

# TERMS OF SERVICE



This document contains the Terms of Service for your purchase of electricity from MI Texas REP 1 LLC, dba Flagship Power (“Flagship” or the “Company”), as well as terms and conditions relating to your purchase of non-commodity products from Company, including Company solar products, as applicable, and will be referred to as the (or these) “TOS” or “Terms of Service”. The contract governing your purchase of residential electricity from Company is comprised of these TOS, an Electricity Facts Label (“EFL”) that describes in further detail the product you have chosen, and Your Rights as a Customer (the “YRAC”) which sets forth your general rights as a residential customer purchasing electric service in Texas and your enrollment or renewal documentation. These documents collectively create your “Contract” with Company and form a legally binding document. Your act of accepting electric service or other non-electric products from Company means that you agree to be bound by these TOS. The terms “you” and “your” refer to you, the customer, and the words “we”, “us” and “our” refer to Company.

## Contact Information

Company Name: MI Texas REP 1, LLC d/b/a Flagship Power  
Certificate Number: 10298  
Mailing Address: PO Box 130309 Spring, TX 77393  
Customer Care Toll Free: (888) 832-4081  
Customer Care Hours: Mon-Fri 7am-7pm CST  
E-mail: care@flagshippower.com  
Internet Address: www.flagshippower.com  
Spanish contract available

**EFL.** The EFL contains the terms and the details of the specific product and rate plan you have selected, including pricing, Contract term and Early Termination Fees. Please review the EFL document carefully.

**Your Eligibility.** By accepting electric service from Company, you are representing to Company that you are a residential customer (as those terms are defined by the Public Utility Commission of Texas (“PUC”)).

**Credit And Initial Deposit.** This Contract is conditioned upon you meeting Company’s eligibility requirements. Company will determine eligibility in compliance with §25.477 and §25.478 of the PUCT Substantive Rules available at <https://www.puc.texas.gov/agency/ruleslaws/subrules/electric/Electric.aspx> and the Tex. Util. Code §17.008 available at

<https://statutes.capitol.texas.gov/Docs/UT/htm/UT.17.htm>. By applying for electric service with Company you are consenting to Company’s use of credit reporting agencies to evaluate and document your credit and payment history and/or Company requesting payment history information from your previous retail company (“REP”). If you do not meet Company’s credit requirements or cannot otherwise demonstrate satisfactory credit as defined by the PUCT Substantive Rules, then Company may deny you service or may require you provide a deposit to establish electric service with Company. If you are a residential customer, you may demonstrate satisfactory credit and qualify for a waiver of Company’s deposit requirement if you meet certain criteria as follows: (i) you are 65 years of age or older and not currently delinquent in paying an electricity account; or (ii) you submit a letter certifying that you have been a victim of family violence as prescribed by the Texas Council on Family Violence. Please contact Company for additional information if you believe you may be eligible for a deposit waiver. You may send evidence of eligibility and other information to Company by sending an email to [care@flagshippower.com](mailto:care@flagshippower.com).

**Deposit or Additional Deposit During Term.** Whether you were required to post an initial cash deposit or other form of security upon enrollment, Company may require an initial deposit from you after you are an existing customer of Company if (i) you are late paying a bill more than once during the last twelve (12) months of service, or (ii) your account has been terminated or disconnected in the previous twelve (12) months for non-payment. The initial deposit or other form of security must be paid within ten (10) days after issuance of a written disconnection notice that requests such initial deposit, and your electric service may be disconnected if you fail to make timely payment. Company may require an additional deposit if your average actual billings over the previous twelve (12) months are at least twice the amount of the original average of your estimated annual billings and a termination or disconnection notice has been issued or your account disconnected within the previous twelve (12) months. If an additional deposit or other form of security is requested and you do not pay the deposit within ten (10) calendar days after the date of the request for a deposit or other form of security your electric service may be disconnected.

**Terms and Conditions Relating to any Deposit You Make with Company.** If a deposit is required, the total amount of your deposit will not exceed an amount equal to the greater of either (i) the sum of the next two months estimated billings, or (ii) one-fifth of your estimated annual

billing. Deposits held more than thirty (30) days will accrue interest from the date of receipt at the annual rate established by the PUCT. Payment of the interest will be made to you annually, upon your request, or at the time the deposit is returned or credited to your account. If you were required to provide a deposit to us because of your inability to meet the credit requirements of Company or after you became an existing customer for one of the reasons set forth above, you can establish satisfactory credit with Company at such time that you have made twelve (12) consecutive monthly payments by the specified due date on your bill to Company. At such time your deposit will be credited to your account. If you never establish satisfactory credit with us, the deposit and any remaining accrued interest will be applied on your behalf to your final bill. In the event it is applied to your final bill and there is any excess, such amount shall be refunded to you.

**Your Right of Rescission.** If you are switching to Company from another REP, then you have the right to rescind this Contract without fee or penalty within three (3) federal business days after receiving these TOS. To do so, you may call us at (888) 832-4081 or email us at [care@flagshippower.com](mailto:care@flagshippower.com) during regular customer services hours on or before the third federal business day after receiving these TOS. This right of rescission does not apply to service requests for establishing electric services at a new location (commonly referred to as a “move-in”).

**Customer Information.** You hereby agree that Company may need certain information to provide you service, including but not limited to your address, telephone number, account numbers, and historical usage information. You authorize Company to request, and your TDSP or other third party with such information to provide, such information to Company. You also understand that Company may have the need to communicate such information to our affiliates, including but not limited to Company Energy, our partners, our vendors and third parties (and each of their affiliates) with a need to know such information to facilitate your electric service. As described and acknowledged in the Company enrollment process, you also authorize Company to share such information with a broker, aggregator or agent working on your behalf, if any. By providing your telephone numbers you are expressly authorizing Company and any party calling on Company’s behalf to contact you at the telephone numbers provided, whether those telephone numbers are work, home or mobile, for any purpose related to your electric service, future

possible goods or services and collection of debts. These calls may be performed by a live person, a prerecorded voice or other automated system.

**Term of the Contract.** Your Contract term is stated on the EFL. It begins on the date your TDSP switches your service to Company and continues through the term on the EFL; provided, that we may bill you under the EFL until the first meter read after the end date of the Contract as authorized in PUC Subst. Rule 25.475. The meter read date is not set by us but is set by your TDSP, and therefore Company is not liable for any delay in commencement of your electricity service.

**Canceling the Your Contract with Us.** No matter the method or the reason for your cancellation of your Contract with Company you are responsible for the payment of all outstanding charges incurred through the date on which the TDSP switches your meter away from Company and we are no longer designated as your REP. Your obligations under the Contract will end when your account balance (including any Early Termination Fee or penalties) is paid in full. At the end of the Contract term, you may cancel or terminate your Contract with Company by switching to a new REP.

After the end of the rescission period (set forth above) if you cancel your Contract or switch to another REP during the term of the Contract and before the end of your Contract term, or if Company terminates your Contract due to your breach of its terms, you agree to pay the penalty or fee for early termination indicated in the EFL (called an “ETF” or Early Termination Fee’), if any, and you must select another REP to continue to receive electric service. The only exception to payment of an ETF is if you move from your existing service address during the Contract term and provide a forwarding address to Company together with reasonable proof that you no longer occupy the service address covered by this Contract; in that case you will not be responsible for the ETF stated in the EFL. To cancel or terminate your service under this Contract prior to the end of the Contract term please contact Company at (888) 832-4081 or [care@flagshippower.com](mailto:care@flagshippower.com).

**Pricing.** You will receive an EFL during your enrollment or renewal or with your contract expiration notice. The price you are agreeing to pay for electric service is reflected on the EFL. You agree to pay the price reflected on your EFL and all amounts shown on your bill. Your EFL will also reflect the type of product or plan you are agreeing to purchase from Company. Each product or

plan has a different structure, the pricing elements differ from product to product, and our ability to make changes to the provisions of your product are different depending upon the plan you have chosen. If you have questions about the type of product reflected on your EFL, Company is happy to discuss the details of your plan with you. Generally, Company may offer the following types of plans/products, from time to time:

**Variable Price Product (month to month).** With a Variable Price Product your price is not fixed; the price may vary as determined by Company and as disclosed to you on the EFL. Your price may also change to reflect actual changes in TDSP charges for the delivery of your electricity, changes to the administrative fees charged by ERCOT or the TRE, or changes resulting new or modified fees or costs to Company that are a result of federal, state, or local laws or regulatory actions that are beyond our control. Variable Price Products are month to month contracts with a term of 31 days or less. You may terminate your Variable Price Product at any time without being charged an ETF, but you will be responsible for your outstanding bill.

**Changes Company can make to the Contract Terms Governing your Variable Price Product.** Company can make changes to the provisions of the Contract at any time with appropriate notice, except if you are on a Variable Price Product, Company cannot make changes to the length of your Contract. Company will notify you in writing at least 14 days before any material change to the Contract will take effect. Company is not required to give you notice of a change if that change is beneficial to you. If you receive notice of a change to the provisions of your Contract and you are on a variable price product, you have 14 days to cancel the Contract. If you cancel the Contract within that 14-day period, you will not be obligated to pay Company an ETF. If you do not cancel the Contract within the 14-day period, the stated change will become effective.

**Fixed Rate Product (term).** With a Fixed Rate Product your price is the price set forth on your EFL and during the Contract term your price will not change, except to reflect actual changes in TDSP charges for the delivery of your electricity, changes to the administrative fees charged by ERCOT or the TRE, changes resulting new or modified fees or costs to Company that are a result of federal, state or local laws or regulatory actions that are beyond our control, or TDSP fees for underground service (if applicable at your location) or facility relocation fees or other charges ordered by a municipality, which will be

passed through to you with no markup by Company. Fixed Rate Products have a Contract term of 3 months or more and if you terminate a fixed rate product before the end of the Contract term on your EFL you will be charged and ETF and be responsible to pay an ETF, unless the termination is due to your moving out of your service address and you provide Company with reasonable proof of your move out.

**Changes Company can make to the Contract Terms Governing your Fixed Rate Product.** Company can make changes to the provisions of the Contract at any time with appropriate notice, except that we cannot make changes to the length of your Contract or to the price (except as set forth above). Company will notify you in writing at least fourteen (14) days before any material change to the Contract will take effect. Company is not required to give you notice of a change if that change is beneficial to you. If you receive notice of a change to the provisions of your Contract and you are on a fixed rate product, you have fourteen (14) days to cancel the Contract. If you cancel the Contract within that fourteen (14) day period, you will not be obligated to pay Company an ETF. If you do not cancel the Contract within the fourteen (14) day period, the stated change will become effective.

At the end of your Contract Term. If you are on a fixed rate product, you will receive at least three (3) written notices of the date your fixed rate product will expire. These notices will be provided during the last one third of the term of your Contract and will be as evenly spaced over the last one third of your term as practicable. For a term of twelve (12) months or longer, the first notice will be provided no earlier than three (3) months prior to the end of the term. If you are a residential customer and the term of your fixed product plan is greater than four (4) months, the final notice will be provided at least thirty (30) days before the date the fixed product plan expires. If you are a residential customer and the term of your fixed product plan is fewer than four (4) months, the final notice will be provided at least fifteen (15) days before the date your fixed product plan expires. You agree to receive all contract termination notices the same way in which you receive your monthly bill (either US mail or email, depending upon your selection during enrollment or in your MyFlagship Portal).

If Company sends all of the required notices as provided above, and you do not sign up for a new electric energy product with Company or another REP, after your Contract end date, Company will continue to be your REP

and you agree to having Company continue your electricity service on a month to month basis and in accordance with the default renewal product as reflected on the default renewal product EFL provided to you until you switch to another REP, select another Company plan, or Company terminates or disconnects your electric service.

**TDSP Delivery Charges.** You understand that there are certain monthly recurring charges and/or non-recurring charges charged by your TDSP related to your electricity service that Company will pass through to you without mark up or that may be bundled with the fee you are paying for electricity, depending upon the product you choose. Non-recurring charges may include those that arise from a meter test, out-of-cycle meter read fees, move in or a switch, service connection, disconnection or reconnection or meter tampering. TDSP charges will vary and your EFL will reflect whether your product or your rate plan includes or excludes these TDSP Charges from your bills and whether these charges are part of the price calculation or not. There are also, in some instances and depending upon where your service address is located, certain local charges related to your electricity service. An example of such a charge is the Underground Facilities and Cost Recovery charge. The actual amount of any such local charge will not be reflected on your EFL as they may affect only a few zip codes but will be part of the price or price calculation you are agreeing to pay by accepting electricity service from Company. You understand that you are solely responsible for paying these TDSP charges. Please see your EFL for more details.

**Pricing Includes Payments to Third-Party Brokers, Aggregators or Agents.** You understand and agree that if you or Company utilized a third-party broker, aggregator, or agent in connection with procuring this Contract, Company may be making a payment to such third-party broker, aggregator, or agent in connection with efforts to facilitate you entering this Contract. You also understand and agree that the price you have agreed to pay for electricity includes the fee Company is paying to the third-party broker, aggregator, or agent and such third-party, broker, aggregator or agent is acting on your behalf as your representative and is not a representative or agent of Company. You also understand and agree that as such, you should direct any questions regarding such fees to the third-party broker, aggregator, or agent.

**Non-Commodity products or services.** Company may offer non-commodity products or services, including but not limited to bill reduction services, energy efficiency

products, solar products, and others. You may sign up, purchase, or enroll in such products or services from Company or third parties. If you have done so, your monthly bill may also include one time or recurring line-item charges for those products and services. You agree that when you enroll or sign up for or purchase such services or products that they will appear on your electricity bill and that you will pay these charges with your bill. Company will apply all payments you make on your bill first to the amounts you owe Company for electric service. Company will not disconnect your electricity service for nonpayment or delinquent charges for non-electric products or services but may discontinue the non-electric service or product for nonpayment.

By signing up for and using any non-commodity products you agree as follows: (i) you agree that any of Company Energy, our partners, our vendors and third parties (and each of their affiliates) if providing non-commodity products may share with Company all information obtained by your use of the non-commodity products; (ii) Company can share all information obtained by Company in the course of providing electric service to you with the entity providing you the non-commodity product; (iii) even in the event there is a separate term related to the non-commodity product, for so long as you remain an Company customer the term of the non-commodity product contract will automatically renew on a month to month basis so that the term of this Contract and the term of the non-commodity product agreement end at the same time; (iv) any fee associated with any non-commodity product will be in addition to the fee for your electric service; (v) you grant Company authorization to use your contact details to send you related information, alerts and updates as well as surveys about your use of any non-commodity product, and to share this information for research purposes and to help Company market, make sales and to steer our business.

YOU FURTHER AGREE THAT A NON-COMMODITY PRODUCT IS SOLD AS-IS, WHERE-IS AND COMPANY IS NOT THE MANUFACTURER OR INSTALLER OF THE PRODUCT OR SERVICE. COMPANY MAKES NO WARRANTY REGARDING THE NON-COMMODITY PRODUCT AND EXPRESSLY DISCLAIMS ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WRITTEN OR ORAL, OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

**Taxes.** You are responsible for paying all applicable federal, state, and local taxes, fees, governmental charges, assessments, and other charges imposed on you as a purchaser of electricity, imposed on Company as a seller of electricity, or imposed on electricity sales generally, including but not limited to gross receipts tax, PUC gross receipts assessment, municipal administrative fees, any other generation, utility, TDSP, regulatory, BTU or electricity taxes, fees charges and assessments. Such taxes and other charges will be identified as a separate line item or items on your bill. If you are a tax-exempt entity, you must provide Company with the necessary certificates and other documentation to qualify for such status.

**Non-Recurring Charges.** In addition to charges or fees that we specify within the Contract or that are charged due to local or other law, we may assess any of the following fees and charges: (i) late payment penalty of 5% of a delinquent balance; (ii) an Insufficient Fund fee of \$25.00 for payments by made by you that are simultaneously or subsequently returned or cancelled for insufficient funds or inaccurate information provided. [Please note: this fee applies to any method of payment including, but not limited to, bank or personal check, automatic payment plan account deduction or credit/debit card]; (iii) a DNP Notice Fee of \$10.00 per instance for issuance of an electric service disconnection notice [this fee will be assessed regardless of whether your electric service is actually disconnected]; (iv) a Reconnection fee in the amount of \$35.00 per instance for each reconnection of your electric service; and (v) a Disconnection Fee in the amount of \$35.00 per instance for each disconnection request Company sends to TDSP for Customer's account, regardless of whether your service is actually disconnected.

**Billing.** You acknowledge that Company's ability to bill you is dependent upon our receipt of necessary information from third parties including but not limited to your TDSP and ERCOT. You expressly authorize Company to estimate usage and TDSP pass through charges or and/or issue bills less frequently when Company has not been provided actual meter read data or invoices for pass through charges. In such events Company may include adjustments to a subsequent bill, consistent with the PUC's rules. You acknowledge that Company has the right to adjust your bill in such circumstances and to include any charges or credits necessary to correct or true up any previous estimated bills meter read errors, miscalculations of taxes, fees or other charges, billing errors or omissions or other errors

or omissions. You will receive a monthly bill from Company that will be due and payable 16 calendar days from the date shown on the bill. The bill will display the current charges and the amount due and may include line items for fees or credits including the PUC Assessment fee, other recurring or non-recurring third-party fees or credits, including taxes, gross receipts tax reimbursement, late fees, customer and metering charges, charges for non-electric products or services and other additional charges, fees, or credits.

**Consent to Automatic Payments.** If during the enrollment process you selected to be billed using Company's automatic payment service, you authorize Company to automatically charge your credit card/debit card or debit your bank account, as applicable, each month for the amount due on your bill ("Auto Pay"). Auto Pay is not required unless otherwise provided on your EFL. The charge or debit will be made on the date that is specified in your monthly bill, which Company will provide at least 16 days in advance of the payment date. You understand that these payments will continue each month for the entirety of the term as well as for any automatic month-to-month renewal. You agree to notify Company promptly and prior to the due date of any outstanding invoice if there is a change to your account or card information. You understand and agree that Company is not liable for erroneous bill statements or incorrect debits/charges. If a billing error occurs, Company is responsible and will correct such error if and when notified by you of the error. Your credit card, debit card, or electronic check information will be maintained in a secure electronic form and any paper records of this information will be destroyed.

**Consent to Electronic Communications.** Unless you elect during enrollment or in your MyFlagship portal to receive your monthly bill via email, Company will issue bills to you in writing by mail via the United States Postal Service. If you elect to receive your monthly bill via email, Company will not send your bill by mail via the United States Postal Service. If you do not elect to receive your bills via email, you must promptly notify us of any change in the address at which you receive mail.

You agree to receive any and all non-billing written communications from us via e-mail, text message, or through other electronic means to the extent permitted by law in compliance with the PUCT Substantive Rules available at <http://www.puc.state.tx.us/rules/subrules/electric/index.cfm>. You consent to receive any information required to be provided to you in writing electronically,

including by using the email address or the text message enabled telephone number provided by you. You must promptly notify us of any change in your email, text message enabled phone number, or other electronic address. Standard data fees and text messaging rates may apply.

We will send copies of your TOS, YRAC, and EFL via e-mail or text message; however, you may request that Company provide you a copy of your TOS via United States Postal Service by calling us at (888) 832-4081.

You may update your billing preferences, including your mailing address, email address and mobile telephone number via the MyFlagship portal.

**Payment.** You agree to pay your monthly bills on a timely basis. Bills are due 16 calendar days after the billing date on your invoice. Bill payments are deemed past due and delinquent if not received by the close of business on the day the bill is due. If you do not pay your bill by the due date, Company may charge you a late fee of 5% on the amount for the previous month's past due electric service and ultimately may order disconnection of your electric service. If you have entered into a deferred payment plan arrangement with Company and you fail to pay your bill by the due date you authorize Company to place a "switch hold" on your account. If Company places a switch-hold on your account, then you will not be able to switch to another REP until you have satisfied your delinquent balance with Company.

You may pay your bill by credit card or ACH. By enrolling with Company for electric service you are agreeing to enroll in autopay, and you understand that all Company products and services require auto-pay. Unless otherwise specified, an automatic payment for the full amount of your invoice amount due will be drawn from your account on the invoice due date if the invoice due date is a business day. If the invoice due date is not a business day, the automatic payment will be drawn from your account on the nearest business day immediately preceding the invoice due date.

**Disconnection of Your Electricity Service.** COMPANY MAY REQUEST DISCONNECTION OF YOUR ELECTRIC SERVICE AND TERMINATE THIS CONTRACT IF YOU DO NOT PAY YOUR DEPOSIT OR YOUR BILL IN FULL BY THE DUE DATE ON THE DISCONNECT NOTICE. Company will provide you notice of our intention to request disconnection at least 10 calendar days before we disconnect your service, unless there is the existence of a dangerous condition at your

service address or theft of service, in which case Company will request disconnection immediately and without any notice to you. If your service is disconnected, you may be required to reapply for service and pay a new deposit. Fees associated with regaining service are in addition to disconnection and reconnection fees set forth in this Contract and in addition to any other fees that may be assessed by your TDSP. Your switch to another REP will not relieve you of your obligations to pay all outstanding bills to Company.

**Bill-Pay Programs and Assistance.** If you are having difficulty paying your bill by the due date, please call or email us. You may be eligible for payment assistance or a deferred payment plan arrangement. Payment assistance is funded in part by contributions from Company customers and you, as a Company customer may contribute to our bill payment assistance program when you pay your bill each month. There are also deferred payment plan and alternative payment plan arrangements you may be eligible for. Please call Company at (888) 832-4081 for information relating to contributing to the bill payment assistance program or for additional payment arrangement information.

**Level Billing Plan for Customers with no Amounts Past Due.** Company offers a Level Billing Plan that you may enroll in as long as you are not delinquent when you request enrollment in the Level Billing Plan. This Plan is designed to help even out the highs and lows of your electric service and is based on your current plan price and historical usage. We calculate your level billing amount annually by using your historical usage from the prior year. We will calculate any difference in actual charges and the monthly level billing amount and will use this difference to calculate your next year's level billing amount. Company may move your account from the Level Billing Plan if during a twelve-month period Company sends you two or more disconnection notices, we disconnect your service for non-payment, or your payments are returned or rejected for insufficient funds or other non-payment by your credit card or bank. In the event we move your account from Level Billing to regular billing, the difference between your actual charges and the Level Billing Plan monthly charge will be due with your next regular bill.

**Level Billing Plan for Customers who owe Company Past Due Amounts.** During certain months of the year if you are having problems paying your monthly invoice and have fallen behind, you may be eligible to enroll in Level Billing. Before moving you to a Level Billing Plan we may

require a down payment of more than 50% of the past due amount that you owe and that you pay the remainder of the delinquent amount in five equal installments over five billing cycles. If we move you onto a Level Billing Plan, we may put a switch-hold on your account. Company will remove the switch-hold the earlier of (i) the time that your deferred delinquent amount is paid and processed, or (ii) after you have made twelve consecutive payments with no more than one late payment. If you are disconnected for non-payment while a switch-hold is in place, a payment will be required to resume service and you may not obtain services from another provider until you pay the total deferred delinquent amount.

**Deferred Payment Plans.** A Deferred Payment Plan is an extended payment plan, which allows you pay an outstanding balance in installments over a period of time. Applicants must meet our eligibility requirements, and before starting a deferred payment plan, Company may require a down payment of up to 50% of the total amount due. Company may also ask you to pay the balance owed on the deferred payment plan in equal amounts over no more than 5 billing cycles. If you establish a deferred payment plan with Company, Company will confirm the details of the plan in writing to you. If you establish a deferred payment plan Company may put a switch-hold on your account that will be removed after your deferred balance is paid and processed. If you are disconnected for nonpayment while a switch-hold is in place a payment will be required to resume service and you will not be able to obtain services from another provider until you pay the total deferred balance.

**Supplemental Nutrition Assistance Program (SNAP); Medicaid; other assistance.** Low-income customers may be eligible for other payment assistance benefits. To be eligible you must be in SNAP or on Medicaid and the name of the program participant must be the same name on your electric bill. To apply for SNAP or Medicaid contact your local Texas Department of Health and Human Services office or <https://hhs.texas.gov>. Information on additional bill payment assistance programs is available from the Texas Department of Housing and Community Affairs website under Energy Assistance at <http://www.tdhca.state.tx.us/ea/index.htm>.

**Critical Care and Chronic Condition Customers.** You have the right to apply for Critical Care Residential Customer or chronic Condition Residential Customer designation in accordance with PUC Subst. Rule 25.497. Company cannot file for this designation on your behalf, and you do not file for this designation with Company. To

be considered for such designation, the PUC approved form must be submitted by facsimile or other electronic means to the TDSP by a physician. If you have a person permanently residing in at your service address who has been diagnosed by a physician as being dependent upon an electric powered medical device to sustain life, you may apply for designation as a Critical Care Residential Customer. If you have a person permanently residing in your service address who has been diagnosed by a physician as having a serious medical condition that requires an electric powered medical device or electric heating or cooling to prevent the impairment of a major life function through a significant deterioration or exacerbation of the condition, you may apply for designation as a Chronic Condition Residential Customer.

Once you have filed for the designation, the TDSP will notify you of the final status of your designation as a Critical Care or Chronic Condition Residential Customer and will notify you when such designation will expire and whether you will receive a renewal notice. The TDSP will also notify Company about your status. Designation as a Critical Care or Chronic Condition Residential Customer does not relieve you of your obligations to pay for electric service that you receive from Company.

**Dispute or Complaints.** If you have any questions, concerns, or complaints, or you feel that your bill is incorrect, please contact us via phone at (888) 832-4081 Monday-Friday 8am-5pm Central or via email at [care@flagshippower.com](mailto:care@flagshippower.com). If we cannot answer your question or complaint immediately, we will promptly investigate the matter and report our findings to you. If for any reason you are not satisfied with our response, you may contact the PUC. You have a right to file a complaint with the PUC. If you have a billing or other dispute that you are not able to resolve with Company, you may contact the PUCT at PO Box 13326, Austin, TX 78711-3326 or by calling (512) 936-7120 or toll free (888) 782-8477. Hearing and speech impaired individuals with text telephones (TTY) may contact the PUCT by calling (512) 936-7136. Please see your YRAC for more information.

**Nondiscrimination.** Company does not deny service or require a prepayment or deposit for service or otherwise discriminate based on your race, creed, color, national origin, ancestry, sex, marital status, your location in an economically distressed geographic area, or qualifications for low income or energy efficiency services. Company does not use a credit score, a credit history, or utility payment data as the basis for determining the price

for electric service for product with a contract term of 12 months or less.

**Your Information and How Company Uses it.** Company uses information collected by or shared with us to provide or help facilitate your electric service. By enrolling in electric service with Company you authorize Company to use the information you have provided to us to send you information related to your electric service, related products, alerts, updates to Company products and services and to send you additional marketing or informational communications from time to time.

**Change in Law or Regulation.** Company may pass through or allocate, as the case may be, to you any increase in our costs related to the electricity and related products and services sold to you that results from actual changes in TDSP charges, changes to the Electric Reliability Council of Texas (ERCOT) or Texas Regional Entity, Inc. administrative fees charged to load or changes resulting from federal, state or local Laws that impose new or modified fees or costs on Company that are beyond Company's control. "Laws" means any law, rule, regulation, ordinance, statute, judicial decision, order, administrative order, ERCOT or PUC business practices or protocols, directive, filed tariff, writ, judgment, or decree by governmental authority (including but not limited to ERCOT or the PUC). Upon such pass through or allocation, you agree to pay Company the amount allocated or passed through to you on your bill.

**Disclaimer of Warranties.** Company cannot guarantee that the electricity energy directly delivered to your location is renewable energy. By purchasing a renewable product from Company, you are helping to support renewable energy generation. Your purchase of a renewable product ensures that renewable energy equal to your paid electricity usage is produced using renewable energy resources. Company reserves the right to purchase and retire renewable energy certificates or "RECs" which represent proof that the electricity purchased was generated from a renewable energy source. **BESIDES THE FOREGOING, COMPANY MAKES NO REPRESENTATIONS OR WARRANTIES ABOUT THE SOURCES FROM WHICH YOUR ELECTRICITY IS DERIVED.**

**COMPANY MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE RESIDENTIAL ELECTRICITY OTHER THAN THOSE EXPRESSLY SET FORTH IN THIS CONTRACT AND COMPANY EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES**

WITH RESPECT TO RESIDENTIAL ELECTRICITY WHETHER WRITTEN OR VERBAL, EXPRESS OR IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

**Assignment.** You may not assign this Contract in whole or in part without our prior written consent. You may not assign any of the obligations you have under this Contract in whole or in part without our prior written consent. Any purported assignment by you without our prior written consent shall be deemed void. Company may assign or transfer this Contract without your consent. Company may do any of the following: (i) transfer, sell, pledge, encumber or assign this Contract or the accounts, revenues or proceeds hereof in connection with any financing or other financial agreement or power supply transaction; (ii) transfer or assign this Contract to an affiliate of Company; (iii) transfer or assign this Contract to any person or entity succeeding to all or substantially all of the assets of Company and/or (iv) transfer or assign this Contract to another certified REP. In the case of (i), (ii) or (iv) such assignee shall agree in writing to be bound by the terms and conditions of the Contract and upon any such assignment Company shall have no further obligations hereunder.

**Attorney Fees and Expenses.** If you default in the payment of amounts due under this Contract, you will be responsible to Company for all fees or charges, including reasonable attorney fees and court costs, incurred in connection with the collection of delinquent balances whether these charges are incurred by Company through filing a lawsuit, referring your balance to a collection agent for collection, or collecting your outstanding balance through bankruptcy or other judicial proceedings.

**Governing Law; Venue; Waiver of Jury Trial.** This Contract shall be interpreted, construed, and governed by the laws of the State of Texas, notwithstanding any conflict-of-laws principles that might require the application of the laws of another jurisdiction. You hereby irrevocably submit to the non-exclusive jurisdiction of the federal and state courts located in Harris County, Texas in any action, suit or proceeding arising out of or relating to this Contract. You hereby irrevocably waive, to the fullest extent permitted by law, any objection that you may now or hereafter have to the laying of the venue of any such action, suit or proceeding brought in such a court and any claim that any such action, suit or proceeding brought in such a court has been brought in an inconvenient forum. **YOU HEREBY WAIVE, TO THE**



FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT YOU MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY SUIT, ACTION, CLAIM OR PROCEEDING RELATING TO THIS CONTRACT. YOU HEREBY (i) CERTIFY THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF COMPANY OR ANY THIRD PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT COMPANY WOULD NOT, IN THE EVENT OF SUCH A SUIT, ACTION, CLAIM OR PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER.

**Limitations of Liability.** LIABILITY RELATED TO OR ARISING OUT OF THIS CONTRACT SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES. NEITHER OF US WILL BE LIABLE TO THE OTHER FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, OR INDIRECT DAMAGES. COMPANY IS NOT LIABLE FOR INTERRUPTIONS TO OR SHORTAGES OF ELECTRICITY SUPPLY NOR ANY ASSOCIATED LOSS OR DAMAGE RESULTING THEREFROM. THESE LIMITATIONS APPLY WITHOUT REGARD TO THE CAUSE OF ANY LIABILITY OR DAMAGE. THERE ARE NO THIRD-PARTY BENEFICIARIES TO THIS CONTRACT.

**Force Majeure.** You understand that Company does not generate, transfer, or distribute your electricity. Company will make commercially reasonable efforts to provide your electric service however Company does not guarantee a continuous supply of electricity. Certain causes and events are out of our reasonable control and may result in interruptions in service (each a "Force Majeure Event"). by Force Majeure Events include but are not limited to acts of God, changes in laws, rules, or regulations or other acts of any governmental authority (including the PUCT or ERCOT or TRE), accidents, strikes, labor troubles, required maintenance work, inability to access the local distribution utility system, nonperformance by the TDSP or any other cause beyond our reasonable control. Company is not liable for damages that arise out of or are in any way related to a Force Majeure Event.

**Title, Risk of Loss, and Indemnity.** Company ceases to have title to, and risk of loss related to the electricity at the point where a third-party transmission or delivery system connects with the TDSP system. You shall be deemed to be in exclusive control of the electricity after it reaches your electric meter. You are responsible for any damages or injury caused once you are in exclusive control. You agree to indemnify, defend, and hold Company harmless from all claims for any loss, damage or injury to persons

or property, including but not limited to all consequential, exemplary, or punitive damages arising from or related to any act or omission occurring after the interconnection of the TDSP transmission or delivery system with your meter.

**No Waiver.** No delay, failure, or waiver on the part of Company in exercising any rights hereunder, and no partial or single exercise thereof, will constitute a waiver of such rights or of any other rights set forth in this Contract or related to the electric service.

**Entire Contract.** This Contract, along with the EFL and Your Rights as a Customer, contain the entire agreement between you and Company with respect to your electric service and supersedes all prior contracts or agreements (oral or written) between you and Company with respect to the subject matter of this Contract.

**Electronic Signature and Counterparts.** By accepting the terms of service online, you are executing this Contract electronically. This Contract does not have to be executed by Company to be valid. You agree to execute such other and further documents as may be reasonably necessary to evidence or carry out the terms and provisions of the Contract, including online forms.