

TERMS OF SERVICE

1. **BILLING AND PAYMENT.** Payment is due by the date set forth on the invoice or if no date for payment is provided on the invoice payment due within twenty five (25) days of the date of the invoice ("Payment Date"). If payment is not received by the Payment Date, it is considered late and may be reported to a credit agency. Late payments or partial payment balances will be subject to a late fee of 1.5% per month, or the maximum rate allowable by law. Your bill will be based on monthly meter readings. If Your Local Distribution Company ("LDC") is unable to read Your meter, Your LDC will estimate Your charges based on previous usage history, and later adjust it based on actual usage shown by a meter reading. We shall make a similar adjustment to Your bill. You shall reimburse ConEdison Solutions for any collection fees We incur in collecting Your outstanding invoices. ConEdison Solutions does not offer third-party or deferred billing options. We may require a security deposit of up to two (2) months estimated usage and You agree to provide such a deposit upon written request. Interest will not be paid on deposits unless required by law.
2. **DISPUTE RESOLUTION.** If You have a dispute concerning Your invoice or ConEdison Solutions' service under this Agreement, please notify Us of the nature of the dispute by telephone 1-800-563-4191 or by mail to ConEdison Solutions, Attn: Customer Operations, 701 Westchester Ave; Suite 300 East, White Plains, NY 10604 or in person at our Burlington, Massachusetts office located at 2 Burlington Woods, Burlington, Massachusetts. Invoice disputes shall be made at the time payment of the invoice is due along with payment of the undisputed part of the bill. We will investigate the dispute and reply to You in writing concerning Our findings in an attempt to resolve the dispute. If You disagree with Our findings, You may appeal to the DTE or request in writing that ConEdison Solutions arrange for alternative dispute resolution by a neutral third party.
3. **DEMAND FORECASTS.** You agree to authorize Us to access Your historical usage records from Your LDC. You agree to notify Us in writing whenever You have reason to believe Your demand will depart materially from such historical usage, e.g., because of addition or reduction of equipment or usage thereof, providing good faith estimates of such departures.
4. **TITLE AND TAXES.** Title to the electricity sold hereunder shall pass from Us to You when it is delivered to Your LDC. Prices set forth herein include transportation to Your LDC. You shall pay to ConEdison Solutions the amount of any transfer, sales or other taxes and related charges, however designated, that are imposed upon the transfer of title or the transporting or delivering of electricity and such amount will be separately stated on Your bill, unless prior to execution of this Agreement, You have given Us applicable, valid tax exemption certificates.
5. **FORCE MAJEURE.** Except for Your obligation to make payments when due, neither Party shall be liable to the other for any delay or failure to perform caused by an occurrence of Force Majeure. "Force Majeure" are occurrences beyond a Party's reasonable control, including, without limitation, acts of God, strikes, lockouts or other industrial disturbances, acts of terrorism, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, civil disturbances, explosions, breakage, shortage or unavailability of transmission facilities, and actions of any governmental authority or Your LDC which result in conditions, limitations, rules, or regulations that materially impair either Party's ability to perform hereunder. The affected Party shall give to the other reasonably prompt and detailed notice of the occurrence of any Force Majeure relied upon and use commercially reasonable efforts to resume performance hereunder.
6. **LIMITATION OF LIABILITY.** Neither Party shall be liable to the other for any indirect, special, consequential (including lost profits or revenue), incidental or punitive damages for claims arising under this Agreement.
7. **NO WARRANTIES.** We agree to pass through any warranties We get from our electricity suppliers, to the extent We are permitted to do so. Except as expressly set forth herein, ConEdison Solutions makes, and You receive, no warranty, express, implied, or statutory, and ConEdison Solutions specifically disclaims any warranty of merchantability or fitness for a particular purpose.
8. **TERMINATION OF AGREEMENT BY CUSTOMER.** You may terminate this Agreement, in whole or as relating to any single account that is included in this Agreement, by providing thirty (30) days advance written notice to ConEdison Solutions setting forth the reasons for such termination. In the event that you terminate this Agreement, You shall pay to ConEdison Solutions, as an "Early Termination Fee" the following: payment at the rate specified in this Agreement (including any applicable late payment fees and taxes) for service provided by ConEdison Solutions prior to the effective date of the termination for which You have not already made payment, plus: (i) for a *fixed price contract*, payment at the rate specified in this Agreement (including any applicable taxes) as though service was provided to You by ConEdison Solutions, based on your historical usage, from the effective date of the termination through the balance of the Term, less any revenues received by ConEdison Solutions as a result of any liquidation or resale of the electric supply purchase commitments entered into by ConEdison Solutions to provide service to You over the entire Term of this Agreement; or (ii) for an *indexed price contract*, payment of the sum of \$0.0025 multiplied by the number of kilowatt hours remaining in the Term as though service was provided to You by ConEdison Solutions based on your historical usage during the period from the effective date of the termination through the balance of the Term. You may terminate this Agreement before the end of the Term without paying an Early Termination Fee on written notice if We are in material default of any of Our obligations under this Agreement and such default continues for forty five (45) days after We receive written notice from You. You shall remain responsible for payment of all outstanding charges for electricity delivered and service rendered prior to the effective date of termination of this Agreement.
9. **TERMINATION BY CONEDISON SOLUTIONS.** ConEdison Solutions reserves the right to terminate service under this Agreement (i) for non-payment; (ii) if Your LDC is unable to read Your meter for three (3) months in a row; or (iii) upon any other material default of any of Your obligations under this Agreement, provided such default is not cured within forty five (45) days after You receive written notice from Us. In the event that service is terminated pursuant to this Section, You shall pay, upon being billed, the Early Termination Fee specified in Paragraph 8, above. We will notify both You and Your LDC of such action at least fifteen (15) days prior to the effective date of termination and, unless you choose another supplier, Your electricity will be provided by Your LDC under its standard tariff.
10. **EXPIRATION OF AGREEMENT.** This Agreement expires on the date of Your meter reading.
11. **CONTACT INFORMATION.** In the event of an electric-related emergency such as a power outage, You should call your LDC at its emergency phone number: NSTAR: 1-800-592-2000; National Grid: 1-800-322-3223; WMECO: 1-800-286-2000; Fitchburg: 1-800-582-7276. To contact ConEdison Solutions, please call 1-800-316-8011. The phone number for the Massachusetts Department of Telecommunications and Energy is 1-617-305-3531.
12. **ENVIRONMENTAL INFORMATION DISCLOSURE.** Will provide upon request if applicable.
13. **GENERAL PROVISIONS.** We will keep confidential any information pertaining to You which You provide, except as required by law. The terms and conditions of this Agreement shall extend to and be binding upon the respective successors and permitted assigns of the Parties; provided, however, that You may not assign this Agreement without Our prior written consent, which consent shall not be unreasonably withheld, and any purported assignment without such consent shall be void. This Agreement sets forth the entire agreement between the Parties respecting this subject matter, and all prior agreements, understandings, and representations, whether oral or written, are merged in this Agreement. No modification or amendment of this Agreement shall be binding on either Party unless in writing and signed by authorized representatives of both Parties. No waiver of any right under this Agreement shall be effective unless it is in writing and signed by an authorized representative of the Party granting such waiver and no such waiver or failure to enforce a term or provision of this Agreement on any occasion shall be construed as a waiver of the same or any other term or condition on any other occasion. This Agreement shall be governed by and construed in accordance with the laws of the State of Massachusetts without recourse to such state's choice of law rules. This Agreement is subject to all valid and applicable legislation and to all present and future orders, rules, and regulations of authorities having jurisdiction and both Parties agree to comply with all such applicable laws, orders, rules and regulations. In the event that changes in any such laws, orders, rules or regulations has the effect of increasing Our cost of electricity, We will advise You of such change and reserve the right to adjust the prices set forth herein to pass through such cost increases. We will not be able to pass through additional charges related to a locational-based capacity market proposed for October 2006.