

AQUILON ENERGY SERVICES, INC.
TERMS AND CONDITIONS OF USE

Welcome to the Aquilon™ Energy Settlement Network™ (“ESN”) System. By scrolling to the bottom of this agreement and clicking the I AGREE button, you represent that (i) you have read and understand all of the provisions of this agreement; (ii) you accept these Terms and Conditions on behalf of your organization (the “Subscriber”); and (iii) you have authority to contractually bind the Subscriber to these Terms and Conditions.

Your organization must accept these Terms and Conditions through an individual with proper authority before it can authorize its Representatives to use the Aquilon™ ESN System. These Terms and Conditions of Use and Privacy Policy (as defined herein) apply equally to both Subscribers and its Representatives. Each Subscriber is responsible for all conduct of its Representatives in using the Service.

DEFINITIONS

“Other Services” means services other than the ESN that are or may be offered by Aquilon in exchange for fees.

“Representative” means any representative of a Subscriber, whether employee, agent, independent contractor, subcontractor, or otherwise, whom Subscriber authorizes to access or use the Service on the Subscriber’s behalf.

The “Service” means the ESN System.

The “Site” means the website <http://esn.aquiloninc.com> through which You access the Service.

A “Subscriber” is an entity who pays Aquilon Fees for use of the Service or is an entity who receives complimentary use of the service .

“You” means any end user of the Site and Service. You includes both a Subscriber and its Representatives.

INTELLECTUAL PROPERTY NOTICE

The Site and Service are proprietary to Aquilon Energy Services, Inc. and include information that is the property of Aquilon and its licensees/users. The Site, its content, the Service, and all proprietary information of Aquilon or its licensors on the Site (collectively “Contents”) are protected by the U.S. patent applications, as well as patent applications pending in other countries, including specifically, U.S. Pat. No. 61,835,228 and copyright and/or trade secret laws of jurisdictions throughout the world. Unless You receive the prior written consent from Aquilon, You shall not copy the Contents or use the Contents other than as permitted by Aquilon, or disclose the Contents to others.

“Aquilon™” and “Energy Settlement Network™” are trademarks of Aquilon Energy Services, Inc. Aquilon has registered its trademarks in the United States and in countries throughout the world.

Aquilon retains all right, title and interest in and to the Site and the Service. Your use of the Site and Service does not grant or confer any rights to You, by license or otherwise, in or to the Site and/or Service other than the licensed rights expressly granted herein.

You acknowledge that the software of the Service may contain copyrighted material, trade secrets, or other proprietary information which belongs to Aquilon, or is licensed by Aquilon from third parties, or may embody protected subject matter owned by Aquilon or such third parties.

LICENSE

Subject to these Terms and Conditions, Aquilon grants to Subscriber a limited, non-exclusive, non-transferable license (“License”) to use the Service to settle bilateral physical and financial energy transactions with its counterparties, communicate with counterparties through the Service, and store and access settlement transactions, messages, and other data related thereto. All rights not expressly granted to Subscriber are reserved by Aquilon.

PRICING AND PAYMENT

Subscriber is subject to and agrees to pay the fees set forth in the Order Form received from Aquilon’s Service Center or

Subscriber receives complimentary access to the Service by way of invitation from a trade partner processing a transaction on the Service.

All Fees and other amounts payable by Subscribers under this Agreement are exclusive of taxes and similar assessments. Subscriber is responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state or local governmental or regulatory authority on any amounts payable by Subscriber hereunder, other than any taxes imposed on Aquilon’s income.

If Subscriber fails to make any payment when due then, in addition to all other remedies that may be available:

- A. Provider may charge interest on the past due amount at the rate of 1.0% per month or, if lower, the highest rate permitted under applicable Law;

- B. Customer shall reimburse Provider for all costs incurred by Aquilon in collecting any late payments or interest, including attorneys' fees, court costs and collection agency fees; and
- C. If such failure continues for 60 days following written notice thereof, Aquilon may suspend performance of the Services until all past due amounts have been paid, without incurring any obligation or liability to Subscriber or any other person by reason of such suspension.

Aquilon reserves the right to change the Fees with three months' prior notice of subscription renewal date.

TERM AND TERMINATION

These Terms and Conditions are effective until terminated by either You or Aquilon, unless automatically terminated as set forth herein. You may terminate these Terms and Conditions at any time by permanently discontinuing Your use of the Site.

Upon termination for any reason, You must destroy all materials obtained from the Service and Site and all copies thereof (excluding Your User Data).

TERMINATION FOR VIOLATION

Aquilon reserves the right to terminate these Terms and Conditions, including, but not limited to, the License, and Your use of the Site or Service for violation by Subscriber or any of its Representatives of any of the terms of these Terms and Conditions.

USE RESTRICTIONS AND CONDUCT

If You own, manage, participate or otherwise engage in or have any connection with (as an employee, representative, agent or otherwise) any business in the United States or any other foreign country that provides any product or service that is similar to those provided by Aquilon, You are not permitted to access or use the Service without prior written consent of Aquilon.

Except as otherwise expressly authorized herein, You shall not (a) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party or use any Service for third party training, commercial time sharing, rental or service bureau use in any way; (b) modify, copy, distribute, transmit, display, reproduce, disassemble, decompile, reverse engineer, or make derivative works based upon any portion of the Site or Service; (c) create Internet "links" to the Site or "frame" or "mirror" any portion of the Site or Service on any other server or

wireless or Internet-based device; or (d) access the Service or Site in order to (i) build a competitive product or service, (ii) build a product using similar ideas, features, functions or graphics of the Service, or (iii) copy any ideas, features, functions or graphics of the Service or Site.

You shall be solely responsible for Your actions, User Data and any other contents of Your transmissions to the Service. You shall not transmit any materials or information to the Service that infringes on any copyright or other proprietary rights of any other person or entity. You shall not impersonate any person or entity or falsely state or otherwise misrepresent Your identity or affiliation with any person or entity. You shall not post or use the Site or Service to transmit: (a) any unlawful, fraudulent, libelous, defamatory, obscene, pornographic, profane, threatening, abusive, or otherwise objectionable information of any kind, including, without limitation, any transmissions constituting or encouraging conduct that would constitute a criminal offense, give rise to civil liability, or otherwise violate any local, state, national or foreign law; (b) any advertisements, solicitations, chain letters, pyramid schemes, investment opportunities or schemes or other unsolicited commercial or non-commercial communication except as otherwise expressly permitted by Aquilon; or (c) any information or software which contains a virus, Trojan horse, worm, malware or other harmful component.

You shall not use and shall not authorize, cause, or enable others to use the Site or Service for any unlawful purpose.

You shall not use the Service in any manner that violates these Terms and Conditions.

USER DATA

Except as otherwise provided herein, Aquilon does not own any data, information or material that You submit to the Site in the course of using the Service ("User Data"). Subscriber, not Aquilon, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership of all User Data, and Aquilon shall not be responsible or liable for the deletion, correction, destruction, damage, loss or failure to store any User Data. Notwithstanding the foregoing, Aquilon reserves the right to use User Data as set forth in these Terms and Conditions.

YOUR CONFIDENTIALITY AND SECURITY OBLIGATIONS

A. Obligations With Regards to Aquilon's and Your Own Confidential Information.

You agree to maintain and protect the confidentiality of the Service and will not disclose to third parties any aspect of the Site or Service, including related software or their contents, or use the Site or Service for any purpose other than authorized herein.

You understand that the Service, the Third Party Software (as defined herein), Your user name and password, the Subscriber accounts, names and passwords, and any other information disclosed by Aquilon to Subscriber shall be considered confidential information ("Confidential Information").

You agree: (a) to not disclose any Confidential Information to any third party without the prior written consent of Aquilon; (b) to only disclose the Confidential Information to Subscribers, Representatives, employees, and such third parties approved in writing by Aquilon who are under written obligations of confidentiality with respect to the Confidential Information that are no less restrictive than those contained herein (it being understood that You shall be liable for any failure on the part of any such Representative, employee or third party to comply with these Terms and Conditions to the same extent as if such Representative, employee or third party had been parties hereto); (c) to use the Confidential Information solely in accordance with the terms of these Terms and Conditions; and (d) to protect the Confidential Information from unauthorized disclosure or use.

You agree to keep sole control and not give the usernames, passwords, and/or PINs to anyone who is not an authorized Representative of Subscriber. You are responsible for any activity that occurs under Your account as a result of Your failure to maintain the security and confidentiality of the Confidential Information, including but not limited to all Subscribers' usernames, PINs, and passwords. You agree to notify Aquilon immediately of any unauthorized use of Your account or password or any other breach of security.

B. Exceptions to Confidentiality Obligations.

Your confidentiality obligations under this section will not apply to any information which You can demonstrate (a) was in the public domain prior to it being communicated to You or becomes part of the public domain through no fault of Your own after the disclosure of the information to You; (b) was already in Your possession without an obligation of confidentiality; or (c) is disclosed pursuant to the order of a court of competent jurisdiction, or any order of any governmental agency, provided that You first give notice to Aquilon of such an order and an opportunity to prevent such a disclosure.

C. Remedies for Breach.

You acknowledge that a breach of this section will result in irreparable and continuing harm to Aquilon for which there will be no adequate remedy at law and, therefore, Aquilon will be entitled to appropriate equitable relief.

This section shall survive the termination of these Terms and Conditions and remain in effect until the information is no longer confidential. Upon termination of these Terms and Conditions or Aquilon's request, You shall purge all Confidential Information from Your computer system(s) and at Aquilon's option, either (a) destroy all Confidential Information in Your possession, or (b) return all Confidential Information in Your possession to Aquilon. Within ten (10) days of termination, You or an authorized officer

of Your company shall certify in writing that all such Confidential Information has been purged from Your computer system(s) and either destroyed or returned to Aquilon.

SECURITY AND CONFIDENTIALITY

Aquilon will use commercially reasonable efforts, including the use of usernames, passwords, and encryption, to keep User Data secure and confidential from third parties that are not using the Site or Service. HOWEVER, AQUILON DOES NOT GUARANTEE THAT IT WILL NOT BE THE SUBJECT OF A SECURITY BREACH AND MAKES NO WARRANTY THAT INFORMATION GIVEN TO AQUILON AND/OR STORED IN ANY AQUILON SYSTEM (INCLUDING, WITHOUT LIMITATION, USER DATA) WILL BE COMPLETELY SECURE.

You acknowledge and agree that information that you provide to Aquilon, including, but not limited to, User Data, may be stored by Aquilon in a location other than the jurisdiction in which You use the Site and Service.

PRIVACY POLICY

By using the ESN System, You also are subject to our Privacy Policy, which is available <https://esn.aquiloninc.com/Reports/AquilonPrivacyPolicy.pdf>

Aquilon reserves the right to change the Privacy Policy at any time, without advance notice.

NO AGENCY

In all transactions and processes carried out using the Service, Aquilon is not an agent of or affiliated with any party using the Site and Service. Neither the use of the Service nor any provision of these Terms and Conditions creates an agency relationship with Aquilon or between Subscribers or Subscriber Representatives of the Site and Service.

Aquilon is not a counterparty and does not take custody of funds at any time.

INDEPENDENT CONTRACTOR

You acknowledge and agree that no relationship other than that of independent contractor is established between You and Aquilon by either use of the Site or Service or by agreement with these Terms and Conditions.

DISCLAIMER OF WARRANTIES

NONE OF AQUILON, ITS AFFILIATES OR SUBSIDIARIES OR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEE AGENTS, SHAREHOLDERS OR REPRESENTATIVES MAKES ANY REPRESENTATION, WARRANTY, OR GUARANTY AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, TRUTH, AVAILABILITY, ACCURACY OR COMPLETENESS OF THE SERVICE, THE SITE, THIRD PARTY SOFTWARE, SUPPORT SERVICES OR THIRD PARTY SERVICES. WITHOUT LIMITING THE FOREGOING, AQUILON MAKES NO REPRESENTATION, WARRANTY, OR GUARANTY THAT (a) THE USE OF THE SITE, SERVICE, THIRD PARTY SOFTWARE, SUPPORT SERVICES OR THIRD PARTY SERVICES WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA, (b) THE SITE, SERVICE, SUPPORT SERVICES, THIRD PARTY SOFTWARE OR THIRD PARTY SERVICES WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS, (c) ANY STORED DATA, INCLUDING, WITHOUT LIMITATION, USER DATA, WILL BE ACCURATE OR RELIABLE, (d) THE QUALITY OF ANY SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SITE, SERVICE, THIRD PARTY SERVICES, OR THIRD PARTY SOFTWARE WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS, (e) ERRORS OR DEFECTS WILL BE CORRECTED, OR (f) THE SITE, SERVICE, THIRD PARTY SERVICES, THIRD PARTY SOFTWARE OR THE SERVER(S) THAT MAKE ANY SERVICES AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

YOU AGREE THAT THE SITE AND ITS CONTENTS ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND. TO THE MAXIMUM EXTENT PERMITTED BY LAW, AQUILON EXPRESSLY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, OF ANY KIND WITH RESPECT TO THE SITE, ITS CONTENTS AND THE USE THEREOF, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR TITLE. Some states do not allow the disclaimer or limitation of warranties, so the disclaimers set forth above may not apply to You.

LIMITATION OF LIABILITY

IN NO EVENT SHALL AQUILON, ITS AFFILIATES OR SUBSIDIARIES OR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SHAREHOLDERS, REPRESENTATIVES, SUPPLIERS OR CONTENT OR SERVICE PROVIDERS BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE AND CONSEQUENTIAL DAMAGES EVEN IF MADE AWARE OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER IN AN ACTION UNDER CONTRACT, NEGLIGENCE OR OTHER

THEORY, ARISING OUT OF OR IN CONNECTION WITH THE USE, INABILITY TO USE OR PERFORMANCE OF THE SERVICE AND/OR ANY MATERIALS, PRODUCTS OR SERVICES AVAILABLE ON THE SITE. REGARDLESS OF LEGAL THEORY OF LIABILITY, AQUILON'S LIABILITY SHALL BE LIMITED TO THE RECOVERY OF ACTUAL, DIRECT DAMAGES; AND IN NO EVENT SHALL SUCH DAMAGES EXCEED THE GREATER OF (1) THE TOTAL OF ANY FEES PAID BY SUBSCRIBER TO AQUILON IN THE SIX MONTHS IMMEDIATELY PRIOR TO THE DATE ON WHICH THE CLAIM AROSE OR (2) \$100 US.

NONE OF AQUILON, ITS AFFILIATES OR SUBSIDIARIES OR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEE AGENTS, SHAREHOLDERS OR REPRESENTATIVES SHALL HAVE ANY LIABILITY WHATSOEVER FOR OR IN CONNECTION WITH THE ACTIONS OR OMISSIONS OF ANY SUBSCRIBER, USER, OR REPRESENTATIVE, THEIR USE OF THE SITE OR SERVICE, OR THEIR FAILURE TO COMPLY WITH APPLICABLE LAWS, INCLUDING, WITHOUT LIMITATION, APPLICABLE CONSTRUCTION LIEN LEGISLATION.

Aquilon is not liable for any defamatory, offensive or illegal conduct of any Subscriber or Representative who uses the Service.

If You are dissatisfied with the Site or any materials contained on the Site, or with these Terms and Conditions, Your sole and exclusive remedy is to discontinue use of the Site and Service.

SUBSCRIBER AND USER WARRANTIES AND INDEMNITY

You represent and warrant that all information submitted by You through the Service is accurate and complete, and that You have taken reasonable steps to ensure the accuracy and completeness of such information. You agree to indemnify, defend, and hold harmless Aquilon, its officers, directors, employees, agents, shareholders, representatives, suppliers and content and service providers from and against all losses, expenses, damages and costs, including reasonable attorneys' fees, resulting from the information submitted by You through the Service, any violation of these Terms and Conditions, or any activity related to the use of the Service by Subscriber or any User or anyone accessing this Service from Your user account.

THIRD-PARTY LINKS AND SERVICES

Aquilon may provide links to websites operated by third parties. Aquilon makes no representations or warranties whatsoever about any third party websites that You may access through the Service. Aquilon is not responsible for the privacy practices or the content of such websites. Aquilon prohibits the framing of any materials available through the Site. Aquilon reserves the right to disable any unauthorized frames and

specifically disclaims any responsibility for the contents of any other websites linked to the Site.

The Service and/or Site may contain some Third Party Software (as defined herein) for which Aquilon has obtained the appropriate licensing rights, if applicable. "Third Party Software" means third party computer programs provided to You or electronic access to computer programs provided to You under these Terms and Conditions in connection with the Service. Your use of the Third Party Software in connection with the Service and/or Site shall be subject to the terms and conditions set forth herein and any other conditions placed on the use of the Third Party Software by its owner. You also acknowledge that the owner of such Third Party Software is the sole and exclusive owner of all right, title, and interest in and to the Third Party Software, any modifications or improvements made thereto, derivative works made therefrom, and all related materials, documentation, know-how, and intellectual property related thereto.

ABOUT THESE TERMS AND CONDITIONS

Aquilon reserves the right to change these Terms and Conditions in its sole discretion at any time without prior notice. When we do so, changes in these Terms and Conditions will be posted on the Site and will be effective immediately upon posting. We recommend that You check these Terms and Conditions on a regular basis.

Aquilon may modify, suspend, or discontinue the Service in its sole discretion at any time without prior notice. Aquilon shall not be liable for any modification, suspension, or discontinuance of the Service.

CHOICE OF LAW

These Terms and Conditions, including, without limitation, the Privacy Policy, shall be governed by and construed in accordance with the laws of the United States of America and the State of Illinois, without giving effect to any principles of conflicts of law.

The provisions of this section shall survive termination of these Terms and Conditions.

JURISDICTION AND VENUE

By agreeing to these Terms and Conditions, You consent to jurisdiction in the State of Illinois. Any dispute related in any way to Your use of the Site or Service shall be venued in the state courts located in Cook County, Illinois or the United States District Court for the Northern District of Illinois.

SEVERABILITY

If any provision, or portion thereof, of these Terms and Conditions, including, without limitation, the Privacy Policy, shall be deemed unlawful, void, or for any reason unenforceable, then that provision or portion thereof shall be deemed severable from the remainder and shall not affect the validity and enforceability of any remaining provisions.

NO WAIVER

The failure of Aquilon to enforce any right or provision in these Terms and Conditions shall not constitute a waiver of such right or provision unless acknowledged and agreed to by Aquilon in writing. Any waiver by Aquilon to enforce any right or provision in these Terms and Conditions shall not constitute a subsequent or future waiver of Aquilon's rights to enforce these Terms and Conditions to the fullest extent.

ASSIGNMENT

You may not assign these Terms and Conditions without the prior written approval of Aquilon. Any purported assignment in violation of this section shall be void and unenforceable.

LIMITATIONS PERIOD

You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Site or Service must be filed within one (1) year after such claim or cause of action arose or be forever barred.

USER COMMENTS, FEEDBACK, AND SUBMISSIONS

All comments, feedback, postcards, suggestions, ideas, and other information disclosed, submitted, conveyed or offered to Aquilon on or by the Site or Service or otherwise disclosed, submitted or offered in connection with Your use of the Site or Service (collectively, "Comments") shall be and remain Aquilon's property. Such disclosure, submission or offer of any Comments shall constitute an assignment to Aquilon of all worldwide rights, titles and interests in all copyrights and other intellectual properties in the Comments. Thus, Aquilon will own exclusively all such rights, titles and interests and shall not be limited in any way in its use, commercial or otherwise, of any Comments.

Aquilon is and shall be under no obligation (a) to maintain any Comments in confidence; (b) to pay to Subscriber or any Representative compensation for any Comments; or (c) to respond to any Comments.

You agree that no Comments or any other submission submitted by You to the Site or Service will violate any right of any third party, including copyright, trademark, privacy or other personal or proprietary right(s). You further agree that no Comments or other submission submitted by You to the Site or Service will be or contain libelous or otherwise unlawful, abusive or obscene material. You are and shall remain solely responsible for the content of any Comments You make.

You hereby consent that Aquilon may record and/or monitor any calls that You make to Aquilon's client services department and/or that Aquilon's client services department makes to You.

INTERNET DELAYS

AQUILON'S SERVICE AND/OR AVAILABILITY OF THE SITE OR SERVICE MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. AQUILON IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

FORCE MAJEURE

Aquilon will not be held liable for the failure to perform its obligations under these Terms and Conditions if such failure is occasioned by a contingency beyond Aquilon's reasonable control, including, without limitation, acts of war, labor difficulties, riots, fire, flood, hurricane, windstorm, governmental laws, acts or regulations (including the inability to obtain any necessary permits), or shortages of materials; provided, however, that such relief will only continue for so long as the force majeure condition exists.

LOCAL LAWS AND EXPORT CONTROL

If You use the Service from outside the United States, You are solely responsible for compliance with all applicable laws, including, without limitation, export and import regulations of other countries. Any diversion of the Content contrary to United States law is prohibited. None of the Content, nor any information acquired through the use of the Service, is or will be used for nuclear activities, chemical or biological weapons, or missile projects, unless specifically authorized by the United States government.

NOTICE

Where required, Aquilon may give notice to You by a general posting on the Site or by electronic mail to Your e-mail address if on record with Aquilon. Such notice shall be deemed to have been given upon the expiration of forty-eight (48) hours after posting to the Site or twelve (12) hours after sending (if sent by electronic mail). You may give notice to Aquilon by electronic mail to the address below. If You have any questions about these Terms and Conditions, the practices of the Site or Service, or Your dealings with Aquilon, please e-mail to service@aquiloninc.com.

COMPLETE AGREEMENT

These Terms and Conditions comprise the entire agreement between You and Aquilon and supersede all prior or contemporaneous negotiations, discussions or agreements, whether written or oral, between the parties regarding the subject matter contained herein. Unless expressly agreed in a writing signed by Subscriber and Aquilon, any terms and warranties offered by any other individual, agent or entity, including resellers, that are not expressly stated in these Terms and Conditions or that contradict these Terms and Conditions are null and void. You agree that Aquilon has not made, and You have not relied on, any representations with respect to the subject of this agreement except for those provided herein.

CONTACT INFORMATION

The Site's content is maintained by Aquilon Energy Services, Inc., located at 808 Travis Street, Suite 400 Houston, TX 77002. We can be reached by e-mail at: service@aquiloninc.com.