



**DISTRICT ENERGY
SHARING SYSTEM**

**TERMS &
CONDITIONS OF
SERVICE**

Effective March 6, 2020.

These Terms and Conditions set out the provisions pursuant to which the Blatchford Renewable Energy Utility (the “Utility”) will supply Services to users within the DESS Area of the Blatchford Development as identified on Schedule A [DESS Area]. The Utility has made arrangements with EPCOR Energy Alberta GP Inc. to perform the Utility’s customer care, billings and payment obligations, in a manner that is consistent with the Terms and Conditions.

These Terms and Conditions and the requirements of the DESS Bylaw apply to the Utility and its relationship with all of its Customers. Every Customer, by applying for and/or using Services provided by the Utility under the authority of these Terms and Conditions is deemed to have accepted these Terms and Conditions and is bound and subject to them. These Terms and Conditions may be amended by the Utility at any time by providing notice to the Customer through the Utility’s website at blatchfordutility.ca.

Unless otherwise agreed in writing by the Utility, provision of Services by the Utility will occur only in accordance with these Terms and Conditions.

1. DEFINITIONS AND INTERPRETATION

1.1. Definitions

The following words and phrases, whenever used in these Terms and Conditions or in an application, contract, or agreement for service under these Terms and Conditions, shall have the meanings set forth below:

“Account” means a written and/or digital record of use of Thermal Energy Services or other services by a Customer, including the amounts payable from time to time by the Customer to the Utility;

“Affiliate” has the meaning ascribed to it in the *Alberta Business Corporations Act* ;

“Applicant” means a Person bound to become a Customer in accords with these Terms and Conditions;

“Application for Service” means the application referred to in Section 2.1 [Application for Thermal Energy Services] ;

“Building” means any structure used or intended for supporting or sheltering a use or occupancy, such as residential, commercial, institutional and industrial buildings;

“Building Mechanical System” means a mechanical system, including an internal space heating, space cooling and heating of domestic hot water distribution system for a Building;

“Building Mechanical System Report” means a design report for a Building prepared in accordance with the requirements outlined in the DESS Service Requirements or as otherwise approved by the City Manager.

“Business Day” means a day which is not a Saturday, Sunday or statutory holiday in the Province of Alberta, and “day” means any calendar day;

“Charges” means, collectively, the fees and charges specified in Schedule B – Fees and Charges of the DESS Bylaw and attached hereto as Schedule B [*Fees and Charges*], as well as the fees and charges specified in Schedule C [*Supplemental Services Fees and Charges*], as amended from time to time;

“City Manager” means the chief administrative officer of the City of Edmonton or his/her authorized delegate;

“Contaminants” means any radioactive materials, asbestos materials, urea formaldehyde, pollutants, contaminates, deleterious substances, dangerous substances or goods, hazardous, corrosive, or toxic substances, hazardous waste, pesticides, defoliants, or any other solid, liquid, gas, vapour, odour, heat, sound, vibration, radiation, or a combination of any of them, the storage, manufacture, handling, disposal, treatment, generation, use, transport, remediation, or release into the environment of which is now or is hereafter prohibited, controlled, or regulated under environmental laws;

“Customer” means a Person who owns or occupies a Building who is being provided with the Service or a Person who has filed an Application for Service;

“Customer Agreement” means an agreement between the Utility and a Customer for the provision of Service to a Building or Buildings, which Agreement is comprised of an Application for Service and these Terms and Conditions;

“Customer Usage Information” means information regarding the historic use of Energy of a Customer, and includes the Customer’s history of payment for Energy and other Services provided under these Terms and Conditions;

“Delivery Point” means the Energy metering point for a Building determined by the City Manager based on the type of Building and in accordance with the DESS Service

Requirements;

“DESS” or “District Energy Sharing System” means the material, machinery, equipment and fixtures forming part of the energy supply system used for the purpose of heating or cooling the fluid that flows through the Distribution System and the Service Connections and all equipment including the pressure vessels, conduits, pipes, valves, lines, pumps, heat exchangers, Energy Transfer Stations, and Energy Meters together with all fluid, ancillary appliances and fittings necessary to provide Energy to Buildings in the DESS Area and all additions thereto and replacements thereof as such system is expanded, reduced or modified from time to time;

“DESS Area” means the area within the municipal boundaries of the City of Edmonton as identified in Schedule A - Service Area to the DESS Bylaw and in Schedule A [*DESS Area*] to these Terms and Conditions;

“ DESS Bylaw ” means City of Edmonton Bylaw No. 17943, Blatchford Renewable Energy Utility, as amended or updated from time to time;

“DESS Service Requirements” means the district energy sharing system service requirements as determined by the City Manager and provided on the Utility's website at blatchfordutility.ca;

“Distribution System” means the system of pipes, fluids, fittings and ancillary components used for distributing fluids for the purposes of providing Energy to Buildings in the DESS Area including all communications conduit associated with the piping system and the system connecting the Distribution System to the Service Connection including all additions thereto and replacements thereof;

“Energy” means thermal energy provided through fluids provided by the DESS;

“Energy Meter” means an assembly consisting of a flow meter, two temperature sensors and a calculator that measures the amount of Energy consumed by a Customer in kWh;

“Energy Transfer Station” means equipment used to transfer Energy between the Delivery Point and the Building Mechanical System in a Building, and includes pipes for the supply and return water, valves, controls, Energy Meters, heat pumps, pumps, heat exchangers, backup heat sources, storage tanks and ancillary equipment located inside the Energy Transfer Station mechanical room;

“Force Majeure” means circumstances not reasonably within the control of the

Utility, including acts of God, strikes, lockouts or other industrial disturbances, acts of the Queen's enemies, wars, blockages, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, high water, wash outs, inclement weather, orders or acts of civil or military authorities, civil disturbances, explosions, breakdown or accident to equipment, mechanical breakdowns, the intervention of Federal, Provincial, or local governments or any of their agencies or boards, the order or direction of any Court or any other cause, whether of the kind here and enumerated or otherwise, provided that lack of funds shall not constitute a circumstance not reasonably within the control of the Utility;

"Owner" means a Person registered under the *Land Titles Act* as owner of the fee simple, a lessee, or any Person who exercises the power and authority of ownership;

"Person" means an individual or his or her legal representative, an unincorporated organization or association, or a corporation, partnership, trust, trustee, syndicate, joint venture, limited liability company, union, government agency or other entity or organization;

"Premises" means a parcel of land and any Buildings situated on that land;

"Release" means any release, spill, leak, pumping, pouring, emission, emptying or discharge, injection, escape, leaching, migration, disposal, or dumping;

"Service" means the delivery of Energy from and through the DESS to a Delivery Point and through an Energy Meter for use in a Building, and any service provided in connection with the DESS, including but not limited to providing a Service Connection, reactivating existing Service Connections, transferring an existing account, changing the type of service provided or making alterations to existing Service Connections, Energy Transfer Stations and Energy Meters;

"Service Connection" means that portion of the DESS extending from the Distribution System to the Delivery Point as outlined in the DESS Service Requirements;

"Terms and Conditions" means these Terms and Conditions, including the definitions and all schedules hereto, all as amended from time to time by the Utility and as posted to the Utility's website;

"Utility" means the Blatchford Renewable Energy Utility established and operated by the City of Edmonton;

“Utility’s Representatives” means any Person who is an officer, director, employee, agent, contractor, subcontractor, consultant or advisor of the Utility;

1.2. **Conflicts**

If there is any conflict between a provision in these Terms and Conditions, and a provision in any other agreement between the Utility and a Customer, the provision in these Terms and Conditions shall govern unless an express term of the agreement states otherwise. If there is any conflict between a provision in these Terms and Conditions and a provision in the DESS Bylaw, the provision in the DESS Bylaw shall govern.

1.3. **Extended Meanings**

In these Terms and Conditions, words importing the singular number shall include the plural and vice versa, words importing the masculine gender shall include the feminine and neuter genders and vice versa. Words importing a person shall include a person, firm, partnership, corporation, organization or association (including, without limitation, individual of any unincorporated entity).

1.4. **Headings**

The division of these Terms and Conditions into sections, subsections and other subdivisions and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of these Terms and Conditions.

1.5. **Governing Laws**

The provisions contained in the Terms and Conditions and any other document incorporated by reference are governed by the laws of Alberta.

1.6. **No Waiver**

The failure of the Utility or Customer to insist on any one or more instances upon strict performance of any provisions of the Terms and Conditions, or take advantage of any rights hereunder shall not be construed as a waiver of any such provisions or the relinquishment of any such right or any other right hereunder, which shall remain in full force and effect. No provision of the Terms and Conditions shall be deemed to have been waived and no breach excused unless such waiver or consent to excuse is in writing by the party having waived or consented to the excuse.

1.7. Modification

The Terms and Conditions shall not be modified, varied, or amended except by the City Manager. Other than the City Manager, no one else can promise or agree to do anything inconsistent with the Terms and Conditions and, if they do, the promise or agreement is of no force and effect.

1.8. Schedules

The following Schedules are attached to and form a part of these Terms and Conditions:

- a. Schedule A [*DESS Area*] from DESS Bylaw;
- b. Schedule B [*Fees and Charges*] from DESS Bylaw; and
- c. Schedule C [*Supplemental Services Fees and Charges*].

2. GENERAL PROVISIONS

2.1. Application for Thermal Energy Services

- a. Persons seeking to become Customers must apply for Services in accordance with this section. An Application for Service can be made in writing or by phone. At the request of the Utility, Applicants may be required to complete and sign an Application for Service form, which, together with these Terms and Conditions, constitutes a Customer Agreement. These Terms and Conditions shall apply to every Customer. As a condition of accepting, using or receiving Services, the Customer agrees to be bound by these Terms and Conditions and to pay the Charges applicable for such Service.
- b. If an Applicant is requesting Services at more than one Building, the Utility will determine in its sole discretion whether to consider the Applicant the same Customer for all Buildings or to consider the Applicant a separate Customer for each of the Buildings. If an Applicant is requesting Services for more than one unit or area within the same Building, the Applicant will be considered the same Customer for all such unit(s) or area(s). The Utility intends that there will be no more than one Customer per Building.
- c. The Utility may refuse to provide Services to an Applicant if there is an unpaid account for Services in respect of such Applicant or the relevant

Building(s).

2.2. Assignment

A Customer may not assign a Customer Agreement or any of its rights or obligations thereunder without the prior written consent of the Utility, such consent not to be unreasonably withheld. The Utility may assign a Customer Agreement or any of its rights or obligations thereunder (including, without limitation, by way of the sale of its business or its material assets or by way of an amalgamation or other corporate reorganization), to any of its Affiliates or to any other Person without the consent of the Customer, provided such Affiliate or Person is duly qualified to carry out the Customer Agreement and agrees to be bound by the Terms and Conditions of the Customer Agreement. Forthwith upon such assignment, the Utility shall be released from its obligations and responsibilities under the Customer Agreement.

2.3. Obligations of the Utility and of Customers

- a. The Utility will provide Services at the rates set out in the Charges, in accordance with these Terms and Conditions. All Services provided by the Utility to a Customer will be billed to the Customer in accordance with the Charges or in accordance with a written agreement between the Customer and the Utility. A Customer is obligated to pay for all Services provided by the Utility, whether or not listed in the Charges and any such Services may be added by the Utility to the Customer's Account.
- b. Upon the request of a Customer and upon the Customer extending the piping and communication conduit from the property line to the Energy Transfer Station or Energy Meter and fulfillment of all conditions set out in these Terms and Conditions, the Utility will install and maintain an Energy Transfer Station or Energy Meter. Unless a written agreement between the Utility and a Customer specifically provides otherwise:
 - i. the Utility shall be and remain the owner of the Service Connection;
 - ii. the Customer shall be and remain the owner of the Building Mechanical System; and
 - iii. the Utility shall be and remain the owner of all Energy Meters and other measuring and monitoring devices associated with the Service Connection.
- c. The cost of repairing or remedying any loss or damage to the DESS or other property that is caused by a Customer or by a party for whom a Customer is

responsible in law, may at the Utility's sole option (and in addition to any other legally available remedies) be added to a Customer's Account as an additional amount due and payable by the Customer to the Utility. The cost of installing any changes or rectifying any damages to a Service Connection, Energy Meter or Energy Transfer Station that arises as a result of the Customer's use of the Energy may be added to a Customer's Account as an additional amount due and payable by the Customer to the Utility.

- d. When the Utility performs a repair on the DESS affecting a Customer's property, the Utility will make all reasonable efforts to return the property to its original or similar to original condition as soon as practical after the repair is completed.
- e. The Customer is solely responsible to take all necessary measures to prevent damage to their Building Mechanical System due to any cause, including settlement of the structure or soil through which the Building Mechanical System passes. The Utility shall not under any circumstances whatsoever be liable for any repair, maintenance or replacement of any Building Mechanical System, except to the extent that damage to a Building Mechanical System is caused by a deliberate or negligent act of the Utility. The Utility may take steps to make Building Mechanical Systems compliant with the DESS Service Requirements, including without limitation, furnishing and maintaining the necessary protection for the Service Connection and charge the Customer for all costs incurred by the Utility in doing so.
- f. Every Customer shall:
 - i. only use Energy for space heating and cooling and domestic hot water heating within the Building(s);
 - ii. not sell or supply to any other Person Energy provided by the Utility nor use Energy supplied by the Utility for any purpose other than as specified in these Terms and Conditions or as otherwise authorized by the Utility in writing;
 - iii. pay all bills for Energy provided by the Utility, its employees, agents or contractors, in accordance with the Charges, as applicable, without any deduction or set off whatsoever;
 - iv. comply with the requirements of these Terms and Conditions and any other obligations set out in an agreement with the Utility in effect from time to time;

- v. not increase the peak demand of Energy above the peak demand included in the Building Mechanical System Report without the prior written approval of the Utility;
 - vi. not remove any component of the DESS from a Customer's Premises (whether located inside or outside of the Building(s)) without the advance written permission of the Utility;
 - vii. take reasonable care of and protect all components of the DESS in, on or under the Customer's Premises (whether located inside or outside of the Building(s)) against damage and advise the Utility promptly of any damage to or disappearance of the whole or any part of such component; and
 - viii. repair, maintain and replace the Building Mechanical System in its Building(s) from time to time at its own cost to keep the same in good working order.
- g. The Utility may conduct periodic reviews of the quantity of Energy delivered and the rate of delivery of Energy to a Customer for the purpose of, among other things, determining whether to substitute a more applicable Service Connection, Energy Meter or Energy Transfer Station at the Customer's expense.
 - h. The Customer will pay to the Utility promptly upon request the cost of any broken, missing or damaged component of the DESS (or part thereof), except to the extent that the Customer demonstrates that such component (or part thereof) was broken, missing or damaged due to a defect therein or to any act or omission of the Utility or any of the Utility's Representatives.

2.4. Energy Meter Reading

- a. The amount of Energy registered by the Energy Meter during each billing period will be converted to kWh and rounded to the nearest one-tenth of a kWh. The interval between consecutive Energy Meter readings will be at the sole discretion of the Utility. The Energy Meter will typically be read at monthly intervals.
- b. Any Customer who questions the accuracy of an Energy Meter may request to have the Energy Meter tested as provided in Section 7.3 [Energy Meter Testing and Calibration].

2.5. Connections and Disconnections

No connection, disconnection, reconnection, extension, installation, replacement or any other change is to be made to any component of the DESS by anyone except by the Utility's Representatives authorized by the Utility.

2.6. Energy Services Reconnection

- a. If:
 - i. Services are disconnected at the request of a Customer;
 - ii. a Building Mechanical System is disconnected from the DESS by a Customer; or
 - iii. Services are disconnected to permit a test of the Energy Meter at the request of the Customer, which Energy Meter is subsequently determined by the Utility to be accurate; and such Customer or the employee, agent or other representative of such Customer reapplies for Services for the same Building within 12 months of such discontinuance or disconnection (as applicable), then if the Building Mechanical System is reconnected to the DESS or if the Services are restored to such Customer, such Customer will pay, as part of the fees due for the first month of Services, a reconnection charge equal to the sum of the costs that the Utility estimates it will incur in reconnecting the Building Mechanical System to the DESS or restoring Services to such Customer plus the Fixed Monthly Charge as provided in Schedule B [Fees and Charges] that such Customer would have paid had Services continued during the period between the date of discontinuance or disconnection (as applicable) and the date of such reapplication.
- b. If a Building Mechanical System is disconnected from the DESS or if Services are discontinued to a Customer for reasons not attributable to the Customer there will be no reconnection charge to reconnect the Building Mechanical System to the DESS or to restore Services to such Customer.

2.7. Customer to Notify the Utility of Changes

When a Customer has a change of name or contact information, including without limitation, mailing address, telephone number(s), email addresses, the Customer must immediately notify the Utility of such change. The Utility reserves the right to

require such notification be made in writing.

3. ACCOUNTS AND BILLING

3.1. Requirement for Account and Obligation to Pay

- a. A Customer shall open an Account with the Utility as a condition of obtaining Services, regardless of whether the Services require the installation of a new Service Connection or construction of any new facilities. Once a Customer has completed all steps required by the Utility to open an Account, including the submission of any forms required by the Utility, such Account shall be activated within 72 hours.
- b. The Utility shall begin providing Services within three Business Days of the opening of an Account. If a Customer does not pay a bill in full by 20 days after the statement date specified on the bill, subject to disputed charges as outlined in Section 3.9 [Disputed Charges], the payment will be considered late and a late payment charge may be applied as outlined in Schedule C [Supplemental Services Fees and Charges Schedule]. The outstanding unpaid amount, including the late payment charge, shall be added to the charges that become due and payable in the next bill. Should the bill remain outstanding after the due date, the Utility will initiate next steps so that collection action is taken. In addition, the Utility may require a security deposit or an increase in the amount of an existing security deposit.
- c. At the sole option of the Utility, an Owner of Premises to which Services are supplied who rents or leases the Premises to a tenant or lessee that is a Customer, may be required to open an account for the supply of Energy to the portion of the Premises occupied by the tenant/lessee Customer.
- d. Subject to paragraphs a and b above, each Customer shall pay the full amount of any bill issued by the Utility by the due date specified on the bill, without prejudice to the Customer's right to contest any rate or fee charged. A failure to pay any amount billed by the Utility, subject to the exception set out in Section 3.9 [Disputed Charges] shall be a default of payment under these Terms and Conditions and the Customer shall be subject to the collection protocol as outlined in these Terms and Conditions and to the discontinuance or termination of Services and disconnection of the Customer's Service Connection(s) as provided for herein.
- e. Without limitation of other remedies available to it, the Utility may take one or more of the following actions should the Customer fail to pay billed amounts in full on time:

- i. request a security deposit or an increased security deposit;
- ii. provide notice to the Customer that payment has not been received, and stipulating the timing for future action if payment or other arrangements are not made;
- iii. provide notice indicating pending notice of disconnection and timing of disconnection action;
- iv. subject to limitations on disconnection outlined in applicable laws, initiate disconnection;
- v. use collection agencies; and
- vi. take legal action.

Prudent and reasonable collection costs incurred by the Utility may be added to the Customer's bill. If a Customer has any unpaid Charges or other amounts owing on any of its current or previously held Accounts, the debt may be transferred to any other Account held by the same Person as the Customer and any security deposit held in respect of such Account may be applied against the unpaid Charges.

- f. In such case as described in c, the Owner will be liable to pay for Services only from the day on which the new account is opened by the Utility in the Owner's name. The Owner will not be liable to pay the Utility for the tenant/lessee's arrears for Services at that location, unless a provision in a written agreement otherwise specifies.

3.2. Security Deposits

- a. The Utility may, at the time of a Customer's Application for Service or at any time thereafter, request a Customer to supply information reasonably required by the Utility to determine the Customer's credit history and/or credit risk. If a Customer fails to supply such information the Utility may refuse to supply, or discontinue the supply of Services to the Customer.
- b. The Utility may, at the time of a Customer's Application for Service or at any time thereafter, require the Customer to post a security deposit or an increase to an existing security deposit in circumstances that may include, without limitation the following:

- i. late payment by the Customer for Services provided by the Utility;
 - ii. Customer has issued more than one cheque or pre authorized debit that has been returned for nonsufficient funds in any 6 month period;
 - iii. there has been a significant increase in the Customer's rate of consumption of Energy;
 - iv. Customer is applying for re-connection or for a new Service Connection after having previously been disconnected from Services for nonpayment; or
 - v. Customer making the Application for Service has a credit rating that is not satisfactory to the Utility.
- c. The Utility may determine that a Customer is not required to post a security deposit or is no longer required to maintain an existing security deposit, in circumstances that may include, without limitation, the following
- d. Unless extraordinary circumstances apply, the maximum security deposit the Utility will require from a Customer for Services not involving a new Service Connection is an amount equal to thirty percent (30%) of the annual total charge payable by the Customer, as reasonably estimated by the Utility.
- vi. Customer has a good payment history with the Utility;
 - vii. where a result satisfactory to the Utility is obtained from an external credit check; or
 - viii. where the Customer provides to the Utility an indemnity bond or irrevocable letter of credit from a financial institution satisfactory to the Utility.
- e. A security deposit provided by a Customer may be returned to the Customer after a satisfactory payment history over a period of 12 consecutive months or when the Customer's Services are terminated and the Customer's account is closed. Where a Customer's Services are terminated and the Customer's account is closed for nonpayment, prior to any refund, the security deposit will be applied to the balance owing by the Customer to the Utility.
- f. The Utility will pay to a Customer as soon as practical after the end of each calendar year, or after the Customer's account is closed, simple interest on the daily balance of any security deposit held by the Utility in respect of the

Customer. The interest rate applicable with such payments is in accordance with the interest rate set out for the relevant time period by the Security Deposit Interest Rate Regulation , AR 190/2004 as amended from time to time.

3.3. Billing

- a. Bills will be rendered to the Customer in accordance with the Customer Agreement including the Charges.
- b. Subject to paragraph d. below, if the Energy Meter readings cannot be obtained for any reason, consumption may be estimated by the Utility for billing purposes and the next bill that is based on actual Energy Meter readings will be adjusted for the difference between estimated and actual use over the interval between Energy Meter Readings.
- c. If any Energy Meter fails to register or registers incorrectly, the consumption may be estimated by the Utility for billing purposes, subject to Section 3.4 [Billing Adjustments].
- d. If the Customer terminates a Customer Agreement, the final bill rendered to the Customer may be based on an actual Energy Meter reading.
- e. Bills will be rendered as often as deemed necessary by the Utility, but generally on a monthly basis. The due date for payment of bills shown on the face of the bill will be the first Business Day after the 21 st calendar day following the billing date or such other period as may be specified in the Application for Service or otherwise agreed to in writing by the Customer and the Utility.
- f. Bills will be paid in the manner specified therein which may include payment by regular mail and/or payment by online banking or electronic funds transfer.

3.4. Billing Adjustments

- a. Minor adjustments to a Customer's bill, such as an estimated bill or an equal payment plan billing do not require back billing treatment.
- b. Back billing means the rebilling by the Utility for Services rendered to a Customer because the original billings were discovered to be either too high (over billed) or too low (under billed). The discovery may be made by either the Customer or the Utility. The cause of the billing error may include any of the following non-exhaustive reasons or combinations thereof:

- i. Stopped Energy Meter;
 - ii. Energy Meter equipment failure;
 - iii. Inaccurate Energy Meter as determined pursuant to Section 6.3 [Energy Meter Testing and Calibration] ;
 - iv. Switched Energy Meters;
 - v. Double metering;
 - vi. Incorrect Energy Meter connections;
 - vii. Incorrect use of any prescribed apparatus respecting the registration of an Energy Meter;
 - viii. Incorrect meter multiplier;
 - ix. The application of an incorrect rate;
 - x. Incorrect billing or Utility error;
 - xi. Incorrect reading of an Energy Meter or data processing; or
 - xii. Tampering, fraud, theft or any other intentional act.
- c. If the Customer requests that the Energy Meter be tested, the provisions of Section 6.3 [Energy Meter Testing and Calibration] will apply in addition to those set forth in this section.
 - d. Where metering or billing errors occur, unless the Customer requests that the Energy Meter be tested, the consumption and demand will be based on the records of the Utility for the Customer or the Customer's own records to the extent that they are available and accurate or, if not available, on reasonable and fair estimates made by the Utility. Such estimates will be on a consistent basis within each Customer class or according to a written contract with the Customer, if applicable.
 - e. If there are reasonable grounds to believe that the Customer has tampered with or otherwise used the Energy or any component of the DESS in an unauthorized way, or there is evidence of fraud, theft or other intentional act,

back billing will be applied for the duration of the unauthorized use, subject to the applicable limitation period provided by law, and the provisions of paragraph g, h, and i below will not apply. In addition, the Customer is liable for the direct administrative costs incurred by the Utility in the investigation of any incident of tampering, including the direct costs of repair, or replacement of the equipment in the event tampering is found to have occurred. Under billing resulting from circumstances described in this paragraph e. will bear interest at the rate specified in the Application for Service on unpaid accounts from the date of the original under billed invoice until the amount under billed is paid in full.

- f. In every case of under billing or over billing, the cause of the error will be remedied without delay and any adjustments to a Customer's bill will be reflected on the next bill.
- g. Subject to paragraph e. above, in every case of under billing, the Utility will back bill the Customer for the shorter of:
 - i. the duration of the error;
 - ii. one year; or
 - iii. as otherwise agreed by the Customer and the Utility writing.
- h. Subject to paragraph e. above, in every case of under billing, the Utility will offer the Customer reasonable terms of repayment. If requested by the Customer, the repayment term may be equivalent in length to the back billing period. The repayment will be interest free and in equal installments corresponding to the normal billing cycle. Delinquency in payment of such installments will be subject to the usual late payment charges.
- i. Subject to paragraph e. above, if a Customer disputes a portion of a back billing due to under billing based on either consumption, demand or duration of the error, the Utility will not threaten or cause the discontinuance of Services for the Customer's failure to pay that portion of the back billing, unless there is no reasonable ground for the Customer to dispute that portion of the back billing. The undisputed portion of the bill will be paid by the Customer and the Utility may threaten or cause the discontinuance of Services if such undisputed portion of the bill is not paid.

3.5. Late Payment Charge and Collection Charge

If the amount due on any bill has not been paid in full within 20 days of the statement date, a further bill will be rendered to include the overdue amount plus a

late payment charge as set out in Schedule C [*Supplemental Services Fees and Charges Schedule*]. The Utility may, in its discretion, waive late payment charges on payments not processed within 20 days of the statement date. If the Customer's account is overdue and requires additional effort to collect, the Utility may charge the Customer a collection charge as set out in Schedule C [*Supplemental Services Fees and Charges Schedule*].

3.6. Dishonored Payment Charge

If a cheque received by the Utility from a Customer in payment of any account is returned by the Customer's financial institution because of insufficient funds (NSF), or any reason other than clerical error, a Dishonored Payment Charge as set out in Schedule C [*Supplemental Services Fees and Charges Schedule*] will be added to the amount due and payable by the Customer whether or not the applicable Building Mechanical System has been disconnected from the DESS or Services have been discontinued to the Customer.

3.7. Applicable Taxes

The Customer shall pay all taxes, fees or assessments that the Utility is required to collect from time to time as required pursuant to any statute, regulation, or other governmental directive or order or decision.

3.8. Partial Payments and Overpayments

- a. Partial payments on an Account will be applied to the unpaid amounts outstanding on the oldest bill.
- b. If the Customer pays the Utility an amount in excess of what is owed to the Utility, the excess amount will be carried as a credit balance on the Customer's Account and applied to bills for future Services. Customers may request a refund in the event of a balance exceeding \$5.00. Interest will not be paid on a credit balance.

3.9. Disputed Charges

The Customer has the right to dispute any charge shown on the Customer's bill by contacting the Utility either in writing or by telephone. The Utility will investigate all disputes and make any adjustments the Utility determines appropriate. If the dispute is within the Utility's control and is not resolved within 30 calendar days from the notice, the Customer may escalate the dispute as provided in Section 3.10 [*Dispute Resolution*] and the Customer will not be required to pay any charges for the disputed period that are in excess of the average monthly bill of the Customer as

reasonably determined by the Utility. The Customer will be responsible to pay all past and future charges while the specific charge in dispute is being resolved. Any outstanding disputed amount shall be due and payable within ten Business Days of resolution. No additional charges intended as compensation for the dispute resolution process will be applied to disputed amounts.

3.10. Dispute Resolution

If a dispute between the parties arises at any time in connection with the Terms and Conditions, the parties acting reasonably and in good faith, shall use their reasonable efforts to resolve the dispute as soon as possible in an amicable manner. If a dispute has not been resolved within a reasonable time, the Customer may pursue the matter with the Alberta Utilities Commission in accordance with Section 43 of the *Municipal Government Act*, RSA 2000, c M-26.

3.11. Customer Usage Information

- a. The Utility shall provide standard Customer Usage Information to a Customer, or to an agent or consultant acting on behalf of a Customer, upon request and in the case of an agent or consultant only after receiving written consent to such disclosure from the Customer in a form satisfactory to the Utility, for the 12 month period preceding the date of the request or for such shorter period for which the Utility has collected that information.
- b. The Utility shall not be obligated to provide Customer Usage Information for period greater than 12 months prior to the date of the request. If a Customer requests Customer Usage Information for any time earlier than 12 months prior to the date of the request, the Utility may in its sole discretion charge a fee for retrieving and supplying the information as provided in Schedule C [Supplemental Services Fees and Charges Schedule] for the records requested.

4. SERVICE CONNECTIONS AND REFUSAL TO PROVIDE THERMAL ENERGY SERVICES

4.1. Authorizations and Approvals for Service Connection

The Customer shall be responsible for obtaining all permits, certificates, licenses, inspections, reports, and other authorizations necessary for the installation and operation of the Service Connection. The Utility shall not be required to commence or continue installation or operation of a Service Connection unless and until the

Customer has complied with the requirements of all governmental authorities, permits, certificates, licenses, inspections, reports and other authorizations and all right of way agreements, and all of the Utility's requirements applicable to the installation and operation of the Service Connection. The Utility reserves the right, but is not obligated to verify that all necessary authorizations have been obtained by Customers.

4.2. Scheduling for a Service Connection

After the Customer has complied with the Utility's application requirements and has been accepted for Service by the Utility and complied with the requirements of all applicable construction and safety standards or regulations, the Utility shall schedule that Customer for Service Connection in accordance with the DESS Service Requirements.

4.3. Refusal to Provide Service

- a. The Utility may refuse to provide Services to any Applicant, or the Utility may, after having given 48 hours prior written notice, discontinue providing Services to any Customer who:
 - i. Fails to fully pay for any Services provided to any Building(s) on or before the due date for such payment; or
 - ii. Fails to provide or pay by the applicable date required any security deposit, equivalent form of security, or guarantee or any requisite increase thereof.
- b. The Utility may refuse to provide Services to any Applicant, or the Utility may, without having to give any notice, suspend or discontinue providing Services to any Customer who:
 - i. refuses to provide reference information and identification acceptable to the Utility when applying for Services or at any subsequent time upon request by the Utility;
 - ii. has failed to ensure that there is an adequate supply of electricity required to operate the Building Mechanical System, and the proper operation of the Energy Transfer Station or Energy Meter have been negatively affected;
 - iii. uses Energy in such a manner as in the Utility's opinion:

1. may lead to a dangerous situation; or
 2. may cause undue or abnormal fluctuations in the temperature of Energy in the DESS;
- iv. fails to make modifications or additions to the Customer's equipment which have been required by the Utility to prevent the danger or to control the undue or abnormal fluctuations; or
 - v. breaches the Terms and Conditions of the applicable Customer Agreement (including, without limitation, these Terms and Conditions);
 - vi. negligently or fraudulently misrepresents to the Utility its use of Energy or the Energy load requirements of, or Energy volume consumed with and by, any Building(s);
 - vii. terminates the applicable Customer Agreement or causes the termination of the applicable Customer Agreement for any reason; or
 - viii. stops consuming Energy in the Building(s);
 - ix. does not currently have all approvals that may be required for the installation of the Service Connection; or
 - x. refuses to enter into an agreement or form of agreement acceptable to the Utility.
- c. The Utility may refuse to provide Services to any Premises, or the Utility may, without having to give any notice, suspend or discontinue providing Services to any Premises if, in the opinion of the Utility:
- xi. the Building Management System is not compliant with the DESS Service Requirements;
 - xii. the Service Connection, Energy Transfer Station, or Energy Meter are not in compliance with the DESS Service Requirements or as otherwise approved by the City Manager;
 - xiii. the Premises contains Contaminants which could adversely affect the DESS, or the health or safety of the Utility's workers or which may cause the Utility to assume liability for cleanup and other costs

associated with the Contaminants;

- xiv. the Premises contains defective pipe, appliances, or mechanical systems;
 - xv. the Building Mechanical System has a defect which causes the loss of fluid from the Building Mechanical System, Energy Transfer Station, or Service Connection at the Premises;
 - xvi. providing Service to the Premises may have an adverse effect on the DESS as a result of the Building Mechanical System, Service Connection, Energy Transfer Station or Energy Meter on the Premises;
 - xvii. the Premises has defective pipes, appliances or fittings in any part or parts of Building(s) that convey Energy or are used in connection with the delivery of Energy;
 - xviii. the technical requirements of the DESS Service Requirements have not been met; or
 - xix. the Building Mechanical System or Service Connection has unusual characteristics that may adversely affect the quality or quantity of Energy supplied to other Customers, public health or safety, the health or safety of the Utility's personnel, or the safety or reliability of any other facilities operated by the Utility.
- d. The Utility will not be liable for any loss, injury, or damage suffered by any Customer by reason of the discontinuation of or refusal to provide Services as set out in this section.

4.4. Right to Restrict

The Utility may require some or all Customers, at times determined by the Utility to discontinue, interrupt or reduce to a specified degree or quantity, the use of Energy for any of the following purposes or reasons:

- i. in the event of a temporary or permanent shortage of Energy, whether actual or perceived by the Utility;
- ii. in the event of a breakdown or failure of the DESS;
- iii. to comply with any legal requirements;

- iv. to make repairs or improvements to any part of the DESS;
- v. in the event of fire, flood, explosion or other emergency to safeguard person or property against the possibility of injury or damage; or
- vi. for any other reason that the Utility considers necessary.

The Utility will not be liable for any loss, injury, damage, or expense occasioned to or suffered by any Customer for or by reason of any discontinuance of Services as contemplated by this Section.

4.5. **Notice of Restrictions**

Any requirements to restrict use of Energy may be communicated to any Customer or Customers or to all Customers by either or both of public notices in the press, in announcements over the radio and may be communicated to any individual Customer by either or both of notice in writing (via email, regular mail, or personal delivery, or left at the relevant Building(s) and oral communication (including by telephone)). Any notice of the termination of any such requirement may be communicated similarly. If, in the opinion of any official of the Utility, any Customer has failed to comply with any requirement of the Utility communicated in accordance with this Section, the Utility will be at liberty, after notice to the Customer is communicated in accordance with this Section, to discontinue Service to such Customer.

5. USE AND ACCESS TO FACILITIES

5.1. **Utility's Facilities and Property of Other Customers**

- a. The Owner is deemed to have granted to the Utility, without cost to the Utility, such easements or rights-of-way over, upon or under the Premises as the Utility reasonably requires for the construction, installation, maintenance, repair, and operation of the DESS, including Service Connections, Energy Transfer Stations and Energy Meters, and the performance of all other obligations required to be performed by the Utility.
- b. The Customer shall not install or allow to be installed on Premises owned or controlled by the Customer any temporary or permanent structures that could interfere with proper and safe operation of the Utility's facilities or result in non-compliance with applicable statutes, regulations, standards or codes.

- c. The Customer is to furnish and maintain, at no cost to the Utility, the necessary space and protective barriers to safeguard the facilities installed or to be installed upon the Customer's Premises. If the Customer refuses, the Utility may, at its option, furnish and maintain and charge the Customer for furnishing and maintaining the necessary protection. Such space, and protective barriers shall be in conformity with applicable laws and regulations and subject to the Utility's specifications and approval.
- d. The Customer shall ensure that the Customer's facilities comply with the requirements of any code or regulation and with the DESS Service Requirements. The Customer shall not use a Service Connection or any Services received in a manner so as to cause interference with any other Customer's use of a Service Connection or Services. At the Utility's request, a Customer shall take whatever action is required to correct such interference or disturbance at the Customer's expense.
- e. The Customer shall pay all costs of relocating the Utility's facilities at the Customer's request if such relocation is for the Customer's convenience or if necessary to remedy any violation of law or regulation or non-compliance with the DESS Service Requirements caused by the Customer. If requested by the Utility, the Customer shall pay the estimated cost of the relocation in advance.
- f. A Customer shall not extend or permit the extension of a Building Mechanical System or any other Customer owned piping, equipment or any other assets that are connected directly or indirectly to the DESS, beyond the separately titled other parcel of land in respect of which they are used to supply Energy except as may be provided in the DESS Service Requirements or otherwise authorized by the Utility in writing.

5.2. Entry by Utility

- a. The Utility's employees, agents, and other representatives shall have the right to enter a Customer's Premises at all reasonable times, or at any time during an event of Force Majeure, solely for the purposes of installing, maintaining, replacing, testing, monitoring, reading or removing the Utility's facilities and for any other purpose incidental to the provision of Services. A Customer shall not prevent or hinder the Utility's entry to the Customer's Premises for any such purpose. Without limiting the generality of the foregoing, the Utility has the right to enter a Customer's Premises at any reasonable hour in order to:
 - i. install, inspect, test, repair or remove facilities;

- ii. perform necessary maintenance to facilities;
 - iii. investigate or respond to a Customer complaint or inquiry; or
 - iv. conduct an unannounced inspection where the Utility has reasonable grounds to believe that theft of Services or interference with facilities has occurred or is occurring, including but not limited to, tampering with an Energy Meter.
- b. The Utility will make reasonable efforts to notify the Customer in advance of entering a Customer's Premises or to notify any other person who is at the Customer's Premises and appears to have authority to permit entry except:
- i. in cases of emergency;
 - ii. where entry is permitted by Order of a Court or other authority having jurisdiction; or
 - iii. where otherwise legally empowered to enter.
- c. The Utility may charge an Access Denied fee as set out in Schedule C [Supplemental Services Fees and Charges Schedule] if the Utility's lawful entry to a Customer's Premises is prevented or hindered, whether by a Customer not keeping a scheduled appointment or for any other cause.

5.3. Responsibilities of Customer

- a. Customers must maintain and repair Building Mechanical Systems for their Premises in accordance with the DESS Service Requirements, including:
- i. taking necessary measures to prevent loss of fluid from the Building Mechanical System;
 - ii. prevent contamination of the fluid within the Building Mechanical System; and
 - iii. undertaking maintenance of the Building Mechanical System.
- b. Each Customer is responsible for all expenses, risk and liability arising from any measures required to be taken by the Utility to ensure that the Service Connection, Energy Transfer Station, Energy Meters or related equipment on the Customer's Premises are adequately protected, as well as any updates or

alterations which may be required as a result of changes made to the Premises.

- c. Each Customer must take care of and protect all Service Connections, Energy Transfer Stations, Energy Meters and related equipment on its Premises.
- d. Each Customer is responsible for any damage to Service Connections, Energy Transfer Stations, Energy Meters and related equipment on the Customer's Premises caused by the Customer failing to take care of and protect the equipment in accordance with the DESS Service Requirements.

5.4. Liability

- a. The Utility will endeavor to provide a regular and uninterrupted supply of Energy, but it does not guarantee a constant supply of Energy or the maintenance of unvaried temperatures. Neither the Utility nor any of the Utility's Representatives shall be responsible or liable for any loss, injury (including death), damage or expense incurred by any Customer or any Person claiming by or through a Customer that is caused by or results from, directly or indirectly, any discontinuance, suspension, or interruption of, or failure or defect in the supply, delivery or transportation of, or any refusal to supply, deliver or transport Energy, or provide Services, unless the loss, injury (including death), damage or expense is directly and solely attributable to the gross negligence or willful misconduct of the Utility provided, however, that neither the Utility nor any of the Utility's Representatives is responsible for any loss of profit, loss of revenue or other economic loss even if the loss is directly attributable to the gross negligence or willful misconduct of the Utility or any of the Utility's Representatives.
- b. Services may be temporarily suspended to make repairs or improvements to the DESS or in the event of fire, flood or other sudden emergency. The Utility will, whenever reasonably practicable, give notice of such suspension to the Customer and will restore the Services as soon as commercially reasonable. Telephone, social media, newspaper or radio or other acceptable announcement method may be used for notice purposes. The Utility will not be liable for any loss, injury or damage caused by or arising out of such suspension of Services.
- c. The Customer shall bear and retain the risk of, and hereby indemnifies and holds harmless the Utility and all the Utility's Representatives from, all loss and damage to all components of the DESS in, on, or under the Customer's Premises (whether located inside or outside the Building(s)) except to the extent any loss or damages are directly attributable to the negligence of the Utility or any of the Utility's Representatives, or as caused by or results from a

defect in the DESS. The Customer must prove such negligence or defect. The Customer agrees to indemnify and hold harmless the Utility and all of the Utility's Representatives from all claims, losses, damages, liabilities, costs, expenses and injury (including death) suffered by the Customer or any Person claiming by or through the Customer or any third party and caused by or resulting from the use of the Customer's Premises by the Utility as contemplated herein and the use of Energy, or the presence of Energy on or in any part of the Building(s) from the Customer or Customer's employees, contractors or agents damaging any component of the DESS. This paragraph will survive any termination of the Customer Agreement.

- d. The Customer acknowledges and agrees that the Utility will not in any way be responsible for any aspect of the design, engineering, permitting, construction or installation of any Building Mechanical System.
- e. The Customer will release, indemnify and hold harmless the Utility and all of the Utility's Representatives from any and all liabilities, actions, damages, claims (including remediation cost recovery claims), losses, costs, orders, fines, penalties, and expenses whatsoever (including all consulting and legal fees and expenses on a solicitor/client basis) and the cost of removal, treatment, storage, and disposal of Contaminants and remediation of the Customer's Premises and any affected adjacent property which may be paid by, incurred by or asserted against the Utility or any of the Utility's Representatives arising from or in connection with the presence of Contaminants on, in, or under the Customer's Premises or any Release or alleged Release of any Contaminants at or from the Customer's Premises related to or as a result of the operations of the Customer or any act or omission of the Customer or its tenants or other occupants or any Person for who it is in law responsible.
- f. The Customer will obtain and maintain at its own expense a home insurance policy (including property and liability) throughout the term of the Customer Agreement and will provide the Utility with evidence of the same upon request.

6. THERMAL ENERGY METERS

6.1. Installation of Energy Meters

- a. The Utility shall supply, install, and seal one or more Energy Meters for the purpose of measuring the kWh of Energy delivered to the Customer by way of a Service Connection. Each Energy Meter and related equipment shall remain the sole property of the Utility, regardless of whether the Customer

has paid or reimbursed all or any part of the Utility's cost of supply and installation.

- b. Each Customer shall ensure that a location on the Customer's Premises for Energy Meter installation is provided and that access to the Energy Meter is provided for the purpose of reading or servicing the Energy Meter, in accordance with all applicable requirements of the DESS Service Requirements as amended from time to time.
- c. The Energy Meter will be compliant with Measurement Canada's error specifications, as outlined in section 8 of Measurement Canada's Terms and Conditions for the Approval of Thermal Energy Meters.

6.2. Access to Energy Meters

The Utility may, at any reasonable time, read, inspect, remove, or test an Energy Meter installed on property owned or controlled by the Customer.

6.3. Energy Meter Testing and Calibration

- a. At the request of a Customer, the Utility shall arrange for Energy Meter testing by a qualified contractor retained by the Utility.. If testing indicates that the Energy Meter is recording accurately (which for this purpose is defined as recording within the error specifications outlined in section 8 of Measurement Canada's Terms and Conditions for Approval of Thermal Energy Meters), then the Customer must pay the Utility for the cost of testing the Energy Meter as set out in Schedule C [Supplemental Services Fees and Charges]. If the Energy Meter is found to be recording inaccurately, the Utility will make appropriate adjustments to the applicable bills.
- b. The Utility may at any time inspect or test any Energy Meter, on its own initiative, regardless of whether the Customer has requested inspection or testing. In such case, no fee is payable by the Customer.
- c. The Utility will arrange for Energy Meters to be calibrated every twenty (20) years in accordance with this Section 6.3.
- d. The Energy Meter will be calibrated
 - i. in an approved manufacturer's facility;
 - ii. by a technician approved by the manufacturer in accordance with Section 15 of the Kamstrup A/S Technical Description; <https://products.kamstrup.com/>; or

- iii. in accordance with applicable Measurement Canada guidelines for the approved Energy Meter;

6.4. Interference with Energy Meter

- a. If under any circumstances, a person other than a Utility employee, agent, or contractor, prevents an Energy Meter from accurately recording the total quantity of Energy supplied, the Utility may disconnect Services or take other appropriate actions to ensure access to accurate meter data.
- b. The Utility may then estimate the demand and amount of Energy supplied but not recorded by the Energy Meter at the Service Connection. The Customer shall pay the cost of the estimated Energy consumption plus all costs (including interest) related to the investigation and resolution of the matter.

7. GENERAL RESTRICTIONS AND PROHIBITIONS

- a. No Customer or other Person shall construct or allow to be constructed more than the number of Service Connections that are specified in the DESS Service Requirements to any Building without prior written consent of the Utility.
- b. No Person shall tamper, interfere with, damage or destroy any part of the DESS.
- c. Customers must advise the Utility immediately of any damage to a Service Connection, Energy Transfer Station, Energy Meter or any other component of the DESS.
- d. No Person shall construct any structure which obstructs access to a Service Connection, Energy Transfer Station, Energy Meter or any other part of the DESS or that could interfere with the proper and safe operation of the DESS.
- e. Customers must pay the Utility for costs incurred by the Utility to remedy any unauthorized changes on the Customer's Premises.

8. FORCE MAJEURE EVENTS

- a. If an event or circumstance of Force Majeure occurs that affects the Utility's ability to provide a Service Connection or Service, the Utility's obligations and responsibilities hereunder and under any agreement relating to Service

Connections or provision of Service, so far as they are affected by the Force Majeure or the consequences thereof, shall be suspended until such Force Majeure or the consequences thereof are remedied and for such period thereafter as may reasonably be required to restore the Service Connection or Service. The Fixed Monthly Charge as provided in Schedule B [Fees and Charges] , if applicable, will continue to be payable during the period in which the Utility claims relief by reason of Force Majeure.

- b. The Utility, where practicable, shall give notice of an event of Force Majeure to Customers affected and shall, where practicable, give notice to Customers affected when the Force Majeure event ceases to prevent performance of the Utility's obligations.
- c. The Utility shall promptly remedy the cause and effect of the Force Majeure insofar as it is commercially reasonably able to do so.
- d. Notwithstanding any other provision of these Terms and Conditions, the settlement of any strike, lockout or other industrial disturbance shall be wholly in the discretion of the Utility and the Utility may settle such strike, lockout or industrial disturbance at such time and on such terms and conditions as it may deem appropriate. No failure or delay in settling such strike, lockout or industrial disturbance shall constitute a cause or event within the control of the Utility or deprive the Utility of the benefits of this Article.

Schedule A - DESS Area



Schedule B - Fees and Charges

Description of Fee or Charge Rate	Rate
Infrastructure Fee (Residential)	\$ 1,750.00 per unit
Infrastructure Fee (Commercial)	\$ 20 per square meter
Fixed Monthly Charge (Townhouses)	\$ 1.47 per unit per day
Fixed Monthly Charge (Apartments)	\$ 1.15 per unit per day
Variable Rate (Heating and Cooling)	\$ 0.0255 per kWh

Townhouses - Blatchford Row Housing, Row Housing, Stacked Row Housing, Blatchford Accessory Suites and Blatchford Lane Suites as provided in Edmonton Zoning Bylaw 12800.

Apartments - Apartment Housing, and Mixed Use Apartment Housing as provided in Edmonton Zoning Bylaw 12800.

Schedule C - Supplemental Services Fees and Charges

	Supplemental Service	2020 Fee
1.0	Meter Installation/removal	* Actual Cost
2.0	Meter Tests	* Actual Cost
3.0	Damage Repair	* Actual Cost
4.0	Access Denied	\$35.00
5.0	Service turn on/turn off	
	Regular Working Hours	* Actual Cost
	Outside Regular working hours	* Actual Cost
	Required within 48 hours	* Actual Cost
6.0	Service Turn on after turn off for non-payment	
	Regular Working Hours	* Actual Cost
	Outside Regular working hours	* Actual Cost
	Required within 48 hours	* Actual Cost
7.0	Expedited Service Connection Charge	* Actual Cost + \$50
8.0	Non standard meter replacement	* Actual Cost
9.0	Tampering charge	* Actual Cost
10.0	Late Payment Charges	2.50% per month
11.0	Dishonored Payment Charge	\$25.00
12.0	Customer Usage Information	* Actual Cost
13.0	Billing error	* Actual Cost
14.0	Alterations, Relocations or Replacement	* Actual Cost
15.0	Collection Charge/Fee	* Actual Cost
16.0	Bill Pull Request	\$8.00
	* Actual Costs will include the Utility's actual cost to complete the service plus any reasonable administration and overhead costs.	



For more information, please visit BlatchfordUtility.ca
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