

# Glacial Energy of New England, Inc.

## Commercial/Industrial Electricity EFT Agreement

Company Name \_\_\_\_\_  
 Tax ID# \_\_\_\_\_  
 Billing Address \_\_\_\_\_  
 City \_\_\_\_\_ Zip \_\_\_\_\_  
 Desired Start Date \_\_\_\_\_  
 Number of Accounts \_\_\_\_\_  
 Check if Tax Exempt (Proof of Tax Exempt status must be provided)  
*Please provide all account numbers and service address information on attachment*

Primary Contact Name \_\_\_\_\_  
 Phone(s) \_\_\_\_\_  
 Fax \_\_\_\_\_  
 Email \_\_\_\_\_  
 Secondary Contact Name \_\_\_\_\_  
 Phone \_\_\_\_\_  
 Fax \_\_\_\_\_  
 Email \_\_\_\_\_

**Key Terms:** \_\_\_\_\_ Term: 12 Month Glacial Representative: **Mark Knopf** \_\_\_\_\_  
 Estimated Annual kWh \_\_\_\_\_ Payment Type: EFT Glacial Energy – Contract ID. \_\_\_\_\_

1. **Agreement to Sell and Purchase:** Glacial Energy of New England, Inc. ("Glacial Energy") agrees to sell and provide and Customer agrees to buy and receive the quantity of electricity necessary to meet Customer's full requirements during the term of this Agreement as reflected in the electricity consumption data provided to Glacial Energy or as directed by the Local Distribution Company ("LDC"). In no event shall Glacial Energy be bound by this agreement until it has received complete and accurate consumption data describing customer's consumption for at least the twelve months preceding the month in which this agreement is executed.
2. **Electricity Pricing:** The price for electricity sold during the Term of this Agreement, "Price per kWh", is based upon all electricity charges imposed by the New England Independent System Operator (NE-ISO), including, but not limited to, New England Independent System Operator based charges such as energy costs, fees for electric energy losses, congestion charges, scheduling services, NEPOOL/ ISO imposed administrative fees, "uplifted" imbalance charges, capacity, and ancillary services plus Glacial Energy's mark-up. The total energy price paid by Customer for each day are the charges described in the previous sentence, multiplied by Customer's usage (in kWh). The price does not include Customer's LDC charges and fees, non-bypass able charges, any non-recurring fees, transition charges, base service charge, taxes or applicable fees and/or penalties. If Customer is tax exempt, it is Customer's responsibility to provide Glacial Energy with the necessary tax exemption certificate. The Glacial Energy electricity price, and any applicable taxes or assessments will appear as separate items on Customer's bill.
3. **Term:** Customer's service under this Agreement begins on the date that Customer's LDC switches Customer's service to Glacial Energy and will continue for an initial term equal to the number of calendar months described above as "Term". Either party may cancel this Agreement without penalty effective no sooner than the conclusion of the initial term by providing no less than 30 calendar days written notice to the other party. If cancellation is not received prior to conclusion of the initial term, Agreement will automatically renew for an additional term of twelve (12) months. It may take up to sixty (60) days for LDC to switch Customer upon expiration of contract term. Customer is responsible for all Glacial Energy supply charges until Customer goes to another ESCO or the Utility. A final bill will be rendered within twenty (20) 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.
4. **Billing:** Upon receipt of usage data from the LDC for the month in which power is being provided, Glacial Energy will make available to customer via email, fax, or regular mail a bill for monthly usage. On the 10<sup>th</sup> day following customer receipt of invoice (or the first business day thereafter), Glacial Energy will debit Customer's account through an EFT transaction in an amount corresponding to the bill. If adequate funds are not available in Customer's account, Customer agrees to be charged an insufficient funds fee of 1.5% of the total bill or the maximum allowable by law, whichever is greater. Glacial Energy will reattempt billing under the same terms five business days following the previous attempt. For the first month, Customer shall receive a pro-rated bill in the same manner as previously described. If, however, the meter read date is in the last ten calendar days of the month, the first bill will be sent concurrently with the bill for the subsequent month. Glacial Energy and Customer agree that the monthly amount of energy to be billed for will be based upon monthly meter readings and or estimates. If Customer's LDC is unable to read Customer's meter, Customer LDC will estimate Customer's charges based on previous usage history, and later adjust it based on actual usage shown by a meter reading. Glacial Energy shall make a similar adjustment to Customer's bill. Customer shall reimburse Glacial Energy for any collection fees Glacial Energy incurs in collecting Customer's outstanding invoices. Glacial Energy may require a security deposit of up to two months estimated usage, and Customer agrees to provide such deposit upon written request. Customer may receive a single bill for both commodity and delivery costs from either Glacial Energy (when available) or the LDC, or each of the LDC or Glacial Energy may invoice separately. In the event of failure to provide for payment when due, Glacial Energy shall have the right to terminate this Agreement in accordance with the applicable Commonwealth of Massachusetts Department of Public Utilities notice requirements, including the requisite advance notice provisions. Customer shall be liable for all costs and expenses including reasonable attorney's fees incurred in the collection of any amounts due. Customer agrees to be charged an interest rate of 1.5% per month of the total past due amount or the maximum allowable by law, whichever is greater, until such time as payment is received by Glacial Energy.
5. **Information Release Authorization:** Customer authorizes Glacial Energy to obtain and review information regarding the customer's credit history from credit reporting agencies and consumption history, billing determinant, and credit information from the LDC. In the event that any additional paperwork is required by the Commonwealth of Massachusetts Department of Public Utilities and/or any particular utility, customer shall execute any such required forms. This information may be used by Glacial Energy to determine whether it will commence and/or continue to provide electricity 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 Glacial Energy. This authorization will remain in effect during the initial Term and any renewal Term of this Agreement. Customer may rescind this authorization at any time by providing written notice thereof to Glacial Energy. Glacial Energy reserves the right to cancel this Agreement in the event Customer rescinds the authorization.

By my signature below (facsimile signature accepted as if it were an original), Customer hereby agrees to be obligated by the terms and conditions set forth herein and to the Terms of Service Agreement, and that Customer agrees to initiate service and begin enrollment. I affirm that I am a duly authorized agent for Customer with legal authority to switch the electricity provider for Customer, and authorize the Customer's financial institution to permit Glacial Energy to Debit all monthly charges for Customer's electric service. This Agreement will not become binding upon Glacial Energy until completion of a credit check of Customer completely satisfactory to Glacial Energy.

\_\_\_\_\_  
 Customer Duly Authorized Signature  
 Date: \_\_\_\_\_

## Glacial Energy of New England, Inc. Commercial Terms of Service

- 1. Customer Cancellation Rights and Waiver:** Market rules provide that Customer has the right to cancel a service request with Glacial Energy without any exit fee or penalty of any kind until midnight of within three (3) federal business days of signature and receiving the Terms of Service document. Customer hereby willingly and knowingly waives that right under this Agreement and acknowledges any cancellation will be governed by the following language in this paragraph. If Customer cancels this Agreement for any reason before the end of the initial term, Customer's payment of damages shall be equal to the lesser of: a) the price for energy supply in \$/kWh multiplied by the average monthly usage for the last twelve months multiplied by three (3) or b) the average price for energy supply in \$/kWh multiplied by average monthly usage for the last twelve months multiplied by the remaining term of this Agreement. Customer shall also be liable to Glacial Energy for payments of all outstanding charges incurred prior to cancellation by customer.
- 2. Credit Requirement:** Glacial Energy reserves the right to conduct a credit review of Customer prior to offering service and to refuse service to anyone who does not meet the Company's credit standards. Customer agrees to provide Glacial Energy with any reasonable information requested in order to complete the credit review. In the event that Glacial Energy determines at any time during the term of this Agreement that Customer's credit is unsatisfactory or that Customer has experienced an adverse change in its financial condition Glacial Energy may require Customer to provide security or a credit facility acceptable to Glacial Energy. If Customer fails to comply with said requirement within two business days following Glacial Energy's written request, Glacial Energy may immediately terminate this Agreement by providing written notice to Customer. Such termination will be subject to early termination fees as described in paragraph one as above.
- 3. Dispute Resolution.** In the event of a billing dispute or a disagreement involving any essential element of this Agreement, the parties will use their best efforts to resolve the dispute. Customer should contact Glacial Energy in writing or by telephone at 1-888-452-2425, within 5 days of receipt of disputed bill. If the dispute is not resolved within 45 days, the parties may seek all avenues of relief as may be available under this contract. Customer is obligated to pay all outstanding balances within ten days of receiving the bill, during the pendency of any dispute. Adjusted amounts will be refunded to the customer upon resolution of the dispute within 10 business days of settlement. All disputes shall be governed by, construed, enforced and performed in accordance with the laws of the Commonwealth of Massachusetts in the County of Barnstable
- 4. Force Majeure/Excuse:** Glacial Energy will endeavor in a commercially reasonable manner to provide service, but does not guarantee a continuous supply of electrical energy. The term "Force Majeure" shall mean any cause not reasonably within the control of the Party claiming suspension and which by the exercise of due diligence, such Party is unable to prevent or overcome, including but not limited to, any act or cause which is deemed a Force Majeure by the LDC or any transmitting entity, acts of God, extraordinary weather occurrence, war, civil disturbance or other national emergency, acts of any governmental authority, including the Commonwealth of Massachusetts Department of Public Utilities or the NEPOOL- ISO, accidents, strikes, labor trouble, required maintenance work, inability to access the LDC system, nonperformance of the LDC (including facilities or distribution line outages), delay of deregulation or changes in laws, rules, regulations, practices or procedures of any governmental authority or the NEPOOL ISO, or any cause beyond Glacial Energy's control including insolvency and bankruptcy of generator or wholesaler. If either party is unable, wholly or in part, by Force Majeure to perform or comply with any obligations or conditions of this Agreement, they shall give immediate notice to the maximum extent practicable in writing and provide particulars to the other party. Such obligations or conditions, so far as they are affected by such Force Majeure, shall be suspended during the continuance of any inability so caused, and such party shall be relieved of liability and shall suffer no prejudice for failure to perform the same during the period. The party claiming suspension of obligations must in good faith attempt to mitigate and/or terminate the Force Majeure.
- 5. Limitations of Liability:** GLACIAL ENERGY will provide electric energy to Customer throughout the Term of this AGREEMENT. The Parties understand AND acknowledge, however, that neither Party controls nor physically takes possession of the electric energy prior to delivery to THE Customer. Therefore, neither Party will be responsible to the other for any damages associated with failing to deliver the electric energy nor for any damages it may cause prior to delivery to Customer. The electric energy will be delivered to Customer where it will be deemed in CUSTOMER'S possession and control. After the electric energy is delivered to Customer, Customer agrees to defend, indemnify and hold harmless GLACIAL ENERGY, its parent company and affiliates, and all of their respective officers, directors, shareholders, associates, employees, successors and assigns, from and against all claims, losses, expenses, damages, demands, judgments, causes of action or suits of any kind, including but not limited to, claims for personal injury, death, or property damage, arising out of or relating to the electric energy sold under this agreement. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY IS PROVIDED, SUCH EXPRESS REMEDY WILL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY WILL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY WILL NOT APPLY. IF NO EXPRESS REMEDY IS PROVIDED, GLACIAL ENERGY'S LIABILITY WILL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY (WHICH WILL NOT EXCEED THE AMOUNT OF CUSTOMER'S SINGLE LARGEST MONTHLY INVOICE AMOUNT IN THE PAST 12 MONTHS). SUCH DIRECT ACTUAL DAMAGES WILL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES AT LAW OR IN EQUITY ARE WAIVED. GLACIAL ENERGY WILL NOT BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. THE PARTIES INTEND THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSES RELATED THERETO INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE LIQUIDATED DAMAGES CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.
- 6. UCC/Disclaimer of Warranties:** Customer and Glacial Energy acknowledge and agree that the electricity delivered hereunder is a "good" as that term is understood under the Uniform Commercial Code ("UCC"). The Parties further agree that the rules promulgated therein, to the extent that they can be, are waived and they do not apply to this Agreement, except as provided for herein. If there is any conflict between the UCC and this Agreement, this Agreement will control. Further, Customer agrees and acknowledges that Glacial Energy EXPRESSLY NEGATES AND DISCLAIMS ALL REPRESENTATION OF WARRANTY, WRITTEN OR ORAL, EXPRESS OR IMPLIED, INCLUDING ANY REPRESENTATION OF WARRANTY WITH RESPECT TO CONFORMITY, TO MODELS OR SAMPLES, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE.
- 7. Assignment:** Customer may not assign this Agreement, in whole or in part, or any of its rights or obligations hereunder without the prior written consent of Glacial Energy. Such consent shall not be unreasonably withheld if new customer has a credit rating equal to or better than the existing customer's. Glacial Energy may, without Customer's consent; (a) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof in connection with any financing or other financial Agreement; and (b) transfer or assign this Agreement to another Energy Services Company, or another entity as authorized by the Commonwealth of Massachusetts Department of Public Utilities. Upon any such assignment, Customer agrees that Glacial Energy shall have no further obligations hereunder.
- 8. Governing Law and Regulations:** This Agreement shall be governed by, construed, enforced and performed in accordance with the laws of the Commonwealth of Massachusetts. In the event a regulatory or judicial ruling or decision shall have a detrimental economic impact upon Glacial Energy's performance under this Agreement, or in the event that compliance with such change shall result in a material change in the method by which prices are calculated under this Agreement, or a material change in the level of components of pricing under this Agreement, then Glacial Energy shall have the right to notify Customer within 30 calendar days of becoming aware of such ruling or decision in order to negotiate a modification to the terms of this Agreement so as to mitigate the impact of such ruling or decision. If, after 20 calendar days beyond the date of the notice, the parties have been unable to negotiate a mutually satisfactory modification of the terms of this Agreement, Glacial Energy shall have the right to terminate this Agreement upon 15 calendar days prior written notice to the Customer. If such right to terminate is not exercised within 45 calendar days after the original notice hereunder, Glacial Energy's right to terminate shall be deemed waived with respect to the particular decision or rule. 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.
- 9. Miscellaneous:** (a) A waiver of any provision in this Agreement, or of any default by either Party, will not be construed as a waiver of any other (or like) provision or default in the future. (b) No amendment hereto will be enforceable unless in writing and executed by both Parties unless otherwise provided for herein. (c) Any provision herein deemed unenforceable or illegal will be ineffective to the extent of such unenforceability or unlawfulness without invalidating the remaining provisions hereof. (d) Facsimile copies and photocopies of this Agreement are to be treated as originals in the event an original is not available. (e) This Agreement may be executed in counterparts, each of which is an original and all of which constitute one Agreement. (f) Each of the parties hereby expressly waives any right or claim to a jury trial in respect of any dispute arising hereunder, and further agrees that any dispute hereunder will be submitted to arbitration conducted through the American Arbitration Association. (g) If more than one Customer is a party to this Agreement, each is jointly and severally liable. (h) At Glacial Energy's option, any default of any obligation under any other agreements between Glacial Energy and a subsidiary or affiliate of Customer, shall be deemed a default under this Agreement. (i) Customer shall pay all of Glacial Energy's reasonable fees and expenses incurred to enforce or collect any of the Customer's obligations under this Agreement, including arbitration, attorneys and experts' fees and expenses.
- 10. Consumer Protections.** The services provided by Glacial Energy are protected by the terms and conditions of this Agreement. The services provided by the LDC are protected by the provisions of the Regulations of the Commonwealth of Massachusetts Department of Public Utilities. Glacial Energy will provide at least fifteen (15) calendar days notice prior to any cancellation of service to Customer. Customer may obtain additional information by contacting Glacial Energy at 1-888-452-2425, or the Commonwealth of Massachusetts Department of Public Utilities, Division of Customer Assistance, Toll Free number 800-392-6066 State Callers 617-305-3531 or Consumer.Complaints@state.ma.us. Complaints to the Commonwealth of Massachusetts Department of Public Utilities may result in an energy company no longer being eligible to supply electricity or natural gas in the Commonwealth of Massachusetts.
- 11. Agency.** Customer appoints Glacial Energy as its agent to acquire the supplies necessary to meet its electricity needs, contract for and administer transmission and related services over interstate facilities and those of the LDC needed to deliver electricity to the Customer's premises.
- 12. Title.** Title to and possession of all electricity sold and delivered under this Agreement shall pass from Glacial Energy to Customer at the Point of Delivery. Glacial Energy will indemnify and hold harmless the Customer from all taxes, royalties, fees or other charges incurred with respect to the electricity before title passes. Except as provided in this Agreement, all taxes of whatever kind, nature and description, due and payable with respect to Customer's performance of its obligations under this Agreement, shall be paid by Customer, and Customer hereby indemnifies and shall hold harmless Glacial Energy from all liability associated with such taxes.
- 13. Measurement.** The parties accept for purposes of accounting for electricity supplied under this Agreement, the quantity, quality, and measurement determined by the LDC.
- 14. Entire Agreement.** This Agreement sets forth then entire Agreement between the parties with respect to the terms and conditions of this transaction; any and all other Agreements, understandings and representations by and between the parties with respect to the matters addressed herein are superseded by this Agreement.
- 15. Emergency Service:** In the event of an electric emergency or service interruption, you should immediately call your local utility and emergency personnel.

\_\_\_\_\_  
Customer Duly Authorized Signature

Date: \_\_\_\_\_

Glacial Energy Use only: Contract #: Massachusetts  
Addendum #: \_\_\_\_\_

**Addendum to Glacial Energy of New England, Inc. Commercial Electric Sales Agreement: Additional Accounts**

This addendum to the Glacial Energy of New England, Inc. Commercial Electric Sales Agreement binds the below listed additional Accounts to the above terms:

<b>1</b>	Account# _____ Service Address: _____ City _____ Zip _____
<b>2</b>	Account# _____ Service Address: _____ City _____ Zip _____
<b>3</b>	Account# _____ Service Address: _____ City _____ Zip _____
<b>4</b>	Account# _____ Service Address: _____ City _____ Zip _____
<b>5</b>	Account# _____ Service Address: _____ City _____ Zip _____
<b>6</b>	Account# _____ Service Address: _____ City _____ Zip _____
<b>7</b>	Account# _____ Service Address: _____ City _____ Zip _____
<b>8</b>	Account# _____ Service Address: _____ City _____ Zip _____

My initials below (facsimile accepted as if it were an original) hereby acknowledge that the above listed Accounts are correct and they are obligated by the terms and conditions set forth above and to the Terms of Service Agreement. I again affirm that I am a duly authorized agent for Customer with legal authority to switch the electricity provider for Customer, and authorize the Customer's financial institution to permit Glacial Energy to Debit all monthly charges for Customer's electric service.

\_\_\_\_\_  
Customer Duly Authorized Signature

Date: \_\_\_\_\_

# Glacial Energy of New England, Inc.

## ELECTRONIC FUNDS TRANSFER AUTHORIZATION FORM

### EFT Information and Authorization:

<b>Customer Name:</b>
<b>Customer Address:</b>
<b>City, State, Zip:</b>
<b>Phone:</b>
<b>Fax:</b>
<b>Financial Institution:</b>
<b>Financial Account Number:</b>
<b>ABA/Routing Number:</b>

*To ensure accurate processing, please attach a VOIDED check.*

As a duly authorized check signer on the financial institution account identified herein, I authorize Glacial Energy to perform scheduled or periodic electronic funds transfer debits to the financial institution account identified herein for payments due or when applicable, apply electronic funds transfer credits to same.

If any such electronic debit(s) should be returned as Non-Sufficient Funds (NSF), Glacial Energy is hereby authorized to collect such NSF items(s) by subsequent electronic debit and to subsequently collect a fee equal to \$100.00 or 1.5% of the amount debited, whichever is greater, by electronic debit from the financial institution account identified herein.

For accounting purposes, all electronic debits will be reflected in the monthly bank statement that corresponds with the financial institution account identified herein. Customer will attach a blank voided check from the designated financial institution account.

I understand and authorize all of the above as evidenced by my signature below.

_____
Customer Duly Authorized Signature
_____
Print Name & Title
Date: _____

_____
Glacial Energy of New England, Inc. Executive Signature
_____
Print Name & Title
Date: _____