



**Appendix A – Load Shifting Initiative Aggregator Agreement**

**PON EM-016-2024**

## AGGREGATOR AGREEMENT

The business entity identified on the signature page of this Aggregator Agreement (the “Aggregator”) has submitted an application in response to the Efficiency Maine Trust (the “Trust”) Demand Management Program – Load Shifting Initiative Program Opportunity Notice (PON EM-016-2024). As a condition of the PON EM-016-2024 application process, the Aggregator has agreed to accept and comply with the terms and conditions of this Agreement if it is selected as one of the Trust’s approved Aggregators under the Demand Management Program (the “Program”). This Agreement will become effective and binding on the Aggregator and the Trust if the Trust issues the Aggregator a written notice of incentive award under the Program.

In consideration of the approval of the Aggregator’s application for participation in the Program and the opportunity to receive incentive award payments from the Trust pursuant to the terms and conditions of PON EM-016-2024 (which terms and conditions are incorporated in this Agreement), the Aggregator hereby agrees to the terms set forth in this Aggregator Agreement (“Agreement”).

### INTRODUCTION

Certain Maine residential and small commercial ratepayers are eligible to participate in the Trust’s Load Shifting Initiative (“LSI”) by enrolling either directly or through an approved Aggregator (each, a “Customer” and collectively, the “Customers”). A Customer may select to participate in the LSI via an Aggregator, in which case such Customer and the Aggregator will enter a separate agreement under which the Aggregator will manage the Customer’s participation in the Program (each, a “Customer Agreement”). A Customer that has engaged the Aggregator for such services is called an “Aggregator Customer.” An Aggregator Customer is a customer of the Aggregator only and shall have no direct contract with the Trust.

The Aggregator represents and warrants to the Trust that, prior to the submission of an application for a demand response allocation under the Program, it shall have legally valid and binding Customer Agreements pursuant to which the Aggregator has agreed to provide the curtailment services and make demand response payments to the Aggregator Customer to the extent they are earned under the terms and conditions of the Program.

### AGGREGATOR PARTICIPATION TERMS AND CONDITIONS

The Aggregator agrees to and shall comply with the following terms and conditions (“Terms and Conditions”).

1. Aggregator represents and warrants that it will not seek any payments from the Trust until it has a legally-valid and executed Customer Agreement with the relevant Aggregator Customer. Such Customer Agreement will include terms and conditions under which the Aggregator agrees to provide the curtailment services and pursuant to which the Aggregator Customer is to be paid for participation in the Program from the Aggregator directly. Aggregator must make a clear and conspicuous disclosure in the Customer Agreement if it intends to split or share in any portion of the Customer incentive payment. Payments earned for Customer participation in the Program will be made to the Aggregator by the Trust and the Aggregator, in turn, agrees to make any payments due to the Aggregator Customer in accordance with its Customer Agreement. The payment amount will be determined by the Trust in accordance with the calculation methodology in the PON EM-016-2024, as may be amended (the “Program Materials”). Aggregator must comply with the Trust’s instructions in order to receive payment, including, without limitation, certain invoicing

requirements.

2. For the avoidance of doubt, in no event shall the Trust be obligated to make any payments unless earned in accordance with the terms of the Program, and in no event shall the Trust be obligated to make any direct payments to a Aggregator Customer. Except as provided in this Agreement, the Trust has no liability or obligations whatsoever in connection with the Program or any Customer Agreement. The Trust is a quasi-state agency and governmental entity and expressly reserves all limitations and immunities from liability as permitted under applicable law, including, without limitation, the Maine Tort Claims Act. In no event shall the Trust be liable or responsible for any indirect, incidental, consequential, or exemplary damages of any kind arising under or relating to this Agreement or the Program.
3. THE TRUST MAKES NO REPRESENTATION OR WARRANTY, AND ASSUMES NO RESPONSIBILITY OR LIABILITY WITH RESPECT TO THE QUALITY, SAFETY, PERFORMANCE, OPERATIONAL CAPABILITY, RELIABILITY, OR ANY OTHER ASPECT OF ANY DESIGN, SYSTEM, OR EQUIPMENT INSTALLED OR USED IN CONNECTION WITH A CUSTOMER'S OR AGGREGATOR'S PARTICIPATION IN THE TRUST DEMAND RESPONSE INITIATIVE. CUSTOMERS AND AGGREGATORS ARE SOLELY RESPONSIBLE FOR THE PERFORMANCE, AVAILABILITY, RELIABILITY, AND SAFETY OF THEIR OWN SYSTEMS AND EQUIPMENT. THE TRUST DOES NOT MAKE ANY REPRESENTATIONS OF ANY KIND REGARDING THE BENEFITS OR ENERGY SAVINGS TO BE ACHIEVED BY a CUSTOMER OR AGGREGATOR THROUGH PARTICIPATION IN THE TRUST'S DEMAND RESPONSE INITIATIVE.
4. The Aggregator shall indemnify, hold harmless, and defend the Trust and its officers, trustees, employees, and agents (collectively, the "Indemnified Party") from and against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including attorneys' fees, that are incurred by Indemnified Party (collectively, "Losses"), arising out of or related to any third-party claim alleging: (a) breach or non-fulfillment by Aggregator of any provision of this Agreement or any Customer Agreement; (b) any negligent or more culpable act or omission of Aggregator or its employees or agents (including any reckless or willful misconduct) in connection with the performance of its obligations under this Agreement or any Customer Agreement; (c) any bodily injury, death of any person, or damage to real or tangible personal property caused by the negligent or more culpable acts or omissions of Aggregator or its employees or agents; or (d) any failure by Aggregator or its employees or agents to comply with any applicable federal, state or local laws, regulations, or codes in the performance of its obligations under this Agreement or any Customer Agreement. The Aggregator shall comply with all applicable laws, regulations, and ordinances in the performance of this Agreement and each Customer Agreement. The Aggregator shall reimburse any amounts paid by the Trust that were procured in violation of the law or the terms and conditions of the Program.
5. The Aggregator agrees to comply with the applicable PON EM-016-2024 Program Materials and terms. Except during any Commitment Period as defined below, Aggregator understands that the Trust, in its sole discretion and without notice, may revise the Program Materials and/or suspend or terminate the Program. Notwithstanding the foregoing payments owed under this Agreement prior to the date of any such revision, suspension and/or termination will be honored pursuant to the Program Materials and terms in effect at the time such Aggregator and Customer Payments were earned. For purposes of this Agreement, "Commitment Period" means the time period during which

the demand response events are called and as further described in the Program Materials. For electric demand response initiatives, this will be the from enrollment through September 30, 2024.

6. For each Customer Agreement executed after the Effective Date, the Aggregator agrees to include in such Customer Agreement references to the Trust's PON EM-016-2024 Program Materials, the location of such Program Materials, and language notifying Customer that the Trust's terms and conditions for Customer's participation in the demand response initiative are included in the Program Materials.
7. The Aggregator is an independent contractor. No agency, partnership, joint venture, or other joint relationship is created by this Agreement.
8. The Aggregator shall not issue any press releases or make any other public announcements regarding the existence of this Agreement of the Program without the Trust's prior written consent.
9. The Trust grants the Aggregator a limited, no fee, revocable, non-sublicensable, non-transferable and non-exclusive license to use the Trust's Marks to promote the Program provided any use of the Trust's Marks by the Aggregator must (a) be reviewed and approved by the Trust prior to such use, and (b) strictly comply with the Trust's Mark usage guidelines and requirements provided to the Aggregator. The Trust retains all rights and title to the Trust's Marks. "The Trust's Marks" means Trust trademarks, service marks, trade dress, domain names, entity names, brand names, product names, proprietary logos, and symbols.
10. The initial term for this Agreement is one year and may be renewed annually in (1) year renewal terms unless terminated by either Party with thirty (30) days' prior written notification to the other party. This Agreement will terminate without notice requirement upon termination of the Program. The Trust will still provide to Aggregator all Customer Payments owed prior to the Agreement's date of termination or expiration that are to be sent to Aggregator in accordance with the terms of the Program.
11. It is expressly agreed and understood by the Aggregator that all energy usage profile information or other utility data of any identifiable public utility customer, including name, address, email address, and telephone number, is confidential and shall not be used or disclosed by the Aggregator, its personnel or subcontractors, except as authorized by the Trust and as strictly necessary for the performance of authorized services and Program participation, and for no other reason. The Aggregator shall take all necessary steps to protect confidential information, including the proper care, custody, use, and preservation of records, papers, files, communications, and any such items that may reveal confidential information about persons served by the Trust, or whose information is utilized in order to accomplish the purposes of this Agreement. The Aggregator acknowledges its obligation to observe and comply with the terms of the Efficiency Maine Confidential Information Management System Policy ("CIMS Policy") attached as Appendix B to the PON EM-016-2024 Program Materials.
12. Aggregator may not assign this Agreement without the Trust's prior written consent, which may be granted, denied, or conditioned in the Trust's discretion. Waiver by either party of any breach does not waive any other breach. Failure of any party to insist on strict performance of any covenant or obligation in accordance with this Agreement will not be a waiver of such party's right to demand

strict compliance in the future, nor will the same be construed as a novation of this Agreement. If any provision, or part thereof, under this Agreement is declared illegal or otherwise unenforceable, it shall be severed from this Agreement without affecting the legality or enforceability of the remaining provisions. This Agreement (including all exhibits, attachments, and referenced documents, including the PON EM-016-2024 Program Materials and CIMS Policy) constitutes the entire agreement between the parties regarding the participation of the Aggregator as a curtailment service provider under the Program and supersedes all prior agreements, representations, warranties, promises and information, ether oral or written, express or implied, with respect to the subject matter hereof.

- 13. The Aggregator agrees that with the exception of Sections 7 and 9 of this Agreement, the terms of this Agreement shall apply retroactively to and after the date the Aggregator first entered into a Customer Agreement with a Customer. Sections 2, 3, 4, 8, 11, 13, and 14 of this Agreement will survive termination and expiration of this Agreement. Section 4 of this Agreement will terminate six (6) years after the termination and expiration of this Agreement.
- 14. This Agreement shall be governed and construed in accordance with the laws of the State of Maine, without regard to its choice of law provisions. The Aggregator irrevocably submits to the jurisdiction of the state and federal courts located in the State of Maine

Intending to be bound, the Aggregator identified below has executed this Agreement through its authorized representative.

Aggregator Entity Name:

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By:

Its:

Date:

State of Incorporation/Organization:

Address: