

## Terms of Service

This document contains the Terms of Service for your purchase of electricity from EE REP 2, LLC dba Think Energy (“Think Energy” or the “Company”), as well as terms and conditions relating to your purchase of non-commodity products from Think Energy, as applicable, and will be referred to as the (or these) “TOS” or “Terms of Service”. The contract governing your purchase of residential or small commercial electricity from Think Energy is comprised of these the TOS, an Electricity Facts Label (“EFL”) that describes in further detail the product you have chosen, Your Rights as a Customer (the “YRAC”) which sets forth your general rights as a residential or small commercial customer purchasing electric service in Texas and your enrollment or renewal documentation, and, if applicable, any program specific Addendum(s) which are provided for in your EFL and sent to you with your other Contract documents. These documents collectively create your “Contract” with Think Energy and form a legally binding document. Your act of accepting electric service or other non-electric products from Think Energy means that you agree to be bound by these TOS. The terms “you” and “your” refer to you, the customer, and the words “we”, “us” and “our” refer to you and Think Energy, collectively.

## Think Energy’s Contact Information

<b>Company Name:</b>	EE REP 2, LLC d/b/a Think Energy
<b>PUCT Certification No.:</b>	10315
<b>Mailing Address:</b>	<u>{Payments}</u> <u>PO Box 5344, Sioux Falls, SD 57117-5344</u> <u>(All Other Correspondence)</u> <u>1807 Westheimer Road Suite 550 PMB 808, Houston, TX 77077</u>
<b>Customer Care Toll Free Number:</b>	(888) 923-3633
<b>Ours of Operation:</b>	Care@ThinkEnergy.com
<b>Internet Address:</b>	www.ThinkEnergy.com

### Spanish Contract Available

Your Right of Rescission: If you are switching to Think Energy from another retail electric provider (“REP”) then you have the right to rescind this Contract without fee or penalty within three (3) federal business days after receiving these TOS. To do so, you may call us at 1-888-923-3633 or email us at care@thinkenergy.com during regular customer services hours on or before the third federal business day after receiving these TOS. This right of rescission does not apply to service requests for establishing electric services at a new location (commonly referred to as a “move- in”).

### Electricity Facts Label (EFL)

The Electricity Facts Label (“EFL”) contains the terms and the details of the specific product and rate plan you have selected, including pricing, applicable credits, if any, Contract term and Early Termination Fees. Please review the EFL document carefully.

## Your Eligibility

By accepting electric service from Think Energy, you are representing to Think Energy that you are a residential customer or small commercial customer (as those terms are defined by the Public Utility Commission of Texas (“PUCT”).

## Credit and Initial Deposit

This Contract is conditioned upon you meeting Think Energy’s eligibility requirements. Think Energy will determine eligibility in compliance with §25.477 and §25.478 of the PUCT Substantive Rules available at <https://www.puc.texas.gov/agency/rulesnlaws/subrules/electric/Electric.aspx> and the Tex. Util. Code §17.008 available at <https://statutes.capitol.texas.gov/Docs/UT/htm/UT.17.htm>. By applying for electric service with Think Energy you are consenting to Think Energy’s use of credit reporting agencies to evaluate and document your credit and payment history and/or Think Energy requesting payment history information from your previous REPs. If you do not meet Think Energy’s credit requirements or cannot otherwise demonstrate satisfactory credit as defined by the PUCT Substantive Rules, then Think Energy may deny you service or may require you provide a deposit, (or if you are a small commercial customer, furnish an alternative form of security), at Think Energy’s option, in order for you to establish electric service with Think Energy.

If you are a residential customer, you may demonstrate satisfactory credit and qualify for a waiver of Think Energy’s deposit requirement if you meet certain criteria as follows: **(i)** you are 65 years of age or older and not currently delinquent in paying an electricity account; or **(ii)** you submit a letter certifying that you have been a victim of family violence as prescribed by the Texas Council on Family Violence. Please contact Think Energy for additional information if you believe you may be eligible for a deposit waiver. You may send evidence of eligibility and other information to Think Energy by sending an email to [care@thinkenergy.com](mailto:care@thinkenergy.com).

If you are a small commercial customer, you may be required to provide us with one of the following forms of security for each of your meters/ESI IDs: (i) a surety bond; (ii) a cash deposit; or (iii) an irrevocable standby letter of credit from a financial institution approved by Think Energy.

## Deposit or Additional Deposit During Term

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

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pay the deposit within ten (10) calendar days after the date of the request for a deposit or other form of security your electric service may be disconnected.

## Terms and Conditions Relating to Any Deposit You Make with Us

If a deposit is required, the total amount of your deposit will not exceed an amount equal to the greater of either (i) the sum of the next two months estimated billings, or (ii) one-fifth of your estimated annual billing. Deposits held more than thirty (30) days will accrue interest from the date of receipt at the annual rate established by the PUCT. Payment of the interest will be made to you annually, upon your request, or at the time the deposit is returned or credited to your account. If you were required to provide a deposit to us because of your inability to meet the credit requirements of Think Energy or after you became an existing customer for one of the reasons set forth above, you can establish satisfactory credit with Think Energy at such time that you have made twelve (12) consecutive monthly payments (if you are a residential customer) or twenty four (24) consecutive monthly payments (if you are a small commercial customer) by the specified due date on your bill to Think Energy. At such time your deposit will be credited to your account. If you never establish satisfactory credit with us, the deposit and any remaining accrued interest will be applied on your behalf to your final bill. In the event it is applied to your final bill and there is any excess, such amount shall be refunded to you.

## Customer Information

You hereby agree that Think Energy may need certain information to provide you service, including but not limited to your address, telephone number, account numbers, and historical usage information. You authorize Think Energy to request, and your TDSP or other third party with such information to provide, such information to Think Energy. You also understand that Think Energy may have the need to communicate such information to our affiliates, our vendors and third parties, including but not limited to Think Texas Holdings, LLC, (and each of their affiliates) with a need to know such information in order to facilitate your electric service or to provide product specific services, if applicable. As described and acknowledged in the Think Energy enrollment process, you also authorize Think Energy to share such information with a broker, aggregator or agent working on your behalf, if any. By providing your telephone numbers you are expressly authorizing Think Energy and any party calling on Think Energy's behalf to contact you at the telephone numbers provided, whether those telephone numbers are work, home or mobile, for any purpose related to your electric service, future possible goods or services and collection of debts. These calls may be performed by a live person, a prerecorded voice or other automated system. You also consent to receiving updates about your electric service and product specific services, if any, via text message. Standard data fees and text messaging rates may apply.

## Term of the Contract

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

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electricity service. If your EFL indicates that the program you have signed up for is a Solar Program, you will also enter into a Solar Addendum which along with this TOS and your EFL will govern the terms of the Solar Program.

## Cancelling Your Contract with Us

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

After the end of the rescission period (set forth above) if you cancel your Contract or switch to another REP during the term of the Contract and before the end of your Contract term, or if Think Energy terminates your Contract due to your breach of its terms, you agree to pay the penalty or fee for early termination indicated in the EFL (called an “ETF” or Early Termination Fee’), if any, and you must select another REP to continue to receive electric service. The only exception to payment of an ETF is if you move from your existing service address during the Contract term and provide a forwarding address to Think Energy together with reasonable proof that you no longer occupy the service address covered by this Contract; in that case you will not be responsible for the ETF stated in the EFL. In order to cancel or terminate your service under this Contract prior to the end of the Contract term please contact Think Energy at [care@thinkenergy.com](mailto:care@thinkenergy.com) or 1-888-923-3633.

## Pricing

You will receive an EFL during your enrollment or renewal or with your contract expiration notice. The price you are agreeing to pay for electric service is reflected on the EFL. You agree to pay the price reflected on your EFL and all amounts shown on your bill, including all taxes and fees. Your EFL will also reflect the type of product or plan you are agreeing to purchase from Think Energy. Each product or plan has a different structure, the pricing elements differ from product to product, and our ability to make changes to the provisions of your product are different depending upon the plan you have chosen. If you have questions about the type of product reflected on your EFL, Think Energy is happy to discuss the details of your plan with you. Generally, Think Energy may offer the following types of plans/products, from time to time:

### *Variable Price Product (month-to-month)*

With a Variable Price Product your price is not fixed; the price may vary as determined by Think Energy and as disclosed to you on the EFL. Your price may also change to reflect actual changes in TDSP charges for the delivery of your electricity, changes to the administrative fees charged by ERCOT or the TRE, or changes resulting in new or modified fees or costs to Think Energy that are a result of federal, state or local laws or regulatory actions that are beyond our control. Variable Price Products are month to month contracts with a term of 31 days or less. You may terminate your

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Variable Price Product at any time without being charged an ETF, but you will be responsible for your outstanding bill.

## *Changes Think Energy Can Make to the Contract Terms Governing Your Variable Price Product*

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

## *Fixed Rate Product (Term)*

With a Fixed Rate Product your price is the price set forth on your EFL and during the Contract term your price will not change, except to reflect actual changes in TDSP charges for the delivery of your electricity, changes to the administrative fees charged by ERCOT or the TRE, changes resulting in new or modified fees or costs to Think Energy that are a result of federal, state or local laws or regulatory actions that are beyond our control, or TDSP fees for underground service (if applicable at your location) or facility relocation fees or other charges ordered by a municipality, which will be passed through to you with no markup by Think Energy. Fixed Rate Products have a Contract term of 3 months or more and if you terminate a fixed rate product before the end of the Contract term on your EFL you will be charged an ETF and be responsible to pay an ETF, unless the termination is due to your moving out of your service address, and you provide Think Energy with reasonable proof of your move out.

## *Changes Think Energy Can Make to the Contract Terms Governing Your Fixed Rate Product*

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

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## *At the End of Your Contract Term*

If you are on a fixed product plan, you will receive at least three (3) written notices of the date your fixed product plan will expire. These notices will be provided during the last one third of the term of your Contract and will be as evenly spaced over the last one third of your term as practicable. For a term of twelve (12) months or longer, the first notice will be provided no earlier than three (3) months prior to the end of the term. If you are a residential customer and the term of your fixed product plan is greater than four (4) months, the final notice will be provided at least thirty (30) days before the date the fixed product plan expires. If you are a residential customer and the term of your fixed product plan is fewer than four (4) months, the final notice will be provided at least fifteen (15) days before the date your fixed product plan expires. If you are a small commercial customer, the final notice will be provided at least fourteen (14) days before the fixed product plan expires. You agree to receive all contract termination notices the same way in which you receive your monthly bill (either US mail or email, depending upon your selection during enrollment or in your My Account Portal).

If Think Energy sends all of the required notices as provided above, and you do not sign up for a new electric energy product with Think Energy or another REP, after your Contract end date, Think Energy will continue to be your REP and you agree to having Think Energy continue your electricity service on a month to month basis and in accordance with the default renewal product as reflected on the default renewal product EFL provided to you until you switch to another REP, select another Think Energy plan, or Think Energy terminates or disconnects your electric service.

## **TDSP Delivery Charges**

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

## **Pricing Includes Payments to Third Party Brokers, Aggregators, or Agents**

You understand and agree that if you or Think Energy utilized a third-party broker, aggregator or agent in connection with procuring this Contract, Think Energy will be making a payment to such third-party broker,

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aggregator or agent in connection with efforts to facilitate you entering into this Contract. You also understand and agree that the price you have agreed to pay for electricity includes the fee Think Energy is paying to the third-party broker, aggregator or agent and such third party, broker, aggregator or agent is acting on your behalf as your representative and is not a representative or agent of Think Energy. You also understand and agree that as such, you should direct any questions regarding such fees to the third-party broker, aggregator or agent.

## Non-Commodity Products or Services

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

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

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

## Taxes

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

## Non-Recurring Charges

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

## Billing

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

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

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For small commercial customers, demand charges (if applicable) are assessed by your TDSP in accordance with the TDSP's rate schedule and passed through to you (with no mark-up by Think Energy) on your monthly bill. Demand charges are charges based on the rate at which electric energy is delivered to our system at a given instant or averaged over a designated period during the billing cycle. If you have questions about this charge, please contact your TDSP.

## Consent to Automatic Payments

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

## Consent to Electronic Communications

If you are a residential customer, unless you elect during enrollment or in your My Account portal to receive your monthly bill by mail via the United States Postal Service, Think Energy will issue bills to you via email. If you elect to receive your monthly bill via email, Think Energy will not send your bill by mail via the United States Postal Service. If you do not elect to receive your bills via email, you must promptly notify us of any change in the address at which you receive mail.

You agree to receive any and all non-billing written communications from us via e-mail, text message, or through other electronic means to the extent permitted by law in compliance with the PUCT Substantive Rules available at <http://www.puc.state.tx.us/rules/subrules/electric/index.cfm>. You consent to receive any information required to be provided to you in writing electronically, including by using the email address or the text message enabled telephone number provided by you. You must promptly notify us of any change in your email, text message enabled phone number, or other electronic address. Standard data fees and text messaging rates may apply. We will send copies of your TOS, YRAC, and EFL via e-mail or text message; however, you may request that Think Energy provide you a copy of your TOS via United States Postal Service. You may update your billing preferences, including your mailing address, email address and mobile telephone number via the My Account portal.

## Payment

You agree to pay your monthly bills on a timely basis. Bills are due 16 calendar days after the billing date on your invoice. Bill payments are deemed past due and delinquent if not received by the close of business

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on the day the bill is due. If you do not pay your bill by the due date, Think Energy may charge you a late fee of 5% on the amount for the previous month's past due electric service and ultimately may order disconnection of your electric service. If you have entered into a deferred payment plan arrangement with Think Energy and you fail to pay your bill by the due date you authorize Think Energy to place a "switch-hold" on your account. If Think Energy places a switch-hold on your account, then you will not be able to switch to another REP until you have satisfied your delinquent balance with Think Energy.

Additionally, you acknowledge that Think Energy permits customers to make payments via telephone using Think Energy's Interactive Voice Response system (the "IVR"). However, use of the IVR to make payments is subject to a minimum payment of \$10.00. Think Energy does not accept payments using the IVR that are less than \$10.00.

## Disconnection of Your Electricity Service

THINK ENERGY MAY REQUEST DISCONNECTION OF YOUR ELECTRIC SERVICE AND TERMINATE THIS CONTRACT IF YOU DO NOT PAY YOUR DEPOSIT OR YOUR BILL IN FULL BY THE DUE DATE ON THE DISCONNECT NOTICE. Think Energy will provide you notice of our intention to request disconnection at least 10 calendar days before we disconnect your service, unless there is the existence of a dangerous condition at your service address or theft of service, in which case Think Energy will request disconnection immediately and without any notice to you. If your service is disconnected, you may be required to reapply for service and pay a new deposit. Fees associated with regaining service are in addition to disconnection and reconnection fees set forth in this Contract and in addition to any other fees that may be assessed by your TDSP. Your switch to another REP will not relieve you of your obligations to pay all outstanding bills to Think Energy.

## Bill-Pay Programs and Assistance

If you are having difficulty paying your bill by the due date, please call or email us. You may be eligible for payment assistance or a deferred payment plan arrangement. Payment assistance is funded in part by contributions from Think Energy customers and you, as a Think Energy customer may contribute to our bill payment assistance program when you pay your bill each month. There are also deferred payment plan and alternative payment plan arrangements you may be eligible for. Please call Think Energy at 1-888-923-3633 for information relating to contributing to the bill payment assistance program or for additional payment arrangement information. You will be ineligible to participate in any Solar Program, as that term is defined in the Solar Addendum, if you choose to participate in Think Energy's Level Billing Plan as described below.

## Level Billing Plan for Customers with No Amounts Past Due

Think Energy offers a Level Billing Plan that you may enroll in as long as you are not delinquent when you request enrollment in the Level Billing Plan. This Plan is designed to help even out the highs and lows of your electric service and is based on your current plan price and historical usage. We calculate your level billing amount annually by using your historical usage from the prior year. We will calculate any difference in actual charges and the monthly level billing amount and will use this difference to calculate your next

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year's level billing amount. Think Energy may move your account from the Level Billing Plan if during a twelve-month period Think Energy sends you two or more disconnection notices, we disconnect your service for non-payment, or your payments are returned or rejected for insufficient funds or other non-payment by your credit card or bank. In the event that we move your account from Level Billing to regular billing, the difference between your actual charges and the Level Billing Plan monthly charge will be due with your next regular bill.

## Level Billing Plan for Customers Who Owe Think Energy Past Due Amounts

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

## Deferred Payment Plans

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

## Supplemental Nutrition Assistance Programs (SNAP), Medicaid, Other Assistance

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



## Critical Care and Chronic Conditions Customers

You have the right to apply for Critical Care Residential Customer or chronic Condition Residential Customer designation in accordance with PUC Subst. Rule 25.497 (<https://ftp.puc.texas.gov/public/puct-info/agency/rulesnlaws/subrules/electric/25.497/25.497.pdf>). Think Energy cannot file for this designation on your behalf, and you do not file for this designation with Think Energy. To be considered for such designation, the PUC approved form must be submitted by facsimile or other electronic means to the TDSP by a physician.

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

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

## Dispute or Complaints

If you have any questions, concerns, or complaints, or you feel that your bill is incorrect, please contact us via phone at 1-888-923-3633 Monday to Friday 7:00 a.m. – 7:00 p.m. Central or via email at [care@thinkenergy.com](mailto:care@thinkenergy.com). If we cannot answer your question or complaint immediately, we will promptly investigate the matter and report our findings to you. If for any reason you are not satisfied with our response, you may contact the PUC. You have a right to file a complaint with the PUC. If you have a billing or other dispute that you are not able to resolve with Company, you may contact the PUCT at PO Box 13326, Austin, TX 78711-3326 or by calling (512) 936-7120 or toll free (888) 782-8477. Hearing and speech impaired individuals with text telephones (TTY) may contact the PUCT by calling (512) 936-7136. Please see your YRAC for more information.

## Nondiscrimination

Think Energy does not deny service or require a prepayment or deposit for service or otherwise discriminate based on your race, creed, color, national origin, ancestry, sex, marital status, your location in an economically distressed geographic area, or qualifications for low income or energy efficiency services. Think Energy does not use a credit score, a credit history, or utility payment data as the basis for determining the price for electric service for product with a contract term of 12 months or less.



## How Think Energy Uses Your Information

You understand and agree that Think Energy needs to access certain information to provide you with electric energy and other services under this Agreement. This information includes but is not limited to historical usage, address, account number, telephone number, email, and other similar information. You agree that Think Energy may share your information with third parties, including its affiliates, vendors, and other third parties that need to know such information in order to provide the goods and services under this Agreement. You also expressly authorize Think Energy to share your information with any broker or aggregator who may be working for or with you concerning your electric energy needs. You agree that Think Energy is also specifically permitted to share your information, including your current and historical usage, address, account number, telephone number, email, and other similar information with Energywell Home, LLC.

## Change in Law or Regulation

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

## Disclaimer of Warranties

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

**THINK ENERGY MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE RESIDENTIAL ELECTRICITY OTHER THAN THOSE EXPRESSLY SET FORTH IN THIS CONTRACT AND THINK ENERGY EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES WITH RESPECT TO RESIDENTIAL ELECTRICITY WHETHER WRITTEN OR VERBAL, EXPRESS OR IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

## Assignment

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

## Attorney Fees and Expenses

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

## Governing Law; Arbitration; Waiver of Jury Trial; Class Action Waiver

This Contract shall be interpreted, construed and governed by the laws of the State of Texas, notwithstanding any conflict-of-laws principles that might require the application of the laws of another jurisdiction. **NOTHING IN THE CONTRACT IMPAIRS OR CHANGES YOU RIGHT TO MAKE A FORMAL OR INFORMAL COMPLAINT RELATED TO THIS CONTRACT TO THE PUCT. TO THE FULLEST EXTENT PERMITTED BY LAW, AND SUBJECT TO YOUR RIGHTS TO OPT OUT AS FURTHER PROVIDED HEREIN, ANY DISPUTE ARISING OUT OF OR RELATING TO THIS CONTRACT, INCLUDING CLAIMS ARISING IN CONTRACT, TORT, STATUTORY OR OTHERWISE, SHALL BE SETTLED EXCLUSIVELY AND FINALLY BY ARBITRATION IN ACCORDANCE WITH THE CONSUMER ARBITRATION RULES AND PROCEDURES OF THE AMERICAN ARBITRATION ASSOCIATION. ANY ARBITRATION PROCEEDING HEREUNDER SHALL BE CONDUCTED EXCLUSIVELY IN TEXAS. BY ENTERING INTO THIS AGREEMENT, YOU AGREE TO BINDING ARBITRATION AND WILL NOT PURSUE ANY FURTHER ACTION IN A COURT OF LAW. YOU WILL NOT HAVE THE RIGHT TO PARTICIPATE IN A REPRESENTATIVE CAPACITY OR AS A MEMBER OF ANY CLASS OF CLAIMANTS PERTAINING TO ANY CLAIM SUBJECT TO ARBITRATION. THINK ENERGY'S ARBITRATION AND CLASS ACTION WAIVER ADDENDUM, WHICH IS AVAILABLE AND PROVIDED TO YOU DURING THE ENROLLMENT PROCESS IS INCORPORATED HEREIN AND MADE A PART HEREOF, CONTAINS ADDITIONAL DETAILS AND A COMPLETE DESCRIPTION OF THE TERMS AND CONDITIONS OF THE ARBITRATION AND CLASS ACTION WAIVER POLICY, INCLUDING YOUR ABILITY TO OPT OUT (YOUR ABILITY TO OPT OUT IS ALSO DETAILED BELOW).**

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OPTING OUT OF ARBITRATION. WITHIN 30 DAYS (UNLESS A LONGER PERIOD IS REQUIRED BY LAW) OF ENTERING INTO THE CONTRACT, IF YOU DO NOT WISH TO BE BOUND BY THE ARBITRATION PROVISION, YOU MUST NOTIFY THINK IN WRITING BY EMAILING US AT [NOTHINKARBITRATION@ENERGYWELL.COM](mailto:NOTHINKARBITRATION@ENERGYWELL.COM) OR BY CERTIFIED MAIL TO THINK AT P.O. BOX 130309, SPRING, TEXAS 77393, ATTN. ARBITRATION. YOUR WRITTEN NOTIFICATION TO THINK MUST INCLUDE YOUR NAME, ADDRESS, AND THINK ACCOUNT NUMBER AS WELL AS A CLEAR STATEMENT THAT YOU DO NOT WISH TO RESOLVE DISPUTES WITH THINK THROUGH ARBITRATION. YOUR DECISION TO OPT OUT OF THIS ARBITRATION PROVISION WILL HAVE NO ADVERSE EFFECT ON YOUR RELATIONSHIP WITH THINK OR YOUR USE OF THE SERVICES. OPTING OUT OF THINK'S ARBITRATION PROVISION HAS NO EFFECT ON ANY OTHER OR FUTURE ARBITRATION AGREEMENTS THAT YOU MAY HAVE WITH THINK.

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

## Limitations of Liability

TO THE FULLEST EXTENT PERMITTED BY LAW, THINK ENERGY WILL NOT BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY, OR INDIRECT DAMAGES (INCLUDING LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES), WHETHER BY STATUTE, IN CONTRACT OR TORT, EVEN IF THE RESULT OF NEGLIGENCE (WHETHER SOLE, JOINT, CONCURRENT, ACTIVE, OR PASSIVE). ALL OTHER LIABILITY WILL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, AND SUCH DIRECT ACTUAL DAMAGES WILL BE THE SOLE AND EXCLUSIVE REMEDY. YOU HEREBY WAIVE ALL OTHER REMEDIES AT LAW OR IN EQUITY. THINK ENERGY IS NOT LIABLE FOR INTERRUPTIONS TO OR SHORTAGES OF ELECTRICITY SUPPLY NOR ANY ASSOCIATED LOSS OR DAMAGE RESULTING THEREFROM. THESE LIMITATIONS APPLY WITHOUT REGARD TO THE CAUSE OF ANY LIABILITY OR DAMAGE. THERE ARE NO THIRD-PARTY BENEFICIARIES TO THIS CONTRACT. To the extent any damages required to be paid hereunder (including any Early Termination Fees hereunder) are liquidated, the Parties acknowledge that the damages are not intended and shall not be construed as a penalty, such damages are difficult or impossible to determine, that otherwise obtaining an adequate remedy is inconvenient or impossible, and that the liquidated damages constitute a reasonable approximation of the harm or loss.

## Force Majeure

You understand that Think Energy does not generate, transfer or distribute your electricity. Think Energy will make commercially reasonable efforts to provide your electric service, however, Think Energy does not guarantee a continuous supply of electricity. Certain causes and events are out of our reasonable control and may result in interruptions in service (each a "Force Majeure Event"). Force Majeure Events include

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but are not limited to acts of God, changes in laws, rules, or regulations or other acts of any governmental authority (including the PUCT or ERCOT or TRE), accidents, pandemics, epidemics, extraterrestrial alien incursions, acts of terrorism, war, strikes, labor troubles, required maintenance work, inability to access the local distribution utility system, nonperformance by the TDSP or any other cause beyond our reasonable control. Think Energy is not liable for damages that arise out of or are in any way related to a Force Majeure Event.

## Title, Risk of Loss, and Indemnity

Think Energy ceases to have title to and risk of loss related to the electricity at the point where a third party transmission or delivery system connects with the TDSP system. You shall be deemed to be in exclusive control of the electricity after it reaches your electric meter. You are responsible for any damages or injury caused once you are in exclusive control. You agree to indemnify, defend and hold Think Energy harmless from any and all claims for any loss, damage or injury to persons or property, including but not limited to all consequential, exemplary or punitive damages arising from or related to any act or omission occurring after the interconnection of the TDSP transmission or delivery system with your meter.

## No Waiver

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

## Entire Contract

This Contract, including all documents referenced and incorporated by reference herein (including but not limited to Think Energy's Arbitration and Class Action Waiver Addendum, as applicable) contains the entire agreement between you and Think Energy with respect to your electric service and supersedes all prior contracts or agreements (oral or written) between you and Think Energy with respect to the subject matter of this Contract.

## Solar Addendum

This Net Energy Metering (“NEM”) Fixed Price Solar Addendum (the “Addendum”) is being entered into in as an Addendum to the Terms of Service (“TOS”) entered into between you and EE REP 2, LLC d/b/a Think Energy (“Think Energy” or the “Company”). The TOS is integrated into this Addendum by reference as if set forth herein verbatim. Capitalized terms used herein but not defined will have the meaning ascribed to them in the TOS.

### Eligibility

You must meet the following requirements to be eligible for any of Company’s Solar Programs (the “Solar Program(s)”: (1) be enrolling to receive electric energy from Company, or if you are an existing customer, be a customer in good standing receiving electric energy from Company; (2) have an agreement with your TDSP to connect your energy producing system to the electric energy power grid managed by the Electric Reliability Council of Texas (“ERCOT”) (the “Grid”); (3) have a meter installed by your TDSP which separately measures the outflow of electricity from your Premises to the Grid (unless paid previously, the installation fee charged by your TDSP will be passed through on your Company invoice); (4) have a solar load profile assigned by your TDSP; (5) have an eligible electric energy generating renewable energy system that is in safe working order; and (6) your solar system size must be less than 50kW. Your participation in any Solar Program will cease immediately upon your failure to be in compliance with any of the foregoing Solar Program eligibility requirements.

Additionally, your participation in any Solar Program will cease immediately if you fail to renew your TOS with the Company and are being served on the Company’s default renewal product as further described in your TOS and the default renewal product’s EFL. Your participation in any Solar Program, including your eligibility to participate in any Solar Program does not affect Company providing electric energy to you pursuant to the TOS and you shall continue to be bound by the TOS.

### Terms

By accepting this Addendum, you represent that you are eligible and elect to participate in the Solar Program provided for in your EFL. Your participation in the Program is subject to your TOS, EFL, and this Addendum. You agree that if you elect to participate in Company’s Level Billing Plan, you are ineligible to participate in the Solar Program. Please see your EFL for additional product specific terms for the Solar Program chosen by you. For all Solar Programs, you agree to sell any excess electric energy exported by your system and delivered to the Grid to Company and Company agrees to credit your invoice as provided in this Addendum using the calculation provided in the EFL. The amount Company will credit you for electric energy exported by your system in excess of your monthly usage which is transmitted to the Grid is based on the calculation and information provided herein and in the EFL. You may only be enrolled in one Solar Program at any given time.

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## Banking

Any credit due to you pursuant to this Addendum will appear on your monthly invoice provided by Company pursuant to the TOS. Credits may be in the form of dollars or kWh depending on the Solar Program chosen, as provided in this Addendum, and your applicable EFL. If your credit for any billing period exceeds the energy charges (which do not include any TDSP charges or taxes) due to Company (whether in the form of dollars or kWhs), the remaining credit will be applied to each future invoice until fully exhausted or you leave Company for another retail electric provider, whichever comes first.

## NEM Fixed Terms

You will receive a credit of kWh for each kWh of energy you export back to the Grid at the rate provided for in your EFL (the “Export Credit Rate”). Any export credit you receive will be displayed on your invoice and will only be applied towards your energy charges. This credit will not apply towards your TDSP, Tax, or other charges. If you export more energy than you consume for any given service period, your excess kWh credit will first be credited towards your energy charge amount and any excess kWhs will accrue in a bank that can be applied to future invoices as necessary, subject to the limitations provided herein. For more specific information, please see your EFL.

## Modification or Termination of the Solar Program

Company reserves the right to discontinue or modify any Solar Program at any time with fourteen (14) days advance notice. At the end of the term of any TOS between you and the Company, the Company will re-evaluate your eligibility to participate in the Solar Program. If you are found to be ineligible for the Company’s then existing Solar Program, your participation in the Solar Program will be terminated/not renewed. Notwithstanding the foregoing, if Company learns at any time during the term of any TOS with the Company that you are not in compliance with this Solar Addendum, including the eligibility provisions, the Company reserves the right to terminate your participation in your selected Solar Program immediately. Your termination from participation in the Solar Program will not impact your receipt of electric energy from the Company pursuant to any TOS or EFL.

If you switch to a new retail electric provider, Company terminates the Solar Program, or the TOS or this Addendum are terminated by either Party for any reason, including by the TOS’s own terms, any accrued, but unused, credit(s) related to participation in the Solar Program will be applied to your balance at the time of the switch, termination of the Program, or termination of the TOS or this Addendum, and you will forfeit any remaining credits.

## Think Smart Thermostat Addendum

This Addendum governs the Think Smart Thermostat Program (the “Program”) and is between you and EE REP 2, LLC d/b/a Think Energy (“Think Energy”, “We”, or the “Company”). The Program enables Think Energy to make temporary changes to your thermostat settings in order to reduce your electricity consumption from time to time, subject to the terms and conditions below (the “Terms and Conditions”).

### Eligibility

You must meet the following requirements to be eligible for the Think Smart Thermostat Program: (1) you must be a customer receiving electric energy from Think Energy; (2) you must be in good standing with Think Energy and have no outstanding balance at the time you enroll in the Program; (3) you must have one or more operational thermostats that are compatible with the Program, connected to an active Wi-Fi network and installed at the service address(es) where you receive electric energy from Company; (4) you must have completed the online enrollment process, including acceptance of third party Terms and Conditions, for participation in the Program; and (5) you must have indicated your agreement to the Terms and Conditions of the Program by agreeing to this Addendum.

### Terms and Conditions for the Think Smart Thermostat Program

By participating in the Program, you represent that you have read and understand these Terms and Conditions. In addition, by participating in the Program, you consent to and acknowledge that Think Energy may, from time to time, cause your thermostat’s temperature to be remotely increased or decreased from your then current temperature setting (in each instance a “Program Event”). At the conclusion of each Program Event, Think Energy will then cause your temperature settings to return to your scheduled setpoint which will mark the end of the Program Event. A Program Event may last several hours or longer. You will have the ability to opt-out of any Program Event by adjusting your thermostat settings during the Program Event.

To participate in the Program and to receive Program benefits, you must register your eligible thermostats in your My Account portal. As part of thermostat registration, you give Think Energy permission to integrate with your eligible thermostat(s) via third party services that have their own Terms and Conditions. Failure to complete the enrollment process in the Program will prevent you from receiving Program benefits.

### Bill Credit

If you meet all eligibility requirements of the Program and do not opt-out of two (2) or more Program Events per billing period, you will receive a bill credit in the amount provided in your EFL for each eligible thermostat enrolled in the Program during that billing period unless your enrolled thermostats are not connected to Wi-Fi or otherwise fail to remotely communicate with Think Energy for eight (8) hours or longer. In this instance, the Company may prorate your bill credit for that billing period by the percentage of days in that billing period during which your enrolled thermostats were not unreachable for eight (8) hours or longer. If you do not receive a bill credit for a particular billing period, and you remain enrolled in

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the Program, you will continue to be eligible to receive a bill credit in the subsequent billing period subject to the Terms and Conditions.

## How to Disenroll Your Smart Thermostat

If at any time you wish to disenroll in the Program you can do so without penalty by disenrolling your thermostat(s) in your My Account Portal.

## Data Collection and Privacy

In the course of providing electric service to you, Think Energy obtains certain information from you and from your electric service usage. By participating in the Program, you give Think Energy permission to share all such information obtained with any third party involved in administering the Program. You further agree that Think Energy, and the vendors or third parties contracted by Think Energy, will collect data about your electricity consumption, your thermostat, your thermostat setting preferences, and other data about your thermostat operations ("the Data") and you give Think Energy permission to share all information obtained by it in the course of providing electric service to you with any vendor or contracting party that changes the temperature of your thermostat(s). Think Energy, and/or its vendors or contracted third parties use this information to optimize Program operations, to temporarily adjust your setpoints, to return your thermostat to your preferred settings, to ensure that you receive the correct bill credit, if any, and to measure usage reductions resulting from your participation in the Program. To learn more about how we may use your information, please review the Think Energy Privacy Policy.

Once you enroll in the Program, your agreement to participate in the Program shall continue until you disenroll or are no longer eligible for the Program for whatever reason. By enrolling in the Program you grant Think Energy authorization to use your contact details to send you related information, alerts and updates as well as surveys about your participation in the Program, and to share this information for research purposes and to help Think Energy market, make sales and to steer our business.

## Third Party Software

By participating in the Program, you agree that Think Energy may use third party software to connect, monitor, collect data from and to adjust the temperature of your enrolled thermostat(s). Where Think Energy uses third party software, our ability to manage the thermostats is dependent on the availability of these third parties. Think Energy does not control these third-party products and services and you agree that Think Energy will not be liable to you for any losses resulting from the failure or non-availability of such third party software.

## Limitation of Liability

**YOU AGREE THAT THINK ENERGY SHALL NOT BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF THIS AGREEMENT. THINK ENERGY MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ELIGIBLE THERMOSTATS, AND EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE ELIGIBLE THERMOSTATS**

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AND SERVICES PROVIDED BY COMPANY, INCLUDING MERCHANTABILITY, CONFORMITY TO MODELS OR SAMPLES, AND FITNESS FOR A PARTICULAR PURPOSE.

## Modification or Termination of the Program

Company reserves the right to discontinue or modify the Program at any time with fourteen (14) days advanced notice. At the end of the term of any TOS between you and the Company, the Company will re-evaluate your eligibility to participate in the Program. If you are found to be ineligible for the Company's then existing Program, your participation in the Program will be terminated/not renewed. Notwithstanding the foregoing, if Company learns at any time during the term of any TOS with the Company, that you are not in compliance with these Terms and Conditions, including the eligibility provisions, the Company reserves the right to terminate your participation in the Program immediately. Your termination from participation in the Program will not impact your receipt of electric energy from the Company pursuant to any TOS or energy facts label.

If you switch to a new retail electric provider, Company terminates the Program, or the TOS or this Addendum are terminated by either Party for any reason, including by the TOS's own terms, any accrued, but unused, bill credit(s) related to participation in the Program will be applied to your balance at the time of the switch, termination of the Program, or termination of the TOS or this Addendum, and you will forfeit any remaining bill credits.