

Electricity Supply Agreement—Terms of Service
 New Hampshire – Small Commercial & Industrial (<100kW)—PGP



COMMERCIAL CUSTOMER INFORMATION	
Customer Name: Click here to enter text.	LDC Accounts: <i>See Addendum A</i>
Federal Tax ID: Click here to enter text. <input type="checkbox"/> <i>Tax Exempt/Special Status (doc. req'd)</i> Mint Pool Identifier: Click here to enter text.	
Contract ID: Click here to enter text. Created On: Click here to enter text. Offer Valid Thru: Click here to enter text.	
Initial Term of Service: Click here to enter text. Months Intended Start Month/Year: Click here to enter text. *Intended Start Month: Mint Energy will make commercially reasonable efforts to start service in intended service month.	

Agreement: This Electricity Supply Agreement—Terms of Service and all addenda attached hereto form the Agreement (the “Agreement” or “ESA”) between Mint Energy, LLC (“Mint Energy”) and Customer (“Customer,” each a “Party” and collectively the “Parties.”).

Enrollment Authorization: Customer has read and agrees to the provisions contained in this Agreement. Customer authorizes Mint Energy to enroll Customer as Mint’s customer and understands that Mint Energy will be Customer’s electricity supplier. Customer understands that only one company may be designated as its retail electric supplier and that there may be a fee charged by its current supplier to switch to Mint Energy, LLC. By signing this ESA (facsimile signature accepted as if it were an original) the undersigned below warrants and represents that he/she is legally authorized to enter into this Agreement on behalf of Customer. Supply of electricity under this Agreement is conditioned upon Mint Energy’s (1) review and approval of Customer’s creditworthiness and (2) verification of the accuracy of all Customer-provided information with respect to electricity usage and Addendum A.

	CUSTOMER CONTACT	BILLING CONTACT (Required)	Mint Energy, LLC CONTACT	CUSTOMER PAYMENTS
NAME: ATTN:			Mint Energy, LLC	For payment by check, please send to: Mint Energy, LLC Department 1510 P.O. Box 4110 Woburn, MA 01888-4110
STREET ADDRESS:			One Rounder Way Suite 220	
CITY, STATE, ZIP:			Burlington, MA 01803	
PHONE #:			(877) 611-6468	
FAX #:			(888) 611-6468	
E-MAIL:			contracts@mintenergy.net	

SIGNATURE	<i>For Back Office Use Only</i>
Customer: Click here to enter text.	Mint Energy, LLC
Signature:	Signature:
Print Name:	Print Name:
Print Title:	Print Title: Contract Administrator
Date:	Date:

Definitions of Terms used in This Agreement:

- a. **"CEPS"** refers to a "Competitive Electric Power Supplier" as defined in Puc 2002.4
- b. The **"Day Ahead Locational Marginal Price"** or **"Day-Ahead LMP"** is an hourly price that is determined on ISO-New England's Day-Ahead Energy Market, which lets suppliers, such as Mint Energy, buy or sell wholesale electricity one day before the current day, to help avoid price volatility. Day-Ahead prices for the New Hampshire Load Zone may be found at:
<http://www.iso-ne.com/isoexpress/web/reports/pricing/-/tree/lmps-da-hourly>
- c. **"ESA"** refers to this Agreement, the Mint Energy Electricity Supply Agreement
- d. **"Interval Data Customer"** is a customer whose electric meter provides not only information on how much electricity is used, but also how much is used in a particular span of time, usually on an hour-by-hour basis
- e. **"ISO"** refers to the Independent System Operator, the entity that manages the wholesale power market and electricity transmission grid. For New Hampshire, this entity is ISO-New England (**"ISO-NE"**).
- f. **"kWh"** or kilowatt-hour is a unit of measurement of electricity used.
- g. **"LDC"** refers to the Local Distribution Company, the company that maintains the wires, poles, and other infrastructure that physically delivers electricity to customers. Eversource is an example of a New Hampshire LDC.
- h. **"Load Profile"** refers to Measurements of a customer's electricity usage over a period of time which shows how much and when a customer (or a class of customers) uses electricity. Load profiles can be used by suppliers and transmission system operators to forecast electricity supply requirements and to determine the cost of serving a customer.
- i. **"Load Zone"** refers to a defined area within the operational area of the ISO. For purposes of this agreement, the relevant load zone is the State of New Hampshire.
- j. **"NEPOOL"** refers to the New England Power Pool, a voluntary association of power producers, LDCs, and other power market participants operating and transacting business in the 6 New England states. Many of **NEPOOL's** grid management functions are now overseen by ISO-New England.
- k. **"Real Time Locational Marginal Price"** or **"Real Time LMP"** refers to the hourly price that is determined on ISO-New England's Real Time Energy Market, which lets suppliers, such as Mint Energy, buy and sell wholesale electricity on an hourly basis during the current day. The Real Time LMP for the New Hampshire Load Zone may be found at <http://www.iso-ne.com/isoexpress>.
- l. **"RTO"** refers to the Regional Transmission Organization, the entity that manages the electricity transmission grid. For New Hampshire, this entity is ISO-New England.

- A. Services:** Mint Energy will sell and deliver, or caused to be delivered, and Customer will purchase and receive, or cause to be received, during the term of this ESA, electricity for each metered account listed under Addendum A. This Portfolio Group Product offers a Customer that is referred to Mint Energy by a licensed aggregator the opportunity to aggregate its Transaction Volumes (as defined below) with those of other Mint Energy customers in order to enter into a fixed price transaction for a portion or all of its actual volumes, while any remaining electricity usage will be billed in a variable index-based price. From time to time, the Parties may execute one or more Addendum B/Addenda B. In such an Addendum B, the Parties will identify and/or describe electricity load that will be aggregated with other Portfolio Group participants in fixed energy price transactions. Such electrical load will be identified by such characteristics as quantity of usage (in kWh), intraday time periods (e.g., peak, off-peak, etc.), shape block, and other factors.
- B. Term:** Mint Energy will determine, (e.g., using scheduled LDC/utility meter reading date), the service start date for each account listed in Addendum A after its receipt of Customer's signed ESA, which will be indicated on Mint Energy's first invoice to Customer, and Customer remains responsible for all charges and fees related to service prior to such service start date. Service will continue until the meter reading date during the last month of the Initial Term specified in this ESA (the "Initial Term"). After the Initial Term expires, this ESA will continue for successive one (1) month Renewal Term(s) on the same rates, terms, and conditions as the Initial Term. Customer has the right at any time to change suppliers or to return to LDC default service, but if Customer changes service before expiration of the applicable contract term, Mint requests Customer give Mint thirty (30) days written notice. If Customer wishes to switch to LDC default service by notifying Mint of contract termination, but provides Mint with less than five (5) business day's contract termination notice before Customer's meter read date, then contract termination and switching to LDC default service will take place on the next scheduled meter read date occurring after such notice in accordance with the terms herein.
- C. Customer Class:** Customer warrants and represents that (1) the aggregate demand of all accounts on Addendum A is less than 100 kW and (2) no account listed on Addendum A is classified as residential under LDC tariffs.
- D. Rescission:** Customer may rescind this Agreement within three (3) business days from the date on which the Agreement is delivered by personal delivery or delivery through electronic means, or, if delivery is by United States postal service, within five (5) business days from the date on which the Agreement is postmarked for delivery.
- E. Description of Portfolio Product:** This Portfolio Group Product ("PGP") is available to a Customer that is referred to Mint Energy by a licensed aggregator. The PGP uses an approach similar to a traditional "block-and-index" rate, but is more flexible to meet the needs of its target customer pool. PGP permits the aggregator to customize the product by pooling the Customer's usage with that of other PGP customers, in order to enter into fixed price transaction for a portion, or "block" of electricity usage. When the aggregator designs a "block," the Customer will have the ability to join it by executing an Addendum B. The price associated with the block of electricity represents the energy-only rate; all adder components and fees will be additional. The blocks can be based on such characteristics as quantity of usage, time of day, or time of year. The remaining electricity usage will be billed using a variable index-based price. If a Customer chooses not to execute an Addendum B and join the "block," their entire electricity usage will be billed using a variable index-based rate. All usage, whether part of the "block" or not, will be subject to a variable adder for the other non-energy charges (including portfolio

fulfillment, capacity, renewables, ancillary, and other charges). In this way, the PGP is similar to a traditional “block-and-index” product or rate, but is more flexible. Specifications for each block, including any fixed rate elements as defined by the aggregator for the particular PGP product, are defined in Addendum B.

F. Price: Customer agrees to pay charges in cents per kWh as specified herein for services for all kWhs for the stated Term. Customer is still responsible for paying the LDC delivery charges as well as any other applicable charges. The variable market-based **Total Price** (per kWh) is composed of the **Energy Charge** (per-kWh) and the combination of the variable charges for **Portfolio Fulfillment, Capacity, Renewable Energy Certificates, and Ancillary Services**. The average price per kWh of this product will not vary based on incremental levels of usage. Regardless of usage, the average price per kWh will remain the same.

G. Price Component Definitions:

1. The **Energy Charge** (unless otherwise provided under any Addendum B, as may be in effect from time to time) shall be calculated in the following manner:
 - a. Identify (and gross up for line losses) all actual usage for all customers in the applicable **Sub-Pool** (i.e., a subset of a particular Portfolio Pool Group that consists of one or more Portfolio participant customers whose accounts are grouped together for Mint Energy billing purposes) for a given billing period.
 - b. Mint Energy will then apply a class specific commercially reasonable load profile to scale such usage to hourly increments and volumes. This scaled usage is the **Scaled Sub-Pool Usage (“SSU”)**.
 - c. Mint Energy will then apply to the SSU (as appropriate) the Real Time or Day-Ahead Locational Marginal Price, or a combination thereof, for the suitable New Hampshire load zone or Hub expressed in \$/MWh and published by ISO-NE for the applicable hour (divided by 1,000 to convert to \$/kWh), to determine the Energy Charge. Either index may be used for a particular hour, but the price used will never exceed the higher of the two indices.
2. **Portfolio Fulfillment Charge (“PFC”)** consists of Mint Energy’s marketing, regulatory, administrative, billing, risk management, and (if applicable) any fee charged by the aggregator to the Customer (that will be remitted to the aggregator by Mint Energy) associated with competitive electricity supply.
3. **Capacity** is associated with Mint Energy’s obligation to provide capacity, as required by ISO-NE, on a forecasted pro-rata basis, for all customers in the Portfolio. This includes but is not limited to costs imposed upon Mint Energy by ISO-NE and incurred by Mint Energy for managing risks associated with serving the capacity obligation related to with Customer’s load, and other related costs.
4. **Renewable Energy Certificates (“RECs”)** are associated with compliance by Mint Energy with the New Hampshire Renewable Energy Standard, with the cost calculated as: Applicable Alternative Compliance Payment Cost (on a per kWh basis) multiplied by the applicable required percentage of all classes of renewables for Mint Energy’s total New Hampshire load, or other measure,, plus recovery for related functions, to the extent permitted by law or regulation.
5. **Ancillary Services** charges include, but are not limited to, pro-rata forecasted and/or actual charges, for customers in the Portfolio Pool, scheduling and related activities; fees levied by ISO-NE on Mint Energy, such as: NCP, Regulation Charges, GIS, Locational Forward Reserve, Real-Time Reserves, Load Response, Administrative; and Mint Energy charges and costs related to managing all of the above listed in this subsection
6. The Total Price does not contain any transmission and delivery or other charges, including, but not limited to, system benefits charge, stranded cost recovery charge, and taxes.

H. Risk Associated with Variable (Index-Based) Rates: Electricity prices may be subject to substantial volatility based on economic conditions, fuel prices, seasonal electricity demands, generator outages,

weather, and other factors. Past results regarding particular electricity products are not necessarily an indication of future results. Electricity supplied directly through the ISO-NE administered day-ahead and real-time energy markets can involve substantial direct and indirect costs, including but not limited to capacity and ancillary service costs, credit assurances, and NEPOOL and ISO expense assessments. In addition, participation in these markets may require processes such as load forecasting, scheduling, and settlement in accordance with ISO-NE market rules.

- I. Billing and Payment Methods:** Customer consents to be billed monthly for services provided hereunder via the Dual Billing Method, under which Customer will receive two invoices, one from Mint Energy for Mint Energy's electric supply charge, and one from the LDC for its delivery charges, each with applicable taxes. Under the Dual Billing Method, payments for Mint Energy's electric supply charge will be made directly to Mint Energy. The Total Price will be billed on a per-kWh basis, but will not include line items for the PFC, the components of the PFC, or the Energy Charge. Full payment due must be received by Mint Energy during normal business hours (i.e., by 5 p.m.) within twenty five (25) calendar days from the date upon the invoice ("Payment Date"). Should such date fall on a weekend or nationally recognized holiday, such payment will be due on the next business day. If full payment is not received by the Payment Date, it will be considered late, may be reported to a credit agency, and will subject Customer to default, termination, and other relevant ESA provisions. Late and partial payment balances will be subject to charges calculated and accrued on a daily basis at the annual interest rate of ten (10) percent. In addition, Customer will reimburse Mint Energy for any fees we incur related to late payments or insufficient credit, or collecting Customer's outstanding invoices, including reasonable attorney's fees. Moreover, returned checks or other dishonored payments will result in the application of a \$35.00 insufficient funds fee. Before this Agreement terminates, Customer agrees to pay invoices for any electric supply charges, or any portion thereof, that may be found to have been actually used by the Customer during the term of this ESA and were not previously billed.
- 1. Billing Method:** Mint Energy will bill according to the Dual Billing Method, but reserves the right, after notice to Customer, to bill through Customer's LDC via a Consolidated Bill.
 - 2. Violation of Credit or Payment Terms:** In the event Customer violates credit or payment terms of this ESA and is in default, in addition to, or instead of the remedies listed herein, Customer agrees that Mint Energy may require the Customer to select an alternative billing arrangement, such as advance payment, as a condition to continue supply.
- J. Title and Risk of Loss:** Title, liability and risk of loss associated with the electric energy purchased and sold hereunder shall pass from Mint Energy to Customer at the delivery point for each account specified in Addendum A.
- K. Customer Service:** Contact Mint Energy toll free at (877) 611-6468 or by mail at 1 Rounder Way, Suite 220, Burlington MA, 01803 Attn: Customer Service, with any questions concerning our service.
- L. Utility Contact Information:** In the event of an electric-related emergency such as a power outage and/or equipment service needs, Customer agrees to call the LDC at its emergency phone number: Eversource: 1-800-662-7764. NH Electric Coop.: 1-800-698-2007. Liberty Utilities: 1-800-375-7413.
- M. Bill Assistance and Do Not Call:** Customers may be included on a Do Not Call list by registering with the Federal Trade Commission at www.donotcall.gov or by telephone at 866-382-1222. Additional Information regarding consumer protection rights may also be obtained from the Consumer Affairs Division of the New Hampshire Public Utilities Commission at 800-852-3793.
- N. Credit Requirements:** Mint Energy reserves the right to request a credit history on an applicant for

service prior to offering or at any time during the term of this ESA. Mint Energy reserves the right to refuse service to any entity that does not meet Mint Energy's minimum credit requirements. If Mint Energy determines, before offering service or at any time during the term of this ESA that Customer's credit is or becomes unsatisfactory, Mint Energy may require, upon written request, and Customer will provide, a security deposit in an amount determined by Mint Energy in a commercially reasonable manner, and compliant with all applicable rules and regulations. Should Customer not provide such security deposit, Customer will be in material default. Interest for Customer's security deposit will be based on the Prime Lending Rate, published in the Wall Street Journal on the first business day of every month. Interest shall accrue between the time of Customer's initial deposit and Customer's termination with Mint Energy.

O. Information Disclosure and Material Change of Use: By executing this ESA, Customer authorizes Mint Energy to obtain, and its LDC to release to Mint Energy for purposes related to account establishment, any Customer account information, including historical usage information, interval data, account number, and payment history. Customer further authorizes Mint Energy to release confidential and other information to Customer's LDC necessary to enroll Customer. Customer also agrees to notify Mint Energy promptly whenever Customer has knowledge its kilowatt demand or kWh usage will deviate in a material fashion from historical usage patterns, and provide estimates of related deviations.

P. Termination of Agreement by Customer/Early Termination Fee: Customer may terminate this ESA, in whole or with respect to any single account included, in order to change to another CEPS, default service, or for any other reason. Should Customer choose to do so, Mint requests that Customer give Mint thirty days 30 days prior written notice (e.g., contracts@mintenergy.net).

a. However, if such termination occurs prior to the expiration of a Term Customer agrees to pay to Mint Energy upon demand, an **Early Termination Fee** ("ETF") consisting of the sum of the following:

- i. any outstanding fees due to Mint Energy for electricity and related services it has provided to Customer pursuant to this ESA and any Addenda before the date such termination becomes effective, including late fees for any overdue payments;
- ii. the liquidated amount of: \$0.01 multiplied by the number of kWhs remaining in the Term, based on Customer's historical kWh consumption, multiplied by the number of months remaining in the Term; and
- iii. any **Transaction Early Termination Fee** provided for in a then-effective Addendum B (which only applies to any **Transaction Volumes**, as defined in such Addendum B).

b. Both Parties agree that the Early Termination Fee defined above is a reasonable approximation of harm or loss, not a penalty or punitive in any respect, and neither an exclusive remedy for Mint Energy, or cap on liquidated damages.

Q. Termination of ESA by Mint Energy/Customer Default: Mint Energy reserves the right to terminate this ESA without damages or liability to Mint Energy of any kind, and may place the Customer back on default LDC service: (i) immediately, if Customer fails to make timely payment of all amounts due Mint Energy on the due date. Failure to make timely payment will specifically include when payment is declined by Customer's financial institution for non-sufficient funds or any other reason; (ii) after ten (10) days written notice, if the LDC is unable to read Customer's meter for two (2) consecutive months due to circumstances controlled by the Customer; (iii) if the Customer fails to post a security deposit under the provisions of the Credit Requirements section herein within ten (10) days of a written request for

deposit; (iv) if any information, representation, or warranty Customer made in this ESA proves to have been false or misleading in any material respect, or ceases to remain true during the Term, and within five (5) business days of such ceasing, if Customer does not provide written notice to Mint Energy about such ceasing; (v) if Customer files a petition or otherwise commences, authorizes or acquiesces to the commencement of a proceeding or cause of action with respect to it under any bankruptcy proceeding or similar laws for the protection of creditors, or has such a petition filed against it; (vi) absent written agreement to the contrary and Mint Energy's consent, if Mint Energy ceases to be the sole supplier of electricity for the locations listed in Addendum A, including but not limited to on-site generation of any kind by Customer, without Mint Energy's consent; (vii) Excluding (i) through (vi) above, Customer materially defaults on any other obligations under this ESA, provided such default is not remedied within three (3) days of its awareness, or Mint Energy's notice, whichever occurs earliest. In the event service is terminated under this section, Customer will pay the Early Termination Fee, and/or, if applicable, damages incurred by Mint Energy as provided in this Agreement. Mint Energy may not physically cut off electric service to Customer in the event of termination of this ESA. Physical cut-off of electric service will be controlled solely by the LDC under its current termination rules.

- R. Force Majeure:** Except for Customer's obligation to make payments when due, neither Party will be liable to the other for any delay or failure to perform its obligations under this ESA caused by occurrences not caused by such Party. Such occurrences include but are not limited to an act of God or public enemy, storm, earthquake, other natural forces, war, riot, explosion, public disturbance, labor action, non-performance of the LDC or ISO/RTO, or unavailability of transmission facilities. The affected Party or Parties will be excused from such performance and any further performance required under this ESA for whatever period is reasonably necessary to alleviate the effects of the Force Majeure. Force Majeure specifically excludes, inter alia: (a) a sale, shut-down, or relocation of Customer facilities; and (b) any economic loss of Customer's (e.g., Customer's loss of its own product/service markets or supply chains, or any Customer losses dependent on an energy market).
- S. Change in Law, market structure and/or electricity needs or classifications:** If there is a change in or implementation of law, rule, regulation, ordinance, statute, judicial decision, administrative order, ISO/RTO operating guidelines, ISO/RTO protocols, zonal boundary definitions, utility tariffs, and the like (including resource adequacy or renewable portfolio standards), or electricity market structure, and such change results in Mint Energy incurring additional costs or expenses associated with providing the services described herein, such additional costs or expenses are the responsibility of the Customer and will be assessed to Customer in Mint Energy's monthly bill as an additional charge, and Customer hereby agrees to pay all such charges. Mint Energy will provide Customer with reasonable advance notice, when possible, of such changes. Further, in the event any order of any governmental authority, regulation, or law adversely and materially impacts Mint Energy's ability to perform, Mint Energy may terminate this ESA without penalty.
- T. Limits on Warranty and Damages:** Customer understands and agrees that there are no warranties expressed, implied, or statutory associated with this offer or the electricity service sold hereunder. Mint Energy will bear no liability to Customer or any third party for consequential, punitive, incidental, special or other indirect damages.
- U. Governing Law:** This ESA, including any arbitration decision, is governed by the laws of the State of New Hampshire, without regard to principles of conflicts of law. Further, if necessary, venue will be in New Hampshire courts.
- V. Dispute Resolution:** Unless otherwise prohibited by law or specified below, any dispute arising

hereunder or relating hereto shall be resolved by arbitration pursuant to the commercial arbitration rules of the American Arbitration Association ("AAA"). Such arbitration shall involve a single arbitrator (mutually selected by the Parties, or in the absence of agreement, appointed by the AAA), and shall take place in Concord, New Hampshire, or as otherwise mutually agreed. The arbitration decision shall be binding upon the Parties and judgment upon the award may be entered in any court having jurisdiction over the Party against which enforcement is sought. The cost of the arbitration shall be divided equally between the Parties. However, nothing in this section is intended to prevent either Party from obtaining injunctive relief in court to prevent irreparable harm pending the conclusion of any such arbitration. Any arbitration proceedings and information disclosed in such proceedings shall be confidential. The Parties agree that Customer must notify Mint Energy of any billing dispute in writing within twelve (12) months of the bill date, or it will be waived. Customer may contact the New Hampshire Public Utilities Commission Consumer Affairs Division at 1-800-852-3793 if they have questions about their rights and responsibilities. Mint Energy, LLC is registered as a Competitive Electric Power Supplier with the New Hampshire Public Utilities Commission in Docket No. **DM-15-070**.

- W. Confidentiality:** Parties agree to keep all terms and provisions of this Agreement confidential and not to disclose the terms of the same to any third parties without the prior written consent of the other Party; provided, however, each Party shall have the right to make such disclosures, if any, to governmental agencies and to its own agents, attorneys, auditors, accountants and shareholders or members as may be reasonable necessary. If disclosure is sought through process of a court, or a state or federal regulatory agency, the Party from whom the disclosure is sought shall provide reasonable notice thereof to the other Party. Mint Energy will not release any Customer confidential information without obtaining prior written authorization of the Customer unless required by law. For the purposes of this section, Customer's Confidential Information shall include, but not be limited to: Customer name, address, email address, telephone number, and individual customer payment information. In the event of a dispute about the release of confidential information, including whether the information is or should be confidential, a CEPS, Aggregator or Customer may file a complaint with the Commission for resolution.
- X. Assignment:** Mint Energy may assign its rights and obligations under this Agreement to a third party without Customer consent, including the sale of all or substantially all the assets or merger or consolidation involving Mint Energy. Prior to assigning its rights and obligations to a third party, Mint Energy will provide to the Customer, at least 14 days prior to the effective date of such change, conspicuous written notice that includes: 1) that Mint shall discontinue providing services to the customer; 2) that unless customer selects an alternate CEPS or returns to default service, the customer will be assigned to the proposed transferee or purchaser; 3) the date that Mint will discontinue providing services to the customer; 4) that the change of CEPS shall be without charge to the customer; 5) A clear statement: a) Of any difference between Mint's rates, terms, or conditions of service and the rates, terms or conditions of service of the proposed transferee or buyer; or b) That Mint's rates, terms, and conditions of service and those of the proposed transferee or buyer are the same; 6) The name address, telephone number, and email address of the proposed transferee or buyer if the customer does not select an alternate CEPS within the prescribed time period; and 7) the time period within which the customer shall make a selection of any alternative CEPS or be returned to default service, if different than the date Mint will cease to provide service to the affected customer.

Customer may not assign its rights and obligations under this Agreement to a third party without the prior written consent of Mint Energy. Mint Energy may deny such assignment based on the creditworthiness of the assignee. Moreover, Customer agrees that it will not sell all or substantially all of its assets without the express prior written consent of Mint Energy. This Agreement will be binding upon and will inure to the benefit of both Parties, and their respective heirs, representatives, and

successors, except as otherwise limited herein.

Y. Forward Contract: The Parties agree that this ESA is a “Forward Contract” and that Mint Energy is a “forward contract merchant” for the purposes of United States Bankruptcy Code, as amended, (the “Bankruptcy Code”) and that any payment related hereto will constitute a “settlement payment” as defined in Section 101 (51A) of the Bankruptcy Code.

Z. No Waiver: Mint’s failure to act or waiver of any right or obligation hereunder, including in respect to any Default by the Customer, shall not be considered a waiver of any future right or obligation, whether of a similar or different character.

AA. Rule of Construction: The language in this ESA shall be interpreted as to its fair meaning and not strictly for or against any Party. Any rule of construction stating that ambiguities are to be resolved against the drafting Party shall not apply in interpreting this ESA.

BB. Indemnification: Customer agrees to indemnify, defend, and/or hold harmless Mint Energy for: (1) Customer’s negligent or willful misconduct, including any fees, surcharges, costs, or the like emanating from transferring to or from Mint’s services; or (2) any claims or suits brought against Mint Energy for any loss, damage, or injury to persons or property, including without limitation all consequential, incidental, exemplary, or punitive damages arising from or relating to the distribution or consumption of electricity at and after the point at which the LDC delivers the electricity to Customer’s facilities.

CC. Severability: If any provision of this ESA shall be held to be invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

DD. Entire Agreement; Amendment: This ESA, along with any attachments and/or addenda, constitute the entire agreement between the Parties relating to the subject matter hereof and supersedes any other agreements, written or oral, between the Parties concerning the subject matter of the ESA. Except as otherwise set forth in this ESA, this ESA may be amended only by mutual agreement between Customer and Mint Energy and any amendment will not be effective until reduced to writing and executed by both Parties. This ESA may not be amended by course of performance or course of conduct.

Electricity Supply Agreement – Addendum B
New Hampshire – Small Commercial & Industrial(<100kW)—Portfolio



Customer Name: <u>Click here to enter text.</u>	Pool ID: <u>Click here to enter text.</u>	
Created On: <u>Click here to enter text.</u>	Valid Thru: <u>Click here to enter text.</u>	Contract ID: <u>Click here to enter text.</u>
Transaction Start Date:	Transaction End Date:	Transaction Rate(\$/kWh):

By executing this Addendum B, effective as of the latest date written below (“Addendum B Effective Date”), the Parties agree that this Addendum B amends, is specifically incorporated into, and made a part of the ESA (as defined therein) between the Parties.

I. General

- a. The terms of this Addendum B apply to both the **Transaction Volumes** (as defined below) and all other usage of the Customer, but only to the extent referenced herein, and only during the **Transaction Period** (as defined below).
- b. Capitalized terms not defined in Addendum B will have the same meaning as in the ESA.
- c. If there is a conflict between terms in this Addendum B and the ESA, this Addendum B will control.
- d. If the Transaction Period lasts beyond the expiration of the Initial Term or any Renewal Term (of the ESA) the ESA will be considered to be extended (at a minimum) to the end of the Transaction Period, at which time (unless sufficient notice has been provided under the ESA to terminate) a Renewal Term will commence.

II. Definitions: The following terms shall have the following meanings within this Addendum B:

- a. “Around the clock” or “ATC” means all Hours Monday through Sunday.
- b. “Hour ending” (“HE”) means the 60 minute interval ending on each hour (in 24-hour format), referred to by the last minute included in that interval. For example, the hour ending at 7:00 PM is HE 1900. In this Addendum, all HE refer to Eastern Time.
- c. “Hourly Index Rate” means the Real Time or Day-Ahead Locational Marginal Price, or a combination thereof, for the suitable New Hampshire load zone or Hub expressed in \$/MWh and published by ISO-NE for the applicable hour, divided by 1,000 to convert to \$/kWh.
- d. “Market Price” is defined as, for purposes of calculating the Transaction Early Termination Fee (as set forth below), a good faith reasonable approximation (as calculated by Mint Energy) of a per-kWh price at which Mint Energy reasonably believes it would be able to liquidate the unconsumed portion of the Transacted Volumes with a willing counterparty in an arm’s length transaction within a commercially reasonable time of the breach or early termination.
- e. NERC Holidays are those days defined by the North American Electric Reliability Corporation (NERC) as “Additional Off-Peak Days” that are listed (as may be updated from time to time) on NERC’s website.^a
- f. “Off-Peak” collectively refers to the time periods: (1) Monday through Sunday, each day HE 0100 through HE 0700, and HE 2400; (2) Saturday and Sunday, all hours, and (3) NERC Holidays, all hours.
- g. “Peak” means Monday through Friday HE 0800 through HE 2300, excluding NERC Holidays.
- h. “Sub-Pool” refers to a subset of a particular Portfolio Pool that consists of one or more Customers’ accounts grouped together on a monthly basis (but not necessarily the same grouping every month) for Portfolio billing purposes.
- i. “Transaction Period” means the period beginning on the Transaction Start Date and ending on the Transaction End Date.

^a http://www.nerc.com/comm/OC/RS%20Agendas%20Highlights%20and%20Minutes%20DL/Additional_Off-peak_Days.pdf
NH_Small_C&I_Addendum_B_PGP_v6.4.15

Electricity Supply Agreement – Addendum B

New Hampshire – Small Commercial & Industrial(<100kW)—Portfolio

- j. “Transaction Rate” refers to the rate element applied to the Transaction Volume of each Customer in a particular Sub-Pool.

III. Total Price Calculation

- a. During the Transaction Period, Section G, paragraph 1 of the ESA will not apply (the other parts of Section G remaining unaffected). Mint Energy will determine the **Energy Charge** component of the **Total Price** in the following manner:
- i. Mint Energy will identify (and gross up for line losses) all actual usage for all active customers in the applicable Sub-Pool for a given billing period, but only for the portion of the billing period during the Transaction Period. Mint Energy will then apply a commercially reasonable load profile, to scale such usage to hourly increments and volumes. This scaled usage is the **Scaled Sub-Pool Usage (“SSU”)**.
 - ii. The unscaled numeric **sum** of all actual usage (not grossed up for line losses) for all customers in the applicable Sub-Pool for the billing period is the (“**Combined Sub-Pool Usage”** or “**CSU”**).
 - iii. Mint Energy will identify and aggregate the pro-rated proportion (comparing the billing period to the Transaction Period) of all active Transaction Volumes for a given Sub-Pool and given billing period (“**Sub-Pool Transaction Usage”** or “**STU”**).
 - iv. Mint Energy will determine, if applicable, the **Sub-Pool Index Charge (“SIC”)**.
 1. Mint Energy will determine the differences (greater than or less than) between the SSU and STU. The increments in which the SSU exceeds the STU is the **Sub-Pool Index Usage (“SIU”)**. The increments in which the STU exceeds the SSU represent the **Sub-Pool Index Surplus (SIS)**.
 2. Mint Energy will apply the Hourly Index Rate to the SIU increments and the SIS increments.
 3. The **SIC** will be equal to (1) the total of the rated SIU increments **less** (2) the total of the rated SIS increments.
 - v. Then, Mint Energy will calculate the **Energy Charge**, for the applicable billing period as follows:

$$\text{Energy Charge} = \frac{\text{SIC} + (\text{Transaction Rate} \times \text{STU})}{\text{CSU}}$$

- b. The variable **Total Price** (per kWh) is a single charge composed of the combination of the **Energy Charge** as calculated above and the variable charges for **Portfolio Fulfillment, Capacity, Renewable Energy Certificates, and Ancillary Services**, as set forth in the ESA.

IV. Early Termination and Settlement:

- a. If Customer defaults under the ESA or this Addendum, the ESA will govern with respect to (1) what constitutes default and (2) any available cure.
- b. If Customer terminates the ESA and/or Addendum prior to the end of the Transaction Period, in accordance with Section P of the ESA, the Transaction Early Termination Fee (“TETF”) will be computed for Transaction Volumes as follows, as a reasonable approximation of damages for breach or early termination:
 - i. If the Market Price, for the unconsumed volume of energy at the time of Customer’s breach (“Market Price”) is **greater than or equal** to the Transaction Rate, the TETF = \$0.00 (zero); or
 - ii. If the Market Price is **less than** the Transaction Rate, then the TETF will be calculated as follows for the Customer’s unconsumed Transaction Volumes:

$$\text{TETF} = (\text{Transaction Rate} - \text{Market Price}) \times \text{Unconsumed Transaction Volumes}$$

- c. The Parties agree that Mint Energy is not required to unwind any underlying wholesale transactions relating to the transaction volumes. Moreover, should Mint Energy unwind all or part of any such

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underlying transactions, Mint Energy is not required to account to Customer regarding such unwinding or liquidation.

- d. In all cases, in accordance with Section N of the ESA, the Customer is responsible for all prior billed and unpaid amounts.

V. Transaction Volume Defined

Transaction Volume (kWh per Transaction Period/Sub-Period) ^b	% <u>Historic</u> <u>Use</u> ^c	Please check one—or fill in “Other”			
		<u>ATC</u> ^d ,e	<u>Peak</u> d,e	<u>Off- Peak</u> ^{d,e}	<u>Other Load Shape or Sub-Period Description</u>

Therefore, the Parties by their (or their authorized representative’s) signatures below agree to the foregoing Addendum B.

SIGNATURE	<i>For Back Office Use Only</i>
Customer: <u>Click here to enter text.</u>	Mint Energy, LLC
Signature:	Signature:
Print Name:	Print Name:
Print Title:	Print Title: Authorized Signatory
Date:	Date:

^b Transaction Volumes stated in kilowatt-hours will be grossed up for losses and may be adjusted for such factors as weather forecasts.

^c Transaction Volumes stated as percentages will be converted into a volume (in kWh) consisting of a commercially reasonable estimate of historical data (based on utility or other data available to Mint Energy) from a corresponding timeframe to the Transaction Period or Sub-Period, that is grossed up for losses and may be adjusted for such factors as weather forecasts.

^d In ATC, Peak, or Off-Peak transactions where the Transaction Volumes are stated in this table as specific number(s) of kilowatt-hours per Transaction Period/Sub-Period, the Transaction Volume will be divided by the number of hours corresponding to the transaction type within the Transaction Period/Sub-Period and the resulting amount will be assigned to each such hour corresponding to the transaction type.

^e In ATC transactions, where the Transaction Volumes are stated as percentages of historical per period, the transaction purchased will be a combination of Peak and Off-Peak volumes corresponding to a commercially reasonable estimate of historical data.