

## RETAIL ENERGY SERVICE AGREEMENT FOR TEXAS STATE POLITICAL SUBDIVISIONS

This Retail Energy Electricity Service Agreement, including the Offer Sheet which is incorporated herein (this "Agreement") is entered into between Hudson Energy Services, LLC ("HES"), and Texas Department of Criminal Justice ("Customer"). HES and Customer may hereinafter be referred to individually as a "Party" or collectively as the "Parties."

### SECTION 1: Scope and Term

**1.1 Scope and Term.** Customer appoints HES as its Retail Electric Provider (REP) for the Electric Service Identifiers ("ESI ID(s)") identified on the Offer Sheet. Specifically, Customer authorizes HES to act as Customer's REP for all purposes. HES shall provide all the services required of a REP including, without limitation, procuring, scheduling and causing to be delivered electricity to each ESI ID during the Term. This Agreement shall commence as of the Effective Date, as identified on the Offer Sheet and, unless terminated earlier in accordance with the provisions of the Agreement, shall continue until the end of the Term. Should the Term expire and the ESI ID(s) remain on service with HES for any reason, HES may, at its discretion, continue to serve the ESI ID(s) on a month to month basis in accordance with this Agreement at the Expired Term Price. Funds are not presently available for performance under this Agreement beyond August 31, 2017. Customer's obligation for performance of this Agreement beyond that date is contingent upon legislative approval and the availability of appropriated funds from which payment for purposes of this Agreement can be made. No legal liability on the part of Customer for any payment may arise for performance under this Agreement beyond August 31, 2017, until funds are made available to the Customer for performance and until HES receives notice of availability, to be confirmed in writing by the Customer.

**1.2 ESI ID Modification.** Parties agree and acknowledge that Customer shall be allowed to add and or terminate ESI ID(s) both, to and from the Offer Sheet. Such option shall be allowed provided the annual volume of the Offer Sheet resulting from such modification shall be no higher than one-hundred-ten percent (110%) or no lower than ninety percent (90%) of the original annual volume identified on the Offer Sheet upon execution of said Offer Sheet. Should resulting annual volume be below ninety percent (90%) of original Offer Sheet annual volume, HES shall have the right to apply the remedies provided in Section 11.6 for the most recently terminated ESI ID(s) for which termination resulted in the annual volume falling below ninety percent (90%) of the original Offer Sheet annual volume. Should resulting annual volumes be above one-hundred-ten percent (110%) of original Offer Sheet annual volume, the Parties agree that HES at its option may charge a then current Energy Price which shall remain constant for the balance of the Term for similarly situated customers for the most recently added ESI ID(s) for which addition resulted in the annual volume rising above one-hundred-ten percent (110%) of the original Offer Sheet annual volume.

### SECTION 2: Retail Energy Charges

**2.1 Energy Price.** The Energy Price for Actual Usage is specified on the Offer Sheet. Reliability Unit Commitment ("RUC") and Basis Adjustment shall be included in the Energy Price.

**2.2 Customer Charge.** The Customer Charge is specified on the Offer Sheet.

**2.3 Pass-through Charges.** Delivery Charges, Non-recurring Charges, or Taxes (as applicable), Public Utility Gross Receipts Assessments (as applicable), or Miscellaneous Gross Receipts Taxes (assessed to HES; as applicable) will be passed through and paid by Customer and identified separately on Customer's

bill with no mark up. If Customer is exempt from any payment of any Taxes, Customer will provide HES with all required exemption certificates. Unless otherwise communicated to HES from Customer, HES shall not recognize any exemption and will not refund or credit previously paid Taxes, unless the taxing entity sends the refund to HES.

**2.4 Price Redetermination.** Either HES or Customer may reasonably request to renegotiate the Energy Price set forth in the Offer Sheet subject to mutually agreeable extension of the Term. This section shall not be construed as an obligation of either Party to modify the Energy Price or Term, and any such modifications of the Energy Price or Term shall only become effective if evidenced in written instrument and executed by both Parties.

### SECTION 3: Billing and Payment

**3.1 Billing and Payment.** HES will invoice Customer on a regular basis. Notwithstanding anything to the contrary in this Agreement, payment from Customer to HES shall be due thirty (30) days following the date of the invoice. The invoice will be based on the actual data provided by ERCOT and the TDSP. If ERCOT or the TDSP do not provide actual data in a timely manner, HES may use estimated data to calculate Customer's invoice and, upon receipt of actual data, will reconcile the charges and adjust them as needed in subsequent invoices.

**3.2 Interest and Fees.** If Customer fails to remit all invoiced amounts on or before the due date, interest will accrue on any due and unpaid amounts from the dates the monies become overdue at the lesser of a rate of one percent (1%) per month or the prime rate as published in the Wall Street Journal on the first day of July of the preceding Customer fiscal year that does not fall on a Saturday or Sunday. A fee of \$25 will be assessed to Customer for each returned payment for insufficient funds.

**3.3 Invoice Disputes.** All payment disputes will be resolved in accordance with Section 2251.042 of the Texas Government Code.

### SECTION 4: Credit

Customer has satisfied HES' credit requirement and no security deposit shall be required of Customer.

### SECTION 5: Early Termination

#### 5.1 Early Termination Charge.

(a) Notwithstanding any rights to either Party provided for in this Agreement; if this Agreement is terminated by HES as to any ESI ID due to a Customer Event of Default, Customer shall be obligated to pay HES the Early Termination Charge within thirty (30) days following a written demand from HES.

(b) Notwithstanding any rights to either Party provided for in this Agreement; if, by mutual agreement of Customer and HES, retail electric service under the Agreement is cancelled as to one or more ESI IDs due to operational reasons applicable to the facility(ies) served by such ESI ID but this Agreement continues in effect as to the remaining ESI IDs, in lieu of Customer being required to pay the Early Termination Charge for such cancelled ESI IDs, Parties may attempt to agree on remedies as provided for by Section 10.4.

(c) If this Agreement ends early due to a Customer Event of Default or due to HES' failure to perform its obligations hereunder, the defaulting Party shall pay the Early Termination

Charge (as defined below) to the non-defaulting Party within thirty (30) days of written notice of default.

#### **SECTION 6: Notices and Payments**

Except as otherwise set forth in this Agreement or required by applicable law, all notices to be provided under this Agreement shall be in writing and deemed to have been duly delivered if hand delivered or sent by United States, certified or registered mail, return receipt requested, postage prepaid, facsimile, or by overnight delivery service. Notices and Payments shall be sent to the addresses noted below, or any other address a Party provides to the other Party in writing:

If to Customer: Texas Department of Criminal Justice  
Two Financial Plaza Ste.525  
Huntsville, TX 77340

If to HES:  
Invoice  
Remittance: Hudson Energy Services, LLC  
P.O. Box 841812  
Dallas, Texas 75248-1812

General Notice: Hudson Energy Services, LLC  
P.O. Box 841812  
Irving, Texas 75248-1812  
Fax: 1-888-893-9882

#### **SECTION 7: Representations and Warranties**

**7.1 Mutual Representation and Warranties.** As a material inducement to entering into this Agreement, each Party represents and warrants to the other as follows: (a) it is duly organized, validly existing, and in good standing under the laws of the jurisdiction of its formation and is qualified to conduct its business in those jurisdictions necessary to perform this Agreement; (b) the execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action, and do not violate any terms or conditions in its governing documents or any contract to which it is a party or any law applicable to it; (c) as of the Effective Date, it shall have all regulatory authorizations necessary for it to perform its operations; (d) this Agreement constitutes a legal, valid, and binding obligation of such Party enforceable against it in accordance with its terms, subject to bankruptcy, insolvency, reorganization, and other laws affecting creditor's rights generally, and with regard to equitable remedies, subject to the discretion of the court before which proceedings to obtain same may be pending; and (e) there are no bankruptcy, insolvency, reorganization, receivership, or other similar proceedings pending or being contemplated by it, or to its knowledge threatened against it.

**7.2 Other Representations, Warranties and Covenants.** Customer additionally represents, warrants and covenants to HES that (a) Customer is a non-residential Customer with an aggregate peak demand of greater than 50 kW, during any 12-month period; (b) during the Term there shall be no other contract for the purchase of electricity by Customer for the ESI IDs, and if such a contract presently exists, Customer warrants that it will terminate such contract prior to the delivery of electricity to the Customer during the Term; and (c) Customer shall operate and manage the facility(ies) served by each ESI ID in a manner that is materially consistent with Customer's past electric usage practices.

**7.3 Forward Contract.** The Parties acknowledge and agree that (a) this Agreement constitutes a forward contract within the

meaning of the United States Bankruptcy Code ("Code"); (b) HES is a forward contract merchant; and (c) each Party is entitled to the rights under, and protections afforded by, the Code.

**7.4 Antitrust and Antifraud Overcharges.** HES is deemed to have assigned to Customer any and all claims for overcharges associated with this Agreement that arise under any antitrust laws of the United States or any antitrust, fair competition, or antifraud laws of the State of Texas.

#### **SECTION 8: Limitations of Liabilities**

**8.1 LIMITATIONS OF LIABILITIES.** LIABILITIES NOT EXCUSED BY REASON OF FORCE MAJEURE OR OTHERWISE SHALL BE LIMITED TO DIRECT AND ACTUAL DAMAGES AS THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES ARE EXPRESSLY WAIVED. NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL INCIDENTAL, PUNITIVE, EXEMPLARY, SPECIAL OR INDIRECT DAMAGES. THESE LIMITATIONS APPLY WITHOUT REGARD TO THE CAUSE OF ANY LIABILITY OR DAMAGE. NOTWITHSTANDING ANYTHING TO THE CONTRARY, THE LIABILITY OF HES TO CUSTOMER FOR ANY OBLIGATIONS UNDER OR RELATING TO THIS AGREEMENT AND ANY DEFAULT BY HES SHALL BE LIMITED TO A MAXIMUM AMOUNT EQUAL TO THE ENERGY PRICE MULTIPLIED BY THREE TIMES THE AVERAGE MONTHLY USAGE SET FORTH ON THE OFFER SHEET. THERE ARE NO THIRD PARTY BENEFICIARIES TO THIS AGREEMENT.

**8.2 Customer Protection Rules.** The Parties acknowledge that the Customer Protection Rules adopted by the Public Utility Commission (as contained in its Substantive Rules 25.471 et seq.) ("Customer Protection Rules") shall not apply to this Agreement, to the extent allowed by law. If there is any conflict between the Customer Protection Rules and this Agreement, the Parties acknowledge this Agreement will control.

**8.3 UCC/Disclaimer of Warranties.** Customer and HES acknowledge and agree that the electricity delivered hereunder is a "good" as that term is understood in the Texas B&CC (UCC § 2.105). The Parties further agree that the rules promulgated therein, to the extent that they can be, are waived and they do not apply to this Agreement, except as provided herein. If there is any conflict between the UCC and this Agreement, the Parties acknowledge this Agreement will control.

**8.4 Force Majeure.** If either Party is unable to perform its obligations, in whole or in part, due to an event of force majeure as defined herein then the obligations of the affected Party (other than the obligations to pay any amounts due prior to the force majeure event) shall be suspended to the extent made necessary by such event. The term "Force Majeure" shall mean any act or event that is beyond the claiming Party's control (and which could not be reasonably anticipated and prevented through the use of reasonable measures), including, without limitation, the failure of the TDSP to receive, transport or deliver, or otherwise perform, unless due to the failure of the Party claiming Force Majeure to perform such Party's obligations hereunder, and an event of force majeure of HES suppliers. The Party suffering the event of Force Majeure shall give written notice of such event of Force Majeure in reasonably full particulars to the other Party, as soon as reasonably possible. Any such event of Force Majeure shall, so far as possible, be remedied with all reasonable dispatch. Force Majeure shall not include (i) the opportunity for HES to sell the electricity to be sold under this Agreement to another party at a higher price than that set forth in the Agreement, (ii) the opportunity for Customer to purchase the electricity for its ESI IDs from another party at a

lower price than that set forth in the Agreement, (iii) the inability of either Party to pay its bills under the Agreement or any other of its bills or otherwise perform its obligations hereto due to financial reasons; or (iv) actions or inactions of third parties, including QSEs and/or wholesale suppliers (unless caused by force majeure).

**8.5 Governmental Immunity.** Nothing in this Agreement shall be construed as a waiver of any governmental or other immunity generally applicable to Customer.

## SECTION 9: Default and Remedies

**9.1 Event of Default.** An event of default ("Event of Default") by the Party identified ("Defaulting Party") means any one of the following: (a) failure by Customer to make, when due, any payment required under this Agreement; (b) any representation or warranty made by a Party proves to be false or misleading in any material respect when made or ceases to remain true in all material respects during the Term of this Agreement if not cured within fourteen (14) days after receipt of written notice from the other Party; (c) except to the extent excused by Force Majeure, the failure by a Party to perform any material obligation set forth in the Agreement (other than events that are specifically covered as a separate Events of Default hereunder) and such failure is not cured within fourteen (14) days after receipt of written notice from the other Party; (d) any unauthorized assignment of a Party's rights or obligations hereunder; (e) any breach of the confidentiality provisions of this Agreement; (f) a Party (i) makes an assignment or any general arrangement for the benefit of creditors; (ii) files a petition or otherwise commences, authorizes or acquiesces to the commencement of a proceeding or cause of action with respect to it under any bankruptcy proceeding or similar laws for the protection of creditors, or has such petition filed against it and such petition is not withdrawn or dismissed within thirty (30) days after such filing; (iii) otherwise becomes insolvent (however evidenced); or (iv) is unable to pay its debts as they fall due; or (g) Customer entry into an agreement for any ESI ID(s) identified on Offer Sheet that would prevent or interfere with the performance under this Agreement for the ESI ID(s) identified on Offer Sheet. If an event of Default listed in subsection (f) above occurs, the Event of Default will be deemed to have automatically occurred just prior to such event.

**9.2 Remedies upon an Event of Default.** If either Party defaults and fails to cure within fourteen (14) calendar days written notice of the default (such written notice to prominently display the term "Default Notice" and fully specify the claimed default), then the Non-Defaulting Party may, in its sole discretion, terminate this Agreement and pursue all remedies available. The Defaulting Party will promptly pay the Non-Defaulting Party the Early Termination Charge.

## SECTION 10: Miscellaneous Provisions

**10.1 Waiver.** A waiver by either Party of any breach of the Agreement, or failure of either Party to enforce any of the terms and provisions of the Agreement, will not in any way affect, limit or waive that Party's right to subsequently enforce and compel strict compliance with the same or other terms or provisions of the Agreement.

**10.2 Assignment.** Neither Party may assign the Agreement in whole or in part without the other Party's prior written consent, which consent shall not be unreasonably withheld provided that; (a) HES may assign the Agreement to another REP, without Customer's prior consent and such REP shall agree in writing to be bound by this Agreement; and (b) HES will not withhold its consent if Customer assigns this Agreement provided the assignee meets HES' standard credit requirements and agrees to be bound by the terms of this Agreement. Upon any valid

assignment of the Agreement, the other Party hereby agrees that the assigning Party shall have no further future obligations under this Agreement.

**10.3 Severability.** Any provision, article, or section declared or rendered unlawful by a court of law or regulatory agency with jurisdiction over the Parties, or deemed unlawful because of a statutory change, shall not otherwise affect the other lawful obligations that arise under this Agreement. In the event that any provision of this Agreement is declared invalid, the Parties shall promptly negotiate to restore this Agreement as near as possible to its original intent.

**10.4 Entire Agreement; Amendments.** This Agreement constitutes the entire understanding between the Parties, and supersedes and replaces any and all previous understandings, oral or written, in any matter relating to the subject matter hereof including any separate confidentiality agreement. This Agreement may be amended only upon mutual agreement of the Parties, which amendment shall not be effective unless evidenced in writing and executed by the Parties.

**10.5 Emergency, Outage and Wire Service.** In the event of an emergency, outage or service need, Customer must call the TDSP for the service area of the ESI ID experiencing the emergency, outage or service need.

**10.6 Customer Care.** Customer may contact HES Customer Care if Customer has specific comments, or questions toll free at 1-866-HUDSON4, between the hours of 8:00 AM – 5:00 PM.

**10.7 Governing Law.** This Agreement will be governed by and construed and interpreted in accordance with the laws of the State of Texas, without giving effect to the conflict of law principles and venue will be in Travis County, Texas. Subject to the Dispute Resolution provision set forth in Section 10.8, the Parties hereby irrevocably and unconditionally submit to the exclusive jurisdiction of the state or federal courts of Texas for any matters to arise under this Agreement and which are not settled.

**10.8 Dispute Resolution.** Any dispute arising under this Agreement, which is not disposed of by mutual agreement between Customer and HES shall be resolved in as provided for in Chapter 2260 of the Government Code.

In addition to complying with Chapter 2260 of the Government Code, the Customer and HES shall comply with the rule published in the Texas Administrative Code, Title 37, Public Safety and Corrections, Part VI, Texas Department of Criminal Justice, Chapter 155, Reports and Information Gathering, Subchapter C, Procedures for Resolving Claims and Disputes.

At all times during the course of the dispute resolution process, HES shall continue with providing services as directed, in a diligent manner and without delay, shall conform to the Customer's directive, decision or order, and shall be governed by all applicable provisions of this Agreement. Records of the services performed shall be kept in sufficient detail to enable payment in accordance with applicable provisions of this Agreement, if this should become necessary.

This provision shall not be construed to prohibit HES from seeking any other legal or equitable remedy to which it is entitled.

**10.9 Counterparts; Facsimile Copies.** This Agreement shall be executed in counterparts, all of which shall constitute one and the same Agreement and each of which shall be deemed an original. A facsimile copy of either Party's signature shall be considered an original for all purposes under this Agreement along with any amendments pursuant to 10.4 above, and each Party shall provide its original signature upon request.

**10.10 Offer for Electric Service.** Customer shall receive in connection with this Agreement one or more Offer Sheets with various pricing and term options related to the electric service provided hereunder. Customer shall execute and return one Offer Sheet prior to the expiration date to the facsimile number, set forth therein. Such Offer Sheet shall constitute an offer by Customer to HES. The Offer Sheet shall be deemed accepted by HES unless Customer receives notification of non-acceptance by 5:00 PM Central Prevailing Time ("CPT"), unless Offer Sheet is received after 4:00 PM CPT in which case notification shall be made by 10:00 AM CPT the following business day. Upon acceptance of the Offer Sheet by HES, the Offer Sheet shall constitute a part of and be deemed incorporated into this Agreement.

**10.11 Confidentiality.** Parties agree that the terms and conditions of this Agreement and any Offer Sheets shall remain confidential, except that such confidential information shall not include information required to be disclosed by law.

**10.12 "Authority to Audit"** HES understands that acceptance of funds under this Agreement acts as acceptance of the authority of the State Auditor's Office, or any successor agency, to conduct an audit or investigation in connection with those funds. HES further agrees to cooperate fully with the State Auditor's Office or its successor in the conduct of the audit or investigation, including providing all records requested. HES will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through HES and the requirement to cooperate is included in any subcontract it awards. HES will reimburse the State of Texas for all costs associated with enforcing this provision.

**10.13 "Fraud, Waste, or Abuse"** In accordance with Texas

Government Code, Chapter 321, the State Auditor's Office (SAO) is authorized to investigate specific acts or allegations of impropriety, malfeasance, or nonfeasance in the obligation, expenditure, receipt or use of state funds. If there is a reasonable cause to believe that fraud, waste or abuse has occurred at this agency, it can be reported to the SAO by calling 1-800-892-8348 or at the SAO's website at [www.sao.state.tx.us](http://www.sao.state.tx.us). It can also be reported to the TDCJ Office of the Inspector General at 1-866-372-8329, the TDCJ Internal Audit Division at 512-406-5935, or Crime Stoppers at 1-800-832-8477.

**10.14 "Indemnification"** HES shall indemnify and save the Customer, the Texas Board of Criminal Justice, the State of Texas and its officers, agents and employees (hereinafter the State) harmless from and against:

Any and all claims arising from the conduct, management or performance of the Agreement by HES, its agents, subcontractors or employees, including, without limitation, any and all claims arising from:

Any breach or default on the part of HES in the performance of any covenant or agreement on its part to be performed, pursuant to the terms of this Agreement;

Any act or negligence of HES or any of its agents, subcontractors, servants, employees or licensees;

Any accident, injury or damage whatsoever caused to any person, firm or corporation.

All costs, reasonable attorney's fees, expenses and liabilities incurred in or about any such claim, action or proceeding brought thereon.

Nothing herein is intended to deprive the State or HES of the benefits of any law limiting exposure to liability and/or setting a ceiling on damages, or any laws establishing defenses for them. By entering into this Agreement, the State does not waive its right of sovereign immunity, nor does HES waive any immunity that may extend to it by operation of law. The aforementioned indemnification shall not be affected by a claim that negligence

of the State or its respective agents, contractors, employees or licensees contributed in part to the loss or damage indemnified against.

**10.15 "Texas Public Information Act"** Notwithstanding any provisions of this IFB to the contrary, HES understands that Customer will comply with the Texas Public Information Act (Chapter 552, Government Code) as interpreted by judicial opinions and opinions of the Attorney General of the State of Texas. Information, documentation, and other material in connection with this solicitation or any resulting contract may be subject to public disclosure pursuant to the Texas Public Information Act.

#### **SECTION 11: Definitions**

The following terms shall have the meanings set forth below. All other capitalized terms used herein shall have the meaning given such terms in the following rules, regulations, protocols and documents of the indicated governmental authorities (and in the event of any conflict, the applicable term shall be given the definition when first defined in the following order of priority: PURA, the PUCT Substantive Rules, and the ERCOT Protocols).

**11.1 "Actual Usage"** means the actual amount of electric energy (in kWh) used at the ESI IDs as determined by the TDSP.

**11.2 "Basis Adjustment"** means the difference between the Settlement Point Price for the applicable Hub and the Load Zone Settlement Price Point. The Basis Adjustment shall be included in the Energy Price.

**11.3 "Delivery Charges"** include, but are not limited to: Transmission and Distribution Charges, System Benefit Fund Charge, Nuclear Decommissioning Charge, Competitive Transition Charge, Standard Power Metering Charge, Customer Charge, Merger Savings and Rate Reduction Credit, Excess Mitigation Credit and Utility Imposed Reactive Power Charges.

**11.4. "ERCOT"** means the Electricity Reliability Council of Texas.

**11.5 "ERCOT Protocols"** means the document adopted, published and amended from time to time by ERCOT, and approved by the PUCT to govern electric transactions in the ERCOT region, including any attachments or exhibits referenced in the document, which document contains the scheduling, operating, planning, reliability, and settlement policies, rules, guidelines, procedures, standards and criteria of ERCOT, or any successor document thereto.

**11.6 "Early Termination Charge"** means: (a) with respect to a Customer Event of Default, Customer's Remaining Volume multiplied by the difference per kWh obtained by subtracting the market price for similarly situated customers existing at the time of the Default from the Energy Price; plus all transmission, delivery costs, penalties and any other charges incurred by HES as a result of the termination; plus all applicable taxes; plus HES's associated costs and reasonable legal expenses related to determining the liquidated damages and the enforcement of HES's rights and remedies; and (b) with respect to a default by HES, Customer's Remaining Volume multiplied by the difference per kWh obtained by subtracting the Energy Price from the market price for similarly situated customers existing at the time of the Default; plus all transmission, delivery costs, penalties and any other charges incurred by Customer as a result of the termination; plus all applicable taxes; plus Customer's associated costs and reasonable legal expenses related to determining the liquidated damages and the enforcement of Customer's rights and remedies. The parties agree that it would be difficult or impossible to determine the precise amount of damages that would result from a Party's default, that the Early Termination Charge set forth herein represents a fair and reasonable estimate thereof, and that said



Early Termination Charge constitutes liquidated damages and not a penalty.

11.7 "Energy Price" means as to each ESI ID the per kWh price for such ESI ID as set forth on the Offer Sheet.

11.8 "ESI IDs" means the Electric Service Identifiers, whether one or more, of the property service addresses identified on the Offer Sheet.

11.9 "Expired Term Price" means as to any ESI ID during any renewal period pursuant to Section 1, one of the following as selected by HES: the greater of (a) the Energy Price as set forth on the Offer Sheet, or (b) Market Rate as determined for all of the ESI IDs and their applicable Congestion Zones and Settlement Intervals.

11.10 "Index Price" means as to each ESI ID the hourly Load Zone Settlement Point Price established in the Day-Ahead Market as those terms are defined in the ERCOT Protocols in which such ESI ID is located. In no event shall any Load Zone Settlement Point Price interval be less than \$0.00 per kWh.

11.11 "kWh" means kilowatt hour.

11.12 "Market Rate" means one hundred forty percent (140%) of the Index Price determined for any delivery period.

11.13 "Material Change" means (a) any judicial decision, order, new law or regulation, or change in the application of any applicable law that alters the market structure in ERCOT (including the imposition of any installed capacity charge),

requires a change in the method by which prices are calculated under this Agreement or materially affects HES' ability to perform its obligations under this Agreement; or (b) a change in Customer operations that adversely affects Customer's load profile (for settlement purposes), or usage pattern.

11.14 "Non-Recurring Charges" means any charges imposed by the TDSP or other third parties on a non-recurring basis for services, repairs or additional equipment needed for Customer's electric service.

11.15 "PUCT" means Public Utility Commission of Texas.

11.16 "PUCT Substantive Rules" are as set forth in Public Utility Commission Substantive Rules Chapter 25.

11.17 "PURA" means the Public Utilities and Regulatory Act, as amended from time to time.

11.18 "Remaining Volume" In the event of an early termination of this agreement, the Remaining Volume shall be the amount of remaining expected Customer Energy usage at the time of the Termination, determined with reference to Customer's electricity usage in each calendar month during the twelve (12) month period immediately preceding the early termination. Such estimated monthly usage figures shall be applied to the remaining months of the Term.

11.19 "REP" means Retail Electric Provider

11.20 "Taxes" means all taxes, assessments, levies, duties, charges, fees and withholdings of any kind and all penalties, fines, and additions to tax, and interest thereon that are directly related to the services provided under this Agreement and assessed or imposed by federal, state, municipal or local government or other authority. By way of example only, "Taxes" includes: Sales Tax and Franchise Fees.

11.21 "Term" is defined as the time period between the Start Date and the regularly scheduled meter read date in the End Month as specified on the Offer Sheet.

11.22 "Transmission and Distribution Service Provider" or "TDSP" means an entity regulated by the State of Texas, responsible for transmitting or distributing electric energy to retail customers on behalf of electric retail suppliers like HES.

IN WITNESS WHEREOF, the Parties, by their respective duly authorized representatives, have executed this Agreement effective as of the Effective Date. This Agreement will not become effective as to either Party unless and until executed by both Parties.

TEXAS DEPARTMENT OF CRIMINAL JUSTICE

By:

Print Name: Brad Livingston

Title: Executive Director

Date: 5/19/16

HUDSON ENERGY SERVICES, LLC

By:

Print Name: Jim Brown

Title: President

Date: 5/7/16

Approved By Legal



PUCT License 10092

**Offer Sheet for: Texas Department of Criminal Justice**  
**Offer Number: H16051822212047**

696-FD-17-18-U029  
 Page 1

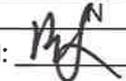
Offer for Electric Service: 5/18/2016 -- Expiration Time: 4:00 PM CST  
 Please return signed Offer Sheet and Agreement to 1-888-893-9882

**Offer Specifics**

Term:	<b>12 Month</b>	Start Date:	<b>1/1/2017</b>
Customer Charge:	<b>\$0.00</b>	Avg Monthly Usage:	<b>8,444,098</b>
Deposit:	<b>\$0.00</b>	Annual Usage:	<b>101,329,181</b>
Payment Term (days):	<b>30</b>	Term Usage:	<b>101,325,644</b>
	Energy Price	Usage Percentage	
Fixed Rate Product	<b>\$0.03010</b>	<b>100%</b>	

**Included Meters**

ESIID	Service Address	Start Date	End Date	Avg kWh/Month	Term Usage	Spcl Mtr Read
10204049707461656	3282 N Us Highway 277 Unit 2 San Angelo TX 769058533	01/05/2017	01/05/2018	15,759	189,114	N
10204049708461170	15800 Fm 164 Unit Camp Childress TX 792017918	01/27/2017	01/27/2018	80,787	969,452	N
10204049726920090	15000 Fm 164 Unit Dogpen Childress TX 79201	01/27/2017	01/27/2018	9,136	109,649	N
10204049729448150	14100 County Road W Childress TX 79201	01/27/2017	01/27/2018	1,438	17,259	N
10204049710114170	15800 Fm 164 Childress TX 792017918	01/27/2017	01/27/2018	2,327	27,923	N
10204049729816280	15754 Fm 164 Childress TX 792017932	01/27/2017	01/27/2018	8,370	100,446	N
10204049718911430	12071 Fm 3522 Unit Robtson Abilene TX 796018749	01/21/2017	01/21/2018	3,258,232	39,094,437	N
10204049734556071	14080 County Road W Childress TX 79201	01/27/2017	01/27/2018	1,663	19,957	N
10204049734556072	14080 County Road W Unit 400mv Childress TX 792010000	01/27/2017	01/27/2018	159	1,914	N
10204049722378458	3282 N Us Highway 277 Unit 1 San Angelo TX 769058533	01/05/2017	01/05/2018	7,533	90,402	N
10204049736837783	14120 County Road W Childress TX 792010000	01/27/2017	01/27/2018	4,353	52,242	N
10204049724845110	15800 Fm 164 Unit 400hps Childress TX 792017918	01/27/2017	01/27/2018	315	3,781	N
10204049736837784	14120 County Road W Unit 400mv Childress TX 792010000	01/27/2017	01/27/2018	159	1,914	N
10204049768491980	15800 Fm 164 Unit 250 Hps Childress TX 792017918	01/27/2017	01/27/2018	104	1,256	N
10204049737708430	12071 Fm 3522 Unit Foodbnk Abilene TX 796018749	01/21/2017	01/21/2018	185	2,230	N
10204049769165087	3282 N Us Highway 277 Unit 4 San Angelo TX 769058533	01/05/2017	01/05/2018	428	5,139	N
10204049742365579	3282 N Us Highway 277 Unit 3 San Angelo TX 769058533	01/05/2017	01/05/2018	5,909	70,919	N
10204049770381109	15845 Fm 164 Childress TX 792017919	01/27/2017	01/27/2018	1,056	12,681	N
10204049742423500	15800 Fm 164 Childress TX 792017918	01/27/2017	01/27/2018	46	552	N
10204049751691680	13055 Fm 3522 Unit Mddlton Abilene TX 796018759	01/21/2017	01/21/2018	1,139,106	13,667,057	N
10204049783733121	17764 County Road 311 Abilene TX 796018632	01/21/2017	01/21/2018	2,463	29,568	N
10204049764309490	15800 Fm 164 Unit 400mv Childress TX 792017918	01/27/2017	01/27/2018	159	1,914	N
10400513366150001	1500 E I-10 Hwy Fort Stockton TX 79735	01/01/2017	01/01/2018	138,403	1,660,837	N
10400513555100001	1098 S Fm 2037 Unit Lynach Fort Stockton TX 79735	01/01/2017	01/01/2018	323,086	3,877,039	N
10400513576110001	Belding Rd Fort Stockton TX 79735	01/01/2017	01/01/2018	10,923	131,082	N

Initial: 



PUCT License 10092

Offer Sheet for: Texas Department of Criminal Justice
Offer Number: H16051822212047

696-FD-17-18-U029
Page 2

Offer for Electric Service: 5/18/2016 -- Expiration Time: 4:00 PM CST
Please return signed Offer Sheet and Agreement to 1-888-893-9882

Table with 8 columns: ESIID, Service Address, Start Date, End Date, Avg kWh/Month, Term Usage, Spcl Mtr Read. Contains 40 rows of service data.

Initial: [Signature]



PUCT License 10092

Offer Sheet for: Texas Department of Criminal Justice  
Offer Number: H16051822212047

696-FD-17-18-U029  
Page 3

Offer for Electric Service: 5/18/2016 -- Expiration Time: 4:00 PM CST  
Please return signed Offer Sheet and Agreement to 1-888-893-9882

ESIID	Service Address	Start Date	End Date	Avg kWh/Month	Term Usage	Spcl Mtr Read
10443720006796979	4176 Fm 1800 Wast Breckenridge TX 76424	01/19/2017	01/19/2018	133	1,603	N
10443720006796948	4176 Fm 1800 Barn Horse Breckenridge TX 76424	01/19/2017	01/19/2018	365	4,384	N
10443720009354015	2101 Fm 369 N Trlr Wichita Falls TX 76301	01/19/2017	01/19/2018	0	0	N
10443720006754695	725 W Interstate 20 Colorado City TX 79512	01/28/2017	01/28/2018	5,606	67,276	N
10400513630060001	1210 Coryell City Rd Gatesville TX 765282913	01/01/2017	01/01/2018	320,164	3,841,977	N
10443720006780239	1675 S County Rd 202 Colorado City TX 79512	01/28/2017	01/28/2018	1	14	N
10443720009547549	701 Mcdonald Odessa TX 79761	01/14/2017	01/14/2018	5,429	65,155	N
10443720007884769	4176 Fm 1800 Breckenridge TX 76424	01/19/2017	01/19/2018	31	378	N
10443720006162689	@smith Prison Site Lamesa TX 79331	01/19/2017	01/19/2018	577,086	6,926,789	N
10443720004960818	1911 40th St Snyder TX 79549	01/13/2017	01/13/2018	1,751	21,021	N
10443720006306900	1675 S Cr 202 Colorado City TX 79512	01/14/2017	01/14/2018	399,756	4,797,132	N

Initial:

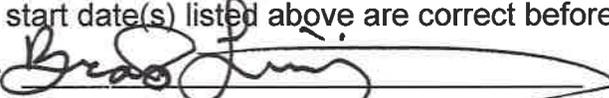


**Offer Sheet for: Texas Department of Criminal Justice**  
**Offer Number: H16051822212047**

Offer for Electric Service: 5/18/2016 -- Expiration Time: 4:00 PM CST  
Please return signed Offer Sheet and Agreement to 1-888-893-9882

PUCT License 10092

To ensure Hudson Energy Services, LLC can accurately serve your energy needs and avoid potential cancellation penalty, please ensure that the ESI ID(s) and start date(s) listed above are correct before signing.

Customer Signature: 

Customer Name: Brad Livingston (please print)

Title: Executive Director (please print)

Effective Date: 5/19/16 (please complete with today's date)

This Offer Sheet is not a binding offer to provide electricity and related services, it shall only become binding and enforceable when executed in accordance with the terms & conditions specified in the Agreement and nothing herein shall be deemed to require Hudson Energy Services, LLC to enter into any such agreement.

**TDSP CHARGE NON-INCLUSION STATEMENT**

CUSTOMER INITIALS: 

Customer acknowledges its understanding that regulated transmission and delivery charges are not included in the above pricing and will appear on the Customer's bill as a separate line item. These charges vary by Customer and by TDSP, may change based on regulatory action during the term of the Agreement, and are entirely outside of Hudson Energy Services, LLC's control. Hudson Energy Services, LLC makes no guarantee, representation or promise regarding TDSP charges.