

# Ambit Northeast, LLC

## Duke Energy Ohio Service Area

### Sales Agreement and Terms of Service

**VERSION: 080423.13347.060424**

This is your Sales Agreement and Terms of Service for the purchase of electric generation supply service ("Service") from Ambit Northeast, LLC d/b/a Ambit Energy ("Ambit") ("Agreement"). Ambit is licensed as a Competitive Retail Electric Supplier ("CRES") by the Public Utilities Commission of Ohio ("PUCO") under certificate number 15-987E and will supply Service for your residence or business address enrolled under this Agreement. Ambit is not an agent of your electric distribution utility ("Utility"). In the event of a power outage, please contact your Utility. The words "we," "us," and "our" refer to Ambit, and the words "you" and "your" refer to the Customer. Either the Customer or Ambit may be referred to as a "party" or together the "parties." Please retain this Agreement for your records.

Generation supply prices and charges are set by Ambit, the CRES you have chosen. The PUCO regulates distribution prices and services. By enrolling for service with Ambit, you agree to be bound by this Agreement and pay for the Service Ambit provides to you under this Agreement.

#### Contact Information:

For questions concerning your rate, service initiation, or service cancellation, please contact Ambit Energy using the contact information below:

#### Ambit Energy

Internet Address: [www.ambitenergy.com](http://www.ambitenergy.com)

P.O. Box 864589, Plano, TX 75086

Customer Service (877) 282-6248

Fax (877) 506-5606

Operating Hours:

Monday - Sunday 8:00 a.m. - 11:00 p.m. ET

In the event of a power outage, please call your Utility:

#### Duke Energy Ohio - Electric

P.O. Box 1326, Charlotte, NC 28201

Customer Service (800)544-6900

Power Outage (800) 544-6900

**Winter Break 24 13.3900¢ per kWh**

**Service Price:** You will pay a fixed rate of 13.3900¢ per kWh for the Initial Term ("Fixed Rate"). Ambit may choose to lower your price per kWh without your consent provided there are no other changes to this Agreement.

**Contract Renewal:** You will receive one (1) written notice at least forty-five (45) days prior to the end of the Initial Term. If you fail to take action after the Initial Term, you will automatically continue Service on a month-to-month basis ("Renewal Term") at a default variable rate product unless you select another Ambit product or CRES. Variable rates are set in Ambit's discretion and may change from month-to-month at Ambit's discretion based on numerous factors, including, but not limited to, Ambit's assessment of applicable market and business conditions, operation costs, historic and projected supply and hedging costs, prior meter read cycle's pricing and balancing costs, customer retention or attrition, projected customer bill amounts, competitor pricing or "price to compare" and applicable pricing reset dates, and may include the following costs: ancillary services and other ISO costs, capacity costs, transmission costs, line loss costs, RMR costs, credit costs, balancing costs, winter reliability costs, and costs associated with meeting any applicable renewable portfolio standards, and a profit margin determined in Ambit's discretion. THE VARIABLE RATE MAY BE HIGHER OR LOWER THAN THE UTILITY'S SUPPLY RATE IN ANY GIVEN BILLING CYCLE.

**Your affirmative consent is not required for Ambit to provide Service during the Renewal Term, even if there is a change in the rate or other terms and conditions.** You always have the option to choose another plan should this occur.

**Cancellation Fee:** No cancellation fee applies to this product

**Winter Break Service Plan:** You will receive a 50 percent discount off the Ambit energy supply charges for meter cycles beginning in November, December, January, and February (between November 1 and February 28). See the Winter Break Terms and Conditions for more details.

**Length of Agreement:** You will buy your electricity for the service address provided at the time of enrollment from Ambit beginning on the date set by your Utility and will continue for 24 months ("Initial Term"). Your actual start and end dates may differ from any estimate provided depending on the start date provided by your Utility and your Utility's meter reading schedule.

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**VERSION DATE: AUGUST 4, 2023**

**SERVICE TERM AND PRODUCT SELECTION:** Ambit agrees to sell and you agree to buy the quantity of electricity or natural gas delivered to you, as measured or estimated by your Utility. The Term of this Agreement will become effective on the day your Service begins with Ambit, which coincides with your next available meter reading date after Ambit and your Utility processes your enrollment request, and: (i) for a fixed rate will continue for the Initial Term and any applicable Renewal Term, or (ii) for a variable rate will continue month-to-month. The price of the product plan selected includes charges for Ambit Service. You also agree to pay applicable Utility charges, surcharges, state and local taxes. Ambit may choose to lower your price without your consent provided there are no other changes to this Agreement. **THIS AGREEMENT CAN AUTOMATICALLY RENEW WITHOUT YOUR AFFIRMATIVE CONSENT, EVEN WHEN THERE IS A CHANGE IN THE RATE OR OTHER TERMS AND CONDITIONS.**

You understand and acknowledge that product selection at enrollment is subject to Ambit approval, based on the premise type and/or service class that was previously assigned to your account by your Utility. If the information received from the Utility does not match the requested Ambit product, you agree that Ambit may switch the product type to match information received from the Utility, which may be at a different rate or term length.

Consistent with the Ohio Administrative Code governing net metering contracts, Ambit does not offer net metering or support the unique billing requirements for net metering customers in the AES Ohio ("AES") territory. If you are an AES customer receiving Ambit electric Service and you establish net metering at your premise after entering into this Agreement, Ambit will terminate this Agreement and return your supply service to AES.

**RIGHT TO RESCIND:** You may rescind this Agreement without penalty: (i) for electric Service, within seven (7) calendar days from the postmark date of your Utility's confirmation notice of your Ambit enrollment, or (ii) for natural gas Service, within seven (7) business days from the postmark date

of your Utility's confirmation notice of your Ambit enrollment. You may rescind in writing, orally, or electronically by contacting Ambit as provided for in the Contact Information section. You may also contact your Utility to request rescission. Please provide your name, address, phone number and a statement that you are rescinding your Agreement under the Right of Rescission.

**STANDARD SERVICE OFFER:** All retail customers in Ohio are entitled to purchase their electricity and/or natural gas supply from a licensed CRES or RNGS or through Standard Service Offer. Standard Service Offer is provided automatically to customers who do not sign a contract with a CRES for their electricity or RNGS for their natural gas.

**CANCELLATION AND SWITCHING PROCEDURES:** You or Ambit may cancel this Agreement at any time. Cancellation will be effective on your next available meter reading date after Ambit and your Utility processes your cancellation request ("Cancellation Effective Date"). You agree to pay for the Service provided through your Cancellation Effective Date and may be subject to an early cancellation fee. Ambit reserves the right to cancel this Agreement (i) if your Utility is unable to read your meter for three (3) consecutive months; (ii) if at any time you request separate bills from your Utility and Ambit; or (iii) if the Utility removes you from their consolidated billing program and requires that Ambit bill you separately for your energy supply.

You may cancel this Agreement without penalty, if you move outside Ambit's or the Utility's service area and provide evidence that you are moving and a forwarding address, or if you move into an area where Ambit charges a different or where the Utility does not permit portability of your Agreement. If you switch back to your Utility, you may or may not be serviced under the same rates, terms, and conditions that apply to other customers served by the Utility.

This Agreement will be automatically terminated if: (i) your requested service location is not served

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by the Utility, (ii) if you move outside the Utility's territory, or outside Ambit's service area, or (iii) Ambit returns you to Utility service.

**BILLING AND PAYMENT:** Your Utility will continue to deliver your electricity and/or natural gas, read your meter, respond to emergencies, send your bill, and make necessary repairs. Your Utility monthly bill will include Ambit Service charges, as well as applicable Utility charges, surcharges, state and local taxes, and any other charges incurred in accordance with this Agreement. You will continue to be responsible for all charges assessed by your Utility, including any applicable switching fees, service and delivery charges, late fees, other fees, or taxes specifically associated with services it provides during the term of this Agreement. Ambit does not offer budget billing for the generation portion of the bill. Bills will continue to be based on actual or estimated meter readings. In the event the Utility is unable to read your meter, the Utility will estimate your usage and your charges will be calculated accordingly and adjusted on a future bill.

You will make payment directly to the Utility in accordance with the payment terms stated in the Utility's tariffs, unless it is necessary that Ambit bill you directly. Failure to pay Utility or Service charges may result in your disconnection in accordance with the Utility's tariff and additional termination penalties may apply. You will pay each monthly bill in full in accordance with applicable tariffs or regulations or be subject to a late payment charge calculated in accordance with such tariffs or regulations. You may request from Ambit, twice within a twelve-month period, up to twenty four months of your payment history without charge. For electric Service, or if Ambit is billing you directly, in the event of failure to remit payment when due or to meet any agreed upon payment arrangement, Ambit will have the right to terminate commodity service with at least a fourteen (14) calendar days' written notice.

**COLLECTIONS:** In the event you default in the prompt payment of amounts due under this Agreement, Ambit reserves the right to charge you for any and all fees or charges reasonable and necessary in

order to collect or attempt to collect delinquent balances. Ambit may use the services of debt-collection agencies, consumer reporting agencies and other remedies as allowed by law to collect any unpaid balances on your account.

**TAXES AND LAWS:** Except as otherwise provided in this Agreement or by law, all taxes of whatsoever kind, nature and description, due and payable with respect to your performance of your obligations under this Agreement, shall be paid by you. The parties' obligations under this Agreement are subject to present and future legislation, orders, rules, or regulations of a duly constituted governmental authority having jurisdiction over this Agreement or the services to be provided herein.

**ENERGY ASSISTANCE PROGRAMS:** Your Utility has programs available to customers who are on a limited income to assist them with utility bills. Customers may contact the Ohio Development Services Agency (ODSA) at (800) 282-0880 or PUCO at (800) 686-7826 for more information on the Ohio PIPP Plus that allows monthly payments more affordable on a year-round basis. You may also contact your Utility for information on the Low-Income Home Energy Assistance Program (LIHEAP) which is a program offered to customers that provides energy assistance.

**ELIGIBILITY:** Ambit does not determine eligibility for pricing based on credit history, utility payment data or credit score. Ambit does not deny service based on a customer or applicant's race, creed, color, national origin, ancestry, sex, marital status, lawful source of income, level of income, disability, familial status, location of a customer/applicant in an economically distressed geographic area, or qualification for low income or energy efficiency services.

**INFORMATION RELEASE AUTHORIZATION:** You acknowledge that your billing and payment information may be provided to Ambit from your Utility. This information includes, but is not limited to, your account number, meter reading data, rate class and energy usage. This may include your address(es) and telephone number, and your budget billing plan or payment. Ambit will not give or sell your social security number, account number(s), or any information to any unaffiliated

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party without expressed written consent unless: (i) Ambit is required to do so by law, (ii) in connection with Ambit's collections or credit report, (iii) it is necessary to enforce this Agreement pursuant to section 4928.52 of the Revised Code, or (iv) in connection with a contract assignment to another supplier.

**ENVIRONMENTAL CHARACTERISTICS:** Ambit will provide regularly updated environmental disclosures regarding the known sources of electricity and emissions. These disclosures will be available at [www.ambitenergy.com](http://www.ambitenergy.com).

**AGENCY:** You appoint Ambit as its agent to acquire the supplies necessary to meet its energy needs, contract for and administer transportation, transmission and related services over interstate facilities and those of the Utility needed to deliver energy to your premises. These services are provided on an arm's-length basis and market-based compensation is included in the price noted in your Agreement.

**SEVERABILITY:** If any provision of this Agreement is held by a court or regulatory agency of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall continue in full force without being invalidated in any way.

**DELAYS OR FAILURE TO EXERCISE RIGHTS:** No partial performance, delay or failure on the part of Ambit in exercising any rights under this Agreement and no partial or single exercise thereof shall constitute a waiver of such rights or of any other rights hereunder.

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

**ACCEPTANCE AND AMENDMENTS:** This Agreement shall not become effective until accepted by Ambit. Ambit may terminate this Agreement at any time by providing you notice as required by law. **AMBIT MAY AMEND THE TERMS OF THIS AGREEMENT**

**AT ANY TIME, BY PROVIDING NOTICE TO YOU OF SUCH AMENDMENT AT LEAST THIRTY (30) DAYS PRIOR TO THE EFFECTIVE DATE THEREOF.**

Upon receipt of written notice of a material change, you may terminate this Agreement prior to the date such change becomes effective without penalty. However, any amendment of the Dispute Resolution, Binding Arbitration Clause and Class Action Waiver shall not apply retroactively to any claim initiated or accrued prior to the date of amendment. Any such claim shall be governed by the terms of the Dispute Resolution, Binding Arbitration Clause and Class Action Waiver in effect on the date the claim accrued.

**FORCE MAJEURE:** The term "Force Majeure" shall mean any cause not reasonably within the control of the party claiming suspension and which by the exercise of due diligence, such party is unable to prevent or overcome, including but not limited to, any act or cause which is deemed a Force Majeure by the Utility or any transportation or transmitting entity. If either party is unable, wholly or in part, by Force Majeure to perform or comply with any obligations or conditions of this Agreement, such party shall give immediate written notice, to the maximum extent practicable, to the other party. Such obligations or conditions, so far as they are affected by such Force Majeure, shall be suspended during the continuance of any inability so caused, and such party shall be relieved of liability and shall suffer no prejudice for failure to perform the same during the period. The party claiming suspension of obligations must in good faith attempt to mitigate and/or terminate the Force Majeure.

**ASSIGNMENT:** You may not assign this Agreement, in whole or in part, or any of its rights or obligations hereunder without the prior written consent of Ambit. Ambit may, without your consent, (a) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof in connection with any financing or other financial agreement; (b) transfer or assign this Agreement to an affiliate of Ambit; (c) transfer or assign this Agreement to any person or entity succeeding to all or substantially all of the assets of Ambit; and/ or (d) transfer or assign this Agreement to a CRES or RGNS, as applicable. In the case of (b), (c) or (d), any such assignee shall agree in writing to be bound by the terms and

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conditions hereof. Upon any such assignment, you agree that Ambit shall have no further obligations hereunder.

**LIMITATIONS OF LIABILITY:** Liabilities not excused by reason of Force Majeure or otherwise shall be limited to direct actual damages. Neither party will be liable to the other for consequential, incidental, punitive, special, exemplary or indirect damages. Lost profits or penalties of any nature are hereby waived; these limitations apply without regard to the cause of any liability or damage, including the negligence of Ambit. There are no third-party beneficiaries to this Agreement.

**REPRESENTATIONS AND WARRANTIES:** The Service under this Agreement will meet the applicable Utility's standards and may be supplied from a variety of sources. Ambit makes no representations or warranties other than those expressly set forth in this Agreement, and Ambit expressly disclaims all other warranties, express or implied, including warranties of merchantability and fitness for a particular purpose.

**GOVERNING LAW:** This Agreement shall be governed by, enforced and performed in accordance with the rules of Public Utilities Commission of Ohio.

### **DISPUTE RESOLUTION BY BINDING ARBITRATION: PLEASE READ THIS CAREFULLY. IT AFFECTS YOUR RIGHTS.**

**SUMMARY:** Most customer concerns can be resolved quickly and to the customer's satisfaction by contacting Ambit as indicated in the Contact Information section. Also, if your complaint is not resolved after you have called Ambit and/or your Utility, or for general utility information, residential and business customers may contact the Public Utilities Commission of Ohio (PUCO) for assistance at (800) 686-7826 from 8 a.m.-5 p.m. weekdays, or at [www.puco.ohio.gov](http://www.puco.ohio.gov). Hearing or speech impaired customers may contact the PUCO via 7-1-1 (Ohio relay service). The Ohio Consumers Counsel (OCC) represents residential utility customers in matters before the PUCO. The OCC can be contacted at (877) 742-5622 from 8 a.m.-5 p.m. weekdays, or at [www.pickocc.org](http://www.pickocc.org). Payment obligation for disputed amounts

may be withheld until such dispute is resolved through mutual agreement or as warranted by PUCO decision. **ALL OTHER DISPUTES SHALL BE HANDLED PURSUANT TO THE ARBITRATION AND CLASS ACTION WAIVER BELOW.**

In the unlikely event that Ambit's customer service department or PUCO is unable to resolve a complaint you may have to your satisfaction (or if Ambit has not been able to resolve a dispute it has with you after attempting to do so informally), we each agree to resolve those disputes through binding arbitration or small claims court instead of in courts of general jurisdiction. Arbitration is more informal than a lawsuit in court.

Arbitration uses a neutral arbitrator instead of a judge or jury, allows for more limited discovery than in court, and is subject to very limited review by courts. Arbitrators can award the same damages and relief that a court can award. **ANY ARBITRATION UNDER THIS AGREEMENT WILL TAKE PLACE ON AN INDIVIDUAL BASIS; CLASS ARBITRATIONS AND CLASS ACTIONS ARE NOT PERMITTED.** For any non-frivolous claim that does not exceed \$75,000, Ambit will pay all costs of the arbitration. Moreover, in arbitration you are entitled to recover attorney's fees from Ambit to at least the same extent as you would be in court. In addition, under certain circumstances (as explained below), Ambit will pay you more than the amount of the arbitrator's award and will pay your attorney (if any) twice his or her reasonable attorney's fees if the arbitrator awards you an amount that is greater than what Ambit has offered you to settle the dispute.

### **ARBITRATION AGREEMENT:**

(1) Ambit and you agree to arbitrate **ALL DISPUTES AND CLAIMS** between us. This agreement to arbitrate is intended to be broadly interpreted.

It includes, but is not limited to:

- claims arising out of or relating to any aspect of the relationship between us, whether based in contract, tort, statute, fraud, misrepresentation or any other legal theory;
- claims that arose before this or any prior Agreement (including, but not limited to, claims relating to advertising);
- claims that are currently the subject of

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purported class action litigation in which you are not a member of a certified class; and

- claims that may arise after the termination of this Agreement.

References to "Ambit," "you," and "us" include our respective subsidiaries, affiliates, agents, employees, predecessors in interest, successors, and assigns, as well as all authorized or unauthorized users or beneficiaries of services or Devices under this or prior Agreements between us. Notwithstanding the foregoing, either party may bring an individual action in small claims court. This arbitration agreement does not preclude you from bringing issues to the attention of federal, state, or local agencies, including, for example, the Federal Trade Commission. Such agencies can, if the law allows, seek relief against us on your behalf.

#### **YOU AGREE THAT, BY ENTERING INTO THIS AGREEMENT, YOU AND AMBIT ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION.**

This Agreement evidences a transaction in interstate commerce, and thus the Federal Arbitration Act governs the interpretation and enforcement of this provision. This arbitration provision shall survive termination of this Agreement.

(2) A party who intends to seek arbitration must first send to the other, by certified mail, a written Notice of Dispute ("Notice"). The Notice to Ambit should be addressed to: Legal Department, Ambit Energy, 6555 Sierra Drive, Irving, TX 75039 ("Notice Address"). The Notice must (a) describe the nature and basis of the claim or dispute; and (b) set forth the specific relief sought ("Demand"). If Ambit and you do not reach an agreement to resolve the claim within thirty (30) days after the Notice is received, you or Ambit may commence an arbitration proceeding. During the arbitration, the amount of any settlement offer made by Ambit or you shall not be disclosed to the arbitrator until after the arbitrator determines the amount, if any, to which you or Ambit is entitled.

(3) After Ambit receives notice at the Notice Address that you have commenced arbitration,

it will promptly reimburse you for your payment of the filing fee, unless your claim is for greater than \$75,000. (The filing fee currently is \$200 for claims under \$10,000 but is subject to change by the arbitration provider. If you are unable to pay this fee, Ambit will pay it directly upon receiving a written request at the Notice Address.) The arbitration will be governed by the Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes (collectively, "AAA Rules") of the American Arbitration Association ("AAA"), as modified by this Agreement, and will be administered by the AAA. The AAA Rules are available online at [adr.org](http://adr.org), by calling the AAA at (800) 778-7879, or by writing to the Notice Address.

The arbitrator is bound by the terms of this Agreement. All issues are for the arbitrator to decide, except that issues relating to the scope and enforceability of the arbitration provision are for the court to decide. Unless Ambit and you agree otherwise, any arbitration hearings will take place in the county (or parish) of your billing address. If your claim is for \$10,000 or less, we agree that you may choose whether the arbitration will be conducted solely on the basis of documents submitted to the arbitrator, through a telephonic hearing, or by an in-person hearing as established by the AAA Rules. If your claim exceeds \$10,000, the right to a hearing will be determined by the AAA Rules. Regardless of the manner in which the arbitration is conducted, the arbitrator shall issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the award is based. Except as otherwise provided for herein, Ambit will pay all AAA filing, administration, and arbitrator fees for any arbitration initiated in accordance with the notice requirements above. If, however, the arbitrator finds that either the substance of your claim or the relief sought in the Demand is frivolous or brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)), then the payment of all such fees will be governed by the AAA Rules. In such case, you agree to reimburse Ambit for all monies previously disbursed by it that are otherwise your obligation to pay under the AAA Rules. In addition, if you initiate an arbitration in which you seek more than \$75,000 in damages, the payment of these fees will be governed by the AAA rules.

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(4) If, after finding in your favor in any respect on the merits of your claim, the arbitrator issues you an award that is greater than the value of Ambit's last written settlement offer made before an arbitrator was selected, then Ambit will:

- pay you the amount of the award or \$10,000 ("the alternative payment"), whichever is greater; and
- pay your attorney, if any, twice the amount of attorney's fees, and reimburse any expenses (including expert witness fees and costs) that your attorney reasonably accrues for investigating, preparing, and pursuing your claim in arbitration ("the attorney premium").

If Ambit did not make a written offer to settle the dispute before an arbitrator was selected, you and your attorney will be entitled to receive the alternative payment and the attorney premium, respectively, if the arbitrator awards you any relief on the merits. The arbitrator may make rulings and resolve disputes as to the payment and reimbursement of fees, expenses, and the alternative payment and the attorney premium at any time during the preceding and upon request from either party made within fourteen (14) days of the arbitrator's ruling on the merits.

(5) The right to attorney's fees and expenses discussed in paragraph (4) supplements any right to attorney's fees and expenses you may have under applicable law. Thus, if you would be entitled to a larger amount under the applicable law, this provision does not preclude the arbitrator from awarding you that amount. However, you may not recover duplicative awards of attorney's fees or costs. Although under some laws Ambit may have a right to an award of attorney's fees and expenses if it prevails in arbitration, Ambit agrees that it will not seek such an award.

(6) The arbitrator may award declaratory or injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claim. **YOU AND AMBIT AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR**

**CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING.** Further, unless both you and Ambit agree otherwise, the arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding. If this specific provision is found to be unenforceable, then the entirety of this arbitration provision shall be null and void.

(7) Notwithstanding any provision in this Agreement to the contrary, we agree that if Ambit makes any future change to this arbitration provision (other than a change to the Notice Address) during the term of your Agreement, you may reject any such change by sending Ambit written notice within thirty (30) days of change to the Notice Address provided above. By rejecting any future change, you are agreeing that you will arbitrate any dispute between Ambit in accordance with this provision.