

OTHER LEGAL TERMS AND LIMITATIONS AGREEMENT

1. WARRANTIES. COMPANY 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 BY NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

2. 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. **COMPANY 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, AND SUCH DIRECT ACTUAL DAMAGES WILL BE THE SOLE AND EXCLUSIVE REMEDY. CUSTOMER HEREBY WAIVES ALL OTHER REMEDIES AT LAW OR IN EQUITY. THERE ARE NO THIRD-PARTY BENEFICIARIES TO THIS AGREEMENT. THE LIMITATION OF LIABILITY FOR ALL DAMAGES HEREUNDER IS ONE HUNDRED DOLLARS (US\$100.00).** 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.

3. SERVICE INTERRUPTIONS; NO REFUND OR REBATE. Company's services may be suspended temporarily, without notice, for security reasons, systems failure, maintenance and repair, or other circumstances. You agree that you will not be entitled to any refund or rebate for such suspensions and you agree not to seek monetary or other remedies from Company for such service interruptions or suspensions. Company does not offer any specific uptime guarantee for the services.

4. FORCE MAJEURE. If Company is rendered unable to perform, in whole or in part, by a Force Majeure event, its performance under this Agreement will be excused for the duration of such event. Company will take all reasonable steps to remedy the effect of the Force Majeure event. "Force Majeure" means circumstances beyond Company's reasonable control, including without limitation, acts of God, acts of government, federal or state executive orders, states of emergencies, flood, fire, earthquakes, diseases or public health emergencies, epidemics, pandemics, civil unrest, acts of terror, strikes or other labor problems, material or supply interruptions or shortages, or provider failures or delays. In addition, acts of other parties, including ERCOT, aggregators, other REPs, qualified scheduling entities, TDSPs, and the respective employees and agents of such parties, will also be deemed to be events of Force Majeure.

4. MISCELLANEOUS

a. Governing Law. This Agreement will be governed by, interpreted, construed and enforced in accordance with the laws of the State of Texas, without regard to principles of conflicts of laws.

b. Customer Information Authorization. You authorize Company to obtain information from your utility and other energy providers, including, but not limited to, account name, account number, billing address, service address, telephone number, standard offer service type, historical and future electric usage, rate classification, meter readings, characteristics of electric service, and billing and payment information. You further authorize Company to release that information to third parties who need to use or be aware of such information in connection with your electric service under the Agreement, as well as to Company's affiliates and business partners for marketing purposes.

c. Entire Agreement. This Agreement, including an agreement for arbitration and class action waiver, along with the enrollment materials, welcome letter, disclosure documents, renewal notices and any and all other related documents, whether oral or written, constitute the entire agreement between you and Company relating to the subject matter hereof and supersede any other agreements, written or oral, between you and Company or any of its agents concerning the subject matter of the Agreement.

d. Assignment. You may not assign this Agreement to any other person without the express prior written consent of Company or its successor in interest, as applicable. An assignment made by you without such required consent by Company will have no effect. The Membership Agreement may be assigned by Company without restriction (and without notice unless required by law). Consent is not required from you for Company 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.

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

f. No Waiver. Any failure by Company 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.

g. Severability. Should any provision of this Agreement for any reason be declared invalid or unenforceable by final and applicable order by a court 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.

h. 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 Company rights and the rights of others).

i. 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 (e.g., via pdf) of an original signature.

j. 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.