

BILLING SERVICES AGREEMENT AES OHIO – RATE READY BILLING

This Billing Services Agreement (“Agreement”) effective as of _____ by and between AES Ohio (“AES Ohio” or “Company”), an Ohio Corporation, and _____ (“_____” or “Supplier”), an _____ corporation, (individually a “Party”, collectively referred to as “Parties”).

Whereas, AES Ohio is an electric distribution utility (“EDU”) as defined in Ohio Revised Code (“ORC”) §4928.01 (A) (11) and provides, among other things, distribution and transmission service to end-use retail customers (“Customers”) located in its service territory and bills those Customers for such service; and

Whereas, Supplier is a provider of, among other things, competitive retail electric service (“CRES”) as defined in Revised Code §4928.01(A)(4) and provides generation and transmission service to certain Customers located in AES Ohio’s service territory; and

Whereas, Supplier requests and AES Ohio will provide Consolidated Rate Ready Billing for a portion of Supplier’s Customers; and

Whereas, AES Ohio will not purchase the receivables for Supplier’s Customers; and

Whereas, the Public Utilities Commission of Ohio (“PUCO”) by Opinion and Order dated February 2, 2005 approved a stipulation in Cases Nos. 03-2405-EL-CSS, 04-85-EL-CSS, and 03-2341-EL-ATA; and

Whereas, the terms, conditions and prices set forth below are subject to modification until all appeals have been exhausted regarding Cases No. 03-2405-EL-CSS, 04-85-EL-CSS, and 032341-EL-ATA;

Now, therefore, the Parties hereto agree for good and adequate consideration to the terms and conditions contained herein,

1. Services Provided

- a. AES Ohio will provide Consolidated Rate Ready Billing for Supplier’s Customers provided the initial or subsequent electronic enrollment submitted by Supplier to the Company specifies rate ready billing for such Customers of Supplier. For the purposes of this Agreement, Consolidated Rate Ready Billing means that Supplier will provide to AES Ohio a rate schedule for generation and transmission service and AES Ohio will apply the rate to Supplier’s Customer’s monthly usage of electricity in order to determine the Customer’s generation and transmission bill and, upon receipt of payments on behalf

of Supplier's Customers, AES Ohio will remit payments to Supplier. See Section 3 of this Agreement for more detail regarding transmission of meter reading information. AES Ohio will use best efforts to apply the usage information obtained by AES Ohio to the rates provided by Supplier. If Supplier believes that the Company inaccurately computed a Supplier's Customer's bill, then Supplier shall notify the Company immediately in writing. If AES Ohio agrees that there was an inaccuracy in the Company's computations, AES Ohio will make a correction for future billed usage in a future billing period. Supplier is responsible for receiving and resolving all end-use Customer rate disputes involving charges for services received from Supplier, including but not limited to any erroneous rates or rate tables provided by Supplier.

- b. AES Ohio will maintain a Customer's standard billing cycle throughout the term of this Agreement. However, AES Ohio reserves the right to modify a Customer's billing unit.
- c. AES Ohio will bill for Supplier's generation and transmission charges and late payment charges. See Section 18 for late payment charge details.

2. Generation and transmission Resource Mix and Environmental Disclosure

Supplier is responsible for providing to its Customers the generation and transmission resource mix and environmental characteristics disclosure information and all other requirements set forth in Ohio Administrative Code ("OAC") Chapter 4901:1-21-09.

3. Transmitting Meter Reading Information

AES Ohio will transmit meter reading information electronically to Supplier for each of its end-use Customer accounts, through the Electronic Data Interchange ("EDI") standards set forth by the Public Utilities Commission of Ohio ("PUCO"). The same meter reading information will be used to bill end-use Customers for AES Ohio charges and Supplier charges. To the extent Supplier's rates are applied to demand-based billing determinants (kW), such rates will be applied to the monthly billed demand as calculated pursuant to AES Ohio's monthly billing demand contained in

AES Ohio's Schedule of Rates, Classifications, Rules and Regulation, PUCO Volume No. 17, Tariff Sheets D19, D20, D21 and D22 as applicable based on the voltage level of service of a particular Customer.

4. Rate Definition and Time Table

- a. For the initial set up of Supplier's rates, Supplier must furnish specific rate information (billed demand, KVAR charge, energy charge) to AES Ohio in a predefined format (see attachment A to this Agreement.), a minimum of forty-eight (48) business days prior to enrolling a Customer for billing services. AES Ohio will only build and test new rates

for two suppliers at a time according to the timetable established in subsections b through

e. Therefore, new, or additional rates will be built and tested for suppliers in the order received. Should AES Ohio not be able to meet the specified timetable because more than two suppliers have requested new rates, AES Ohio will provide notification to Supplier within two (2) business days of receipt of its request and provide an alternate timetable.

- b. After AES Ohio receives the specific rate information from Supplier, AES Ohio will have thirty (30) business days to define and system test the rates before sending the results back to Supplier for approval.
- c. Within five (5) business days of AES Ohio providing test results to Supplier, Supplier must either verify the rate or provide written notice to the Company informing AES Ohio of an error. If Supplier identifies such error, AES Ohio will correct the error within eight (8) business days of receipt of notice of the error. AES Ohio will send correction to Supplier for approval. If Supplier agrees with the rate, Supplier must send electronic approval to AES Ohio. AES Ohio will not install Supplier's rates in the AES Ohio billing system until Supplier's electronic approval is received.
- d. Once AES Ohio receives the approval of rates from Supplier, the rates will be installed in the AES Ohio billing system within five (5) business days and will be available for billing.
- e. When the rates are installed within AES Ohio's billing system and are available for billing, Supplier may send an enrollment Direct Access Service Request ("DASR") for accounts it wants to be billed on the new rate. AES Ohio will reject DASRs for rates not defined in AES Ohio's billing system for Supplier's Customers.
- f. AES Ohio will bill the Supplier's specific rate charges (billed demand, KVAR charge, energy charge) if the billing determinants exist on the Customer's account. AES Ohio will not set additional meters or change meters in order to bill all the charges within a Supplier's rate code unless otherwise stated in AES Ohio's Schedule of Rates, Classifications, Rules and Regulation, PUCO Volume No. 17.
- g. Requests for changes to pricing within Supplier's rates in AES Ohio's billing system will be made within twenty-one (21) business days: AES Ohio will have twelve (12) business days to define and test rates and send results to Supplier; within three (3) business days of receipt, Supplier must verify the rate or provide written notice to the Company informing AES Ohio of an error; AES Ohio will correct the error within three (3) business days. Once AES Ohio receives the approval of rates from Supplier, the changes will be installed in the AES Ohio billing system within three (3) business days

and will be available for billing. AES Ohio will only make and test pricing changes for two suppliers at a time. Supplier pricing changes will be made for Suppliers in the order received. Should AES Ohio not be able to meet the specified timetable because more than two suppliers have requested changes to pricing, AES Ohio will provide notification to Supplier within two (2) business days of receipt of its request and provide an alternate timetable.

Creation of Additional Rates and all other changes to Supplier's rates in AES Ohio's billing system will follow the timetable as stated in Section 4.a through 4.d above.

- h. The foregoing assumes, as set forth and limited by AES Ohio's Tariff G8 Section 10.1, that "the Company's billing system has the capability to bill the price plans offered by the AGS." In the event that the price plan offered by the AGS cannot be accommodated by the Company's billing system, rate ready billing services will not be available with respect to such a price plan.
- i. The predetermined format set forth in Attachment A may be modified at any time by AES Ohio and without notice or any requirement to execute a new or modified agreement; but no such modification shall become effective until the modified format is communicated to Supplier.

5. Rate Change on a Bill Account

When Supplier changes a Customer's rate to a different rate in AES Ohio's billing system, the change will become effective with usage beginning with the next scheduled read date. See Section 10 for effective dates for Budget-Billing.

6. EDI Transactions

Supplier shall send its Direct Access Service Requests ("DASRs") in batches of no more than 5,000 per day.

7. Electronic Transmission of End-use Customer Billing Data

AES Ohio will provide usage, demand and charges information to Supplier via EDI standards set forth by the PUCO.

8. Customer Bill Account Number

If Supplier's Customer bill account number differs from AES Ohio's Customer bill account number, Supplier will relay Supplier's Customer account number and both will be displayed on

the bill. However, EDI transactions must use AES Ohio's Customer bill account number. Supplier will be notified of any changes in AES Ohio's Customer bill account number.

9. Summary Billing

AES Ohio will not provide summary billing for consolidated billing pursuant to AES Ohio tariff PUCO No. 17 sheet G8. The Supplier has an obligation to disclose to the customer that AES Ohio cannot provide Summary Billing for consolidated billed customers.

10. Budget-Billing

AES Ohio will provide Budget Billing for EDU charges. EDU Budget-Billing is reserved for Customers who make prompt payments. To the extent Supplier wants to provide Budget-Billing for its generation and transmission charges, Supplier can provide AES Ohio a fixed amount for each service by using REF02 and REF03 of REF-RB on the DASR submitted to enroll the Customer.

Any changes (notification via EDI transaction 814C) in the Supplier's fixed amount using REF02 and REF03 of REF~RB or a change from a Supplier non-fixed amount (REF02) to a fixed amount (REF02 and REF03) will become effective with the next bill.

In accordance with OSPODATA Change Control 64, a Supplier providing Budget-Billing for its generation and transmission charges, will need to also provide the generation and transmission account balance due the supplier each month via EDI. Until the first EDI transaction with the generation and transmission account balance due is received from the Supplier, AES Ohio will provide a customer bill message referring the customer to the Supplier for their generation and transmission account balance. Once the initial EDI transaction with the generation and transmission account balance due is received, AES Ohio will display, via a customer bill message, the generation and transmission account balance due along with the date it was received via EDI. AES Ohio will continue to display the same generation and transmission account balance and date via a bill message on all subsequent customer bills until a new EDI transaction with the updated generation and transmission account balance due is received. After AES Ohio has issued a final bill containing Supplier charges, any subsequent bills (until the charges have been removed from AES Ohio's billing system) will have a customer bill message referring the customer to the Supplier for their generation and transmission account balance.

11. Percent Off Price-to-Compare

Rates will be made available to the Supplier that will automatically calculate the Supplier's charges as a percentage off AES Ohio's Standard Service Offer price for bypassable generation and transmission charges (Price-to-Compare). The available rates will range from 0% off to 100% off, in increments of 0.01%. For example, the Supplier can assign the 00001 rate to a customer for 0.01% off the Price to Compare, the 01500 rate for 15% off or the 10000 rate for 100% off. The list of valid rates will be available on the AES Ohio Supplier website.

12. Bill Format

AES Ohio initiated bill messages will provide Supplier's name, address, phone number, Customer's Supplier bill account number, and past due Supplier charges.

The Supplier past due amount will be based on the charge balance in AES Ohio's billing system.

Supplier understands and agrees that the bill format will not include any anti-competitive or disparaging messages, or Supplier marketing message including, without limitation, Supplier logos unless logos are required by the PUCO. Supplier will not send to AES Ohio for bill presentation any anti-competitive or disparaging messages, or Supplier marketing message of any type including, without limitation, Supplier logos unless logos are required by the PUCO.

13. Required Bill Messages

Supplier's customer bill messages are limited to those that an EDU is required to provide pursuant to OAC 4901:1-10-33. It is Supplier's responsibility to inform AES Ohio of any changes that would necessitate a bill message. Supplier must provide the exact language that it would like to be included in the required bill message to AES Ohio twenty (20) business days prior to the date the bill message is to be first shown on the bill. Variable logic or values in bill messages cannot be accommodated at this time. However, should AES Ohio complete system enhancements for its own benefit that would allow this service; it will do so at no additional charge. Required bill messages are limited to seventy-six (76) characters per line, three lines for each bill message. Bill messages exceeding sizing requirements will not be accepted. AES Ohio reserves the right to edit bill messages and to refuse to place on its bill any messages that are contrary to the interests of the Parties. AES Ohio will assign an AES Ohio Bill Message Number to each Supplier bill message. Seven (7) days before the first of the month, Supplier will provide AES Ohio with a comma delimited text file containing the following fields for all bill accounts that are to receive the given message for the upcoming month:

AES Ohio Supplier Code(3digitrepresentation),
AES Ohio Bill Message Number,
AES Ohio Bill Account Number.

If an account is to receive multiple bill messages, the supplier must send the above information for each bill message. If the bill message is to be used for multiple months, the text file of AES Ohio bill accounts must be sent each month. See Section 25 of this Agreement for associated fees for bill messages.

14. Customer Payments

- a. Customer bills are due on the date indicated on the bill as being the last day for payment of the net amount, and the due date shall not be less than twenty (20)

calendar days after mailing the bill or fifteen (15) calendar days after mailing if the AES Ohio account has been closed and a final bill rendered.

- b. The Customer is responsible for payment in full to AES Ohio for all AES Ohio and Supplier charges; however, AES Ohio reserves the right to waive payment from the Customer when the Customer's total consolidated (AES Ohio and Supplier) account balance is less than \$1.00.
- c. Customers will continue to make payments in the same manner via mail, authorized payment locations, electronic and telephone. AES Ohio is not responsible for delayed payments from Customers because of a Customer's payment on an incorrect account number, payments sent to the wrong address, payments made to an unauthorized pay agent, or payments sent without a remittance stub.
- d. If Customer erroneously makes payment to Supplier, then Supplier must provide to AES Ohio notice of receipt of such payment within one (1) business day of receipt of the payment, and remit Customer's payment to AES Ohio within five (5) business days of such notice. If Supplier fails to provide payment to AES Ohio within such period, then Supplier shall pay interest on such amounts in accordance with Section 19 of this Agreement.
- e. AES Ohio may place a Customer on a deferred payment plan covering both Supplier and AES Ohio charges without further approval of the Supplier. AES Ohio will apply the same policy regarding deferred payment plans for both Supplier and AES Ohio charges. On at least a monthly basis, AES Ohio will provide notice to the Supplier of those mutual Customers who have entered into a payment plan. Notice will be provided electronically.
- f. AES Ohio will include Supplier charges in its collection efforts which may result in disconnection of Customer's service.

15. End of Billing Services on a Bill Account

Upon notification that a Customer is no longer served by Supplier or there is a change to dual billing, AES Ohio will issue a final bill containing Supplier charges. If it is determined that the final Supplier charges billed to the Customer are incorrect, AES Ohio will make reasonable efforts to notify the Supplier of the discrepancy. AES Ohio will send a corrected bill to the Customer unless the corrected bill due date would go beyond the end of remittance services on the bill account.

Remittance services will end with the first bill involving another CRES provider, with the first dual bill, or when the third bill cycle occurs following a Customer's return to AES Ohio's standard offer. For AES Ohio accounts that have closed, remittance services will end when Supplier charges have been removed by AES Ohio from the account. This will occur

approximately ten (10) calendar days after the final bill due date and before AES Ohio's final bill reminder is rendered. After remittance services for Supplier charges ends for each bill account, AES Ohio is not responsible for remitting payments or payment information to Supplier.

16. CRES Review Process

No more than once per year, Supplier has the right to request an audit of AES Ohio's billing process upon prior written notice to AES Ohio. All costs of such audit will be borne by Supplier. The Parties will cooperate and reach agreement as to the timing of such audit.

17. Customer Payment Processing

AES Ohio typically processes customer payments within two (2) business days of receipt at its lockbox.

AES Ohio will provide Supplier detailed Customer account information, via the EDI process, for payments received on behalf of the Supplier. The Customer(s) account information will be transferred via EDI transaction to the Supplier no later than one (1) business day from processing of receipt of payment.

AES Ohio will remit Customer payments for Supplier charges to Supplier within five (5) business days of AES Ohio's receipt of payment of such charges or within another timeframe as otherwise agreed to by the Parties. Supplier shall provide AES Ohio with its Bank Name, Checking Account Number, and Bank Routing Number for remittance of Customer payments. All partial payments received will be posted pursuant to posting priorities set forth in the Stipulation and

Recommendation, approved by finding and order, in Case Nos. 03-2324-EL-UNC and 03-2245EL-UNC and Ohio Administrative Code ("OAC") Chapter 4901:1-10-33.

Any amount remitted by a Customer in excess of the total billed charges will be held in the Customer's account to be applied to the next bill in accordance with posting priorities set forth in the Stipulation and Recommendation, approved by finding and order, in Case Nos. 03-2324-EL-UNC and 03-2245-EL-UNC and Ohio Administrative Code ("OAC") Chapter 4901:1-10-33.

18. Supplier Customer Late Payment Charges

Late payment charges on Supplier charges will be based on the same timing, practice, pricing, and methodology as late payment charges on AES Ohio charges. Supplier late payment charges will not be assessed on accounts that are enrolled in AES Ohio Budget-Billing. Supplier late payment charges will not be assessed on unpaid charges after Supplier's Customer changes to dual billing, switches to another CRES, returns to AES Ohio's standard offer, or the Customer closes its AES Ohio bill account.

19. Non-assumption of Risk

Supplier is ultimately responsible for the collection of its Customer's unpaid generation and transmission charges. AES Ohio will not assume any risk of non-payment of the generation and transmission portion of the bill by Supplier's Customers.

20. Billing and Payments for Billing Services

By the tenth day of each month, AES Ohio will submit an invoice to Supplier for all services rendered during the preceding billing cycle, as well as any unpaid charges from the prior month invoices for services rendered hereunder, including any late payment charges. The invoice shall be paid by Supplier to AES Ohio within twenty (20) calendar days of the date of the invoice or receipt, whichever is earlier. All payments by Supplier shall be made in immediately available funds to AES Ohio or via electronic funds transfer.

Interest on delinquent amounts due from Supplier to AES Ohio shall be an amount equal to 1½% of the unpaid balance at the due date calculated monthly.

21. Supplier Pre-PIPP and PIPP Charges

Supplier's Customers joining the Percentage of Income Payment Plan ("PIPP") will be returned to AES Ohio's standard offer in accordance with Ohio Administrative Code §4901:1-10-29 (I), or its substantial equivalent. After the last supplier charges have been billed to the Customer, AES Ohio will reimburse the Supplier for outstanding Pre-PIPP/PIPP Supplier charges. AES Ohio will seek reimbursement from the Universal Service Fund as part of its monthly reimbursement request. AES Ohio will continue to bill the Customer for said charges and all payments against said charges will be remitted to the Ohio Development Services Agency (ODSA)), or its successor, as part of AES Ohio's monthly remittance reporting.

When Billing Services ends on Pre-PIPP/PIPP supplier charges, the Supplier is responsible for notifying AES Ohio of any billing discrepancies that impact the final Pre-PIPP/PIPP Supplier Customer charges. Notification will be sent via E-mail to AES Ohio at aesohioretail@aes.com. Upon such notification, AES Ohio will adjust the Customer's account balance. Supplier and AES Ohio will settle on any over- or under reimbursement via AES Ohio's monthly invoice to Supplier. AES Ohio will settle with the ODSA through its monthly reimbursement and remittance processing. AES Ohio will not be responsible for billing inaccuracies that result from the failure of Supplier to notify AES Ohio.

Section 21 is subject to modification should aggregation of PIPP Customers occur or AES Ohio is unable to recover PIPP or Pre-PIPP charges from the Universal Service Fund.

22. Supplier Default

In the event of Supplier default by failure to comply with any of the terms of this Agreement, or Supplier's failure to deliver Supplier's Customers' electric generation supply necessary to meet the Customers' electric generation usage requirements, AES Ohio reserves all remedies available pursuant to AES Ohio tariff PUCO No. 17 sheet G8, as may be amended from time to time, and may retain any payments made to AES Ohio by Supplier's Customers to satisfy obligations of Supplier to AES Ohio under this Agreement and under the Alternative Generation Supplier Coordination Agreement entered into by the Parties dated _____.

In addition to the remedies specified above, AES Ohio also has the right to discontinue Consolidated Rate Ready Billing Services and the right to actual direct damages (excluding indirect, consequential, incidental, and punitive damages and lost profit). Events of default by Supplier shall encompass any of the following actions: (1) Supplier's failure to remit payment for twenty (20) days or more past the due date established under this Agreement, (2) early termination of this Agreement as demonstrated by notice by Supplier of Supplier's cessation of business operations for twenty (20) or more days; (3) failure to comply with any of the terms of this Agreement; or (4) Supplier's failure to deliver Supplier's Customers' electric generation supply necessary to meet the Customers' electric generation usage requirements. Upon an event of default by Supplier, AES Ohio must provide Supplier written notice of default. In events of default, AES Ohio is immediately entitled to pursue any and all remedies set forth herein.

23. AES Ohio Default

In the event of AES Ohio default, Supplier has the right to withhold payment for Consolidated Rate Ready Billing Services due under the Agreement and actual direct damages (excluding indirect, consequential, incidental, and punitive damages and lost profit) in addition to all other remedies set forth in this Agreement. AES Ohio default shall consist of any of the following actions:

(1) material failure to bill Supplier's Customers in accordance with this Agreement, (2) failure to remit to Supplier Customer payments received by AES Ohio for Supplier charges, (3) failure to timely remedy billing errors in accordance with this Agreement after receipt of notice of such errors, or (4) failure to meet timing requirements of this Agreement. Upon an event of AES Ohio default, Supplier must provide AES Ohio written notice of default. AES Ohio shall have five (5) business days after receipt of notice to cure such default before Supplier is entitled to pursue remedies set forth herein.

24. Bank Information

All payments to AES Ohio must be made via automated clearinghouse (ACH). AES Ohio will provide its Bank Name, Checking Account Number, and Bank Routing Number to Supplier for such ACH transactions.

AES Ohio reserves the right to change payment transmittal information with written notification to Supplier at least thirty (30) days prior to said change.

25. Fees and Charges

- a. Required Bill Messages – \$120 per hour or partial hour for definition and testing of each message.
- b. Reports - \$120 per hour or partial hour to define, develop, program, and otherwise create a requested report. In addition, Supplier shall pay AES Ohio a one-time fee of \$1,000 for distribution of such report.

26. Term and Termination

- a. This Agreement shall be effective for an initial Term of twelve (12) months. This agreement will automatically renew for additional periods of three (3) months unless terminated by either party upon thirty (30) days written notice of termination to the other party, or upon mutual agreement by the Parties.
- b. The assessment of late payment charges on unpaid balances and charges of either Party shall survive termination of this Agreement and continue to accrue.
- c. AES Ohio may immediately terminate this Agreement if Supplier ceases to be a PUCO certified CRES provider.

27. Notices

- a. To receive any and all notices required under this Agreement to be furnished to either Party, the following addresses shall be used:

For SUPPLIER:

For AES Ohio:

AES Ohio
Attn: Control Area Services
1900 Dryden Road
Dayton, Ohio 45439
FAX: (937) 331-4216

- b. Notices shall be in writing and shall be given to the representative authorized to receive the same, either by personal delivery or by the U.S. mail, overnight mail, email, telecopy, or any similar means, properly addressed to such representative. All notices

shall be effective upon receipt, or upon such later date following receipt as is set forth in the notice. Any Party may, by written notice to the others, change the representative or the address to which such notices are to be sent.

28. Non-disclosure

Except as required by law, rule or judicial or administrative order, there shall be no disclosure of the terms of this Agreement without the written consent of the Parties.

29. Applicable Laws and Jurisdiction

- a. This Agreement is subject to the rules or Orders of the PUCO as such may be applicable at any point in time.
- b. The rights and obligations of the Parties arising out of this Agreement shall be governed in all respects by the laws of the State of Ohio.
- c. Disagreements and disputes arising under this Agreement will be mediated before a neutral party. The Parties will evenly split the cost of the mediator. Upon the completion of mediation, the Parties agree that all actions and proceedings to the extent litigation is pursued shall be litigated in Montgomery County, Ohio.

30. Severability

Whenever possible, each provision of this Agreement must be interpreted in such manner as to be effective and valid under applicable law. If any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of this Agreement.

31. Force Majeure

If a Party to this Agreement is rendered unable by a Force Majeure to carry out, in whole or part, its obligations under this Agreement and such Party gives oral notice and full details of the event to the other Party as soon as reasonably practicable after the occurrence of the event (such notice to be confirmed in writing within three days of the oral notice), then during the pendency of such Force Majeure but for no longer period, the obligations of the Party affected by the event (other than obligations to make payments then due or accrued) shall be suspended, but only to the extent required by the event. "Force Majeure" means any cause(s) not reasonably within the control, and without the fault or negligence of the Party affected thereby, which wholly or partly prevents the performance by that Party of its obligation hereunder (except the payment of money), but only if such Party is unable in good faith to obtain a substitute therefore; provided, however, in no event shall a Force Majeure be construed to relieve a Party of any obligations under this Agreement solely because of increased costs or other adverse economic consequences

that may be incurred by such Party through performance of such obligations. The Party affected by the Force Majeure shall remedy the Force Majeure with all reasonable dispatch. If there is an event of complete Force Majeure or an event of partial Force Majeure that materially effects performance and such event persists for a continuous period of sixty (60) days, then the Party not claiming Force Majeure shall have the option, upon three days' prior written notice, to terminate the Agreement and the obligations of the Parties (other than payment obligations for prior performance). When the Force Majeure condition has terminated, the party claiming the Force Majeure shall notify the other party in writing as soon as practicable, but not to exceed five (5) business days after the Force Majeure condition has terminated, stating the duration of the Force Majeure event in calendar days.

32. Assignment

Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned or subcontracted by a Party to a non-affiliated person or entity without the prior express written consent of the other Party, which consent will not be unreasonably withheld.

33. Limitation of Remedies, Liability and Damages

Except as set forth herein, there is no warranty of merchantability or fitness for a particular purpose, and any and all implied warranties are disclaimed. The Parties confirm that the express remedies and measures of damages provided in this Agreement satisfy the essential purposes hereof. For breach of any provision for which an express remedy or measure of damages is provided, such express remedy or measure of damages shall be the sole and exclusive remedy. The obligor's liability shall be limited as set forth in such provision and all other remedies or damages at law or in equity are waived. Neither Party shall 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. It is the intent of the Parties that the limitations herein imposed on remedies and the measure of damages be without regard to the cause or causes related thereto, including the negligence of any party, whether such negligence be sole, joint or concurrent, or active or passive.

34. Government Action

Should AES Ohio be required to change its price per bill as a result of the actions of a court of law or regulatory body, AES Ohio will provide notice to Supplier of such change within five (5) business days and the Parties will negotiate in good faith to amend this agreement within thirty (30) calendar days of such notice to accommodate such changes.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized officers as of the date first above written.

WITNESSES:

AES Ohio

By: _____

Brandi Davis-Handy
Chief Customer Officer

As to AES Ohio

By: _____

As to SUPPLIER

BSA Form 02-24-21