

# **Think Energy, LLC - OHIO Electricity Supply**

## **Residential and Small Commercial Fixed Price Terms of Service**

### **Think Basic**

#### **Background**

This is an agreement between Think Energy, LLC, ("Think") a Competitive Retail Electricity Supplier ("CRES") and you ("Customer") under which Customer shall obtain electricity generation supply service and begin enrollment with Think (the "Agreement"). Think is certified by the Public Utilities Commission of Ohio ("PUCO") to offer and supply electricity generation supply services in Ohio. Our certificate number for electricity supply is 11-407E(1). You will continue to receive a bill from your Electric Distribution Utility ("EDU") for all electricity supply and delivery charges. Your EDU will continue to provide all emergency repairs and services. Think is not affiliated with and does not represent your EDU.

**1. Agreement to Sell and Purchase Energy.** These Terms & Conditions, together with your Contract Summary, your voice-recorded verification of authorization or electronic enrollment, as applicable, your Welcome Letter, and any other enrollment materials, collectively describe your agreement with respect to your purchase of electric supply service from Think ("Agreement") and constitute your contract with Think. Subject to the terms and conditions of this Agreement, Think agrees to sell and deliver, and Customer agrees to purchase and accept the quantity of electricity as necessary to meet Customer's requirements based upon consumption data obtained by Think from the EDC. Subject to Think's acceptance of this Agreement and enrollment by your EDU, you agree to become a Think customer and appoint Think as your limited agent to perform the necessary tasks associated with your supply service and fulfill the terms of this agreement. Think agrees to sell and deliver to you, and you agree to purchase and accept, the quantity of electricity delivered to you, as measured or estimated by your EDU, all in accordance with the prices and other terms and conditions set forth in this agreement. Your electricity will be delivered to you by your EDU. Customer warrants that he/she is the account holder and/or fully authorized to enter into this Agreement for the electricity account(s) specified and confirmed in the contract summary. This Agreement is contingent upon Customer providing complete and accurate information to Think and subject to final acceptance by Think.

**2. Right of Rescission - Your EDU will send you a notice to confirm your choice of Think for electricity supply. You may cancel your electricity Agreement with no penalty within seven (7) calendar days from the postmark date of the notice that your EDU sends with your enrollment confirmation by contacting your EDU.**

**3. Term.** Your service will begin on the next available meter reading date after the enrollment is processed by the EDU. The Term of this Agreement is reflected on the Final Page of this Agreement, starting with the first month that you receive service from Think. The Term for the initial period is referred to as the "Initial Term".

**4. Price, Billing, and Monthly Fee - This is a fixed price agreement.** The price that you will pay per kWh for electricity generation supply during the Initial Term is reflected on the Final Page of this Agreement. This price includes Transmission Charges, generation, Renewable Portfolio Standard ("RPS"), and generation related charges, but does not include EDU distribution charges or taxes. Think does not offer budget billing for the supply portion of the bill. Customer's electric utility may charge switching fees. Customer has the right to request from Think twice within a twelve-month period, up to twenty-four months of the customer's payment history without charge. Please note that historical pricing is not indicative of present or future pricing. You will be responsible for any and all taxes that apply to your electricity supply. These taxes and fees will be included on a separate line item on your billing statement. If you enrolled on a plan that includes a monthly fee in addition to your fixed rate for electricity supply, then for each billing cycle of the Initial Term, you will also pay a fee equal to the amount listed on your Contract Summary. The monthly fee will appear on your monthly invoice from your EDC.

**5. Agreement Expiration/Change in Terms** - Unless otherwise agreed to, upon completion of an Initial Term, this Agreement will automatically renew without Customer's affirmative consent even if there is a change in the rate, terms or conditions. Unless otherwise stated, this agreement will automatically renew on a month-to-month basis with a monthly variable rate methodology. Think will provide you with a written notice forty-five (45) to ninety (90) days prior to the expiration of this Agreement which will include a copy of your terms and conditions of service for the renewal. If a customer switches back to the EDU for supply service, they may or may not be served under the same rates, terms and conditions that apply to other customers served by the EDU.

**6. Assignment.** You may not assign this Agreement to any other person without the express written consent of Think or its successor in interest, as applicable. An assignment made by you without such required consent by Think will have no effect. Think may assign this Agreement to another energy supplier, energy services company or other entity authorized by the PUCO upon thirty (30) days prior written notice to customer. Think may assign this Agreement together with all rights and obligations hereunder, (i) to Think's electricity supplier, or such supplier's designee, (ii) to an affiliate of Think or to any other person or entity succeeding to all or substantially all of Think's assets, (iii) in connection with a sale of all of Think's equity; (iv) in connection with any financing or other financial arrangement, or (v) to another retail supplier. Consent is not required from you for Think to assign or pledge (whether absolute, collateral, or any other assignment or pledge), nor for any grant of a security interest in, or right to payment under this Agreement, and shall be binding on you and your successors. After assignment, Think will have no further obligations under this Agreement.

**7. Cancellation** - Residential Customers may terminate this Agreement for any reason at any time, with no fee or penalty, by providing written notice to Think via email at [care@thinkenergy.com](mailto:care@thinkenergy.com) or U.S. mail, or by contacting us at 1-888-923-3633. Small Commercial Customers may terminate this Agreement for any reason at any time, subject to an early termination fee of \$20 per month for each month remaining in the Term, by providing written notice to Think via email at [care@thinkenergy.com](mailto:care@thinkenergy.com) or U.S. mail, or by contacting us at 1-888-923-3633. Think may cancel this agreement at any time upon providing thirty (30) days written notice to Customer. Common reasons for Think to cancel this agreement would include: Non-Payment: Think may terminate this agreement upon 14 calendar days written notice if customer fails to pay the bill or fails to meet any agreed upon payment arrangement. If your electricity service is terminated by your EDU, then this Agreement is cancelled on the date that your service is terminated. You will owe us for amounts unpaid for our charges for electricity generation service up to the date of termination. Customer Move - Customer may terminate this Agreement if Customer moves outside of an area served by Think or into an area where Think charges a different price. If we cancel this Agreement for any reason other than for customer non-payment, we will follow applicable rules in providing notice to you. If Think terminates this Agreement early, you will be returned to your Utility's default service unless you choose another retail supplier, without penalty.

**8. Information Release Authorization.** Customer authorizes Think to obtain and review the following information from the EDU: consumption history; billing determinants; and account number. This information may be used by Think to determine whether it will commence and/or continue to provide energy supply service to Customer. Customer authorizes Think to obtain and review information regarding Customer's credit history from credit reporting agencies in order to determine whether the Customer is eligible for promotional items. The information referenced in this paragraph will not be disclosed to a third party unless required by law. Think will not disclose a customer's Social Security number and/or account number without Customer's written consent except for Think's own collections and credit reporting, participation in programs funded by the Universal Service Fund pursuant to Section 4928.52 of the Ohio Revised Code or assigning a customer contract to another supplier certified to do business in Ohio. The Customer's social security number, account number(s) or any other customer information will not be released without the customer's express written consent except in accordance with rules 4901:1-28-04 and 4901:1-29.09 of the Administrative Code. Customer's execution of this Agreement shall constitute authorization for the release of this information to Think. This authorization will remain in effect during the Initial Term and any renewal

term. Customer may rescind this authorization at any time by providing written notice thereof to Think or by calling Think at 1-888-923-3633 Monday through Friday 8:00 a.m. to 8:00 p.m. ET (contact center hours subject to change without notice). Think reserves the right to cancel this Agreement in the event Customer rescinds the authorization.

**9. Agency-Electric:** Customer hereby designates Think as agent to: (a) arrange and administer contracts and service agreements between Customer and Think and those entities including the PJM Interconnection engaged in the generation, transmission and delivery of Customer electricity supplies; and (b) nominate and schedule with the appropriate entities including the EDU for the delivery of electricity to the Delivery Point and the Customer's end-use premises. Think, as agent for the Customer, will schedule the delivery of adequate supplies of electricity that meet the Customer's requirements as established by the EDU and in response to information provided by the EDU. These services are provided on an arm's length basis and market-based compensation is included in the rate noted above.

**10. Force Majeure.** Think will make commercially reasonable efforts to provide your electric service, but does not guarantee a continuous supply of electricity. Certain causes and events out of Think's reasonable control may result in interruptions of service. Think will not be liable for any such interruptions or any other failure to perform under this Agreement caused by a Force Majeure Event. Force Majeure events shall include, but shall not be limited to, acts of terrorism, strikes, labor troubles required maintenance work, inability to access the local distribution utility system, sabotage, acts of God, pandemics, changes in law, rules, or regulations or other acts of governmental authority, and events beyond Think's control occurring with respect to the EDU, PJM Interconnection LLC, or other third-party systems or assets. Customer and Think both agree that the following shall specifically be included in the definition of "Force Majeure" under this Agreement and that Think shall have the right to terminate or modify the Agreement without liability: (i) if default service procurement process results in a default service price that is less than the comparable generation and transmission prices in effect as of the effective date of this Agreement, or (ii) if retail electricity choice is no longer permitted for your customer class. In the event that this Agreement is terminated, you will be returned to your EDC's default service. Think is not responsible for transmitting or distributing electricity.

**11. Payment Provisions-** Customer will receive one (1) bill each month issued by your EDU which will include Think's charges. Customer will make all payments for Think's electricity charges to your EDU. Your EDU maintains the right to terminate service for any unpaid utility or supplier charges, pursuant to the PUCO'S regulations. The failure to pay electric utility charges may result in the customer being disconnected in accordance with the electric utility tariff. Think reserves the right to issue you a separate bill for its charges instead of having the EDC bill for Think's charges. If Think issues you a separate bill, Think will provide instructions for payment to Think directly for its charges.

**12. Dispute Procedures-** In the event of a billing dispute or a disagreement involving Think's service hereunder, the parties will use their best efforts to resolve the dispute. Customer may contact Think by telephone or in writing, as provided below. If your complaint is not resolved after you have called Think and/or your Local Utility, or for general utility information, residential and business customers may contact the Public Utilities Commission of Ohio (PUCO) for assistance at 1-800-686-7826 (toll free) from eight a.m. to five p.m. weekdays, or at <http://www.puco.ohio.gov>. Hearing or speech impaired customers may contact PUC via 7-1-1 (Ohio Relay Service). The Ohio consumers' counsel (OCC) represents residential utility customers in matters before the PUCO. The OCC can be contacted at 1-877-742-5622 (toll free) from eight a.m. to five p.m. weekdays, or at <http://www.pickocc.org>.

### **13. Contact Information:**

**Supplier Information:**  
**Think Energy, LLC**

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P. O. Box 1288  
Greens Farms, CT 06838

Customer service: 1-888-923-3633 Monday through Friday 8:00 a.m. to 8:00 p.m. ET (contact center hours subject to change without notice);

You may email Think Energy at: [care@thinkenergy.com](mailto:care@thinkenergy.com)

### **Utility Information**

AEP Ohio: 1-800-672-2231

Cleveland Electric Illuminating Company: 1-800-589-3101

Dayton Power and Light Co.: 1-800-253-5801 (Business), 1-800-433-8500 (Residential)

Duke Energy Ohio: 1-800-544-6900 (Home), 1-800-774-1202 (Business)

Ohio Edison Company: 1-800-633-4766

Ohio Power Company: 1-800-672-2231

The Toledo Edison Company: 1-800-447-3333

**14. Arbitration, Waiver of Jury Trial, and Class Action Waiver. PLEASE READ THIS SECTION CAREFULLY. IT AFFECTS YOUR RIGHTS. TO THE FULLEST EXTENT PERMITTED BY LAW, ANY DISPUTE ARISING OUT OF OR RELATING TO THIS AGREEMENT, INCLUDING CLAIMS ARISING IN CONTRACT, TORT, STATUTORY OR OTHERWISE, SHALL BE SETTLED EXCLUSIVELY AND FINALLY BY ARBITRATION IN ACCORDANCE WITH THE CONSUMER ARBITRATION RULES AND PROCEDURES OF THE AMERICAN ARBITRATION ASSOCIATION. ANY ARBITRATION PROCEEDING HEREUNDER SHALL BE CONDUCTED EXCLUSIVELY IN OHIO. BY ENTERING INTO THIS AGREEMENT, CUSTOMER AGREES TO BINDING ARBITRATION AND WILL NOT PURSUE ANY FURTHER ACTION IN A COURT OF LAW. CUSTOMER WILL NOT HAVE THE RIGHT TO PARTICIPATE IN A REPRESENTATIVE CAPACITY OR AS A MEMBER OF ANY CLASS OF CLAIMANTS PERTAINING TO ANY CLAIM SUBJECT TO ARBITRATION. Think's Arbitration and Class Action Wavier Policy Addendum, which is available and provided to you during the enrollment process is incorporated herein and made a part hereof, contains additional details and a complete description of the terms and conditions of the Arbitration and Class Action Waiver Policy, including your ability to opt out.**

**15. Limitation of Liability.** You will be deemed to be in exclusive control (and responsible for any damages or injury caused thereby) of the electric power after receipt at the delivery point or points. THINK WILL NOT BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY, OR INDIRECT DAMAGES (INCLUDING LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES), WHETHER BY STATUTE, IN CONTRACT OR TORT, EVEN IF THE RESULT OF NEGLIGENCE (WHETHER SOLE, JOINT, CONCURRENT, ACTIVE, OR PASSIVE). ALL OTHER LIABILITY WILL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, AND SUCH DIRECT ACTUAL DAMAGES WILL BE THE SOLE AND EXCLUSIVE REMEDY. YOU HEREBY WAIVE ALL OTHER REMEDIES AT LAW OR IN EQUITY. THERE ARE NO THIRD-PARTY BENEFICIARIES TO THIS AGREEMENT. To the extent any damages required to be paid hereunder are liquidated, the parties acknowledge that the damages are not intended and shall not be construed as a penalty, such damages are difficult or impossible to determine, that otherwise obtaining an adequate remedy is inconvenient or impossible, and that the liquidated damages constitute a reasonable approximation of the harm or loss. These limitations apply without regard to the cause of any liability or damages. There are no third-party beneficiaries to this Agreement.

**16. Warranties.** THINK MAKES NO REPRESENTATION OR WARRANTIES, EITHER EXPRESSED OR IMPLIED, WITH REGARD TO THE PROVISION OF ELECTRIC SERVICE AND DISCLAIMS ANY AND ALL WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR ARISING OUT OF ANY COURSE OF DEALING OR USAGE OF TRADE.

**17. Choice of Laws.** This Agreement shall be construed under and shall be governed by the laws of the State of Ohio without regard to the application of its conflicts of law principles.

**18. Taxes.** Except as otherwise provided in the Agreement or provided by law, all taxes of whatsoever kind, nature and description due and payable with respect to service provided under this Agreement, other than taxes based on Think's net income, shall be paid by Customer, and Customer agrees to indemnify Think and hold Think harmless from and against any and all such taxes.

**19. Regulatory or Other Changes.** This Agreement is subject to present and future legislation, orders, rules, regulations or decisions of a duly constituted governmental authority having jurisdiction over this Agreement or the services to be provided hereunder. In the event that there is a change (including a change in interpretation) in law, regulation, rule, ordinance, order, directive, filed tariff, decision, writ, judgment, or decree by a governmental authority, regulatory body, or the regional Independent System Operator or RTO, or in the event any of the foregoing which is existing as of the date of this Agreement is implemented or differently administered, including, without limitation, changes in tariffs (including, but not limited to transmission, storage, or capacity costs), protocols, market rules, load profiles, capacity tags, demand measures, or changes in market or commodity prices which impacts any term, condition, or provision of this Agreement, including, but not limited to price, we shall have the right to modify this Agreement to reflect such change in law or regulation by providing written notices as set forth herein and obtaining customer consent..

**20. Emergency Service.** Your EDU will continue to respond to emergencies. In the event of a gas leak, service interruption or other emergency, Customer should immediately call the EDU at the numbers listed above.

**21. Environmental Characteristics and Electric Generation Mix.** Information regarding the generation sources and environmental characteristics of the electricity supplied by Think is available at [www.thinkenergy.com](http://www.thinkenergy.com)

**22. Parties Bound.** This Agreement is binding upon the parties hereto and their respective successors and legal assigns. Customer and Think have caused this Agreement to be executed by individuals authorized to bind each party, and Customer has reviewed all of the terms herein.

**23. Promotion Eligibility.** If you selected a Think product that is associated with a promotion, see the Promotion Terms document for details about eligibility. Think Energy's *Think Basic* product is not associated with a promotion. If you selected the *Think Basic* product, you are not eligible to receive a promotion. If you are on a renewal term, you are not eligible for any promotion unless the Promotion Terms expressly state otherwise.

**25. Think's Communication Policy.** By using Think's website, services or products or contacting Think, you agree to Think's Communications Policy. **Think's Communications Policy, which is available and provided to you during the enrollment process, is incorporated herein and made a part hereof, contains additional details and a complete description of the terms and conditions of Think's Communications Policy.**

**26. Community Solar.** By signing this Agreement, you authorize Think Energy to share your information with Think's affiliate, Energywell Community Solar, LLC ("Energywell"), which may contact you to offer a subscription to a community solar program in your area.

**27. Forward Contract and UCC.** You and Think acknowledge and agree that the transactions contemplated by this Agreement constitute "forward contracts" within the meaning of the United States Bankruptcy Code ("Bankruptcy Code"), and further acknowledge and agree that Think is a "forward contract merchant," as that term is used in the Bankruptcy Code. Except as otherwise provided for in this Agreement, the provisions of the Uniform Commercial Code of Ohio ("UCC") shall govern this Agreement, and energy shall be deemed a "good" for purposes of the UCC.

**28. No Waiver.** Any failure by Think to enforce any term or condition of Customer's electric service or otherwise exercise any right it may have under this Agreement will not be deemed a waiver of any rights to thereafter enforce any or all of the terms or conditions of Customer's service or to exercise rights under this Agreement.

**29. Severability.** Should any provision of this Agreement for any reason be declared invalid or unenforceable by final and applicable order by a court, arbitrator, or any regulatory body having jurisdiction, such decisions shall not affect the validity of the remaining portions, and the remaining portions shall remain in effect as if this Agreement had been agreed to without the invalid portion. If any provision of this Agreement is declared invalid, the remainder of this Agreement will be construed so as to give effect to its original intent and effect as near as possible.

**30. Survival.** All representations, warranties, indemnifications, dispute resolution and arbitration provisions and limitations of liability contained in this Agreement shall survive the termination of this Agreement, as well as any other obligations of the parties hereunder which, by its terms, would be expected to survive such termination or which relate to the period prior to termination (including legal conditions, payment, and Think's rights and the rights of others).

**31. Entire Agreement.** This Agreement, including an agreement for arbitration and class action waiver, along with the Enrollment Documentation, Arbitration and Class Action Waiver Policy Addendum, Communications Policy, disclosure documents, renewal notices, and any and all other related documents, whether oral or written, constitute the entire agreement between you and Think relating to the subject matter hereof and supersede any other agreements, written or oral, between you and Think or any of its agents concerning the subject matter of the Agreement.

**32. Electronic Signatures.** The parties acknowledge and agree that this Agreement and all related agreements and documents related to the Services may be executed by electronic signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature. Without limitation, "electronic signature" shall include faxed versions of an original signature or electronically scanned and transmitted versions (for example, via a PDF) of an original signature.

**33. Written Notice.** Written notice includes, but is not limited to, notice by electronic mail to a valid e-mail address provided by you. By entering into this Agreement, you authorize us to send written notices to you through electronic mail or other electronic means, as permitted by law. The decision to send written notices to you via electronic mail or other electronic means is at our sole discretion. If the e-mail address or phone number you provide to us at enrollment becomes invalid, you agree to timely provide us with an updated, valid e-mail address or phone number to which we will send written notices. You are solely responsible for providing us with a valid e-mail address and phone number.

*[Final Page to Follow]*

## TERMS AND CONDITIONS – FINAL PAGE

As part of the Terms & Conditions, Think confirms your electricity supply rate, the term of this rate, and your customer information, as reflected below:

**Electricity Supply Rate:** 7.79 cents per kWh

**Monthly Fee:** \$19.99

**Term:** 5 billing cycles

The information below reflects the date and time of your acceptance of the Terms & Conditions:

**Customer Name and Authorized Representative** (if applicable)

**Signed**

**Date**