# Ohio Residential and Small Commercial Terms of Service

Energy Harbor LLC ("Company") agrees to sell, and you agree to buy, your full requirements for electric generation service (License No. 00-011E) and/or natural gas supply service (License No. 20-754G) ("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 local distribution company ("Utility") and Company may choose not to accept this Agreement for any reason. You understand that your Utility may require meters associated with the same account ("Associated Accounts") to be served by the same supplier. You warrant that you have included all Associated Accounts in your Enrollment Documentation. Company reserves the right to enroll or terminate Associated Accounts at the Utility's direction or at Company's discretion and recover costs. You are not eligible to enroll with a third-party supplier if you are or become enrolled in the Utility's Percentage of Income Payment Plan (PIPP) or other credit arrearage program. 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. Unless otherwise specified in your Enrollment Documentation, any fee paid to a broker is embedded within the contract price. 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 Utility) for the delivery of Service. Your Utility will continue to deliver the Service to you. Your Utility 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 Utility, 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 to your Utility's city gate station ("Delivery Points"), and with your Utility 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 Utility. 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, however switching fees may be applied under your Utility's tariff. 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 Utility providing the delivery service in accordance with the terms of the applicable tariff.

Depending on your Utility'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 Utility'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. Your Rate includes transmission charges (if applicable) but excludes

applicable state and local taxes. Your Rate will not include any fees, taxes or charges directly assessed by the Utility, 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 Utility switches your account to Company. The term of this Agreement will begin on a date set by your Utility and continue for 10 months ("Initial Term"). Your Initial Term is based on monthly billing cycles as determined by your Utility and each monthly billing cycle may not represent a full calendar month. If your Utility 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 Utility to Company, but there may be a delay before the Utility switches your Service and you understand that Company is not responsible for any such delays. Service shall begin with the next available meter reading after processing of the request by the Utility and Company. You may receive written notification from your Utility confirming your switch to Company.

**3. RATE PLAN:** Fixed Rate. You will pay a fixed rate of $0.1129 per kWh for Service for the length of the term ("Fixed Rate"). If, due to a change in market conditions, the Company wishes to lower your Rate, it may do so without consent provided there are no other changes to the terms and conditions to this Agreement.

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 Utility 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.

The Variable Rate may be lower or higher than the Fixed Rate, fixed rates offered by Company, the Utility'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:** If you are on a Fixed Rate plan, you will receive notice from Company at least forty-five (45) days prior to the end of your term or prior to any change to your Fixed Rate ("Renewal Notice"). The Renewal Notice 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. Each new renewal period after your Initial Term will be deemed a "Renewal Term". **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 WITHOUT YOUR AFFIRMATIVE CONSENT UNDER THE TERMS AND CONDITIONS SET FORTH IN THE RENEWAL NOTICE EVEN IF THERE IS A CHANGE IN THE RATE OR OTHER TERMS AND CONDITIONS.** 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 of the end of the Initial Term or Renewal Term, 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. Company may choose to reduce any applicable early termination fee to $0 at any time without notice. Early termination fees may 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 Utility that you would like to return to default service from the Utility. To terminate Service, you do not need to contact both Company and your Utility, 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 Utility, and the termination will then be effective on a date set by your Utility; however, Company is not responsible for any delays in the termination process that are caused by acts or omissions of the Utility.

Company-Initiated Termination: If at the time of termination, there is no early termination fee associated with the Agreement, then this Section shall apply. 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 (with an opportunity to cure), failure to meet any agreed-upon payment arrangements or other breach of this Agreement upon mailing, at least 14 days prior, written notice to you of such termination. If you fail to cure within the 14-day notice period, Company may terminate the Agreement even if you subsequently cure the non-payment or breach after such period has expired. 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, if you become enrolled in the Utility's Percentage of Income Payment Plan (PIPP) or other credit arrearage program, or if you provide false, inaccurate or misleading information to Company or to the Utility.

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.

If Company returns your service to your Utility, this Agreement will terminate. Upon termination of this Agreement either by you or Company, you will return to receiving default service from the Utility until you designate another supplier or service is shut off by Utility. The effective date of any termination will be on a date set by Utility 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. If a deposit is required, it shall be returned to you, net any amounts, charges or damages owed by you to Company (1) within seven (7) business days if you cancel during the Rescission Period, or (2) within thirty (30) days of termination if you cancel after the Rescission Period expires. If you voluntarily return to the Utility after choosing the Company, you may be charged a price other than the Utility's regulated sales service rate and you may or may not be served under the same terms and conditions that apply to other customers served by the Utility. A Utility cannot terminate or interrupt the delivery of Service to you because of any dispute between Company and you, but a Utility may terminate such service for nonpayment of Utility charges in accordance with applicable law. Only the Utility may shut off your electric power or natural gas supply.

Termination Due to Move: You may terminate without penalty if you move outside the Company's service area or into an area where Company charges a different price.

**6. CUSTOMER RESCISSION:** YOUR UTILITY WILL SEND YOU A CONFIRMATION NOTICE OF THE TRANSFER OF YOUR SUPPLY SERVICE TO COMPANY. YOU MAY TERMINATE THIS AGREEMENT WITHOUT PENALTY: (I) WITH RESPECT TO ELECTRIC SERVICE, AT ANY TIME WITHIN SEVEN (7) CALENDAR DAYS AFTER THE POSTMARK DATE ON YOUR UTILITY'S CONFIRMATION NOTICE TO YOU RELATEING TO ELECTRIC SERVICE, AND (II) WITH RESPECT TO GAS SERVICE, AT ANY TIME WITHIN SEVEN (7) BUSINESS DAYS AFTER THE POSTMARK DATE ON YOUR UTILITY'S CONFIRMATION NOTICE TO YOU RELATING TO GAS SERVICE (EACH A "RESCISSION PERIOD") BY NOTIFYING YOUR UTILITY ORALLY, ELECTRONICALLY, OR IN WRITING. YOUR UTILITY WILL PROVIDE YOU WITH A CANCELLATION NUMBER TO CONFIRM YOUR CANCELLATION.

**7. INDEPENDENT SELLER:** Company is licensed by the Public Utilities Commission of Ohio ("PUCO") to offer and supply Service in Ohio as a competitive retail electricity and/or natural gas supplier. You understand that Company is not representing or acting on behalf of any Utility. You understand that you are not required to switch your Service to Company. If you are enrolled in any Utility or government programs, enrolling with Company may be prohibited or may impact your participation in these programs. Please check with your Utility 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 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 an updated Agreement and you will have an opportunity to terminate without any further obligation by notifying Company in writing within 30 days after receiving the updated Agreement.**

**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 Utility approximately every thirty (30) days that will contain your Utility's charges and Company's charges. The Utility 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 Utility's or the Company's billing and payment policies and procedures. In the event any bill is not paid in full by its due date, your service may be disconnected in accordance with the Utility's tariffs and the contract with Company may be automatically terminated and early termination fees will apply.

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 set off 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 Utility. You are responsible for paying and reimbursing Company for all applicable fees. Company does not offer budget billing. You have the right to request up to twenty-four (24) months of your payment history without charge.

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

**11. AUTHORIZATIONS:** You authorize Company to obtain your customer information from your Utility, including account contact information, account number, standard offer service type, rate classification, meter number, billing history, payment history, historical and future electricity 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").

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. For the avoidance of doubt, your social security number and/or account number(s) will not be released without your affirmative written consent, except: (i) as required by court order; (ii) as required by PUCO order or rule; (iii) to Company's collections and credit reporting; (iv) participation in programs funded by the universal service fund pursuant to Section 4928.54 of the Ohio Revised Code, (v) participation in a government aggregationor (vi) for assignment to another provider. 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 Ohio 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 Utility'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 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 your complaint is not resolved after you have called Company and/or the Utility, or for general utility information, residential and business customers may contact PUCO for assistance at 1-800-686-7826 (toll free) from 8:00 AM to 5:00 PM weekdays, or at http://www.puco.ohio.gov. Hearing or speech impaired customers may contact the PUCO via 7-1-1 (Ohio relay service). The Ohio consumers' counsel (OCC) represents residential utility customers in matters before the PUCO. The OCC can be contacted at 1-877-742-5622 (toll free) from 8:00 AM to 5:00 PM weekdays, or at http://www.pickocc.org.

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

**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 UTILITY, 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 UTILITY. 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 OHIO, AND (II) THE AGREEMENT SHALL BE CONSTRUED UNDER AND SHALL BE GOVERNED BY THE LAWS OF THE STATE OF OHIO 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 JOINOR 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, changes in laws, rules or regulations or other acts of any governmental authority (including PUCO and PJM Interconnection, LLC), acts of terrorism, sabotage, accidents, strikes, labor troubles, pandemics, maintenance work, inability to access the Utility's system, nonperformance by the Utility, or any other cause beyond Company's control. Force Majeure Events also include events of force majeure as defined by your Utility, 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 |
| Mailing Address: | PO Box 650764 Dallas TX 75265-0764 |
| Phone Number: | 888-254-6359 |
| Contact Hours of Operation: | Monday – Friday, 8 a.m. – 5 p.m., Eastern Time |
| Email Address: | Firstchoice@energyharbor.com |
| Internet Address: | https://www.energyharbor.com |

**Utility:** For emergencies relating to your services, such as a power outage or gas leak, or for information about universal service programs, please call your Utility at the following number:

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| AES Ohio: | 1-877-468-8243 |
| American Electric Power: | 1-800-672-2231 |
| Centerpoint Ohio: | 1-800-227-1376 |
| Columbia Gas of Ohio: | 1-800-344-4077 |
| Enbridge Gas Ohio: | 1-877-542-2630 |
| Duke Energy Ohio: | 1-800-634-4300 |
| First Energy: | 1-888-544-4877 |

You can also call your local emergency personnel at 911 if the emergency warrants.

For non-emergency matters, including rescinding your enrollment, bill payment assistance and weatherization service, please call your Utility at the following number:

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| AES Ohio: | 1-800-433-8500 |
| American Electric Power: | 1-800-672-2231 |
| Centerpoint Ohio: | 1-800-227-1376 |
| The Illuminating Company: | 1-800-589-3101 |
| Columbia Gas of Ohio: | 1-800-344-4077 |
| Enbridge Gas Ohio: | 1-800-362-7557 |
| Duke Energy Ohio: | 1-800-544-6900 |
| Ohio Edison First Energy: | 1-800-633-4766 |
| Toledo Edison First Energy : | 1-800-447-3333 |

Public Utilities Commission of Ohio

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| Internet: | https://www.puco.ohio.gov |
| Address: | 180 East Broad Street Columbus, OH 43215 |
| Phone: | 1-800-686-7826 |

**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 Utility, 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 provided to you or made available to you at Company's website provided in Section 18 regarding the approximate generation resource mix and environmental characteristics of electricity supply.

**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 State of Ohio.

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 pursuant to a nonresidential tariff, and for electricity, your demand has not exceeded 25 kW within the last twelve months ("Demand Threshold"), or you do not aggregate demand for meters that you manage, or you do not manage a meter that has met the Demand Threshold, and for natural gas, using 500,000 cubic feet or less per year).

**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.