

## WEBSITE TERMS AND CONDITIONS

Created: July 21, 2014

These Website Terms and Conditions (these “Terms”) set forth the terms and conditions for use of this website (this “Website”) to gain access to the Smart Meter Texas web portal (the “Web Portal”). In these Terms, “you” or “your” refers to any user of this Website, and “we” or “us” or “our” refers to the owner(s) or operator(s) of this Website.

Please read these Terms and the information referred to or linked to in these Terms, if any, carefully and ensure that you understand them. Your initial acceptance of these Terms and your continued use of this Website constitutes your understanding of, and your agreement to comply with, all of the terms and conditions in these Terms. From time to time, we may unilaterally and without prior notification modify these Terms, so it is important that you review these Terms every time you use this Website. Any use of this Website is an acceptance of these Terms as then posted. Your right to use this Website is conditioned on your compliance with all of these Terms.

### 1. Use of this Website

a. We grant you a limited, non-exclusive, revocable, terminable, non-assignable, non-transferable right, without the right to sublicense or grant sublicenses, to (i) access and/or use this Website, the Web Portal, and the material and information contained or provided on this Website (“Content,” but not including Data, as defined below) that is made available by us for your access and/or use, (ii) access, view, download and/or use any electricity consumption data or meter data of a customer or end user of electricity services that are served by a TDSP (as defined below) (each, a “Consumer”) collected through the use of an advanced metering system (any such consumption data or meter date of a Consumer, “Data”) that you are permitted to access, view, download and/or use under Section 2 of these Terms, and (iii) take such action related to a Consumer’s in-home device or devices as you are expressly permitted under Section 2 of these Terms. Data is further defined as belonging to a specific Premises. The term “Premises” means, with regard to a Consumer and to electricity supply services provided to such Consumer, the specific location at which such Consumer takes and consumes the electricity supplied to such Consumer as part of such electricity supply service. The term “TDSP” means any electricity transmission and distribution service provider that owns and operates an electric delivery system, and/or otherwise participates in making Data and access to its Consumers’ in-home devices available through the Web Portal.

b. The rights under Section 1(a) of these Terms are the only rights granted to you with regard to this Website and any Content and are conditioned on your continued compliance with these Terms. We may at any time, with or without prior notice, modify, change, remove, and add any Content, change the address of this Website, or suspend, terminate, prevent access to, or undertake maintenance regarding this Website or any part thereof without being liable to you or anyone else, except if and to the extent prohibited by applicable U.S. federal or Texas state or local law. Within the requirements of applicable U.S. federal and Texas state and local law, your access to any Data and in-home devices or your ability to take any other action through the Web Portal will be conditioned on prior verification of your identity and authorization by requiring input of a unique confidential password and/or user identification information (“Access Information”).

c. You agree that, while accessing or using this Website, you will not:

- (i) access, view, download or use, or attempt to do so, any Data or access, contact, or use any in-home device, or attempt to do so, except solely as permitted under Section 2 of these Terms; or
- (ii) monitor, gather, obtain, use, access or copy Content, Data, any information residing on any server or database connected to this Website, or any information of other users of this Website by using any robot, bot, spider, crawler, spyware, malware, beacon, engine, device, software, or extraction tool, other than as prescribed by identified functionality provided by this Website, or without legal authorization or permission; or
- (iii) obtain or attempt to obtain unauthorized access, such as circumventing or attempting to circumvent any authentication or other security feature of any system, network, or account associated with this Website and the Web Portal, which includes, without limitation, logging into a server or account you are not authorized to access, or probing the security of any system, network, or account; or
- (iv) interrupt, damage, disable, overburden, circumvent, reverse engineer, make unauthorized use, interfere with another’s use of, or impair this Website, the Web Portal, or the services related to same, including, without limitation, sending mass unsolicited messages or “flooding” servers with requests; or

- (v) assist, support, incite or cause any third party in engaging in any activity set forth in this Section 1(c) or that otherwise violates these Terms; or
- (vi) act in any manner that will adversely affect the systems supporting this Website or the Web Portal, or the services related to the same; or
- (vii) act in any manner that will adversely affect the systems of the TDSPs; or
- (viii) act in any manner that will compromise the security of this Website, the Web Portal, any Content, any Data, or any services provided through the Web Portal.

d. When you send e-mail to us, you are communicating with us electronically and you consent to receive communications from us electronically. Furthermore, you agree that all agreements, notices, disclosures, and other communications that we provide to you electronically, via this Website or otherwise, satisfy any legal requirement that such communications be in writing.

e. **YOU ARE RESPONSIBLE FOR PROVIDING, PAYING FOR, AND ENSURING ANY INTERNET CONNECTION AND THE USE OF ANY COMPUTER, HARDWARE AND SOFTWARE NECESSARY OR USED FOR ACCESSING AND USING THIS WEBSITE, AND FOR PAYING FOR AND MAINTAINING SUCH CONNECTION, COMPUTER, HARDWARE AND SOFTWARE.**

## 2. Access to and Use of Data; Actions Related to In-Home Devices

a. The following provisions in this Section 2(a) apply specifically to accessing, viewing, downloading, and using Data through the Web Portal under Section 1(a)(ii) of these Terms. You agree that your accessing, viewing, downloading, and using Data is limited to such Data that you are authorized to access and/or use. As a Consumer, you may access, view, download and use only your Premises' Data. If you are a Retail Electric Provider ("REP") of Record ("ROR") authorized user of a Consumer, or a TDSP authorized user of a Consumer, you may access, view, download, and use the Data of such Consumer's Premises. Otherwise, you may not access, view, download, or use any Data unless and to the extent you are permitted to do so in accordance with Section 2(c) of these Terms.

b. The following provisions in this Section 2(b) apply specifically to the taking of actions related to a Consumer's in-home device or devices through the Web Portal under Section 1(a)(iii) of these Terms:

aa. If you are a Consumer, you may access the in-home devices, and provision and de-provision the in-home devices, of your Premises through the Web Portal but no in-home devices of or for any other Consumer.

bb. If you are a TDSP authorized user of a Consumer, you may do the following through the Web Portal with regard to the in-home devices of such Consumer's Premises: (i) provision and de-provision an in-home device, and (ii) send messages to such in-home device solely for testing and support purposes: (a) with information to such Consumer, (b) to a load-controlling in-home device to turn such in-home device on or off with the prior permission of such Consumer, and (c) with a price provided by such Consumer or such Consumer's ROR to program in to such in-home device to have such in-home device calculate the cost of specific usage of that Consumer.

cc. If you are a ROR authorized user of a Consumer, you may do the following through the Web Portal with regard to the in-home devices of such Consumer's Premises: (i) provision and de-provision such in-home device, and (ii) send messages to such in-home device: (a) with information to such Consumer, (b) to a load-controlling in-home device to turn such in-home device on or off based on a service plan with such Consumer, and (c) with the price under a pricing plan with such Consumer to have an in-home device calculate the cost of specific usage of that Consumer.

dd. Otherwise, you may not take any action related to a Consumer's in home device or devices unless and to the extent you are permitted to do so in accordance with Section 2(c) of these Terms.

c. If you wish to access, view, download, and/or use a Consumer's Data, or access, communicate with, or take any action related to the in-home device or devices of any Consumer, through the Web Portal (collectively, "Access Activities") and you are a REP (other than the Consumer's ROR) or any product or service provider or any other person with an authorized, justified, reasonable, and lawful interest to access such Consumer's Data and/or in-home devices on the Premises of such Consumer (each such REP or product or service provider or other person – but excluding such Consumer and such Consumer's TDSP and ROR – a "Third Party"), you may do so only in

accordance with the terms and conditions of this Section 2(c).

- aa. Before you may engage in any Access Activities as a Third Party, you must: (i) have registered as a user on this Website, (ii) obtain a D-U-N-S number from Dun & Bradstreet and submit same to us, (iii) have received a current server security seal from Entrust, Inc. and/or any other security and/or privacy seal from a different or additional security and/or privacy assurance organization as stated on this Website (the “Security Seal”), and (iv) meet and comply with any other requirements that may be set forth at that time on this Website. As a condition for acting as a Third Party in or through the Web Portal or on this Website, you must: (a) comply with all terms, conditions, and provisions in these Terms, any requirements on this Website, and all applicable law, (b) maintain the D-U-N-S number and the information in your registration up-to-date, (c) maintain the Security Seal(s) as required in these Terms or on this Website for a Third Party, and (d) engage in any Access Activity solely after entering into a Third Party Access Agreement (as defined below) with such Consumer and while such Third Party Access Agreement is in effect and solely for legally permissible purposes and reasons and in accordance with applicable law and such Third Party Access Agreement. In addition to the requirements set forth in this Section 2(c), this Website may set forth further requirements for engaging in any Access Activities, provided, however, in the event of any conflict between the requirements set forth in this Section 2(c) or on this Website and applicable law, the requirements under applicable law shall prevail.
- bb. A “Third Party Access Agreement” means an electronically entered agreement between a Third Party and a Consumer, which is legally binding on such Third Party and such Consumer, and entered into through, and as a result of successfully completing, the process and steps set forth in Section 2(c)(cc) of these Terms.
- cc. With regard to a Third Party Access Agreement that a Third Party and a Consumer wish to enter into, the following steps must be performed through the Web Portal, completion of each of which is required for such Third Party Access Agreement between such Third Party and such Consumer to be effective and legally binding:
  - (i) sending of an electronic message/invitation by such Third Party, in the form and format directed for such message on this Website, to such Consumer inviting such Consumer to enter into a Third Party Access Agreement setting forth: (aaa) the name of such Consumer, (bbb) the address of such Consumer, (ccc) the electronic mail address of such Consumer, (ddd) the phone number of such Consumer, (eee) the name of such Third Party, (fff) the electronic mail address of such Third Party, (ggg) the phone number of such Third Party, (hhh) the contact person for such Third Party, (iii) the type of such Third Party Access Agreement to be entered into (e.g., access to Data or access to an in-home device), and (jjj) the duration of such Third Party Access Agreement (the “Invitation”);
  - (ii) transmission of the Invitation via the Web Portal on this Website to the electronic mail address of such Consumer as set forth in the Invitation;
  - (iii) receipt of the Invitation at such Consumer’s electronic mail address;
  - (iv) an electronic response by such Consumer expressly accepting the Invitation; and
  - (v) such Consumer’s completing the Third Party Access Agreement through this Website
- dd. As a Third Party, you hereby warrant and represent that you will not provide any personal or personally identifiable information or data of any Consumer unless you have the express permission of such Consumer to provide such information or data to us or this Website in connection with an Invitation and that you will not initiate or cause an Invitation to a Consumer unless you have the express permission of such Consumer to have such Invitation sent to such Consumer. A Third Party’s Invitation to a Consumer will be sent in such Third Party’s name and be deemed to be a direct request for a Third Party Access Agreement by such Third Party to such Consumer. Such Third Party will not be allowed to change, modify, amend, or shorten the content of an Invitation, except that, if this Website permits, such Third Party may be given the option to have the Invitation display: (i) any mark (e.g., a logo) that you use in your business and to which such Third Party owns the trademark rights if such Third Party has uploaded a copy of such mark as part of its registration with this Website (“Third Party Mark”) and/or (ii) any privacy seal legally recognized in the United States (e.g., the TRUSTe privacy seal) (the “Privacy Seal”). A Third Party Access Agreement is entered into between a Third Party and a Consumer only after such Consumer’s express acceptance of such Third Party’s Invitation through the Web Portal. If such Consumer declines or rejects the Invitation, no Third Party Access Agreement will be deemed to have been entered into between such Third Party and

such Consumer. If such Consumer fails to respond to the Invitation during a period of thirty (30) days following the dispatch of the e-mail containing the Invitation, such Consumer will be deemed to have declined and rejected the Invitation.

- ee. **As a Third Party, you hereby warrant, represent, and covenant that, if you opt to have the Privacy Seal displayed in an Invitation to a Consumer, you are in compliance with, and will comply with, all rules, requirements, and guidelines by the issuer of such Privacy Seal with regard to all Data of such Consumer and any other data and information of or on such Consumer that you obtain or receive through this Website, from us, or from the Consumer or in connection with the Invitation, the Third Party Access Agreement, or any use thereof.** If you do not use the Privacy Seal, you agree to keep all Data confidential in accordance with your privacy policy and applicable law. You are solely responsible and liable for the Data downloaded or obtained by you and its use, storage, disclosure, or disposition in accordance with all privacy requirements and applicable law. If you elect to use your Third Party Mark and/or the Privacy Seal in any Invitation, you hereby grant us a non-exclusive right and license or sublicense to use, include, reproduce, and display your Third Party Mark and/or the Privacy Seal in such Invitation, free of any royalty or other payment obligation by us.
- ff. A Consumer entering into a Third Party Access Agreement may terminate or withdraw a Third Party Access Agreement at any time by written notice (which notice may be in hardcopy and signed or by e-mail). If a Third Party Access Agreement by a Consumer is not expressly limited to a specific time or is for a period longer than one (1) year from issuance, we reserve the right to confirm, after the expiration of one (1) year from issuance, the continued effectiveness of such Third Party Access Agreement through express approval thereof by such Consumer and to terminate such Third Party Access Agreement if such Consumer does not issue such express approval.
- gg. A Third Party Access Agreement issued to you as a Third Party by a Consumer for Access Activities under this Section 2(c) permits you only to engage in such Access Activities within the limitations (*e.g.*, solely during the term of such Third Party Access Agreement) and for the purpose as set forth in such Third Party Access Agreement, or if no purpose is set forth in such Third Party Access Agreement, only a legitimate, lawful purpose. In no event will you be permitted or authorized to modify, amend, change, or alter any Data or any Consumer options regarding the collection, aggregation, or availability of Data through this Website, or engage in any Access Activities with regard to a Consumer or such Consumer's Premises if such Access Activities or their purpose are in violation of these Terms, any requirements of this Website, any applicable law, the Third Party Access Agreement with such Consumer, or are causing any damage or harm to such Consumer or the in-home device or devices on such Consumer's Premises. Nothing in or as a result of any Third Party Access Agreement shall give you, or be deemed to give you, any right, title, interest, ownership, or license in or to any Data (other than solely the limited permission to access, view, download, and/or use Data in accordance with an applicable Third Party Access Agreement, this Section 2(c), and any applicable law).
- hh. In the event that you use or disclose any Data, or seek to view, access, or download any Data, of a Consumer other than as stated in a valid, unexpired, non-terminated Third Party Access Agreement issued by such Consumer, any such Third Party Access Agreement and any right to view, access, download, and use such Data by you shall terminate and cease to be effective immediately and automatically, without need for any notice. Any subsequent access, viewing, downloading, and/or use of such Data shall be unauthorized and illegal.
- ii. In the event that you take any action related to the in-home device or devices of a Consumer other than as stated in a valid, unexpired, non-terminated Third Party Access Agreement issued by such Consumer, for the purposes of this Website, the Web Portal, these Terms, and your permission or right to take any Access Activities regarding such Consumer or such Consumer's Data or such Consumer's in-home device or devices, any such Third Party Access Agreement and any right to take any Access Activities related to such Consumer and such Consumer's in-home device or devices by you shall be deemed to have terminated and ceased to be effective immediately and automatically, without need for any notice. Any Access Activities thereafter shall be unauthorized and illegal.
- jj. A Consumer entering into a Third Party Access Agreement with you may choose to provide a rating of its experience with you. Such Consumer's rating may be seen by prospective consumers with which you are

seeking to enter into a Third Party Access Agreement and may influence a prospective consumer's decision regarding that Third Party Access Agreement or you. You agree that neither we nor any TDSP have any influence on or control over any rating of any Consumer, are not liable or responsible for removing any Consumer's rating, and are not liable or responsible in any way for any Consumer's rating or any information, including, without limitation, any false or wrong information provided by any Consumer. You further agree that you will not, directly or indirectly, influence or modify any Consumer rating, discourage any Consumer from providing a rating, or give or promise anything in consideration for providing, not providing, or providing a specific Consumer rating.

- kk. Your access to and use of this Website and the Web Portal as a Third Party may be terminated or suspended (as we decide in our sole discretion) immediately, without need for any notice (*e.g.*, by simply blocking your access to this Website and the Web Portal) in any of the following events:
- (i) you fail or cease to meet or maintain all requirements and conditions for a Third Party under these Terms, this Website, or applicable law;
  - (ii) you fail to comply with or breach or violate any term, provision, or condition of these Terms or any applicable law;
  - (iii) you engage in any Access Activity with regard to a Consumer or a Consumer's Premises that is not permitted under an un-expired and non-terminated Third Party Access Agreement with such Consumer or any applicable law;
  - (iv) you engage in any inappropriate activities on this Website, the Web Portal, or any system of a TDSP, or that negatively impacts this Website, the Web Portal, or any system of a TDSP, whereby the term "inappropriate activities" means, without limitation, any activity that is illegal, unlawful, fraudulent, deceitful, or designed or likely to, or does, cause any harm or damage to another's property, life, health, reputation, business, or business operations or any systems or data security breach, or infringe another's rights, or that contradicts the purpose for which this Website or the Web Portal is made available; or
  - (v) you engage in any unauthorized disclosure, use, modification, or utilization of private or confidential information or data in connection with, or obtained through, your access or use of this Website or the Web.

This Website may set forth a process or processes applied in the event of any of the foregoing events or your termination or suspension hereunder. In the event of any termination or suspension, you shall cease any direct or indirect access to or use of this Website and the Web Portal and any direct or indirect Access Activity. Any direct or indirect access to or use of this Website and the Web Portal and any Access Activity following your termination or suspension shall be unauthorized and illegal.

### 3. Entering into a Third Party Access Agreement for Your Premise

a. If you are a Consumer and enter into a Third Party Access Agreement for your Premises with a Third Party, you hereby agree with the process and rights of such Third Party under Section 2(c) of these Terms regarding the Access Activities that you grant such Third Party with regard to your Data and/or in-home devices. You hereby expressly confirm and agree that any Third Party Access Agreement entered into by you with a Third Party entitles such Third Party, **and you hereby give us the right to permit such Third Party to access, view, download, and/or use your Data and/or to access and take actions related to your in-home devices in accordance with such Third Party Access Agreement.**

- b. You hereby acknowledge and agree that:
- (i) you are solely responsible to review and receive legal and other counsel with regard to any Invitation and Third Party Access Agreement and neither we nor any TDSP are liable or responsible for any Third Party, or your entering into any Third Party Access Agreement, any provision therein, any Access Activities, or any consequences or results thereof;
  - (ii) we do not confirm, investigate, check, or otherwise review the identity, background, activities, operations, or ownership (including, without limitation, verification of the identity, reliability, or lawfulness) of any Third Party;
  - (iii) we do not monitor or control any activities or operations of any Third Party engaging in any Access Activities, whether or not permitted under a Third Party Access Agreement, including, without limitation, any viewing, accessing, downloading, and/or using any Data and whether and how or for what purpose any such Third Party uses or discloses any Data, does so lawfully or in accordance with these Terms, and/or

- complies with any applicable law or any privacy policy or law regarding the Data (including, but not limited to, the requirements of any user of the Privacy Seal);
- (iv) if you reject or decline an Invitation, we may store and retain the communication(s) of such rejection or refusal, associated with your registration and/or Your Personal Information (as defined in Section 5(a) of these Terms);
  - (iv) if you confirm or accept an Invitation or issue a Third Party Access Agreement, we may store and retain the communication(s) of such confirmation or acceptance or the issued Third Party Access Agreement, associated with your registration and/or Your Personal Information;
  - (v) if you choose to provide a rating of your experience with a Third Party: (aa) you will not willfully or knowingly provide a false rating or make a false statement about such Third Party, and (bb) we may delete or take down your rating if we, in our sole discretion, determine that it was false or influenced by any Third Party or is provided to cause harm to such Third Party.
  - (vi) neither we nor this Website shall be responsible or liable for or in connection with any of the following or any damages, losses, and/or liability suffered by you arising from or related to any of the following, and you hereby expressly waive and relinquish, and covenant not to sue us regarding, any and all rights and remedies that you have or may have, or that exist or may exist, against us or any of our direct or indirect owners or operators or personnel:
    - (aa) our permitting or causing you, your TDSP, or any Third Party for or to whom you issued a Third Party Access Agreement to access, view, download, and use any Data or engage in any Access Activity;
    - (bb) any Access Activity and activity by you or your TDSP, or any use or disclosure made by any Third Party or any such Third Party's direct or indirect personnel or affiliates of or regarding any of your Data;
    - (cc) any breaches or violations of any law, privacy obligations, these Terms, or otherwise by you, your TDSP, or any Third Party or any of their direct or indirect personnel or affiliates regarding any Access Activities, your Data, or otherwise.

#### **4. Ownership of this Website and Content; Marks; Rights to and Alteration of Data**

a. We and/or our licensors own this Website, the Web Portal, any Content, and any copy, derivative work, improvement, derivation, translation, and/or transliteration of this Website or any Content, and all copyrights, trademarks, patents, trade secrets, and other intellectual property rights whatsoever, existing wherever and under whatever law, in and to this Website, any page hereof, and any Content ("Intellectual Property Rights"). Except solely for the right to access and use this Website, the Web Portal and the Content as expressly set forth in Section 1(a) of these Terms, we do not grant you, and you do not receive, any right, title, interest, or license in or to or regarding, and you may not use or utilize in any way, the Website, the Web Portal, any Content, any Intellectual Property Rights, or any such copy, derivative work, improvement, derivation, translation, and/or transliteration. Should you own or acquire any such right, title, interest, or license, you agree to assign and transfer, and hereby assign and transfer, such right, title, interest or license to us and agree to take such steps as requested by us to ensure and cause such assignment and transfer to the fullest extent possible under applicable law.

b. The trademarks, service marks, tradenames, logos, domain names, and other names, marks and source identifiers displayed on or used with this Website or the Web Portal are owned by us or third parties, and this Website's trade dress is owned by us (collectively, the "Marks"). All Marks not owned by us are the property of their respective owners, and are used by us with permission. Nothing contained on this Website may be construed as granting, by implication, estoppel, or otherwise, any right or license to use any Mark without the express written permission of us or the third party rights holder.

c. These Terms do not change any ownership right that you have in Data measuring your electricity consumption. Under applicable law, the "System of Record" for Data prior to delivery to the Web Portal is the TDSP that provided the Data. Once delivered by the TDSP, the "System of Record" becomes the Web Portal. You may not alter the Data maintained or stored on the Web Portal by any means other than through exception processes approved by the Public Utility Commission of Texas for the Texas electric utility market (including, but not limited to, MarkeTrak or SCR 727 and 740).

#### **5. Privacy**

a. As part of your registration in our registration system, or if you communicated with us through this

Website, we will or may collect or require you to give us your contact information (for example, your name, address, or e-mail address) and additional information, including, without limitation, your personal and personally identifiable information and data ("Your Personal Information," which shall not include Data). You can update Your Personal Information by logging in as provided on this Website and following the commands. We will or may store Your Personal Information indefinitely. We will or may use Your Personal Information to verify your identity and to communicate with you, such as to respond to your inquiries and requests. We may keep Your Personal Information in an off-line form, for archival purposes or as otherwise required by law.

b. We will take reasonable steps to protect Your Personal Information as required by applicable law. We share Your Personal Information only for the purposes related to this Website or the Web Portal, only as necessary and only with (i) our own employees and corporate support service affiliates, (ii) you or a representative or agent of you, (iii) any vendors, contractors, consultants, licensors, or suppliers of us that agreed to keep such information confidential, and (iv) any person authorized to have access to, or to whom we are required to provide or disclose, Your Personal Information under applicable law, regulation or rule or any order of any court (including any subpoena), governmental agency or governmental entity. Without your consent, we will not sell Your Personal Information to third parties for any reason. We may disclose Your Personal Information to (i) protect or exercise our rights or property but agree to take all reasonable precautions to ensure that Your Personal Information is not viewed or taken by any person other than as necessary for the protection or exercise of our rights or property, and (ii) enforce these Terms.

c. We may track your use of this Website, including, without limitation, clicks from hyper links, hits per week, duration of your visit, and activities during your visit. This Website may capture your Internet Protocol ("IP") addresses. We use IP addresses to help diagnose problems with our server, to administer this Website, and to help ensure the security of your interaction with this Website. Your IP address is used to help identify you. As part of offering and providing customizable and personalized services, we may use "cookies" to store and sometimes track information about you. A cookie is a small amount of data that is sent to your browser from a web server and stored on your computer's hard drive. All sections of this Website where you are prompted to log in or that are customizable require your web browser to accept cookies.

## **6. Submissions**

a. We may give you the opportunity to submit comments, suggestions, testimonials, remarks, complaints, ideas, statements or other materials of any kind ("Submission") by mail, e-mail, voice, direct communication through this Website, or in other form, including, without limitation, through a "Share your Testimonial" feature (collectively, "Submissions"). You may provide us with any Submission in the manner, and subject to the limitation, stated on this Website as long as the Submission does not violate any law or right of any person or entity and is not threatening, libelous, slanderous, defamatory, pornographic, or otherwise inappropriate.

b. By providing a Submission, you grant us the irrevocable, world-wide, assignable, transferable, sublicenseable right and license to reproduce, copy, display, publish, disseminate, distribute, dispose of, create derivative works and derivations from, and in any way use and utilize such Submission for any purpose. We shall not be liable to you, and you shall have no claim against us, for any royalty, fee, or payment of any kind in connection with any use or utilization of a Submission or for the compensation or reimbursement of any cost, expense or liability incurred by you. By providing us with a Submission, you expressly agree and consent that we:

- (i) are not required to use or publish any Submission and may decide to do so in our sole discretion;
- (ii) may publish or display the Submission or any part thereof on this Website or in any of our promotional, marketing or informational materials;
- (iii) may edit the Submission prior to any publication or display thereof;
- (iv) communicate with you via any e-mail address, text address, or other means of communications that you used or provided to us in connection with providing a Submission or other correspondence with us, and you shall be liable for any costs and fees to your service provider enabling such communication (*e.g.*, text messaging fees); and
- (v) may identify you, when publishing or publishing the Submission or part thereof, as the source of the Submission by displaying or setting forth your full first name, the initial of your last name, and the city and state of your residency, as provided by you.

c. We do not return any Submission provided to us in hard copy. We have no obligation or responsibility regarding any Submission. Thus, please do not submit originals or documents you would like to keep. We are not

liable for any loss, destruction or disposal of any Submission. Any Submission submitted by you is submitted at your own risk.

## **7. DISCLAIMERS; EXCLUSION AND LIMITATION OF LIABILITY**

a. WE PROVIDE ANY ACCESS TO AND USE OF THIS WEBSITE, THE WEB PORTAL, AND ANY CONTENT ON AN "AS IS" "WHERE IS" BASIS. YOU ACCESS AND USE THIS WEBSITE, THE WEB PORTAL, AND ANY CONTENT AT YOUR OWN RISK. WE MAKE NO WARRANTIES AND REPRESENTATIONS WITH REGARD TO THIS WEBSITE, THE WEB PORTAL, ANY INVITATION, ANY COMMUNICATION RELATED THERETO, ANY THIRD PARTY ACCESS AGREEMENT, ANY ACCESS ACTIVITIES, ANY CONTENT, OR ANY ACCESS, ACCESSIBILITY, USE, OR UTILITY THEREOF (INCLUDING, WITHOUT LIMITATION, THAT ANY ACCESS TO OR USE OF THIS WEBSITE, THE WEB PORTAL, OR ANY CONTENT WILL BE FREE OF INTERRUPTIONS, ERRORS, DELAYS, OR OUTAGES OR WILL ACHIEVE PARTICULAR RESULTS OR MEET YOUR REQUIREMENTS). WE DISCLAIM ANY AND ALL REPRESENTATIONS, WARRANTIES AND COVENANTS, EXPRESS, IMPLIED AND STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE, WORKMANSHIP, TITLE, LICENSE, AND NON-INFRINGEMENT.

b. ALL DATA TO WHICH WE PROVIDE YOU WITH ACCESS IN ACCORDANCE WITH THESE TERMS THROUGH THIS WEBSITE AND THE WEB PORTAL MEET THE REQUIREMENTS UNDER THE TARIFF FOR RETAIL DELIVERY SERVICE APPLICABLE TO US, AS IN EFFECT AT THE TIME OF THE WEB PORTAL'S COLLECTION OF THE DATA. WE MAKE NO WARRANTIES AND REPRESENTATIONS WITH REGARD TO THE DATA AND ANY ACCESS, ACCESSIBILITY, USE, OR UTILITY OF ANY DATA (INCLUDING, WITHOUT LIMITATION, THAT DATA ARE ANYTHING OTHER THAN USAGE DATA COMPILED, KEPT AND TRANSMITTED BY US IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE TARIFFS FOR RETAIL DELIVERY SERVICE APPLICABLE TO US).

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