

# PJMnet Network Connection

## Limited Use Agreement

**This Limited Use Agreement** (this “Agreement”) is by and between User and PJM Interconnection, L.L.C., a Delaware limited liability company, with offices located at 2750 Monroe Blvd., Audubon, PA 19403 (“Grantor”). User and Grantor shall be referred to herein individually as a “Party,” or collectively, as the “Parties.”

**1. Grant of Use and Provision of Equipment.** Subject to the timely payment of all amounts due, completion and approval by Grantor of the [Telecommunications Request Form](#), continued performance of all obligations hereunder, and all other limitations herein, Grantor hereby grants User the right (on a revocable, non-exclusive, non-transferable, internal use only basis) to use the PJMnet network connection(s) and associated equipment (i.e., router, modem, etc.) (the “Equipment”) provided by the Grantor solely to access Grantor’s network. The Parties acknowledge that the Grantor retains ownership of the Equipment, and User represents that it shall only utilize such Equipment for the specific purposes contemplated herein.

## **2. Term of Agreement.**

a. **Term.** This Agreement shall become effective on the date the PJMnet network connection is activated (the “Effective Date”) and continue in effect until Grantor or User terminates the Agreement pursuant to Sections 2 (b) and 2 (c) hereof.

b. **Termination by User.** User may terminate this Agreement for any reason at any time, by written notice to Grantor; provided, however, User’s termination shall not entitle the User to any refund of any portion of the Fees (as defined below), and User shall continue to be obligated for any and all Fees or other charges owed to Grantor (including all fees incurred by Grantor related to User’s use of the Equipment) upon User’s termination of this Agreement. Upon such termination, User shall (within ten (10) business days) return the Equipment to Grantor.

c. **Termination by Grantor.** Grantor reserves the right to discontinue or otherwise make unavailable all or any part of the Materials or Service(s) (as such terms are defined herein) at any time upon sixty (60) days prior written notice to User. Grantor may also terminate this Agreement upon default in accordance with the provisions of Section 8 below. Upon such termination, User shall (within ten (10) business days) return the Equipment to Grantor. Notwithstanding the foregoing, Grantor reserves the right to cancel for cause without prior written notice.

d. **Termination Required by Law.** Grantor may terminate this Agreement if required to do so by any statute, regulation or ordinance enacted by any governmental authority having jurisdiction over User or Grantor, by any order or other decision of a court of law or governmental agency, as required by said statute, regulation, ordinance, order or decision, or due to the general discontinuance of the Service(s) causing the impossibility of continuance of this Agreement. At least sixty (60) days notice of said termination shall be given by Grantor, unless a shorter notice period is required by the applicable statute, regulation, ordinance, order or decision.

**3. Responsibilities of the Parties.** Grantor is responsible for providing telecommunications circuit(s) for PJMnet network equipment and the logical configuration of this equipment. User is responsible for the extension of the telecommunications circuits from site telecommunications demarcation facilities to the PJMnet router, racking the equipment in a safe non-volatile environment, connecting the equipment to the telecommunications circuits through the User-provided extension, and connecting the PJMnet equipment to the User site's internal Local Area Network. User is also responsible for the provisioning of a POTS (Plain Old Telephone Service) analog line for each router and the costs associated with this POTS line. Grantor is not responsible to design, configure, monitor, or troubleshoot any equipment connected to the PJMnet equipment by use of the Ethernet interfaces. User is responsible to design, configure, monitor, and troubleshoot the site's Local Area Network connected to the PJMnet equipment Ethernet interfaces, including any configuration of the User's equipment including, but not limited to firewalls, routers, switches, servers, and RTUs required to facilitate access to the Service(s). User must use the PJMnet connection for the purpose it was provisioned, which is reporting and/or receiving real-time values by use of phasor, Inter-control Center Communication Protocol (ICCP) or Distributed Network Protocol (DNP3) communications. While acting under this Agreement, User is responsible to abide by all statutes, regulations and ordinances enacted by any governmental authority having jurisdiction over User and/or Grantor, and shall abide by such orders or other decisions of a court of law or governmental agency, as required by said statute, regulation, ordinance, order or decision. User warrants it shall operate the Equipment in accordance with all PJM Agreements and Manuals, and all regulations, including but not limited to applicable NERC CIP Standards.

**4. Fees.** The fees associated with this Agreement shall include:

a. **Set-up Fee.** Initial fee, which shall include a deposit, to install the PJMnet connection and design/configure the phasor, ICCP, or DNP3 communications links to be charged by Grantor to User which shall be the amount(s) set forth in Schedule "A" attached hereto. Commencement of the installation shall not occur until receipt of deposit as specified in Schedule "A."

b. **User Fee.** Ongoing/recurring fees as set forth in Schedule "A."

c. **Payment Terms.** The Set-up Fee deposit (as specified in Schedule "A") shall be payable upon User's acceptance (pursuant to submitting a completed Telecommunications Request Form) of this Agreement, and is due in accordance with standard Grantor invoice practices. The balance of the Set-up Fee shall be due in accordance with standard Grantor invoice practices.

d. **Taxes.** User shall pay all sales, use, value added taxes, and other consumption taxes, personal property taxes and other taxes (other than those based on Grantor's net income) unless User furnishes satisfactory proof of exemption. Taxes, if any, are not included in the Fees and will be added to User's invoice. If not so added, such taxes are the exclusive responsibility of User.

**5. Authorized User.** The rights granted herein are granted only to User and User's employees authorized by User to access the Service(s) (the "User's Authorized Users"). User shall be responsible for the compliance by any User's Authorized Users with the terms of this Agreement. User shall not grant access to the Service(s) to any other entity, including any affiliates of User.

**6. Acceptance of Terms.** Grantor makes the data, information, documents and/or Equipment, (collectively, the "Materials") and various services, including the provisioning of PJMnet connection(s) (collectively, the "Service(s)") available subject to the terms and conditions set forth herein or elsewhere on Grantor's website (collectively, the "Terms of Use"). By accessing, viewing or using the Materials or Service(s), User accepts and agrees to be bound by the Terms of Use. Grantor reserves the right to change or add to the Terms of Use from time to time at its sole discretion. User's continued access to the Materials and Service(s) will be subject to the most current version of the Terms of Use posted on Grantor's website at the time of such use, and signifies User's agreement to be bound by the modified Terms of Use. If User breaches any of the Terms of Use, User's authorization to use the Materials and Service(s) shall terminate as contained herein, and User agrees that Grantor may exclude User from the Service(s) and the provision of Materials. Upon any such termination User must agree to immediately destroy any Materials downloaded or printed, return the Equipment to Grantor within ten (10) business days, and discontinue use of any Service(s). User Fee will continue until the Equipment is received by Grantor. User shall continue to be obligated for any and all Fees or other charges owed to Grantor (including all fees incurred by Grantor related to User's use of the Equipment) upon User's termination of the License.

**7. Use of Service(s) and Materials.**

a. User may utilize the Service(s) and view, download and print the Materials available provided that User:

- (1) uses the Service(s) only for User's own internal informational purposes.
- (2) does not modify or alter the Materials or Service(s) in any way.
- (3) does not copy or distribute any graphics separate from their accompanying text and User does not quote material out of its context.
- (4) does not remove any copyright, trademark, service mark or other proprietary notices contained in the Materials or Service(s).
- (5) may not distribute, publish, transmit, display, sell, license, lease or otherwise transfer, furnish or make available to any third party any of the Materials or Service(s) or information or materials derived from any Materials or Service(s).
- (6) may not make the Materials or Service(s) or any information or materials derived from any Materials or Service(s) publicly available.
- (7) does not use the Materials or Service(s) in any unlawful manner.
- (8) may not use the Equipment provided for any purpose other than to access the Service(s) contemplated herein.

b. User may use the Materials and Service(s) only for the purposes set forth herein and for no other purpose.

**8. Default and Termination.**

a. Default. The occurrence of any of the following shall be considered a "Default":

- (1) User fails to perform any of its material duties or obligations under this Agreement or the Terms of Use, which default is not substantially cured within five (5) business days after written notice is given to User specifying such default; provided however that if the nature of User's default is such that more than five (5) business days

are reasonably required to cure, then such default shall be deemed to have been cured if User commences such performance within said five (5) business day period and thereafter diligently completes the required action within a reasonable time thereafter.

(2) User fails to pay the Fees or any other charges due to Grantor within five (5) business days of their due date.

(3) User, or the User's Authorized Users, alters, tampers with, intentionally damages or destroys any element of the Materials and/or Service(s).

(4) User, or the User's Authorized Users, uses the Materials and/or Service(s) in any manner that, directly or indirectly, violates any law, rule, code or regulation (as described in Section 3 herein) or aids any unlawful act or undertaking.

(5) All or substantially all of User's assets are attached or levied under execution (and User does not discharge the same within sixty (60) days thereafter); a petition in bankruptcy, insolvency or for reorganization or arrangement is filed by or against User (and User fails to secure a stay or discharge thereof within sixty (60) days thereafter); User is insolvent and unable to pay its debts as they become due; User makes a general assignment for the benefit of creditors; User takes the benefit of any insolvency action or law; the appointment of a receiver or trustee in bankruptcy for User or its assets if such receivership has not been vacated or set aside within thirty (30) days thereafter; or dissolution or other failure to exist of User if User is an entity.

(6) In addition to the defaults described above, the Parties agree that if User receives written notice of a violation of the performance of any particular material term or condition of this Agreement or the Terms of Use three (3) or more times during any twelve (12) month period, regardless of whether such violations are ultimately cured, then such conduct shall, at Grantor's option, represent a separate Default subject to Termination.

b. Termination Upon Default.

(1) Unless timely cured as provided in Section 8(a)(1), Grantor may suspend or terminate the Agreement upon giving five (5) business days notice to User if User defaults in the performance of any of its obligations under this Agreement as set forth in Section 7(a) herein.

(2) Grantor may suspend or terminate the Agreement immediately upon giving written notice to User of any default or breach of the Sections 8(a)(2), 8(a)(3), 8(a)(4), 8(a)(5) or 8(a)(6), herein.

**9. Intellectual Property.** The Materials and Service(s) are protected by copyright and/or other intellectual property laws and any unauthorized use of the Materials and/or Service(s) may violate such laws related to their protection. Except as expressly provided herein, Grantor does not grant any express or implied right or license of any kind to User under any patents, copyrights, trademarks, or trade secret information with respect to the Materials or other information within the Service(s). Except as expressly provided by copyright law or the Terms of Use, User may not copy, distribute, modify, publish, sell, transfer, license, transmit, display,

participate in the transfer or sale of, create derivative works of, or in any way exploit (commercially or otherwise) any of the Materials or Service(s), either in whole or in part. User acknowledges that User does not acquire any ownership rights by downloading copyrighted material.

#### **10. Limited Warranty; Disclaimer of Warranty.**

a. The Materials and Service(s) (i) are being provided by Grantor from sources believed by Grantor to be reliable; and, (ii) to the best of Grantor's knowledge, are true and accurate in both form and content. However, Grantor does not warrant that the information on the Service(s) is correct, complete, current or accurate, and it does not warrant that the software programs in the Service(s) will be error free or bug free.

b. THE SERVICE(S) IS PROVIDED "AS IS" AND GRANTOR MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE ADEQUACY OR PERFORMANCE OF THE SERVICE(S), AND GRANTOR HEREBY DISCLAIMS ANY SUCH WARRANTIES, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE OR ANY IMPLIED WARRANTIES ARISING FROM ANY COURSE OF DEALING, USAGE OR TRADE PRACTICE. USER ACKNOWLEDGES THAT SERVICE DISRUPTIONS MAY OCCUR FROM TIME TO TIME.

c. User is solely responsible for the protection, security and management of usage and security of its computer network. Grantor will not compensate User for damages incurred due to security violations of the security of User's computer network, nor shall User make deductions or set offs of any kind for any Fees or other charge due to Grantor resulting therefrom.

#### **11. Limitation of Liability.**

a. USER ASSUMES FULL RESPONSIBILITY AND RISK OF LOSS RESULTING FROM ITS USE OF THE SERVICE(S) AND THE MATERIALS. GRANTOR'S SOLE LIABILITY FOR SERVICE DISRUPTION, PERFORMANCE OR NONPERFORMANCE BY GRANTOR OR IN ANY WAY RELATED TO THESE TERMS OF USE, WHETHER CAUSED BY THE NEGLIGENCE OR INTENTIONAL ACTIONS OF GRANTOR OR OTHERWISE, AND REGARDLESS OF WHETHER THE CLAIM FOR DAMAGES IS BASED IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, IS LIMITED TO AN AGGREGATE AMOUNT EQUAL TO THE SET-UP FEE PAID BY USER TO GRANTOR. IN NO EVENT SHALL GRANTOR BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, EXEMPLARY OR OTHER INDIRECT DAMAGES REGARDLESS OF CAUSE, NOR FOR ECONOMIC LOSS, LOSS OF USE, LOSS OF DATA, LOSS OF BUSINESS, PERSONAL INJURIES OR PROPERTY DAMAGES SUSTAINED BY THE USER OR ANY THIRD PARTIES, EVEN IF GRANTOR HAS BEEN ADVISED BY USER OR ANY THIRD PARTY OF SUCH DAMAGES. GRANTOR DISCLAIMS ANY LIABILITY FOR ERRORS, OMISSIONS OR OTHER INACCURACIES IN ANY PART OF THE MATERIALS AND/OR SERVICE(S), OTHER INFORMATION COMPILED OR PRODUCED BY AND FROM OR INPUT INTO THE SERVICE(S), OR IN CONNECTION WITH USE OF THE SERVICE(S) OR ANY WEBSITE REFERENCED IN OR LINKED TO FROM THE SERVICE(S).

WITHOUT LIMITING THE FOREGOING, GRANTOR MAKES NO WARRANTY THAT (1) THE SERVICE(S) OR MATERIALS WILL MEET USER REQUIREMENTS; (2) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE(S) OR MATERIALS WILL BE EFFECTIVE, ACCURATE OR RELIABLE; (3) THE QUALITY OF ANY PRODUCTS, SERVICE(S) OR INFORMATION PURCHASED OR OBTAINED BY USER FROM THE SERVICE(S) WILL MEET USER EXPECTATIONS; AND (4) ANY ERRORS IN ANY SOFTWARE OBTAINED FROM THE SERVICE(S) WILL BE CORRECTED.

THE MATERIALS AND/OR SERVICE(S) COULD INCLUDE TECHNICAL OR OTHER MISTAKES, INACCURACIES OR TYPOGRAPHICAL ERRORS. GRANTOR MAY MAKE CHANGES TO THE MATERIALS OR SERVICES AT ANY TIME WITHOUT NOTICE. THE MATERIALS OR SERVICES MAY BE OUT OF DATE, AND GRANTOR MAKES NO COMMITMENT TO UPDATE SUCH MATERIALS OR SERVICE(S).

THE USE OF THE MATERIALS OR SERVICE(S) OR THE DOWNLOADING OR OTHER ACQUISITION OF ANY MATERIALS IS DONE AT USER'S OWN DISCRETION AND RISK AND WITH USER'S AGREEMENT THAT USER WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE OR LOSS OF ANY KIND WHATSOEVER USER MAY SUFFER, INCLUDING, WITHOUT LIMITATION, DAMAGE TO USER'S COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM SUCH ACTIVITIES. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY USER FROM GRANTOR SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THIS AGREEMENT.

b. The provisions of this Section 11 shall be the sole remedy and recourse of User for any Losses incurred by User hereunder. User understands and acknowledges that it shall look solely to the assets of Grantor for the payment of any Losses and that if the assets of Grantor are insufficient to pay all or any part of those amounts, that User shall have no recourse against any director, officer, shareholder, any member of a shareholder, employee or agent or corporate affiliate for that purpose.

**12. Viruses.** Grantor assumes no responsibility, and shall not be liable for any damages to, or viruses that may infect User's equipment or other property on account of User's access to, use of any information or the use of the Service(s) or downloading of any Materials.

**13. Indemnification.** User hereby releases, discharges and agrees to defend, indemnify, and hold harmless Grantor, its wholly owned subsidiaries and all corporate affiliates of Grantor and their respective directors, officers, employees and agents from and against any and all claims (including third party claims), causes of action, whether in contract, tort or any other legal theory (including strict liability), demands, damages, costs, liabilities, losses and expenses (including reasonable attorneys' fees and court costs) of any nature whatsoever ("Losses") arising out of, resulting from, attributable to or related to User's use of the Service(s) or the Materials, User's violation of the Terms of Use, or User's violation of any rights of another person or entity, including, but not limited to any Losses arising out of or related to (1) Grantor's own negligence; (2) any inaccuracy, error, or delay in or omission of (a) any data, information, Materials or Service(s), or (b) the transmission or delivery of any data, information, Materials or Service(s); (3) any interruption of any such data, information, Materials or Service(s) (whether or not caused

by Grantor); or (4) any financial, business, commercial or other judgment, decision, act or omission based upon or related to the Materials or Service(s).

**14. No Assignment, Transfer or Encumbrance by User.** Neither this Agreement nor any rights under this Agreement may be assigned, sublicensed, encumbered, pledged, mortgaged or otherwise transferred by User, in whole or in part, whether voluntary or by operation of law without the express prior written consent of Grantor, which consent shall not be unreasonably withheld.

**15. Force Majeure.** Neither Party shall be deemed to have breached any provision of this Agreement as a result of any delay, failure in performance, or interruption of service resulting directly or indirectly from acts of God, network failures, acts of civil or military authorities, civil disturbances, wars, terrorism, energy crises, fires, floods, strikes or other labor disturbances, riots, embargoes, transportation contingencies, fuel shortages, interruptions in third-party telecommunications or Internet equipment or service, other catastrophes, or any other occurrences which are beyond the claiming Party's reasonable control and which, by the exercise of due diligence, the claiming Party is unable to overcome or avoid or cause to be avoided.

**16. Severability.** If any part of this Agreement is held to be unenforceable or illegal by a court or governmental administrative agency, such holding shall not affect the validity of the other parts of this Agreement, which will at all times remain in full force and effect.

**17. Waiver.** The waiver of a breach or the failure to require at any time performance of any provision of this Agreement will not operate or be interpreted as a waiver of any other or subsequent breach nor in any way affect the ability of either Party to enforce each and every such provision thereafter. The express waiver by either Party of any provision, condition or requirement of this Agreement shall not constitute a waiver of any future obligation to comply with such provision, condition or requirement.

**18. Notices.** All notices permitted or required under this Agreement shall be in writing and shall be delivered in person, by first class, registered or certified mail, postage prepaid, or by overnight courier service to the address of the Party specified above or such other address as either Party may specify in writing. Service of notice shall be effective on the earlier of actual receipt or the second business day after the day of mailing via first class mail. For service of notice via email or facsimile, it shall be deemed received on the day said notice was sent to the other Party.

**19. Governing Law and Dispute Resolution.** This Agreement shall be governed by the laws of the Commonwealth of Pennsylvania without regard to its rules on conflicts of laws and the Parties expressly agree that the Uniform Computer Information Transactions Act shall not apply to this Agreement. User hereby consents to the personal jurisdiction of the state and federal courts in Pennsylvania, acknowledges that venue is exclusive and proper in any state or federal court in Pennsylvania, agrees that any action arising out of or related to this Agreement must be brought in a state or federal court in Pennsylvania, and waives any objection that may exist, now or in the future, with respect to any of the foregoing. Each Party shall be responsible for the payment of all of its defense costs associated with the resolution of said dispute whether in arbitration or before a court of law, including but not limited to any filing fees, arbitrator fees, its reasonable attorneys' fees and other costs incurred in such proceeding, provided that if a dispute is initiated in bad faith, the Party initiating the dispute shall be responsible for all of the

other Party's defense costs. The Parties agree that neither may bring a claim nor assert a cause of action against the other, in any forum or manner, more than one (1) year after the cause of action accrued, except where the Party could not have reasonably discovered the wrong giving rise to the claim within one (1) year.

**20. Amendments.** Grantor has the right at any time to change or modify this Agreement or the Terms of Use, or any part thereof, or to impose new conditions, including, without limitation, adding fees and/or charges for access to or use of the Materials or Service(s). Such changes, modifications, additions, or deletions shall be effective immediately upon notice, which may be given by any means including, without limitation, posting on the Grantor's website, or by electronic or conventional mail, or by any other means. Any use of the Materials or Service(s) by User after such notice shall be deemed to constitute acceptance of such changes, modifications, additions, or deletions.

**21. Export Control.** Grantor does not authorize the downloading or exportation of technical data from these Materials or Service(s) to any jurisdiction prohibited by the United States Export Laws and User shall neither violate, permit a third party to violate nor assist any third party in violating any United States Export Laws which may be applicable to technical data available on this Service(s).

**22. Capitalized Terms.** Any capitalized terms contained herein that are not otherwise defined herein shall have the meanings as such terms are defined in the Terms of Use.

**23. Entire Agreement.** This Agreement, including any and all exhibits attached hereto, represent the entire agreement of the Parties and supersedes any preprinted or conflicting terms in any other prior or contemporaneous oral or written agreements and any and all other communication.

**24. Links.** Grantor makes no claim or representation regarding, and accepts no responsibility for, the quality, content, nature, or reliability of sites accessible by hyperlink from the Service(s), or sites linking to the Service(s). The inclusion of any link does not imply affiliation, endorsement, or adoption by Grantor. When leaving the Service(s), User should be aware that Grantor's terms and policies no longer govern, and therefore User should review the applicable terms and policies, including privacy and data-gathering practices, of that site.

**25. Survival.** The terms of Sections 4 (Fees), 8 (Default and Termination), 10 (Warranty), 11 (Limitation of Liability), 13 (Indemnification), and any other provisions meant to survive termination or expiration of this Agreement, shall survive the expiration or earlier termination of this Agreement.

BY SUBMITTING THE TELECOMMUNICATIONS REQUEST FORM LOCATED ON THE PJM WEBSITE, THE USER IS AGREEING TO THE FOREGOING TERMS OF USE, REPRESENTING THAT USER HAS READ AND UNDERSTOOD THE FOREGOING TERMS OF USE AND THAT USER IS THE DULY AUTHORIZED REPRESENTATIVE OF THE COMPANY OR OTHER BUSINESS ENTITY EMPLOYING USER WITH THE POWER AND ABILITY TO ACCEPT THESE TERMS OF USE ON USER'S OWN BEHALF AND ON BEHALF OF SUCH COMPANY OR OTHER BUSINESS ENTITY.



## SCHEDULE A

### FEES

Set-up Fee Deposit: \$10,000

Set-up Fee Balance: Varies depending upon location, type of connection, and selected protocol. Estimated Set-up Fee Balance can be provided by Grantor's designated client manager.

User Fee: Varies depending upon location, type of connection, and selected protocol. Estimated User Fee can be provided by Grantor's designated client manager.

Payment Terms: Payment is due in accordance with standard Grantor invoice practices.

All fees above are pursuant to Schedule 11A of the Open Access Transmission Tariff.