

# New York Residential Retail Electricity Supply

## General Terms and Conditions

Reference Code: ETC103R

1. **Utility Service.** Your Utility is responsible for providing energy delivery service to Your facilities in accordance with its tariff and responding to emergencies. In the case of an electrical emergency, You should call Your Utility. The toll free emergency numbers are as follows: ConEdison: 1-800-752-6633, Central Hudson: 1-845-452-2700, O&R: 1-877-434-4100, National Grid: 1-800-892-2345, NYSEG: 1-800-572-1131, RG&E: 1-800-743-1701.
2. **Delivery.** All electricity sold under this Agreement shall be delivered to a location on Your Utility's transmission system which shall be at the NYISO load bus located outside of the municipality of Customer's service address ("Delivery Point"). The Delivery Point will be determined at time of scheduling. Title of electricity shall pass to You at the Delivery Point. You appoint Us as agent for the purpose of (i) acquiring the supplies necessary to meet Your electricity needs, and (ii) arranging, contracting for and administering transportation and related services across transmission facilities and those of the Utility needed to deliver electricity to Your service address.
3. **Billing.** You shall receive a consolidated bill from Your Utility including both utility charges for delivery service and Our energy supply charges. You shall make all payments to Your Utility in accordance with their billing procedures. We will assign and sell Your accounts receivable to Your Utility. In the event Your Utility discontinues consolidated billing or ends Your eligibility to receive consolidated bills, then We shall bill You each month for Our charges within ten (10) days of receipt of meter reading data from Your Utility, and You agree to pay Us within twenty (20) days of the invoice date. If actual meter readings are not available to Us in a timely manner, We may bill on a use estimate. If We use estimates to calculate Your bill, We will make invoice adjustments to reconcile any differences once actual use becomes available. Interest on unpaid bills will accrue from the due date at a rate of 1.5% per month or the maximum rate permitted by applicable law, whichever is less. You shall send all payments to BlueRock Energy, Inc., 432 N. Franklin St, Suite 20, Syracuse, NY 13204. In the event of failure to remit payment when due, We may terminate commodity service and seek suspension of distribution service in conformance with the Home Energy Fair Practices Act ("HEFPA"). A \$30 fee will be charged for all returned payments.
4. **Dispute Resolution.** In the event of a billing dispute or disagreement involving Our service hereunder, the Parties will use their best efforts to resolve the dispute informally and expeditiously. Customers should contact Us by telephone or in writing. Residential customers may submit their dispute at any time to the New York State Department of Public Service (DPS) pursuant to its Complaint Handling Procedures or by calling the DPS at 800-342-3377. Pending resolution of any dispute, You must pay the bill in full, except for the disputed amount, and that payment will be refunded if decided by final order of the DPS or arbitrator.
5. **Limitation of Liability.** Parties agree that any liability to each other will be limited to direct actual damages. Neither Party shall be liable for incidental, consequential, punitive, or indirect damages, lost profits or lost business in tort, contract or any other form of law. This limitation excludes claims of gross negligence or willful misconduct.
6. **Taxes.** You agree to pay any Taxes imposed after the Delivery Point. "Taxes" means any and all federal, state, municipal, or other governmental duties, fees, levies, *ad valorem*, energy, transmission, utility, gross receipts, sales, use, consumption, excise, transaction, and other taxes. If You are exempt from Taxes that may apply to any electricity sold under this Agreement, then You shall provide Us with a valid and properly completed exemption certificate before any sales begin under this Agreement.
7. **Force Majeure. EXCEPT AS OTHERWISE SET FORTH IN THIS AGREEMENT FORCE MAJEURE IS THE ONLY EXCUSE FOR NON-PERFORMANCE AND ALL OTHER EXCUSES (AT LAW OR EQUITY) ARE WAIVED.** Except for payment obligations, a Force Majeure event will excuse performance during the event. "Force Majeure" means an event not within the reasonable control of the Party (or, third party, in the case of third party obligations or facilities) claiming suspension (the "Claiming Party"), and which by the exercise of due diligence the Claiming Party is unable to overcome or obtain a commercially reasonable substitute for performance. Force Majeure includes, but is not restricted to: failure of transmission facilities; acts of God; fire; civil disturbances; labor dispute; labor or material shortage; sabotage; action or restraint by court order or public or governmental authority (so long as the Claiming Party has not applied for or assisted in the application for such government action). Force Majeure as it applies to this Agreement shall not serve to relieve You of any financial obligation made pursuant to a Fixed Price purchase option chosen by You and described in this Agreement, including in the Fixed Price Contract Addendum.
8. **Warranties. EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, WE DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.**
9. **Assignment.** You may not assign this Agreement without Our prior written consent. We may assign this Agreement to another authorized energy service company ("ESCO") if We provide You with 30 days advance written notice.

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- 10. Severability.** If any provision in this Agreement is held by a court or regulatory agency of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall still be fully enforceable, without being impaired or invalidated in any way.
- 11. Information Release Authorization.** You authorize Us to obtain and review information regarding Your credit history from credit reporting agencies and the following information from the Utility: consumption history; billing determinants; utility account number; credit information; public assistance status; existence of medical emergencies, status as to whether You have a medical emergency or human needs such as being elderly, blind or disabled; data applicable to cold weather periods under PSL §32(3); and information pertaining to PSL §33, tax status and eligibility for economic development or other incentives. This information may be used by Us to determine whether We will begin or continue to provide energy supply service to You, but will not be disclosed to a third party unless required by law. Your execution of this Agreement shall constitute authorization for the release of this information to Us. This authorization will remain in effect during the Initial Term and any Renewal Term. You may rescind this authorization at any time by providing Us written notice or by calling Us at 1.866.815.2343. We reserve the right to cancel this Agreement in the event that You rescind the authorization.
- 12. Consumer Protections.** The services provided by Us to You are governed by the terms and conditions of this Agreement and HEFPA for all residential customers. We will provide You at least 15 days' notice prior to the cancellation of Your service. In the event of non-payment of any charges owed to Us, You may be subject to termination of commodity service and the suspension of distribution service under procedures approved by the DPS. You may obtain additional information by contacting Us at 1.877.280.4909 or the DPS at 1-800-342-3377, or by writing to the DPS at: New York State Department of Public Service, Office of Consumer Services, Three Empire State Plaza, Albany, New York 12223, or through its website at: <http://www.dps.state.ny.us>. You may also contact the DPS for inquiries regarding the competitive retail energy market at 1.888.697.7728.
- 13. Contact Information.** Customer may contact Our Customer Service Center at 1.877.280.4909, Monday through Friday 8:00 a.m. to 5:00 p.m. EST (hours subject to change). Customer may write to Us at BlueRock Energy, Inc, 432 North Franklin St., Suite 20, Syracuse, NY, 13204 or email at [info@bluerockenergy.com](mailto:info@bluerockenergy.com).
- 14. Miscellaneous.** Parties agree that this Agreement shall be treated as if it were a Forward Contract under Title 11 of the Bankruptcy Code. You acknowledge that We are not a utility for any purpose under Title 11 USC §366, *et. al.* This Agreement shall be governed by the laws of the State of New York. This Agreement is also subject to the rules of Your Utility's retail access program and Uniform Business Practices of the DPS.
- 15. Changes in Circumstances.** If a material change occurs to any of the following: taxes, NY Independent System Operator rules, NY DPS rules, actual usage versus historical data, capacity obligation, or Utility retail access program, We reserve the right to cancel this Agreement upon providing You with thirty (30) days prior written notice.
- 16. Changes in Law.** This Agreement is also subject to future legislation, orders, rules, regulations or Utility tariff or policy changes by the NY Public Service Commission or NY Legislature. Specifically, this includes New York's Clean Energy Standard. If a change in any law, rule or pricing structure, including but not limited to implementation of New York's Clean Energy Standard or Zero Emissions Credits program that results in new or increased costs of supply, We may terminate this Agreement or change Your Rate accordingly, upon providing You with thirty (30) days prior written notice.

**NYRV: 11/2016**