



**TEXAS FIXED PRICE SMALL COMMERCIAL TRANSACTION CONFIRMATION CONTRACT  
("TRANSACTION CONFIRMATION")**

**CUSTOMER INFORMATION**

Business Name ( <i>legal contracting entity</i> ):	
DBA / Assumed Name:	
Customer Contact Name & Title:	
Telephone:	
E-mail:	
Identification: ( <b>one of the following</b> ) Federal Tax ID No. (EIN) _____ DUNS No. _____ TX ID or DL No. _____	
Physical Business Address: (cannot be a P.O. Box)	
Billing/Mailing Address:	

**CONTRACT INFORMATION**

<b>Product</b>	<b>FIXED</b>
<b>Contract Price (\$/kwh) &amp; Deposit Amount</b>	Contract Price \$ _____ Deposit Amount \$ _____
<b>Contract Term</b> _____ Months	<b>Start Date</b> _____/01/_____
<b>Service Type (mark one)</b>	<input type="checkbox"/> Move-In - <b>OR</b> - <input type="checkbox"/> Switch <i>*If Customer is renewing service with Value Power, no service or enrollment type selection is required</i> <u>Move-In</u> – new service at the service location or meter changing ownership <u>Switch</u> – switching service to a new supplier

**Enrollment Type**

If Move-In: select one (1) of the following:

\_\_\_\_\_ first available utility transfer date  
 \_\_\_\_\_ self -selected date: \_\_\_/\_\_\_/\_\_\_  
 \_\_\_\_\_ priority move-in (expedited move-in for additional charge)

If Switch: select one (1) of the following:

\_\_\_\_\_ standard switch – meter read schedule  
 \_\_\_\_\_ self -selected date: \_\_\_/\_\_\_/\_\_\_

**If NO selection is made, service will begin on the first available utility transfer date or the utility's scheduled meter read date (as applicable) on or following the Start Date.** There may be an additional fee (as set by the utility) associated with self-selected and priority enrollments. Value Power is not responsible for or liable for any loss, cost, charge, damage, or fee incurred by or assessed to Customer or any person for a delay in enrollment. Customer understands that third parties (utility, ERCOT, etc.) are, in part, responsible for enrollment timeliness.

**ACKNOWLEDGMENT AND CONSENT**

I acknowledge there may be a fee for early cancellation outlined in the terms of service ("TOS") and electricity facts label ("EFL"). By signing below: **I am authorizing Capital Energy PA LLC dba Value Power ("Value Power") to become my retail electric supplier and to act as agent to perform necessary tasks to establish my electric service account with Value Power.** I understand that only one retail electricity provider ("REP") may serve as electric supplier for a service location. I have read and understand this Transaction Confirmation, the TOS, the EFL, the your rights as a customer ("YRAC") disclosure document" and any addendum(s), herein collectively the ("Agreement") and hereby agree to be obligated and bound the terms and conditions set forth. I am at least 18 years of age. I have reviewed facilities/accounts below for accuracy and verify each is owned by me or under my control and I have the authority to enter into this Agreement. You have the right to review and, in the case of a switch request, rescind the terms of service within three federal business days, after receiving the terms of service, without penalty. You will receive a written copy of the terms of service document that will explain all the terms of the agreement and how to exercise the right of rescission before your electric service is switched to Value Power. I prefer to receive information from Value Power in English/Spanish (circle one). **THIS TRANSACTION CONFIRMATION IS NOT EFFECTIVE UNTIL EXECUTED BY BOTH PARTIES**

<b>Customer Signature:</b>		<b>Value Power Signature:</b>	
<b>Print Name:</b>		<b>Print Name:</b>	
<b>Print Title:</b>		<b>Print Title:</b>	
<b>Date:</b>		<b>Date:</b>	

\_\_\_\_\_ Check here if accounts are tax exempt and send certificates to care@myvaluepower.com.  
 Energy Usage Variance is full swing, and your Energy Usage for the Service Address(es) below are not subject to a maximum or minimum.

**FACILITIES/ACCOUNTS**

NO.	FACILITY NAME/ SERVICE ADDRESS	CITY, STATE, ZIP	UTILITY	ACCOUNT NUMBER
1				
2				
3				

## **FIXED RATE PRODUCT SMALL COMMERCIAL TERMS OF SERVICE**

### **Service:**

This Fixed Rate Product Small Commercial Terms of Service (“TOS”) sets out the terms and conditions for the fixed rate product purchase of electricity between Value Power, Public Utility Commission of Texas (“PUC”) No.10293 (“Seller”) and the Customer (“Buyer”) facilities (identified by the ESIID number) listed on the Transaction Confirmation. Seller will invoice Buyer on a monthly basis for the electricity supply (“Energy Charges”), transmission and distribution costs charged by the Transmission and Distribution Service Provider (“TDSP”) and appropriate taxes. Buyer agrees to accept service from Seller for the term of the agreement listed on the Transaction Confirmation and to pay the associated invoices.

### **Transmission and Distribution Service Provider (“TDSP”)**

**Charges:** TDSP charges are all charges invoiced to Seller for Buyer's facilities by the local distribution utility. These charges are regulated and approved by the PUCT. The tariffs which explain these charges can be found at:

[www.puc.state.tx.us](http://www.puc.state.tx.us)

**Taxes:** Taxes shall mean any federal, state, and local taxes fees, governmental charges and assessments imposed now or later on Buyer as purchaser or on Seller as seller of retail electricity under this Agreement, or on this transaction, including Texas state and local sales and use taxes, The Texas gross receipts tax on utility companies, the PUCT gross receipts tax assessment, municipal fee, and generation, utility, regulatory or electricity taxes, excluding taxes on net income tax.

**Term:** A contract expiration notice will be sent to Buyer at least fourteen (14) days prior to the end of the initial contract term indicated on the Transaction Confirmation. If Buyer fails to take action to ensure the continued receipt of retail electric service upon the contracts' expiration, the Buyer will continue to be served automatically pursuant to a default renewal product, which shall be a month-to-month product. Seller will notify Buyer of any price adjustments required thirty (30) days prior to the end of the contract term.

### **Billing and Payment:**

Buyer will be billed on a monthly basis. The service period associated with each invoice will be approximately thirty (30) days and will be based on the TDSP meter read cycle for the Buyer's facilities. If actual charges are not available to the Seller at the time of preparation of Buyer's invoice, seller reserves the right to bill Buyer on good faith estimates of charges for the month. If estimated charges are included on Buyer's invoice, they shall be identified as such and shall be reconciled against actual charges once seller receives such actual charges. Payment is due upon receipt. Payment will be considered past due if not received by Seller within sixteen (16) days following the date the bill was issued. Buyer may be charged a five percent (5%) penalty on the previous month's past due balance.

### **Credit/Deposit:**

Seller may check Buyer's personal and/or commercial credit before enrolling Buyer as a customer and may require a deposit prior to submitting a switch of Buyer's facilities to Seller. Buyer reserves the right to refuse payment of the deposit and cancel the agreement without penalty, prior to the submission of the switch by Seller. Furthermore, if Buyer is delinquent in payment more than once in a twelve (12) month period or more than twenty-five (25) days late in paying any one invoice, Seller may request a deposit. The deposit will not exceed one sixth of the estimated annual billings and will accrue interest at the rate specified by the PUCT if held for more than thirty (30) days. Any deposit will be returned upon termination of the Agreement, less any money owed to Buyer.

### **Disconnection for Non-Payment/Reconnection:**

If the Buyer fails to remit payment to the Seller in accordance with the Billing and Payment provisions, Seller may instruct the TDSP to disconnect the electric service to Buyer's facilities. Buyer will be liable to Seller for all billed amounts and charges associated with the disconnection of service for nonpayment and reconnection. Prior to disconnecting electric service, Seller will provide Buyer proper notification and an opportunity to avoid disconnection by paying any outstanding invoices. Buyer may be charged a \$20 disconnect notice fee each time we issue an electric service disconnection notice (this fee will be assessed regardless of whether your electric service is actually disconnected) and if disconnection occurs, Seller will invoice Buyer a reconnection fee as charged by the local TDSP and may charge a reconnection recovery fee up to \$40 in the event that Seller processes a reconnection transaction on Buyer's account.

### **Early Termination**

Should Buyer switch the facilities listed on the Transaction Confirmation away from Seller prior to end of the contract term, Seller may charge an early termination fee. The early termination fee may also be charged if Seller cancels this Agreement due to Buyer's failure to remit payment in accordance with the Billing and Payment provisions. This early termination fee will be the product of three times the highest monthly usage of Buyer in the twelve preceding months multiplied by the energy rate in the Transaction Confirmation. If Buyer moves from its existing premise during the contract term and provides a valid forwarding address to Seller, Buyer will not be responsible for the early termination fee. Seller may also request that Buyer provide reasonable evidence that it no longer occupies the location covered by the contract.

### **Additional Charges and Fees/Rewards**

Should Seller, due to Buyer's delinquency, be required to send a past due collection letter, Buyer may be charged a thirty-dollar (\$30) collection fee. There will be a twenty-nine dollar (\$29) charge for any returned item. Seller will charge Buyer thirty dollars (\$30) for special account summaries created at Buyer's request. Should Seller ultimately be required to use a third-party collection agency to collect past due balances, there will be a five percent (5%) collection surcharge added to the amount due. If Buyer's refusal to pay legitimate invoices requires Seller to take legal

action and Seller's claims are upheld, Buyer agrees to pay Seller's reasonable legal costs associated with this action. Upon successful enrollment and/or renewal with Value Power, Buyer will be automatically entered in any active sweepstakes or giveaway that Value Power is running.

**Material Changes:**

Seller will provide buyer with advance written notice of any material change in these terms of service, either in Buyer's bill or separate mailing. The changes shall be in effect on the date stated in the notice unless Buyer cancels the Agreement. Buyer may cancel Buyer's Agreement no later than 10 calendar days before the effective date of the material change.

**Regulatory Change:**

The price and terms of this Agreement are based on the laws, rules, tariffs protocols, guides and other binding documents in place at the time of execution. If, during the term of this agreement, the PUCT, Electric Reliability Council of Texas ("ERCOT"), or any other government body or agency with jurisdiction over the Texas electricity market approves changes which impose new costs, fees, or changes beyond Value Power's control that increase the cost to provide electricity service to the Buyer's facilities, Seller reserves the right to adjust the price and terms accordingly.

**Force Majeure:**

Seller will make commercially reasonable efforts to supply electricity but does not guarantee a continuous supply of electricity. Buyer acknowledges that certain events outside of Seller's control (Force Majeure events) may result in service interruption. In these instances Seller shall not be held liable. Buyer agrees that Seller shall not be held liable for Force Majeure events including, but not limited to: Acts of God, acts of any court or government authority, accidents, strikes, labor disputes, required maintenance work, inability to access the local distribution utility system, non-performance by the local distribution utility, or any cause beyond Seller's control.

**Limitations of Liability:**

Liabilities not excused by reason of Force Majeure or otherwise shall be limited to actual direct damages and the sums provided to be paid in this Agreement. Neither Seller nor the Buyer shall be liable to the other for consequential, incidental, punitive, exemplary or indirect damages. These limitations apply without regard to the cause of any liability or damage.

**Indemnification:**

Except as limited by the Limitations of Liability section of this agreement, each party shall indemnify, defend and hold the other harmless from claims, demands, and causes of action asserted by any person arising from or out of any event, circumstance, act, or incident first occurring or existing during the period when control and title to electric energy is vested in such party as provided herein.

**Discrimination:**

Seller cannot deny service or require a prepayment or deposit for service based on a customer's race, creed, color, national origin, ancestry, marital status, sex, lawful source of income, level of income, disability, familial status, location of customer in a economically-distressed geographic area or qualification for low income or energy efficiency services.

**Representations and Warranties:**

The electricity sold under this agreement will meet the quality standards of the applicable local TDSP and will be supplied from a variety of sources. Seller makes no representations or warranties other than those expressly set forth in this agreement and expressly disclaims all other warranties,

expressed or implied, including warranties of merchantability and fitness for a particular purpose.

**Assignment:**

Buyer may not assign or transfer this Agreement, in whole or in part, or any of Buyer's rights or obligations hereunder without prior written consent of the Seller. Seller may assign this Agreement without buyer's consent, (i) as part of any financing arrangements, assign, sell or pledge this Agreement or its accounts, revenues, or proceeds, or (ii) assign this Agreement to an affiliate of Seller or to any person or entity succeeding to all or a substantial portion of the assets of Seller.

**Refusal or Cancellation of Service:**

Seller may refuse to provide service to Buyer for one or more of the reasons specified in Section 25.477 of the PUCT Substantive Rules. If service is denied, you will be notified of the reason(s). Seller or Buyer may cancel this Agreement without any penalty or fee within three (3) federal business days after the receipt of this agreement.

**Right of Rescission:**

If you are switching to Value Power from another REP, you may rescind this TOS within three federal business days, after receiving this TOS, without penalty. PUCT rules permit Value Power to assume that you will receive this TOS three (3) federal business days after we mail it to you. Please include the following should you choose to rescind: 1) Request to rescind contract 2) Name, address, phone number 3) Account Number or ESID number. You may call us to rescind at 281-760-3125 or toll free at 1-888-699-0747, fax us at 713-391-8409, or e-mail us at Care@myValuepower.com to rescind your TOS.

**Governing Law:**

This Agreement shall be governed by the laws of the State of Texas, without regard to any conflicts of law principal. Each party consents to the personal jurisdiction in Harris County, Texas and waives any right to trial by jury.

**Entire Agreement:**

This TOS together with the Transaction Confirmation, EFL, YRAC and any addendum(s), contains the entire understanding of the parties with respect to the Seller's supply of retail electricity to the Buyer. There are no promises, covenants or understandings other than those expressly set forth in these documents. Value Power reserves the right to change or terminate this Agreement at any time, upon a 30 day notice to the Buyer, in the event of any (i) legislative, (ii) regulatory (iii) wholesale market, (iv) ERCOT or (v) electric distribution utility tariff changes that effect Seller's ability to provide service to the Buyer under this Agreement.

**Responsibilities of the TDSP, Service Outages**

The TDSP maintains responsibility for the reliability of the electricity supply, as set forth in the TDSP tariffs approved by the PUCT. The TDSP is responsible for distribution lines, meters and meter data, and the quality of power entering the Buyer's facilities. Buyer will receive TDSP services at the same prices and terms from any REP, including the affiliate of the incumbent utility.

**To report a service outage, please call your TDSP:**

Oncor: 1.888.313.4747                      Centerpoint: 1.800.332.7143  
AEP: 1.866.223.8508                      TNNP: 1.800.866.7456

**Value Power Contact Information:**

Customer Service: (281-760-3125) (888-699-0747)  
Fax: 713-391-8409; Email Address: Care@myValuepower.com  
Mailing Address: 1770 St. James Place, Suite 606, Houston, TX 77056

**FACILITIES/ACCOUNTS**

NO.	FACILITY NAME/ SERVICE ADDRESS	CITY, STATE, ZIP	UTILITY	ACCOUNT NUMBER
1				
2				
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