

**AEP Texas Central Division  
Load Management  
Standard Offer Program**

Manual  
2020



An **AEP** Company

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**BOUNDLESS ENERGY**<sup>SM</sup>



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This manual summarizes the goals, pricing and application process of the AEP Texas Central Division Load Management Standard Offer Program (SOP). It includes information about eligibility requirements, incentive payments, the participation process, and descriptions and samples of enrollment materials developed by AEP Texas for participants. The information included in this manual is subject to change. The latest information and application forms can be found on the AEP Texas website at <https://www.aeptexas.com/#/commercial/south-load-management>.

# LM 1 Introduction

American Electric Power (AEP) owns more than 36,000 megawatts of generating capacity in the United States and is the nation's largest electricity generator. AEP is also one of the largest electric utilities in the United States, with more than 5 million customers linked to AEP's 11-state electricity transmission and distribution grid. The company is based in Columbus, Ohio.

The 2020 AEP Texas Central Division Load Management Standard Offer Program (SOP) was developed to pay incentives to energy efficiency service providers (EESPs), (e.g., contractors, energy service companies, retail electric providers, or customers) for load interruptions of electric consumption on short notice during peak demand periods. Incentives are based on verified demand savings that occur at an AEP Texas distribution customer's site as a result of an interruption.

To participate in the SOP, sponsoring participants ("Project Sponsors") undergo an application process and then enter into an Agreement (the "Agreement") with AEP Texas. A sample Agreement is included as Appendix A of this manual. Under the Standard Agreement, the Project Sponsor agrees to deliver demand savings to AEP Texas from an AEP Texas distribution customer, using load that is subject to load management curtailment activities ("Interruptible Load") at that customer's site. AEP Texas will verify actual demand savings from interruptions (the "Verification Process") and payment will be submitted to the Project Sponsor based on the verified savings achieved by the interruptions.

Project Sponsors must commit Interruptible Load to the SOP during the Summer Peak Demand Period of 1 p.m. – 7 p.m. in the months of June, July, August and September, excluding weekends and Federal holidays. The SOP will require one scheduled 1-hour test interruption and up to four (4) unscheduled interruptions during any one of the calendar months during the Performance Period for most Options. The Unscheduled Interruptions may have a duration of a minimum of one hour to a maximum of either two or four hours. The Incentive Payments for Unscheduled Interruptions are in Chapter 7.

This chapter provides a general introduction to the SOP, including an overview of SOP features and background information on AEP Texas' energy efficiency initiatives. All SOP information, including application materials, is available via the Internet at <https://www.aeptexasenergy.com/#/commercial/south-load-management>. AEP Texas will begin accepting applications starting April 2, 2020 at 10 a.m. Central Daylight Time.

The Texas Technical Reference Manual (TRM) Version 7.0 Vol 4 MV Protocols has savings verification methodology for participating customers in the Load Management Standard Offer Program. A copy can be found at <http://www.texasefficiency.com/index.php/regulatory-filings/deemed-savings>.

## 1.1 Background

The SOP was developed to comply with state energy efficiency goals. The Texas Legislature passed Senate Bill 7 (SB7) in 1999, which restructured the state's electric

utility industry. The law calls for each investor-owned utility to meet certain goal reductions in its growth in system demand annually through savings achieved by energy efficiency programs.

## **1.2 Program Goals**

The main goal of the SOP is to reduce summer peak demand in the AEP Texas service territory in a cost-effective manner and to reach the demand savings goals established by SB7 and Public Utility Commission of Texas (PUC) regulations. There are secondary program goals that are reflected in the SOP rules and procedures that include:

- Encourage private sector delivery of energy demand savings during peak demand time on the Electric Reliability Council of Texas (ERCOT) transmission and distribution system of TNC.
- Create a simple and streamlined program process to stimulate strong program participation from energy efficiency service providers.
- Minimize the burden of measurement and verification requirements for the SOP by implementation of a simple Verification Process by AEP Texas.

## **1.3 Eligibility**

### **1.3.1 Project Sponsor Eligibility**

Any entity meeting the participation requirements that identifies Interruptible Load at a non-residential facility that is served by AEP Texas is eligible to participate in the SOP as a Project Sponsor. Eligible Project Sponsors include:

- National or local energy efficiency service providers (EESPs).
- Retail electricity providers (REPs).
- Individual customers that identify Interruptible Load in their own facilities.

To ensure that the SOP incentive budget is allocated to projects that are likely to meet with success, all Project Sponsors will be required to demonstrate a commitment to fulfilling SOP objectives and competency in completing their proposed project. Project Sponsors may be required to submit information concerning their experience and competency as part of the application process. A more specific description of the application requirements is located in Section 3.

### **1.3.2 Project Eligibility**

A project site is defined in the SOP as having Interruptible Load with estimated demand savings during the Summer Peak Demand Period. Project Sponsors may include more than one project site in their applications. All projects must meet the following requirements:

- Each project site must include total estimated demand savings of at least **5 kW** during the Summer Peak Demand Period. AEP Texas defines the Summer Peak

Demand Period as the hours occurring between 1 p.m. and 7 p.m. Central Daylight Time on Monday through Friday during the months of June through September, excluding federal holidays.

- A project may involve multiple sites from one or more customers as long as the demand savings from interruptions at each site are reported using Interval Data Recorders (IDR) or Advanced Meters (AMI).

### **1.3.3 Interruptible Load Eligibility**

The SOP does not specify eligible Interruptible Load in order to provide Project Sponsors flexibility in packaging services. Project Sponsors may propose the inclusion of any Interruptible Load in a project, as long as it meets the following requirements:

- Interruptible Load must produce demand savings through an interruption of electrical consumption during the Summer Peak Demand Period.
- Project Sponsors must commit to making the Interruptible Load available during the Program Year.
- Electric Service Agreements for service to Interruptible Load between customers and their Retail Electric Providers may not prevent or inhibit interruptions.
- Project Sponsor agrees to verify that the Curtailable Load that is being used in this Application will not be used in any other Curtailable Load or demand response program during the duration of the Customer Agreement. This can include, without limitation, any ERCOT, PUCT, or any other program that is currently available. Project Sponsor will notify AEP Texas within 15 business days of any change in the status of the Curtailable Load or its inclusion in another demand response program. Failure to notify AEP Texas of any changes in the contracted load can result in the termination of the Program participation. This does not prohibit a Project Sponsor from contracting their existing and/or future electric loads into other programs. AEP Texas reserves the right to cancel any Program participation when that contracted load has been enrolled in any other competing Curtailable Load or demand response program.

The following Interruptible Load is excluded from consideration for this SOP:

- Interruptible Load that results in negative environmental or health effects.
- Interruptible Load that receives an incentive through any other energy efficiency program offered by AEP Texas.

Project incentives will be paid only for demand savings directly related to end-use equipment curtailed under the project.

Eligible Interruptible Load to be considered is load listed on the project application that will be available for curtailment. This could be building(s) and/or individual end-use equipment that consumes electric energy during the Summer Peak Demand Period. AEP Texas will consider any and all Interruptible Load that consumes electrical energy for participation in the SOP.

# LM 2 Participation Process

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## Overview

This chapter provides information on participating in the SOP including the program process and required submittals. AEP Texas will start accepting applications on April 2, 2020 at 10 a.m., Central Daylight Time on a first-come, first-served basis. Applications will continue to be accepted for the SOP until all funds have been committed (see Chapter 7 - Incentive Payments). After this time, submitted applications will be placed on a waiting list. Projects on a waiting list will not be carried over into the next program year.

## 2.1 Participation Phases

Participation in the SOP involves five basic phases:

- Project Sponsor submits an application (the “**Application**”) in order for AEP Texas to review the proposed project for feasibility and to tentatively reserve incentive funding.
- Project Sponsor enters into a **Standard Agreement** with AEP Texas.
- Project Sponsor performs Scheduled (see Section 5.1) and Unscheduled (see Section 5.2) Interruptions when notified by AEP Texas.
- AEP Texas verifies demand savings from Scheduled and Unscheduled Interruptions (the “**Verification Process**”).
- AEP Texas pays the Project Sponsor for Unscheduled Interruptions (the “**Performance Period Payment**”).

## 2.2 Additional Program Information

### 2.2.1 Program Website

The SOP website at <https://www.aeptexas.com/#/commercial/south-load-management> will serve as the primary source for all updated SOP information and materials. The website will include:

- Information describing the program design and requirements.
- Contact information for the program.
- Submittal forms.
- The SOP Manual.

### **2.2.2 Program Promotion and Outreach**

AEP Texas will conduct outreach activities as needed for this SOP by conducting a workshop as requested by Project Sponsors. Notices of the workshop will be sent to potential Project Sponsors if scheduled.



# LM 3 Application

## Overview

A Project Sponsor's first formal step in participating in the SOP is the submission of an Application to AEP Texas through the on-line database. By submitting the Application, the Project Sponsor is requesting that AEP Texas review the Application and, if approved, reserve funding for the Project Sponsor based on the proposed level of demand savings in the Application.

The Application will be available through the on-line database at the AEP Texas website: <https://www.ecurtail.com/AEP/TCC/>

Applications will be reviewed on a first-come, first-served basis until all incentive funding has been committed.

## Project Sponsor Information

All Project Sponsors are required to provide AEP Texas with specific business information including the following:

- Description of the Project Sponsor firm.
- Basic description of the Project Sponsor employees who will be responsible for the operation of the project.
- The Project Sponsor's Taxpayer Identification Number so that AEP Texas can properly account for any incentive payments made to the Project Sponsor.

### 3.1 Project Information

Project Sponsors must provide information about the scope of their proposed project(s). The type of information requested includes the following:

1. **Customer Information** - Information about the customer(s) and associated load(s) the Project Sponsor proposes to include as Interruptible Load. If a Project Sponsor's proposed project involves multiple customers, the Project Sponsor should submit separate information for each customer. The following information shall be submitted:
  - Customer name;
  - Customer address;
  - Site address;
  - Customer business description; and
  - Site contact name(s), phone number, fax number and e-mail address that will allow AEP Texas to contact customer during Summer Peak Demand Periods, if necessary.

2. AEP Texas Central Division **Distribution Account Number (ESI ID)** – This number can be identified on the customer’s electric bill as a 17 digit number, ex. ESI ID: 10032789400012345. In order to verify if a customer is an AEP Texas Central Division customer, the Project Sponsor should look for the distinguishing number beginning with 100327894....., which represents AEP Texas Central Division.
3. **Site Profile(s)** - A profile must be completed for each customer site and shall include estimated demand savings for the site, building type(s), operating schedules, and any additional site information that Project Sponsor believes is appropriate.
4. **Management Plan** - This information includes the design, implementation, operation, and management of the project.
5. **Interruptible Load** - A description of Interruptible Load and processes for curtailment at each customer site. The description must include the estimated kW reductions for each site during a one-hour peak demand period interruption.
6. **Project Sponsor Contact Telephone Number** - This is the telephone number at which AEP Texas Central Division will call the Project Sponsor to provide advance notification of a required interruption. A representative of Project Sponsor must be available at this number at all times during Summer Peak Demand Period. Should Project Sponsor need to change this contact telephone number during the term of the project, it must provide a new contact telephone number to AEP Texas Central Division at least two business days prior to the date the new number will take effect.
7. **Project Sponsor Contact Name(s) and Information** - Identification and information related to one or more representative(s) of the Project Sponsor who are responsible for implementation of the project. Phone number(s), mobile phone number(s), and email address(es) should be provided if available to allow AEP Texas to communicate with Project Sponsor concerning the SOP.
8. **Customer Agreement** - This agreement is required from customers contracting with a Project Sponsor and from customers who act as their own Project Sponsor. A Customer Agreement must be submitted within 15 calendar days after the date the electronic Application is submitted. A copy of the Customer Agreement is included in this manual as Appendix A, Attachment A.
9. **Supporting Documentation** - Project Sponsors may submit additional supporting documentation that they determine is relevant for any project.

As part of the Application review, AEP Texas will review the feasibility of the proposed Interruptible Load and the accuracy of the demand savings estimates. AEP Texas may request clarification of, or additional information about, any item in the Application. Project Sponsors must respond to such requests within the time period specified by AEP Texas. **If the clarification or additional information is not forthcoming in a timely manner, AEP Texas may choose to discontinue its evaluation of the Application.**

## 3.2 Electronic Submittal

Electronic submittal of the Application will be through the On-line Database. Registration can be completed at:

<https://www.ecurtail.com/AEP/TCC/>

For questions and other comments regarding this SOP you may contact the AEP Texas Central Division Program Manager by email at [rgbego@aep.com](mailto:rgbego@aep.com) or by phone at 361-881-5710.

## 3.3 Hardcopy Submittal

AEP Texas must receive a hard copy of the Standard Offer Program Customer Agreement as described below.

### Addresses to obtain and submit program materials

Material	Mechanism	Address or location
Obtain Enrollment Material	Website/Database	<a href="https://www.aeptexasefficiency.com/#/commercial/south-load-management">https://www.aeptexasefficiency.com/#/commercial/south-load-management</a>
Submit Application and all required supporting documents that are amenable to electronic submittal	Database	<a href="mailto:rgbego@AEP.com">rgbego@AEP.com</a>
Standard Offer Program Agreement	DocuSign	DocuSign email
Standard Offer Program Customer Agreement	Mail/Email	AEP Texas – LM SOP Attn: Russell G. Bego 539 N. Carancahua Corpus Christi, TX 78401
Program Questions or Contact Program Manager	Email	<a href="mailto:rgbego@AEP.com">rgbego@AEP.com</a>

### **3.4 Confidentiality**

The SOP is subject to oversight by the PUCT, which may request a copy of any program materials that AEP Texas receives. Sensitive company and project information submitted by the Project Sponsor to AEP Texas such as financial statements will be treated confidentially to the extent possible. However, AEP Texas will have no liability to any Project Sponsor or other party as a result of public disclosure of any information submitted by the Project Sponsor.

### **3.5 Submission of False Information**

AEP Texas reserves the right to discontinue its evaluation of all submittals and terminate all Agreements of a Project Sponsor that submits false, misleading, or incorrect information.

## **LM 4** Standard Agreement

### **Overview**

Once an Application has been approved, AEP Texas will send electronically (through DocuSign) for execution the Standard Agreement which will be similar to the sample attached as Appendix A to this manual. The terms of the Standard Agreement will be **non-negotiable** unless unique circumstances merit and require revision, in the sole discretion of AEP Texas. In order to incorporate each Project Sponsor's project information, the approved Application will be included as an attachment to the Standard Agreement and will become legally binding as part of the Standard Agreement.

Once the Standard Agreement is signed between the Project Sponsor and AEP Texas, the Project Sponsor's primary obligation will be to perform the following:

- Perform a Scheduled Interruption to verify the customer's ability to provide kW savings. The contract amount will be based on the participant's average performance during the Scheduled Interruption. In the event no Unscheduled Interruptions occur, the kW savings used to calculate the Incentive Payment will be the verified savings from the Scheduled event.
- Monitor projects during Scheduled Interruption and maintain the minimum duration for the event.
- Monitor projects during Unscheduled Interruptions and maintain the minimum duration for the event.

The signed Standard Agreement will obligate AEP Texas to:

- Perform the Verification Process. Verification Process activities will be conducted for each project to measure the demand savings when meter data is available after each interruption.
- Make payment (the "Performance Period Payment"), based on Verified Demand Savings related to the Unscheduled Interruption(s). The Performance Period Payment will be made after the end of the Performance Period.

# LM 5 Interruptions

## Overview

To achieve the goal of assisting the utility during peak demand periods, AEP Texas has developed five (5) interruption options from which the Customer can choose (Option A, Option B, Option C, Option D or Option E) to participate in. Option A includes up to four (4) Unscheduled Interruptions per Performance Period, Option B and Option C include up to twelve (12) Unscheduled Interruptions per Performance Period and Option D and Option E include up to eight (8) Unscheduled Interruptions per Performance Period. In addition, a separate interruption “Scheduled Interruption” (for testing purposes) will be conducted prior to the Performance Period for one (1) hour maximum.

The AEP Texas Program Manager will notify Project Sponsors in advance when curtailments will need to be executed. The interruption notice will specify the begin- and end-time for the interruption. Interruptible Load must be able to be curtailed within a minimum of one hour of notification. Unscheduled Interruptions will be required upon request by AEP Texas.

### 5.1 Scheduled Interruption

The SOP will have one 1-hour Scheduled Interruption prior to the Summer Peak Demand Period. AEP Texas will not notify Project Sponsors ahead of time. The Scheduled Interruption will be used for incentive calculations in the event that no Unscheduled Interruptions occur in the Program Year to determine Incentive Payment.

### 5.2 Unscheduled Interruptions

The SOP requires program participants to participate in one of the five (5) available options: Option A, Option B, Option C, Option D or Option E. An Unscheduled Interruption may occur upon request by AEP Texas. AEP Texas will notify Project Sponsors of an Unscheduled Interruption with at least one-hour advance notice of the start-time for the interruption. Interruptions may begin 15 minutes after the hour, 30 minutes after the hour, 45 minutes after the hour or on the hour.

**The duration of an Unscheduled Interruption will be a minimum of one hour and a maximum of either two hours (Option C, Option E) or four hours (Option A, Option B or Option D). Starting times will occur between 1:00 p.m. and 6:00 p.m. Central Daylight Time. Ending times will occur between 2:00 p.m. and 7:00 p.m. Central Daylight Time.**

After completion of all Unscheduled Interruption(s) of Interruptible Load and approval of all IDR/AMI data, AEP Texas will pay the Project Sponsor the Performance Period Payment in or before November of the Program Year.

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**LM 6** **Verification Process**

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**Overview**

AEP Texas will perform the Verification Process after any curtailment (Scheduled or Unscheduled). Demand savings and incentive payment amounts will be based on average actual verified demand reduction. AEP Texas will review usage data for each project site, and will establish the baseline as defined by the Texas Technical Reference Manual (TRM) 7.0 Vol 4 MV Protocols.

# **LM 7** Incentive Payments

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## **Overview**

AEP Texas will pay Project Sponsors the Performance Period Payment in or before November of the Program Year. In the event a Project Sponsor does not produce the Demand Savings as proposed in its Application, AEP Texas will pay the Project Sponsor based on the Verified Demand Savings during the Performance Period.

AEP Texas' Incentive Payment to the Project Sponsor is expressly and specifically conditioned upon AEP Texas receiving all required notices, submittals and materials from Project Sponsor within the applicable period specified in the Agreement. Failure by Project Sponsor to deliver any required notice, submittal, or material within the applicable period specified in the Agreement shall be deemed a material breach of the Agreement.

If Verified Demand Savings differ from the Demand Savings estimated in the Application, the IDR data recordings by AEP Texas will take precedence over any other information. If actual, Verified Demand Savings are lower than those estimated in the Application, the associated reserved incentives may be adjusted accordingly, and excess incentive funds returned to the SOP budget. If actual, Verified Demand Savings are higher than those estimated in the Application, the incentive payments will be based on the Demand Savings estimated in the Application unless AEP Texas, in its sole discretion, allows a Project Sponsor to upwardly adjust its estimated Demand Savings.

## **7.1 Available Budget**

The incentive budget for calendar year 2020 is \$650,700.



## 7.2 Incentives

The applicable Incentive Rates and cap on Demand Savings for the AEP Texas Central Division LM SOP are as follows.

Capacity Interruption Incentive Rate per kW (\$/kW)

Option	Performance Period Payment Incentive Rate	Demand Savings Cap	Capacity Payment Cap
A	\$15.00/kW	8,676 kW	\$130,140
B	\$35.00/kW	3,718 kW	\$130,140
C	\$25.00/kW	5,205 kW	\$130,140
D	\$25.00/kW	5,205 kW	\$130,140
E	\$20.00/kW	6,507 kW	\$130,140

## 7.3 Incentive Limitations

To ensure that incentives are available to multiple energy service providers, a Project Sponsor may be limited to approximately 20% of the SOP incentive budget in a given Program year.

## 7.4 Payments

All Verification Process activities must be completed before the Project Sponsor will receive the associated Unscheduled Interruption Payment. After completion of the Unscheduled Interruption of Interruptible Load, approval of the IDR/AMI data recording, and verification of the Demand Savings, AEP Texas shall pay the Project Sponsor the applicable Performance Period Payment. AEP Texas will make the Performance Period Payment in or before November at the conclusion of the Performance Period and after AEP Texas' approval of the IDR/AMI data for the Program Year.

The amount of the Performance Period Payment shall be calculated using the following formula:

**Equation 1.2:**

$\text{Performance Period Payment (\$)} = \text{Performance Period Payment Incentive Rate} \times \text{Verified Demand kW Savings}^*$
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In the event no Unscheduled Interruptions are performed, the Performance Period Payment will be calculated by multiplying the verified kW savings of the Scheduled Interruption\* by the applicable Performance Period Payment Incentive Rate.

**\*NOTE:** AEP Texas will not be obligated to pay a Project Sponsor for Verified Demand Savings that exceed the amount of Estimated Demand Savings proposed in the Project Sponsor's Application. However; if allowed by the SOP budget, and in AEP Texas' sole discretion, AEP Texas may allow a Project Sponsor to revise its estimate of proposed Demand Savings and then pay a Project Sponsor based on this revised estimate of Demand Savings.

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**LM 8 Appendix**

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**APPENDIX A      AEP TEXAS LOAD MANAGEMENT STANDARD OFFER  
PROGRAM AGREEMENT**

**ATTACHMENT A – AEP TEXAS LOAD MANAGEMENT  
STANDARD OFFER PROGRAM CUSTOMER AGREEMENT**

**APPENDIX A**

**AEP TEXAS**

**LOAD MANAGEMENT**

**STANDARD OFFER PROGRAM AGREEMENT**

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**AEP TEXAS  
2020 LOAD MANAGEMENT  
STANDARD OFFER PROGRAM AGREEMENT**

This Load Management Standard Offer Program (LM SOP) Agreement (the “Agreement”) is made and entered into by and between **AEP TEXAS INC.**, a Delaware corporation (hereinafter “AEP Texas”), and \_\_\_\_\_, (hereinafter “Project Sponsor”). Project Sponsor and AEP Texas are sometimes referred to in this Agreement individually as a “Party” and collectively as the “Parties.”

**WHEREAS**, AEP Texas has developed a Load Management Standard Offer Program (the “SOP”); and

**WHEREAS**, the SOP seeks to procure peak demand reduction through the interruption of electric load; and

**WHEREAS**, Project Sponsor has developed a plan for participation in the SOP through a set of proposed curtailments of interruptible load to produce a controllable and predictable amount of peak demand reduction for the current year performance period.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements hereinafter set forth, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

**DEFINITIONS**

- 1.1** “Baseline Demand Usage” is the benchmark used for calculating the Demand Savings during a Scheduled or Unscheduled Interruption. The Baseline Demand Usage shall be calculated according to the Texas Technical Reference Manual (TMR) Version 7.0 Vol 4 MV Protocols using previous weekdays (Monday through Friday), excluding federal holidays and any weekday time periods involving an Interruption.
- 1.2** “Agreement Documents” shall mean 1) Project Sponsor’s approved on-line application (“Application”) and Customer Agreement, attached hereto as Attachment A and incorporated by reference herein, 2) the SOP Manual (“SOP Manual”), which is incorporated by reference herein, and 3) this Agreement together with any and all other exhibits, addenda, or amendments referenced in the Agreement Documents or made a part thereof in accordance with this Agreement; as the same may be amended from time to time. To the extent of any conflict between this Agreement and other Agreement Documents, the terms of this Agreement shall prevail.
- 1.3** “Capacity Interruption Incentive Rate” shall mean \$15/kW (Option A), \$35/kW (Option B), \$25.00/kW (Option C or Option D) or \$20/kW (Option E) per demand (kW) Interrupted.

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- 1.4** “Customer” shall mean an AEP Texas distribution customer that owns or leases facilities at a Project Site.
- 1.5** “Demand Savings” shall mean the difference between Baseline Demand Usage and Interruption Demand Usage. For the purpose of this Agreement, the use of the term Demand Savings may refer to Unscheduled Interruption Demand Savings and/or Scheduled Interruption Demand Savings, as appropriate.
- 1.6** “Estimated Demand Savings” shall mean: 1) the amount of demand reduction that Project Sponsor proposes in the Application to save in a one-hour period during Summer Peak Demand Period through Interruptions that are implemented pursuant to the SOP and that AEP Texas approves after review of the Application and receipt of all Customer Agreements, or 2) the amount of approved Scheduled or Unscheduled Interruption Demand Savings from the Interruption, whichever is less.
- 1.7** “IDR” shall mean interval data recorder.
- 1.8** “Incentive Budget” shall mean the amount of money budgeted by AEP Texas in each calendar year of the SOP.
- 1.9** “Interruptible Load” shall mean the equipment, material, or systems at a Project Site that is identified in the Application as electric load that will be interrupted by the Customer at the request of AEP Texas pursuant to the SOP.
- 1.10** “Interruption” shall mean shutting down the electrical operation of Interruptible Load at the request of AEP Texas pursuant to the SOP.
- 1.11** “Interruption Demand Usage” shall mean the average demand that occurs during any one-hour (four 15-minute interval) period of an Interruption.
- 1.12** “Option A” shall include up to four (4) 4-hour Unscheduled Interruptions per Performance Period.
- 1.13** “Option B” shall include up to twelve (12) 4-hour Unscheduled Interruptions per Performance Period.
- 1.14** “Option C” shall include up to twelve (12) 2-hour Unscheduled Interruptions per Performance Period.
- 1.15** “Option D” shall include up to eight (8) 4-hour Unscheduled Interruptions per Performance Period.
- 1.16** “Option E” shall include up to eight (8) 2-hour Unscheduled Interruptions per Performance Period.
- 1.17** “Performance Period” shall mean the period from June 1 through September 30 for Options A, B and C, and shall mean the period from August 1 through September 30 for Options D and E of each calendar year of the SOP.

- 1.18** “Performance Period Payment” shall mean the payment made by AEP Texas to Project Sponsor for Demand Savings, as calculated pursuant to Article 7.3 of this Agreement.
- 1.19** “Program Manager” shall mean the AEP Texas representative assigned as the point of contact for the SOP as identified in Article 13.1 of this Agreement.
- 1.20** “Project” shall mean the location(s) of a Customer’s Interruptible Load, as identified in the Application. For the purposes of this Agreement, multiple facilities representing Interruptible Load may be combined into one Project. The Interruptible Load at a Project Site must have a recorded demand history pattern of 100 kW or more and when interrupted in operation must result in a measurable and verifiable reduction in peak demand of at least 5 kW or more.
- 1.21** “Project Sponsor’s Contact Telephone Number(s)” shall be the telephone number(s) identified in the Application as the telephone number(s) that AEP Texas will call to notify Project Sponsor of a required Interruption.
- 1.22** “PUCT” shall mean the Public Utility Commission of Texas.
- 1.23** “Scheduled Interruption” shall mean an Interruption that is pre-scheduled within a one-week period by AEP Texas to occur at the beginning of the Performance Period in every calendar year of the SOP as a test to determine the magnitude of interruptible load available at the Project Site. A Scheduled Interruption shall be for a maximum duration of one (1) hour.
- 1.24** “Scheduled Interruption Demand Savings” shall mean the difference between the Baseline Demand Usage for a Scheduled Interruption and the Interruption Demand Usage for the same Scheduled Interruption using the Texas Technical Reference Manual (TRM) Version 7.0 Vol 4 MV Protocols.
- 1.25** “Summer Peak Demand Period” shall mean 1 p.m. Central Daylight Time to 7 p.m. Central Daylight Time on Monday through Friday during the months of June through September for Options A, B and C, and shall mean the period from August 1 through September 30 for Options D and E, excluding federal holidays.
- 1.26** “Unscheduled Interruption” shall mean an Interruption that is requested by AEP Texas. Such request shall include start and end times of the Unscheduled Interruption. An Unscheduled Interruption shall be for a minimum duration of one (1) hour and shall not exceed a maximum duration of four (4) hours. There shall be no more than four (4) Unscheduled Interruptions during any one calendar month of the Performance Period.
- 1.27** “Unscheduled Interruption Demand Savings” shall mean the amount of peak demand reduction used to calculate the Performance Period Payment in every SOP calendar year. The Unscheduled Interruption Demand Savings for each SOP calendar year will be calculated using the Texas Technical Reference Manual (TRM) Version 7.0 Vol 4 MV Protocols. If no Unscheduled Interruption occurs during a SOP calendar year, then the Unscheduled Interruption Demand

Savings for that SOP calendar year will mean the Estimated Demand Savings amount.

- 1.28** “Verification Process” shall mean the process described in Article VI of this Agreement wherein AEP Texas calculates and verifies Baseline Demand Usage, Interruption Demand Usage, and Demand Savings.

## **ARTICLE II - TERM AND TERMINATION**

- 2.1** The term of this Agreement shall commence on the date of execution by AEP Texas (the “Effective Date”) and, unless otherwise terminated as set forth herein, shall continue in force and effect until September 30, 2020 or until payment by AEP Texas of the Performance Period Payment due pursuant to Article VII of this Agreement, whichever is later; provided, however, that the provisions in this Agreement related to confidentiality, warranties, indemnity, audits and records, and intellectual property will survive termination.
- 2.2** **Notwithstanding anything to the contrary, AEP TEXAS reserves the right to terminate this Agreement and the SOP at any time, for any reason. Termination at will by AEP TEXAS shall not relieve the parties of any obligations occurring prior to the date of termination.**

## **ARTICLE III - WARRANTIES AND REPRESENTATIONS**

- 3.1** By executing this Agreement, Project Sponsor warrants and represents that it is aware of, is in compliance with, and will continue to comply for the term of this Agreement with, all of the Agreement Documents and all applicable laws and regulations related to the SOP.
- 3.2** Project Sponsor warrants and represents that the Project meets all federal, state, and local regulatory requirements, including:
- The Project will result in consistent and predictable peak demand savings over the contract term period;
  - The Application disclosed all potential adverse environmental or health effects associated with the Project, if any;
  - The Project will not result in negative environmental or health effects; and
  - The Project would not have been implemented in the absence of the SOP.
- 3.3** Project Sponsor acknowledges that it received a copy of the SOP Manual prior to submission of its Application. Project Sponsor warrants and represents that its participation in the SOP has at all times been in compliance with, and will continue to comply for the term of this Agreement with, the procedures and conditions set forth in the SOP Manual and that any failure to comply therewith may be treated as a breach of this Agreement notwithstanding the fact that such failure occurred prior to the execution of this Agreement. Project Sponsor also acknowledges that it meets or exceeds all of the qualifications required to participate in the SOP as described in the SOP Manual and that failure to meet the qualifications therein may be treated as a breach of this Agreement.



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Procedures or conditions set forth in the SOP Manual may only be waived or modified by written agreement of the parties. Any such Agreement shall be attached hereto and incorporated herein for all purposes.

- 3.4 Project Sponsor warrants and represents it may be limited to 20% of the Incentive Budget for any calendar year of the SOP.
- 3.5 Project Sponsor warrants and represents that any relevant Agreement(s) between a Customer and the Customer's retail electric provider concerning electric service to Interruptible Load do not prohibit or inhibit Interruptions.
- 3.6 Project Sponsor agrees to verify that the Curtailable Load that is being used in this Application will not be used in any other Curtailable Load or demand response program during the Summer Peak Demand Period of the Customer Agreement. This can include, without limitation, any ERCOT, PUCT, or any other program that is currently available. Project Sponsor will notify AEP Texas within 15 business days of any change in the status of the Curtailable Load or its inclusion in another demand response program. Failure to notify AEP Texas of any changes in the contracted load can result in the termination of the Program participation. This does not prohibit a Project Sponsor from contracting their existing and/or future electric loads into other programs. AEP Texas reserved the right to cancel any Program participation when that contracted load has been enrolled in any other competing Curtailable Load or demand response program.

#### **ARTICLE IV - CUSTOMER AGREEMENT**

- 4.1 The receipt by AEP Texas of a Customer Agreement concerning every Customer associated with every Project Site is a condition precedent to the effectiveness of this Agreement. AEP Texas will not award incentive payments related to an Interruption at a Project Site if every Customer associated with that Project Site did not sign a Customer Agreement prior to the Interruption.

#### **ARTICLE V - PROJECT IMPLEMENTATION**

- 5.1 Project Sponsor agrees on and after the Effective Date to use all reasonable efforts to implement the Project without undue delay and otherwise in accordance with the terms of the Agreement Documents. To the extent of any conflict between this Agreement and other Agreement Documents, the terms of this Agreement shall prevail.
- 5.2 The Project will be implemented in calendar year 2020 and may be continued or discontinued after that date.
- 5.3 One (1) Scheduled Interruption shall be required to be implemented by Project Sponsor at each Project Site at the beginning of the Performance Period in each calendar year of the SOP. The Scheduled Interruption shall be for a maximum duration of one (1) hour.

- 5.4** All Interruptions shall be implemented at the time and for the duration specified by AEP Texas.
- 5.5** AEP Texas will notify Project Sponsor at least one (1) hour prior to the required start-time of any Interruption by calling the Project Sponsor's Contact Telephone Number(s). AEP Texas may utilize a messaging system to provide the notice required by this Article 5.5. A representative of Project Sponsor must be available to personally answer calls made to the Project Sponsor's Contact Telephone Number(s) during the Summer Peak Demand Period.
- 5.6** Project Sponsor may change the Project Sponsor's Contact Telephone Number(s) by providing notice to the Program Manager of the new Project Sponsor's Contact Telephone Number(s) a minimum of two business days prior to the date that the new Project Sponsor's Contact Telephone Number(s) is to become effective. In order for notice of a new Project Sponsor's Contact Telephone Number(s) to be valid, Project Sponsor must verify that Program Manager has actually received such notice by the above-mentioned deadline.
- 5.7** An Unscheduled Interruption shall be for a minimum duration of one hour to a maximum duration of either two hours (Option C or E) or four hours (Option A, B or Option D). There shall be no more than four (4) Unscheduled Interruptions during any one calendar month of the applicable Performance Period.

#### **ARTICLE VI - VERIFICATION PROCESS**

- 6.1** AEP Texas shall calculate and verify the Baseline Demand Usage, Interruption Demand Usage, and Demand Savings for each Interruption after the Program Manager receives the IDR/AMI data related to the Interruption.
- 6.2** The data used to calculate the Baseline Demand Usage, Interruption Demand Usage, and Demand Savings will be the data from IDR/AMI meters that are read, reviewed, and approved by AEP Texas.

#### **ARTICLE VII - INCENTIVE PAYMENTS**

- 7.1** AEP Texas agrees to make an incentive payment to the Project Sponsor based upon the Demand Savings derived from the Project, as further discussed in this Article.
- 7.2** The applicable incentive rates and cap on Demand Savings and the possible incentive cap are as follows:

Capacity Interruption Incentive Rate per kW (\$/kW)			
Option	Performance Period Payment Incentive Rate	Demand Savings Cap	Capacity Payment Cap
A	\$15.00/kW	8,676 kW	\$130,140
B	\$35.00/kW	3,718 kW	\$130,140
C	\$25.00/kW	5,205 kW	\$130,140

D	\$25.00/kW	5,205 kW	\$130,140
E	\$20.00/kW	6,507 kW	\$130,140

- 7.3** Unscheduled Interruptions - After the conclusion of the Performance Period and completion of the Verification Process for the SOP Year, AEP Texas shall pay the Project Sponsor the Performance Period Payment. AEP Texas will typically make the Performance Period Payment within thirty (30) days after the completion of the final Verification Process of the Performance Period. If the Unscheduled Interruption Demand Savings are equal to or less than the Estimated Demand Savings, then the Performance Period Payment will be calculated using the following equation:

$$\text{Performance Period Payment} = \text{Performance Period Payment Incentive Rate} \times \text{Unscheduled Interruption Demand Savings}$$

If the Unscheduled Interruption Demand Savings are greater than the Estimated Demand Savings, then the Performance Period Payment will be calculated using the following equation:

$$\text{Performance Period Payment} = \text{Performance Period Payment Incentive Rate} \times \text{Estimated Demand Savings}$$

- 7.4** Notwithstanding anything to the contrary, AEP Texas may, in its sole discretion, revise the calculation of the Performance Period Payment to allow payment to Project Sponsor for an amount of Peak Demand Reduction that exceeds the amount of Estimated Demand Savings.
- 7.5** The Performance Period Payment in a SOP year may be limited to 20% of the Incentive Budget for that SOP year.
- 7.6** AEP Texas' Incentive Payment to the Project Sponsor is expressly and specifically conditioned upon AEP Texas receiving all required notices, submittals and materials from Project Sponsor within the applicable period specified in this Agreement. Failure by Project Sponsor to deliver any required notice, submittal, or material within the applicable period specified in this Agreement shall be deemed a material breach of this Agreement.

## **ARTICLE VIII - INSURANCE**

- 8.1** Project Sponsor represents and agrees that it and its subcontractors will carry all statutorily required insurance for the protection of its employees and that each of its subcontractors will carry such insurance for the protection of their respective employees.

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**ARTICLE IX - INDEMNITY**

- 9.1 PROJECT SPONSOR AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS AEP TEXAS, AND ANY INDIVIDUAL, CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, TRUST, OR OTHER BUSINESS ORGANIZATION OF ANY KIND DIRECTLY OR INDIRECTLY CONTROLLING, CONTROLLED BY, OR UNDER COMMON CONTROL WITH AEP TEXAS AND ITS AND THEIR RESPECTIVE SHAREHOLDERS, MEMBERS, PARTNERS, OFFICERS, DIRECTORS, MANAGERS, TRUSTEES, INCORPORATORS, AGENTS, ATTORNEYS, CONSULTANTS, SERVANTS, REPRESENTATIVES, AND EMPLOYEES FROM AND AGAINST ANY CLAIMS, CAUSES OF ACTION, SUITS, JUDGMENTS, LOSSES, DAMAGES AND LIABILITIES OF ANY KIND INCLUDING ALL EXPENSES OF LITIGATION, COSTS OF COURT AND/OR ALTERNATIVE DISPUTE RESOLUTION, ATTORNEYS' FEES AND EXPERT WITNESS FEES (WHETHER THE SAME ARE BASED IN CONTRACT, TORT, INCLUDING NEGLIGENCE, STRICT LIABILITY OR OTHERWISE) FOR INJURIES, DEATH OR PROPERTY DAMAGES OR LOSS (INCLUDING INJURIES, DEATH OR PROPERTY DAMAGES SUFFERED BY PROJECT SPONSOR OR ITS AGENTS, EMPLOYEES OR CONTRACTORS) WHICH OCCURRED, OR ARE ALLEGED TO HAVE OCCURRED DIRECTLY AS A RESULT OF (i) PROJECT SPONSOR'S OR ITS SUBCONTRACTOR'S PARTICIPATION IN ANY STAGE OF THE SOP; (ii) AN ACT OR OMISSION OF PROJECT SPONSOR IN OR COLLATERAL TO ITS PERFORMANCE OF WORK OR SERVICES UNDER OR IN CONNECTION WITH THIS AGREEMENT; OR (iii) ANY DEFECT (INCLUDING A DESIGN OR MANUFACTURING DEFECT OR THE FAILURE TO PROVIDE PROPER WARNING OR INSTRUCTIONS FOR USE) IN OR MALFUNCTION OF OR FINDING OF STRICT LIABILITY IN TORT ATTRIBUTABLE TO ANY MEASURE PROVIDED UNDER OR IN CONNECTION WITH THIS AGREEMENT. THIS INDEMNITY OBLIGATION SPECIFICALLY INCLUDES ANY CLAIMS, CAUSES OF ACTION, LAWSUITS, JUDGMENTS, LOSSES, DAMAGES AND LIABILITY OF EVERY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COSTS OF COURT AND/OR ALTERNATIVE DISPUTE RESOLUTION, ATTORNEYS' FEES AND EXPERT WITNESS FEES (WHETHER THE SAME ARE BASED IN CONTRACT, TORT, INCLUDING NEGLIGENCE, OR STRICT LIABILITY OR OTHERWISE) ALLEGING AEP TEXAS' NEGLIGENCE, GROSS NEGLIGENCE OR STRICT LIABILITY REGARDLESS OF WHETHER SUCH NEGLIGENCE, GROSS NEGLIGENCE OR STRICT LIABILITY IS A JOINT AND CONCURRING CAUSE OF THE INJURIES, DEATH OR PROPERTY DAMAGE. THIS PROVISION SHALL NOT APPLY TO CLAIMS, CAUSES OF ACTION, SUITS, JUDGMENTS, LOSSES, DAMAGES AND LIABILITIES TO THE EXTENT CAUSED BY THE NEGLIGENCE OF AEP TEXAS IN THE CONDUCT OF AEP TEXAS' ON-SITE INSPECTION OF THE PROJECT SITE PURSUANT TO THIS AGREEMENT.**
- 9.2 IN ADDITION TO THE INDEMNITIES AND OTHER PROTECTIONS PROVIDED UNDER THIS ARTICLE IX, PROJECT SPONSOR HEREBY**

**AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS AEP TEXAS, AND ANY INDIVIDUAL, CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, TRUST, OR OTHER BUSINESS ORGANIZATION OF ANY KIND DIRECTLY OR INDIRECTLY CONTROLLING, CONTROLLED BY, OR UNDER COMMON CONTROL WITH AEP TEXAS AND ITS AND THEIR RESPECTIVE SHAREHOLDERS, MEMBERS, PARTNERS, OFFICERS, DIRECTORS, MANAGERS, TRUSTEES, INCORPORATORS, AGENTS, ATTORNEYS, CONSULTANTS, SERVANTS, REPRESENTATIVES, AND EMPLOYEES FROM AND AGAINST ANY CLAIMS, CAUSES OF ACTION, SUITS, JUDGMENTS, DAMAGES, LIABILITIES, EXPENSES, CONTRIBUTIONS, REMEDIATION OR CLEANUP COSTS, OR OTHER LOSSES OF ANY KIND INCLUDING ALL EXPENSES OF LITIGATION, COSTS OF COURT AND/OR ALTERNATIVE DISPUTE RESOLUTION, ATTORNEYS' FEES AND EXPERT WITNESS FEES (WHETHER THE SAME ARE BASED IN CONTRACT, TORT, INCLUDING NEGLIGENCE, STRICT LIABILITY OR OTHERWISE) ARISING FROM, ASSOCIATED WITH, OR RELATING IN ANY WAY TO:**

- 9.2.1 ANY BREACH OF ANY REPRESENTATION, WARRANTY, OR COVENANT OF PROJECT SPONSOR CONTAINED IN THIS AGREEMENT;**
  - 9.2.2 ANY VIOLATION OR ALLEGED VIOLATION OF ANY FEDERAL, STATE OR LOCAL LAW, REGULATION, OR POLICY RESPECTING PROTECTION OF THE ENVIRONMENT, HEALTH, AND/OR SAFETY (HEREINAFTER "EHS LAWS") ASSOCIATED WITH OR RELATED IN ANY WAY TO THE PROJECT;**
  - 9.2.3 ANY PROPERTY DAMAGE OR IMPAIRMENT OR ANY PERSONAL INJURY ALLEGED TO BE ASSOCIATED WITH ANY EXPOSURE TO MATERIALS REGULATED UNDER ANY EHS LAW RELATING IN ANY WAY TO THE PROJECT; OR**
  - 9.2.4 ANY RELEASE OR THREATENED RELEASE OF ANY HAZARDOUS SUBSTANCE OR OTHER MATERIAL OR SUBSTANCE REGULATED UNDER ANY EHS LAW RELATING IN ANY WAY TO THE PROJECT.**
- 9.3 THE ENVIRONMENTAL INDEMNITY PRESCRIBED BY THIS ARTICLE IX SHALL APPLY REGARDLESS OF WHETHER THE CLAIMS ARISE FROM THE JOINT OR CONCURRENT NEGLIGENCE, GROSS NEGLIGENCE, STRICT LIABILITY IN TORT OR WILLFUL MISCONDUCT OF OR BREACH OF CONTRACT BY AEP TEXAS, OR ANY INDIVIDUAL, CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, TRUST, OR OTHER BUSINESS ORGANIZATION OF ANY KIND DIRECTLY OR INDIRECTLY CONTROLLING, CONTROLLED BY, OR UNDER COMMON CONTROL WITH AEP TEXAS AND ITS AND THEIR RESPECTIVE SHAREHOLDERS, MEMBERS, PARTNERS, OFFICERS, DIRECTORS,**

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**MANAGERS, TRUSTEES, INCORPORATORS, AGENTS, ATTORNEYS, CONSULTANTS, SERVANTS, REPRESENTATIVES, AND EMPLOYEES.**

- 9.4** The representations, warranties, covenants, indemnities, and other obligations or protections provided by Project Sponsor pursuant to this Article IX shall not be limited by time and shall survive the completion of the Project or any other completion, expiration or termination of this Agreement.

**ARTICLE X - COMPLIANCE WITH LAWS**

- 10.1** Project Sponsor represents and warrants that prior to commencing implementation of the Project, Project Sponsor will, at its own cost and expense, obtain any and all permits, licenses, and/or other authorizations from governmental authorities as then may be required to in order to perform its obligations under this Agreement. If requested by AEP Texas, Project Sponsor shall furnish to AEP Texas copies of each such permit, license or other approval promptly following receipt thereof. Project Sponsor shall maintain in full force and effect all such governmental permits, licenses and other authorizations as may be necessary for the implementation of the Project in accordance herewith. Failure to maintain licenses, permits and other authorizations required to perform the work detailed in this Agreement constitutes a material breach of Project Sponsor's obligations under this Agreement
- 10.2** Project Sponsor shall be responsible for all royalties, fees, or claims for any licensed, copyrighted or similarly protected intellectual property, device, process or procedure used, installed, or provided by it. Project Sponsor shall defend any suit that may be brought against AEP Texas and shall hold AEP Texas harmless from any liability, damages and costs, including without limitation attorneys' fees, incurred by AEP Texas arising from or related to infringement or alleged infringement of any intellectual property used by Project Sponsor or a Customer in the implementation of the Project.
- 10.3** All work performed by Project Sponsor or a Customer in connection with the implementation of the Project shall conform to all applicable laws, statutes, ordinances, rules, regulations, and decrees of any governmental or administrative body having jurisdiction over the SOP or any portion of the Project.

**ARTICLE XI - DEFAULT AND REMEDIES**

- 11.1** Each of the following events will be deemed to be an Event of Default hereunder:
- (a) Failure of Project Sponsor to perform its responsibilities in a timely manner or implement the Project in compliance with the Agreement Documents;
  - (b) Failure of a representative of Project Sponsor to be available during all Summer Peak Demand Hours to personally answer a call from AEP Texas to the Project Sponsor Contact Telephone Number concerning notice of an Interruption.

- (c) Project Sponsor's submission to AEP Texas of any false, misleading or inaccurate information or documentation with respect to the Application, this Agreement, or Project Sponsor's implementation of the Project, when Project Sponsor knew or reasonably should have known that such information was false, misleading or inaccurate;
- (d) Project Sponsor's assignment or subcontracting of all or part of the duties required under the Agreement Documents without the prior written consent of AEP Texas; or
- (e) Failure of either party in a material fashion to perform or observe any of the material terms, conditions or provisions of the Agreement Documents, which failure materially adversely affects the other party.

If an Event of Default occurs, the non-defaulting party shall be entitled to exercise any and all remedies provided for by law or in equity, including the right to terminate this Agreement upon written notice to the other party. Termination shall be effective upon the receipt of properly served notice. Termination of this Agreement will not relieve the defaulting party of any obligations accruing prior to the event of termination.

## ARTICLE XII - LIMITATION OF LIABILITY

- 12.1 EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, NEITHER PARTY NOR ANY INDIVIDUAL, CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, TRUST, OR OTHER BUSINESS ORGANIZATION OF ANY KIND DIRECTLY OR INDIRECTLY CONTROLLING, CONTROLLED BY, OR UNDER COMMON CONTROL WITH A PARTY AND ITS AND THEIR RESPECTIVE SHAREHOLDERS, MEMBERS, PARTNERS, OFFICERS, DIRECTORS, MANAGERS, TRUSTEES, INCORPORATORS, AGENTS, ATTORNEYS, CONSULTANTS, SERVANTS, REPRESENTATIVES, AND EMPLOYEES SHALL NOT BE LIABLE TO THE OTHER PARTY OR ANY CUSTOMER FOR ANY LOSSES, COSTS, INJURIES, LIABILITIES, EXPENSES (INCLUDING ATTORNEY'S FEES), OR CLAIMS FOR INCIDENTAL, SPECIAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY NATURE CONNECTED WITH OR RESULTING FROM**
- (i) NEGOTIATION, EXECUTION, OPERATION, OR TERMINATION OF THIS AGREEMENT;**
  - (ii) PERFORMANCE OR NON-PERFORMANCE OF ANY COMMITMENT; OR**
  - (iii) ANY ACTS, OMISSIONS, OR REPRESENTATIONS MADE BY THE OTHER PARTY IN CONNECTION WITH PERFORMING ANY OBLIGATION UNDER THIS AGREEMENT,**

**INCLUDING WITHOUT LIMITATION, CLAIMS IN THE NATURE OF LOST REVENUES, INCOME OR PROFITS, IRRESPECTIVE OF WHETHER SUCH CLAIMS ARE BASED UPON WARRANTY, NEGLIGENCE, STRICT LIABILITY, CONTRACT, OPERATION OF LAW OR OTHERWISE AND EACH PARTY SHALL PROTECT, INDEMNIFY AND HOLD THE OTHER PARTY HARMLESS FROM SAME.**

- 12.2 BOTH PARTIES AGREE THAT, IN THE EVENT OF (i) ANY DISPUTE THAT ARISES OUT OF THE NEGOTIATION, EXECUTION, OPERATION, OR TERMINATION OF THIS AGREEMENT AND ITS SUBJECT MATTER, WHETHER THE DISPUTE SOUNDS IN CONTRACT OR TORT, OR AS A RESULT OF A CLAIMED STATUTORY OR REGULATORY VIOLATION, OR (ii) ANY OTHER CLAIM THAT MAY ARISE OUT OF THE RELATIONSHIP OF THE PARTIES, THE PREVAILING PARTY SHALL BE ENTITLED TO RECOVER REASONABLE ATTORNEYS' FEES, EXPERT WITNESS FEES, LITIGATION EXPENSES, AND COSTS OF COURT AND/OR ALTERNATIVE DISPUTE RESOLUTION FROM THE LOSING PARTY.**

### **ARTICLE XIII - NOTICES**

- 13.1** All notices from one party to the other will be deemed to have been delivered on the date actually delivered if hand delivered or sent by United States certified mail, return receipt requested, postage prepaid or sent or delivered by such other method as will ensure evidence of its receipt to the following addresses:

AEP Texas:

Project Sponsor:

Attn: Russell G. Bego  
AEP Texas Central Division  
539 N. Carancahua  
Corpus Christi, TX 78401

Attn:

- 13.2** Either party may change its address by written notice to the other in accordance with this Article XIII.

### **ARTICLE XIV - AMENDMENT**

- 14.1** No amendment or modification of this Agreement shall be binding on either party unless it is in writing and signed by both parties. Amendments to this Agreement will be attached hereto and made a part hereof for all purposes.

### **ARTICLE XV - ALTERNATIVE DISPUTE RESOLUTION**

- 15.1 BOTH PARTIES AGREE TO RESOLVE ANY AND ALL DISPUTES THAT ARISE OUT OF THE NEGOTIATION, EXECUTION, OPERATION OR TERMINATION OF THIS AGREEMENT AND ITS SUBJECT MATTER, WHETHER THE DISPUTE SOUNDS IN CONTRACT OR TORT, OR AS A RESULT OF A CLAIMED STATUTORY OR REGULATORY VIOLATION, OR ANY OTHER CLAIM WHICH MAY ARISE OUT OF THE RELATIONSHIP OF**



THE PARTIES, THROUGH ALTERNATIVE DISPUTE RESOLUTION TECHNIQUES. BOTH PARTIES AGREE TO FIRST ATTEMPT TO RESOLVE DISPUTES THROUGH MEDIATION. IF, HOWEVER, SUCH DISPUTES CANNOT BE RESOLVED THROUGH MEDIATION, BOTH PARTIES AGREE TO SUBMIT SUCH DISPUTES FOR RESOLUTION THROUGH BINDING ARBITRATION, TO BE CONDUCTED BY ONE QUALIFIED INDEPENDENT ARBITRATOR THAT IS MUTUALLY SELECTED BY BOTH PARTIES, IN ACCORDANCE WITH THE COMMERCIAL ARBITRATION RULES (“RULES”) OF THE AMERICAN ARBITRATION ASSOCIATION (“AAA”) THEN IN EFFECT. IF THE PARTIES CANNOT AGREE UPON THE SELECTION OF THE ARBITRATOR, THEN EITHER PARTY MAY FILE ITS DEMAND WITH THE AAA AND THE ARBITRATION SHALL BE ADMINISTERED IN ACCORDANCE WITH ITS RULES. VENUE OF THE ARBITRATION SHALL BE THE VENUE SET FORTH IN SECTION 19.5 UNLESS THE PARTIES AGREE OTHERWISE. THIS BINDING ARBITRATION PROVISION SHALL NOT PROHIBIT OR RESTRICT EITHER PARTY FROM SEEKING EMERGENCY INJUNCTIVE OR OTHER EQUITABLE RELIEF IN THE DISTRICT COURTS OF THE COUNTY OF VENUE TO PRESERVE THE STATUS QUO. IF ANY SUCH RELIEF IS SOUGHT AND OBTAINED, THE MATTER WILL THEN BE IMMEDIATELY REFERRED TO ARBITRATION IN ACCORDANCE WITH THE TERMS OF THIS PROVISION FOR A HEARING ON THE MERITS OF THE RELIEF SOUGHT.

**15.2 BOTH PARTIES AGREE THAT THE TERMS OF ANY AGREEMENT, SETTLEMENT, JUDGMENT OR AWARD RESULTING FROM ANY MEDIATION OR ARBITRATION PROCEEDINGS DESCRIBED IN SECTION 15.1 SHALL BE CONFIDENTIAL, AND THE PARTIES AGREE NOT TO DISCLOSE SUCH TERMS, OR ANY DRAFTS OR COMMUNICATIONS CONCERNING SUCH TERMS, TO ANY THIRD-PARTY EXCEPT AS FOLLOWS:**

**15.2.1 THE TERMS MAY BE DISCLOSED, BUT ONLY TO THE EXTENT REASONABLY NECESSARY, TO A PARTY’S ATTORNEYS, INSURERS, AGENTS, EMPLOYEES, AND ACCOUNTANTS, PROVIDED THAT THOSE PERSONS HAVE AGREED TO KEEP SUCH INFORMATION CONFIDENTIAL AND NOT DISCLOSE IT TO ANY OTHER PERSON OR ENTITY; OR**

**15.2.2 THE TERMS MAY BE DISCLOSED TO A COURT OR TRIBUNAL IN CONNECTION WITH AN ACTION TO ENFORCE ANY AGREEMENT, SETTLEMENT, JUDGMENT OR AWARD RESULTING FROM ANY MEDIATION OR ARBITRATION PROCEEDING DESCRIBED IN SECTION 15.1; OR**

**15.2.3 THE TERMS MAY BE DISCLOSED TO OTHERS (i) PURSUANT TO AN APPROPRIATE COURT ORDER ENTERED AFTER EVERY OTHER PARTY TO THE AGREEMENT HAS BEEN GIVEN REASONABLE NOTICE AND AN OPPORTUNITY TO BE HEARD, OR (ii) IF REQUIRED BY A GOVERNMENTAL AGENCY**

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**AFTER EVERY OTHER PARTY TO THE AGREEMENT HAS BEEN GIVEN REASONABLE NOTICE AND AN OPPORTUNITY TO BE HEARD, OR (iii) WITH THE PRIOR WRITTEN APPROVAL OF EVERY OTHER PARTY TO THE AGREEMENT.**

## **ARTICLE XVI - FORCE MAJEURE**

- 16.1** Should either Party be rendered unable, either wholly or in part, by an event of Force Majeure, to fulfill its obligations under this Agreement, the obligation of the Party so rendered, that is affected by the event of Force Majeure, will be suspended only during the continuance of that inability. The Party so affected will give written notice of the existence, extent and nature of the Force Majeure to the other Party within forty-eight (48) hours after the occurrence of the event. The Party so affected will use its best efforts to remedy its inability as soon as possible and will provide the other Party with prompt notice when it is able to resume the performance of its obligations. Failure to give notice will result in the continuance of the affected Party's obligation regardless of the extent of any existing Force Majeure.
- 16.2** The term "Force Majeure" as used in this Agreement will mean acts of God (except as excluded herein), strikes, lockouts, or other industrial disturbances, acts of public enemies, wars, blockades, insurrections, riots, epidemics, earthquakes, fires, priority allocations of pipe or other materials or orders, restraints or prohibitions by any court, board, department, commission or agency of the United States or of any State, any arrests and restraints, civil disturbances, explosions, and inability despite reasonable diligence to obtain materials essential to this Agreement. Rain, snow, ice or other adverse weather conditions will not be considered events of Force Majeure.
- 16.3** The term "Force Majeure" does not include: events or circumstances that affect the Project but do not prevent performance, including, but not limited to, requirements, actions or failures to act on the part of governmental authorities (including the adoption or change in any rule or regulation or environmental constraints lawfully imposed by federal, state or local governmental bodies); changes in market conditions; and events or conditions attributable to normal wear and tear or flaws randomly experienced in materials and equipment and their assembly and operation, unless such events and conditions are caused by an occurrence which would fit the definition of Force Majeure set forth in Article 16.2 of this Agreement.
- 16.4** In no event will any Force Majeure extend this Agreement beyond its stated term.
- 16.5** If any Force Majeure causes a reduction in the Estimated Demand Savings, the Parties may mutually at any time agree to reduce the Estimated Demand Savings for the duration of the Force Majeure event.

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## **ARTICLE XVII - ARTICLE XVIII – NONDISCLOSURE**

- 17.1** If either Party hereto provides confidential information to the other in writing and identified as such, the receiving Party shall protect the confidential information from disclosure to third parties. Neither Party shall be required to hold confidential any information which (i) becomes publicly available other than through the recipient; (ii) is required to be disclosed by a governmental or judicial order, rule or regulation; (iii) is independently developed by the receiving Party as evidenced by written records; or (iv) becomes available to the receiving Party without restriction from a third party. These obligations shall survive expiration or termination of this Agreement.
- 17.2** Should any person or entity seek to legally compel a receiving Party (by oral questions, interrogations, requests for information or documents, subpoena, civil investigative demands, regulation, statute or otherwise) to disclose any confidential information, the receiving Party will provide the disclosing Party prompt written notice so that the disclosing Party may seek a protective order or other appropriate remedy (including participating in any proceeding to which the receiving Party is a party, which receiving Party will use its reasonable business and legal efforts to permit). If, in the absence of a protective order, the receiving Party is, in the opinion of its legal counsel, compelled to disclose the confidential information, the receiving Party may disclose only such of the confidential information to the person or entity compelling disclosure as is required by applicable law, order, regulation or rule.

## **ARTICLE XVIII - INDEPENDENT CONTRACTOR**

- 18.1** Project Sponsor will act as and be deemed to be an independent contractor. Project Sponsor will not act as, nor be deemed to be, an agent or employee of AEP Texas. Project Sponsor will have the sole right to control and directly supervise the method, manner and details of the Project providing it is in accordance with the Agreement Documents.

## **ARTICLE XIX - MISCELLANEOUS**

- 19.1** Project Sponsor will not assign, transfer or otherwise dispose of any of its obligations or duties without the prior written approval of AEP Texas. Any assignment or transfer made without the express written approval of AEP Texas will be null and void.
- 19.2** The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by either party shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise. No waiver by the parties hereto of any default or breach of any term, condition or covenant of this Agreement shall be deemed to be a waiver of any other breach of the same or any other term, condition or covenant contained herein.

- 19.3** The Agreement Documents constitute the entire Agreement between the parties with respect to the subject matter hereof and there are no express or implied warranties or representations upon which any party may rely beyond those set forth therein. The execution of this Agreement supersedes all previous agreements, discussions, communications and correspondence with respect to such subject matter.
- 19.4** In the event any provision of this Agreement is held to be void, unlawful, or otherwise unenforceable, that provision will be severed from the remainder of the Agreement and replaced automatically by a provision containing terms as nearly like the void, unlawful, or unenforceable provision as possible; and the Agreement, as so modified, will continue to be in full force and effect.
- 19.5** This Agreement will be governed by, construed and enforced in accordance with the laws of the State of Texas. Except for matters and disputes with respect to which the PUCT is the sole proper venue for dispute resolution pursuant to applicable law or this Agreement, the Parties agree that the proper venue and jurisdiction for any cause of action relating to the Agreement will be in Travis County, Texas and the Parties hereto submit to the exclusive jurisdiction of the federal and state courts located in such county with respect to such matters and disputes.
- 19.6** Project Sponsor shall not use AEP Texas' corporate name, trademark, trade name, logo, identity or any affiliation for any reason, including to solicit customers for participation in the Project, without AEP Texas' prior written consent. Notwithstanding anything to the contrary, Project Sponsor may use AEP Texas' corporate name in the Customer Agreement.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by their duly authorized representatives.

**AEP TEXAS INC.**

**(PROJECT SPONSOR)**

By: \_\_\_\_\_  
 Name: Robert Cavazos  
 Title: Manager, EE & Consumer Programs  
 Date: \_\_\_\_\_

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

**ATTACHMENT A**

**AEP TEXAS - CENTRAL DIVISION**

**2020 LOAD MANAGEMENT  
STANDARD OFFER PROGRAM  
CUSTOMER AGREEMENT**

**I. Customer Information**

Customer Name \_\_\_\_\_

Project Site Name \_\_\_\_\_

Project Site Address \_\_\_\_\_

City, Zip Code \_\_\_\_\_

Customer ESI ID \_\_\_\_\_

*(For multiple sites, attach separate list)*

**II. Customer Relationship with Project Sponsor**

I, Customer, hereby acknowledge the following (check appropriate box):

I have entered into an Agreement with \_\_\_\_\_ (the "Project Sponsor") for interruption of interruptible load at the Project Site(s) identified above (the "Project"). The Project Sponsor is implementing the Project pursuant to the AEP TEXAS - CENTRAL DIVISION Load Management Standard Offer Program (LM SOP).

I am acting as my own Project Sponsor and am participating in the AEP Texas – Central Division Load Management Standard Offer Program.

**III. Program Option Selection**

I, Customer, hereby acknowledge I have selected to participate in the following Program Option (check appropriate box):

OPTION A – includes up to four (4) Unscheduled Interruptions between one and four hours per Performance Period.

OPTION B - includes up to twelve (12) Unscheduled Interruptions between one and four hours per Performance Period.

OPTION C - includes up to twelve (12) Unscheduled Interruptions between one and two hours per Performance Period.

OPTION D - includes up to eight (8) Unscheduled Interruptions between one and four hours per Performance Period.

OPTION E - includes up to eight (8) Unscheduled Interruptions between one and two hours per Performance Period.

#### IV. LM SOP Customer Agreement

**CUSTOMER ACKNOWLEDGES THAT ANY REVIEW OR ACCEPTANCE BY AEP TEXAS OF THE PROJECT IS SOLELY FOR THE INFORMATION OF AEP TEXAS AND THAT, IN PERFORMING ANY SUCH REVIEW OR IN ACCEPTING THE PROJECT, AEP TEXAS MAKES NO REPRESENTATIONS OR WARRANTY WHATSOEVER AS TO THE ECONOMIC OR TECHNICAL FEASIBILITY, CAPABILITY, SAFETY OR RELIABILITY OF THE PROJECT.**

Customer acknowledges that the Project Sponsor is an independent contractor with respect to AEP Texas and the LM SOP, and that the Project Sponsor is not authorized to make representations or incur obligations on behalf of AEP Texas.

Customer acknowledges that AEP Texas is not a party to this Customer Agreement or any other agreement (if any) between the Project Sponsor and the Customer and that the Project Sponsor is solely responsible for performance hereunder.

Customer agrees that AEP Texas is an intended third-party beneficiary of this Customer Agreement and, as such, may rely on representations made herein by the Customer and enforce Customer's obligations hereunder to the extent same are applicable to AEP Texas.

Customer acknowledges that AEP Texas makes no warranty or representation regarding the qualifications of the Project Sponsor and that the Customer is solely responsible for the selection of the Project Sponsor.

Customer acknowledges that it may file a complaint with the Public Utility Commission of Texas concerning the Project Sponsor, but that AEP Texas will play no role in resolving any disputes that arise between the Customer and the Project Sponsor.

Customer agrees to provide AEP Texas with access to and/or copies of Customer's utility bills, Project documentation, and any other information related to the Project that is necessary for calculation and/or verification of demand savings associated with the Project.

**CUSTOMER AGREES TO RELEASE AEP TEXAS, ITS OFFICERS, DIRECTORS, AGENTS AND EMPLOYEES, AND EACH OF AEP TEXAS' AFFILIATES AND EACH OF THEIR RESPECTIVE OFFICERS, DIRECTORS,**

**AGENTS, AND EMPLOYEES (COLLECTIVELY REFERRED TO AS “AEP TEXAS”), FROM ANY AND ALL CLAIMS, LOSSES, EXPENSES, ATTORNEYS’ FEES, DAMAGES, DEMANDS, JUDGMENTS, CAUSES OF ACTION, SUITS, AND LIABILITY IN TORT, AGREEMENT, OR ANY OTHER BASIS AND OF EVERY KIND AND CHARACTER WHATSOEVER (COLLECTIVELY REFERRED TO AS “CLAIMS”), REGARDLESS OF ANY STRICT LIABILITY OR NEGLIGENCE OF AEP TEXAS, WHETHER ACTIVE OR PASSIVE, EXCEPTING ONLY SUCH CLAIMS, DEMANDS, LOSSES, DAMAGES, COSTS, EXPENSES, LIABILITY, OR VIOLATION OF LAW OR REGULATION AS MAY BE CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF AEP TEXAS.**

**IN WITNESS WHEREOF**, Customer causes this Agreement to be executed by its duly authorized representative.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Company Name: \_\_\_\_\_

Date: \_\_\_\_\_