

**PROCUREMENT SERVICES AGREEMENT
BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS
AND
PRAIRIELAND ENERGY, INCORPORATED**

This Agreement is made between the Board of Trustees of the University of Illinois, a body corporate and politic of the State of Illinois (“Board”), and Prairieland Energy, Incorporated, an Illinois corporation (“Prairieland”), and is for the purpose of setting forth the terms, conditions, and obligations of the parties relative to the procurement of energy commodities (e.g., fuels, electric power, chilled water, steam), ancillary services, and utility services (e.g., natural gas, electricity, water, sanitary) to meet the University’s energy and utility service requirements and Prairieland’s retail customer requirements.

WHEREAS, Prairieland’s mission is to procure and provide energy commodities (e.g., fuels, electric power, chilled water, steam), ancillary services, and to transact with private, public, and municipal utility suppliers, including but not limited to, natural gas, electricity, water, sanitary, chilled water and steam to deliver these commodities and utility services in a manner that supports the reliable provision of energy and utility services to the University of Illinois (“University”) while achieving an effective balance of cost efficiency, acceptable price volatility and desired budget certainty;

WHEREAS, Prairieland is a "university-related organization" (“URO”) as that term is defined and is subject to **Section VI** of the University Guidelines 1982 (amended 1997), established by the Illinois Legislative Audit Commission of the State of Illinois (“LAC Guidelines”);

WHEREAS, Prairieland is subject to its Board of Directors and Bylaws approved by the Board as its Sole Member;

WHEREAS, the Board desires to secure a source of fuels, electric power, ancillary services, and utility services for use in certain facilities owned or operated, directly or indirectly, by the University; and

WHEREAS, Prairieland is willing and able to supply such fuels, electric power, ancillary services, and utility services to the University.

WHEREAS, Prairieland desires to secure electric power, chilled water, steam, and utility services to provide at retail to non-University customers who are connected to the University’s distribution system;

WHEREAS, the Board is willing and able to supply such electric power, chilled water, steam, and utility services to Prairieland;

NOW THEREFORE, in consideration of the mutual agreements set out in this Agreement, the parties agree and undertake as set forth in this document.

1. DEFINITIONS

- a. "Capacity" shall be the continuous load-carrying ability of electric generation expressed in megawatts.
- b. "Electric Power" shall be measured in kilowatt-hours (KWh) or megawatt-hours (MWH) and represents the integration of Demand over any sixty consecutive minutes as ascertained by watt-hour meter(s) and electronic recorder(s) or other standard measuring device(s) designed to measure electric energy.
- c. "Fuels" shall include, but not be limited to, natural gas to be measured in one million British thermal units (MMBTU), coal to be measured in tons, and fuel oil to be measured in gallons.
- d. "Chilled Water" shall mean water supplied at a temperature band agreed to between parties and shall be measured in one million British thermal units (MMBTU).
- e. "Steam" shall be vaporized water at a pressure band agreed to between parties and shall be measured in one thousand pounds (KLBS).
- f. "Ancillary Services" shall be those energy related products or projects which promote reliability of the energy distribution system, provide energy costs savings, or ensure delivery of energy to a load, and which may or may not be required of regulatory agencies for participation in a regulated market.
- g. "Utility Services" shall be utility services supplied by a private, public or municipal utility (e.g., natural gas, electricity, water, sanitary). Natural gas shall be measured in thermal units (therms), electricity measured in KWh, water measured in cubic feet or gallons, and sanitary measured based upon water usage and/or lbs/mass, and/or cubic foot volume, and/or biochemical oxygen demand, and/or other characteristics necessary of specific sanitary waste streams.

2. RENEWAL TERM

This Agreement, entered into as of the date of last signature, shall automatically renew on a year-to-year basis thereafter until terminated by either Party giving to the other sixty (60) days prior written notice.

3. THE BOARD AGREES TO:

- a. Act as the Consumer- University's utility operations will purchase and receive from Prairieland, Fuels, Electric Power, Ancillary Services, and Utility Services which the University's utility operations may require.
- b. Act as the Supplier- University's utility operations will supply and deliver to Prairieland, electric power, chilled water, steam, and ancillary services which Prairieland may need for delivery to be made at the Point(s) of Delivery as contained in Prairieland's customer service records.

- c. Assign staffing to be responsible for Prairieland's day to day operations and for the oversight of the performance of the obligations of Prairieland as stated in this Agreement. This staffing will perform the management, administration, purchasing, accounting, financial and risk management, and retail functions for Prairieland. No separate charges will be assessed to Prairieland for this staffing.
- d. Assign the University's utilities operations to be the consumer and/or supplier interface to Prairieland to manage the relationship and energy commodity procurement activities with Prairieland. The University's utilities operations will provide an approved annual energy commodities procurement plan and/or approved utility rates for Prairieland to use in its annual budgeting and rate setting process. The University's utilities operations will approve Prairieland's use of forward or financial instruments in the purchase of commodities for future delivery.
- e. Provide Prairieland with certain other business services for which no separate charges will be assessed. Such services will include, but not be limited to legal, cash management, accounting, risk management, auditing, tax, and office space and support, on a regular or ad hoc basis.
- f. Make available to Prairieland other support services from University departments such as telephone service, central stores, printing, information technology, etc. For these services, Prairieland agrees to reimburse the University at rates charged to University auxiliary operations.
- g. Provide property insurance, general liability, excess general liability, and Directors and Officers liability coverage under the University self-insurance plan for space and University employees serving as Directors and Officers. Prairieland will purchase commercial coverage for non-University Directors and Officers. Cost for the coverage provided will be allocated to the University on a pro-rata share basis.

4. PRAIRIELAND AGREES TO:

- a. Act as the Supplier- Procure, sell and deliver to the University Fuels, Electric Power, Ancillary Services, and Utility Services which the University's utility operations may require including entering into appropriate contracts based on the interests of the University.
- b. Act as the Consumer- Purchase and receive steam, chilled water, and electric power which the Consumer may need for delivery to be made at Points of Delivery as contained in the Consumer's customer service records.
- c. Operate under the governance of a Board of Directors and in accordance with the Bylaws approved by the Board as Prairieland's Sole Member.
- d. Manage the risks associated with purchasing of Fuels, Electric Power, Ancillary Services, and Utility Services which the University's utility operations deems appropriate.

- e. Report periodically to the Board and the University's utility operations on the performance of Prairieland's energy and utility service transactions as requested by the Board and the University's utility operations.
- f. Engage third party market advisor(s) to provide market expertise to the University's utility operations in planning and executing energy commodity and utility service procurement transactions.
- g. Comply with the LAC Guidelines applicable to UROs.
- h. Comply with the University's Energy Cost Management Policy and Derivatives Use Policy as directed by the Board of Trustees at its December 2011 meeting.
- i. Comply with University policies with regard to personnel matters involving University employees assigned to Prairieland.
- j. Maintain, for a minimum of 3 years after the completion of the Agreement adequate books, records, and supporting documents to verify the amounts, recipients, and uses of all disbursement of funds passing in conjunction with the Agreement; the Agreement and all books, records, and supporting documents related to the Agreement shall be available for review and audit by the Auditor General; and Prairieland agrees to cooperate fully with any audit conducted by the Auditor General and to provide full access to all relevant materials.

5. TRANSACTION CONFIRMATIONS

The parties will use the following transaction confirmation procedure for energy commodity purchases by the University from Prairieland. Should the parties come to an agreement regarding an energy commodities purchase and/or sale transaction for a particular Delivery Period, Prairieland shall provide its vendor's confirmation(s) to the University as a record of an agreement on the transaction(s). Prairieland will communicate this confirmation(s) by email, facsimile, EDI, or mutually agreeable electronic means, to the University in a reasonable period of time. The parties acknowledge that their agreement will be binding once Prairieland executes the confirmation(s) with the vendor.

6. SERVICE CHARACTERISTICS

- a. Service under this Agreement shall be supplied on a firm basis, subject only to availability of supply source and conditions on the electrical, chilled water, steam, or natural gas systems. Service shall not be curtailed or interrupted for economic reasons. Service shall be curtailed or interrupted only when necessary, in conformance with standard utility industry operating and engineering practices, due to loss of supply source and/or delivery system or to preserve the integrity of all or part of regional electrical system or gas facilities and/or the University's distribution system.

- b. Electric Power service hereunder shall be delivered at the characteristics required at the Points of Delivery as identified by the Consumer.
- c. Natural gas service shall be delivered at the pressures available to the Points of Delivery as identified by the Consumer.
- d. Steam, chilled water, water supply, and sanitary service shall be supplied on a firm basis, subject only to availability of supply source and the Seller's distribution system.
- e. The Consumer will pay any and all service charges made for services rendered by the Supplier at the Consumer's request.

7. CONTINUITY OF SERVICE

- a. The Supplier shall exercise reasonable care and due diligence to supply services hereunder on a firm basis free from interruption to the Delivery Point(s); provided, however, the Supplier shall not be responsible for a failure to supply such service if such failure is without negligence or default on its part. Whenever the integrity of the electrical, chilled water, steam, water, sanitary, or natural gas systems is threatened by conditions on such system or on the systems with which it is directly or indirectly interconnected, or whenever it is necessary or desirable to aid in the restoration of service, the transmission provider and/or Capacity and supply source may curtail or interrupt service or reduce service to some or all of its customers, including Supplier or the Consumer. The Supplier shall not be responsible for failure to supply service during such a curtailment, interruption or reduction, and such action by the transmission provider and/or Capacity and/or supply source shall not constitute negligence or default by the Supplier. In the event that either party is prevented, in whole or in part, from delivering or receiving the service provided for in this Agreement by reasons of (a) an act of Force Majeure or (b) necessary maintenance or repairs to the regional electrical system or natural gas facilities, neither party shall be liable to the other for such interruption, provided, however, that both parties shall be prompt and diligent in attempting to remove or overcome the cause of the interruption. In the event service is impaired or interrupted, the party first discovering the interruption shall immediately give notice by telephone to the other party as identified in paragraph 12.
- b. The words "Force Majeure" as used herein shall mean an occurrence not reasonably within the control of the affected party and which, by the exercise of due diligence, such party is unable to prevent or overcome, and shall include acts of God, labor-related disturbances, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, fires, actions, orders and rules of governmental or regulatory authorities, restraint by court or civil authority, civil disturbances, explosions, breakage or accident to generator equipment, machinery, or power lines, pipeline, failure of facilities, interruption or loss of fuel supplies for generation, interruption or reduction due to operation of devices installed for electrical system protection, and any other cause or causes, whether herein enumerated. Force Majeure shall not include a failure to or inability to perform resulting from a failure or refusal to pay or inability to provide funds to obtain material, supplies, or equipment.

8. RIGHT OF ACCESS

- a. The University agrees to grant such easements, licenses, or permissions over, along, and through University property as Prairieland may reasonably require for the purpose of installing, repairing, inspecting, replacing, relocating, or rehabilitating any utility facility used to provide service to the University.
- b. The University hereby grants to Prairieland the right of ingress and agrees to enter, construct, operate, remove, reconstruct and maintain necessary facilities.

9. METER(S) and METER READINGS

- a. Equipment required to meter service hereunder shall be installed, owned or leased, operated and maintained by the University or Prairieland. Prairieland shall not be responsible for the installation, operation, or maintenance of any installed equipment on the University side of the Point(s) of Delivery. Prairieland will coordinate with the University's utility operations to install or remove Prairieland's meters which are put into service on the University's system.
- b. The University shall notify Prairieland of any issues that impact the accuracy of the meter function.
- c. Prairieland and the University shall work cooperatively to provide for the reading of meters and the sharing of meter data for billing purposes.

10. RELOCATION OF FACILITIES

If, after the initial installation of any utility facility owned by Prairieland, the University requires any portion of the installed facility to be relocated, the University shall provide for any necessary relocation at its sole expense.

11. COST OF SERVICES AND BILLING RATES

Supplier shall provide the Consumer with notice regarding payments due at least monthly, and upon receipt the Consumer shall make payments to Supplier for services rendered hereunder. Billing to the Consumer will be based upon actual costs incurred and/or per unit rates determined by the Supplier. Rates used shall be reviewed annually and revised as appropriate based upon agreement between the parties.

12. PAYMENT TERMS

Bills for service hereunder shall be paid via electronic funds transfer using bank account information provided by Supplier to the Consumer. Such payments shall be due within ten (10) days of receipt of billing.

13. TAXES AND FEES

- a. The University shall pay all federal, state and local sales, use and other taxes associated with the fuels and electric power purchases contemplated by this Agreement. If the University pays the amount of such tax under protest, Prairieland agrees to provide reasonable assistance to the University in applying for a refund of such tax, including filing in the name of Prairieland, if required, with the applicable governmental authority, at the University's cost and expense. In no such event will University be liable for any penalties or premiums on any tax amounts Prairieland fails to pay.
- b. In addition to all taxes, the University shall pay all fees imposed by federal, state and local governmental authorities upon the sales contemplated by this Agreement.
- c. For taxes related to retail sales to non-University customers, Prairieland will charge and collect the taxes from these customers directly.

14. GENERAL PROVISIONS

- a. **Ongoing Responsibilities Under Previous Contracts**
Any interest income Prairieland may realize as a result of the utilization of funds transferred between the parties pursuant to prior agreements for the purposes of security and/or investment shall be remitted to the University at least annually.
- b. **Assignment**
The rights and obligations created by this Agreement shall inure to the benefit of, and be binding on, the successors and assigns of the respective parties hereto, provided however, that neither party shall be permitted to assign its rights and obligations under this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, this provision shall not limit either party's right to assign this Agreement to an affiliated entity that assumes all obligations hereunder and whose creditworthiness and ability to perform is not materially weaker (taking into consideration any credit support) than the creditworthiness of the assignor before such transfer and assumption.
- c. **Liability**
Prairieland shall not be liable to the University for any loss, damage or injury to any property or person caused by, or arising from, any component of the process of providing energy services to the University. The University, on behalf of itself and others, agrees to waive all claims for damages to persons or property sustained by the University or any person claiming under the University resulting from any component of providing energy service to the University.
- d. **Limitation of Liability**
Neither party shall be held responsible or liable for any loss or damage resulting from failure to perform its obligation under this Agreement as a result of any cause beyond its control, including, but not limited to Force Majeure as defined in Section 6.b. Both parties shall be prompt and diligent in removing the cause of such failure to perform.

e. No Third-Party Beneficiary Relationships

This Agreement is solely for the benefit of the parties hereto. Nothing in this Agreement shall be construed to or shall in fact create any third-party benefits or rights of any character whatsoever in any customers, members, or other persons dealing with either party. Notwithstanding any language to the contrary in this Agreement, in no event shall either party have any liability for any indirect, special, consequential, loss of revenue, or other such damages from any cause.

f. Entire Agreement

This Agreement, attachments, amendments and incorporated references shall constitute the entire Agreement between the Parties with respect to the subject matter herein and supersedes all prior communications and writings with respect to the content of said Agreement.

g. Severability

If any part of this Agreement shall be declared void or unenforceable by any legal authority with jurisdiction over the matter, the remaining portions of the Agreement shall not be affected thereby. In the event any provision of this Agreement is held void or unenforceable, the parties shall promptly re-negotiate in good faith to establish new provisions that will restore this Agreement as nearly as possible to its original intent and effect, and restore the overall balance of economic benefits to the parties as originally contemplated. In the event the parties cannot reach agreement regarding the establishment of new provisions, either party may terminate this Agreement by providing written notice to the other. Such notice shall be effective as of the date received.

h. Notice

All notices and other correspondence contemplated or required by this Agreement shall be directed to the parties at the following addresses and shall be valid upon actual receipt:

i. Pertaining to this Agreement

1. University: Dr. Avijit Ghosh, VP, CFO and Comptroller
506 S. Wright St., Suite 349 Urbana, IL 61801
Phone: (217) 333-1560

2. Prairieland: Michael Bass, Vice Chair
506 S. Wright St., Suite 238 Urbana, IL 61801
Phone: (217) 333-2464

ii. Pertaining to Operations/Outages/Curtailments

1. University:
a. Robert Roman, Director of Utilities and Energy Services, Urbana-Champaign
1117 S. Oak St., Champaign, IL 61820
Phone: (217) 265-0766

- b. Brad Simmons, Interim Director of Utilities, Chicago
1100 S. Morgan St., Chicago, IL 60607
Phone: (312) 996-3269
- c. Charles Coderko, Assoc. Chancellor Admin. Affairs, Springfield
One University Plaza, MS BSB 33, Springfield, IL 62703
Phone: (217) 206-6730

- 2. Prairieland: Michael Bass, Vice Chair
506 S. Wright St., Suite 238 Urbana, IL 61801
Phone: (217) 333-2464

15. GOVERNMENTAL AUTHORITY

This Agreement and all rates, rules, regulations, terms and conditions of service and other matters, either a part of this Agreement or referred to herein, are made with the understanding that the same, or portions thereof, might be changed by a state, federal or local governmental authority having jurisdiction to make said changes according to law.

16. AUTHORITY TO EXECUTE AGREEMENT

Prairieland and the University each respectively represents and warrants that it has full power and authority to execute, perform, and carry out this Agreement, and the execution of the Agreement by it has been authorized and exercised in accordance with laws applicable to it.

IN WITNESS WHEREOF, this agreement is effective as of the date of the last signature of the parties below.

**BOARD OF TRUSTEES OF THE
UNIVERSITY OF ILLINOIS**

PRAIRIELAND ENERGY, INC.

Avijit Ghosh, Comptroller

Michael B. Bass, Vice Chair

Date: _____

Date: _____

Approved for legal form:

University Counsel