

COMMUNITY CHOICE AGGREGATION ADMINISTRATOR AGREEMENT

This Community Choice Aggregation Administrator Agreement ("Agreement") is made and entered into and effective on this [xx] day of [month, year] ("Effective Date") by and between the [name], ("Municipality"), a New York Municipal Corporation, located at _____, and **Good Energy, L.P** ("Administrator"), collectively the ("Parties"), with an office and principal place of business located at 232 Madison Avenue, Third Floor, New York, NY 10016.

WHEREAS, Municipality desires to implement a Community Choice Aggregation program (the "Program") in compliance with New York law and Public Services Commission ("PSC") community choice aggregation rules and procedures;

WHEREAS, Municipality desires to engage Administrator to perform consultancy services, administration, management and procurement (the "Services") for Municipality in relation to the Program for eligible electric and natural gas accounts;

WHEREAS, Administrator desires to perform the Services as hereinafter defined and desires to be so engaged.

NOW, THEREFORE, in consideration of the foregoing and of the covenants and agreements herein contained, and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged and approved, the parties, intending to be legally bound, agree as follows:

ARTICLE 1 – PROGRAM DESIGN SERVICES

1. **Program Design Services--** Provider shall perform each of the following activities regarding design, approval and implementation of the Program:
 - 1.1. Pending approval from Municipality, prepare and submit a formal petition with the PSC for approval of a CCA in the Municipality alone or together with other qualified municipalities;
 - 1.2. Conduct utility rate comparison to market pricing to determine CCA benefits;
 - 1.3. Explore energy sourcing and pricing options;
 - 1.4. Develop rate design;
 - 1.5. Determine customer eligibility;
 - 1.6. Design Program to ensure legal and regulatory compliance; and
 - 1.7. Determine fees and cost recovery.

ARTICLE 2 – PROGRAM MANAGEMENT SERVICES

2. **Program Management Services**
 - 2.1. Design and implement public education and marketing services for an opt-out CCA program.

- 2.2. Prepare bid specifications and conduct a competitive energy supply procurement, with final selection of the Bid Specifications shall include the following if applicable:
 - 2.2.1. Request for Proposal - Summary
 - 2.2.2. Opt-out process
 - 2.2.3. Billing Procedures
 - 2.2.4. Credit Requirement and Default Procedures
 - 2.2.5. Program Move-In and Move-Outs
 - 2.2.6. Opt-In Program
 - 2.2.7. Green Power - Renewable Energy
 - 2.2.8. Demand Management and Energy Efficiency Program
 - 2.2.9. Community Distributed Generation (CDG)
 - 2.2.10. Community Solar
 - 2.1.11. Distributed Energy Resources Projects (DER)
 - 2.2.12. Community Demand Response (DR) Program
 - 2.2.13. Power Supply Agreement
 - 2.2.14. Pricing and Rates
 - 2.2.15. Eligible Customer Service Classes
 - 2.2.16. Supplier Selection Criteria
 - 2.2.17. Selected Supplier Responsibilities
 - 2.2.18. Liability
- 2.3. Assist with contract negotiations with the selected energy supplier.
- 2.4. Finalize the Service Agreement with the local energy utility.
- 2.5. Coordinate the opt-out process and customer enrollment. Prepare opt-out notices, evaluate eligible customer account data, and coordinate all other notices and publications required under the Order to facilitate the adoption and operation of the Program
- 2.6. Manage the Program in coordination with Municipality and according to the terms of the Implementation Plan.
- 2.7. Give prompt notice to Municipality should the Administrator observe or otherwise become aware of any fault or deficit in the Program or any nonconformance with the energy sale & purchase agreement.
- 2.8. Remit to Municipality after the termination of this Agreement, all files and documents pertaining to the project that have been obtained or produced including, but not limited

to, permits, licenses, applications, codes, drawings, site plans, photographs and similar materials.

- 2.9. Comply with all statutes, ordinances, laws, rules and regulations which may be applicable to the services provided hereunder.

ARTICLE 3 – MUNICIPAL OBLIGATIONS

3. **Obligations of Municipality.** Municipality shall:

- 3.1. Assist the Administrator by placing at its disposal all public information pertinent to the services for the project, upon reasonable request.
- 3.2. Use reasonable efforts to secure release of other data applicable to the Program held by others, including but not limited to utility account data, history and eligibility.
- 3.3. Give prompt notice to the Administrator should Municipality observe or otherwise become aware of any fault or deficit in the Program or any nonconformance with the energy sale and purchase agreement.
- 3.4. Adopt a local law to authorize CCA Program implementation.
- 3.5. Conduct public hearings and adopt an Implementation Plan and other engagement plans as required by law.
- 3.6. Nothing herein shall be construed to require the Municipality to approve an energy purchase and sale agreement with an alternative retail electric or natural gas supplier.

ARTICLE 4 – TERM AND TERMINATION

4. **Term and Termination.** The Agreement shall commence on the ____ day of _____, 20__ and shall terminate on the date on which an energy sale and purchase agreement with an alternative retail energy supplier expires or earlier terminates, or as otherwise mutually agreed to by Municipality and the Administrator. The term shall extend automatically with each renewal of the energy supply contract for its Municipal Program and for a year after expiration of the energy supply contract. Municipality may terminate this Agreement at any time by giving Administrator thirty (30) days advance written notice. In the event this Agreement is terminated by Municipality prior to its natural expiration, Administrator shall be paid for the volume of energy purchased through the residential and small commercial opt-out contract by the current alternative retail energy supplier through the next meter read date following the date of expiration of any executed (if any) energy contract with a current alternative retail energy supplier.

ARTICLE 5 - PAYMENT

5. **Payment.** Subject to the Municipality's termination rights described in Section 4, the Municipality agrees that Good Energy fees shall be paid volumetrically by the selected energy supplier per kilowatt-hour ("kWh") or per therm for energy purchased for the duration of the municipal contract. Such fees will be \$0.001 per kWh for electricity supply contracts and \$0.01 per therm for natural gas supply contracts.

ARTICLE 6 – RELATIONSHIP OF PARTY

6. Relationship of the Parties. The parties acknowledge and agree that Administrator is an independent contractor and is not an agent or employee of Municipality. Nothing in this Agreement shall be construed to create a relationship between Administrator and Municipality of a partnership, association, or joint venture. The Parties recognize and agree that Administrator will not perform any function not legally permitted by New York law or the rules and regulations established by an applicable governing authority.

ARTICLE 7 – GENERAL PROVISIONS

7. General Provisions

7.1. Indemnification

7.1.1. Professional Liability. Relative to any and all claims, losses, damages, liability and cost, the Administrator agrees to indemnify, defend and save Municipality, its officers, officials, and employees harmless from and against any and all suits, actions or claims for property losses, damages or personal injury claimed to arise from a negligent act, error or omission by the Administrator or its employees.

7.1.2. Non-Professional Liability (General Liability). To the fullest extent permitted by law, the Administrator shall indemnify, defend and hold harmless Municipality, its officers, officials, employees or any combination thereof, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of the acts or omissions of the Administrator, provided that such claim, damage, loss or expenses is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of property (other than the work itself) including loss of use resulting therefrom, but only to the extent caused to in whole or in part by the acts or omissions of the Administrator, any subconsultant(s) of the Administrator, its agents, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim damage, loss or expense is caused in part by a party indemnified hereunder. Such obligations shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this paragraph. Municipality shall be held harmless for any damage to the Administrator's property and/or equipment during the course of performance under the Contract.

7.2. Insurance

7.2.1. The Administrator shall secure and maintain, at his/her/its own expense, errors and omissions insurance in an amount not less than One Million Dollars (\$1,000,000.00) per claim/annual aggregate to protect itself from any claim arising out of the performance of professional services and caused by negligent acts or omissions for which the Administrator may be legally responsible. The Administrator shall maintain said coverage for the entire agreement period, unless by PSC Order the Administrator is required to carry a different insurance coverage.

7.2.2. Taxes

7.2.2.1. Administrator is subject to and responsible for all applicable federal, state, and local taxes.

7.2.2.2. Municipality represents that it is a tax-exempt entity and evidence of this tax-exempt status shall be provided to Administrator upon written request.

7.3. Assignment - The Parties may assign this Agreement without obtaining express, written consent from the other party prior to assignment.

7.4. Entire Agreement / Amendment. This Agreement constitutes the entire understanding of the parties hereto with respect to the subject matter hereof and supersedes all prior negotiations, discussions, undertakings and agreements between the parties. This Agreement may be amended or modified only by a writing executed by the duly authorized officers of the parties hereto. It is understood and agreed that this Agreement may not be changed, modified, or altered except by an instrument, in writing, signed by both parties in accordance with the laws of the State of New York.

7.5. Confidential and Proprietary Information.

7.5.1. Notwithstanding anything to the contrary set forth herein, the Parties are not required to disclose information which they reasonably deem to be proprietary or confidential in nature. The Parties agree that any information disclosed by a Party and designated as proprietary and confidential shall only be disclosed to those officials, employees, representatives, and agents of the other Party that have a need to know in order to administer and enforce this Agreement. For purposes of this Section, the terms "proprietary or confidential" include, but are not limited to, information relating to a Party's corporate structure and affiliates, marketing plans, financial information, or other information that is reasonably determined by a Party to be competitively sensitive. A Party may make proprietary or confidential information available for inspection but not copying or removal by the other Party's representatives.

7.5.2. Ownership of Data and Documents. All data and information, regardless of its format, developed or obtained under this Agreement ("Data"), other than the Administrator's confidential information, will be and remain the sole property of the Municipality. The Administrator must promptly deliver all Data to the Municipality at the Municipality's request. The Administrator is responsible for the care and protection of the Data until that delivery. The Administrator may retain one copy of the Data for the Administrator's records subject to the Administrator's continued compliance with the provisions of this Contract.

7.5.3. Limitations on customer information Municipality agrees that customer-specific information provided to the Municipality in accordance with the provisions of the applicable utility tariff rate shall be treated as confidential. To protect the confidentiality of customer information:

7.5.3.1. Administrator access to customer information is limited those authorized representatives of Administrator, or any third party, who have a need to know the information for purposes of this Contract.

7.5.3.2. Administrator warrants that it will not disclose, use, sell, or provide Customer Information to any person, firm or entity for any purpose outside of the aggregation program.

7.5.3.3. Administrator and Municipality acknowledge that customer information remains the property of the Municipality and that material breaches of confidentiality will prohibit Administrator from placing any new bids to the Municipality's subsequent Request(s) for qualifications for a period of one year after termination of this Agreement.

7.5.4. Proprietary Rights, Survival. Each Party acknowledges the proprietary rights of the other Party in and to the Confidential Information. The obligations under this Article shall survive the conclusion or termination of this Agreement for two (2) years.

7.6. Governing Law/Venue: Any controversy or claim, whether based upon contract, statute, tort, fraud, misrepresentation or other legal theory, related directly or indirectly to this Agreement, whether between the parties, or of any of the parties' employees, agents or affiliated businesses, will be resolved under the laws of the State of New York, in any court of competent jurisdiction in the county in which the Municipality is principally located.

7.7. Severability: If any provision of this Agreement is held invalid or unenforceable, such provision shall be deemed deleted from this Agreement and shall be replaced by a valid, mutually agreeable and enforceable provision which so far as possible achieves the same objectives as the severed provision was intended to achieve, and the remaining provisions of this Agreement shall continue in full force and effect.

7.8. Paragraph Headings. Paragraph headings are inserted in this Agreement for convenience only and are not to be used in interpreting this Agreement.

[signatures appear on following page]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the _____ day of _____.

[MUNICIPALITY]

BY: _____

[MUNICIPAL OFFICIAL]

GOOD ENERGY, L.P.

BY: GOOD OFFICES TECHNOLOGY PARTNERS, LLC
ITS GENERAL PARTNER

BY: _____

Maximilian Hoover, Manager