

## OCTOPUS ENERGY TERMS OF USE

THESE TERMS AND CONDITIONS (THE "TERMS") ARE A LEGAL CONTRACT BETWEEN YOU ("YOU") AND OCTOPUS ENERGY ("OCTOPUS ENERGY," "WE," "US," OR "OUR"). THE TERMS EXPLAIN HOW YOU ARE PERMITTED TO USE THE WEBSITE LOCATED AT THE URL: <https://www.Octopusenergy.com> AS WELL AS ALL ASSOCIATED SITES LINKED TO <https://www.Octopusenergy.com> BY US, OUR SUBSIDIARIES AND AFFILIATED COMPANIES (COLLECTIVELY, THE "SITE"). UNLESS OTHERWISE SPECIFIED, ALL REFERENCES TO "SITE" INCLUDE THE CONTENT, SERVICES AVAILABLE THROUGH THIS SITE (THE "SERVICES") AND ANY SOFTWARE THAT WE PROVIDE TO YOU THAT ALLOWS YOU TO ACCESS THE SITE FROM A MOBILE DEVICE (A "MOBILE APPLICATION"). BY USING THIS SITE, YOU ARE AGREEING TO THESE TERMS; IF YOU DO NOT AGREE WITH ANY OF THESE TERMS, DO NOT ACCESS OR OTHERWISE USE THIS SITE, ANY SERVICES AVAILABLE THROUGH THIS SITE OR ANY INFORMATION CONTAINED ON THIS SITE.

*NOTE: THESE TERMS CONTAIN A DISPUTE RESOLUTION AND ARBITRATION PROVISION, INCLUDING CLASS ACTION WAIVER THAT AFFECTS YOUR RIGHTS UNDER THESE TERMS AND WITH RESPECT TO DISPUTES YOU MAY HAVE WITH US. YOU MAY OPT OUT OF THE BINDING INDIVIDUAL ARBITRATION AND CLASS ACTION WAIVER AS PROVIDED BELOW.*

**Changes:** We may make changes to the content and Services offered on the Site at any time. We can change, update, or add or remove provisions of these Terms at any time by posting the updated Terms on this Site and by email notification. By using this Site after We have updated the Terms, you are agreeing to all the updated Terms; if You do not agree with any of the updated Terms, you must stop using the Site.

**General Use:** By using this Site, You represent, acknowledge and agree that You are at least 18 years of age, or if You are under 18 years of age but are at least 13 years old (a "Minor"), that You are using the Site with the consent of Your parent or legal guardian and that You have received Your parent's or legal guardian's permission to use the Site and agree to its Terms. If You are a parent or legal guardian of a Minor, you hereby agree to bind the Minor to these Terms and to fully indemnify and hold Us harmless if the Minor breaches any of these Terms. If You are not at least 13 years old, you may not use the Site at any time or in any manner or submit any information to Us or the Site.

We provide content through the Site and through the Services that is copyrighted and/or trademarked work belonging to Us or Our third-party licensors and suppliers or other users of the Site (collectively, the "Materials"). Materials may include logos, graphics, video, images, software and other content.

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If You breach any of these Terms, the above license will terminate automatically, and You must immediately destroy any downloaded or printed Materials.

**Mobile Applications:** We make available Mobile Applications to access the Site via a mobile device. To use the Mobile Application, you must have a mobile device that is compatible with the mobile service. We do not warrant that the Mobile Application will be compatible with Your mobile device. We hereby grant to You a non-exclusive, non-transferable, revocable license to use an object code copy of the Mobile Application for one household, for Your personal use. You may not: (i) modify, disassemble, decompile or reverse engineer the Mobile Application, except to the extent that such restriction is expressly prohibited by law; (ii) rent, lease, loan, resell, sublicense, distribute or otherwise transfer the Mobile Application to any third-party or use the Mobile Application to provide time sharing or similar services for any third-party; (iii) make any copies of the Mobile Application; (iv) remove, circumvent, disable, damage or otherwise interfere with security-related features of the Mobile Application, features that prevent or restrict use or copying

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of any content accessible through the Mobile Application, or features that enforce limitations on use of the Mobile Application; or (v) delete the copyright and other proprietary rights notices on the Mobile Application. You acknowledge that We may from time to time issue upgraded versions of the Mobile Application and may automatically electronically upgrade the version of the Mobile Application that You are using on Your mobile device. You consent to such automatic upgrading on Your mobile device and agree that these Terms will apply to all such upgrades. The foregoing license grant is not a sale of the Mobile Application or any copy thereof, and We and Our third-party licensors or suppliers retain all right, title, and interest in and to the Mobile Application (and any copy of the Mobile Application). Standard carrier data charges may apply to Your use of the Mobile Application.

The following additional terms and conditions apply with respect to any Mobile Application that We provide to You designed for use on an Apple iOS-powered mobile device (an "iOS App"):

- You acknowledge that these Terms are between You and Us only, and not with Apple, Inc. ("Apple").
- Your use of Our iOS App must comply with Apple's then-current App Store Terms of Service.
- We, and not Apple, are solely responsible for Our iOS App and the Services and Content available thereon. You acknowledge that Apple has no obligation to provide maintenance and support services with respect to Our iOS App. To the maximum extent permitted by applicable law, Apple will have no warranty obligation whatsoever with respect to our iOS App.
- You agree that We, and not Apple, are responsible for addressing any claims by You or any third-party relating to our iOS App or Your possession and/or use of our iOS App, including, but not limited to: (i) product liability claims; (ii) any claim that the iOS App fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation, and all such claims are governed solely by these Terms and any law applicable to us as provider of the iOS App.
- You agree that We, and not Apple, shall be responsible, to the extent required by these Terms, for the investigation, defense, settlement and discharge of any third-party intellectual property infringement claim related to Our iOS App or Your possession and use of Our iOS App.
- You represent and warrant that (i) You are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country; and (ii) You are not listed on any U.S. Government list of prohibited or restricted parties.
- You agree to comply with all applicable third-party terms of agreement when using Our iOS App (e.g., You must not be in violation of Your wireless data service terms of agreement when using the iOS App).
- The parties agree that Apple and Apple's subsidiaries are third-party beneficiaries to these Terms as they relate to Your license of Our iOS App. Upon Your acceptance of these Terms, Apple will have the right (and will be deemed to have accepted the right) to enforce these Terms against You as they relate to Your license of the iOS App as a third-party beneficiary thereof.

The following additional terms and conditions apply with respect to any Mobile Application that We provide to You designed for use on an Android-powered mobile device (an "Android App"):

- You acknowledge that these Terms are between You and Us only, and not with Google, Inc. ("Google").
- Your use of Our Android App must comply with Google's then-current Android Market Terms of Service.

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- Google is only a provider of the Android Market where You obtained the Android App. We, and not Google, are solely responsible for Our Android App and the Services and Content available thereon. Google has no obligation or liability to You with respect to Our Android App or these Terms.
- You acknowledge and agree that Google is a third-party beneficiary to the Terms as they relate to Our Android App.

**Geo-Location Terms:** The Services include and make use of certain functionality and services provided by third parties that allow Us to include maps, geocoding, places and other Content from Google, Inc. (“Google”) as part of the Services (the “Geo-Location Services”). Your use of the Geo-Location Services is subject to Google’s then current Terms of Use for Google Maps/Google Earth ([http://www.google.com/intl/en\\_us/help/terms\\_maps.html](http://www.google.com/intl/en_us/help/terms_maps.html)) and by using the Geo-Location Services, you are agreeing to be bound by Google’s Terms of Use.

**Using the Site and the Services on the Site:** You can simply view the Site and not use any Services on the Site. You need not register with Us to simply visit and view the Site.

However, in order to access certain password-restricted areas of the Site and to use the Services and Materials offered on and through the Site, you must register with Us for an account and receive a password.

**Password Restricted Areas of this Site:** If You desire to register for an account with Us, You must submit the following information through the account registration page on the Site: address, driver’s license, name, date of birth, email address, phone number, and billing information. By registering an account with Us, you authorize us to obtain information that may be necessary or helpful to provide the Services to You, including collecting relevant information from Your local utility, electricity service provider, or other third parties. You will also have the ability to provide additional optional information, such as Social media accounts, historical usage data, energy price preference, and carbon preference, which are not required to register for an account but may be helpful to Us in providing You with a more customized experience when using the Site or its Services. And in order for the Services to be operational, you will need to switch Your electricity meter to Us. Once You have submitted Your account registration information, we shall have the right to approve or reject the requested registration, in Our sole discretion. If Your account is approved by Us, You will be sent an e-mail that contains a password that will allow You to log-on to the Site using that password (the “Password”) for the first time You log into Your account on the Site to complete the account registration process.

Currently, We also provide You with the ability to connect Your account on the Site with the following Third-Party Sites (as defined below), which may change from time to time: Twitter, Facebook, and Instagram (each, a “Third-Party Site”).

You are responsible for maintaining the confidentiality of Your Password, and You are responsible for all activities that occur using Your Password. You agree not to share Your Password, let others access or use Your Password or do anything else that might jeopardize the security of Your Password. You agree to notify Us if Your Password is lost or stolen, if You are aware of any unauthorized use of Your Password on this Site, or if You know of any other breach of security in relation to this Site.

All the information that You provide when registering for an account and otherwise through the Site must be accurate, complete and up to date. You may change, correct or remove any information from Your account by either logging into Your account directly and making the desired changes or contacting Us using the contact information at the end of these Terms requesting that We make the change.

**Subscriptions:** By registering for an account with Us, you become a “User” with access to certain password-restricted areas of the Site and to use certain Services and Materials offered on and through the Site (a “Subscription”). Each Subscription and the rights and privileges provided to a User are personal and non-transferable. All sales and payments of Subscription fees will be in US Dollars. All Subscription fees are non-refundable under any circumstances. Please see the Terms of Service for more details regarding your Subscription, which can be found on our website at [www.Octopusenergy.com](http://www.Octopusenergy.com).

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The fee that We will charge You for Your Subscription will be the price posted on the Electricity Facts Label on the date that You register as a User. We reserve the right to change prices for Subscriptions at any time, and do not provide price protection or refunds in the event of promotions or price decreases.

**Purchases:** If applicable, You agree to pay all fees or charges to Your account based on Our fees, charges, and billing terms in effect as shown on the Prepaid Disclosure Statement, Residential Terms Of Service and Electricity Facts Label. If You do not pay on time or if We cannot charge Your credit card, PayPal or other payment method for any reason, We reserve the right to either suspend or terminate Your access to the Site and account and terminate these Terms, as further described in the Terms of Service. You are expressly agreeing that We are permitted to bill You for the applicable fees, any applicable tax and any other charges You may incur in connection with Your use of this Site and the fees will be billed to Your credit card, PayPal or other payment method designated on Your initial registration with this Site, and thereafter at regular intervals for the remainder of the term of these Terms. If You cancel Your account at any time, you will not receive any refund. If You have a balance due on any account, you agree that We may charge such unpaid fees to Your credit card or otherwise bill You for such unpaid fees.

**Electronic Communications:** **By using the Site and/or the Services provided on or through the Site, you consent to receiving electronic communications from Us.** These electronic communications may include notices about applicable fees and charges, transactional information and other information concerning or related to the Site and/or Services provided on or through the Site. These electronic communications are part of Your relationship with Us. You agree that any notices, agreements, disclosures or other communications that We send You electronically will satisfy any legal communication requirements, including that such communications be in writing.

**Privacy Policy:** Please review Our Privacy Policy (the “Privacy Policy”) which explains how we use information that You submit to Us.

The use of Geo-Location Services is subject to the terms of the then current Google privacy policy (<http://www.google.com/privacy.html>).

**Links to Third-Party Sites:** **This Site may be linked to other web sites that are not Our sites, including, without limitation, social networking, blogging and similar websites through which You are able to log into this Site using Your existing account and log-in credentials for such third-party sites, including, without limitation, Twitter, Facebook, and Instagram (any and all of which of the foregoing listed websites may change from time to time) and websites that provide question-and-answer forum functionality (collectively, “Third-Party Sites”).** Certain areas of the Site may allow You to interact and/or conduct transactions with such Third-Party Sites, and, if applicable, allow You to configure Your privacy settings in Your Third-Party Site account to permit Your activities on this Site to be shared with Your contacts in Your Third-Party Site account and, in certain situations, You may be transferred to a Third-Party Site through a link but it may appear that You are still on this Site. In any case, You acknowledge and agree that the Third-Party Sites may have different privacy policies and terms and conditions and/or user guides and business practices than Us, and You further acknowledge and agree that Your use of such Third-Party Sites is governed by the respective Third-Party Site privacy policy and terms and conditions and/or user guides. You hereby agree to comply with any and all terms and conditions, users guide and privacy policies of any of Third-Party Sites. We are providing links to the Third-Party Sites to You as a convenience, and We do not verify, make any representations or take responsibility for such Third-Party Sites, including, without limitation, the truthfulness, accuracy, quality or completeness of the content, services, links displayed and/or any other activities conducted on or through such Third-Party Sites. **YOU AGREE THAT WE WILL NOT, UNDER ANY CIRCUMSTANCES, BE RESPONSIBLE OR LIABLE, DIRECTLY OR INDIRECTLY, FOR ANY GOODS, SERVICES, INFORMATION, RESOURCES AND/OR CONTENT AVAILABLE ON OR THROUGH ANY THIRD-PARTY SITES AND/OR THIRD-PARTY DEALINGS OR COMMUNICATIONS, OR FOR ANY HARM RELATED THERETO, OR FOR ANY DAMAGES OR LOSS CAUSED OR ALLEGED TO BE CAUSED BY OR IN CONNECTION WITH YOUR USE OR RELIANCE ON THE CONTENT OR BUSINESS PRACTICES OF ANY THIRD-PARTY.**

**Customer Data:** As part of the Services, you may choose to permit Us to access and collect data from You regarding Your energy usage, usage history and other such data, through your home’s smart or connected devices. All of this data belongs to and is retained by

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You, but for Us to provide You with the best service, You grant us a limited, non-exclusive, royalty-free, worldwide license to use, reproduce, and modify the data and perform any acts that may be needed for Us to provide the Services to You. You also permit Us to collect and retain the data in an aggregate and anonymous manner and to use the data and information related to it for the provision and operation of the Services.

Unauthorized Activities: When using this Site and/or the Services, You agree not to:

- Manipulate or otherwise intentionally impact power prices.
- Attempt to access any Site user's account, personal information, or digital devices.
- Defame, abuse, harass, stalk, threaten, or otherwise violate the legal rights (such as rights of privacy and publicity) of others.
- Use racially, ethnically, or otherwise offensive language.
- Discuss or incite illegal activity.
- Use explicit/obscene language or solicit/post sexually explicit images (actual or simulated).
- Post anything that exploits children or minors or that depicts cruelty to animals.
- Post any copyrighted or trademarked materials without the express permission from the owner.
- Disseminate any unsolicited or unauthorized advertising, promotional materials, 'junk mail', 'spam', 'chain letters', 'pyramid schemes', or any other form of such solicitation.
- Use any robot, spider, scraper or other automated means to access the Site.
- Take any action that imposes an unreasonable or disproportionately large load on our infrastructure.
- Alter the opinions or comments posted by others on this Site.
- Post anything clearly false or misleading.
- Post anything unrelated to our business, products or services.
- Post anything contrary to our public image, goodwill or reputation, provided that the foregoing will not apply to You if applicable law prohibits such limitations and restrictions.

This list of prohibitions provides examples and is not complete or exclusive. We reserve the right to terminate Your subscription and Your use of the Services with or without cause and with or without notice, for any reason or no reason, or for any action that We determine is inappropriate or disruptive to this Site or to any other user of this Site and/or Services. **We may report to law enforcement authorities any actions that may be illegal, and any reports it receives of such conduct. When legally required or at Our discretion, we will cooperate with law enforcement agencies in any investigation of alleged illegal activity on this Site or on the Internet.**

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You agree to indemnify and hold Us and Our officers, directors, employees, affiliates, agents, licensors, and business partners harmless from and against any and all costs, damages, liabilities, and expenses (including attorneys' fees and costs of defense) We or any other indemnified party suffers in relation to, arising from, or for the purpose of avoiding, any claim or demand from a third-party that Your use of this Site or the use of this Site by any person using Your user name and/or password (including without limitation, Your participation in the posting areas or, Your Submissions) violates any applicable law or regulation, or the copyrights, trademark rights or other rights of any third-party.

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The Mobile Application software that is provided to You through the Site and Services and related documentation are "Commercial Items", as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation", as such terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §227.7202-1 through 227.7202-4, as applicable, if You are a government entity, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end users (a) only as Commercial Items and (b) with only those rights as are granted to all other end users pursuant to the terms and conditions herein. Unpublished-rights reserved under the copyright laws of the United States.

**Intellectual Property Infringement:** We respect the intellectual property rights of others, and We ask You to do the same. We may, in appropriate circumstances and at our discretion, terminate service and/or access to this Site for users who infringe the intellectual property rights of others. If You believe that Your work is the subject of copyright infringement and/or trademark infringement and appears on our Site, please provide Our designated agent the following information:

- A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.
- Identification of the copyrighted and/or trademarked work claimed to have been infringed, or, if multiple works at a single online site are covered by a single notification, a representative list of such works at that site.
- Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled at the Site, and information reasonably sufficient to permit Us to locate the material.
- Information reasonably sufficient to permit Us to contact You as the complaining party, such as an address, telephone number, and, if available, an electronic mail address at which You may be contacted.
- A statement that You have a good faith belief that use of the material in the manner complained of is not authorized by the copyright and/or trademark owner, its agent, or the law.
- A statement that the information in the notification is accurate, and under penalty of perjury, that You are authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

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[help@Octopusenergy.com](mailto:help@Octopusenergy.com). Please also note that for copyright infringements under Section 512(f) of the Copyright Act, any person who knowingly materially misrepresents that material or activity is infringing may be subject to liability.

**Submitting a DMCA Counter-Notification:** We will notify You that We have removed or disabled access to copyright-protected material that You provided, if such removal is pursuant to a valid DMCA take-down notice that We have received. If You receive such notice from us, you may provide us with a counter-notification in writing to Our designated agent that includes all of the following information:

1. Your physical or electronic signature;
2. Identification of the material that has been removed or to which access has been disabled, and the location at which the material appeared before it was removed or access to it was disabled;
3. A statement from You under the penalty of perjury, that You have a good faith belief that the material was removed or disabled as a result of a mistake or misidentification of the material to be removed or disabled; and
4. Your name, physical address and telephone number, and a statement that You consent to the jurisdiction of a court for the judicial district in which Your physical address is located, or if Your physical address is outside of the United States, for any judicial district in which We may be located, and that You will accept service of process from the person who provided notification of allegedly infringing material or an agent of such person.

**Termination of Repeat Infringers:** We reserve the right, in its sole discretion, to terminate the account or access of any user of our web site and/or service who is the subject or repeated DMCA or other infringement notifications.

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SHALL WE BE LIABLE TO YOU FOR ANY INDIRECT, EXTRAORDINARY, EXEMPLARY, PUNITIVE, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF DATA, REVENUE, PROFITS, USE, BUSINESS DISCONNECTION DAMAGES, OR OTHER ECONOMIC ADVANTAGE) HOWEVER ARISING, WHETHER BASED ON STATUTE, CONTRACT, TORT (INCLUDING NEGLIGENCE), UNDER ANY INDEMNITY OR OTHERWISE, WITHOUT REGARD TO CAUSE OR THE NEGLIGENCE OF ANY PARTY, WHETHER SOLE, JOINT, ACTIVE, OR PASSIVE, AND EACH PARTY HEREBY RELEASES THE OTHER PARTY FROM ANY SUCH LIABILITY, EVEN IF WE KNOW THERE IS A POSSIBILITY OF SUCH DAMAGE OR DURING THE TERM HEREOF WE ADVISES YOU OF THE POSSIBILITY OF SUCH DAMAGES EVEN IF WE KNOW THERE IS A POSSIBILITY OF SUCH DAMAGE.

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Feedback: If You send or transmit any communications, comments, questions, suggestions, or related materials to Us, whether by letter, email, telephone, or otherwise (collectively, "Feedback"), suggesting or recommending changes to the Site, any Services offered through the Site or Materials, including, without limitation, new features or functionality relating thereto, all such Feedback is, and will be treated as, non-confidential and non-proprietary. Except as prohibited by applicable law, You hereby assign all right, title, and interest in, and We are free to use, without any attribution or compensation to You, any ideas, know-how, concepts, techniques, or other intellectual property and proprietary rights contained in the Feedback, whether or not patentable, for any purpose whatsoever, including but not limited to, developing, manufacturing, having manufactured, licensing, marketing, and selling, directly or indirectly, products and services using such Feedback. Where the foregoing assignment is prohibited by law, you hereby grant Us an exclusive, transferable, worldwide, royalty-free, fully paid up license (including the right to sublicense) to use and exploit all Feedback as We may determine in our sole discretion. Notwithstanding the foregoing, you understand and agree that We are not obligated to use, display, reproduce, or distribute any such ideas, know-how, concepts, or techniques contained in the Feedback, and You have no right to compel such use, display, reproduction, or distribution.

Dispute Resolution and Arbitration: Class Action Waiver: Please read the following (this "Provision") carefully. It affects Your rights. Most customer concerns can be resolved quickly and to a customer's satisfaction by contacting us at [help@Octopusenergy.com](mailto:help@Octopusenergy.com). This Provision facilitates the prompt and efficient resolution of any disputes that may arise between You and Us. Arbitration is a form of private dispute resolution in which persons with a dispute waive their rights to file a lawsuit, to proceed in court and to a jury trial, and instead submit their disputes to a neutral third person (or arbitrator) for a binding decision. You have the right to opt-out of this Provision (as explained below), which means You would retain Your right to litigate Your disputes in a court, either before a judge or jury.

Please read this Provision carefully. It provides that all Disputes between You and Us shall be resolved by binding arbitration. Arbitration replaces the right to go to court. In the absence of this arbitration agreement, You may otherwise have a right or opportunity to bring claims in a court, before a judge or jury, and/or to participate in or be represented in a case filed in court by others (including, but not limited to, class actions). Except as otherwise provided, entering these Terms constitutes a waiver of Your right to litigate claims and all opportunity to be heard by a judge or jury. There is no judge or jury in arbitration, and court review of an arbitration award is limited. The arbitrator must follow these Terms and can award the same damages and relief as a court (including attorney's fees).

For the purpose of this Provision, "Us" means Octopus Energy and its parents, subsidiary, and affiliate companies, and each of their respective officers, directors, employees, and agents. The term "Dispute" means any dispute, claim, or controversy between You and Us regarding, arising out of or relating to any aspect of Your relationship with Us, whether based in contract, statute, regulation, ordinance, tort (including, but not limited to, fraud, misrepresentation, fraudulent inducement, or negligence), or any other legal or equitable cause of action or claim for relief, and includes the validity, enforceability or scope of this Provision (with the exception of the enforceability of the Class Action Waiver clause below). "Dispute" is to be given the broadest possible meaning that will be

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enforced, and shall include any claims against other parties relating to services or products provided or billed to You (such as Our licensors, suppliers, dealers or third-party vendors) whenever You also assert claims against us in the same proceeding.

WE EACH AGREE THAT, EXCEPT AS PROVIDED BELOW, ANY AND ALL DISPUTES, AS DEFINED ABOVE, WHETHER PRESENTLY IN EXISTENCE OR BASED ON ACTS OR OMISSIONS IN THE PAST OR IN THE FUTURE, WILL BE RESOLVED EXCLUSIVELY AND FINALLY BY BINDING ARBITRATION RATHER THAN IN COURT IN ACCORDANCE WITH THIS PROVISION.

**Pre-Arbitration Claim Resolution:** For all Disputes, whether pursued in court or arbitration, you must first give Us an opportunity to resolve the Dispute. You must commence this process by mailing written notification to Us at Octopus Energy, 2700 Post Oak Blvd., 21st Floor, Houston, TX 70056. That written notification must include (1) Your name, (2) Your address, (3) a written description of Your Claim, and (4) a description of the specific relief You seek. If We do not resolve the Dispute within 45 days after We receive Your written notification, you may pursue Your Dispute in arbitration. You may pursue Your Dispute in a court only under the circumstances described below.

**Exclusions from Arbitration/Right to opt Out:** Notwithstanding the above, You or We may choose to pursue a Dispute in court and not by arbitration if (a) the Dispute qualifies, it may be initiated in small claims court; or (b) YOU OPT-OUT OF THESE ARBITRATION PROCEDURES WITHIN 30 DAYS FROM THE DATE THAT YOU FIRST CONSENT TO THESE TERMS (the "Opt-Out Deadline"). You may opt out of this Provision by mailing written notification to Us at Octopus Energy, 2700 Post Oak Blvd., 21st Floor, Houston, TX 70056. Your written notification must include (1) Your name, (2) Your address, and (3) a clear statement that You do not wish to resolve disputes with Us through arbitration. Your decision to opt-out of this Arbitration Provision will have no adverse effect on Your relationship with Us. **Any opt-out request received after the Opt-Out Deadline will not be valid and You must pursue Your Dispute in arbitration or small claims court.**

**Arbitration Procedures:** If this Provision applies and the Dispute is not resolved as provided above (Pre-Arbitration Claim Resolution) either You or We may initiate arbitration proceedings. The American Arbitration Association ("AAA"), [www.adr.org](http://www.adr.org), or JAMS, [www.jamsadr.com](http://www.jamsadr.com), will arbitrate all Disputes, and the arbitration will be conducted before a single arbitrator. The arbitration shall be commenced as an individual arbitration only and shall in no event be commenced as a class arbitration or a consolidated or representative action or arbitration. All issues shall be for the arbitrator to decide, including the scope of this Provision.

For arbitration before AAA, for Disputes of less than \$75,000, the AAA's Supplementary Procedures for Consumer-Related Disputes will apply; for Disputes involving \$75,000 or more, the AAA's Commercial Arbitration Rules will apply. In either instance, the AAA's Optional Rules for Emergency Measures of Protection shall apply. The AAA rules are available at [www.adr.org](http://www.adr.org) or by calling 1-800-778-7879. For arbitration before JAMS, the JAMS Comprehensive Arbitration Rules & Procedures and the JAMS Recommended Arbitration Discovery Protocols for Domestic, Commercial Cases will apply. The JAMS rules are available at [www.jamsadr.com](http://www.jamsadr.com) or by calling 1-800-352-5267. This Provision governs in the event it conflicts with the applicable arbitration rules. Under no circumstances will class action or representative action procedures or rules apply to the arbitration.

Because the Site and these Terms concern interstate commerce, the Federal Arbitration Act ("FAA") governs the arbitrability of all Disputes. However, the arbitrator will apply applicable substantive law consistent with the FAA and the applicable statute of limitations or condition precedent to suit.

**Arbitration Award** – The arbitrator may award on an individual basis any relief that would be available pursuant to applicable law and will not have the power to award relief to, against or for the benefit of any person who is not a party to the proceeding. The arbitrator will make any award in writing but need not provide a statement of reasons unless requested by a party or if required by applicable law. Such award will be final and binding on the parties, except for any right of appeal provided by the FAA or other applicable law and may be entered in any court having jurisdiction over the parties for purposes of enforcement.

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2700 Post Oak Blvd., Floor 21 // Houston, TX 77056-5797  
(844) 386-5832 9AM-5PM CT

Location of Arbitration – You or We may initiate arbitration in Houston, Texas.

Payment of Arbitration Fees and Costs – We will pay all arbitration filing fees and AAA or JAMS hearing fees and any arbitrator's hearing fees, costs and expenses upon Your written request to the arbitrator given at or before the first evidentiary hearing in the arbitration. You are responsible for all additional fees and costs that You incur in the arbitration, including, but not limited to, attorneys or expert witnesses. Fees and costs may be awarded as provided pursuant to applicable law. In addition to any rights to recover fees and costs under applicable law, if You provide notice and negotiate in good faith with Us as provided in the section above titled “Pre-Arbitration Claim Resolution” and the arbitrator concludes that You are the prevailing party in the arbitration, You will be entitled to recover reasonable attorney’s fees and costs as determined by the arbitrator.

**Class Action Waiver:** Except as otherwise provided in this Provision, the arbitrator may not consolidate more than one person’s claims, and may not otherwise preside over any form of a class or representative proceeding or claims (such as a class action, consolidated action, representative action, or private attorney general action) unless both You and We specifically agree to do so in writing following initiation of the arbitration. **If You choose to pursue Your Dispute in court by opting out of the Arbitration Provision, as specified above, this Class Action Waiver will not apply to You.** Neither You, nor any other user of the Site can be a class representative, class member, or otherwise participate in a class, consolidated, or representative proceeding without having complied with the opt-out requirements above.

**Jury Waiver:** You understand and agree that by entering these Terms You and We are each waiving the right to a jury trial or a trial before a judge in a public court. In the absence of this Provision, You and We might otherwise have had a right or opportunity to bring Disputes in a court, before a judge or jury, and/or to participate or be represented in a case filed in court by others (including class actions). Except as otherwise provided below, those rights are waived. Other rights that You would have if You went to court, such as the right to appeal and to certain types of discovery, may be more limited or may also be waived.

**Severability:** If any clause within this Provision (other than the Class Action Waiver clause above) is found to be illegal or unenforceable, that clause will be severed from this Provision, and the remainder of this Provision will be given full force and effect. If the Class Action Waiver clause is found to be illegal or unenforceable, this entire Provision will be unenforceable, and the Dispute will be decided by a court.

**Continuation:** This Provision shall survive the termination of Your service with Us or Our affiliates. Notwithstanding any provision in these Terms to the contrary, We agree that if We make any change to this Provision (other than a change to the Notice Address), You may reject any such change and require Us to adhere to the present language in this Provision if a dispute between the parties arises.

**Language:** The parties hereto have expressly required that these Terms and all documents and notices relating thereto be drafted in the English language.

**General:** We prefer to advise You if We feel You are not complying with these Terms and to recommend any necessary corrective action. However, certain violations of these Terms, as determined by Us, may result in immediate termination of Your access to this Site without prior notice to You. The Federal Arbitration Act, Texas state law and applicable U.S. federal law, without regard to the choice or conflicts of law provisions, will govern these Terms. Foreign laws do not apply. The United Nations on Contracts for the International Sale of Goods and any laws based on the Uniform Computer Information Transactions Act (UCITA) shall not apply to these Terms. Except for Disputes subject to arbitration as described above, any disputes relating to these Terms or this Site will be heard in the courts located in Harris County in the State of Texas. If any of these Terms is found to be inconsistent with applicable law, then such term shall be interpreted to reflect the intentions of the parties, and no other terms will be modified. Our failure to enforce any of these Terms is not a waiver of such term. These Terms are the entire agreement between the parties and supersede all prior or contemporaneous negotiations, discussions or agreements between You and Us about this Site. The proprietary rights, disclaimer of warranties, representations made by You, indemnities, limitations of liability and general provisions shall survive any termination of these Terms.

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California Consumer Notice: Under California Civil Code Section 1789.3, California users are entitled to the following consumer rights notice: This Site and Service are provided by Octopus Energy, 2700 Post Oak Blvd., 21st Floor, Houston, TX 70056. If You have purchased anything from the Site or through the Service, a description of what You have purchased and relevant pricing information are posted as part of the ordering process for this Site (please consult Your individual purchase confirmation e-mail for the charges You incurred). If You have a question or complaint regarding the Site or Service, please contact Customer Service at [help@Octopusenergy.com](mailto:help@Octopusenergy.com). You may also contact us by writing Octopus Energy, 2700 Post Oak Blvd., 21st Floor, Houston, TX 70056. California residents may reach the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs by post at 1625 North Market Blvd., Sacramento, CA 95834 or by telephone at (916) 445-1254 or (800) 952-5210 or Hearing Impaired at TDD (800) 326-2297 or TDD (916) 322-1700.

Contact Us: If You have any questions about these Terms or otherwise need to contact Us for any reason, you can reach us at [help@Octopusenergy.com](mailto:help@Octopusenergy.com).

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