

# *Glacial Energy of Ohio, Inc.*

## *Commercial/Industrial Electricity EFT Agreement*

Company Name \_\_\_\_\_  
 Tax ID# \_\_\_\_\_  
 Billing Address \_\_\_\_\_  
 City/State \_\_\_\_\_ 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: Month-to-Month Glacial Representative: **Mark Knopf** \_\_\_\_\_  
 Estimated Annual kWh \_\_\_\_\_ Payment Type: EFT Glacial Energy Contract ID: \_\_\_\_\_

Customer's electrical service under this Agreement begins on the date that Customer's Electric Distribution Utility (EDU) switches Customer's electricity service to Glacial Energy and will continue on a month to month basis. Upon receipt of usage data from the EDU for the month in which power is being provided, Glacial Energy will make available to customer via email or fax a bill for monthly usage. It may take up to sixty (60) days for EDU to switch Customer upon enrollment with Glacial or upon notice of cancellation. Glacial Energy may cancel this Agreement for non-payment at anytime. Customer is responsible for all Glacial Energy supply charges until Customer goes to another CRES 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. Customer agrees to be charged an interest rate of 1.5% per month of the total past due amount, until such time as payment in full is received by Glacial Energy.

I affirm that I am a duly authorized agent for Customer with legal authority to switch the electricity provider for Customer.

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

\_\_\_\_\_  
 Print Name & Title

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

\_\_\_\_\_  
 Email address for billing

\_\_\_\_\_

\_\_\_\_\_

Special instructions

## Glacial Energy of Ohio Inc. Commercial Terms of Service

- 1. Right of Rescission; Cancellation by Customer:** Customer has the right to rescind its enrollment under this Agreement with no penalty within seven (7) calendar days of the postmark on EDU's confirmation notice by contacting either Glacial Energy or the EDU. Cancellations may be made by telephone or by mail to 24 Route 6A, Sandwich, MA 02563. There are no Cancellation fees associated with this 30-day contract. Customer shall be liable to Glacial Energy, however, for payment 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 of not more than 130 percent of your estimated average monthly bill for electric service, which is acceptable to Glacial Energy. If Customer fails to comply with said requirement within five business days following Glacial Energy's written request, Glacial Energy may immediately terminate this Agreement by providing written notice to Customer.
- 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-GLACIAL/ 1-888-452-2425, any time 24 hours per day, seven days a week. 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 during the pendency of any dispute. If your complaint is not resolved after you have called Glacial Energy and/or your electric utility, or for general utility information, residential and business customers may contact the Public Utilities Commission of Ohio for assistance at 1-800-686-7826 (toll free) or for TTY at 1-800-686-1570 (toll free) from 8:00 a.m. to 5:00 p.m. weekdays, or at [www.PUCO.ohio.gov](http://www.PUCO.ohio.gov).
- 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 EDU or any transmitting entity, acts of God, extraordinary weather occurrence, war, civil disturbance or other national emergency, acts of any governmental authority, including Public Utilities Commission of Ohio or the MISO, accidents, strikes, labor trouble, required maintenance work, inability to access the EDU system, nonperformance of the EDU (including facilities or distribution line outages), delay of deregulation or changes in laws, rules, regulations, practices or procedures of any governmental authority or the MISO, 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 TO 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 CRES, or another entity as authorized by the Public Utilities Commission of Ohio. 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 State of Ohio. 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 any right 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. (j) Pursuant to section 4928.52 of the Ohio Revised Code, Glacial Energy is prohibited from disclosing Customer's social security number and/or account number(s) without Customer's consent except for Glacial Energy's own collections and credit reporting, participation in programs funded by the universal service fund, or assigning a customer contract to another CRES provider.
- 10. Consumer Protections.** Customer may obtain additional information by contacting Glacial Energy's 24-hour Customer Care Center at 1-888-GLACIAL/ 1-888-452-2425, or the PUCO Customer Center at (800) 686-PUCO (7826).
- 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 EDU 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 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 EDU.
- 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. Environmental Disclosure:** PUCO rules require Glacial Energy to periodically provide to the Customer the approximate retail electric generation resource mix and environmental characteristics associated with electrical power offered in Ohio's competitive marketplace. Customer may access these quarterly environmental disclosures by visiting the following website: [http://www.glacialenergy.com/uploads/Ohio\\_Environmental\\_Disclosure\\_4-5-10.pdf](http://www.glacialenergy.com/uploads/Ohio_Environmental_Disclosure_4-5-10.pdf).
- 16. Emergency Service:** In the event of an electric emergency or service interruption, you should immediately call your local utility and emergency personnel.

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

**Glacial Energy of Ohio, Inc. Commercial Electricity EFT Agreement: Additional Accounts**

This list of accounts below is incorporated by reference into the foregoing Glacial Energy of Ohio, Inc. Commercial Electricity EFT Agreement, and binds these additional accounts to the terms and conditions contained therein:

<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 Signature \_\_\_\_\_

Date \_\_\_\_\_

## 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. Glacial Energy may charge interest on any past due balance at the rate of 1.5% per month with said interest being calculated from the date of the default. 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. Customer will be billed upon receipt of usage data from the LDC for the month in which power is being provided and payment will be due 10 days from the receipt of invoice.

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 Ohio, Inc.
_____ Print Name & Title
Date: _____