

MEAN MASTER SERVICES AGREEMENT TERMS AND CONDITIONS

1. AGREEMENT; INCORPORATED DOCUMENTS.

These MEAN Master Services Agreement Terms and Conditions (the “**Master Terms**”) are made part of that certain MEAN Master Services Agreement (the “**Master Agreement**”) entered into by the Municipal Energy Agency of Nebraska (“**MEAN**”) and any “**Customer**,” as defined therein. These Master Terms, collectively with the Master Agreement, the various Scope of Service documents which may be issued by MEAN from time during the term of the Master Agreement, any Enrollment Form duly executed by MEAN and the Customer during the Term of the Master Agreement, and such other ancillary documents as may be necessary for the safe, efficient, and cost-effective provision of certain utility-related services during the Term of the Master Agreement, shall each be referred to as an “**Incorporated Document**” and shall collectively be referred to as the “**Agreement**”. The MEAN General Terms and Conditions of Service, as such document may be issued, modified, supplemented, or superseded from time to time by MEAN, including any successor documents thereof, are expressly incorporated in and made part of these Master Terms by reference.

2. SCOPE OF SERVICES.

2.1 General Scope. From time to time, MEAN, in its sole and absolute discretion, may make available to the Customer certain utility-related services (each a “**Service**,” or collectively, the “**Services**”), each of which shall be further described on an individual document identifying the scope of such service (each a “**Scope of Service**”). Each Scope of Service shall include a general description of the Service being made available and additional terms and conditions which apply thereto, and shall be posted on the MEAN website at <http://www.nmppenergy.org> (the “**Master Services Website**”).

2.2 Enrollment. Customer may request to enroll in any Service offered by MEAN by executing and delivering to MEAN a written request to receive such Service, in the form which will be provided by MEAN (an “**Enrollment Form**”). Upon receipt of an Enrollment Form duly executed by the Customer, MEAN may, but is not obligated to, agree to provide such Service requested by the Customer by countersigning and returning to the Customer the corresponding Enrollment Form. In addition to the Enrollment Form, MEAN reserves the right to require Customer to complete ancillary documents or forms which may be necessary for the safe, efficient, and cost-effective provision of the relevant Service.

3. EFFECTIVE DATES; TERM.

3.1 Other Documents. Documents not specified herein which by their own terms are expressly made part of the Agreement shall each become effective on the date specified therein, or if no such date is specified therein, on the date which it becomes fully executed. Each such document shall remain in effect until the date

on which it is terminated according to its terms, or, if such date is not specified therein, the earlier of: (a) the date on which termination of the Master Agreement becomes effective, (b) on the date the corresponding Enrollment Form terminates, if applicable, or (c) such document is terminated by MEAN, in its sole and absolute discretion.

3.2 Master Terms. These Master Terms shall become effective immediately upon posting to the Master Services Website and shall govern the Agreement at any given time during which such Master Terms remain posted.

3.2.i. Amendment of Master Terms. These Master Terms may be amended at any time in MEAN’s sole and absolute discretion by the posting of the amendment or amended and restated Master Terms on the Master Services Website. Upon posting of any amendment or amended and restated Master Terms, MEAN shall provide written notice of such posting to Customer (a “**Change Notice**”). Any amendment or amended and restated Master Terms shall become effective on the date set forth therein but in no event less than sixty (60) days after the date on which MEAN sent a Change Notice to Customer, provided that Customer has not terminated the Master Agreement as set forth in Section 5.2.

3.2.ii. Term of Master Terms. These Master Terms shall continue in effect for the Term of the Master Agreement, subject to the provisions of Section 3.2.i..

3.3 Scope of Service. Unless otherwise specified therein, each Scope of Service shall become effective immediately upon posting to the Master Services Website, provided, however, that any amended and restated Scope of Service shall become effective as described in Section 3.3.i. hereof.

3.3.i. Amendment of Scope of Service. Each Scope of Service document may be amended at any time in MEAN’s sole and absolute discretion by the posting of the amendment or amended and restated Scope of Service document on the Master Services Website. Upon posting of any amendment or amended and restated Scope of Service document, MEAN shall provide written notice of such posting to Customer (a “**Service Amendment Notice**”). Upon the receipt of a Service Amendment Notice, a Customer may, at its option, choose to terminate its corresponding Enrollment Form, and therefore its enrollment in the Service, by delivering written notice of its intention to terminate to MEAN no later than thirty (30) days after the date on which MEAN sent the Service Amendment Notice (a “**Service Amendment Termination Notice**”). Any amendment or amended and restated Scope of Service document shall become effective on the date set forth therein but in no event less than sixty (60) days after the date on which MEAN sent a Service Amendment Notice to Customer, provided that Customer has not delivered a Service Amendment Termination Notice. If Customer delivers a Service Amendment Termination Notice, termination of the

corresponding Enrollment Form shall become effective at 11:59:59 pm Central Prevailing Time on the day prior to the effective date of the amendment.

3.3.ii. Term of Scope of Service. Each Scope of Service shall continue in effect until the earliest of (a) the date on which the Scope of Service terminates as set forth therein, (b) the date on which the Scope of Service is amended pursuant to Section 3.3.i. above, or (c) on the date which MEAN, in its sole and absolute discretion, decides to terminate the Service.

3.4 Enrollment Form. Unless otherwise specified therein, each Enrollment Form shall become effective on the date on which it becomes duly executed by both MEAN and the Customer, provided, however, that if the relevant Scope of Service document for the related Service requires MEAN and Customer to enter into any ancillary document, the Enrollment Form shall not become effective until such ancillary document is duly executed.

3.4.i. Term of Enrollment Form. The Enrollment Form shall continue in effect until the earliest of (a) the date on which the Enrollment Form terminates as set forth therein, (b) the date on which the relevant Scope of Service is terminated as set forth in Section 3.3.ii. or Section 5.1 of these Master Terms, (c) the date on which the Enrollment Form is terminated by the Customer pursuant to Section 3.3.i., (d) the date on which the termination of the Master Agreement becomes effective, (e) in the event that MEAN provides a substantially similar Service at no additional cost to certain parties based on eligibility created by entering into certain contracts with MEAN (a "Rate-Based Service"), the date on which Customer becomes eligible to receive the Rate-Based Service, (f) in the event that Customer has delivered notice of its intention to terminate its Master Agreement, the date on which any then-current term of the Enrollment Form terminates, regardless of whether Customer had provided proper notice of its intention to terminate or not renew the Enrollment Form as may be required by its terms, (g) the date on which either Party terminates the Enrollment Form in a manner or form authorized by the terms thereof, or (h) any such date as determined by MEAN, in its sole and absolute discretion, provided that MEAN provides the Customer with not less than thirty (30) days written notice of such termination. Any payment obligations of Customer for Services already rendered at the time of termination of the relevant Enrollment Form shall survive the termination thereof, including any relevant Costs or Wind-Up Costs as set forth herein or in any Fee Agreement.

4. FEES AND PAYMENTS.

4.1 Fees. Customer agrees and acknowledges that, by duly executing and entering into an Enrollment Form with MEAN, including any required ancillary documents (collectively, the "**Fee Agreements**"), Customer agrees to pay any and all fees which may become due related to MEAN providing the relevant Service per the Enrollment

Form (collectively, the "**Fees**"). For avoidance of doubt, when required by law, MEAN will collect all applicable sales taxes.

4.2 Costs and Expenses. Customer agrees to reimburse MEAN for any out-of-pocket and pass-through expenses related to the provision of the Services, including but not limited to labor, travel at the then-current Internal Revenue Service standard mileage reimbursement rate per mile, lodging, meals, filing fees, equipment and procurement costs, software, and hiring third-party contracts (collectively, the "**Costs**"). Customer also agrees to reimburse MEAN for any reasonably incurred expenses related to winding up Services, including but not limited to costs of return travel, clean up, return of information or equipment, termination fees with third-party contractors, or any such other wind-up costs which are necessary and unavoidable (collectively, the "**Wind-Up Costs**"). Unless otherwise outlined in any relevant Fee Agreements, labor shall be charged to the Customer at MEAN's then-current hourly rate. Costs and/or Wind-Up Costs may also include specific expenses which are further outlined in a Scope of Service document.

4.3 Billing and Payment; Disputes. Unless terms for billing, payment and disputes are otherwise outlined in the relevant Scope of Service document or any of the Fee Agreements, the provisions in Article VIII of the MEAN General Terms and Conditions of Service shall apply. For avoidance of doubt, any amendment or restatement of the MEAN General Terms and Conditions of Service shall not constitute an amendment requiring notice under this Master Agreement. Bills are considered paid when payment is received in full by MEAN. MEAN may, to the extent permitted by law, at any time after a bill is past due and after fifteen (15) days' advance written notice, discontinue any Service until all past due bills owed by Customer are paid in full, including the payment of any required interest and penalties, if any. Discontinuation of Services as set forth in this Section 4.3 shall not relieve Customer of liability for the payment of all Services actually rendered.

4.4 Payment for Partially Completed Service. In the event that Customer has duly enrolled in a Service by entering into an Enrollment Form, and any ancillary documents related thereto, if any, and such Enrollment Form or ancillary documents are terminated due to the delivery of a Service Amendment Termination Notice, breach, or unilateral termination by MEAN in its sole and absolute discretion, and MEAN has partially completed the Service and/or incurred Costs which were necessary for MEAN's reasonable anticipation of providing such Service, MEAN will invoice the Customer for and Customer will be required to pay for:

- (i) All Costs required to be paid upon termination of a Service as enumerated in any Scope of Service or Fee Agreement;
- (ii) All Service expenses outlined on the relevant Scope of Service or any Fee Agreement which have already been incurred or are contracted to be incurred as of the date of termination; and
- (iii) All Wind-Up Costs.

4.5 Refund of Advance Payment. In the event that Customer has submitted payment for a Service and the Customer's Enrollment Form is terminated due to the delivery of a Service Amendment Termination Notice, breach by MEAN, or unilateral termination by MEAN in its sole and absolute discretion, MEAN shall issue a refund to Customer, less any Costs and Wind-Up Costs, within ninety (90) days of such termination based on the following calculation:

(i) If, at the time of termination of the Enrollment Form, the Service has yet to be performed and MEAN has not yet incurred any Costs and will not incur any Wind-Up Costs, then MEAN will refund the entire fee already paid which was related to the Service; or

(ii) If, at the time of termination of the Enrollment Form, the Service has yet to be performed however MEAN has incurred Costs related to the anticipation of providing the Service and/or will incur Wind-Up Costs, then MEAN will refund the Fee which was already paid related to the Service, less Customer's pro rata share of the Costs and/or Wind-Up Costs; or

(iii) If, at the time of termination of the Enrollment Form, the Service has been performed in part but not in full, MEAN will refund a portion of the Fee paid which was related to the Service, equal to the portion of the Service which was not completed, less any Costs and/or Wind-Up Costs.

5. TERMINATION.

5.1 Termination by MEAN. MEAN may terminate the Master Agreement, any Scope of Service document, or any Fee Agreement for any reason and at any time upon thirty (30) days advance written notice to Customer.

5.2 Termination by Customer due to MEAN Amendment. In the event that MEAN amends these Master Terms in accordance with Section 3.2.i. herein, Customer may elect to terminate the Master Agreement by delivering to MEAN notice of Customer's intention to terminate the Master Agreement no later than thirty (30) days after MEAN sends a Change Notice. If Customer delivers a notice of termination pursuant to this Section 5.2, such termination of the Master Agreement shall become effective at 11:59:59 pm Central Prevailing Time on the day prior to the effective date of the amendment.

5.3 Termination by Customer for Convenience. Customer may terminate the Master Agreement at any time by delivering written notice to MEAN of Customer's intent to terminate. Notice of Customer's intent to terminate the Master Agreement under this Section 5.3 shall be deemed notice of Customer's to terminate and/or notice of non-renewal of any existing Fee Agreement between Customer and MEAN at the end of the then-current term of such Fee Agreement. Termination of the Master Agreement shall become effective upon the later of (a) sixty (60) days following the delivery of the notice described in this Section 5.3, or (b) the date on which all Fee Agreements between Customer and MEAN are terminated. For avoidance of doubt, the Master Agreement and

these Master Terms shall survive until the termination of all Fee Agreements.

5.4 Termination for Breach. In the event that either party has materially breached the terms and conditions set forth in the Master Agreement, any Scope of Service, any Fee Agreement, or these Master Terms, the non-breaching party may, but is not obligated to, provide written notice to the breaching party which includes: (a) a description of the breaching party's material breach, and (b) if the non-breaching party elects, notice of the non-breaching party's intention to terminate any or all Fee Agreements that Customer is a party to which are the subject of the breach (the "**Material Breach Notice**"). If notice under Section 5.4.b. is provided, termination of the Fee Agreements shall become effective (i) if such material breach is not cured within ten (10) days of the breaching party's receipt of such notice, or (ii) in the event that a breach is of such nature that it cannot be reasonably cured within ten (10) days of the breaching party's receipt of such notice, if the breaching party does not commence action to cure such breach within ten (10) days of the breaching party's receipt of such notice (either written notice a "**Material Breach Notice**"). In the event that the breaching party fails to cure or fails to commence to cure a material breach in accordance with the preceding sentence, the documents identified in the Material Breach Notice pursuant to Section 5.4.b. shall automatically terminate upon the eleventh (11th) day following the breaching party's receipt of such Material Breach Notice.

5.5 Effect of Termination for Breach or for Convenience. Notwithstanding anything to the contrary set forth herein, in the event that the Master Agreement is terminated for a breach or for convenience prior to the termination of all Fee Agreements duly executed by MEAN and Customer, the Master Agreement shall continue in effect until the date on which all Fee Agreements between MEAN and Customer are terminated and shall terminate concurrently with the termination of the last outstanding Fee Agreement.

5.6 Preservation of Rights and Remedies. Except as expressly provided herein or in any Fee Agreement, the rights and remedies of the MEAN under the Master Agreement are cumulative and are in addition to, and not in substitution for, any rights or remedies available at law or in equity.

6. ADDITIONAL CUSTOMER OBLIGATIONS.

6.1 Site Access and Preparation. Customer acknowledges that certain Services will require Customer to provide MEAN with reasonable site access to perform the Services and may require prior preparation of such site. Customer hereby agrees to provide MEAN all required access and to complete all required site preparation tasks as may be necessary to complete the Service or as otherwise requested by MEAN.

6.2 Information; Data. Customer acknowledges that certain Services will require the Customer to provide to MEAN certain information

and/or data which may be necessary for the provision of the Services. Customer hereby agrees to timely provide to MEAN all required information and data which is requested by MEAN or is otherwise necessary to complete the Services. MEAN shall be entitled to use and rely upon all information, data, and other appropriate and necessary documentation (collectively referred to as “Data”) provided by or on behalf of the Customer. The accuracy of the Data submitted by MEAN for regulatory and/or compliance purposes is dependent upon the accuracy, completeness, and timeliness of Data which is provided to MEAN by or on behalf of Customer. It is understood that if MEAN does not obtain all required and accurate Data timely, the reliability and accuracy of the Data submitted by MEAN for regulatory or compliance purposes on behalf of Customer may be adversely affected. Accordingly, Customer agrees to bear total responsibility for any and all charges, fines, and penalties resulting from omissions, technical inaccuracies, missing Data, or Data not timely provided by Customer to MEAN.

6.3 Additional Obligations. A Scope of Service document or any relevant Fee Agreement may set forth additional Customer obligations. Customer hereby agrees to comply with any obligations set forth in such Scope of Service documents or Fee Agreements as it pertains to the provisions of such Service.

6.4 Amendments; Updates. Customer hereby agrees and acknowledges that Customer is responsible for keeping abreast of any and all amendments to these Master Terms and/or the Scope of Service documents, subject to MEAN’s notification requirements as set forth herein.

7. REPRESENTATIONS AND WARRANTIES.

MEAN shall exercise the same degree of care, skill, and diligence in the performance of the Services as is ordinarily possessed and exercised by a professional consultant under similar circumstances. NO WARRANTY, EXPRESS OR IMPLIED, IS INCLUDED IN THIS AGREEMENT, IN ANY DRAWING, SPECIFICATION, REPORT, OR OPINION PRODUCED PURSUANT TO THIS AGREEMENT, OR OTHERWISE WITH RESPECT TO THE SERVICES.

8. INDEMNIFICATION; LIMITATION OF LIABILITY.

8.1 Indemnification. To the extent allowed by law, Customer agrees to release, indemnify, defend and hold harmless MEAN and its officers, directors, employees, agents, independent contractors, affiliates, attorneys, and assigns from and against any loss, liabilities, damages, costs, expenses, or causes of action, including reasonable attorney’s fees resulting from any third-party claim, action, or demand arising out of or related to: (a) the fault, negligence, error, omission, or willful misconduct of the Customer or its officials, employees, agents, independent contractors, affiliates, attorneys or assigns in connection with the Agreement, (b) Customer’s breach of the Agreement, and (c) Customer’s use of the Services.

8.2 Limitation of Liability for Services. Notwithstanding any other provision of this Agreement, MEAN’s total liability to Customer for any loss or damage arising out of or in connection with the performance of any Service under the Agreement, whether based on contract, tort or any other legal theory, excluding loss or damage caused by MEAN’s gross negligence or MEAN’s willful and wanton misconduct, shall not exceed the cost for MEAN to provide such Service to Customer under the Agreement in the twelve (12) months preceding the claim, based on MEAN’s then-current hourly rate for services. The provisions of this Section 8.2 shall survive expiration or termination of the Master Agreement and any of the Incorporated Documents.

8.3 Damages. IN NO EVENT SHALL MEAN BE LIABLE UNDER ANY PROVISION OF THIS AGREEMENT FOR SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO, LOST PROFITS, LOST REVENUE, OR CLAIMS OF CUSTOMER FOR SUCH DAMAGES, EVEN IF MEAN IS EXPRESSLY INFORMED OF THE SAME. THE PROVISIONS OF THIS SECTION 8.3 SHALL SURVIVE EXPIRATION OR TERMINATION OF THE MASTER AGREEMENT AND ANY OF THE INCORPORATED DOCUMENTS.

9. WAIVER.

No waiver of any provision of these Master Terms is effective unless such waiver is in writing and is signed by an authorized representative of by the waiving Party. Any failure by a Party to enforce any of its rights under these Master Terms or any applicable laws does not constitute a waiver of such right. Either Party will not be deemed to have waived any of its rights under the Agreement by lapse in time or by any statement or representation other than (a) by an authorized representative and (b) in an explicit written waiver, which may be contained in one or more Fee Agreements. No waiver of any rights arising out of a breach in any Incorporated Document will constitute a waiver of rights relating to any prior or subsequent breach of such Incorporated Document.

10. SEVERABILITY.

If any term or provision is declared invalid or unenforceable, in whole or in part, the invalidity or unenforceability of any provision of these Master Terms does not affect the validity or enforceability of any other provision of these Master Terms, which will remain in full force and effect. These Master Terms will be deemed amended to the extent necessary to make these Master Terms enforceable, valid and, to the maximum extent possible, consistent with applicable law and consistent with the original intention of the parties; and the remaining terms and provisions will remain in full force and effect. If any provision of these Master Terms is found by a court of competent jurisdiction to be invalid, MEAN will amend or replace such provision with one that is valid and enforceable and

which achieves, to the extent possible, the original objectives and intent of MEAN as reflected in the original provision.

11. FORCE MAJEURE.

No Party to any of the Incorporated Documents shall be deemed in default thereunder, nor will it hold the other party responsible for, any cessation, interruption or delay in the performance of its obligations under such Incorporated Document due to earthquake, flood, fire, storm, natural disaster, supply chain disruption, pandemic or epidemic, act of God, war, terrorism, armed conflict, labor strike, lockout or boycott, provided that the party relying upon this Section 11 takes all steps reasonably necessary under the circumstances to mitigate the effects of the force majeure event upon which such notice is based; provided further, that in the event a force majeure event described in this Section extends for a period in excess of thirty (30) days in the aggregate, MEAN may immediately terminate the Master Agreement or any Incorporated Document and will have no liability therefrom.

12. HEADINGS; INTERPRETATION.

The section headings contained in the Agreement are inserted for convenience only and do not affect in any way the meaning or interpretation of the Agreement. Also, in all references herein to any parties, persons, entities or corporations, the use of any particular gender or the plural or singular number is intended to include the appropriate gender and number as the text of the Agreement may require.

13. CONFLICTING TERMS.

In the event that the terms and conditions set forth in any relevant ancillary document, Enrollment Form, Scope of Service Document, the Master Terms, or the Master Agreement conflict in any manner, the terms and conditions of the document shall govern in the priority listed in this sentence.

14. ASSIGNMENT.

This Section 14 shall apply in lieu of the assignment provision in the MEAN General Terms and Conditions of Service. The Agreement, or any Incorporated Document, may not be transferred or assigned by Customer without the express written consent of MEAN. Any attempted assignment or transfer occurring without the consent of MEAN will be null and void. MEAN may assign its rights or obligations under the Agreement in its sole and absolute discretion and may engage contractors or agents in performing its duties and exercising its rights hereunder, without notice to or consent from the other party. The Agreement and any Incorporated Document, as may be amended from time to time, is binding upon the parties hereto and any respective successors or assigns.

15. RELATIONSHIP OF PARTIES; THIRD PARTY BENEFICIARIES.

The Agreement and any Incorporated Document do not create any agency, employment, partnership, joint venture, franchise, or other similar or special relationship between MEAN and Customer. Neither party has the right or authority to create or assume any obligations or to make any representations, warranties or commitments on behalf of the other party or its affiliates, subsidiaries, employees, agents, independent contractors, directors, officers, or officials (collectively, “**Representatives**”), whether express or implied, or to bind the other party or its Representatives in any respect whatsoever. MEAN shall perform the Services as an independent contractor and shall not be treated as the employee of Customer for federal, state, or local tax purposes, workers’ compensation purposes, or any other purpose.

The parties do not intend to confer and the Agreement shall not be construed to confer any rights or benefits to any person, firm, group, corporation or other entity other than the parties that have executed the Agreement.

16. SUBCONTRACTORS.

Notwithstanding anything to the contrary in the Agreement, Customer consents and agrees that MEAN may perform any and all of its duties and exercise its rights and powers under the Agreement by or through agents, subcontractors or employees appointed by MEAN. In addition, MEAN may delegate any or all of its duties under the Agreement to agents, employees or third parties appointed by MEAN.

17. NOTICES.

All notices required or permitted to be given with respect to the Agreement shall be given by (a) mailing the same postage prepaid (b) given by courier, or (c) by email, to Customer as described in the MEAN General Terms and Conditions of Service, and to MEAN at the address as set forth below. Either party may change its physical address or email address for the purpose of notice hereunder by giving the other party no less than five (5) days prior written notice of such new address in accordance with the preceding provisions.

To MEAN:

Municipal Energy Agency of Nebraska
ATTN: Executive Director
8377 Glynoaks Drive
Lincoln, Nebraska 68516
Telephone: (402) 474-4759
Email: legal@nmppenergy.org

18. GOVERNING LAW; VENUE.

The governing law and venue provision in the MEAN General Terms and Conditions of Service shall apply to this Agreement and all Incorporated Documents.

19. ENTIRE AGREEMENT.

The Agreement shall constitute the entire agreement between MEAN and the Customer concerning the Services and any other subject matter related thereto. The Agreement supersedes and governs all prior proposals, agreements, or other communications between MEAN and Customer regarding the Services.

20. COUNTERPARTS; ELECTRONIC SIGNATURES.

Any of the Incorporated Documents subject to signature may be executed in one or more duly executed counterparts, each which shall be deemed an original but all of which together shall constitute one and the same instrument. The parties agree that any of the Incorporated Documents may be executed electronically, and the electronic signatures shall be considered valid and enforceable in accordance with the Uniform Electronic Transactions Act (UETA) or any similar applicable law.