governmental entity that must be paid by Constellation, exclusive of Constellation's income tax or taxes levied on Constellation's real or personal property, shall be passed through to and paid by you. You must provide Constellation with any applicable exemption certificates.

**14. Rejection, Termination, and Remedies:** In addition to any other termination rights provided for herein, Constellation reserves the right to terminate this Agreement for any non-payment of any amounts owed to Constellation under this Agreement or any other default under this Agreement by you with at least 14 days written notice. In addition to non-payment, Constellation also reserves the right to reject your enrollment or terminate this Agreement for the following reasons: (a) you or the Account fail to meet the Eligibility Requirements; (b) you rescind your authorization detailed in the "Information Release" section below; (c) you attempt to assign this Agreement without Constellation's consent; or (d) you provide any false, inaccurate or misleading information to Constellation or the Utility. Constellation agrees not to charge any early termination fees.

**15. Limitations:** Neither Constellation nor any of its affiliates shall be liable for any damages or claims for matters within the control of the Utility or the ISO-controlled electricity grid, which include maintenance of electric lines and systems, service interruptions, loss or termination of service, deterioration of electric services, meter readings or injury to persons or damage to property caused by the delivery or supply of electricity. Constellation's delivery obligations cease at the Utility interconnect. **ALL ELECTRICITY SUPPLY SOLD HEREUNDER IS PROVIDED "AS IS", AND CONSTELLATION EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE. IN NO EVENT WILL EITHER PARTY BE LIABLE UNDER THIS AGREEMENT, WHETHER IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR OTHERWISE, FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES AND, FURTHER, IN NO CASE SHALL CONSTELLATION'S LIABILITY EXCEED THE AMOUNT OF YOUR SINGLE LARGEST MONTHLY INVOICE DURING THE PRECEDING 12 MONTHS.**

**16. Force Majeure:** Causes and events out of Constellation's reasonable control ("Force Majeure Events") may result in interruptions in service. Constellation will not be liable for any such interruptions or any other failure to perform under this Agreement caused by a Force Majeure Event. Constellation is not and will not be liable for damages caused by Force Majeure Events, including but not limited to acts of God; acts of any governmental authority; accidents; strikes; labor disputes; required maintenance work; inability to access the Utility's system; non-performance by the Utility, including, but not limited to, a facility outage on the Utility's distribution lines; changes in laws, rules or regulations of any governmental authority; or any cause beyond our reasonable control.

**17. Information Release:** You authorize Constellation to obtain information from the Utility related to the Accounts including without limitation account name, account number, billing address, service address, telephone number, standard offer service type, historical electricity usage, rate classification, meter readings, characteristics of electricity supply, and billing and payment information. You authorize Constellation to release such information, consistent with applicable law and regulation, to Constellation's affiliates, employees, agents, advisors, and independent contractors and such affiliates' employees, agents, advisors, and independent contractors. These authorizations will remain in effect as long as this Agreement is in effect. You may rescind these authorizations at any time by either calling or providing written notice to Constellation at contact information provided.

**18. Dispute Resolution and Class Action Waiver: CONSTELLATION HOPES TO MAKE YOU A SATISFIED CUSTOMER, BUT IF THERE'S AN ISSUE THAT NEEDS TO BE RESOLVED, THIS SECTION OUTLINES WHAT'S EXPECTED OF BOTH OF CONSTELLATION AND YOU. BOTH YOU AND CONSTELLATION AGREE TO RESOLVE ALL DISPUTES RELATING TO OR ARISING OUT OF THE INTERACTIONS BETWEEN CONSTELLATION (INCLUDING OUR AFFILIATES, AGENTS, EMPLOYEES, DIRECTORS, OFFICERS AND ASSIGNS) ONLY BY ARBITRATION OR BY AN INDIVIDUAL ACTION IN SMALL CLAIMS COURT. THERE'S NO JUDGE OR JURY IN ARBITRATION, AND THE PROCEDURES MAY BE DIFFERENT, BUT AN ARBITRATOR CAN AWARD THE SAME DAMAGES AND RELIEF TO YOU AND MUST HONOR THE SAME TERMS IN THIS AGREEMENT AS A COURT WOULD. IF THE LAW ALLOWS FOR AN AWARD OF ATTORNEYS' FEES, AN ARBITRATOR CAN AWARD THEM TOO. BOTH YOU AND CONSTELLATION ALSO AGREE THAT:**

A) The federal arbitration act applies to this Agreement and governs any arbitration between you and Constellation. Prior to initiating any arbitration, you and Constellation both agree to try to resolve any dispute informally. To initiate informal dispute resolution, contact our customer care department in one of the ways identified in this Agreement. Constellation will assign someone to attempt to resolve the dispute.

B) If the dispute is unable to be resolved informally within ninety (90) days after the Party raising it informed the other in writing of the nature and basis of the dispute and made a written demand ("Demand"), either Party may seek formal arbitration. Any arbitration will be governed by the Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes (collectively, "AAA Rules") of the American Arbitration Association ("AAA"), as modified by this Agreement, and will be administered by the AAA. The AAA Rules are available online at [adr.org](http://adr.org), or by calling the AAA at 1-800-778-7879. The arbitrator is bound by the terms of this Agreement and all issues are for the

arbitrator to decide, except that issues relating to the scope and enforceability of the arbitration provision are for the court to decide. This dispute resolution provision does not preclude you from bringing any issues you may have to the attention of any governmental authorities.

**C) YOU AND CONSTELLATION BOTH AGREE THAT THIS AGREEMENT DOES NOT ALLOW CLASS ACTIONS IN COURT OR CLASS ARBITRATIONS, EVEN IF THE AAA PROCEDURES OR RULES WOULD ALLOW SUCH PROCEDURES. RELIEF MAY BE AWARDED ONLY IN FAVOR OF THE INDIVIDUAL PARTY SEEKING RELIEF AND ONLY TO THE EXTENT NECESSARY TO PROVIDE RELIEF WARRANTED BY THE PARTY'S INDIVIDUAL CLAIM. IF FOR SOME REASON, THE CLASS ACTION WAIVER IS UNENFORCEABLE THEN THE AGREEMENT TO ARBITRATE WILL NOT APPLY.**

D) Any arbitration hearings will take place in the county of your billing address. If you are unable to pay the AAA filing, administration, and arbitrator fees for any arbitration properly initiated seeking damages up to \$10,000, Constellation will pay such amounts. Otherwise, the payment of these amounts will be governed by the AAA Rules. In addition, for claims less than \$10,000, any arbitration hearing may be held telephonically.

E) If the arbitrator issues you an award that is greater than the value of our last written settlement offer made prior to an arbitration hearing, then Constellation will pay you three times the amount of the award; and your attorney twice the amount of attorneys' fees, and reimburse any expenses reasonably incurred for pursuing your claim in arbitration. If the award in your favor is lower than our offer Constellation will only pay you the amount of the award. Any arbitration award will be final and binding and judgment confirming the award shall apply only to the specific case to enforce the award in that case.

**F) IF FOR ANY REASON A CLAIM PROCEEDS IN COURT, YOU AND CONSTELLATION BOTH AGREE THAT BOTH PARTIES ARE WAIVING A RIGHT TO A JURY TRIAL.** This dispute resolution provision shall survive termination of the Agreement.

G) Nothing in this Agreement shall impair your right to make an informal or a formal complaint to your applicable state Commission.

**19. Miscellaneous:** This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois, without regard for the conflicts of law provisions thereof. There are no third party beneficiaries to this Agreement and none are intended. You may purchase electricity supply service from an alternative retail electricity supplier, such as Constellation, or from the Utility. You may also request from the Illinois Power Agency, free of charge, a list of all supply options available in a format that will allow comparison of prices and products. The most up-to-date information is available online at [www.PlugInIllinois.org](http://www.PlugInIllinois.org). If you are a net metered customer and switch suppliers, you may forfeit credits for electricity supply service and delivery service. Subject to regulatory approvals and any required notice from Constellation, Constellation may assign this Agreement without your consent. You may assign this Agreement only with Constellation's prior written consent. The Agreement shall be considered the entire agreement between the Parties, superseding all verbal and written understandings. This Agreement shall only be amended in a writing signed by both Parties or in accordance with the Renewal process identified in Section 3. Customer or the individual undertaking this decision on your behalf warrants that he or she is authorized to (a) enter into this Agreement on your behalf, (b) make decisions with respect to the Accounts, and (c) **enroll with and change the Accounts' electricity supplier to Constellation**. You should contact the Utility in the event of an electric emergency at the phone numbers identified in Section 9. Except as further detailed in Section 3, future correspondence may be sent by Constellation to you via first class mail, postcard, and/or electronic mail.

**20. Enhanced Renewable Energy Certificate ("Enhanced REC") Option:** As part of this Program, Buyer has the opportunity to purchase renewable energy certificates through the Enhanced REC option. For Buyer to opt into the Enhanced REC product option, Buyer must call Seller at [Seller's call center number for this Muni/Agg] to affirmatively enroll into this option (the "Enhanced REC Effective Date"). Commencing with the first available meter read following the Enhanced REC Effective Date and for the remainder of the Initial Term, the Price (as listed in the ("Price (in cents/kWh)", "Total Price (in cents/kWh) with other monthly charges" and "Price after initial price" fields of the Uniform Disclosure Statement and Section 2. Pricing above), shall increase to ¢ per kWh; (ii) the electricity supply service includes renewable energy certificates sourced from wind power generators within the United States ("RECs") in an amount equal to 100% of the Accounts' electricity usage, over and above any then-current renewable portfolio standard requirements for Illinois applicable to alternative retail electric suppliers ("RPS"). The renewable energy is provided to you for your residential use only, and will not make you eligible for any tax credits or other third party subsidies. Constellation does not expect to pair any RECs from wind generators sited in the State of Illinois, but Constellation has not committed to a particular locations of wind generators at the time of this Agreement.

<b>CONFIRMATION</b>	
<p>This Confirmation dated _____, once fully executed, is an agreement entered into pursuant to the terms of the Aggregation Program Agreement between <b>Constellation NewEnergy, Inc.</b> ("Constellation" or "Seller") and _____, IL (the "Municipality"), and forms a part thereof.</p>	
<p><b>Constellation and the Municipality agree that the Program participants shall receive the Fixed Rate set forth below for the Delivery Period set forth below:</b></p>	
<p><b>Delivery Period:</b> [Month-YYYY] meter read dates through [Month-YYYY] meter read dates</p>	
<p><b>Fixed Rate:</b> \$0.xxxx per kWh. The Fixed Rate does not include utility distribution charges or applicable taxes.</p>	
<p><b>Enhanced REC Product:</b> To elect the Enhanced REC product, Program Participants must contact Seller as described in the opt-out materials. For those Program participants that elect the Enhanced REC Product, the Fixed Rate shall be \$0.xxxx per kWh, which includes an amount equal to 100% of the Program participants' metered usage, less the amount already supported by purchases as a result of the Illinois Renewable Portfolio Standards. "RECS" shall mean renewable energy certificates generated national-sited wind resources. The RECs may be generated in the same calendar year associated with the metered electricity, the first three months following such calendar year, or the last six months of the prior calendar year. The RECs will be retired at the Program level.</p>	
<p><b>ACKNOWLEDGED AND AGREED:</b></p>	
<p>_____, IL</p> <p>By: _____</p> <p>Name: _____</p> <p>Title: _____</p> <p>Date: _____</p>	<p><b>Constellation NewEnergy, Inc.</b></p> <p>By: _____</p> <p>Name: _____</p> <p>Title: _____</p> <p>Date: _____</p>
<p><b>This is not an offer. This Confirmation requires a signature from both Parties to be effective.</b></p>	