

# Tomorrow Energy Corp

OHIO RESIDENTIAL & SMALL COMMERCIAL

## ELECTRIC SALES AGREEMENT AND TERMS OF SERVICE

The following are your Terms of Service which together with your Contract Summary reflects the agreement ("Agreement") between you ("Customer") and Tomorrow Energy Corp ("Tomorrow Energy") for the purchase of retail electricity generation service. Tomorrow Energy agrees to sell and Customer agrees to buy the quantity of electricity delivered to you, as measured or estimated by your Electric Distribution Company ("EDC"). Tomorrow Energy is a competitive retail electric service provider ("CRES") and will supply electricity for your service location enrolled under this Agreement. The words "we," "us," and "our" refer to Tomorrow Energy, and the words "you" and "your" refer to the Customer. Retain this Agreement for your records. Tomorrow Energy is licensed as a CRES by the Public Utility Commission of Ohio ("PUCO") case number 12-0552-EL-CRS and certificate number 12- 503E (3).

**Service Term:** You will continue to receive a single bill from your EDC. Should you cancel your service before the end of the initial term specified in your selected plan, you will be subject to an early termination fee. If you are a new Customer, your product selection will become effective on the day your service begins with Tomorrow Energy, which is the next available meter reading date after processing the request by the EDC and Tomorrow Energy. Because this date is determined by your EDC, Tomorrow Energy cannot commit to a specific date for the commencement of service. If you are currently a Tomorrow Energy Customer and are switching to another Tomorrow Energy product, your product selection will become effective within twenty-four (24) hours of your request to switch to the new plan.

**Contract Renewal:** This Agreement does not renew automatically. A contract expiration notice explaining your renewal options will be sent to you at least forty-five (45) days but no more than ninety (90) days prior to the end of your term. At the end of the term, if you do not choose a new plan, your plan will rollover to a month-to-month variable rate plan whose rate is set by Tomorrow Energy, in its sole discretion.

**Pricing & Payment:** Monthly you will receive a single bill from your EDC that includes Tomorrow Energy generation supply charges and energy service fee, as well as the EDC's delivery charges. Your payment will be due to the EDC by the date specified in the EDC bill.

Your Tomorrow Energy price will be as stated in your Customer Enrollment Information Form (or "Welcome Letter") and Contract Summary. If you selected a variable rate plan, rates are subject to change monthly at the sole discretion of Tomorrow Energy. Tomorrow Energy evaluates many factors, including but not limited to, wholesale energy prices, capacity, local congestion, transmission rates, ancillary charges, distribution loss factors, utility purchase of receivable factors, marketing conditions, business conditions, and renewable requirements in determining the monthly variable rate. The price in any plan includes only charges for retail electricity generation service. The price does not include any fixed charges specified in your plan, Distribution Charges and all other applicable charges from your EDC nor any applicable Ohio sales tax or any local tax. You are responsible for any and all taxes (whether passed through to you on EDC's bill as a separate line item or as part of the price of energy, as required by law, rule or regulation) and EDC charges for delivery, distribution or other services. We do not offer any budget billing for the generation portion of the bill.

The parties' obligations under this Agreement are subject to

present and future legislation, orders, rules, or regulations of a duly constituted governmental authority having jurisdiction over this Agreement or the services to be provided herein. Tomorrow Energy reserves the option to modify any plan in the event of a Material Adverse Change. A Material Adverse Change is defined as a market or regulatory event beyond Tomorrow Energy's control, which would materially impact Tomorrow Energy's ability to perform its obligations under this Agreement. In the case of a Material Adverse Change event, Tomorrow Energy will comply with all applicable rules for notice in advance of any proposed change. If you do not agree with the proposed change, you may cancel your Agreement without penalty.

**Access to Customer Information:** Customer acknowledges that customer billing and payment information will be provided to Tomorrow Energy from your EDC. This information includes, but is not limited to, Customer's account number, meter reading data, rate class and electric usage, Customer's address(es) and telephone number, and Customer's budget billing plan or payment arrangement preference. Except in the case of credit or collections requirements, we will not disclose your information to any third party without your prior written authorization. You may request up to twenty-four (24) months of your historical payment data at no charge. Tomorrow Energy is prohibited from disclosing your social security number and/or account number(s) without your consent except for Tomorrow Energy's own collections and credit reporting, participation in programs funded by the universal service fund, pursuant to section 4928.52 of the Revised Code, or assigning a contract to another CRES provider.

**Dispute Resolution:** In the event of a billing dispute or a disagreement involving any element of this Agreement, the parties will use their best efforts to resolve the dispute. Customer should contact the EDC regarding any billing dispute and should contact Tomorrow Energy in writing at 3010 Briarpark Drive, Suite 200, Houston, Texas 77042, or by telephone at (888) 682-8082 between the hours of 8:00 AM and 5:00 PM, EST for any terms of service dispute. If your complaint is not resolved after you have called Tomorrow Energy and/or your EDC, or for general utility information, residential and business customers may contact the public utilities commission of Ohio (PUCO) for assistance at 1-800-686-7826 (toll free) from eight a.m. to five p.m. weekdays, or at <http://www.puco.ohio.gov>. Hearing or speech impaired customers may contact the PUCO via 7-1-1 (Ohio relay service). The Ohio consumers' council ("OCC") represents residential utility customers in matters before the PUCO. The OCC can be contacted at 1-877-742-5622 (toll free) from eight a.m. to five p.m. EST weekdays or at <http://www.pickocc.org>.

**Tomorrow Energy Promotions:** All promotions associated with Tomorrow Energy enrollment rate plans are subject to the terms and conditions listed on the customer's Welcome Letter which is included in the Welcome Kit.

**Right of Rescission:** You have the right to rescind your enrollment and this Agreement with no penalty within seven (7) calendar days of the postmark of the EDC's confirmation notice by contacting the EDC. Cancellations may be made orally, electronically, and in writing, using the information provided by the EDC.

**Cancellation:** You agree to remain a Customer of Tomorrow Energy until your term expires. In the case you choose to leave Tomorrow Energy's service past the initial seven (7) day

rescission period, you will be charged an early termination fee which fee is set forth in your Welcome Letter. There is no early termination fee for month-to-month variable plans. You may terminate this Agreement without any termination fee or penalty: (a) within seven (7) calendar days of the postmark on EDC's confirmation notice, or (b) when you move outside of the EDC service territory or to an area where Tomorrow Energy charges a different price for your product. When you cancel services, you agree to pay for the services provided by Tomorrow Energy through the date you are switched to another CRES or returned to the EDC for service. You are responsible for all charges incurred through the date of cancellation and for any collection fees incurred by Tomorrow Energy .

If you fail to pay your EDC charges, you are subject to disconnection of service pursuant to their tariff. Tomorrow Energy reserves the right to cancel this Agreement (i) if your EDC is unable to read your meter for three (3) consecutive months; (ii) if at any time you request separate bills from your EDC and Tomorrow Energy Services; or, (iii) if the EDC removes you from their consolidated billing program and requires that Tomorrow Energy bill you separately for your electricity supply. We will notify both you and your EDC of the cancellation of this Agreement at least fourteen (14) days prior to the effective date of cancellation.

Tomorrow Energy may amend the terms of this Agreement by providing notice to Customer of such amendment at least forty-five (45) days prior to the effective date thereof. Customer may cancel this Agreement at any time prior to the effective date of such amendment without penalty. If you choose to return to the EDC default service, you may or may not be served under the same rates, terms, and conditions under which other customers of the utility are served. Your EDC may charge a switching fee to switch back to default service.

**Governing Law:** This Agreement shall be governed by and construed and performed in accordance with the laws of Ohio and venue shall be in Cleveland, Ohio. The provisions of the Uniform Commercial Code (UCC) shall apply to this Agreement, and electricity shall be a "good" for purposes of the UCC.

**Assignment:** You may not assign this Agreement, in whole or in part, without the prior written consent of Tomorrow Energy . Tomorrow Energy may, without your consent, (a) pledge or encumber this Agreement or the accounts, revenues or proceeds hereof; (b) transfer or assign this Agreement to an affiliate of Tomorrow Energy or any person or entity succeeding to all or substantially all the assets of Tomorrow Energy ; or any other person, so long as the forgoing is a PUCO certified retail supplier. In the case of (b), any such assignee shall agree in writing to be bound by the terms and conditions hereof. Provided, Tomorrow Energy shall provide written notice to Customer of any assignment to another CRES prior to issuance of Customer's next bill following the assignment. Upon any such assignment, Customer agrees that Tomorrow Energy shall have no further obligations hereunder.

**Limitations of Liability:** Liabilities not excused by force majeure or otherwise shall be limited to direct actual damages. Except as specifically otherwise set forth herein, neither party will be liable to the other for consequential incidental, punitive, special, exemplary or indirect damages. Lost profits or penalties of any nature are hereby waived. These limitations apply without regard to the cause of any liability or damage, including the negligence of Tomorrow Energy . There are no third-party beneficiaries to this Agreement.

**Severability:** If any provision of this Agreement is held by a court or regulatory agency of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall continue in full

force without being invalidated in any way.

**No Warranties:** Unless expressly set forth in this Agreement, Tomorrow Energy provides and Customer receives no warranties, express or implied, statutory, or otherwise and Tomorrow Energy specifically disclaims any warranty of merchantability or fitness for a particular purpose. No partial performance, delay or failure on the part of Tomorrow Energy in exercising any rights under this Agreement shall constitute a waiver of such rights or of any other rights hereunder.

**Force Majeure:** The term "Force Majeure" shall mean any cause not reasonably within the control of the Party suspending performance 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 EDC or any transportation or transmitting entity. Provided, in no case shall force majeure excuse the obligation to pay money due when owed. If either party is unable, wholly or in part, by Force Majeure to perform or comply with any obligations or conditions of this Agreement, such party shall give immediate written notice, to the maximum extent practicable, 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.

**Entire Agreement:** This Agreement and Contract Summary sets forth the entire agreement between the parties with respect to the terms and conditions of this transaction; all other agreements, understandings and representations by and between the parties with respect to the matters addressed herein are superseded by this Agreement.

**Acceptance:** This Agreement shall not become effective until accepted by Tomorrow Energy .

**Contact Information:** For questions concerning your rate, service initiation, or service cancellation, please contact Tomorrow Energy .

<p><b>Tomorrow Energy Corp</b>  <b>Internet Address:</b>  <a href="http://www.TomorrowEnergy.com">www.TomorrowEnergy.com</a></p> <p><b>Address:</b>  3010 Briarpark Drive, Suite 200  Houston, Texas 77042</p> <p><b>Customer Service:</b>  Phone: (888) 682-8082  Fax: (800) 256-6181</p> <p><b>Operating Hours:</b>  Monday – Friday  8:00 AM – 5:00 PM EST</p>	<p><b>Public Utility Commission of Ohio (PUCO)</b></p> <p><b>Address:</b>  180 East Broad Street  Columbus, Ohio 43215</p> <p><b>Phone Number:</b>  (800) 686-7826</p> <p><b>Operating Hours:</b>  Monday – Friday  8:00 AM – 5:00 PM EST</p>
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**Distribution Company:** In the event of a power outage, please contact your Electric Distribution Company.

<b>AEP Ohio Power</b>	
<p><b>Customer Service:</b>  1-800-672-2231</p>	<p><b>Emergency Outage:</b>  1-800-672-2231</p>