# Pennsylvania Residential and Small Commercial Disclosure Statement and Terms of Service

Energy Harbor LLC ("Company") agrees to sell, and you agree to buy, your full requirements for electric generation service (License No. A-110078) and/or natural gas supply service (License No. A-2020-3019389) ("Service") at the price(s) provided in your rate plan, contract summary, recorded verification or welcome package ("Enrollment Documentation") and pursuant to the terms and conditions specified in this Terms of Service, the purpose of which is to authorize a change in your third-party supplier Service to Company (the Enrollment Documentation and the Terms of Service are collectively the "Agreement"). This Agreement governs your Service at the account number and street address that you have specified and that Company has agreed to serve and supersedes any oral or written statements and all prior and contemporaneous negotiations made in connection with this Agreement or the supply of your Service. You will be bound by all the provisions of the Agreement, as they may be amended from time to time upon advance notice to you. The prices and terms of this Agreement are subject to change as provided below. This Agreement is subject to the eligibility requirements of your electric distribution company ("EDC") and/or natural gas distribution company ("NGDC") and Company may choose not to accept this Agreement for any reason. In addition, Company has the right to refuse or terminate Service, and recover costs, if any, of your usage exceeds the Usage Thresholds. The "Usage Thresholds" applicable to electricity are: (i) for residential and small commercial customers, peak demand greater than 25 kW over any 12-month period, and (ii) for all other customers: 1,000,000 kWh over any 12-month period. The "Usage Thresholds" applicable to natural gas are: (i) for residential and small commercial customers, usage exceeding 10,000 ccfs per month or 90,000 therms (or the equivalent Ccf or Mcf) over any 12-month period, and (ii) for all other customers: usage greater than 100,000 therms (or the equivalent Ccf or Mcf) over any 12-month period. If your consumption of Service is materially different than your historical usage ("Change in Usage"), Company reserves the right to modify your Rate or terminate this Agreement and recover costs, if any.

Company often uses independent brokers to sell its energy products. Please review the Agreement carefully. If there are any discrepancies with the product features you were sold and the terms and conditions of such products, please call our customer care center as detailed in Section 18. Capitalized terms used herein have the meaning ascribed to them as listed within the Agreement.

**1. PRICING:** You hereby designate Company as your agent for the purpose of arranging, contracting for, and administering transmission and transportation services (including those provided by your EDC and/or NGDC) for the delivery of Service. Your EDC and/or NGDC will continue to deliver the Service to you. Your EDC and/or NGDC will also respond to emergencies and provide other traditional utility services. Switching to Company will not impact your Service reliability.

If you have chosen natural gas Service, you hereby designate Company as your agent to: (i) arrange and administer contracts and service arrangements between you and your NGDC, and between you and the interstate pipeline transporters of your natural gas (including capacity release, re-release, and recall arrangements); (ii) nominate and schedule with the interstate pipelines the transportation of your natural gas from the Sales Points (as defined in Section 12) to your NGDC's city gate station ("Delivery Points"), and with your NGDC for the transportation of your natural gas from the Delivery Points to your premises; and (iii) aggregate your natural gas with the natural gas supplies of Company's other customers in order for you to qualify for transportation service and to address and resolve imbalances (if any) during the term of this Agreement. As your agent, Company will schedule the delivery of a quantity of natural gas at the Sales Points necessary to meet your city gate requirements based on the consumption and other information that Company receives from your NGDC. Company, as your agent, will arrange for the transportation of natural gas from the Sales Points to the Delivery Points, and from the Delivery Points to your premises.

Company does not charge any fee for you to switch to receive the Service pursuant to this Agreement. Please note that some products have specific fees related to the product or plan you choose which are detailed in your Enrollment Documentation; these fees are not switching fees.

Except as otherwise provided in this Agreement or as required by law, all taxes of any kind, nature and description, due and payable with respect to your performance of your obligations under this Agreement, will be paid by you. The Service under this Agreement will be measured at the delivery point by your EDC and/or NGDC providing the delivery service in accordance with the terms of the applicable tariff.

Depending on your EDC and/or NGDC's billing practices, your Rate during the billing cycle may be applied pro rata resulting in a blended rate of the previous month's and the current month's Rate. If your Service charges are based on estimated usage, Company has the right to bill you on actual usage when such information is made available and you have the obligation to pay Company for such actual usage amounts.

You understand that there are no guaranteed savings and your Rate may be higher than the EDC and/or NGDC's rate in any given month. You can always review existing Service offers to compare your Rate under this Agreement to other current offers by going to your state's public rate chart in Section 18. Your Rate includes Transmission Charges (if applicable) and gross receipts tax. Your Rate will not include any fees, State sales tax and county tax or charges directly assessed by the EDC and/or NGDC, or any other third party with the right to assess taxes or fees for the Service.

**2. TERM:** Company will begin supplying your Service when your EDC and/or NGDC switches your account to Company. The term of this Agreement will begin on a date set by your

EDC and/or NGDC and continue for **20** months ("Term"). Your Term is based on monthly billing cycles as determined by your EDC and/or NGDC and each monthly billing cycle may not represent a full calendar month. If your EDC and/or NGDC bills bimonthly, Company will treat this as two monthly billing cycles. Typically, it takes one to two billing cycles for your Service to be switched from your EDC and/or NGDC to Company, but there may be a delay before the EDC and/or NGDC switches your Service and you understand that Company is not responsible for any such delays. You may receive written notification from your EDC and/or NGDC confirming your switch to Company.

**3. RATE PLAN:**

Fixed Rate. You will pay a fixed rate of $0.1489 per kWh for Service for the length of the Term ("Fixed Rate").

Variable Rate. Variable Rates may change on each monthly bill cycle and may be higher or lower each month based on business and market conditions ("Variable Rate"). Variable Rates are set in the Company's discretion and may vary based on numerous factors, including, but not limited to, the Company's assessment of applicable market and business conditions, operation costs, historic and projected supply and hedging costs, prior meter read cycle's pricing and balancing costs, projected average customer bill amounts and EDC and/or NGDC pricing or "price to compare" and applicable pricing reset dates and may include the following additional costs: ancillary services and other regional transmission organization ("RTO") costs, capacity costs, transmission costs, line loss costs, Reliability Must Run ("RMR") costs, credit costs, balancing costs, winter reliability costs, and costs associated with meeting any applicable renewable portfolio standards, and a profit margin determined in the Company's discretion that may vary from month to month. Your Variable Rate may change each billing cycle and there is no limit on how much your Variable Rate may change from one billing cycle to the next. You may obtain Company's previous 24 months' average monthly billed prices by visiting www.energyharbor.com/access-rates or contacting Company as provided in Section 18. Historical pricing is not indicative of present or future pricing.

The Variable Rate may be lower or higher than the Fixed Rate, fixed rates offered by Company, the EDC and/or NGDC's pricing or "price to compare", rates offered by other third party suppliers, and wholesale market rates, and, furthermore, the Variable Rate may not fluctuate in relation to any of the aforementioned rates.

**4. RENEWAL:** For electric supply Service: If you have a fixed duration contract that will be ending, or whenever Company wants to change the contract, you will receive two separate notices before the contract ends or the changes happen. You will receive the first notice 45-60 days before, and the second notice 30 days before the expiration date or the date the change becomes effective. These notices will explain your options.

For natural gas supply Service: If you have a fixed duration contract approaching the expiration date, or whenever we propose to change the terms of service, you will receive two separate written notifications, the first approximately 60 to 75 days in advance and the second 45 days in advance of either the expiration date or the effective date of the proposed changes. These notifications will explain your options going forward.

If you are receiving both electric generation Service and natural gas supply Service and the terms for both Services expire within thirty (30) days of each other, you may receive two contract expiration notices that address both Services as allowed by the PUC.

The renewal notices described above in this Section 4 ("Renewal Notices") may offer you a new product and if you do not affirmatively select a product offering, you will be automatically enrolled: (i) on the Fixed Rate plan provided in the Renewal Notice, (ii) a Variable Rate plan, or (iii) other plan as described in your Renewal Notice. Your first Term after signing a new agreement with Company will be deemed your "Initial Term". Each new renewal period after your Initial Term will be deemed a "Renewal Term". If you are receiving a Variable Rate plan during your Renewal Term, you will receive a notice 30-days prior to a change in your Variable Rate. UNLESS YOU INFORM COMPANY IN WRITING OR BY TELEPHONE AS PROVIDED IN SECTION 18 THAT YOU DECLINE TO RENEW THIS AGREEMENT UNDER THE TERMS AND CONDITIONS SET FORTH IN THE RENEWAL NOTICE, THIS AGREEMENT WILL RENEW UNDER THE TERMS AND CONDITIONS SET FORTH IN THE RENEWAL NOTICE. YOUR RENEWAL TERM MAY NOT INCLUDE PRODUCT INCENTIVES ASSOCIATED WITH YOUR INITIAL TERM.

**5. EARLY TERMINATION OF CONTRACT:**
Customer-Initiated Termination: You may terminate this Agreement as described below.

You may terminate a Fixed Rate plan at any time; provided that, if you terminate after the Rescission Period (as defined in Section 6) and before the date the second Renewal Notice (as referenced in Section 4) is issued, an early termination fee will apply unless otherwise noted in your Enrollment Documentation. For residential customers, the early termination fee of $0 will apply for the Service you terminate during the Initial Term. Early termination fees will apply if you terminate due to a Change in Law, as discussed in Section 8.

If you have a Variable Rate plan, you may terminate at any time and no termination fee will apply.

To terminate this Agreement you must: (i) notify Company as detailed in Section 18; or (ii) notify the EDC and/or NGDC that you would like to return to default service from the EDC and/or NGDC. To terminate Service, you do not need to contact both Company and your EDC and/or NGDC, you may contact one or the other. During the initial Term or any subsequent Renewal Term of this Agreement, if you contact Company to terminate, Company will promptly notify the EDC and/or NGDC, and the termination will then be effective on a date set by your EDC and/or NGDC; however, Company is not responsible for any delays in the

termination process that are caused by acts or omissions of the EDC and/or NGDC.

Company-Initiated Termination: The Company may terminate this Agreement at any time by providing you notice as required by law. Company may terminate this Agreement for any non-payment or other breach of this Agreement upon mailing, at least 30 days prior, written notice to you of such termination. Company also may terminate this Agreement due to a Change in Law (as defined in Section 8) that results in an increased cost to Company, or Company is prevented, prohibited, or frustrated from carrying out its intent under this Agreement. Company may terminate this Agreement as a result of any act beyond Company's reasonable control, if Company is no longer able to serve you, if there is a Change in Usage or your usage exceeds the Usage Thresholds, or if you provide false, inaccurate or misleading information to Company or to the EDC and/or NGDC.

If it is determined that your usage is greater than the Usage Thresholds, at Company's sole discretion it may require you to sign a new and different form of agreement before accepting you as a customer or continuing to provide Service.

Upon termination of this Agreement either by you or Company, you will return to receiving default service from the EDC and/or NGDC until you designate another supplier or service is shut off by the EDC and/or NGDC. The effective date of any termination will be on a date set by your EDC and/or NGDC after expiration of the required notice period. Upon any termination, you will remain responsible for all payments and obligations under this Agreement, including any applicable early termination fee, until such effective date of termination. A EDC and/or NGDC cannot terminate or interrupt the delivery of Service to you because of any dispute between Company and you, but a EDC and/or NGDC may terminate such service for nonpayment of EDC and/or NGDC charges in accordance with applicable law. Only the EDC and/or NGDC may shut off your electric power or natural gas supply.

**6. CUSTOMER RESCISSION:** You may cancel this Agreement at any time before midnight of the third (3rd) business day after receiving this Agreement ("Rescission Period") by notifying Company as detailed in Section 18.

**7. INDEPENDENT SELLER:** Company is licensed by the Pennsylvania Public Utility Commission ("PUC") to offer and supply Service in Pennsylvania as a licensed supplier. You understand that Company is not representing or acting on behalf of any EDC and/or NGDC. You understand that you are not required to switch your Service to Company. If you are enrolled in any EDC and/or NGDC or government programs, enrolling with Company may be prohibited or may impact your participation in these programs. Please check with your EDC and/or NGDC or program administrator before enrolling with Company.

**8. CHANGE IN LAW:** If, during the Initial Term or any Renewal Term, any change in, or enactment or interpretation of, any rule, regulatory action, order, regulation, operating procedure, policies, tariff, riders, fees, pricing structures, market structures, capacity charges, changes in your load profile, ordinance, statute, or law beyond Company's reasonable control ("Change in Law") results in an increased cost to the Company or Company is prevented, prohibited, or frustrated from carrying out its intent under this agreement, Company can terminate this Agreement with notice to you as required under applicable law or adjust the Rate. If Company adjusts the Rate and/or other terms, you will be provided with an updated Agreement and two advance notices: (i) an initial notice 45-60 days before the proposed effective date, and (ii) a second notice 30 days before the date the change becomes effective. You will have an opportunity to terminate without any further obligation by notifying Company in writing within 30 days after receiving the updated Agreement.

In such case, you will return to receiving default service from the EDC and/or NGDC until you designate another provider or service is shut off by the EDC and/or NGDC and the applicable termination fee listed in your Enrollment Documentation will apply. Please see Section 5 for further details regarding termination.

**9. SEVERABILITY AND NON-WAIVER:** If any portion of this Agreement is declared invalid or unenforceable by final order of a court or any regulatory body having jurisdiction, the remaining portions of this Agreement shall remain in effect and the remainder of this Agreement will be construed so as to give effect to its original intent and effect as near as possible.

The failure by one party to require performance of any provision shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

The provision of this Agreement concerning payment, limitation of liability and waivers will survive the termination or expiration of this Agreement.

**10. BILLING AND PAYMENT:** You will receive a single bill from your EDC and/or NGDC that will contain your EDC and/or NGDC's charges and Company's charges. The EDC and/or NGDC will set your payment due date and the payment address. Any bill not paid in full by its due date will incur the maximum late payment fee pursuant to law that will be applied in accordance with the EDC and/or NGDC 's or the Company's billing and payment policies and procedures.

Company reserves the right to change billing methods. If Company change its billing methods, Company will send you advance written notice in your bills or in a separate mailing thirty (30) days before the effective date of any such change. If Company bills you for Service, any bill not paid in full by its due date will incur a late payment fee in accordance with Company's billing and payment policies and procedures. IF YOU FAIL TO PROMPTLY PAY UNDER THIS

AGREEMENT AND COMPANY INCURS ADDITIONAL FEES AND CHARGES, INCLUDING REASONABLE ATTORNEY FEES AND COURT COSTS, IN CONNECTION WITH THE COLLECTION OF PAST-DUE CHARGES, YOU WILL BE LIABLE FOR ALL SUCH FEES AND COSTS. Company shall have the right to setoff and net against any undisputed amounts owed by you under this Agreement, and the Company shall additionally have the right to setoff and net against any deposit or security provided by you pursuant to this Agreement any amounts, charges or damages owed by you to Company. If you have provided Company, its affiliates or agents with a credit card number, you provide authorization to charge any outstanding balance to such credit card. You will be billed and pay Company for the Services based on meter readings and consumption information that Company receives from your EDC and/or NGDC. You are responsible for paying and reimbursing Company for all applicable fees.

If you are tax exempt, you must furnish Company an exemption certificate before your Service commences.

**11. AUTHORIZATIONS:** By entering into this Agreement, you authorize your EDC and/or NGDC to release to Company your customer information, including account contact information, account number, standard offer service type, rate classification, meter number, billing history, payment history, historical and future electricity and/or natural gas usage, meter readings (including, but not limited to, data from advanced meters, if any) and characteristics of your electric and/or natural gas service ("Customer Information"). Company will maintain the confidentiality of Customer information as required by applicable PUC regulations and Federal and State laws.

This Agreement provides authorization for Company to contact you about our other products and services or share information about your account with any designated partner or with any third-party vendor Company uses to provide services and rewards to you. Company reserves the right to share your Customer Information with any partner or agent, to the extent permitted by law, that needs to know such information in connection with your Service. To opt out of the release of information to unaffiliated third parties, contact Company as provided in Section 18. If you select such services or rewards from a third party, or elect to bundle or purchase a product apart from Company's Service, or if a product that is installed in your home by a third party provider, such as a thermostat ("Energy Related Products"), you must contact the third party provider of such Energy Related Products for any products issues, rebates, warranties, or billing and service questions. Company will have no liability to you for Energy Related Products.

If you provide us with your email address, you are: (i) consenting, where permitted by applicable law, to receiving documents, notices and other communications from us in electronic form, and (ii) required to provide a correct, working email address and notify Company of any change in your email address or any withdrawal of consent for the electronic documents, notices and other communications.

You authorize Company to obtain and review your credit history. If you fail to meet Company credit criteria, you understand that Company may refuse or terminate Service, or provide a substitute product. If there is a deterioration in your credit rating or if there is an increase in your usage, to continue receiving Service with Company, you may be required to promptly provide cash escrow or deposit, establish an ACH debit relationship with Company, or provide other reasonable assurances to Company to establish your credit worthiness. If a deposit is required, before any deposit is taken, you will be provided notice as to all terms and conditions on such deposit and the amount and the rate of interest paid on the deposit.

If Company bills you and you fail to make payment in a timely fashion, Company has the right to use the services of debt collection agencies, consumer reporting agencies, and other remedies allowed by law. If you fail to make timely payment, you authorize Company to report the delinquency to one or more credit-reporting agencies.

You agree that by accepting this Agreement and providing your phone number (which may include your wireless number) to Company or its agents or affiliates, Company and its agents or affiliates may text or call you with autodialed or pre-recorded promotional or product information. Your consent and acceptance of this policy is not a condition of purchase.

All authorizations provided in this shall remain in effect as long as this Agreement (including any Renewal Term) is in effect. You may rescind these authorizations at any time by calling, emailing, or providing written notice to Company as provided in Section 18. Company reserves the right to reject your enrollment or terminate the Agreement if you rescind these authorizations.

**12. TITLE; RISK OF LOSS:** You and Company agree that title to, control of, and risk of loss of the Service supplied under this Agreement will transfer from Company to you: (i) for electricity, at a point or points on the PJM system administered transmission system located outside the municipal and county limits of your service address location, selected from time to time by Company to assure service reliability, or (ii) for natural gas, at a point or points located outside of the State of Pennsylvania selected from time to time by Company to assure service reliability (together "Sales Points"). Company and you agree that transactions under this Agreement are originated and consummated outside the jurisdictional limits of the municipality and county, or other taxing authority where your service address is located. If a taxing authority determines that a gross receipts tax or other tax is applicable to the sale of the electric service or natural gas service under this Agreement, you agree to pay such tax, as invoiced.

For commercial customers only: (i) as between Company and you as a commercial customer, you will be deemed to be in exclusive control of the electricity and/or natural gas and responsible for any damage, injury, charges, transportation fees, costs or losses at and after the Sales

Points, including, without limitation, any losses that Company incurs that result from having to resell, or its inability to resell, to another party electricity and/or natural gas supplies allocated for you, and (ii) as between Company and you, Company will be deemed in exclusive control of the electricity and/or natural gas, and responsible for any damage, injury, charges, transportation fees, costs or losses until the electricity and/or natural gas is delivered to the Sales Points; provided, however, that in no event shall Company's liability under this Agreement exceed the difference between the reasonable price of replacing any undelivered electricity and/or natural gas and the price of electricity and/or natural gas under this Agreement.

**13. ASSIGNMENT:** Company may sell, assign, subcontract, transfer, pledge, or delegate your account and all or any part of the rights and/or obligations under this Agreement, including your payment obligations and related revenues. You may not assign any of your rights or obligations under the Agreement without Company's prior written consent.

**14. NON-RELIANCE:** You acknowledge that: (i) you are not relying on any advice, statements, recommendations or representations of Company, other than the written representations in this Agreement; (ii) you understand the risks of entering into this Agreement, including the risk that Company's prices may be higher than your EDC and/or NGDC's rates, and you are capable and willing to assume those risks; and (iii) you have made your own decision to enter into this Agreement, after consultation with your own advisors to the extent you deem necessary.

**15. DISPUTE RESOLUTION:** Dispute Procedures: Contact Company as indicated in Section 18 as with any questions concerning billing or other terms of service. In the event of a dispute or a disagreement under this Agreement, the parties will use their best efforts to resolve the dispute. If you are not fully satisfied after discussing your dispute with the Company, you may contact the PUC as indicated in Section 18.

Regardless of whether you choose to pursue your dispute with the PUC, your right to pursue individual arbitration with Company will not be impacted under this Agreement as set forth below.

You and Company both agree to resolve Disputes (as defined below) only by arbitration or in small claims court (for qualifying claims), subject to specific exceptions listed herein. The parties expressly agree that they are waiving their right to sue in court and that arbitration is the parties' sole remedy to solve disputes. There is no judge or jury in arbitration, the procedures may be different, and is subject to limited review by a court. An arbitrator, however, can award you the same damages and relief, and must honor the same terms in this Agreement, as a court would. If the law allows for an award of attorney's fees, an arbitrator can award them too.

"Disputes" are any claims or controversies against each other related in any way to, or arising from Company's Services, this Agreement, or any related agreements, including but not limited to, billing, services and practices, policies, contract practices (including enforceability), service claims, privacy, or advertising, even if it arises after your Services with Company have terminated. Disputes include any claims that: (i) you bring against Company or any of its employees, agents, affiliates, or other representatives; (ii) you bring against a third party that are based on, relate to, or arise from Company's Services, this Agreement or any related agreements; or (iii) that Company brings against you. It also includes, but is not limited to, claims related in any way to, or arising from any aspect of the relationship between you and the Company, whether based in contract, tort, statute, fraud, misrepresentation, or any other legal theory.

Prior to initiating arbitration, a party must first send to the other, by certified mail, a written notice of dispute ("Dispute Notice"). The Dispute Notice to the Company should be addressed to the notice address listed in Section 18. The Dispute Notice must (i) describe the nature and basis of the claim or Dispute; and (ii) set forth the specific relief sought ("Demand"). If Company and you do not reach an agreement to resolve the claim within thirty (30) days after the Dispute Notice is received, you or Company may commence an arbitration proceeding. During the arbitration, the amount of any settlement offer made by the Company or you shall not be disclosed to the arbitrator.

**ARBITRATION AGREEMENT:**
**In the unlikely event that Company is unable to resolve a dispute or complaint you may have to your satisfaction, we each agree to resolve those disputes through binding arbitration or small claims court instead of in courts of general jurisdiction.** Arbitration is more informal than a lawsuit in court. Arbitration uses a neutral arbitrator instead of a judge or jury, allows for more limited discovery than in court, and is subject to very limited review by courts. Arbitrators can award the same damages and relief that a court can award.

Company and you agree to arbitrate **all disputes and claims** between us. This agreement to arbitrate is intended to be broadly interpreted. It includes, but is not limited to:

- claims arising out of or relating to any aspect of the relationship between us, whether based in contract, tort, statute, fraud, misrepresentation or any other legal or equitable theory;
- claims that arose before this or any prior Agreement or contract;
- claims that are currently the subject of purported class action litigation in which you are not a member of a certified class; and
- claims that may arise after the termination of your Agreement or contract.

Notwithstanding the foregoing, either party may bring an individual action in small claims court. This arbitration agreement does not preclude you from bringing issues to the attention of federal, state, or local agencies, including, for example, a state public utility commission. Such agencies can, if the law allows, seek relief against us on your behalf. No amendment of this arbitration agreement shall apply to disputes or claims of which Company had actual notice from you on the date of the amendment. **YOU AGREE THAT, BY ENTERING INTO YOUR**

**AGREEMENT, YOU AND COMPANY ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION, AND THE FEDERAL ARBITRATION ACT GOVERNS THE INTERPRETATION AND ENFORCEMENT OF THIS AGREEMENT.** This arbitration agreement shall survive termination of your Agreement.

The arbitration will be governed by the Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes (collectively, "AAA Rules") of the American Arbitration Association ("AAA"), as modified by this agreement, and will be administered by the AAA. The AAA Rules are available online at www.adr.org or by calling the AAA at 1-800-778-7879. The arbitrator is bound by the terms of your Agreement. All issues are for the arbitrator to decide, except that issues relating to the scope and enforceability of the arbitration provision are for the court to decide.

The arbitrator may award declaratory or injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claim. **YOU AND COMPANY AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR OUR INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING, INCLUDING IN ANY PROCEEDING THAT ORIGINATES IN A SMALL CLAIMS COURT AND ANY RELATED APPEAL**. Further, unless both you and Company agree otherwise, the arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding. If this specific provision is found to be unenforceable, then the entirety of this arbitration provision shall be null and void.

**16. LIMITATION OF LIABILITY; WARRANTY; JURY TRIAL WAIVER; GOVERNING LAW; VENUE:** YOU AGREE THAT NEITHER COMPANY NOR ANY OF ITS AFFILIATES, CONTRACTORS, OR SUBCONTRACTORS WILL BE LIABLE FOR ANY DAMAGES OR CLAIMS FOR MATTERS WITHIN THE CONTROL OF THE EDC AND/OR NGDC, NATURAL GAS PIPELINES OR THE RTO-CONTROLLED ELECTRICITY GRID, INCLUDING MAINTENANCE OF ELECTRIC LINES AND SYSTEMS, NATURAL GAS PIPELINE MAINTENANCE, SERVICE INTERRUPTIONS, LOSS OR TERMINATION OF SERVICE, DETERIORATION OF SERVICES, METER READINGS, OR INJURY TO PERSONS OR DAMAGE TO PROPERTY CAUSED BY THE DELIVERY OR SUPPLY OF ELECTRICITY OR NATURAL GAS.

COMPANY MAKES NO REPRESENTATIONS OR WARRANTIES, EITHER EXPRESSED OR IMPLIED, WITH REGARD TO THE PROVISION OF SERVICE, AND TO THE FULLEST EXTENT OF THE LAW DISCLAIMS ANY AND ALL WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR ARISING OUT OF ANY COURSE OF DEALING OR USAGE OF TRADE.

COMPANY WILL NOT BE LIABLE FOR BILLING OR COMMUNICATION ERRORS AFTER 90 DAYS IF YOU DO NOT CONTACT US REGARDING SUCH ERRORS WITHIN 90 DAYS AFTER THE STATEMENT SHOWING THE TRANSACTION HAS BEEN MAILED TO YOU.

NEITHER COMPANY NOR ANY OF ITS AFFILIATES, CONTRACTORS, OR SUBCONTRACTORS WILL BE RESPONSIBLE FOR ANY FAILURE TO COMMENCE OR TERMINATE POWER OR ENERGY SERVICE ON THE DATE SPECIFIED HEREIN BECAUSE OF ANY FAILURE OR DELAY IN ENROLLING YOU WITH THE UTILTY. IN NO EVENT WILL COMPANY BE LIABLE FOR ANY PUNITIVE, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, INDIRECT, THIRD-PARTY CLAIMS OR OTHER DAMAGES WHETHER BASED ON STATUTE, CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, OR FOR LOST PROFITS ARISING FROM ANY BREACH OR NONPERFORMANCE.

COMPANY'S LIABILITY WILL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, WHICH WILL NOT EXCEED THE AMOUNT OF YOUR SINGLE LARGEST MONTHLY INVOICE DURING THE PRECEDING 12 MONTHS. YOU HEREBY WAIVE ALL OTHER REMEDIES AT LAW OR IN EQUITY. THERE ARE NO THIRD PARTY BENEFICIARIES TO THIS AGREEMENT.

TO THE MAXIMUM EXTENT PERMITTED BY LAW, (I) VENUE FOR ANY LAWSUIT BROUGHT TO ENFORCE ANY TERM OR CONDITION OF THIS AGREEMENT SHALL LIE EXCLUSIVELY IN THE STATE OF PENNSYLVANIA, AND (II) THE AGREEMENT SHALL BE CONSTRUED UNDER AND SHALL BE GOVERNED BY THE LAWS OF THE STATE OF PENNSYLVANIA WITHOUT REGARD TO THE APPLICATION OF ITS CONFLICTS OF LAW PRINCIPLES.

**WAIVER OF RIGHT TO JURY TRIAL OR TO CLASS ACTION OR CLASS ARBITRATION:**
**TO THE FULLEST EXTENT THAT APPLICABLE LAW ALLOWS, YOU AND COMPANY AGREE THAT: (I) YOU AND COMPANY WAIVE ANY RIGHT TO TRIAL BY JURY, AND (II) NEITHER YOU NOR COMPANY WILL SEEK OR SUPPORT ANY ORDER CERTIFYING AN ACTION OR ARBITRATION INVOLVING YOU AND COMPANY AS A CLASS ACTION OR CLASS ARBITRATION OR JOIN OR PARTICIPATE AS A PARTY OR CLASS MEMBER IN ANY ACTION OR ARBITRATION BY ANOTHER PARTY AGAINST EITHER YOU OR COMPANY.**

**17. FORCE MAJEURE:** Company will not be responsible for supplying Services to you in the event of circumstances beyond Company's control such as events of force majeure ("Force Majeure Events"). Force Majeure Events include but are not limited to damages caused by acts of God, acts of terrorism, sabotage, accidents, strikes, labor troubles, pandemics, maintenance work, inability to access the EDC and/or NGDC's system, nonperformance by the EDC and/or NGDC, failure, shortage or unavailability of generating units or transmission facilities, or any other cause beyond Company's control. Force Majeure Events also include events of force majeure as defined by your EDC and/or

NGDC, RTO; or any cause beyond Company's reasonable control.

**18. CONTACT INFORMATION:** Please use the following information to contact Company with any questions about this Agreement or Company charges on your invoice, to provide all notices under this Agreement, or to resolve any disputes regarding this Agreement.

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| Name: | Energy Harbor |
| Address: | PO Box 650764 Dallas TX 75265-0764 |
| Phone Number: | 888-254-6359 |
| Email Address: | Firstchoice@energyharbor.com |
| Internet Address: | https://www.energyharbor.com |

Pennsylvania Public Utility Commission ("PUC"):

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|---|---|
| Internet: | www.puc.pa.gov |
| Address: | 400 North Street<br>Harrisburg, PA 17120 |
| Phone: | 1-800-692-7380 |

Information about shopping for an electric supplier is available at www.PaPowerSwitch.com, and information about shopping for a gas supplier is available at www.PaGasSwitch.com. You may also call the PUC as listed above, or the Office of Consumer Advocate at 1-800-684-6560 or at www.oca.state.pa.us.

**19. NET METERING: If you have or participate in eligible renewable electrical generating facilities to supply all or part of your electricity usage and such facilities are or will be net metered by your** EDC and/or NGDC, you must notify Company in advance so Company can determine your eligibility and properly serve you.

If you use net metering, or if there is a change, or an anticipated or planned change, in the consumption of Services that is materially different than your historical usage, depending on your eligibility and applicable requirements Company reserves the right to modify your Rate or terminate this Agreement and recover costs, if any.

**20. ENVIRONMENTAL DISCLOSURE:** This Agreement incorporates the information that may be provided to you or made available to you at Company's website, as indicated in Section 18, regarding the approximate generation resource secvix and environmental characteristics of electricity supply. Information on generation energy sources, energy efficiency, environmental impacts or historical billing data is available upon request.

**21. RENEWABLE ENERGY:**
**Renewable Energy Product:** If you have elected to purchase a renewable energy plan it will include a number of Renewable Energy Credits ("RECs") that is approximately equal to the percentage specified in your Enrollment Documentation of the net retail electricity delivered to your contracted account. One REC represents 1,000 kWh or 1 MWh of electricity from an eligible renewable energy generating facility. A REC will include all additional environmental attributes associated with the generation of electricity, and those environmental attributes may, but need not be, verified or certified by the same or different verification authorities or certification authorities. You agree and understand a REC is separate from the retail electricity being delivered but, nonetheless, constitutes value associated with the provision of retail electricity.

**22. WARRANTIES:** You represent and warrant to that each of the following is true and accurate:

1. You are at least 18 years old and fully authorized to enter into this Agreement.
2. You are the authorized account holder or have been given proper and binding authorization to change the Services and enter into this Agreement on behalf of the account holder
3. You are duly authorized to transact business in the Commonwealth of Pennsylvania;
4. The person who made the enrollment authorization is either you or your duly authorized representative who has the power to make valid and binding decisions on your behalf regarding your purchase of electric generation services and natural gas supply service.
5. You have received a copy of the Agreement read it and understand its contents.
6. You are either a residential customer (i.e., a person who receives electric and/or natural gas service under a residential rate classification) or small commercial customer (i.e., a person, sole proprietorship, partnership, corporation, association or other business entity that receives electric service or natural gas under a small commercial, small industrial or small business rate classification, and whose maximum registered peak load was less than 25 kW within the last 12 months).

**23. MISCELLANEOUS:** Each party agrees that electronic signatures, whether digital or encrypted, of the parties to execute this Agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic signature means any electronic sound, symbol or process attached to or logically associated with a record and executed and adopted by a party with the intent to sign such record, including facsimile or email electronic signatures.

**Pricing Definitions:**

**For electric generation service:**
"Basic Services" are services necessary for the physical delivery of service, including generation, transmission and distribution. The monthly customer charge and the temporary transition charge are also basic service charges.

"Customer Charge" is the basic service charge to partially cover costs for billing, meter reading, equipment and service line maintenance. If you select a new supplier, the name, address and telephone number for both your distribution and supplier company will appear on your bill.

"Distribution Charge" is part of the basic service charges on every customer's bill for delivering electricity from the electric distribution company to your home or business. The distribution charge is regulated by the Public Utility Commission. This charge will vary according to how much electricity you use.

“Generation Charge” is the charge for producing electricity. Generation service is competitively priced and is not regulated by the Public Utility Commission. If you purchase electricity from an electric supplier, your generation charge will depend on the contract between you and your supplier.

“Transmission Charges” is the cost for transporting electricity from the generation source to your electric distribution company. For most electric customers who select a new supplier, transmission costs will be included in the charges from your new supplier. The Federal Energy Regulatory Commission regulates retail transmission prices and services. This charge will vary with your source of supply.

**For natural gas supply service:**
“Basic services” are the services necessary for the physical delivery of natural gas to a retail customer, consisting of natural gas distribution services and natural gas supply services.

“Commodity charges” are charges for basic gas supply service which is sold either by volume (ccf or Mcf) or heating value (dekatherms). Commodity prices and charges are set by the natural gas supplier you have chosen.

“Customer charge” is a monthly charge to cover NGDC costs such as maintaining the gas lines, meter reading and billing.

“Distribution charges” are the charges for the delivery of natural gas from the point of receipt into the NGDC's system. The Public Utility Commission regulates distribution prices and services.