

**WELCOME TO EXPRESS ENERGY!**

This document explains the terms and conditions that apply to your purchase of electricity from Value Based Brands LLC d/b/a Express Energy ("Express Energy"). This Terms of Service ("TOS"), your enrollment documentation, your Electricity Facts Label ("EFL"), and the "Your Rights as a Customer" ("YRAC") document comprise your Contract with us. By accepting electric service from Express Energy, you have agreed to be bound to the terms of your Contract. You acknowledge that you are a residential customer on a residential electricity plan, and that you have the responsibility for making sure you have selected the electricity plan that is the most appropriate one for which you qualify. The Public Utility Commission of Texas ("PUC") rules referenced in your Contract can be viewed at: <http://www.puc.texas.gov/agency/rulesnlaws/subrules/electric/Electric.aspx>.

**CONTACT INFORMATION**

Express Energy holds PUC Retail Electric Provider ("REP") Certificate Number 10041.

Our mailing address is:  
Express Energy  
P.O. Box 660361 Dallas, TX 75266-0361

You can call us Monday through Friday, between the hours of 9am – 6pm CST.

Telephone: 1-844-361-2080  
Toll-Free Telephone: 1-844-361-2080  
Facsimile: 1-866-346-1812  
Website: [www.MyExpressEnergy.com](http://www.MyExpressEnergy.com)  
Email: [service@MyExpressEnergy.com](mailto:service@MyExpressEnergy.com)

**POWER OUTAGES AND EMERGENCIES**

To report an electrical emergency or service outage, please call the appropriate number that corresponds to the Transmission and Distribution Utility ("TDU") for your service area.

Oncor: 1-888-313-4747  
CenterPoint Energy: 1-800-332-7134  
TNMP: 1-888-866-7456  
AEP: 1-866-223-8508  
Lubbock Power & Light: 1-806-775-2509

**SPANISH LANGUAGE (IDIOMA ESPAÑOL)**

Your contract documents are available in Spanish by contacting us at or 1-844-361- 2080.

Usted puede obtener los documentos de su contrato comunicándose con nosotros al 1-844-361-2080.

**ANTIDISCRIMINATION**

We cannot deny service or require a prepayment or deposit for service based on your race, creed, color, national origin, ancestry, sex, marital status, lawful source of income, level of income, disability, familial status, location in an economically distressed geographic area, or qualification for low income or energy efficiency services. Also, we cannot use a credit score, a credit history, or utility payment data as the basis for determining the price for electric service for products with a contract term of 12 months or less.

**PRODUCT TYPE SECTION**

Express Energy offers the following product types. Only the specific section for your product type will apply to your Contract. To find out what product type you have, please consult your EFL.

**FIXED RATE PRODUCTS (TERM)**

Fixed rate products have a contract term of at least three months. Your price during the contract term is only subject to change to reflect changes in TDU charges, changes to the ERCOT or Texas Regional Entity ("TRE") administrative fees charged to load or changes resulting from federal, state or local laws or regulatory actions that impose new or modified fees or costs on REPs, including Express Energy, that are beyond the control of REPs.

***Changes to Contract Provisions***

We can make changes to the provisions of your Contract at any time during the contract term with appropriate notice, except for changes to your price other than as stated in this section or the length of your contract term. We will notify you of any material change to your Contract in writing at least 14 days before any change to your Contract will be applied to your bill or take effect. If you do not cancel your Contract before the effective date of the change, the change will become effective on the date stated in the notice. Notice is not required for a change that is beneficial to you.

**INDEXED PRODUCTS (TERM)**

Term indexed products have a contract term of at least three months. Your price during the contract term will vary as set forth in your EFL and may also change to reflect changes in TDU charges, changes to the ERCOT or TRE administrative fees charged to load or changes resulting from federal, state or local laws or regulatory actions that impose new or modified fees or costs on REPs, including Express Energy, that are beyond the control of REPs.

***Changes to Contract Provisions***

We can make changes to the provisions of your Contract at any time during the contract term with appropriate notice, except for changes to the

pricing formula or length of your contract term. We will notify you of any material change to your Contract in writing at least 14 days before any change to your Contract will be applied to your bill or take effect. If you do not cancel your Contract before the effective date of the change, the change will become effective on the date stated in the notice. Notice is not required for a change that is beneficial to you.

**INDEXED PRODUCTS (MONTH TO MONTH)**

Month to month indexed products have a contract term of 31 days or less. Your price will vary as set forth in your EFL and may also change to reflect changes in TDU charges, changes to the ERCOT or TRE administrative fees charged to load or changes resulting from federal, state or local laws or regulatory actions that impose new or modified fees or costs on REPs, including Express Energy, that are beyond the control of REPs.

***Changes to Contract Provisions***

We can make changes to the provisions of your Contract at any time with appropriate notice, except for changes to the pricing formula or length of your contract term. We will notify you of any material change to your Contract in writing at least 14 days before any change to your Contract will be applied to your bill or take effect. If you do not cancel your Contract before the effective date of the change, the change will become effective on the date stated in the notice. Notice is not required for a change that is beneficial to you.

**VARIABLE PRODUCTS (MONTH TO MONTH)**

Month to month variable products have a contract term of 31 days or less. Your price will vary according to a method determined by Express Energy, as set forth in your EFL.

***Changes to Contract Provisions***

We can make changes to the provisions of your Contract at any time with appropriate notice except for changes to the length of your contract term. We will notify you of any material change to your Contract in writing at least 14 days before any change to your Contract will be applied to your bill or take effect. If you do not cancel your Contract before the effective date of the change, the change will become effective on the date stated in the notice. Notice is not required for a change that is beneficial to you.

**CONTRACT EXPIRATION NOTICE**

If you are on a Fixed Rate Product we will send you three contract expiration notices evenly distributed, to the extent practicable, during the last third of the contract period. If you are on a Fixed Rate Product that has a contract term of greater than four months, we will send your final

written notice at least 30 days in advance of contract expiration. If you are on a Fixed Rate Product that has a contract term of four months or fewer, we will send your final written notice at least 15 days in advance of contract expiration. If you are on a term product other than a Fixed Rate Product, we will send you a contract expiration notice between 30 to 60 days in advance of contract expiration. You do not need to take any action in response to the contract expiration notice in order to continue to receive service, which will be provided under an Express Energy default month- to-month renewal product. The contract expiration will let you know what you need to do if you want to renew your service to another term or change your service plan. The EFL for your month-to-month default renewal product, which will describe its pricing terms, will be included with your final contract expiration notice.

### **PRICING AND FEES**

You agree to pay the price as defined by your Contract and all amounts shown on your bill. Your bill will include non-recurring fees charged by the TDU that are necessary to implement and/or maintain electric service for you (e.g., service connection, disconnection or reconnection fees, meter test fees or special out-of-cycle meter read fees). Non-recurring fees will appear as line items on your bill. Your bill will also include applicable Taxes and any fees charged by any governmental entity. The price, non-recurring fees and Taxes will be reflected on your monthly bill as Current Charges.

You may also be charged the following fees for services that Express Energy provides. These fees (if applicable) will be listed separately on your bill.

**Late Payment Penalty.** We may charge a one-time penalty of 5% of your past due balance for late payments or past due delinquent balances.

**Insufficient Funds Fee.** We may charge up to \$29.95 for each payment transaction that is returned unpaid or not processed (e.g., returned checks; returned electronic fund transfers, and rejected credit card transactions).

**Early Cancellation Fee.** We may charge a fee for early cancellation of your Contract; check your EFL for more information. **Payment Assist Fee.** We may charge up to \$3.95 for any payment processed by an Express Energy Customer Care Representative.

**Document Processing Fee.** We may charge up to \$3.95 for each request for additional bill copies or payment reference letters.

**Disconnect Notice Fee.** We may charge up to \$19.95 for each disconnect notice we provide you.

**Disconnect Recovery Fee.** In addition to applicable TDU charges, we may charge up to \$29.95 if you fail to pay the past due amount before the expiration date of any Express Energy issued disconnection notice.

**Reconnect Recovery Fee.** In addition to applicable TDU charges, we may charge up to \$29.95 to process a service reconnection request.

**Priority Connect Fee.** In addition to applicable TDU charges, we may charge up to \$9.95 to process a priority connection request.

**Renewable Energy Selection Fee.** We may charge up to \$19.95 per month to upgrade your energy plan to renewable energy.

**Move-Out Date Change Fee.** We may charge up to \$9.95 to process any date changes to your move-out request.

**Inactivity Fee.** We may charge up to \$9.95 for each billing cycle that your meter reading shows zero usage.

**Collections Recovery Fee.** In addition to other charges we incur in the collections process, we may charge up to \$24.95 if we transfer your past due amounts to a collections agency. **e-Docs Breakage Fee.** We may charge a one-time fee of up to \$19.95 for failing to maintain a valid email address on file or requesting a customer service agent to remove paperless communications from your account if your plan requires e-Docs.

**Non-Auto Pay Fee.** If you make a payment on your account through any method other than your approved Auto Pay method when required, we may charge up to \$5.95 for each such payment.

**Serial Payment Fee.** If you make more than five payments in a month, we may charge up to \$4.95 for the sixth payment in the month and each successive payment in that same month.

Please note that some products may require an advanced meter (smart meter) that records your usage more frequently and you will only be eligible for these prices if the appropriate meter and any other necessary equipment are installed at your location.

### **BILLING, PAYMENT AND PAYMENT ARRANGEMENTS**

Your bill will include Current Charges and an Amount Due that will be due and payable 16

calendar days from the invoice date shown on the bill. Your bill should be issued monthly, unless we do not receive meter readings or usage information from the TDU or Electric Reliability Council of Texas ("ERCOT") in time to prepare and send a monthly bill. We may also issue bills less frequently or send your bills electronically if you agree to accept alternate arrangements. By paying your bill you agree that the bill reflects proper charges for our services. If you do not pay your bill by the due date, we may charge you a Late Payment Penalty.

We reserve the right to adjust your bill. We may calculate a bill based on estimated meter readings absent actual meter readings from the TDU or ERCOT. Once actual meter readings are received, we will issue a bill or make adjustments on a subsequent bill.

If you agree to purchase other products or services from us or third parties, you acknowledge that the bill we provide you may include the charges for those products and services. We will apply all payments you make on your bill first to the amounts you owe us for electric service.

### **PAYMENT ASSISTANCE**

#### **What if I need more time to pay my bill?**

Please call us if you anticipate having difficulty paying your bill by the due date. You may be eligible for payment assistance or a deferred payment plan.

**What if I need help paying my bill?** The Value Based Brands Energy Aid program is available to customers who have severe financial hardships and temporarily may be unable to pay their bills. This program is funded in part by contributions from Value Based Brands LLC. You may contribute to this program on your bill each month. If you are in need of bill payment assistance please call 211 or contact your local health and human services department or the Texas Department of Housing and Community Affairs.

If you fail to timely pay the amounts due and we refer your outstanding balance to an attorney or collection agent for collection, or file a lawsuit, or collect your outstanding balance through probate, bankruptcy or other judicial proceedings, then you agree to pay reasonable fees and expenses (including attorney fees) that we incur in the collection process.

Receipt of payment will not occur if your method of payment is invalid (e.g., your check or electronic check is not processed by the bank and is returned, or your credit card payment is not processed by your credit card company). We may also disconnect your service after providing

you with proper notice. We may report information about your account to credit bureaus. Late payments, missed payments, or other defaults on your account may be reflected in your credit report and may negatively impact your credit score. Also, if we do not receive your payment by the due date or if you do not make acceptable payment arrangements, we may use debt collection agencies, small claims court, or other remedies allowed by law to collect the amount owed, including reasonable fees and expenses (including attorney fees) that we incur in the collection process. By providing telephone numbers, including wireless and work numbers to Express Energy, you are expressly consenting to being contacted on those numbers for any purpose related to your account, including debt-collection, by a live person or automated service. We will not disconnect your electric service for amounts you owe for other products or services you have purchased from us that are in addition to your electric service.

#### **DISPUTES ABOUT CREDIT INFORMATION, DEBTS, AND PAYMENTS WITH CONDITIONS:**

**ALL COMMUNICATIONS CONCERNING DISPUTES ABOUT THE ACCURACY OF ANY INFORMATION CONTAINED IN A CONSUMER CREDIT REPORT REGARDING AN ACCOUNT OR OTHER RELATIONSHIP WE HAVE OR HAD WITH YOU MUST BE SENT TO US AT: PO BOX 660313, DALLAS, TX 75266-0313. ANY COMMUNICATIONS CONCERNING DISPUTED DEBTS OR OTHERWISE SENT WITH OR ON A PAYMENT THAT ATTEMPT TO IMPOSE A**

**CONDITION ON EXPRESS ENERGY FOR ACCEPTING THE PAYMENT, INCLUDING BUT NOT LIMITED TO PARTIAL PAYMENTS TENDERED AS FULL SATISFACTION OF A DEBT, MUST BE SENT TO US AT THE FOLLOWING ADDRESS: PO BOX 650764, DALLAS, TX 75266-0764. PAYMENTS ARE PROCESSED BY AUTOMATED SYSTEMS IN THE ORDINARY COURSE OF BUSINESS UNLESS SENT TO THE ADDRESS SPECIFIED ABOVE.**

#### **DEPOSITS**

You may be required to provide an initial deposit before receiving electric service if you cannot demonstrate satisfactory credit. An initial deposit may also be required to continue to receive electric service if you have been late paying your bill more than once during the last 12 months or your service has been disconnected for non-payment.

You may be required to provide an additional deposit to continue to receive electric service if

your average annual electric service bill for the last 12 months is at least twice the amount of the original estimated annual bill and we have issued you a notice for disconnection or have disconnected your account in the previous 12 months.

If a deposit is required, the total amount of your deposit will not exceed an amount equal to the greater of: (1) one-fifth of the estimated annual billing; or (2) the sum of the next two months estimated billings. If we hold your deposit for more than 30 days, your deposit will accrue interest from the day we received it at the interest rate established annually by the PUC. We will credit any accrued interest on your deposit to your account either on your January bill each year or on your final bill.

You may avoid paying a deposit if (1) you submit a payment history letter from your previous electric service provider confirming two years of service and your positive payment record for 12 consecutive months, (2) you have a satisfactory credit rating, (3) you are at least 65 years of age and do not have a delinquent balance with your current electric service provider, (4) you submit proof that you are medically indigent, or (5) you have been a victim of family violence and can provide a certification letter by the Texas Council on Family Violence. Please contact us if you believe you may be eligible for one of these options. If you establish satisfactory credit with us by making timely payments for 12 consecutive months, then we will apply the deposit plus accrued interest to your account. If you do not establish satisfactory credit with us during the time you receive service from us, then we will apply the deposit plus accrued interest against the outstanding balance on your final bill. We will bill you for any remaining balance and the bill will be due upon receipt. We will refund any credit balance to you or transfer the credit balance to your new REP, at your request and with your new REP's consent.

#### **RIGHT OF RESCISSION**

**If you are switching to Express Energy from another Retail Electric Provider ("REP"), you can cancel your acceptance of your Contract with us without penalty or fee by contacting us before midnight of the 3rd federal business day after the date you first receive your TOS. You may cancel by calling 1-844-361-2080 (toll free), faxing 1-866-346-1812 (toll free), or emailing: [service@MyExpressEnergy.com](mailto:service@MyExpressEnergy.com).**

**Please provide your name, address, phone number, ESI ID or account number, and a statement that you are rescinding your Contract under the 3 day right of rescission.**

#### **TERMINATION**

Your contract term is stated in your EFL. At the end of your contract term, you may cancel or terminate your Contract by switching to a new provider. If you cancel your Contract before the end of your contract term, you agree to pay the early cancellation fee indicated in your EFL (if any), and you must select another REP to continue to receive electric service.

If you move from your existing premise during the contract term and provide us with evidence of your move and a forwarding address, you will not be responsible for the cancellation fee stated in your EFL. To ensure timely processing, you should notify us at least 3 days before the requested termination date.

Our obligations will end after the meter read date where we are no longer designated as your REP or when your electric service is disconnected by the TDU. Your obligations under your Contract will end when your account balance is paid in full.

#### **DISCONNECTION**

**WE MAY REQUEST DISCONNECTION OF YOUR ELECTRIC SERVICE IF WE DO NOT RECEIVE YOUR DEPOSIT OR BILL PAYMENT IN FULL BY THE DUE DATE ON THE DISCONNECT NOTICE OR IF YOU DO NOT FULFILL THE TERMS OF YOUR DEFERRED PAYMENT PLAN.** We will notify you in writing at least 10 calendar days before we disconnect electric service. We may request immediate disconnection of your electric service without prior notice under specific situations, including the existence of a dangerous condition at your service address or theft of service.

#### **CUSTOMER CARE, ALTERNATE BILLING AND PAYMENT OPTIONS**

If you have any questions, concerns, billing inquiries, or you are interested in applying for the following services we offer, please contact us at 1-844-361-2080.

**Budget Billing.** Upon request, Express Energy will enroll your account in budget billing, so long as your account is not delinquent. Budget Billing consists of a level monthly payment plan based on: your estimated monthly usage, which is determined by reviewing your past twelve billing cycles, and your rate structure. Every sixth billing cycle, Express Energy will review your account, reconcile your budget billing option and determine your new monthly payment. Budget billing will be cancelled upon your request or if your account becomes past due or is terminated; if budget billing is cancelled, your account will be reconciled, and any credit or unpaid balance will appear on your next invoice.



Our Auto Pay program. With our recurring payment program, you get the convenience of easy automatic payments each month for what you owe.

Online Account Management. You may receive, view and/or pay your bill electronically through our electronic bill presentment option.

Third-Party Bill Payment Centers. Select authorized bill payment centers allow you to pay your Express Energy balance in person by cash. Please visit our website: [MyExpressEnergy.com/cash-payment-locations](http://MyExpressEnergy.com/cash-payment-locations) to find nearby authorized payment center locations. Payment centers may charge a fee for payment processing. Please be aware that paying at an unauthorized payment location may take 5-7 business days or longer for Express Energy to receive your payment. Excessive chargebacks or returned checks may result in you being required to pay your bill in cash at an authorized payment location.

#### **CRITICAL CARE AND CHRONIC CONDITION RESIDENTIAL CUSTOMERS**

If you have a person permanently residing in your home 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 home 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. To be considered for such designation, a physician must submit the PUC-approved form by facsimile or other electronic means to your TDU. The TDU 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 TDU will also notify us about your status. Please note that designation as a Critical Care or Chronic Condition Residential Customer does not relieve you of your obligation to pay for electric service that you receive from us.

#### **SWITCH-HOLD**

A switch-hold may be applied to your ESI ID if you enter into certain payment arrangements. Additionally, your TDU will apply a switch-hold to your ESI ID if there is evidence of meter tampering. A switch-hold means that you will not be able

to buy electricity from other companies until you have satisfied the terms of your payment arrangement or, in cases of meter tampering, have paid all applicable charges and backbilling. While a switch-hold applies, if you are disconnected for not paying, you will need to pay Express Energy to get your electricity turned back on.

#### **DISPUTE OR COMPLAINTS**

If you have any questions, concerns, or complaints, please contact us. We will attempt to immediately respond to your question or complaint and, if we cannot, we will promptly investigate the matter and report our findings to you. During this time, you will not be required to pay the disputed portion of your bill. If for any reason you are not satisfied with our response, you may contact the PUC.

#### **ASSIGNMENT**

You may not assign your Contract with us, in whole or in part, or any of your rights or obligations under the Contract without our prior written consent. Express Energy may, without your consent but with notice to you, assign your Contract to another REP in the event of an acquisition, merger, bankruptcy or other similar event.

#### **LIMITATIONS OF LIABILITY**

**YOU AGREE THAT FORCE MAJEURE EVENTS, INCLUDING ACTS OF GOD, ACTS OF ANY GOVERNMENTAL AUTHORITY, ACTS OF TERRORISTS OR ENEMIES OF THE STATE, ACCIDENTS, STRIKES, LABOR TROUBLES, EVENTS OF FORCE MAJEURE OCCURRING WITH RESPECT TO THE TDU, ERCOT, OR OTHER THIRD PARTY SYSTEMS OR ASSETS, OR ANY OTHER CAUSES AND EVENTS BEYOND OUR CONTROL MAY RESULT IN INTERRUPTIONS IN SERVICE AND THAT WE WILL NOT BE LIABLE FOR THOSE INTERRUPTIONS. YOU ALSO AGREE THAT WE ARE NOT RESPONSIBLE FOR GENERATING, TRANSMITTING OR DISTRIBUTING ELECTRICITY TO YOUR SERVICE ADDRESS AND THAT WE WILL NOT BE LIABLE WITH RESPECT TO ANY THIRD PARTY SERVICES. FURTHERMORE, YOU AGREE THAT Express ENERGY'S LIABILITIES NOT EXCUSED BY REASON OF FORCE MAJEURE OR OTHERWISE SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES, AND THAT NEITHER Express ENERGY NOR THE CUSTOMER SHALL BE LIABLE TO THE OTHER FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES. YOU WAIVE ALL OTHER REMEDIES AT LAW OR IN EQUITY. THESE LIMITATIONS APPLY WITHOUT REGARD TO THE CAUSE OF ANY LIABILITY OR DAMAGE,**

**INCLUDING IF THE DAMAGES RESULT FROM SOLE, JOINT, CONCURRENT, OR ACTIVE OR PASSIVE NEGLIGENCE. THERE ARE NO THIRD PARTY BENEFICIARIES TO THIS CONTRACT.**

#### **REPRESENTATIONS AND WARRANTIES**

**THE ELECTRICITY SOLD UNDER THIS CONTRACT WILL BE SUPPLIED FROM A VARIETY OF GENERATING SOURCES. IF YOU PURCHASE A RENEWABLE ENERGY PRODUCT FROM US, YOU ARE FINANCIALLY SUPPORTING RENEWABLE ENERGY GENERATION SOURCES, AND THE REQUIRED AMOUNT OF RENEWABLE ENERGY CREDITS (RECs) WILL BE RETIRED TO AUTHENTICATE THE RENEWABLE ENERGY COMPONENT OF THE PRODUCT. YOUR TDU DOES NOT NECESSARILY DELIVER, AND YOU WILL NOT NECESSARILY RECEIVE, THE SPECIFIC ELECTRICITY GENERATED FROM THAT**

**SOURCE AT YOUR SERVICE ADDRESS. EXPRESS ENERGY MAKES NO REPRESENTATIONS OR WARRANTIES OTHER THAN THOSE EXPRESSLY SET FORTH IN THIS CONTRACT AND EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, WRITTEN OR ORAL, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY, CONFORMITY TO MODELS OR SAMPLES AND FITNESS FOR A PARTICULAR PURPOSE.**

#### **ARBITRATION AGREEMENT**

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

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

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

member of a certified class; and

- claims that may arise after the termination of your Contract.

Notwithstanding the foregoing, either party may bring an individual action in small claims court. This arbitration agreement does not preclude you from bringing issues to the attention of federal, state, or local agencies, including, for example, the PUC. Such agencies can, if the law allows, seek relief against us on your behalf. No amendment of this arbitration agreement shall apply to disputes or claims of which we had actual notice from you on the date of the amendment. You agree that, by entering into your Contract, you and Express Energy are each waiving the right to a trial by jury or to participate in a class action, and the Federal Arbitration Act governs the interpretation and enforcement of this agreement. This arbitration agreement shall survive termination of your Contract.

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

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

**WAIVER OF RIGHT TO JURY TRIAL OR TO CLASS ACTION OR CLASS ARBITRATION**  
**TO THE FULLEST EXTENT THAT APPLICABLE LAW ALLOWS, YOU AND WE AGREE THAT (1) YOU AND WE WAIVE ANY RIGHT TO**

**TRIAL BY JURY AND (2) NEITHER YOU NOR WE WILL SEEK OR SUPPORT ANY ORDER CERTIFYING AN ACTION OR ARBITRATION INVOLVING YOU AND US AS A CLASS ACTION OR CLASS ARBITRATION OR JOIN OR PARTICIPATE AS A PARTY OR CLASS MEMBER IN ANY ACTION OR ARBITRATION BY ANOTHER PARTY AGAINST EITHER YOU OR US.**

#### **FEDERAL POWER ACT**

Nothing in this Contract shall be construed to suggest that anything associated with the sale of electric energy pursuant to this Contract will bring such sale or the business practices of Express Energy, its affiliates, or its wholesale providers of electricity (1) within the plenary jurisdiction of the Federal Energy Regulatory Commission or (2) outside of the exclusions presently provided for such sales and business practices under Sections 201(b)(2), 210, 211, and 212 of the Federal Power Act.

#### **MISCELLANEOUS**

Your Contract constitutes the entire agreement between you and Express Energy concerning your agreement to purchase electricity for the covered ESI ID(s) and supersedes any prior agreements. There are no prior or contemporaneous agreements or representations affecting this Contract other than those expressed in these documents. No amendment, modification or change to this Contract shall be enforceable unless reduced to writing. Notwithstanding anything to the contrary, if any provision of this Contract is deemed to be invalid, illegal or otherwise unenforceable, you and Express Energy agree that it shall be modified to the minimum extent necessary to render it valid, legal and enforceable. If any such provision cannot be modified in a manner that would make it valid, legal and enforceable, such provision shall be severed from this Contract, and all other provisions hereof shall remain in full force and effect. Any failure on Express Energy's part at any time to enforce any term or condition of our service or to exercise any right under this Contract shall not be considered a waiver of our right thereafter to enforce each and every such term and condition or to exercise such right or any other right under this Contract. Obligations regarding indemnity, payment of taxes, limitations of liability, and waivers will survive the termination of the Contract indefinitely.

THIS CONTRACT IS GOVERNED BY THE LAWS OF THE STATE OF TEXAS. THE TEXAS UNIFORM COMMERCIAL CODE (which can be viewed at: <https://statutes.capitol.texas.gov/docs/sdocs/businessandcommercecode.pdf>) APPLIES TO THIS CONTRACT AND

ELECTRICITY IS DEEMED A "GOOD." YOU CONSENT TO PERSONAL JURISDICTION IN TEXAS AND AGREE THAT THE RESOLUTION OF ANY DISPUTE MUST BE BROUGHT, FILED AND MAINTAINED EXCLUSIVELY IN TEXAS, REGARDLESS OF WHO INITIATES THE ACTION.