

## TENASKA POWER MANAGEMENT, LLC AFFILIATES

### Affiliates

Alabama Electric Marketing, LLC  
Alpaca Energy, LLC  
Beaver Dam Energy, LLC  
Berkshire Power Company, LLC  
California Electric Marketing, LLC  
CSOLAR IV South, LLC  
CSOLAR IV West, LLC  
Elkhorn Ridge Wind, LLC  
Kiowa Power Partners, LLC  
LQA, LLC  
Milan Energy, LLC  
New Mexico Electric Marketing, LLC  
Nobles 2 Power Partners, LLC  
Oxbow Creek Energy, LLC  
Roundtop Energy, LLC  
Tenaska Alabama Partners, L.P.  
Tenaska California Energy Marketing, LLC  
Tenaska Clear Creek Wind, LLC  
Tenaska Frontier Partners Ltd.  
Tenaska Gateway Partners, Ltd.  
Tenaska Georgia Partners, L.P.  
Tenaska Pennsylvania Partners, LLC  
Tenaska Power Services Co.  
Tenaska TOPS REP, L.P.  
Tenaska Virginia Partners, L.P.  
Texas Electric Marketing, LLC  
TPS Corp.  
Wolf Run Energy, LLC

Please note that Tenaska Power Management, LLC (TPM) has not listed its individual shareholders owning 10% or more of TPM or related companies, or any holding companies within the Tenaska corporate family, which do not actively conduct regulated energy business. TPM has only listed companies actively engaged in some aspect of electric power activities or management thereof, which have electric power marketing or other FERC licenses.

TPM is indirectly affiliated with Tenaska Energy, Inc. (TEI), a privately held company, due to having shared investors who own more than 10% each company. TEI owns or is affiliated with numerous corporate entities, which are investment companies, capital management companies, holding companies, or companies that hold limited partnership interests in power plants or other facilities that are managed by a general partner, or are inactive shelf companies. This list does not include such companies, nor does it include any non-regulated companies or companies that are not electric energy companies.

## Master Broker Agreement

**Tenaska Power Management LLC. (“Broker”)** and \_\_\_\_ (“\_\_\_\_”) enter into this Master Broker Agreement (the “**Master Agreement**”) as of the later date set forth under the Parties’ signatures below (the “**Effective Date**”). \_\_\_\_ and Broker are sometimes referred to individually as a “**Party**” and collectively as the “**Parties**”. This Master Agreement sets forth the framework for Broker to receive proposals, including, pricing and product information from \_\_\_\_, on behalf of prospective customers. Any commission/fee to be dispersed by \_\_\_\_ to Broker shall be governed by, and contingent upon a Compensation Schedule, as defined below. The Compensation Schedule(s), if any, along with this Master Agreement are sometimes collectively referred to herein as the “**Agreement**”.

For good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

**1. DEFINED TERMS.** Capitalized terms not otherwise defined in this Master Agreement will have the meanings set forth below or in the Compensation Schedule(s).

“**Affiliate**” of a Party means any person or entity controlled by, that controls, or that is under common control with, such Party. The term “control” (including the terms “controlling”, “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of a Party, whether through the ownership of voting securities, by contract, or otherwise.

“**Compensation Schedule**” means as sent by \_\_\_\_ to Broker, a separate commission/fee schedule, a schedule of commission/fees with respect to a particular class of customers, a monthly commission report, or similar such notification or documentation of disbursement by \_\_\_\_ to Broker. Each Compensation Schedule, if any, shall set forth certain commercial and other terms for the facilitation of electricity transactions in a designated geographic region and/or for a particular customer or customers.

“**Confidential Information**” means all information or material not generally known by non-\_\_\_\_ (including its Affiliates) personnel (a) which gives \_\_\_\_ some competitive business advantage or the opportunity of obtaining such advantage, or the disclosure of which could be detrimental to the interests of \_\_\_\_; (b) which is owned, controlled or developed by \_\_\_\_ or in which \_\_\_\_ has an interest; and (c) which is (i) marked “Confidential Information,” “Proprietary Information” or other similar marking, (ii) known by Broker to be considered confidential and proprietary by \_\_\_\_, or (iii) from all the relevant circumstances should reasonably be assumed by Broker to be confidential and proprietary to \_\_\_\_\_. Confidential Information includes, but is not limited to, the following types of information and other information of a similar nature (whether or not reduced to writing): Prospect Data, the terms of this Master Agreement and any related Compensation Schedule(s) or resulting Customer Agreements (including pricing offered by \_\_\_\_ to any Prospect or commission/fee payable by \_\_\_\_ to Broker under any Compensation Schedule), trade secrets, inventions, drawings, file data, documentation, diagrams, specifications, know-how, processes, formulas, models, flow charts, software in various stages of development, source codes, object codes, research and development procedures, research or development and test results, marketing techniques and materials, marketing and development plans, price lists, pricing policies or models, business plans, information relating to current, former or prospective customers and/or suppliers’ identities, characteristics and agreements, financial information and projections, and employee files and information. Notwithstanding the foregoing, \_\_\_\_ may disclose to Customer the Broker commission/fee payable on a specific Customer Agreement. Confidential Information also includes any information described above which \_\_\_\_ obtains from a third party and which \_\_\_\_ treats as proprietary or designates as Confidential Information, whether or not owned or developed by \_\_\_\_\_. Notwithstanding the above, however, no information constitutes Confidential Information which Broker can demonstrate by documentary evidence (A) is generic information or general knowledge, or if it is otherwise publicly known and in the public domain; (B) after being disclosed, entered into the public domain without any action or fault of Broker or its personnel or agents; (C) is obtained from any individual, firm or entity which had the unrestricted right to disclose it; or (D) is disclosed by Broker with \_\_\_\_’s prior written approval.

“**Customer**” means a Prospect that has executed a Customer Agreement.

“**Customer Agreement**” means any written agreement executed by \_\_\_\_ and a Prospect, in which Broker was instrumental in consummating the transaction. In circumstances where a Prospect and \_\_\_\_ enter into a master electricity supply agreement, the Prospect shall only be deemed to be party to a Customer Agreement at such times and both \_\_\_\_ and Prospect execute and deliver a pricing schedule or transaction confirmation (or the like) thereunder pursuant to which the Prospect becomes obligated to purchase electricity from \_\_\_\_.

“**Geographic Region**” means the state(s) and/or utility service territories in which the Broker is authorized to conduct business identified on any effective Compensation Schedule(s).

**“Governing Jurisdiction”** means the State in which the Accounts on a Compensation Schedule are located; provided that the Governing Jurisdiction shall be deemed to be the State of New York if a matter arising under this Agreement involves Compensation Schedules with more than one Governing Jurisdiction, the Parties have not yet entered into a Compensation Schedule, or no Compensation Schedule is otherwise then in force.

**“Law”** means any law, rule, regulation, ordinance, statute, judicial decision, administrative order, rule of the public utilities commission, public service commission, independent system operator, regional transmission organization, or similar state commission, agency or body having jurisdiction over the Parties, electricity transactions, Utilities or electricity transmission or distribution systems.

**“Notice Period”** means the period of five business days following written notice from a Party pursuant to the Agreement.

**“Payment Date”** shall have the meaning set forth in the Compensation Schedule(s). If not otherwise identified in the Compensation Schedule, up to the last business day of the month based on revenue collected by \_\_\_\_ from each Customer during the calendar month that occurs two months prior to payment.

**“Prospect”** means an entity eligible to select a retail electricity supplier, located within the Geographic Region and submitted to \_\_\_\_ by Broker, along with the requisite Prospect Data, for \_\_\_\_’s evaluation.

**“Prospect Register”** means \_\_\_\_’s data management system(s) (whether or not specifically designated as such) for tracking prospective customers and for associating those prospective customers with a lead source, such as \_\_\_\_, any broker (including Broker) or other third party, as applicable, for payment of a commission/fee and other data management purposes.

**“Utility”** means the local electricity distribution company owning and/or controlling and maintaining the distribution system required for delivery of electricity to Prospect accounts.

**2. BROKER PROSPECTS.** Broker acts as the representative for commercial and industrial businesses or other non-residential customers that buy retail electricity and related services. During the term of the Agreement, Broker shall provide \_\_\_\_ with written information regarding Prospects on whose behalf Broker is authorized to act in connection with the purchase of retail electricity and related services, including but not limited to, the following information, as well as any additional information designated in the applicable Compensation Schedule(s) (collectively, **“Prospect Data”**):

- (a) legal name of company or business, state of organization, and business address;
- (b) DUNS Number, tax identification number, credit contact name, telephone number, fax number and e-mail address;
- (c) account and meter number(s), service addresses, copies of electric service bill(s), usage information in electronic format and hard copy for both monthly and interval meters, usage information contact name, telephone number, fax number and e-mail address,
- (d) Utility customer information release form signed by the Prospect, whereby Prospect designates \_\_\_\_ to the Utility as an authorized recipient of Prospect’s current and historical energy billing and usage data, meter and account number, and other customer information;
- (e) billing address, billing contact name, number, fax number and e-mail address; and
- (f) notice address, notice contact name, number, fax number and e-mail address (must be an employee and/or authorized representative of the Prospect), Prospect profiles, decision-making processes, and all other information relevant to the process of contracting with the Prospect.

During the term of the Agreement, Broker shall use commercially reasonable efforts to (i) notify \_\_\_\_ in writing of any changes to the Prospect Data promptly after Broker becomes aware of such change; (ii) periodically report to \_\_\_\_ regarding the status of discussions with Prospects and/or communications to Customers, and (iii) coordinate with \_\_\_\_ any activities relative to Customers.

**3. QUALIFICATION AND REGISTRATION EXPIRATION OF PROSPECTS BY \_\_\_\_.**

- (a) **Qualification and Registration:** \_\_\_\_ is in the business of selling electricity and related services to commercial and industrial customers and other non-residential organizations. \_\_\_\_ will review the Prospect Data provided by Broker, as well as any other information \_\_\_\_ may collect independently and make a determination, in \_\_\_\_’s sole judgment, as to whether a Prospect is (a) qualified to receive a proposal from \_\_\_\_ (which decision shall be based on factors including without limitation historical consumption patterns and Utility service territories) and/or (b) registered to Broker in the Prospect Register. \_\_\_\_ agrees to notify Broker whether a Prospect will be registered to Broker in the Prospect Register. Broker acknowledges and agrees that (a) \_\_\_\_ reserves the right to reject a Prospect for any reason, including that the Prospect has previously been registered in the Prospect Register to Broker or another broker (or other third party) during the previous 12 months, or for no reason, in its sole discretion, and (b) in no event shall \_\_\_\_ be liable to Broker for any

loss suffered by Broker for \_\_\_\_'s failure to execute a customer agreement with a Prospect or register a Prospect to Broker in the Prospect Register.

- (b) **Registration Expiration.** Broker acknowledges and agrees that registration of Prospects in the Prospect Register will expire with no further obligation on the part of \_\_\_\_, if (i) prior to execution of a Customer Agreement \_\_\_\_ receives notice from a Prospect that such Prospect no longer is represented by Broker, or (ii) a valid Customer Agreement is not executed within ninety (90) days of registration unless (a) active and continuous negotiations between \_\_\_\_ and such Prospect are then under way, in which case such period shall be extended by an additional thirty (30) days or (b) \_\_\_\_ extends the negotiation period by written notice to Broker.

**4. NON-EXCLUSIVITY.** Broker acknowledges and agrees that (a) this Master Agreement does not give any right, exclusive or otherwise, to Broker to sell or represent to a Prospect that it has the ability to sell the products and services of \_\_\_\_; and (b) \_\_\_\_ may sell its products and services through its direct sales force, in connection with other independent brokers or associations or through any other means \_\_\_\_ deems appropriate. All trademarks and service marks, logos, trade names, copyrights associated with any of \_\_\_\_'s marketing materials, and all associated goodwill, shall remain the property of \_\_\_\_, and all extension of goodwill created by Broker shall inure to the benefit of \_\_\_\_.

**5. MUTUAL REPRESENTATIONS AND WARRANTIES.** Each Party warrants and represents to the other the following: (a) it is duly organized, validly operating and in good standing under the laws of the jurisdiction of its formation; (b) it is authorized and qualified to do business in the jurisdictions necessary to perform under the Agreement; (c) the execution, delivery and performance of the Agreement are duly authorized and do not violate any governing documents, contracts to which it is a party or applicable Law; and (d) there is no material event(s) or other agreement(s) which would impair that Party's right, authority or ability to execute the Agreement and otherwise consummate the transactions contemplated by the Agreement, or which would represent any conflict of interest with the Broker, any Prospect or \_\_\_\_.

**6. ADDITIONAL REPRESENTATIONS, WARRANTIES AND COVENANTS OF BROKER.** Broker warrants, represents and covenants, as of the Effective Date and the date of execution of each Compensation Schedule and Customer Agreement with one of Broker's Prospects, that: (a) the Prospect Data provided to \_\_\_\_ is true and correct to the best of its knowledge; (b) Broker has any and all licenses, permits and approvals required under applicable Law to perform the services in the Geographic Region and will obtain any that may become necessary in the future; (c) Broker is authorized to act on behalf of Prospects that Broker submits to \_\_\_\_, Broker has no authority to act on behalf of \_\_\_\_, and Broker is not authorized to and shall not alter or modify in any way any Customer Agreements, or any sales, marketing, or pricing materials provided by \_\_\_\_ to Broker for the benefit of Prospects; (d) Broker will use its skills and abilities and perform its duties hereunder in a professional and conscientious manner in accordance with all applicable Law and standards, and will not make any oral or written representations or promises or statements which conflict with the terms of a Customer Agreement entered into with a Prospect; (e) there are no pending, or to the knowledge of Broker, threatened, investigations, actions or judgments against Broker, whether criminal or civil and (i) involving matters of fraud or moral integrity, or (ii) constituting a felony; (f) Broker shall bear all of its own business expenses in performance of the services under the Agreement.; (g) Broker is responsible for paying any and all taxes incurred as a result of Broker's compensation or otherwise providing services under the Agreement through its employees or permitted subcontractors, including estimated taxes, FICA, and other employment or consulting taxes or obligations; (h) Broker maintains any and all insurance applicable to the performance of its obligations hereunder as required by Law, including workers' compensation, health and disability insurance; (i) Broker shall disclose to all Prospects and Customers: (1) that they will be obligated to pay Broker a commission/fee for their services; (2) the amount of such Broker fee; and (3) that such Broker commission/fee is collected from Customer as part of their contract price set forth in the Customer Agreement and remitted by \_\_\_\_ to Broker on behalf of the Customer for services provided to Customer by Broker; and (j) Broker shall hold harmless, as well as defend and indemnify, \_\_\_\_ for any damages, losses or costs of any kind incurred by \_\_\_\_ associated with a breach of the representations set forth in this Section 6. The provisions of this clause 6(j) shall survive the expiration or termination of the Agreement for any reason.

**7. DISBURSEMENT OF COMMISSION/FEE.** From time to time from and after the Effective Date, one or more Compensation Schedule(s) may be issued by \_\_\_\_ to govern the disbursement of Broker's commission/fee with respect to any Prospects that become Customers. Notwithstanding the mutual execution and delivery of this Master Agreement and/or the registration of a Prospect to Broker in the Prospect Register, under no circumstances shall \_\_\_\_ have any obligation to issue one or more Compensation Schedule(s) with Broker, and Broker shall not have any right to any commission/fee or other amount from \_\_\_\_ unless and until \_\_\_\_ has delivered a Compensation Schedule that is satisfactory to \_\_\_\_ and the Broker has fulfilled all other requirements under the Agreement or under the Compensation Schedule (including any signatory requirements, if applicable). \_\_\_\_ may send Broker a Compensation Schedule to memorialize the commission/fee and, unless otherwise indicated in a Compensation Schedule, if Broker fails to object in writing to any term in the Compensation Schedule within 10 days, the Compensation Schedule shall constitute the definitive written expression of the compensation/commission/fee. "In consideration

of meeting the requirements of the Agreement, \_\_\_\_ agrees to disperse to Broker on or before the Payment Date the commission/fee amounts set forth in the applicable Compensation Schedule (so long as \_\_\_\_ has been paid by the Customer), if any, for (a) the initial term of any Customer Agreement(s) executed thereunder; and (b) renewal or extension of any such Customer Agreements, if and only if, (i) Broker participates actively and materially in the efforts to sign-up, renew or extend the Customer Agreements with \_\_\_\_, as demonstrated by Broker and determined by \_\_\_\_, and (ii) a new Compensation Schedule is sent to Broker. Upon termination of a Customer Agreement for any reason, \_\_\_\_'s obligation to remit a commission/fee to Broker under the Agreement will also terminate, and Customer shall no longer be designated in the Prospect Register as a Prospect of Broker. If in the future \_\_\_\_ enters into a new Customer Agreement with that Customer, no amounts shall be payable to Broker unless \_\_\_\_ has issued a new Compensation Schedule covering that Customer. Broker shall not be entitled to any compensation for prospective customers outside of the Geographic Region unless Customer has engaged Broker to act on their behalf. Nothing herein or otherwise shall require that \_\_\_\_ agree to issue any Compensation Schedule with Broker or extend the Geographic Region set forth in any Compensation Schedule. For the avoidance of doubt, Broker agrees that any Compensation Schedule shall be deemed irrevocably and unconditionally agreed to by the Broker if, within 10 days from the date that such Compensation Schedule was sent to Broker, Broker has not raised any objections to such Compensation Schedule. Except for the compensation expressly payable to Broker under the Compensation Schedule(s), no other amounts are payable to Broker, and nothing in the Agreement imposes a duty on \_\_\_\_ with respect to any Customer Agreements, including any duty on \_\_\_\_ to collect amounts unpaid by Customer. \_\_\_\_ shall have the right to set-off and net any amounts owed to Broker against any amounts owed to \_\_\_\_ under this Agreement.

**8. TERM.** The Master Agreement will commence on the Effective Date and, unless terminated earlier as otherwise provided in this Master Agreement, will continue for a period of one year, and will automatically renew for successive one-year terms. Either Party may terminate this Master Agreement without cause upon thirty (30) days prior written notice to the other Party. If, at the time of termination of this Master Agreement without cause, any Compensation Schedule(s) remain in effect, such termination will not become effective as to any such Compensation Schedule until its expiration, which shall continue to be governed by the terms and conditions of this Master Agreement. \_\_\_\_ shall not be liable to Broker by reason of the expiration or termination of the Agreement for any compensation or damages on account of any loss of prospective profits or anticipated commission/fee or any commitments made by Broker in connection with the Agreement, the creation of goodwill by Broker on behalf of \_\_\_\_, or the anticipation of extended performance hereunder.

**9. DEFAULT; TERMINATION FOR DEFAULT.** A "Broker Default" means any one of the following: (a) any representation or warranty made by Broker in the Agreement proves to have been incorrect, false or misleading when made or ceases to remain true during the term of the Agreement, if not cured within five business days after written notice from \_\_\_\_; (b) Broker's breach of this Agreement or the failure by Broker to perform any obligation set forth in the Agreement (other than events otherwise specifically covered as a separate Broker Default hereunder) and where within five business days after receipt of written notice from \_\_\_\_ it is not cured in circumstances where such failure or breach is curable (if the failure or breach is not curable no cure notice need be provided); or (c) Broker (i) makes an assignment or any general arrangement for the benefit of creditors; (ii) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed for it or any substantial portion of its property or assets (iii) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy or similar law for the protection of creditors, or has such petition filed against it and such petition is not withdrawn or dismissed for 20 business days after such filing; (iv) otherwise becomes bankrupt or insolvent (however evidenced) or suspends operations in the normal course; or (v) is unable to pay its debts as they fall due. If a Broker Default occurs, \_\_\_\_ may, in its sole discretion, at any time, terminate the Agreement in whole or solely with respect to those Compensation Schedules affected by such Broker Default, effective upon written notice to Broker, and notwithstanding any other provision herein or in a Compensation Schedule, \_\_\_\_ will have no further liability to make commission/fee payments. For purposes of clause (b) of the first sentence of this Section 9, Broker acknowledges and agrees that any breach of the confidentiality obligations in Section 11 below or the representations in Section 6 above shall be deemed for purposes of this Agreement as not capable of cure and constitutes grounds for immediate termination by \_\_\_\_.

**10. OBLIGATIONS UPON EXPIRATION AND TERMINATION; SURVIVAL.** Upon termination of Broker's engagement for any reason, Broker shall immediately surrender to \_\_\_\_ all documents, lists, marketing brochures and materials, Prospect Data, books and records of, or in connection with, \_\_\_\_'s business, and all other property belonging to \_\_\_\_ (including all Confidential Information), it being expressly understood that all such lists, books and records, and other documents, are the property of \_\_\_\_\_. Notwithstanding anything to the contrary in this Master Agreement, after termination of the Master Agreement (other than for Broker Default), Broker shall be paid commission/fee when due only for the remainder of the current term of Customer Agreement(s) signed prior to the date of such termination pursuant to any Compensation Schedule(s) in effect as of the date of termination. Broker shall not be entitled to any commission/fee or other payment, whether as a so-called "procuring cause" or otherwise, with respect to any Prospects who sign, renew or extend Customer Agreements after termination of this Master Agreement. The

following applicable provisions of this Master Agreement will continue in effect after termination or expiration of the Agreement: Sections 6(j), 10, 11, 12, 15, 16, 17 and 20 of this Master Agreement. Except as expressly provided in the Agreement, neither \_\_\_\_ nor Broker shall have any further rights or obligations with respect to the other Party upon termination of the Agreement.

**11. CONFIDENTIALITY.** Broker agrees to maintain in confidence all Confidential Information, not to disclose any Confidential Information to any third parties (including that Broker will not make any public statement or announcement concerning execution of the Agreement or its relationship with \_\_\_\_ ) without the prior written consent of \_\_\_\_, and not to use the Confidential Information for any purpose other than as expressly permitted by the Agreement; provided that Broker may disclose to its registered Prospects the pricing proposals offered by \_\_\_\_ in connection with the performance of Broker's services. If disclosure of any Confidential Information is sought through process of a court, or a state or federal regulatory agency or other legal compulsion, Broker will, to the extent permitted by applicable Law, notify \_\_\_\_ immediately to afford \_\_\_\_ the opportunity to oppose such disclosure or otherwise obtain a protective order or other relief as may be available. Broker will cooperate with \_\_\_\_ in its attempts to obtain such protections. In any event, Broker will disclose only that portion of Confidential Information required to comply with applicable Law. Broker acknowledges that any breach of this Section 11 may cause irreparable harm to \_\_\_\_ for which money damages would not adequately compensate \_\_\_\_. Accordingly, in addition to all other remedies expressly provided in the Agreement, Broker agrees that \_\_\_\_ shall be entitled to seek all available remedies at equity (including without limitation, injunctive relief) and in law. The provisions of this Section 11 shall survive the expiration or termination of the Agreement for any reason.

**12. COMPETITIVE ACTIVITY; NON-SOLICITATION; NON-DISPARAGEMENT.** During the term of the Agreement (including Compensation Schedule obligations) and for six months after the expiration or termination of the Agreement for any reason, Broker shall not solicit, or assist any other person or commercial entity to solicit, or request or advise any existing \_\_\_\_ customer to breach its agreement with \_\_\_\_, or otherwise to withdraw, curtail or terminate early its business dealings with \_\_\_\_. During the term of the Agreement and for one year after the expiration or termination of the Agreement, Broker shall not solicit, or assist any other person to solicit, or request or advise any existing employee of \_\_\_\_ or its Affiliates to terminate employment with \_\_\_\_ or its Affiliates. Upon termination or expiration of the Agreement for any reason, both Parties shall refrain from disparaging the other Party and its Affiliates, or any of their respective officers, directors, or shareholders; provided, however, that each Party is permitted to make truthful statements in response to requests for information or in compliance with a lawful subpoena or court order. The Parties acknowledge that any breach of this Section 12 may cause irreparable harm to the other Party for which money damages may not adequately compensate. Accordingly, in addition to all other remedies expressly provided in the Agreement, the harmed Party shall be entitled to seek all available remedies at equity (including without limitation, the pursuit of injunctive relief and without the necessity of posting a bond or similar surety in pursuing such relief) and in law. The provisions of this Section 12 shall survive the expiration or termination of the Agreement for any reason.

**13. AUTHORITY; NO AGENCY RELATIONSHIP.** Broker is an independent contractor, acting on behalf of Prospects and/or Customers under the Agreement, and nothing contained herein or in any Compensation Schedule shall be construed as creating a relationship of employer and employee or principal and agent between them. Accordingly, Broker is not entitled to any benefits accorded to \_\_\_\_'s employees, including, without limitation, workers' compensation, disability insurance, vacation or sick leave. Broker shall not have any authority to execute Customer Agreements or other legally binding documents on behalf of \_\_\_\_, and shall not hold itself out as having such authority to act as an employee, agent or officer of \_\_\_\_. Broker shall not incur, assume, agree to pay on behalf of \_\_\_\_ or otherwise commit \_\_\_\_ to any contractual agreement or obligation, or any charge, fee or expense. Nothing in the Agreement will be construed to constitute a joint venture, fiduciary relationship, partnership or other joint undertaking. Broker acknowledges and agrees that in referring Prospects to \_\_\_\_ hereunder it is acting on behalf of such Prospects and does not represent \_\_\_\_.

**14. CUSTOMER AGREEMENTS.** Any transaction between \_\_\_\_ and a Prospect and/or Customer will be formed and effectuated by a written agreement negotiated and executed by \_\_\_\_ and the Customer. It is specifically recognized and agreed that \_\_\_\_, in its sole discretion, may from time to time, change the form as well as the terms and conditions under which it will enter into a Customer Agreement, and nothing herein shall be deemed to prohibit a Customer and \_\_\_\_ from agreeing to terminate a Customer Agreement early. Further, all terms and conditions of the Customer Agreement are subject to \_\_\_\_'s approval and Broker will not directly or indirectly represent or imply otherwise to a Prospect and/or Customer. \_\_\_\_ is responsible for evaluating, approving or denying each Prospect's credit. \_\_\_\_ shall have the sole right to elect not to serve a Prospect or to exercise the termination rights under any Customer Agreement for any reason permitted under the Customer Agreement. Upon termination of a Customer Agreement for any reason, \_\_\_\_'s obligation to remit a commission/fee to Broker under the Agreement will also terminate, and Customer shall no longer be designated in the Prospect Register as a Prospect of Broker. Further, if a Customer should default in making payments to \_\_\_\_ under its Customer Agreement and \_\_\_\_ has already paid the commission/fee to Broker for the default period, \_\_\_\_ has the right to either (a) deduct that amount previously paid from the total amount due to Broker in a subsequent period; or (b) invoice Broker for such amounts, payable on demand.

**15. INDEMNIFICATION.** Each Party shall hold harmless, as well as defend and indemnify, the other Party and its Affiliates, and all of their respective officers, directors, members, shareholders, associates, employees, agents, representatives, successors and assigns from and against any and all liabilities, damages, claims, charges, fees or taxes, penalties, fines, costs and expenses (including attorneys' fees) incurred or claimed and resulting from or related to: (a) any breach or default of the indemnifying Party's obligations under the Agreement; (b) any of the indemnifying Party's grossly negligent acts or omissions or willful misconduct, or any such act, omission or misconduct on the part of its employees or agents; (c) claims from third parties used or employed by the indemnifying Party in fulfilling its obligations provided hereunder; (d) claims related to Brokers representation of its customers including those related to compensation and (e) in the case of Broker, any breach by Broker of a representation or warranty made by Broker in connection with a Customer Agreement, or any claim by a Customer that Broker lacked authority to enter into an Customer Agreement on behalf of such customer, but in each case of (a) through (e) above, only to the extent such liabilities, damages, claims, charges, fees, taxes, penalties, fines, costs and expenses were not incurred by the indemnified Party (or its Affiliates) due to the indemnified Party's (or its Affiliates') own grossly negligent acts or omissions, willful misconduct, or breach of or default under this Agreement. These indemnification obligations shall survive any termination of the Agreement.

**16. LIMITATION OF LIABILITY.** Notwithstanding any other provision of the Agreement to the contrary, the entire liability of \_\_\_\_ for any and all claims of any kind arising from or relating to the Agreement will not exceed the full amount due to Broker under any Compensation Schedule(s) then in effect and will be limited to direct actual damages only, subject in all cases to an affirmative obligation on the part of the Broker to mitigate its damages. **Furthermore, \_\_\_\_ shall not have any liability to Broker whatsoever under this Agreement or at law, in equity or otherwise, including under theories of quantum meruit or unjust enrichment, unless and until the Parties shall have mutually agreed and delivered one or more Compensation Schedule(s) that remain in effect.** EXCEPT TO THE EXTENT NECESSARY TO FULFILL ITS INDEMNITY OBLIGATIONS RESPECTING A CLAIM OR ACTION BROUGHT BY A THIRD PARTY, AND EXCEPT FOR A BREACH OF SECTION 11 REGARDING CONFIDENTIALITY, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY CHARACTER, IRRESPECTIVE OF WHETHER CLAIMS OR ACTIONS FOR SUCH DAMAGES ARE BASED UPON CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER REMEDY AT LAW OR EQUITY. The provisions of this Section 16 shall survive the expiration or termination of the Agreement for any reason.

**17. NO THIRD-PARTY BENEFICIARIES.** The Agreement is for the sole and exclusive benefit of the Parties hereto, and no third party will have any rights under the Agreement whatsoever, other than individuals and entities subject to indemnification under Sections 6(k) and 15 above. If Broker is represented by a third party in connection with the procurement of the Agreement or if Broker employs any third party in connection with its performance hereunder, Broker shall (a) obtain prior written consent from \_\_\_\_ for such engagement(s) or representation(s), (b) be fully responsible for any fee, commission or other compensation owing any such third party, (c) arrange for payment of such third party without involving \_\_\_\_, and (d) indemnify, defend and hold \_\_\_\_ harmless from any and all claims for compensation by any such third party. Notwithstanding any payment obligations hereunder, Contractor shall not be a third-party beneficiary to and has no rights in any Customer Agreement. The provisions of this Section 17 shall survive the expiration or termination of the Agreement for any reason.

**18. ASSIGNMENT.** Broker shall not assign any of its rights and obligations under this Master Agreement or any Compensation Schedule(s) without the prior written consent of \_\_\_\_, which consent shall not be unreasonably withheld. The Parties agree that \_\_\_\_'s withholding of consent due to application of its standard credit, background and third-party review processes shall not be deemed unreasonable. Upon prior written notice to Broker, \_\_\_\_ may assign and be released from any of its rights and obligations under this Master Agreement or any Compensation Schedule(s) without consent to an Affiliate or to any person or entity succeeding to all or substantially all of \_\_\_\_'s assets or business or the division or region of \_\_\_\_ to which the Agreement relates or into which \_\_\_\_ is merged or otherwise combined or reorganized; provided the succeeding entity agrees to be bound to this Agreement.

**19. ENTIRE AGREEMENT; AMENDMENT.** This Agreement (which constitutes the Master Agreement and any Compensation Schedule(s) in effect between the Parties from time to time) embodies the Parties' entire agreement and understanding, supersedes all prior agreements and understandings (whether written or oral) regarding the subject matter of this Agreement, and may not be contradicted by any prior or contemporaneous oral or written agreement. A facsimile or e-mailed copy of either Party's signature will be considered an original for all purposes under this Agreement, and each Party will provide its original signature upon request. No amendment to this Agreement, including (if applicable) the Compensation Schedule(s), will be valid or given any effect unless signed by both Parties. Any alteration, addition, or modification made by Broker to the preprinted terms of this Agreement shall be void and without any effect. Broker agrees that no employees of \_\_\_\_ are authorized to represent that \_\_\_\_ will enter into any particular Compensation Schedule with Broker. In the case of any conflict between this Master Agreement and any Compensation Schedule(s), the Compensation Schedule(s) will control, but only with respect to the Geographic Region and/or

Customers listed on such Schedule(s). The section headings used in this Agreement are for reference purposes only and will in no way affect the meaning of the provisions of this Agreement.

**20. CHOICE OF LAW; VENUE; ATTORNEY FEES AND EXPENSES.** The validity, performance, and construction of this Agreement will be governed and interpreted in accordance with the laws of the Governing Jurisdiction, without giving effect to conflict of law principles. Any controversy or claim arising from or relating to this Agreement will be settled in accordance with the express terms of this Agreement exclusively by a court located in the Governing Jurisdiction (and each Party hereto waives any right to object to venue in this regard). EACH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY ACTION, SUIT OR PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. If either Party pursues court action to enforce its rights under this Agreement, the non-prevailing Party shall promptly reimburse the prevailing Party for all its reasonable attorney fees, expenses and costs. The provisions of this Section 20 shall survive the expiration or termination of the Agreement for any reason.

**21. WAIVER AND SEVERABILITY.** Failure to provide notice of, or object to, any default under this Agreement will not operate or be construed as a waiver of any future default, whether like or different in character. If any portion of this Agreement, or application thereof to any person or circumstance, is held legally invalid, the remainder will not be affected and will be valid and enforced to the fullest extent permitted by law and equity, and there will be deemed substituted for the invalid provisions such provisions as will most nearly carry out the mutual intent of the Parties as expressed in this Agreement to the fullest extent permitted by applicable Law.

**22. NOTICES.** To be effective, all notices must be in writing delivered by hand, by first class mail, postage prepaid, by electronic facsimile transmission (with verification of delivery), or by express carrier to the addresses provided in this Master Agreement or the applicable Compensation Schedule(s), as the case may be. A Party may change its address by providing notice of such change in accordance herewith.

**23. AFFIRMATION.** Broker affirms that it has read this Agreement in its entirety and it agrees to the terms and conditions contained herein. If an ambiguity or question of intent or interpretation arises, this Agreement will be construed as if drafted jointly by the Parties, and no presumption or burden of proof will arise favoring or disfavoring either Party by virtue of the authorship of any of the provisions of this Agreement.

**24. ACCEPTANCE.** *This Master Agreement shall not be binding or enforceable against \_\_\_ unless and until signed by an authorized representative of \_\_\_. Nothing in this Master Agreement shall be deemed to require that \_\_\_ enter into a Compensation Schedule with Broker from and after the Effective Date.*

**IN WITNESS WHEREOF,** the Parties have caused this Agreement to be executed by their duly authorized representatives as of the respective dates set forth below.

**Broker:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_  
Tax Payer ID#: \_\_\_\_\_

**Broker Notice Address:**

Address:  
City, State, Zip:  
Attn:  
Phone:

**ASSIGNMENT OF SALES AGREEMENTS, DISCONTINUANCE OF SERVICE AND  
TRANSFER OF CUSTOMER NOTICES**

Tenaska Power Management, LLC has never sent out Assignment of Sales Agreements, or Discontinuance of Service or Transfer of Customer Notices, and does not plan to in the future.

**AUTHORIZATION TO ACCESS CUSTOMER HISTORICAL USAGE INFORMATION**

**Letter of Authorization**

Notice to Existing and Prospective Energy Providers

Dear Energy Provider:

This letter is to inform you that [Customer] has retained Tenaska Power Management (“TPM”) to serve as (Customer’s) exclusive representative to all existing and prospective energy providers for all of [Customer]’s energy procurement, product solicitations, and negotiations with energy providers and related vendors.

Please accept this notice as (Customer’s) authorization to you to provide TPM with Customer’s historic energy usage data from utilities and energy suppliers to which you may have access, and any contract information available to you related to agreements between [Customer] and any utility or energy supplier. You are authorized to provide, discuss, and negotiate with TPM concerning proposals or offers for provision of energy supply services to Customer. TPM shall have no authority to execute any final contractual documents on behalf of [Customer].

This authorization is for an initial period of twelve (12) months and renews month to month unless canceled by [Customer] or TPM.

Signature \_\_\_\_\_

Date \_\_\_\_\_

Name (printed) \_\_\_\_\_

Title \_\_\_\_\_

## **MARKETING EFFORTS**

Tenaska Power Management, LLC's (TPM) target market is limited to industrial and large commercial customers. TPM will not serve any residential customers or small commercial users. TPM will not make any door-to-door solicitations of potential customers, nor will it contract out the Company's marketing efforts to third parties. TPM will conduct its marketing efforts through its own staff.

TPM will only approach large commercial and industrial customers, meeting them at their corporate offices on an appointment basis. TPM will negotiate contracts with its industrial and large commercial customers that are tailored to the customer's needs and specifications. No contract for service will be executed until the upper management of both TPM and the customer company have reviewed and approved the final contract, to ensure both parties are in agreement as to final contract terms.

TPM's staff must know the basics of the retail electric products and services offered to the public, as well as the rates, structures, and payment options.

## **MASS MARKETING**

Tenaska Power Management, LLC does not engage in mass marketing.

## **Disclosure of Compensation**

The price structure offered to industrial and large commercial customers is the structure provided in Section 7 of the Standard Master Broker Agreement and is outlined below. Individual customers may negotiate a different price structure if the attached form does not meet their specific needs.

**DISBURSEMENT OF COMMISSION/FEE.** From time to time from and after the Effective Date, one or more Compensation Schedule(s) may be issued by \_\_\_\_\_ to govern the disbursement of Broker's commission/fee with respect to any Prospects that become Customers. Notwithstanding the mutual execution and delivery of this Master Agreement and/or the registration of a Prospect with Broker in the Prospect Register, under no circumstances shall \_\_\_\_\_ have any obligation to issue one or more Compensation Schedule(s) to Broker, and Broker shall not have any right to any commission/fee or other amount from \_\_\_\_\_ unless and until \_\_\_\_\_ has delivered a Compensation Schedule that is satisfactory to \_\_\_\_\_ and the Broker has fulfilled all other requirements under the Agreement or under the Compensation Schedule (including any signatory requirements, if applicable). \_\_\_\_\_ may send Broker a Compensation Schedule to memorialize the commission/fee and, unless otherwise indicated in a Compensation Schedule, if Broker fails to object in writing to any term in the Compensation Schedule within 10 days, the Compensation Schedule shall constitute the definitive written expression of the commission/fee. In consideration of meeting the requirements of the Agreement, \_\_\_\_\_ agrees to disburse to Broker on or before the Payment Date the commission/fee amounts set forth in the applicable Compensation Schedule (so long as \_\_\_\_\_ has been paid by the Customer), if any, for (a) the initial term of any Customer Agreement(s) executed thereunder; and (b) renewal or extension of any such Customer Agreements, if and only if, (i) Broker participates actively and materially in the efforts to sign-up, renew or extend the Customer Agreements with \_\_\_\_\_, as determined by \_\_\_\_\_, and (ii) a new Compensation Schedule is sent to Broker. Upon termination of a Customer Agreement for any reason, \_\_\_\_\_ obligation to remit a commission/fee to Broker under the Agreement will also terminate, and Customer shall no longer be designated in the Prospect Register as a Prospect of Broker. If in the future \_\_\_\_\_ enters into a new Customer Agreement with that Customer, no amounts shall be payable to Broker unless \_\_\_\_\_ has issued a new Compensation Schedule

covering that Customer. Broker shall not be entitled to any compensation for prospective customers outside of the Geographic Region unless Customer has engaged Broker to act on their behalf. Nothing herein or otherwise shall require that \_\_\_\_\_ agree to issue any Compensation Schedule with Broker or extend the Geographic Region set forth in any Compensation Schedule. For the avoidance of doubt, Broker agrees that any Compensation Schedule shall be deemed irrevocably and unconditionally agreed to by the Broker if, within 10 days from the date that such Compensation Schedule was sent to Broker, Broker has not raised any objections to such Compensation Schedule. Except for the compensation expressly payable to Broker under the Compensation Schedule(s), no other amounts are payable to Broker, and nothing in the Agreement imposes a duty on \_\_\_\_\_ with respect to any Customer Agreements, including any duty on \_\_\_\_\_ to collect amounts unpaid by Customer. \_\_\_\_\_ shall have the right to set-off and net any amounts owed to Broker against any amounts owed to \_\_\_\_\_ under this Agreement.

**STATE OF NEW YORK  
DEPARTMENT OF STATE**

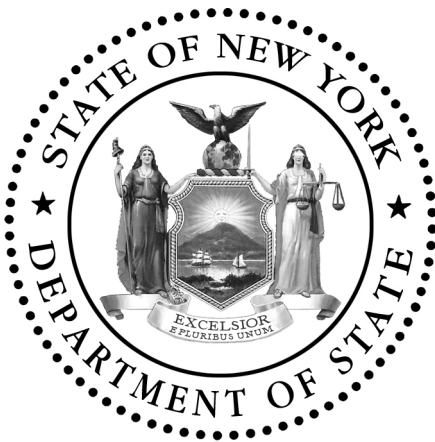
I hereby certify that the annexed copy for TENASKA POWER MANAGEMENT, LLC, File Number 240529003297 has been compared with the original document in the custody of the Secretary of State and that the same is true copy of said original.

WITNESS my hand and official seal of the  
Department of State, at the City of Albany,  
on May 29, 2024.

WALTER T. MOSLEY  
Secretary of State



BRENDAN C. HUGHES  
Executive Deputy Secretary of State





**Division of Corporations,  
State Records and  
Uniform Commercial Code**

**Department of State  
DIVISION OF CORPORATIONS,  
STATE RECORDS AND  
UNIFORM COMMERCIAL CODE**

One Commerce Plaza  
99 Washington Ave.  
Albany, NY 12231-0001  
<https://dos.ny.gov>

**APPLICATION FOR AUTHORITY  
OF**

Tenaska Power Management, LLC

*(Insert name of Foreign Limited Liability Company)*

Under Section 802 of the Limited Liability Company Law

**FIRST:** The name of the foreign limited liability company is:

Tenaska Power Management, LLC

The fictitious name under which the foreign limited liability company will do business in New York is:

*(Complete only if the foreign limited liability company's true name is not acceptable for authorization pursuant to §204 of the Limited Liability Company Law. The fictitious name must contain the words "Limited Liability Company" or the abbreviation "LLC" or "L.L.C.")*

**SECOND:** The jurisdiction of organization of the foreign limited liability company is:

Delaware

The date of its organization is: 8/30/2011

**THIRD:** The county within New York State in which the office of the foreign limited liability company is to be located or if the foreign limited liability company shall maintain more than one office in this state, the county within New York State in which the principal office of the foreign limited liability company is to be located is: Albany County

*(Complete with the name of a New York State county. Please note that the limited liability company is not required to have an actual physical office in New York State.)*

**FOURTH:** The Secretary of State is designated as agent of the foreign limited liability company upon whom process against the foreign limited liability company may be served.

The post office address to which the Secretary of State shall mail a copy of any process against the foreign limited liability company served upon the Secretary of State by personal delivery is:

Corporation Service Company

80 State Street, Albany, NY 12207-2543

(Optional) The email address to which the Secretary of State shall email a notice of the fact that process against the foreign limited liability company has been served electronically upon the Secretary of State is:

FIFTH: (Check and complete the statement that applies)

The foreign limited liability company is required to maintain an office in the jurisdiction of its formation.

The address of its office is:

Corporation Service Company, 251 Little Falls Drive, Wilmington, DE 19808

The foreign limited liability company is not required to maintain an office in the jurisdiction of its formation.

The address of the principal office of the foreign limited liability company is:

SIXTH: The foreign limited liability company is in existence in its jurisdiction of formation at the time of the filing of this application.

SEVENTH: The Articles of Organization of the foreign limited liability company were filed with the following officer in the jurisdiction of its formation:

Officer (e.g. "Secretary of State"): State of Delaware, Secretary of State

The address of the officer is: PO Box 898 Dover, DE 19903

X Kevin R. Smith  
(Signature)

Kevin R. Smith  
(Type or print name)

Capacity of signer (Check appropriate box):

- Member
- Manager
- Authorized Person

# Delaware

Page 1

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "TENASKA POWER MANAGEMENT, LLC" IS DULY FORMED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE TWENTY-NINTH DAY OF MAY, A.D. 2024.

AND I DO HEREBY FURTHER CERTIFY THAT THE SAID "TENASKA POWER MANAGEMENT, LLC" WAS FORMED ON THE THIRTIETH DAY OF AUGUST, A.D. 2011.

AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL TAXES HAVE BEEN PAID TO DATE.



5031264 8300

SR# 20242548469

You may verify this certificate online at [corp.delaware.gov/authver.shtml](http://corp.delaware.gov/authver.shtml)

A handwritten signature in black ink, appearing to read "JBULLOCK", written over a horizontal line. Below the line is the printed name "Jeffrey W. Bullock, Secretary of State".

Authentication: 203574533

Date: 05-29-24

Filed with the NYS Department of State on 05/29/2024  
Filing Number: 240529003297 DOS ID: 7339481

## **MUNICIPALITY MARKETING**

Tenaska Power Management, LLC does not act as a marketer in any municipality.