

### Right to Rescind Agreement

If Customer switches to REP from another Retail Electric Provider, then customer has the right to rescind this agreement without penalty within three (3) Federal business days after receiving these terms of service. To cancel, customer may contact REP as follows:

- **By Phone:** Monday - Friday: 8AM - 5PM (CT), at (214) 810-2594 or toll free at (855) 207-7828
- **By Fax:** 24 hours a day and 7 days a week (214) 810-2594
- **By Email:** 24 hours a day and 7 days a week [CustomerService@StatEnergyTexas.com](mailto:CustomerService@StatEnergyTexas.com)

Any rescission request provided by fax or email must include the following information: (1) Customer's name, address and phone number; (2) Customer's Account Number or ESI ID Number; and (3) A statement that Customer wishes to rescind the agreement.

## RETAIL ELECTRICITY PROVIDER AGREEMENT SMALL COMMERCIAL FIXED RATE PRODUCT

This Retail Electricity Provider Agreement (the “**Agreement**”) is entered into as of the date (the “**Effective Date**”) listed on the Commercial Electricity Enrollment Form (“**Exhibit A**”) by and between STAT Energy, LLC (“**STAT**”), with a principal office at 740 E. Campbell Rd., Suite 460, Richardson, TX 75081, and the Customer listed on Exhibit A. STAT and Customer are each a “**Party**” to this Agreement and are referred to collectively herein as the “**Parties**”. The Parties hereby agree as follows:

**1. Definitions.** The following terms, as used in this Agreement, shall have the meanings set forth in this Section. All other capitalized terms used herein shall have the meanings ascribed to them in the rules, regulations, protocols and documents of the governmental and regulatory authorities named herein.

**1.1 “Accounts”** means the Utility ESI ID numbers, whether one or more, of the property service address(es) set forth in Exhibit B.

**1.2 “Balancing and Operation Reserves” or “BORs”** represent charges for balancing costs charged by the ERCOT.

**1.3 “Delivery Charges”** means: (a) all delivery service costs due under Rate RDS or any successor rates and (b) any other applicable Utility tariff charges associated with Customer’s use of Utility’s distribution network. These charges may include, but are not limited to: meter rental and installation charges, distribution facilities charges, customer charges, instrument funding charges, state taxes, franchise fees, lighting charges, public programs, and decommissioning charges.

**1.4 “ERCOT”** means the Electric Reliability Council of Texas.

**1.5 “Force Majeure Event”** means acts of God, acts of terrorists, accidents, strikes, labor disputes, required maintenance work, damages or cuts to service lines, failure of the TDSP and/or the Utility to receive, transport or deliver electricity or otherwise perform, acts of and/or changes to laws, rules, regulations, policies or procedures of any governmental authority, including ERCOT or the PUCT or any other cause beyond the control of a Party. A Force Majeure Event shall not include: (a) the opportunity for STAT to sell the electricity to be sold under this Agreement to another party at a higher price than that set forth in this Agreement, (b) the opportunity for Customer to purchase the electricity (or its Accounts from another party) at a lower price than that set forth in this Agreement, or (c) the inability of either Party to pay its amounts owed under the Agreement or any other of its bills, debts or amounts owed as they become due.

**1.6 “Fixed Energy Price”** means a per kWh price for each Customer utility account served by STAT set forth in Exhibit A.

**1.7 “ISO”** means an Independent System Operator.

**1.8 “kWh”** means kilowatt hour.

**1.9 “Locational Marginal Price” or “LMP”** means, for each Account, the hourly price published by the RTO for real-time Locational or Day Ahead Marginal Pricing at the ERCOT Zone on its website (available at <http://www.ercot.com/>).

**1.10 “Material Change”** means: (a) any judicial decision, order, new law, rule or regulation or change in the application of any applicable law, rule or regulation that alters the market structure in the Utility or ISO/RTO that requires a change in the method by which prices are calculated under this Agreement; or (b) any change in Customer’s operations that adversely affects Customer’s Retail Delivery Class (for settlement purposes) or usage pattern.

**1.11 “Metered Usage”** means the actual amount of electricity (in kWh) used by the Accounts as determined by the Utility.

- 1.12** “**Proposal Expiration Date**” means the date set forth in Exhibit A.
- 1.13** “**POLR**” means the Provider of Last Resort.
- 1.14** “**PUCT**” means the Public Utilities Commission of Texas.
- 1.15** “**Retail Delivery Class**” means the Utility’s designation for retail customers used for purposes of computing Delivery Charges and settlement.
- 1.16** “**REP**” means a Retail Electric Provider certified by the PUCT meeting all obligations of a REP under the Public Utilities Act and applicable laws, rules and regulations, and authorized to provide electricity and energy supply services in the ERCOT service territory.
- 1.17** “**RTO**” means a Regional Transmission Organization.
- 1.18** “**Taxes**” means all taxes, assessments, levies, duties, charges, fees and withholdings of any kind and all penalties, fines, and additions to tax, and interest thereon that are directly related to the Services provided under this Agreement and assessed or imposed by federal, state, municipal or local government or other authority.
- 1.19** “**TDSP**” means the Transmission and Distribution Service Provider.
- 1.20** “**Utility**” means the TDSP that owns and maintains the distribution system required for transmitting or distributing electricity to retail customers on behalf of REPs like STAT.

## **2. Services.**

**2.1** Under this Agreement, Customer hereby appoints STAT to act as Customer’s exclusive REP for all Accounts listed in the attached Exhibit A, which is hereby incorporated into and made a part of this Agreement by this reference. As Customer’s REP, STAT will: (a) act as Customer’s exclusive agent for all matters related to service under ERCOT’s Electricity Delivery Service Tariff (available at: <http://www.ercot.com/>), (b) arrange for supply of all Customer’s electricity requirements for the Accounts, (c) enroll Customer’s Accounts with ERCOT and/or the PUCT as applicable, (d) schedule and cause electricity to be delivered to each Account, and (e) invoice Customer on a monthly basis for Customer’s actual Metered Usage for each Account (collectively, the “**Services**”). Customer shall provide all necessary data and authorizations required for STAT to enroll Customer’s Accounts and Customer authorizes STAT to take such actions as necessary and reasonable to perform its obligations under this Agreement, including but not limited to, the Services. The meter read cycle start and end dates set forth in Exhibit A (listed therein as the “**Estimated Start and End Dates**”) are based on estimates which may vary based on actual Utility read dates for those cycles. In the event that the TDSP is unable to perform the switch necessary for STAT to act as Customer’s REP as scheduled, Customer will continue to receive electricity service from Customer’s current provider until the switch is completed.

**2.2** In connection with this Agreement, Customer shall receive Exhibit A from STAT prior to the provision of any Services hereunder. Customer shall execute and return this Agreement and Exhibit A to STAT at the U.S. mail address, electronic address or facsimile number set forth herein prior to midnight on the Proposal Expiration Date. The signed Agreement and Exhibit A shall constitute an offer by Customer to STAT. STAT has the right to accept or reject any Agreement and Exhibit A signed by Customer that is received by STAT after midnight on Proposal Expiration Date. The Agreement and Exhibit A shall not be deemed effective and binding on the Parties, until such Agreement and Exhibit A are fully executed by each Party.

**2.3** This Section allows for continuous Services by Customer’s TDSP for each individual Account listed on Exhibit B, including Common Meters and Rental Units (as defined in Exhibit B). With regard to Common Meters, this Section shall apply for the duration of the Term of this Agreement. With regard to Rental Units, this Section shall apply during periods when no tenant is occupying the individual metered unit. Customer shall be responsible for all applicable costs and fees of the Services hereunder beginning with the disconnect date established by the departing tenant until connection date by the

new tenant for each Account listed on Part 2 of Exhibit B. Accounts will be listed in Customer's name and Services will remain connected until STAT receives notice that the new tenant of the unit has transferred the Account into their name. If a departing tenant vacates the individually metered unit without notifying STAT in writing that the tenant wishes to terminate services, then Customer shall be responsible for requesting that STAT revert the Account for that particular unit back into the Customer's name. The Customer is responsible for paying all applicable costs and fees of the Services as described in this Agreement, until the Account is transferred to a new tenant. Each time Services are connected in Customer's name to one of Customer's Accounts, all TDSP connect charges, and any ancillary costs and fees thereof, will be passed on and billed to Customer. If Services for a particular individual Account are no longer required, then it shall be the sole responsibility of Customer to promptly communicate that information in writing to STAT. Until such date that STAT confirms receipt of Customer's request to cancel Services for a particular individual Account, Customer shall be responsible for all costs and fees associated with the Services provided for that Account. STAT reserves the right to modify this Section relating to continuous Services at any time, including the assessment of fees and cancelation of its continuous Services program. STAT shall provide Customer with commercially reasonable notice of any such modification.

### **3. Fees and Payment.**

**3.1** For STAT's provision of Services on behalf of Customer's Accounts, Customer agrees to pay STAT the fees set forth in Exhibit A, including, but not limited to, the Fixed Energy Price. The Fixed Energy Price does not include Delivery Charges, local distribution utility non-bypassable charges, non-recurring fees (including, but not limited to, the non-recurring fees set-forth in Attachment A hereto), taxes or other applicable fees and/or penalties. Customer also agrees to pay STAT: (a) all Taxes and (b) the Early Termination Charge (as defined herein) if Customer experiences an Event of Default or terminates the Agreement prior to the end of the Term. Exhibit A shall specify Customer's product type and related volumes as required for each such product type. If any inconsistency exists between this Agreement and Exhibit A, the terms and conditions in Exhibit A shall prevail. Either STAT or Customer may in good faith reasonably request to renegotiate the Fixed Energy Price set forth in Exhibit A, subject only to a mutually agreeable extension of the Term in writing. This Section shall not be construed as an obligation of either Party to modify the Fixed Energy Price or Term, and any such modifications of the Fixed Energy Price or Term shall only become effective if evidenced in writing and executed by both Parties.

**3.2** In the event that Customer receives a disconnection notice for failure to make a payment by an invoice's due date, and Customer subsequently fails to make payment by the date that the Services are subject to disconnection, STAT reserves the right to charge a Disconnect Recovery Fee in order for the Services to be reconnected to Customer (the "**Disconnect Recovery Fee**"). The Disconnect Recovery Fee for a first recovery of the Services shall be \$0.00. The Disconnect Recovery Fee for a second recovery of the Services shall be \$15.00. The Disconnect Recovery Fee for a third recovery of the Services and any subsequent recoveries of the Services thereafter shall be \$30.00.

### **4. Term and Renewal.**

**4.1** STAT will commence providing the Services upon the date that STAT becomes Customer's REP (the "**Service Commencement Date**"). The initial term of this Agreement shall commence on the Service Commencement Date and shall remain in effect for the initial term length set forth in Exhibit A (the "**Initial Term**"). Unless otherwise specified in Exhibit A, upon the expiration of the Initial Term, the Agreement shall automatically renew on a month-to-month basis (each a "**Renewal Term**" and together with the Initial Term, the "**Term**") unless either Party provides written notice to the other Party of its intent not to renew the Agreement no later than thirty (30) calendar days prior to the expiration of the Initial Term and each Renewal Term. If Customer elects to be served on a month-to-month basis during the Renewal Term, Customer agrees to pay fees for energy based on real-time hourly index prices, including Balancing and Operation Reserves, any applicable ISO/RTO, regulatory and ERCOT costs incurred by STAT while serving Customer's Account(s), and an administrative fee of \$0.01 per kWh.

**4.2** Unless otherwise specified in Exhibit A, STAT will send a Renewal Letter delivered by U.S. Mail, facsimile or electronic mail to Customer no later than sixty (60) calendar days prior to the expiration of the Term. The Renewal Letter will offer to extend the Agreement for the Renewal Term listed therein at a fixed rate. Customer must provide written notification (e.g., via U.S. mail, facsimile or email) to STAT to reject the Renewal Letter within fifteen (15) calendar days of the Renewal Letter date. After fifteen (15) calendar days, the Renewal Letter will be deemed accepted by Customer, and

Customer's current agreement will be amended accordingly. If Customer rejects the Renewal Letter but continues to be served by STAT without an extension of the Term, Customer will be billed on a month-to-month basis described above after the expiration of the current Term.

**5. Right of Rescission.** Notwithstanding anything contained herein to the contrary, Customer may rescind this Agreement without penalty within three (3) federal business days after receiving the terms and conditions thereto. Notice of rescission must be received by midnight on the third (3<sup>rd</sup>) business day after Customer has received the Agreement from STAT. Customer may rescind by contacting STAT as follows:

- By Phone: Monday - Friday: 8AM - 5PM (CT), at (214) 810-2594 or toll free at (855) 207-7828
- By Fax: 24 hours a day and 7 days a week (214)-810-2594
- By Email: 24 hours a day and 7 days a week [CustomerService@StatEnergyTexas.com](mailto:CustomerService@StatEnergyTexas.com)

Any rescission request provided by facsimile or electronic mail must include the following information: (a) Customer's name, address and phone number; (b) Customer's Account Number or ESI ID Number; and (c) A statement that Customer wishes to rescind the agreement.

**6. Early Termination and Right to Cancel.**

**6.1** In addition to any other remedies STAT may have, this Agreement may be terminated by STAT upon thirty (30) calendar days prior written notice to Customer if, in STAT's sole discretion: (a) Customer experiences an Event of Default (as defined herein) or (b) a Material Change occurs. If such termination by STAT is based on a Material Change (as described in Section 1.10(a) of this Agreement) or an Event of Default by STAT, there shall be no Early Termination Charge payable by Customer. If STAT exercises its right to terminate due to an Event of Default or a Material Change in Customer's operations or usage pattern (as described in Section 1.10(b) of this Agreement), or Customer elects to terminate this Agreement prior to the end of the Term, Customer shall pay STAT, in addition to any other remedies STAT may have, the Early Termination Charge. The Early Termination Charge shall be the greater amount of either: (a) \$500 or (b) \$0.01 multiplied by the most recently billed monthly usage for each account being cancelled, multiplied by the number of months remaining in the Term of this Agreement.

**6.2** If Customer relocates, changes its service address(es) or otherwise cancels the Services hereunder without providing a physical mail forwarding billing address to STAT, then Customer may be assessed the Early Termination Charge, in STAT's sole discretion, as defined in Section 6.1 herein; provided, however, there shall be no Early Termination Charge assessed to Customer as a result of Customer's relocation if Customer provides a physical mail forwarding billing address and there is reasonable evidence that Customer no longer occupies the location specified under this Agreement.

**6.3** By signing this Agreement, Customer affirms that it has provided its: (i) correct and complete name; (ii) address and contact information and; (iii) that Customer does not have an outstanding balance due and owing to STAT. In the event that STAT becomes aware that the representations made by Customer in this provision cease to be true or that Customer has provided STAT with false, fraudulent or inaccurate information, then STAT reserves the right to immediately terminate this Agreement. Termination of this Agreement based on this Section 6.3 shall not affect any outstanding balances due and owing by Customer to STAT.

**7. Billing and Payment.**

**7.1** STAT will invoice Customer for each billing cycle based on the Metered Usage data received from ERCOT or the TDSP for each Customer Account. Customer shall remit payment to STAT within twenty (20) calendar days of the invoice date. If ERCOT or the TDSP does not provide Metered Usage data in a timely manner, STAT may use estimated data to calculate Customer's invoice and, upon receipt of actual Metered Usage data, STAT will reconcile the charges and adjust them as necessary in subsequent invoices. If Customer fails to remit all invoiced amounts, including any Taxes or Early Termination Charges, other than any amount disputed in accordance with this Section by the due date, interest will accrue on any past due amounts from the due date until the date that payment is received by STAT. Unless otherwise specified in Exhibit A, the interest charge on outstanding amounts will be the lesser amount of one and one-half percent (1.5%) per

month, or the highest rate permitted by law. A fee of \$25.00 will also be assessed to Customer for each payment that is returned for insufficient funds. Additionally, STAT will bill Customer on behalf of its TDSP for services the TDSP provides.

**7.2** In the event that Customer fails to remit payment by the due date stated on a given invoice, STAT reserves the right to disconnect the Services and terminate this Agreement in accordance with the notice requirements set forth in Section 25.483 of the PUCT Rules (available here: <http://www.puc.texas.gov/agency/ruleslaws/subrules/electric/Electric.aspx>). Customer expressly agrees to receive all disconnection notices via electronic mail in accordance with the provisions of Section 9.2 herein. STAT may also choose to reconnect Customer's Service after payment has been received in which case STAT reserves the right to charge Customer a Disconnect Recovery Fee in accordance with Section 3.2 of this Agreement.

**7.3** If Customer, in good faith, disputes some portion of an invoice, the remaining undisputed amount must be paid by the due date along with a written notice of the amount disputed. If Customer fails to provide STAT with written notice of a disputed amount within twenty (20) calendar days of the invoice date, all amounts on such invoice shall be deemed accepted by and binding upon Customer. In all cases, Parties will use good faith efforts to resolve any dispute.

**7.4** If Customer fails to remit payment due and owing to STAT and Customer's Account(s) becomes delinquent for a period of more than thirty (30) calendar days from the date that the Services are disconnected, STAT reserves the right to engage a debt collection agency to collect any amounts owed to it. Pursuant to the Telephone Consumer Protection Act, 47 U.S.C. § 227, Customer expressly consents to such debt collection agency's use of any automatic telephone dialing system and the use of artificial or prerecorded voice messages to any and all cellphone or residential telephone lines in Customer's name and use of all other such Customer contact information as provided herein for the purpose of collecting amounts owed to STAT on delinquent Customer Account(s).

**7.5** Customer will be automatically enrolled in paperless invoice statements upon execution of this Agreement. All invoices will be sent to customer via electronic mail to the address provided by Customer on page one (1) of this Agreement. Customer may opt out of paperless billing by giving notice to STAT. Such opt-out notice by Customer shall not be deemed effective until STAT confirms its receipt in writing to Customer (such receipt may be confirmed via electronic mail). Nothing contained in this Section 7.5 shall affect the provisions of Section 7.6 hereunder.

**7.6** If Customer's physical invoice statement, mailed to the billing address provided on page (1) of this Agreement, is returned to STAT by means of failure to deliver, then, notwithstanding anything to the contrary contained herein, Customer shall be automatically enrolled in paperless billing until such time that Customer corrects its billing address and provides such correction to STAT. Receipt of Customer's billing address correction shall not be deemed effective until confirmed by STAT in writing (such receipt may be confirmed via electronic mail). All paperless invoice statements hereunder shall be mailed electronically to the address provided by Customer on page one (1) of this Agreement.

**7.7** If Customer elects to receive invoice statement information by selecting the SMS/text message option on page one (1) of this Agreement, Customer acknowledges and agrees that additional carrier message and data rates may be assessed for each message sent through automated dialing equipment and/or messages received by STAT. Customer further agrees that STAT shall not be liable or responsible for any message, data rates or any other fees or expenses associated with SMS/text messaging under this Section 7.7. Customer may opt out of SMS/text message receipt by replying "STOP", "END", "CANCEL" or "UNSUBSCRIBE" or by notifying STAT. Such opt-out notification by Customer shall not be deemed effective until STAT has confirmed its receipt in writing to Customer (such receipt may be confirmed via electronic mail).

## **8. Deposit and Financial Condition.**

**8.1** Customer authorizes STAT to access and review information regarding Customer's credit and payment history in order to determine whether Customer meets STAT's internal credit requirements. Upon request, Customer shall provide STAT with information reasonably requested by STAT to determine Customer's ability to pay. Customer shall be deemed as having established satisfactory credit if the Customer meets the requirements set forth in Section 25.478 of the PUCT Rules (available here: <http://www.puc.texas.gov/agency/ruleslaws/subrules/electric/Electric.aspx>). STAT reserves the right to require a security deposit equivalent to two (2) months of the Fixed Energy Price to accompany each Agreement

between STAT and Customer, or if STAT, in its sole discretion, determines: (a) there has been a Material Change in the financial condition of Customer or (b) Customer has been delinquent in paying any electric bill two (2) or more times during the past twelve (12) months. Any security deposit that is retained by STAT for longer than thirty (30) calendar days shall accrue interest at the rate specified by the PUCT. Customer's deposit shall be refunded or credited to Customer's Account when Customer has remitted all invoiced amounts due and owing to STAT for twelve (12) consecutive months without having more than two (2) late payments. Upon termination of Customer's Account(s) with STAT, any deposit and accrued interest, less any outstanding balance owed to STAT, shall be refunded to Customer.

**8.2** STAT may not deny service or require a prepayment or deposit for service based on a customer's race, creed, color, national origin, ancestry, sex, marital status, lawful source of income, level of income, disability, familial status, location of a customer in an economically distressed geographic area or qualification for low income or energy efficiency services. STAT may not use a credit score, a credit history, or utility payment data as the basis for determining the price for electric service for a product with a contract term of twelve (12) months or less.

## **9. Communication and Notices.**

**9.1** Except as otherwise set forth in this Agreement or required by applicable law, all notices to be provided under this Agreement shall be in writing and deemed to have been duly delivered if hand delivered or sent by U.S. certified or registered mail, return receipt requested, postage prepaid, facsimile, or by overnight delivery service. In the case of Customer, notices shall be sent to the billing addresses noted on page one (1) of this Agreement and in the case of STAT to the address noted below:

To STAT:

STAT Energy  
Attn: Customer Service Manager  
740 E. Campbell Rd., Suite 460  
Richardson, TX 75081

Phone: (214) 810-2594; (855) 207-7828 (toll free)

Fax: (214) 810-2594

Email: [CustomerService@StatEnergyTexas.com](mailto:CustomerService@StatEnergyTexas.com)

Website: [www.StatEnergyTexas.com](http://www.StatEnergyTexas.com)

Hours of Operation: Monday - Friday: 8AM - 5PM (CT)

PUCT Certificate No. 10202

**9.2** Customer expressly agrees to receive all disconnection notices by electronic mail via the address provided by Customer on page one (1) of this Agreement.

## **10. Representations and Warranties.**

**10.1** As a material inducement to entering into this Agreement, each Party represents and warrants to the other as follows: (a) it is duly organized, validly existing, and in good standing under the laws of the jurisdiction of its formation and is qualified to conduct its business in those jurisdictions necessary to perform this Agreement; (b) the execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action, and do not violate any terms or conditions in its governing documents or any contract to which it is a party or any law applicable to it; (c) as of the Service Commencement Date, STAT shall have all regulatory authorizations necessary to perform its obligations under this Agreement; (d) this Agreement constitutes a legal, valid, and binding obligation of each Party enforceable against it in accordance with its terms, subject to bankruptcy, insolvency, reorganization, and other laws affecting creditor's rights generally, and with regard to equitable remedies, subject to the discretion of the court before which proceedings to obtain the same may be pending; and (e) there are no bankruptcy, insolvency, reorganization, receivership, or other similar proceedings pending or being contemplated by it, or to its knowledge threatened against it.

**10.2** Customer additionally represents, warrants and covenants to STAT that: (a) during the Term, there shall be no other contract for the purchase of electricity by Customer for the Accounts, and if such a contract presently exists, Customer

warrants that it will terminate such contract prior to the delivery of electricity to Customer during the Term; and (b) Customer shall operate and manage the facility(ies) served by each Account in a manner that is materially consistent with Customer's past electric usage practices.

#### **11. Limitations on Liability.**

**11.1** CUSTOMER ACKNOWLEDGES AND AGREES THAT THE SERVICES PROVIDED TO CUSTOMER BY STAT UNDER THIS AGREEMENT ARE PROVIDED "AS IS" WITHOUT ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF THE SERVICES IS WITH CUSTOMER. LIABILITIES NOT EXCUSED BY REASON OF A FORCE MAJEURE EVENT (AS DEFINED HEREIN) OR OTHERWISE SHALL BE LIMITED TO DIRECT AND ACTUAL DAMAGES AS THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES EXPRESSLY WAIVED. NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, SPECIAL, OR INDIRECT DAMAGES. STAT'S LIMITATIONS APPLY WITHOUT REGARD TO THE CAUSE OF ANY LIABILITY OR DAMAGE. NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, THE LIABILITY OF STAT TO CUSTOMER FOR ANY CLAIMS, ACTIONS OR PROCEEDINGS ARISING FROM OR RELATING TO ANY EVENT OF DEFAULT BY STAT UNDER THIS AGREEMENT SHALL BE LIMITED TO A MAXIMUM AMOUNT EQUAL TO THE LOST SAVINGS, IF POSITIVE, EQUAL TO THE MOST ECONOMICAL PRICE AVAILABLE TO CUSTOMER FROM THE POLR OR A THIRD PARTY REP MINUS THE FIXED ENERGY PRICE MULTIPLIED BY THE CUSTOMER'S ACTUAL METERED USAGE AT THE CORRESPONDING TIME FOR THE DURATION THAT STAT EXPERIENCED THE EVENT OF DEFAULT.

**11.2** THERE ARE NO THIRD PARTY BENEFICIARIES TO THIS AGREEMENT. CUSTOMER ACKNOWLEDGES THAT STAT DOES NOT OWN OR CONTROL ANY OF THE TRANSMISSION OR DISTRIBUTION FACILITIES USED TO DELIVER ELECTRICITY, WHICH IS SOLELY THE RESPONSIBILITY OF ERCOT AND/OR THE TDSP. THEREFORE, STAT SHALL NOT BE LIABLE FOR THE ACTS OR OMISSIONS OF ERCOT AND/OR THE TDSP FOR ANY INTERRUPTION, FAILURE OR DELAY IN THE DELIVERY OF ELECTRICITY ARISING THEREFROM. CUSTOMER SHOULD CONTACT ERCOT AND/OR ITS TDSP IN THE EVENT OF AN EMERGENCY OR OUTAGE.

**12. Indemnification.** Customer agrees to indemnify, defend and hold harmless STAT, its officers, agents and employees from any claims, damages, actions and proceedings of any kind arising from personal injury, including without limitation, death, tangible property damage or any other damages arising from or out of any event, circumstances, act or incident occurring or existing with respect to the Services provided pursuant to this Agreement, except to the extent that such claims, damages, actions or proceedings arise due to the fraud, gross negligence or willful misconduct of STAT.

**13. Force Majeure.** Customer acknowledges that STAT does not produce, transmit or distribute the electricity and that STAT shall use commercially reasonable efforts to provide the Services to Customer under this Agreement but does not guarantee a continuous supply of electricity to Customer. Customer acknowledges that events outside of STAT's control, including Force Majeure Events may result in interruptions to STAT's provision of Services to Customer under this Agreement. Customer agrees that STAT shall not be liable to Customer for any damages caused by such interruptions to STAT's provision of Services, including Force Majeure Events. If either Party is unable to perform its obligations under this Agreement, in whole or in part, due to an event of Force Majeure, then the applicable obligations of the affected Party (other than the obligations to pay any amounts due prior to the event of Force Majeure) shall be suspended to the extent made necessary by such event. The Party suffering the Force Majeure Event shall provide written notice of such event in commercially reasonable detail to the other Party, as soon as reasonably possible upon becoming aware of the Force Majeure Event. To the extent practicable, the Party experiencing the Force Majeure Event shall use commercially reasonable efforts to remedy such event as soon as reasonably possible.

**14. Default and Remedies.** An event of default ("Event of Default") means any one of the following:



- (a) failure by Customer to make any payment required under this Agreement when due;
- (b) any representation or warranty made by a Party that proves to be false or misleading in any material respect when made or ceases to remain true in all material respects during the Term of this Agreement, unless such representation or warranty, if curable, is not cured within fifteen (15) calendar days after the defaulting Party's receipt of written notice from the other Party;
- (c) except to the extent excused by a Force Majeure Event, the failure by a Party to perform any material obligation set forth in the Agreement (other than events that are specifically described as Events of Default elsewhere in this Section), provided, however, that such failure is not cured within fifteen (15) calendar days after the defaulting Party's receipt of written notice from the other Party;
- (d) failure of Customer to comply with STAT's credit requirements during the Term as provided for herein;
- (e) any unauthorized assignment of a Party's rights or obligations hereunder;
- (f) any breach of the confidentiality obligations contained in Section 15 of this Agreement, or
- (g) a Party:
  - (i) makes an assignment or any general arrangement for the benefit of creditors;
  - (ii) files a petition or otherwise commences or authorizes to the commencement of a proceeding or cause of action with respect to it under any bankruptcy proceeding or similar laws for the protection of creditors, or has such petition filed against it and such petition is not withdrawn or dismissed within thirty (30) calendar days after such filing;
  - (iii) otherwise becomes insolvent (however evidenced); or
  - (iv) is unable to pay its debts as they fall due.

If either Party experiences an Event of Default and fails to cure such Event of Default within fifteen (15) calendar days of receiving written notice from the Non-Defaulting Party (which cure period does not apply to Events of Default subsections (a) or (d)), then the Non-Defaulting Party may in its sole discretion, terminate this Agreement and pursue all remedies available.

**15. Confidentiality.** The Parties agree that the terms and conditions of this Agreement and any Exhibits hereto shall remain confidential, provided, however, that confidential information shall not include information required to be disclosed by or to ERCOT, the PUCT, or any other governmental, regulatory or self-regulatory agency with jurisdiction over Customer or STAT.

**16. Customer Care: Emergency, Outage and Wire Service.** Customer may contact STAT if Customer has specific comments or questions by calling (214) 810-2594 or (855) 207-7828 (toll free), between the hours of 9AM and 5PM (CT). In the event of an emergency, outage or service need, Customer must call the Utility at the applicable emergency number listed below:

- CenterPoint Energy (Houston and surrounding areas): 1-800-332-7143
- Oncor Electric Delivery (DFW and West Texas): 1-888-313-4747
- AEP Central (CP&L Area): 1-866-223-8508
- AEP North (WTU Area): 1-866-223-8508
- Texas-New Mexico Power Company (First Choice): 1-888-866-7456
- Sharyland Utilities: 956-668-9551

**17. Amendment.** The fees and terms and conditions of the Services and this Agreement are based on the laws, rules, regulations, tariffs and protocols in place as of the Effective Date. If, during the Term, ERCOT, the PUCT, the Texas Comptroller's Office or any other governmental or regulatory authority or agency with jurisdiction over STAT approves changes (or changes in interpretation) in any applicable law, rule, regulation, ordinance, order, directive, tariff, decision, judgment or decree which impact the cost for STAT to provide the Services to Customer under this Agreement, STAT reserves the right to adjust the prices, terms, fees, tariffs or any other charges under this Agreement in accordance with Section 25.475(d) of the PUCT Rules (available at: <http://www.puc.state.tx.us/rules/subrules/electric>). STAT shall provide notice of any such change to Customer; provided, however, that Customer may terminate this Agreement upon written notice to STAT within fifteen (15) calendar days of Customer's receipt of such notice of changes to the fees and/or terms and conditions of this Agreement. Any such changes to fees shall be assessed in Customer's monthly invoice as pass-through charge(s). Except as otherwise provided herein, this Agreement may be amended only upon mutual agreement of the Parties, which amendment shall not be effective unless evidenced in writing and executed by the Parties.

**18. Waiver.** A waiver by either Party of any breach of the Agreement, or failure of either Party to enforce any of the terms and conditions of the Agreement, will not in any way affect, limit or waive that Party's right to subsequently enforce and compel strict compliance with the same or other terms or provisions of the agreement.

**19. Assignment.** Neither Party may assign the Agreement in whole or in part without the other Party's prior written consent, which consent shall not be unreasonably withheld, provided that STAT may assign the Agreement to another REP, without Customer's prior consent and such REP shall agree in writing to be bound by this Agreement. Upon any valid assignment of the Agreement, the other Party hereby agrees that the assigning Party shall have no further obligations under this Agreement.

**20. Severability.** If any term, condition, provision, or section of this Agreement is declared unlawful or invalid by a court of law or regulatory agency or self-regulatory agency with jurisdiction over STAT and/or Customer, or deemed unlawful because of a statutory change, such determination shall not otherwise affect the other lawful obligations that arise under this Agreement. In the event that any provision of this Agreement is declared unlawful or invalid, the Parties shall promptly negotiate to restore this Agreement as near as possible to its original intent and the remainder of the Agreement shall remain in full force and effect.

**21. Governing Law; Dispute Resolution.**

**21.1** This Agreement will be governed by and construed and interpreted in accordance with the laws of the State of Texas, without giving effect to the conflict of law principles. The Parties shall negotiate in good faith to resolve all disputes. If such negotiations fail, the Parties agree that any claims, disputes, actions or proceedings arising out of, in connection with or in any way relating to this Agreement shall then be settled by and hereby irrevocably and unconditionally submit to the exclusive jurisdiction of the state or federal courts in Dallas County, Texas or such other location as mutually agreed to by the Parties. Notwithstanding anything contained herein to the contrary, nothing in this Agreement shall restrict the ability of the parties to agree to settle any complaints and/or disputes arising hereunder by means of alternative dispute resolution, including, but not limited to mediation or arbitration.

**21.2** STAT AND CUSTOMER EACH WAIVE THEIR RIGHT TO A TRIAL BY JURY IN ANY CLAIM, DISPUTE, ACTION OR PROCEEDING TO WHICH STAT AND CUSTOMER MAY BE PARTIES, ARISING OUT OF, IN CONNECTION WITH OR IN ANY WAY RELATING TO THIS AGREEMENT.

**21.3** In the event of any arbitration and/or litigation arising out of or connected in any manner to this Agreement, the non-prevailing Party shall pay the costs of the prevailing Party, including its reasonable attorney and other legal fees and expenses incurred in connection therewith through and including the costs of appeals and appellate costs relating thereto.

**22. Survival.** Customer's obligations to STAT including those in Sections 3, 7, 9, 11, 12, 18, 20 and 21, shall survive the termination of this Agreement.

**23. Counterparts; Facsimile Copies; Entire Agreement.** This Agreement may be executed in counterparts, all of which shall constitute one and the same Agreement and each of which shall be deemed an original. A facsimile copy of either Party's signature shall be considered an original for all purposes under this Agreement along with any amendments, and each Party shall provide its original signature upon request. This Agreement constitutes the entire understanding between the Parties, and supersedes and replaces any and all previous understandings, whether oral or written, in any matter relating to the subject matter hereof including any separate confidentiality agreement.

**Attachment A - Non-Recurring Charges\* - CenterPoint Common Transactions and Timelines**

Refer to 25.214 Tariff for Retail Delivery Chapter 1: Definitions for the following terms:		Standard Meter	Non-Standard Meter
<ul style="list-style-type: none"> <li>AMS Operational Day</li> <li>Business Day</li> <li>Field Operational Day</li> <li>First Available Switch Date (FASD)</li> </ul>		AMSR (Section 6.1.2.1) (Remote Disconnect and Reconnect)	Self Contained, CT Meter, IDR, Mechanical, Non-Metered and AMS-M (Section 6.1.3.1 and 6.1.4.1)
Transaction Type	Premise	Charge	Charge
Move In	Existing Self-Contained	\$0.00	\$144.00
	Existing CT/Other	N/A	\$216.00
	New Self-Contained	\$0.00	\$192.00
	New CT/Other Meter	N/A	\$465.00
Priority Move In	Existing Self-Contained	N/A	\$150.00
	Existing CT/Other	N/A	\$224.00
	New Self-Contained*	N/A	\$150.00
	New CT/Other Meter*	N/A	\$224.00
Move Out	All	As Calculated	As Calculated
Disconnect for Non-Pay***	At meter Sameday	\$0.00	\$34.00
	At meter Future date	\$0.00	\$34.00
	At Premium Location	\$81.00	\$99.00
Reconnect after Disconnect for Non-Paymnet (Must complete all Reconnects within 48 hrs of Receipt)	At meter	\$0.00	N/A
		Standard Reconnect \$94.00	Standard Reconnect \$34.00
		Same Day Reconnect \$129.00	Same Day Reconnect \$85.00
		Weekend \$129.00	Weekend \$85.00
		Holiday \$170.00	Holiday \$170.00
	At Premium Location	\$0.00	N/A
		Standard Reconnect \$94.00	Standard Reconnect \$109.00
		Same Day Reconnect \$129.00	Same Day Reconnect \$129.00
		Weekend \$129.00	Weekend \$129.00
		Holiday \$170.00	Holiday \$170.00
Standard Switch	All	\$0.00	\$0.00
Self-selected Switch	All	\$0.00	AMS-M \$21.00 Other Non-Standard \$21.00
NRC Category	NRC Type - Description		CenterPoint Amount
Meter Testing	First test within the previous 4 years (Self-contained Meter - Company owned)		\$0.00
	Found outside of the accuracy standards (Self-contained Meter - Company owned)		\$0.00
	Single Phase (Self-contained Meter - Company owned)		\$48.00
	Three Phase (Self-contained Meter - Company owned)		\$48.00
	First test within the previous 4 years (CT/Other Meter - Company owned)		\$0.00
	Found outside of the accuracy standards (CT/Other Meter - Company owned)		\$0.00
	Single Phase (CT/Other Meter - Company owned)		\$120.00
	Three Phase (CT/Other Meter - Company owned)		\$120.00
	Competitive Meter		\$149.00
Out-of-Cycle Meter Read Charges	Re-Reads	Meter Reading found to be in error	\$0.00
		Meter Reading found to be accurate	\$21.00
	Out-of-Cycle Meter Read for the Purpose of a Self-Selected Switch	Meter Read for the Purpose of a Standard Switch	\$0.00
		Out-of-Cycle Meter Estimation for the Purpose of a Switch	\$21.00
Non-Standard Meter Installation Charges	Existing Analog Meter One-Time Fee		\$85.00
	New Analog Meter (if commercially available) One-Time Fee		\$190.00
	Digital Non-Communicating Meter One-Time Fee		\$200.00
	Advanced Meter with Communications Disabled One-Time Fee		\$180.00
Service Call Charge	During Business Days, 8:00 AM - 5:00 PM CPT		\$109.00
	Business Days non-Business Hours		\$109.00
	Weekend		\$109.00
	Holiday		\$109.00
Outdoor Lighting Charges	Security Lighting Repair		As Calculated
	Security Light Removal		As Calculated
	Street Light Removal		As Calculated
Tampering Charges	Tampering		As Calculated
	Broken Meter Seal		\$40.00
Denial of Access	Inaccessible Meter Charge		\$55.00
Miscellaneous Fees	Payment Returned for Non-Sufficient Funds		\$25.00
	Late Payment Fee		5% of the past due amount

\* Priority Move In for new premises that are to be connected is \$150.00 for all categories (see DD12 in section 6.1.2.3, 6.1. 3.3, or 6.1.4.3, respectively)

\*\* FASD (First Available Switch Date) - The FASD is day zero unless otherwise specified by the Registration Agent.

\*\*\* No disconnections: 1) Between 5:00 PM and 7:00 AM unless coordinated disconnect between CR and TDSP; 2) Prior to a holiday or during a weather moratorium as per PUCT Rule 25.483

NOTES:

1. This chart attempts to condense the provisions/requirements found in PUC Substantive Rule 25.214 and CenterPoint's Tariff for Retail Delivery Service. This chart may not cover all situations and circumstances. To the extent there is a conflict between this chart and either Rule 25.214 or CenterPoint's Tariff, the Rule or Tariff will control.

2. The timelines in the chart only apply if required inspections, permits, or other construction has been completed if necessary.

3. Updates to current CenterPoint tariff amounts may be found here:

<https://www.centerpointenergy.com/en-us/Documents/RatesandTariffs/HoustonElectric/CNP-Retail-Del-Tariff-Book-HOU.pdf>

In the event of any conflict between the amounts listed on this Attachment A and the CenterPoint website, the amounts listed on the CenterPoint website shall govern and control.

