

At Arcadia Power, we think of ourselves as your energy advocate to navigate a complex and complicated industry. Our mission is to give everyone the chance to know—and decide—what kind of energy they support.

## **Transparent Privacy Policy**

Arcadia Power believes transparency builds trust and is committed to being upfront about our privacy practices, including how we treat your personal information.

## **Bank-Level Payment Security**

We offer bank-level security with PCI-DSS compliance for your payments which is the most stringent level of certification available in the payment industry.

## **On-Time Payment Guarantee**

Once your service starts with Arcadia Power, you will be enrolled in autopay. Each month we take over billing and payments to your utility so you do not have to pay them directly.

## **No Cancellation Fees – Ever**

We're confident you'll love being an Arcadia Power Member, that's why we don't have any commitment or cancellation fee. Move to Europe? Change Your Mind? No problem.

## **We Take Pride in Our Customer Experience**

Your Arcadia Power Membership means you are part of a community. Our team of customer support managers are exceptionally well-trained and are always happy to help.

## **We're on Your Side, as Your Energy Advocate**

Sit back and relax. Arcadia Power is constantly finding new ways to save you energy and money and we'll make sure you know if there's a better deal out there.

## **Table of Contents**

1. [Agreement; Introduction to Website & Services](#)
2. [Definitions](#)
3. [Arcadia Power Services](#)
4. [Payment](#)
5. [Utility or Supplier Account](#)
6. [Fees & Promotions](#)
7. [Actions by Arcadia Power](#)
8. [Your Privacy](#)
9. [Confidentiality and Notices](#)
10. [Compliance with Applicable Laws](#)
11. [Intellectual Property of Arcadia Power and Its Licensors](#)
12. [Notice of Infringement](#)
13. [Third-Party Content and Links to Third-Party Websites](#)
14. [Disclaimer of Warranties](#)
15. [Limitation of Liability](#)
16. [Indemnification](#)

17. [Arbitration of Claims](#)

18. [No Waiver](#)

19. [Miscellaneous](#)

## 1. Agreement; Introduction to Website & Services

These terms of service (“Terms”) form a binding, enforceable contract between you and Arcadia Power and govern your use of [www.arcadiapower.com](http://www.arcadiapower.com) and the Services offered and provided through the Website and other of our websites, mobile and tablet applications, phone, mail, and social media sites. By browsing, registering for, accessing, or using any of the Services, you acknowledge that you have read, understood, and agree to be bound and abide by these Terms, including any additional guidelines referenced in these Terms such as our Privacy Policy. If at any time you do not agree to these Terms, you do not have permission to use the Website and you must immediately terminate your use of the Services. Arcadia Power reserves the right to change the Terms or modify any features of the Services at any time at its sole discretion. Arcadia Power will notify you of any significant changes to our prices, terms, and conditions, however, you are expected to check this page frequently so you are aware of any changes. Any changes to the Terms will be effective immediately. The most current version of the Terms (along with its effective date) will be linked from the homepage on the Website. Your continued use of the Services following any updates to the Terms will be deemed acceptance of the updated Terms.

## 2. Definitions

“Account” or “Arcadia Power Account” means an account that a User creates on the Website or through other means in order to register for use of certain Services.

“Arcadia Power,” “we,” “us” or “our” means Arcadia Power, Inc. and its subsidiaries or assigns.

“Arcadia Power Bill” means the bill you receive from Arcadia Power that includes Fees for any Arcadia Power Services and any Utility or Supplier Statement charges, as applicable.

“Autopay Program” is when payment is deducted through your Payment Method automatically.

“Business Day” is every Monday through Friday, excluding statutory holidays in the USA.

“Consolidated Bill Pay” means the Service of receiving one energy bill that combines amounts due pursuant to your Utility Account(s) with your Arcadia Power Bill.

“Evergreen Bill Pay” means the method for paying your Arcadia Power Bill if you are not enrolled in Consolidated Bill Pay.

“Fee” means the amount due to Arcadia Power for use of the Services.

“Force Majeure” means circumstances beyond Arcadia Power’s reasonable control, including without limitation, acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labor problems or Internet service provider failures or delays.

“Linked Sites” means a third party website available through our Website.

“Payment Account” is the permitted account you designate from which your Arcadia Power Bill payment will be deducted through your Payment Method, including your checking account or credit card account.

“Payment Method” means a permitted payment method used to fund a transaction through the Services, including but not limited to ACH, credit or debit cards.

“Personal Information” means any personally identifiable information concerning a User, including but not limited to the following: name, email address, billing/shipping address, Utility service address, phone number, and credit or debit card number.

“Services” means all our products and services and any other features, technologies and/or functionalities offered by us on the Website or through any other means.

“Standard Offer Service” means electric or natural gas service that a Utility must offer to its customers if they have not chosen a Supplier.

“Supplier” means any entity that offers electric power, natural gas, Utility bill credits, or combinations thereof, for sale to one or more Users in states where available.

“Processing Date” is the date on which your Payment Method is debited or charged, and the payment begins processing.

“User,” “you” or “your” means you and any other person or entity using the Service.

“Utility” means either a regulated electric or natural gas distribution company from which the User receives delivery of electricity or natural gas, or a regulated electric or gas generation, transmission, and distribution company from which a User receives electricity or natural gas.

“Utility Account” means a User’s account with his or her Utility.

“Utility Account Credentials” means User’s Utility Account username, password, and/or account number, and/or any other necessary credentials to access User’s Utility Account or that may be necessary to provide our Services.

“Utility Account Information” means a User’s personal customer information, Utility usage information, Utility bill amounts due, service address and any other information from User’s Utility that may be necessary to provide the Services.

“Utility or Supplier Account Notices” means any communications sent to the User from his or her Utility or Supplier that includes, but is not limited to, notices regarding disconnection, outages past due bills, tariff or rate changes, commercial offers, or other information the Utility or Supplier wishes to communicate to the User.

“Utility or Supplier Statement” means the bill or statement for the User’s use of electricity, natural gas, Utility bill credits, and any other related utility good or service.

“Website” means [www.arcadiapower.com](https://www.arcadiapower.com) (<https://www.arcadiapower.com>), including all subpages and successor pages.

“Wind Energy Renewable Energy Certificates” means the Renewable Energy Certificates bought by Arcadia Power on your behalf.

### 3. Arcadia Power Services

#### Wind Energy Renewable Energy Certificates

If you enroll in this Service, Arcadia Power will purchase wind energy renewable energy certificates on your behalf from certified wind energy producers to offset your electric energy consumption.

Your purchase of Renewable Energy Certificates (RECs) supports renewable electricity production in the region of generation. A REC represents the environmental benefits of 1 megawatt hour (MWh) of renewable energy. For every unit of renewable electricity generated, an equivalent amount of RECs is produced, and by purchasing and pairing RECs with your electricity service you are using and receiving the benefits of that renewable electricity. Your REC purchase also helps build a market for renewable electricity. Increased demand for, and generation of, renewable electricity helps reduce conventional electricity generation in the region where the renewable electricity generator is located. It also has other local and global environmental benefits, which may include emitting little or no regional air pollution or carbon dioxide.

#### WIND ENERGY RENEWABLE ENERGY CERTIFICATES PRICE, TERMS, CONDITIONS

Arcadia Power Wind Energy is a Renewable Energy Certificate (REC) product and does not include electricity, which is provided by your local utility and may or may not be included in your bill from Arcadia Power. You may cancel your agreement to purchase Arcadia Power Wind Energy from

Arcadia Power by calling or emailing customer service at the contact below. Arcadia Power Wind Energy is a Renewable Energy Certificate (REC) product and does not contain electricity. A REC represents the environmental benefits of 1 megawatt hour (MWh) of renewable energy that can be paired with electricity. For more information, see [terms.arcadiapower.com](https://terms.arcadiapower.com).

### **Company**

Arcadia Power Inc.

### **Whom should I contact for more information?**

Call 1-866-526-0083, email [customercare@arcadiapower.com](mailto:customercare@arcadiapower.com), or go to the website at [www.arcadiapower.com](http://www.arcadiapower.com). Our address is 1121 14th St NW, Suite 300, Washington DC, 20005.

### **How will I be billed?**

You will receive monthly statements via email and you can login to your account at <http://www.arcadiapower.com/login> to view current and past statements.

### **How will my bill be calculated?**

For customers enrolled on the 100% Wind Energy plan, Arcadia Power charges a flat per kWh rate of 1.5c per kWh. Your bill will be calculated based on your actual monthly kWh usage as reported on your local utility bill multiplied by your 1.5c per kWh REC rate.

For customers enrolled on the 50% Wind Energy plan, there is no charge for Arcadia Power Wind Energy Renewable Energy Certificates.

For customers who choose our Evergreen plan, your bill will remain the same each month based upon the agreed 1.5¢ per kWh amount selected at enrollment.

For all customers the price of RECs, if any, is in addition to your local utility charges for electricity. There is a \$5 minimum monthly charge for customers enrolled on the 100% Wind Energy or Evergreen plans.

### **Will my rates change over time?**

Your rate is fixed. Arcadia Power will notify you if you rate changes or if there are other significant changes to our prices, terms, and conditions.

### **What sources will be used in my certified product?**

100% Wind, see our Product Content Label below for further details.

### **What other fees might I be charged?**

There are no other fees associated with Arcadia Power.

### **What is the contract period for Arcadia Power Wind Energy?**

There is no contract period for Arcadia Power Wind Energy. You may cancel anytime without penalty.

### **If I want to stop using Arcadia Power, what is the early termination fee?**

There is no termination fee if you decide to stop purchasing Arcadia Power Wind Energy.

## WIND ENERGY RENEWABLE ENERGY CERTIFICATES 2017 PRODUCT CONTENT LABEL 1

Arcadia Power Wind Energy is a Renewable Energy Certificate (REC) product and does not contain electricity. A REC represents the environmental benefits of 1 megawatt hour (MWh) of renewable energy that can be paired with electricity. For more information, see <https://terms.arcadiapower.com>.

Arcadia Power Wind Energy matches 50% or 100% of your electricity usage dependent on the plan. In 2017, Arcadia Power Wind Energy is made up of the following renewable resources.

New Renewables <sup>2</sup> in Arcadia Power Wind Energy		Generation Location
-Wind	100%	National
TOTAL	100%	National

1. These figures reflect the renewables that we have contracted to provide. Actual figures may vary according to resource availability. We will annually report to you before August 1 of next year in the form of a Historical Product Content Label the actual resource mix of the RECs you purchased.

2. New Renewables come from generation facilities that first began commercial operation within the past 15 years.

For comparison, the current average mix of resources supplying the US includes: Natural Gas (34%), Coal (30%), Nuclear (20%), Oil (1%), Hydroelectric (6%), Other Renewables (7%), and Other Gases (<1%). (source: [EIA Net Generation by Energy Source, April 18, 2017](#)).

The average home in the United States uses 897 kWh per month (Source: [EIA FAQ](#))

For specific information about this REC product, please contact Arcadia Power at 866-526-0083, or at [www.arcadiapower.com](http://www.arcadiapower.com).

## WIND ENERGY RENEWABLE ENERGY CERTIFICATES 2016 HISTORIC PRODUCT CONTENT LABEL 1

Arcadia Power Wind Energy is a renewable energy certificate (REC) product and does not contain electricity which is provided by your local utility and may or may not be included in your bill from Arcadia Power. A REC represents the environmental benefits of 1 megawatt hour (MWh) of renewable energy that can be paired with electricity.

For more information, see [terms.arcadiapower.com](https://terms.arcadiapower.com).

Arcadia Power Wind Energy matches 100% of your electricity usage (or percentage of your electricity usage selected at enrollment not less than 25% or 100 kwh), and in 2016 was made up of the following resources:

New Renewables <sup>2</sup> in Arcadia Power Wind Energy	Generation Location
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-Wind	100%	TX, NM
TOTAL	100%	TX, NM

1. These figures reflect the resource mix of the RECs delivered to Arcadia Power's Wind Energy customers in 2016.

2. New Renewables come from generation facilities that first began commercial operation within the past 15 years or less.

For comparison, the current average mix of resources supplying the US includes: Natural Gas (34%), Coal (30%), Nuclear (20%), Oil (1%), Hydroelectric (6%), Other Renewables (7%), and Other Gases (<1%). (source: [EIA Net Generation by Energy Source, April 18, 2017](#)).

The average home in the United States uses 897 kWh per month (Source: [EIA FAQ](#))

For specific information about this REC product, please contact Arcadia Power at 866-526-0083 or [www.arcadiapower.com](http://www.arcadiapower.com).

Arcadia Power reserves the right to cancel, change, or modify any REC contract or program at its discretion. You may cancel this Service at any time by calling 866-526-0083.

## Supplier Brokerage and Agency Agreement

This Service, advertised as Price Alerts or Community Solar, is a service designed to save you money on the supply portion of your electric and/or natural gas bill, or otherwise provide you savings on your Utility bill, via automatic monitoring and enrollment. Arcadia Power will monitor Supplier offers based on historical rates and publication of forward rates, and current contract rates, where available, and your estimated usage. Our goal is to identify offers that you are eligible for and to enroll you in a plan with a total lower annual cost than your current Supplier contract or Standard Offer Service, however Arcadia Power cannot guarantee savings unless such guarantee is offered in the Supplier contract with you.

There is no direct cost to you for this service, and you may cancel at any time by calling 866-526-0083.

Arcadia Power does not warrant that it will monitor all Suppliers or that any Supplier will offer a plan at a lower cost than your current plan. Arcadia Power may, at its discretion, exclude Suppliers or offers that do not conform to commercially acceptable standards or practices. Our Supplier Brokerage Services may not be available to every User, or in every jurisdiction, and we reserve the right to offer this Service at our sole discretion.

You authorize Arcadia Power to solicit electric or natural gas supply prices or Utility bill credits from Suppliers on your behalf as your agent. You further authorize Arcadia Power to act as your agent with the power to express interest in a Supplier's offer, initiate service and enroll you with a Supplier at any time that Arcadia Power believes, in good faith, that a Supplier's offer will keep your supply charge or Utility bill less than, on an annualized basis, if you remained on your current Supplier contract or on Standard Offer Service. **You grant Arcadia Power your explicit, informed, and affirmative consent to initiate service and enroll you with a Supplier, and you authorize Arcadia Power to grant your explicit, informed, and affirmative consent to a Supplier on your behalf. You understand and agree that any such enrollment and initiation of service will occur automatically without your additional consent.**

**By enrolling in our Supplier Brokerage Service, you expressly authorize Arcadia Power to sign Supplier contracts, including community solar subscription agreements, on your behalf. You agree that Arcadia Power may sign such contracts or agreements on your behalf with the signature "[USER FIRST NAME LAST NAME] BY ARCADIA POWER (LOA)" or similar language. You authorize Arcadia Power to act as your agent in signing such contracts or agreements, and you agree that such contracts or agreements will have the same legal effect as if you had signed them yourself.**

You agree that Arcadia Power may share your Utility Account Information and Utility Account Credentials with Suppliers as needed, and in conformity with our Privacy Policy, to accomplish contract solicitation, execution, enrollment, and services post-execution. You further agree that your Utility or a Supplier may share information it has about you to Arcadia Power to accomplish contract solicitation, execution, enrollment, and services post-execution. Arcadia Power may show this Agreement to Utilities, Suppliers, or other authorized parties as required or authorized by law.

You will receive any notifications about potential changes to your Supplier to the email address Arcadia Power has on file for your Account. You will also be able to view the status and history of your Supplier enrollments by viewing past billing information in your Utility Account or as otherwise presented to you by Arcadia Power.

If you join Arcadia Power while on an existing Supplier contract, you may be liable for an early termination fee from your current Supplier if we switch you to another Supplier contract consistent with this Agreement. If you are assessed an early termination fee by the Supplier, which you notify us about, Arcadia Power will reimburse you either by paying the Supplier directly or by crediting your Arcadia Power Bill with an amount equal to the fee. Arcadia Power will also reimburse you for any early termination fee you incur as a result of terminating a Supplier contract that Arcadia Power enrolled you in.

Arcadia Power may receive compensation from the Supplier for Services it provides to you. You consent to this material benefit from a third-party.

You understand that any Supplier contract Arcadia Power enters into on your behalf is for your Supply charges or Utility bill credits only and that other Utility rates will still apply.

### **For Maryland Customers**

You consent that Arcadia Power and the Supplier may receive the following information from the Utility on your behalf:

Account name;

Billing address;

Service address;

Utility account number and any other number designated by the utility as necessary to process an enrollment;

Bill cycle;

Voltage level;

Utility rate class or code;

Load profile;

Meter number;

Meter type;

Multiple meter indicator;

Peak load contribution;

Metered demand;

Billed demand;

Monthly historical demand for the previous 12 months;

Monthly historical consumption for the previous 12 months;

Monthly time-of-use data for the previous 12 months; and

Interval meter data for the previous 12 months.

If Arcadia Power ever quotes you a Supplier price, the price quoted is only for the specified commodity provided by the Supplier and does not include any tax, Utility distribution charge, or other Utility fee or charge; and the Supplier's price is not regulated by the Maryland Public Service Commission.

### **For New York Customers**

If you have a dispute with the Supplier, you can contact the New York State Public Service Commission at their hotline at 1-888-697-7728, or write to them at the Office of Consumer Services, NYS Department of Public Service, 3 Empire State Plaza, Albany, New York, 12223. More information can be found at: <http://www3.dps.ny.gov/W/PSCWeb.nsf/All/5EFBF7F3F195F44985257687006F3954?OpenDocument>

Your Rights as an Energy Services Company Consumer

## ESCO Consumers Bill of Rights

Customers can purchase energy from an Energy Services Company (ESCO) or from a traditional utility. If you choose to purchase energy from an ESCO you are entitled to:

A clear description of the services offered by the ESCO.

Receive energy delivery and 24 hour emergency services from your utility company.

Clear procedures for switching energy suppliers, including information about the enrollment process. Disclosure, in simple and clear language, of the terms and conditions of the agreement between you and the ESCO including:

- price and all variable charges or fees;

- length of the agreement;

- terms for renewal of the agreement;

- cancellation process and any early termination fees, which are limited by law; and o conditions, if any, under which the ESCO guarantees cost savings.

Rescind an agreement with an ESCO within three days of receiving the agreement, if you are a residential customer.

A description of how pre-payment agreements work, if offered.

Notice from the ESCO, no less than thirty days prior to the contract renewal date, of the renewal terms and the options you have as a customer.

A fair and timely complaint resolution process.

Provision of any written documents (contracts, marketing materials, and this ESCO Consumers Bill of Rights) in the same language used to enroll you as a customer.

If you are a residential customer you are also entitled to the rights and protections of the Home Energy Fair Practices Act (HEFPA) which requires that all utility customers be treated fairly with regard to application for service, customer billing, and complaint procedures. For more information go to [www.dps.ny.gov/resright.html](http://www.dps.ny.gov/resright.html). ESCOs that do not assure these consumer rights could lose their eligibility to provide service in New York. Please report any complaints to the Department of Public Service at 1-800-342-3377 (8:30 am – 4:00 pm), by mail at Office of Consumer Services, NYS Department of Public Service, 3 Empire State Plaza, Albany, NY 12223, or online at <http://www.dps.ny.gov>. You can find more information about your energy alternatives by visiting: [www.AskPSC.com](http://www.AskPSC.com)

### For Ohio Customers

You have a right to request from Arcadia Power, twice within a twelve-month period, up to twenty-four months of your payment history without charge.

You can reach Arcadia Power at:

1121 14th St NW, 3rd Floor

Washington, DC 20005

[www.arcadiapower.com](http://www.arcadiapower.com)

866-526-0083

Arcadia Power provides only electric or natural gas brokerage services. See the Terms for more detail on the services we provide and those that are still provided by your Utility and Supplier.

If you have any complaints about your Price Alert service, please call us at 1-866-526-0083. If you have complaints about your Supplier contract or service, or utility service please contact your Utility or Supplier directly. If your complaint is not resolved after you have called your electric supplier and/or your electric utility, or for general utility information, residential and business customers may contact the public utilities commission of Ohio (PUCO) for assistance at 1-800-686-7826 (toll free) from eight a.m. to five p.m. weekdays, or at



<http://www.puco.ohio.gov>. Hearing or speech impaired customers may contact the PUCO via 7-1-1 (Ohio relay service).

The Ohio consumers' counsel (OCC) represents residential utility customers in matters before the PUCO. The OCC can be contacted at 1-877-742-5622 (toll free) from eight a.m. to five p.m. weekdays, or at <http://www.pickocc.org>

This Agreement will remain in effect until cancelled by you or Arcadia Power.

Arcadia Power is your bill-pay agent and energy broker only. The Utility or Supplier is still responsible for billing you for the services they provide you. We do not offer budget billing.

Arcadia Power does not collect your social security number. We are prohibited from disclosing account number(s) without your consent except for our own collections and credit reporting, participation in programs funded by the universal service fund pursuant to section 4928.52 of the Revised Code, or assigning a customer contract to another provider. By agreeing to these terms you agree to the following statement:

I realize that under the rules and regulations of the public utilities commission of Ohio, I may refuse to allow Arcadia Power to release the information set forth above, including my name, account number, and service address to the Supplier. By providing my electronic signature, I freely give my Utility permission to release the information designated above.

If you do not agree to these terms Arcadia Power cannot provide you Price Alert services.

If you switch back to your local electric utility you may or may not be served under the same rates, terms, and conditions that apply to other customers served by the electric utility.

The failure to pay electric utility charges may result in you being disconnected in accordance with the electric utility tariff

The provisions of Section 17 ("Arbitration") shall not apply to Ohio customers. However, you do agree that this Agreement will be governed by the laws of the District of Columbia, excluding conflict of law rules. You agree to submit to the personal and exclusive jurisdiction of the courts located in Washington, D.C.

### **Your Relationship with Your Utility and Supplier**

Arcadia Power does not supply, transmit, or distribute electricity or natural gas and is not affiliated or endorsed by any Utility or Supplier. By using Arcadia Power's Services, you acknowledge and agree that Arcadia Power is acting only as an intermediary and is not a party to any transaction between you and your Utility or Supplier. Accordingly, Arcadia Power assumes no responsibility and will have no liability of any kind whatsoever in respect to your dealings with your Utility or Supplier including with regards to electric or natural gas delivery, payments, notices, and the proper and timely delivery of goods or services by your Utility or Supplier. Arcadia Power in no way endorses, recommends, and/or bears any responsibility or liability for any products, services, statements, made by your Utility or Supplier. Statements and opinions of your Utility or Supplier are not representative of Arcadia Power or its business partners.

Arcadia Power is not liable for the accuracy of your Utility Statement. Any discrepancies or disputes regarding the accuracy of your Utility Statement must be addressed with your Utility or Supplier directly. You understand and agree that any Utility Statement provided to you through the Services may be delayed or prevented by a variety of factors. We use commercially reasonable efforts to provide Statements in a timely manner with accurate information. However, we neither guarantee the delivery nor the accuracy of the content of any Statement. You also agree that Arcadia Power will not be liable for any delays, failure to deliver, or misdirected delivery of any Statement; for any errors in the content of a Statement; or for any actions taken or not taken by your or any third party in reliance on a Statement.

Arcadia Power assumes no responsibility, and will not be liable, for your failure to take any action or inaction with respect to your Utility Account(s) or your failure to receive any information with respect to any Utility Account(s). You agree to hold Arcadia Power harmless should your Utility fail to deliver your Utility Statement(s). You are responsible for ensuring timely payment of all Utility Statements.

These Terms do not alter any liability or obligations that currently exist between you and your Utility. You agree that your relationship

with your Utility is governed solely by the agreement(s) with your Utility.

## 4. Payment

### Consolidated Bill Pay

By using the Services, you may need to enroll in our Consolidated Bill Pay program. Arcadia Power will access your Utility Account on a regular basis and combine your Utility Statement charges with your Arcadia Power Bill, if any, and send you one Consolidated Bill. You understand and agree that you will directly pay Arcadia Power each month for your total Consolidated Bill and that we will facilitate payment of your Utility as your agent and on your behalf. Arcadia Power will send you a notification three (3) days before the payment will be deducted from or charged to your Payment Account.

### Evergreen Bill Pay

Arcadia Power may not offer Consolidated Bill Pay for customers using certain Utilities. If Arcadia Power does not offer Consolidated Bill Pay, you may enroll in our Evergreen Bill Pay program. With Evergreen Bill Pay, Arcadia Power will access your Utility Account, calculate your average kilowatt usage, and assess your Wind Energy Renewable Energy Certificate charge, if any, based on your average kilowatt usage. By enrolling in the Evergreen Bill Pay, you are authorizing and ordering us to initiate automatic deductions or charges based on the Autopay Program instructions you have specified. The payment will be deducted on the date specified by you during Evergreen Bill Pay enrollment. Arcadia Power will send you a notification three (3) days before the payment will be deducted from your Payment Account.

### Monthly Recurring Payments

By choosing Consolidated Bill Pay or Evergreen Bill Pay, or by enrolling in any of our Services that require Consolidated or Evergreen Bill Pay, you authorize and order Arcadia Power to have your Payment Method debited or charged for the amount noted on your monthly Arcadia Power Bill. You understand that this authorization and order will remain in effect until you cancel it in writing, and you agree to notify Arcadia Power of any changes in your account information or termination of this authorization and order at least fifteen (15) days prior to the next billing date. If the above noted payment date does not fall on Business Day, you understand that the payment may be executed on the next Business Day. You understand that because this is an electronic transaction, these funds may be withdrawn from your account each period as soon as the above noted transaction date.

You agree to receive the notice required by 12 C.F.R. § 1005.10(d)(2) only if the difference between your current Consolidated or Evergreen Bill ("Bill") and your previous Bill falls outside of a specific range as defined herein. For business customers, your Bill must be \$5,000 greater than the previous month's Bill. For residential customers, your Bill must be (1) \$1,000 greater than the previous month's Bill and (2) 150% variant greater than the average of your previous six-months Bills. However, if you are a residential customer who has solar power and has an annual "true-up" with your Utility company, your Bill must be \$5,000 greater than the previous month's Bill.

In the case of a transaction being rejected for non-sufficient funds or declined credit you understand that Arcadia Power may at its discretion attempt to process the charge additional times within thirty (30) days. Arcadia Power is not responsible for any overdraft fees, over-the-limit fees, or insufficient fund charges (including finance charges, late fees, or similar charges) charged to you by your financial institution from your failure to maintain a balance in the Payment Account or have available credit in the Payment Method that is sufficient to process our payment. Arcadia Power reserves the right to charge you for any overdraft fees, over-the-limit fees, or insufficient fund charges (including finance charges, late fees, or similar charges) assessed to Arcadia Power that result from your failure to maintain a balance or credit in the Payment Account that is sufficient to process your payment.

You acknowledge that the origination of payment transactions to the Payment Account must comply with the provisions of U.S. law. You will not dispute Arcadia Power's recurring billing with your financial institution, bank or credit card company so long as the transaction corresponds to the terms indicated in these Terms.

Transaction fees may apply for credit card and ACH bank debit payments.

### Electronic Consent Regarding Recurring Payment Authorization

You acknowledge and agree that by accepting these recurring payment terms and conditions in Sections 4.1, 4.2 and 4.3 of these Terms ("Recurring Payment Terms"), you consent to receive a copy of your payment authorization for recurring monthly payments in electronic form only instead of receiving a paper copy. This consent applies only to recurring payment authorizations as to which we are required to provide you with a written copy under applicable law.

We cannot process your online recurring payment authorization unless you are willing to receive, in electronic form only, a copy of the Recurring Payment Terms that we are required to provide to you in writing under applicable law. Once you have accepted the Recurring Payment Terms, you cannot withdraw your consent to receive your copy of the Recurring Payment Terms in electronic form. However, you will still be able to cancel your recurring payment authorization in accordance with Section 4.6 of the Recurring Payment Terms.

If you wish to obtain a paper copy of your recurring payment authorization, you may do so by printing the Recurring Payment Terms yourself or by calling us at 866-526-0083 to request a paper copy. We may charge you a reasonable service charge for the delivery of a paper copy of the Recurring Payment Terms so long as we disclose our then current service charge to you at the time of your request for a paper copy.

## **Delivery of Funds**

We will use reasonable efforts to facilitate your payments properly. Arcadia Power makes no guarantees, warranties, representations or commitments regarding when payments will reach your Utility. You understand and agree that any timeline provided by Arcadia Power regarding payments is an estimate only. Arcadia Power cannot be held responsible for any fees, penalties, or late payment interest charged to you by your Utility or any third party as a result of a delay in payment. However, Arcadia Power will pay any fees, penalties, or late payment interest charges charged to you by your Utility if it determines that a late payment was caused solely by Arcadia Power.

Arcadia is not responsible for any failure to complete or delay in completing any payment due to any of the following:

Your Payment Account does not contain sufficient funds or your Payment Method does not have available credit to complete the payment or the charge is rejected or returned by your bank or financial institution;

The payment processing center is not working properly and you know or have been advised by us about the malfunction before you execute the transaction:

Your Utility rejects or returns the payment for any reason;

Your equipment, software or any communications link is not working properly;

You have provided us with incorrect information about your Utility;

Your Utility mishandles or delays handling or posting any payment;

Circumstances beyond our control (for example, Force Majeure) that prevent or delay the payment from being completed;

You have not provided us with the correct bank account or credit card information; and/or

Your payment was sent to an unintended Utility.

If we facilitate a payment for an incorrect amount, we will use commercially reasonable efforts to recover the incorrect payment from your Utility. If we can recover the incorrect payment that was charged to you, we will return the amount of the incorrect payment to you. If not, we will notify you of that fact and you will be responsible to make appropriate arrangements with your Utility to receive a refund of the credit or have it applied against future balances.

## **Canceling Scheduled Payments**

You may cancel a payment without penalty at any time up to three (3) Business Days prior to the Processing Date. Once Arcadia Power has begun processing a payment it cannot be canceled.

## **5. Utility or Supplier Account**

## Utility Account Access

You authorize Arcadia Power to retrieve, store, and use, on your behalf as your agent, your Utility Account Information and your Utility Account Credentials in order to provide our Services. By submitting your Utility Account Information, you certify and confirm that you are entitled to disclose this Utility Account Information and that you are an authorized user of your Utility Account. Arcadia Power makes no effort to review your Utility Account Information for accuracy.

To allow Arcadia Power to retrieve and use your Utility Account Information, you understand that you must provide Arcadia Power with your Utility Account Credentials. You acknowledge that Arcadia Power may need to periodically change or update your Utility Account Information and Utility Account Credentials in order to use the Services. You agree to allow Arcadia Power to make such changes to your Utility Account(s) on your behalf and as your agent including, but not limited to, changes to your login information, your email address, and your account security questions. You represent, warrant, acknowledge, and agree that you are solely responsible for the accuracy of your Utility Account Credentials.

You acknowledge that Arcadia Power may also need to modify or update your Utility Statement delivery preferences in order to provide Consolidated Bill Pay, which could include modifying your e-billing or auto payment preferences.

You agree to notify Arcadia Power of any changes to your Utility Account Information or Utility Account Credentials. By providing Arcadia Power with your Utility Account Credentials, you certify that you or another member of your household or small business owns the Utility Account(s) associated with your home or business.

You acknowledge and agree that when Arcadia Power is accessing and retrieving your Utility Account Information from third-party sites, Arcadia Power is acting as your agent, and not as the agent for or on behalf of the third-party.

## Utility or Supplier Notices

You authorize Arcadia Power to receive Utility or Supplier Notices on your behalf, where permitted, and you understand and agree that we may not pass along any or all of these Notices to you. You agree that Arcadia Power shall not be liable for any delays, failure to deliver, or misdirected delivery of any Utility or Supplier Account Notices.

## Identity Verification

You authorize Arcadia Power, directly or through third parties, to make any inquiries we consider necessary to verify your identity. This may include asking for you further information, requiring you to take steps to confirm ownership of your email address or financial instruments, and verifying your information against third party databases or through other sources. If you cannot verify your identity, Arcadia Power reserves the right to deny you use of the Services.

## 6. Fees & Promotions

### Fees

You understand and agree that payments facilitated by Arcadia Power may incur a Fee. This Fee will be included on your Arcadia Power Bill. The Fee may vary, depending upon factors, including but not limited to your Utility, the Payment Method, and promotions run by Arcadia Power. The Fee is subject to change at any time and will be disclosed to you prior to payment submission.

### Promotions

From time to time, and in its sole discretion, Arcadia Power may choose to offer discounts, rebates, or other promotions. Such promotions are available for new, first-time Arcadia Power customers only. Customers who already have an Arcadia Power account are not eligible for discounts, rebates, or other promotions.

## 7. Actions by Arcadia Power

If we have reason to believe that you have broken these Terms, we may take various actions to protect Arcadia Power, a third party, or you from fees, costs, expenses, fines, penalties and any other liability. The actions we may take include but are not limited to the following:

We may close, suspend, or limit your access to your Account or the Services;

We may update inaccurate information you provided us;

We may refuse to provide the Services to you in the future;

Arcadia Power may close, suspend, or limit your access to your Account or Services; and

We may take legal action against you.

Arcadia Power, in its sole discretion, reserves the right to terminate access to its Website, to your Account, or to the Services for any reason and at any time upon notice to you.

If we close your Account or terminate your use of the Services for any reason, we will provide you with notice of our actions. If we limit access to your Account, we will provide you with notice of our actions and the opportunity to request restoration of access if appropriate in our sole discretion.

## 8. Your Privacy

Your use of the Services is also governed by our Privacy Policy. By using the Services, you indicate that you understand and consent to the collection, use, and disclosure of your information as described in our Privacy Policy. You further agree that you are licensing your Utility Account Information to Arcadia Power for the purpose of providing the Services. Arcadia Power may use and store the content in accordance with these Terms and our Privacy Policy.

## 9. Confidentiality and Notices

You agree and understand that you are responsible for maintaining the confidentiality and security of your password, which, together with your login ID e-mail address, allows you to access the Services. That login ID e-mail address and password constitute your "Registration Information." We recommend you do not use the same password for other online accounts, such as an online banking account. In order for the Services to function effectively, you must keep your Utility Account Credentials and Registration Information up to date and accurate. If you do not do this, the accuracy and effectiveness of the Services will be affected. If you become aware of any unauthorized use of your Utility Account Credentials or Registration Information, you agree to notify Arcadia Power as soon as reasonably possible at the e-mail address [privacy@arcadiapower.com](mailto:privacy@arcadiapower.com).

Our information collection and use policies with respect to the privacy of such Account Information, Utility Account Credentials, and Registration Information are set forth in the Privacy Policy, which is incorporated herein by reference for all purposes.

By providing us with your email address and phone number, you agree to receive all required notices electronically, to that email address, or through live calls, texts, and/or robocalls to your phone number. It is your responsibility to update or change that address, as appropriate. Email notices will be provided in HTML (or, if your system does not support HTML, in plain-text) in the text of the e-mail or through a link to the appropriate page on our Website, accessible through any standard, commercially available Internet browser.

## 10. Compliance with Applicable Laws

When you access or use the Services, you are required to comply with all applicable laws and any other conditions or restrictions in

any written or online notice from Arcadia Power (including these Terms). As a condition of your access to and use of the Services, you agree that you will not use the Services for any purpose that is unlawful or prohibited by these Terms. The Services are offered for your personal and non-commercial use only, and Arcadia Power does not grant you any express or implied rights to access or use the Services for any other purpose.

Without limiting the generality of the foregoing, you agree not to:

Impersonate any person or entity, whether actual or fictitious, or falsely state or otherwise misrepresent your affiliation with any person or entity;

Interfere with any other users' rights to privacy and publicity, including by harvesting or collecting information from or about users;

Upload or otherwise transmit any communication, software, or materials that contain a virus or is otherwise harmful to Arcadia Power or its users' computers or systems; or

Engage in "spidering," "screen scraping," "database scraping," harvesting of email addresses, wireless address, or other contact or personal information, or any other automatic means of obtaining lists of users or other information from Arcadia Power, including without limitation any information residing on any server or database connected to the Services.

## 11. Intellectual Property of Arcadia Power and Its Licensors

### Copyright

Our Website (including, but not limited to, text, images, photographs, graphics, user interface, screen shots, designs, and computer code, and the selection, coordination, and arrangement of such content) is protected under the copyright laws of the United States and other countries. Arcadia Power owns all copyrights in our Website or its third-party suppliers and licensors to the full extent permitted under the United States Copyright Act and all international copyright laws. Unless expressly permitted in writing, you may not copy, reproduce, distribute, publish, enter into a database, display, perform, modify, create derivative works from, transmit, or in any way exploit any part of our Website, except that you may make use of the content for educational and non-commercial purposes only, provided that you maintain all copyright and other notices posted along with the content.

### Trade and Service Mark Rights

All rights in the company names, trade names, logos, service marks, and slogans of the Services, whether or not appearing in large print or with the trademark symbol, belong exclusively to Arcadia Power or its third-party suppliers and licensors and are protected from reproduction, imitation, dilution, or confusing or misleading uses under national and international trademark and copyright laws. The use or misuse of these trademarks or any materials is expressly prohibited, and nothing stated or implied on our Website confers on you any license or right under any trademark of Arcadia Power, its affiliates, or any third party. To obtain written permission to use the trade and service mark rights of Arcadia Power, please contact Arcadia Power at [info@arcadiapower.com](mailto:info@arcadiapower.com).

## 12. Notice of Infringement

Arcadia Power respects the intellectual property rights of others, and requires that Users do the same. If you believe in good faith that your work has been reproduced or is accessible on our Website in a way that constitutes copyright infringement or that your intellectual property rights have otherwise been violated, please provide Arcadia Power with the following information in writing:

Identification of the copyrighted work or other intellectual property claimed to have been infringed;

Identification of the allegedly infringing material, reference, or link that is to be removed and information reasonably sufficient to permit Arcadia Power to locate the material, reference, or link;

Your name, address and daytime telephone number, and an e-mail address if available, so that Arcadia Power may contact you if necessary;

A statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to

act on behalf of the owner of an exclusive right that is allegedly infringed;

A statement that you have a good faith belief that the use of the material in the manner complained of is not authorized by the copyright or other intellectual property owner, its agent, or the law; and

A physical or electronic signature of a person authorized to act on behalf of the owner of the exclusive right that is allegedly infringed.

Please note that due to security concerns, e-mail attachments will not be accepted. Any notice of infringement submitted electronically with an attachment will not be received or processed. Upon receipt of a notice of claimed infringement (or any statement in conformity with 17 U.S.C. § 512(c)(3)), Arcadia Power will expeditiously remove or disable access to the allegedly infringing content. Arcadia Power may terminate the service privileges of users who repeatedly infringe the copyrights or other intellectual property rights of others.

### **13. Third-Party Content and Links to Third-Party Websites**

You may be able to link from our Website to certain Linked Sites. This includes links from advertisers, sponsors, and small business partners that may use our logo(s) as part of a co-branding relationship. You acknowledge and agree that Arcadia Power has no responsibility for the information, content, products, services, advertising, code, or other materials which may or may not be provided by or through Linked Sites, even if they are owned or run by affiliates or partners of ours, and you rely on the same at your own risk. Links to such websites or resources do not imply any endorsement by Arcadia Power of such websites or resources or the content, products, or services available from such websites or resources. Such Linked Sites are not under our control, and links to other websites are provided solely for the convenience of users. You acknowledge that when you leave our Website by any means, including, but not limited to, when you click on a link that leaves our Website, the website you will land on is not controlled by us and different terms of use and privacy policies apply. If you elect to use or purchase services from third parties, you are subject to their terms and conditions and privacy policy.

### **14. Disclaimer of Warranties**

YOUR USE OF THE SERVICES IS AT YOUR SOLE RISK. THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. Arcadia Power expressly disclaims all warranties of any kind, whether express, implied, or statutory, including, but not limited to the implied warranties of merchantability, fitness for a particular purpose, title, and non-infringement. Arcadia Power makes no warranty that (i) the Services will meet your requirements, (ii) the Services will be uninterrupted, timely, secure, or error-free, (iii) the results that may be obtained from the use of the Services will be accurate or reliable, or (iv) the quality of any products, services, information, or other material purchased or obtained by you through the Services will meet your expectations.

### **15. Limitation of Liability**

You expressly understand and agree that Arcadia Power will not be liable for any indirect, incidental, special, consequential, exemplary damages, or damages for loss of profits including but not limited to, damages for loss of goodwill, use, data, or other intangible losses (even if Arcadia Power has been advised of the possibility of such damages), whether based on contract, tort, negligence, strict liability or otherwise, resulting from: (i) the use or the inability to use the Services; (ii) the cost of procurement of substitute goods and services resulting from any goods, data, information, or services purchased or obtained or messages received or transactions entered into through or from the Services; (iii) unauthorized access to your account information; (iv) statements or conduct of any third party on the Services; (v) late or never received Statements or Notices, or (vi) any other matter relating to the Services. In no event will Arcadia Power's total liability to you for all damages, losses, or causes of action exceed the amount you have paid Arcadia Power in the last six (6) months, or, if greater, one hundred dollars (\$100). Some jurisdictions do not allow the exclusion of certain warranties or the limitation or exclusion of liability for incidental or consequential damages. Accordingly, some of the limitations set forth above may not apply to



you. If you are dissatisfied with any portion of the Services or with these terms, your sole and exclusive remedy is to discontinue use of the Services.

WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ARCADIA POWER DISCLAIMS ALL LIABILITY OF ANY KIND ARISING FROM THE UNAUTHORIZED ACCESS TO OR USE OF YOUR PERSONAL INFORMATION (as defined in the Privacy Policy).

## 16. Indemnification

You agree to release, indemnify, and hold harmless Arcadia Power, its affiliates, and its and their respective officers, employees, directors, members, and agents from any and all losses, damages, costs, expenses (including reasonably attorneys' fees), rights, claims, actions of any kind and injury (including death) arising out of or relating to your use of the Services, your connection to the Services, your use of products or services obtained by or through Linked Sites, your violation of these Terms, or your violation of any rights of another. If you are a California resident, you waive California Civil Code Section 1542, which says: "A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor." If you are a resident of another jurisdiction, you waive any comparable statute or doctrine.

## 17. Arbitration of Claims

Any claim that you might have against Arcadia Power must be resolved through binding arbitration before the American Arbitration Association using its Consumer Arbitration Rules and must be brought within one (1) year of the claim arising.

Any arbitration hearing will be held in Washington, D.C. You understand and agree that you will arbitrate with Arcadia Power in your individual capacity, not as a representative or member of a class. Your claim may not be joined with the claim of any other person, and there will not be authority for any dispute to be arbitrated on a class-action basis. The arbitrator, and not any federal, state, or local court or agency, will have exclusive authority to resolve any dispute relating to the interpretation, applicability, enforceability or formation of these Terms including, but not limited to any claim that all or any part of these Terms is void or voidable.

Any party refusing to comply with an order of the arbitrators will be liable for costs and expenses, including attorneys' fees, incurred by the other party in enforcing the award.

## 18. No Waiver

The failure of Arcadia Power to enforce any provisions of these Terms or respond to a breach by you or other parties will not in any way waive its right to enforce subsequently any terms or conditions of these Terms or to act with respect to similar breaches.

## 19. Miscellaneous

### System Availability

Arcadia Power will use commercially reasonable efforts to make the Services available at all times except for: (a) planned downtime, or (b) any unavailability due to Force Majeure. Planned downtime and routine maintenance and updates may result in temporary unavailability of the Services. We will have no liability to you or any third party in respect of your inability to access the Services at any time.



## **Your Liability**

You are responsible for all fees, costs, expenses, fines, penalties, and other liabilities incurred by Arcadia Power, yourself, or a third-party caused by or arising out of your breach of these Terms and/or your use of the Services. You agree to reimburse Arcadia Power or a third-party of any and all such liability.

## **Choice of Law and Forum**

These Terms are governed by, and must be construed in accordance with, the laws of the District of Columbia. In the event Arcadia Power brings a claim against you, you agree to submit to the exclusive jurisdiction of the federal or local courts located in Washington, D.C.

## **Integration and Severability**

Unless otherwise specified herein, the Terms constitute the entire agreement between you and Arcadia Power and govern your use of the Services. If any portion of the Terms is held invalid or unenforceable, that portion will be construed in a manner consistent with applicable law to reflect, as nearly as possible, the original intention of the parties, and the remaining portions will remain in full force and effect.