

## New York State Public Service Commission

### Your Rights as an Energy Services Company Consumer ESCO Consumers Bill of Rights

Customers can purchase energy from an Energy Services Company (ESCO) or from a traditional utility. If you choose to purchase energy from an ESCO you are entitled to:

- A clear description of the services offered by the ESCO.
- Receive energy delivery and 24 hour emergency services from your utility company.
- Clear procedures for switching energy suppliers, including information about the enrollment process.
- Disclosure, in simple and clear language, of the terms and conditions of the agreement between you and the ESCO including:
  - price and all variable charges or fees;
  - length of the agreement;
  - terms for renewal of the agreement;
  - cancellation process and any early termination fees, which are limited by law; and
  - conditions, if any, under which the ESCO guarantees cost savings.
- Rescind an agreement with an ESCO within three days of receiving the agreement, if you are a residential customer.
- A description of how pre-payment agreements work, if offered.
- Notice from the ESCO, no less than thirty days prior to the contract renewal date, of the renewal terms and the options you have as a customer.
- A fair and timely complaint resolution process.
- Provision of any written documents (contracts, marketing materials, and this ESCO Consumers Bill of Rights) in the same language used to enroll you as a customer.

If you are a residential customer you are also entitled to the rights and protections of the Home Energy Fair Practices Act (HEFPA) which requires that all utility customers be treated fairly with regard to application for service, customer billing, and complaint procedures. For more information go to [www.dps.ny.gov/resright.html](http://www.dps.ny.gov/resright.html).

ESCOs that do not assure these consumer rights could lose their eligibility to provide service in New York. For consumer complaints that cannot be resolved with the company, you may contact the New York Department of Public Service (DPS). DPS complaints may be directed as follows: Website: [www.dps.ny.gov/complaints](http://www.dps.ny.gov/complaints); Phone: DPS Helpline at 1-800-342-3377 (M-F 8:30a - 4:00p); or Mail: Office of Consumer Services, NYS Department of Public Service, 3 Empire State Plaza, Albany, NY 12223.

You can find more information about your energy alternatives by visiting: [www.AskPSC.com](http://www.AskPSC.com)

**1. Agreement to Sell and Purchase Energy.** This is an agreement between Polaris Power Services LLC (“Polaris Power Services” or the “Company”) an independent energy services company, and the undersigned customer (“Customer”) under which Customer shall initiate natural gas and/or electricity service and begin enrollment with Polaris Power Services (the “Agreement”). Subject to the terms and conditions of this Agreement, Polaris Power Services agrees to sell and deliver, and Customer agrees to purchase and accept the quantity of natural gas and/or electricity, as estimated by Polaris Power Services, necessary to meet Customer’s requirements based upon consumption data obtained by Polaris Power Services or the delivery schedule of the Local Distribution Utility (the “LDC”). Polaris Power Services is not affiliated with and does not represent the LDC. The amount of natural gas and/or electricity supplied under this Agreement is subject to change based upon data reflecting Customer’s consumption obtained by Polaris Power Services or the LDC’s delivery schedule. The LDC will continue to deliver the natural gas and/or electricity supplied by Polaris Power Services.

**2. Term.** All products for variable rate service shall commence as of the date Customer’s notice regarding the change of Customer’s provider to the Company is deemed effective by the LDC, and shall continue for 30 days thereafter (the “Initial Term”). Upon expiration of the Initial Term, the Agreement will renew on a month-to-month basis (each such month, a “Renewal Term”) with no change to remaining terms. If the Customer is receiving variable rate service, either party may cancel or terminate this Agreement with no cancellation fee by providing 30 days’ advance written notice of termination to the other party.

At least 30 days and no more than 60 days prior to the renewal date, the Company will notify Customer in writing of the terms of renewal of this Agreement and of the Customer’s right to renew, reject or renegotiate this Agreement. Unless Company receives affirmative consent from Customer to such terms in advance of the renewal date (the “Renewal Term”), at the expiration of the Initial Term (or any subsequent Renewal Term), Customer will be returned to Utility Service. Customer shall have 3 business days from receipt of the first billing statement of the Renewal Term to reject renewal terms and cancel the renewal agreement. While receiving service on a month-to-month basis, such notification will be provided only for the first renewal occurring at the end of the Initial term, and Customer or the Company may cancel or terminate this Agreement by providing 30 days’ advance written notice of termination to the other party.

**3. Pricing, Billing, and Termination.** The price for products sold under this Agreement is described on the Customer Disclosure Statement. In addition, the following conditions apply:

- Fixed Rate Natural Gas: The price for all natural gas sold under this Agreement shall be a fixed-rate product limited to a price no greater than the trailing 12-month average utility supply rate in effect on the date the Customer entered into the Agreement (“Contract Date”) plus a premium of no more than 5% per therm plus, all applicable taxes subject to the terms and conditions of this Agreement.
- Fixed Rate Electricity: The price for all electricity sold under this Agreement shall be a fixed-rate product limited to a price no greater than the trailing 12-month average utility supply rate in effect on the date the Customer entered into the Agreement (“Contract Date”), plus a premium of no more than 5% per kWh plus, all applicable taxes and subject to the terms and conditions of this Agreement.
- Fixed Rate Renewable Electricity: Products for the renewable electric product are not subject to any price cap.
- Variable Rate Renewable Energy Product: This product does not guarantee savings.

If there is a material adverse change in the business or financial condition of Customer (as determined by Company) at its discretion) or if Customer fails to meet its obligations under this Agreement, then, in addition to any other remedies that it may have, Company may terminate this Agreement upon 15 days’ written notice to Customer. Such termination will constitute a Customer breach.

For all fixed price products, if usage in any month exceeds the level of usage in the same month in the previous year (“Base Load”) by ten percent or more, the Customer will be charged a variable price for all usage in excess of the Base Load and the fixed price for usage up to the Base Load. If the usage in any month falls by ten percent or more below the Base Load, the Customer will be charged the fixed price for all usage and shall be charged for hedging, cash out costs, settlement or balancing costs related to the positive difference between the Base Load and actual consumption. If there is a material adverse change in the business or financial condition of Customer (as determined by Polaris Power Services at its discretion) or if Customer fails to meet its obligations under this Agreement or pay or post any required security deposit, then, in addition to any other remedies that it may have, Polaris Power Services may terminate this Agreement upon 15 days’ written notice to Customer.

If Customer terminates this Agreement prior to the end of the Initial or Renewal Term or if Polaris Power Services terminates this Agreement due to Customer’s breach, the Customer shall pay Polaris Power Services, in addition to any other applicable charges, a cancellation fee equivalent to the multiplication of the (i) difference between the fixed price set forth in this Agreement and the calculation by Polaris Power Services of the fixed price at the date of termination; and (ii) the estimated volumes for the remainder of the Initial or Renewal Term, as applicable, using the actual volumes received by Customer for the prior 12 month period as the volumes used in determining damages. Notwithstanding the foregoing, for all residential customers and commercial customers solicited through door-to-door marketing, the early termination fee will be no greater than \$100 if the remaining term is less than 12 months and \$200 if the remaining term is 12 months or more. The signer has authorization to bind the members of the association into this contract and each member is fully responsible for their obligations on this contract.

Polaris Power Services will invoice Customer monthly for natural gas and/or electricity supplied under this Agreement, as measured by the LDC, and Customer will pay each invoice in full within 20 days of the invoice date or be subject to a late payment charge of 1.5% per month. Customer may receive a single bill for both commodity and delivery costs from either Polaris Power Services or the LDC, or each of the LDC and Polaris Power Services may invoice Customer separately. Customer payments remitted in response to a consolidated bill shall be pro-rated (when so required) in accordance with procedures adopted by the New York State Department of Public Service (the "DPS"). Polaris Power Services may assign and sell Customer accounts receivable to the LDC.

In the event of failure to remit payment when due by a residential customer, Polaris Power Services may terminate commodity service and seek suspension of distribution service in conformance with the Home Energy Fair Practices Act ("HEFPA"). Failure by a commercial customer to make full payment of Polaris Power Services charges due on any consolidated bill prepared by the LDC for Polaris Power Services will be grounds for disconnection of utility services in accordance with NYPSC rules and regulations on the termination of service to non-residential customers, 16 NYCRR Section 13.3. A \$30 fee will be charged for all returned payments.

**4. Assignment.** Customer may not assign its interests in and delegate its obligations under this Agreement without the express written consent of Polaris Power Services. Polaris Power Services may sell, transfer, pledge, or assign the accounts, revenues, or proceeds hereof, in connection with any financing agreement or receivables purchase program, and may assign this Agreement to another energy supplier, energy services company or other entity as authorized by the DPS.

**5. Information Release Authorization.** Customer authorizes Polaris Power Services to obtain and review information regarding Customer's credit history from credit reporting agencies and the following information from the LDC: consumption history; billing determinants; account number; credit information; public assistance status; existence of medical emergencies, status as to whether Customer has a medical emergency, is human needs, elderly, blind or disabled and data applicable to cold weather periods under PSL § 32 (3); and information pertaining to PSL § 33, tax status and eligibility for economic development or other incentives. This information may be used by Polaris Power Services to determine whether it will commence and/or continue to provide energy supply service to Customer and will not be disclosed to a third party unless required by law. Customer's execution of this Agreement shall constitute authorization for the release of this information to Polaris Power Services. This authorization will remain in effect during the Initial Term and any Renewal Term. Customer may rescind this authorization at any time by providing written notice thereof to Polaris Power Services or by calling Polaris Power Services at 1-866-362-9800. Polaris Power Services reserves the right to cancel this Agreement in the event Customer rescinds the authorization.

**6. Consumer Protections.** The services provided by Polaris Power Services to Customer are governed by the terms and conditions of this Agreement, the New York State Public Service Commission rules and regulations (Orders) including the Uniform Business Practices (UBP) and other applicable requirements including the NYS Home Energy Fair Practices Act (HEFPA) for residential customers. Polaris will provide at least 15 days' notice prior to the cancellation of service to Customer. In the event of non-payment of any charges owed to Polaris Power Services, a residential Customer may be subject to termination of commodity service and the suspension of distribution service under procedures approved by the New York State Department of Public Service (DPS). Customer may obtain additional information by contacting Polaris Power at 1-866-362-9800 or the DPS at 1-800-342-3377, or by writing to: New York State Department of Public Service, Office of Consumer Services, Three Empire State Plaza, Albany, New York 12223, or through its website at: [www.dps.ny.gov](http://www.dps.ny.gov). You may also contact the Department for inquiries regarding the competitive retail energy market at 1-888-697-7728 (collectively, "DPS Contact information").

**7. Rescission.** A residential Customer may rescind this Agreement within 3 business days after the signing or receipt of this Agreement, whichever comes first, by contacting Polaris Power Services at 1-866-362-9800 or in writing. Customer is liable for all Polaris Power Services charges until Customer returns to the LDC or goes to another supplier. A final bill will be rendered within twenty (20) days after the final scheduled meter reading or if access is unavailable, an estimate of consumption will be used in the final bill, which will be trued up subsequent to the final meter reading.

**8. Agency-Gas.** Customer hereby designates Polaris Power Services as agent to; (a) arrange and administer contracts and service agreements between Customer and Polaris Power Services and between the interstate pipeline transporters of Customer natural gas supplies; (b) nominate and schedule with the interstate pipeline the transportation of Customer's natural gas supplies to the Delivery Points, and with the LDC for the transportation of the Customer's natural gas supplies from the Delivery Points to the Customer's end-use premises; and (c) aggregate Customer's natural gas supplies with such supplies of other customers served by Polaris Power Services to maintain qualification for LDC transportation service and resolve imbalances that may arise during the term of this Agreement. Polaris Power Services as agent for the Customer will schedule the delivery of adequate supplies of natural gas that meet the Customer's city gate requirements as established by the LDC and in response to information provided by the LDC. Polaris Power Services agrees to arrange for the transportation of the natural gas supplied under this Agreement from the Delivery Points to the Customer's end-use premises. These services are provided on an arm's length basis and market-based compensation is included in the price noted above.

**Agency-Electric.** Customer hereby designates Polaris Power Services as agent to; (a) arrange and administer contracts and service agreements between Customer and Polaris Power Services and those entities including the New York Independent System Operator ("NYISO") engaged in the generation, transmission and delivery of Customer electricity supplies; and (b) nominate and schedule with the appropriate entities including the LDC for the delivery of electricity to the Delivery Point and the Customer's end-use premises. Polaris Power Services as agent for the Customer will schedule the delivery of adequate supplies of electricity that meet the Customer's requirements as established by the LDC and in response to information provided by the LDC. The Delivery Points for the electricity will be a point at the NYISO Polaris Power Services load bus (located outside of the municipality where Customer resides). These services are provided on an arm's length basis and market-based compensation is included in the price noted above.

**9. Title.** Customer and Polaris Power Services agree that title to, control of, and risk of loss to the electricity and/or natural gas supplied by Polaris Power Services under this Agreement will transfer from Polaris Power Services to Customer at the Delivery Point(s).

**10. Warranty.** This Agreement, including any enrollment form and applicable attachments, as written makes up the entire Agreement between Customer and Polaris Power Services. Polaris Power Services makes no representations or warranties other than those expressly set forth in this Agreement, and Polaris Power Services expressly disclaims all other warranties, express or implied, including merchantability and fitness for a particular use.

**11. Force Majeure.** Polaris Power Services will make commercially reasonable efforts to provide natural gas and/or electricity hereunder but Polaris Power Services does not guarantee a continuous supply of natural gas and/or electricity to Customer. Certain causes and events out of the control of Polaris Power Services ("Force Majeure Events") may result in interruptions in service. Polaris Power Services will not be liable for any such interruptions caused by a Force Majeure Event, and Polaris Power Services is not and shall not be liable for damages caused by Force Majeure Events. Force Majeure Events shall include acts of God, pandemic, fire, flood, terrorism, war, civil disturbance, accidents, strikes, labor disputes or problems, required maintenance work, inability to access the local distribution utility system, non-performance by the LDC (including, but not limited to, a facility outage on its gas distribution lines or electric facilities), or any other cause beyond Polaris Power Services' control.

**12. Liability.** The remedy in any claim or suit by Customer against Polaris Power Services will be solely limited to direct actual damages (which will not exceed the amount of Customer's single largest monthly invoice amount in the immediately preceding 12 months). All other remedies at law or in equity are hereby waived. In no event will either Polaris Power Services or Customer be liable for consequential, incidental, indirect, special or punitive damages. These limitations apply without regard to the cause of any liability or damages. There are no third-party beneficiaries to this Agreement.

**13. Polaris Power Services Contact Information.** Customer may contact Polaris Power Services' Customer Service Center by phone at **1-866-362-9800**, Monday through Friday 9:00 a.m. - 5:00 p.m. ET (contact center hours subject to change). Customer may write to Polaris Power at: **Polaris Power Services LLC**, 65 Ramapo Valley Rd, Suite 103 Mahwah NJ, 07430. [info@polarispwr.com](mailto:info@polarispwr.com).

**14. Dispute Resolution (Residential).** The services provided by Polaris Power Services to Customer are governed by the terms and conditions of this Agreement and HEFPA for residential customers. In the event of a billing dispute or a disagreement involving Polaris Power Services, Customer should contact Polaris Power Services by telephone or in writing as provided above. For consumer complaints that cannot be resolved with the company, you may contact the New York Department of Public Service (DPS). DPS complaints may be directed as follows: Website: <http://www.dps.ny.gov/complaints> ; DPS Helpline at **1-800-342-3377** (M-F 8:30a.m – 4:00p.m); or Mail: Office of Consumer Services, NYS Department of Public Service, 3 Empire State Plaza, Albany, NY 12223. Customer must pay the bill in full, except for the specific disputed amount, during the pendency of the dispute, and such payment shall be refunded if warranted by the decision of DPS.

**Dispute Resolution (Commercial).** In the event of a billing dispute or disagreement involving Polaris Power Services' service, Customer should contact Polaris Power Services' Customer Service Center as provided above. Customer must pay the bill in full, except for the specific disputed amount, during the pendency of the dispute. If the parties cannot resolve the dispute within 45 days, either party may avail itself of all remedies available under law or equity. The DPS will not resolve Non-Residential disputes associated with the services provided under this Sales Agreement. However, the DPS will monitor inquiries and contacts from Non-Residential customers regarding energy service companies. DPS Contact Information is provided above.

**15. Choice of Laws.** Venue for any lawsuit brought to enforce any term or condition of this Agreement or to construe the terms hereof shall lie exclusively in the State of New York. This Agreement shall be construed under and shall be governed by the laws of the State of New York without regard to the application of its conflicts of law principles.

**16. Taxes and Laws.** Except as otherwise provided in the Agreement or provided by law, all taxes of whatsoever kind, nature and description due and payable with respect to service provided under this Agreement, other than taxes based on Polaris Power Services' net income, shall be paid by Customer, and Customer agrees to indemnify Polaris Power Services and hold Polaris Power Services harmless from and against any and all such taxes.

**17. Change in Law or Practice.** This Agreement is subject to present and future legislation, orders, rules, regulations or decisions of a duly constituted governmental authority having jurisdiction over this Agreement or the services to be provided hereunder. If at some future date there is a change in any law, rule, regulation, tariff, or regulatory structure ("Change in Law") which impacts any term, condition or provision of this Agreement including, but not limited to price or, if there is a change to the manner in which any transporter, LDC, EDC, pipeline, NYISO agency or any other authority implements or interprets any law, rule, regulation, tariff, or regulatory structure that increases Seller's costs ("Change in Practice"), Seller shall have the right to pass on such additional costs and/ or modify this Agreement to reflect such change.

- Residential & Small Commercial Customers: Seller shall first obtain affirmative consent from residential and small commercial customers prior to passing on any additional costs and/or modifying this Agreement.

If at some future date there is a change in any law, rule, regulation, pricing structure or market condition whereby Seller is prevented, prohibited, or frustrated from carrying out the terms of the Agreement, or if Seller is unable to economically continue this Agreement, Seller shall have the right to cancel this Agreement on 15 days' notice to Customer.

**18. Emergency Service.** The LDC will continue to respond to leaks and emergencies. In the event of a gas leak, service interruption or other emergency, Customer should immediately call the LDC at **Con Edison** 1-800-75CONED; **Orange and Rockland** at 1-877-434-4100; **KeySpan** 718-643-4050 (NYC) and 1-800-490-0045 (Long Island); **Niagara Mohawk** at 1-800-892-2345; **Central Hudson** at 1-800-527-2714; **RG&E** at 1-800-743-1701; **NYSEG** at 1-800-527-2714; **National Fuel** at 1-800-444-3130, and emergency personnel. Customer should then call **Polaris Power Services** at: 1-866-362-9800.

**19. Signatory Affirmation.** Signor affirms that he or she is authorized to make decisions regarding the account and voluntarily authorizes Supplier to make the enrollment. Customer agrees to accept all notifications by email to the email address provided at time of enrollment, or subsequently provided to Polaris Power Services.

**20. Telephonic Communication.** By accepting this Agreement, you consent to receive calls and/or texts for any purpose, including with marketing offers and other information, from Polaris Power Services, its affiliates and/or assigns, at the telephone number(s) you provide to Polaris Power Services, its affiliates and/or assigns, possibly through use of automated technology or pre-recorded voice. You agree that this consent survives the termination of your contract and that your consent to receive marketing communications is not a condition of purchase and may be revoked at any time.

**21. Forward Contract.** Each Party acknowledges that: (a) this Agreement is a forward contract and a master netting agreement as defined in the United States Bankruptcy Code (“Code”); (b) this Agreement shall not be construed as creating an association, trust, partnership, or joint venture in any way between the Parties, nor as creating any relationship between the Parties other than that of independent contractors for the sale and purchase of Commodities; (c) Seller is not a “Utility” as defined in the Code; (d) Commodity supply will be provided by Seller under this Agreement, but delivery will be provided by the Utility; and (e) the Utility, and not Seller, is responsible for responding to service problems or emergencies should they occur.

**22. Parties Bound.** This Agreement is binding upon the parties hereto and their respective successors and legal assigns.

**23. Renewable Electric Products.** Your electricity usage is matched by the generation of energy from renewable resources at the percentage identified above by retiring renewable energy certificates (RECs). RECs represent the environmental attributes associated with the applicable amount of renewable energy generation from various renewable sources that comply with the appropriate locational and delivery requirements. RECs will be purchased and retired to satisfy the percentage of renewable generation guaranteed by this agreement. New York State requires that the renewable mix provided under this agreement must be at least 50% greater than the applicable Renewable Energy Standard (RES) obligation for the current year. In order to satisfy the terms of this contract, at least 50% greater than the applicable RES obligation of the RECs must be purchased from eligible renewable generators through NYGATS; by purchasing Tier 1 RECs from NYSERDA; by procuring RECs from eligible renewable generators through bilateral contracts; by entering into bundled energy and REC purchase agreements with eligible renewable generators; or by making Alternative Compliance Payments to NYSERDA. The balance of RECs will be derived from renewable energy resources such as biomass, biogas, wind, solar or hydro resources located in the continental United States.

**Customer and Polaris Power Services have caused this Agreement to be executed as of the date noted above on the first page of this Agreement, by individuals authorized to bind each party, and Customer has reviewed all of the terms herein. In the case of telephonic or electronic enrollment execution shall be deemed provided pursuant to the methods authorized under the New York Uniform Business Practices. By signing below, Customer agrees and initiates the account(s) listed to be begin enrollment with Polaris Power Services for service. Polaris reserves the right to cancel this contract at any time.**