

## Commercial Energy *Executing the Sales Agreement*



Champion Energy Services, LLC  
1500 Rankin Road, Suite 200  
Houston, Texas 77073

*Thank you for the opportunity to provide electricity to your company.  
We at Champion Energy sincerely appreciate your business.*

### Easy steps for Commercial Energy Sales Agreement execution:

1. Provide the contact information for your company in the “Notices” section in Addendum “A”
2. An authorized representative of Buyer must sign where indicated on the signature page
3. Initial or sign the Exhibits and Addendum page(s) where and as indicated
4. Sign the Letter of Agency (if applicable)
5. Attach the Sales and Use Tax Exemption Certificate (if applicable)
6. Scan and e-mail the executed Agreement to your Champion Energy Sales Originator.

### Champion Energy Services (“Seller”) will:

1. Immediately after receiving your signed and initialed Agreement, verify that all required information has been received and the Agreement is in good order
2. Hedge the power sold to you
3. Counter sign and initial both executed original Agreements and return one original to you for your records.



## Commercial Energy Sales Agreement

This Commercial Energy Sales Agreement, together with all exhibits, addenda and/or schedules attached hereto or incorporated by reference (collectively, the "Agreement") is entered into and made by and between Champion Energy Services, LLC, (or its affiliate, Champion Energy, LLC) and the buyer of retail electricity (identified herein as "Buyer"). Seller and Buyer may hereinafter be referred to individually as "Party" or collectively as "Parties". Regional requirements and terms, if applicable and capitalized herein will have the meaning ascribed to them herein or in any addendum or exhibit attached hereto.

### The Parties hereby agree as follows:

- 1. Purchase, Sale and Delivery of Electricity:** Subject to the terms and conditions set forth herein, Seller, a licensed retail electricity supplier ("RES"), shall sell and Buyer shall purchase and receive electricity for Buyer's Accounts and Meters as specified in Exhibit "D" ("Buyer's Delivery Point(s)") at the price(s) per kilowatt hour (kWh) specified on Exhibit "A" ("Contract Price"). The electricity will be delivered by Seller's supplier to the specific zone on the transmission system ("Point of Delivery") as identified by the electric distribution company ("EDC" as further defined in Addendum "A") operated by the independent system operator ("ISO" as further defined in Addendum "A"). Delivery of the electricity from the Point of Delivery within the zone for the appropriate Accounts and Meters corresponding to each Buyer Delivery Point will be made by the EDC. Exhibit A will also specify those services, including without limitation scheduling coordination, transmission, and ancillary services, if any, provided by Seller in connection with the supply of electricity to Buyer.
- 2. Metering:** All electricity delivered hereunder ("Usage") shall be and can only be, measured by the EDC at the meters located at each Buyer Delivery Point. Actual Usage shall be the primary method of calculating the monthly charges for Buyer. However, Seller may use estimated Usage if measurements of actual Usage are not received timely from the EDC, in which case Seller will make appropriate adjustments upon receipt of actual Usage. Seller may adjust invoices for any Usage measurement errors in accordance with EDC rules. Seller cannot guarantee that the switch of Buyer's account(s) to Seller will occur by a specific date and Seller shall not be liable for delays in this process caused by the ISO, EDC or the Buyer. The Service Start Date shall be the date upon which a particular Account and Meter is switched to Seller. The Service Start Date is typically the first scheduled read date that occurs on or after the Start Date specified in Exhibit "A," unless an alternate date has been requested by Buyer and agreed to by Seller. If the EDC requires Buyer to install additional metering and/or related equipment at any service address, Buyer will be solely responsible for all charges and arrangements required by the EDC.
- 3. Term:** This Agreement shall be effective as of signing of this Agreement by Buyer ("Effective Date") and shall continue in effect thereafter as to each Buyer Delivery Point for the total number of months (the "Term") specified in Exhibit "A" unless sooner terminated as otherwise provided in this Agreement. Seller is obligated to begin flowing power on the first scheduled meter read date on or after the Start Date in Exhibit "A".
- 4. Pricing:** Buyer will pay the Contract Price times the Usage. The Contract Price per kWh includes electricity commodity charges and the costs identified on Exhibit "B". The costs and all applicable taxes described in Exhibit "C" will be passed-through to Buyer without markup and Buyer shall pay Seller for such costs and taxes. If Buyer's monthly aggregated Usage materially changes by greater or less than twenty-five percent (25%) from the Contract Quantities specified in Exhibit "A" or the Profile (as defined in Addendum A) assigned by the EDC to Buyer's Accounts and Meters changes, Seller may charge Buyer for all excess and under Usage as specified herein. To the extent that Buyer's monthly aggregated Actual Usage exceeds the Contract Quantity by more than 25%, Seller may invoice, and Buyer shall pay, the difference between the actual Usage and the Contract Quantity at the Applicable Market Rate (as defined in Addendum "A"), plus retail margin, the costs identified on Exhibit "B", the costs identified on Exhibit "C" and any other similar charges incurred by Seller. To the extent that Buyer's monthly aggregated actual Usage is less than the Contract Quantity by more than 25%, Seller may invoice, and Buyer shall pay, the difference between the actual Usage and the Contract Quantity, multiplied by the difference between the Contract Price and the Applicable Market Rate (as defined in Addendum "A"). If applicable, any change in Peak Load Contribution ("PLC") Values, as determined by the EDC and specified in Exhibit "A", resulting in an increase in transmission and capacity charges to Seller during the Term of this Agreement will be passed through to Buyer at cost, without markup, if Buyer's consumption or, if applicable, Peak Load Contribution ("PLC") Values as determined by the EDC and specified in Exhibit "A" materially changes as compared to past practice or the Profile (as defined in Addendum "A") assigned by the EDC to Buyer's Accounts and Meters changes, Seller may, in addition to other remedies provided for herein, adjust the Contract Price to account for the adverse change but only to the extent that the adjustments are equal to the actual incremental costs resulting from the change. For Buyer's Usage that is for a time period outside of the Term, Buyer will pay Seller in accordance with the Hold Over Rate terms of Paragraph 7 below. If a broker or consultant was involved in this transaction, the fee or commission associated with such broker or consultant may be included in the Contract Price charged to Buyer.
- 5. Billing & Payment:** Buyer will make payment in accordance with the Billing and Payment terms specified in Addendum "A". Where dual billing is applicable, Buyer will receive a separate invoice from Buyer's EDC, and Buyer shall be solely responsible for payment of such invoice.
- 6. Blend and Extend Rate Adjustment and Term Modification Request:** At any time during the Term of this Agreement, Buyer may request that the Term be extended or shortened and the Contract Price then in effect be modified to support this request. Upon receipt, if Buyer's request is approved by Seller, Seller will use commercially reasonable efforts to present a blend and extend offer to Buyer reflecting a revised new Term and Contract Price ("Blend & Extend Offer"). Buyer will be under no obligation to accept the Blend & Extend Offer presented by Seller. If Buyer rejects the Blend & Extend Offer, all terms, conditions and pricing as originally agreed upon under this Agreement will remain in effect for the remainder of the Term. If Buyer and Seller mutually agree on the Blend & Extend Offer made,

an amendment detailing the new Term and Contract Price will be drafted and executed by authorized representatives of the parties prior to becoming effective.

- 7. Hold Over Rate:** For periods in which Usage occurs outside of the Term Seller may charge Buyer the cost or value of providing electricity to Buyer, based on the Applicable Market Rate (as defined in Addendum "A") plus retail adder, the costs identified on Exhibit "B", if applicable, and any other similar charges incurred by Seller. The Applicable Market Rate excludes Exhibit "C" items, which will be invoiced to Buyer at cost. Appropriate adjustments to the foregoing amounts will be made for partial months. In the event services extend beyond the Term, Buyer's Accounts and Meters will continue to be served under this Agreement except for any rate differential per the above Hold Over Rate terms.
- 8. Disputed Amounts:** If there is a good faith dispute regarding any invoice, Buyer will pay the lesser of either the undisputed amount of any invoice or the prior month's invoice in accordance with the Billing and Payment terms and along with its payment, provide Seller with documentation to support the amount disputed. The Parties will attempt to expeditiously resolve the dispute and upon determination of the correct amount, any amount owed by Buyer to Seller shall be paid within ten (10) business days of resolution of the dispute with interest at the Interest Rate (as defined in Addendum A). All invoices are presumed final and accurate unless such invoices are objected to by Buyer with written notice, including an adequate explanation and supporting documentation of such dispute, being provided to Seller within ~~six (6) months~~ twenty four (24) months from the date that such invoice was delivered to Buyer. In no event shall the disputed portion include a dispute for any items set forth in Exhibit "C", including Taxes.
- 9. Performance Assurance:** At Seller's request Buyer agrees to provide Seller with required information, including pertinent financial information necessary for Seller to assess Buyer's financial position. If, at any time during the Term of this Agreement, Seller determines in its reasonable discretion that Buyer's creditworthiness or ability to perform under this Agreement has become unsatisfactory (including, but not limited to, Buyer's late payment of any amounts due under this Agreement two or more times in any six month period), Seller may require that Buyer provide collateral for its obligations in the form of cash, letter(s) of credit, deposit, corporate or personal guarantees or other security in a form and an amount reasonably acceptable to Seller ("Performance Assurance"). If Buyer fails to provide Performance Assurance within three (3) business days of receipt of such notice by Seller, an Event of Default shall be deemed to have occurred and Seller shall be entitled to any and all remedies set forth in this Agreement.
- 10. Assignment and Binding Effect:** Neither Party may assign this Agreement or any of its rights or obligations under this Agreement without the express written consent of the other Party, which consent shall not be unreasonably withheld. Notwithstanding the above, Seller may, without the consent of Buyer, (a) assign this Agreement to any affiliate or to any party succeeding to a substantial portion of the assets of Seller, or (b) pledge or otherwise collaterally assign its rights under this Agreement to any entity providing extensions of credit to Seller. Any successor or assignee of the rights of either Party shall be subject to all the provisions and conditions of this Agreement to the same extent as though such successor or assignee were the original Party under this Agreement. Any assignment in violation of this Paragraph 10 shall be void.
- 11. Regulatory Events:** If there is a change in law, administrative regulation, tariff, rule, ISO design or structure or other event, including but not limited to an order, judicial decision, statute, or a change in an interpretation or application of any of the foregoing (collectively, a "Regulatory Event") and such Regulatory Event causes Seller to incur any capital, operating, commodity or other costs,

including, but not limited to increased Taxes, relating to the provision of services contemplated herein, Seller shall be permitted to pass through the economic effects of such Regulatory Event to Buyer at cost and without markup. For the avoidance of doubt, an increase in the rate for Network Integration Transmission Service by the EDC or ISO, as applicable and as approved by the FERC, shall be considered a Regulatory Event.

~~**12. Confidentiality:** Neither Party shall disclose, unless authorized in writing by the other Party, the terms of this Agreement to a third party (other than the Party's affiliates, employees, lenders, counsel, consultants, accountants and other parties who have agreed to keep such terms confidential), except in order to comply with applicable law, order or regulation. Each Party shall notify the other Party immediately in writing of any proceeding of which it is aware which may result in disclosure. The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with this Paragraph 12.~~

~~**13.12. Event of Default:** The occurrence of any of the following shall be deemed an "Event of Default" under this Agreement: a) a representation or warranty made by a Party to this Agreement proves to have been false or misleading in any material respect when made or ceases to remain true during the Term (excluding the Buyer-only representations and warranties in Paragraph 22, subsections (a), (b) and (c) regarding Contract Quantities and Usage, which the Parties agree will not be a basis for an Event of Default, if such representation was materially true and accurate when made); (b) the failure of a Party to perform any covenant set forth in this Agreement which is not excused by Force Majeure or cured within ~~five (5) ten (10)~~ business days after written notice of such is provided; (c) Buyer is late in the payment of two (2) or more invoices in any six (6) month period that is not cured within ten (10) business days after notice thereof; (d) the failure of Buyer to provide Performance Assurance in accordance with Paragraph 9; (e) the failure of Buyer to utilize Seller as its sole supplier of electricity for the Accounts and Meters specified on Exhibit "D" at any time during the Term (including but not limited to a switch of Buyers electric service to another retail electric provider resulting in an early termination of this Agreement); (f) a Party makes an assignment or any general arrangement for the benefit of creditors or otherwise becomes bankrupt or insolvent; or (g) the EDC disconnects service to one or more of Buyer's Accounts and Meters as a result of Buyer's non-performance. Upon the occurrence of an Event of Default, the Party not committing the Event of Default ("Non-Defaulting Party") shall have the right to terminate this Agreement in accordance with the terms of Paragraph 14, Termination and Remedies in the Event of Default, in addition to all other rights and remedies available hereunder.~~

~~**14.13. Termination and Remedies in the Event of Default:** Where there exists an Event of Default, the Non-Defaulting Party shall have the right to terminate this Agreement upon written notice being provided to the Defaulting Party (a "Termination"). In the event of such Termination, the Non-Defaulting Party shall be entitled to receive an amount (the "Settlement Amount") equal to the Replacement Value (as defined below) of this Agreement. For purposes hereof: (a) "Replacement Value" for Seller (as Non-Defaulting Party) shall mean [Contract Value plus Costs] minus Market Value, so long as the Contract Value plus Costs is greater than Market Value and "Replacement Value" for Buyer (as Non-Defaulting Party) shall mean the positive amount, if any, by which the Market Value plus Costs exceeds the Contract Value; (b) "Contract Value" means the price for the Remaining Volume as set forth in the applicable Exhibit; (c) "Market Value" means the amount, as determined by the Non-Defaulting Party as of the effective date of the termination in accordance with this Section 14 that a bona fide third party would pay for the Remaining Volume at current market prices; (d) "Remaining Volume" shall mean the remaining~~

unpurchased quantity of electricity through the end of the applicable Term for Buyer's Accounts and Meters corresponding to Buyer's Delivery Point(s) serviced under this Agreement and specified on Exhibit "D"; and (e) "Costs" mean transaction costs and expenses reasonably incurred by, or on behalf of, the Non-Defaulting Party in terminating, liquidating, or obtaining any arrangement pursuant to which it has hedged its obligations, or, in which it must secure alternative electricity supply, including attorneys' fees, reasonable expenses and costs, if any, incurred in connection with enforcing its rights under this Agreement. In determining "Market Value", the Non-Defaulting Party may consider, among other things, quotations from leading dealers in the wholesale energy industry, the Non-Defaulting Party's internally developed forward price valuations, and other bona fide offers from either third parties or Affiliates of the Non-Defaulting Party, all as commercially available to the Non-Defaulting Party and adjusted for the length of the remaining Term and differences in transmissions costs, volume, and other factors, as the Non-Defaulting Party reasonably determines. Payment shall be due from the Defaulting Party within five (5) days of receipt of invoice from the Non-Defaulting Party. The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other arising from this Agreement through netting, in which case all amounts owed by each Party to the other Party shall be netted so that only the excess amount remaining due shall be paid by the owing Party. The Parties expressly acknowledge that upon an Event of Default, damages would be difficult to ascertain and quantify and agree that this provision for calculating damages is reasonable in light of the anticipated or actual harm and is not a penalty.

**15.14. Force Majeure:** Except with regard to a party's obligation to make payment due hereunder, if either Party is rendered unable, wholly or in part, to perform its physical obligations under this Agreement (including but not limited to the delivery or receipt of electricity hereunder) due to Force Majeure, the obligations of each Party will be suspended for the duration of any inability to perform for up to twenty (20) consecutive days. A Party claiming Force Majeure (the "Claiming Party") will notify the other Party ("Non-Claiming Party") by written confirmation as soon as practicable, describing the nature, and estimated duration of such inability to perform. The cause of such inability to perform will be remedied with all reasonable dispatch. "Force Majeure" means any event or occurrence (including, but not limited to "Acts of God") that is beyond the control of a Party and that: (a) is not the result of the negligence of the Claiming Party; and (b) which, by the exercise of due diligence, the Claiming Party is unable to avoid or cause to be avoided. Force Majeure shall include, a condition resulting in the curtailment or disruption of firm electricity supply or the transmission on the electric transmission and/or distribution system, including a Force Majeure event experienced by any utility, EDC, ISO or governmental agency. A claim of Force Majeure may not be based on: (a) Buyer's inability to economically use electricity purchased under this Agreement; (b) Buyer's election to close, sell, abandon or materially curtail or discontinue operation of Buyer's facilities due to any economic circumstance; (c) a Party's inability to acquire electricity at a particular price; or (d) Seller's ability to sell electricity at a price above the Contract Price. Force Majeure shall not excuse Buyer's failure to make payments in a timely manner for electricity supplied by Seller before a Force Majeure event or during a Force Majeure event provided the electricity is delivered and received pursuant to the terms of this Agreement and any effective Exhibit.

**16.15. Forward Contract:** The Parties acknowledge and agree that this Agreement and the transaction(s) contemplated under this Agreement constitute a "forward contract" within the meaning of the United States Bankruptcy Code, and the Parties further acknowledge and agree that each Party is a "forward contract merchant" within the meaning of the United States Bankruptcy Code.

**17.16. Indemnification:** ~~To the extent allowed by law, each Party will indemnify, defend and hold harmless the other Party, its officers, agents, and employees from any claims, damages and actions of any kind arising from personal injury (including without limitation, death), tangible property damage or loss and/or lost profits arising from or out of any event, circumstance, act or incident occurring or existing with respect to the energy provided pursuant to this Agreement, while control and title to the energy is vested in the indemnifying Party. This provision survives the termination or expiration of this Agreement. As between the Parties, Buyer assumes full responsibility for the electricity on the Buyer's side (downstream) of the Point of Delivery and agrees to and shall indemnify, defend and hold harmless Seller, its officers, agents, and employees from and against all claims, damages and actions of any kind (hereinafter collectively referred to as "Claims"), including Claims for personal injury, death, tangible property damage or loss occurring on Buyer's side of the Point of Delivery, arising from or out of any event, circumstance, act or incident occurring or existing with respect to the electricity and/or Buyer's performance under this Agreement. Seller assumes full responsibility for the electricity on the Seller's side (upstream) of the Point of Delivery and agrees to and shall indemnify, defend and hold harmless Buyer, its officers, agents, and employees from and against all Claims, including Claims for personal injury, death, tangible property damage or loss occurring on Seller's side of the Point of Delivery, arising from or out of any event, circumstance, act or incident occurring or existing with respect to the electricity and/or Seller's performance under this Agreement. It is understood that Seller is not responsible for the physical infrastructure necessary for the physical delivery of the electricity and as such Seller will not be responsible or liable for any damages associated with the failure to deliver the electricity or for any damages alleged to have arisen from the electricity while it is between the Point of Delivery and Buyer's Delivery Points. Buyer acknowledges that Seller does not own or control any of the transmission or distribution facilities used to deliver the electricity, which is solely the responsibility of the ISO and/or EDC. Seller, therefore, shall not be liable on account of the acts or omissions of such entities for any interruption, failure or delay in the delivery of electricity arising therefrom. Buyer should contact its EDC in the event of an emergency or outage. These provisions survive the termination or expiration of this Agreement.~~

**18.17. Limitation of Remedies, Liability, Damages & Disclaimer of Warranties:** FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY IS PROVIDED, SUCH EXPRESS REMEDY WILL BE THE SOLE AND EXCLUSIVE REMEDY. IF NO EXPRESS REMEDY IS PROVIDED, A PARTY'S LIABILITY WILL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY. NEITHER PARTY WILL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. THE PARTIES INTEND THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSES RELATED THERETO INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE CHARACTERIZED OR DEEMED TO BE LIQUIDATED DAMAGES, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE LIQUIDATED DAMAGES CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES SET FORTH IN PARAGRAPH 22, SELLER EXPRESSLY DISCLAIMS AND MAKES NO WARRANTIES, WHETHER WRITTEN OR ORAL, WITH RESPECT TO THE ELECTRICITY SUPPLIED UNDER THIS AGREEMENT, INCLUDING EXPRESS, IMPLIED OR STATUTORY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR

PURPOSE. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, THE LIMITATIONS SET FORTH IN THIS PARAGRAPH SHALL SURVIVE THE EXPIRATION OR EARLY TERMINATION OF THIS AGREEMENT. FURTHER, IT IS UNDERSTOOD THAT SELLER SHALL NOT BE LIABLE FOR MATTERS WITHIN THE CONTROL OF THE EDC OR THE ISO, WHICH MAY RESULT FROM THE MAINTENANCE OR OPERATION OF ELECTRIC LINES AND SYSTEMS.

**19.18. No Third Party Beneficiaries; Relationship of the Parties:**

There are no third party beneficiaries to this Agreement. Seller and Buyer agree that nothing in this Agreement shall be construed to constitute or imply a joint venture, partnership or association or the creation or existence of any fiduciary duty, or similar obligation or liability between Seller and the Buyer. Seller will not provide, and nothing herein will be construed as the provision of, advice regarding the value or the advisability of trading in "commodity interests" which would cause Seller or an affiliate to be considered a commodity trading advisor under the Commodity Exchange Act, 7 U.S.C. § §1-25, et seq., as amended.

**20.19. Taxes:**

Buyer will be responsible for, pay, and indemnify Seller for all Taxes, whether imposed on Buyer or Seller with respect to the sale, delivery and purchase of electricity. Seller may collect such Taxes from Buyer by invoicing Buyer for the amount of such Taxes. If applicable, Buyer will provide all requested sales and use exemption certificates and information and until provided, Seller will not recognize any exemption. "Taxes" shall mean without limitation, all ad valorem, property, occupation, utility, gross receipts, sales, use, franchise, assessment fees, excise and other taxes, governmental charges, emission allowance costs, licenses, permits and assessments, and any such similar taxes other than taxes levied on net income, net worth or Seller's real or personal property.

**21.20. UCC:**

Except as otherwise provided in the Agreement, the Uniform Commercial Code ("UCC") or such similar collection of statutory provisions as may have been adopted and are in effect in the Delivery State (as defined in Addendum "A") shall apply to this Agreement and electricity shall be a "good" for purposes of the UCC.

**22.21. Representations and Warranties:**

As of the Effective Date hereof, each Party represents and warrants to the other that: (a) it is duly organized, validly existing and in good standing both in the jurisdiction of its formation and in the jurisdiction where the facility(ies) receiving electricity under this Agreement are located; (b) it has all regulatory authorizations, permits and licenses necessary for it to legally perform its obligations under this Agreement; (c) it has not filed, does not plan to file, or had any bankruptcy proceeding filed against it; (d) it has reviewed and understands this Agreement and the execution, delivery and performance of this Agreement has been duly authorized and is a valid and enforceable obligation; and (e) it is not a party to or subject to any commitment that may restrict or interfere with the delivery or receipt of electricity under this Agreement. Buyer further represents to Seller during the Term that: (a) it intends to operate its business in substantially the same manner as it has in the previous 12 months and that the Contract Quantities and, if applicable, its current PLC Values or peak load reasonably reflect Buyer's anticipated consumption; (b) it understands Seller is relying on this representation to purchase products and services (in quantities that closely resemble Buyer's consumption pattern of the previous 12 months) from third parties to serve Buyer's electricity requirements for the Term of this Agreement; (c) it understands that if it operates its meter(s) inconsistent with its usual and customary manner it may cause material detrimental financial impact to Seller and that Seller will pass along the impact of such changed consumption to Buyer; (d) the information provided concerning its Accounts and Meters is true and correct; (e) any transactions entered into by Buyer related to this Agreement are understood by Buyer and made at Buyer's sole election in the exercise of independent judgment and Buyer assumes any risk associated with them; and (f) it is purchasing commercial energy strictly for its own use and

throughout the term of this Agreement that no Accounts and Meters at Buyer's Delivery Point(s) listed on Exhibit "D" are or will be classified by the applicable Public Utility Commission as a residential or small business account.

**23.22. Governing Law; Counterparts:**

This Agreement will be interpreted in accordance with the substantive and procedural laws of the State of Texas without giving effect to laws and rules governing conflicts of laws. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement may be executed and be deemed binding through the use of facsimile signatures.

**24.23. Severability:**

If any provision of this Agreement is held to be invalid, its invalidity shall not affect the validity of any other provision of the Agreement.

**25.24. Survival of Obligations:**

All confidentiality, indemnity, liability limitation, disclaimer provisions and the rights and obligations that, by their nature, would continue beyond the termination, cancellation, or expiration of this Agreement, shall survive such termination, cancellation or expiration.

**26.25. Entirety of Agreement; Modification:**

It is the intention of the Parties that this Agreement, together with all exhibits, addenda and/or schedules attached hereto or incorporated by reference (collectively, the "Agreement") shall contain all terms, conditions and protections in any way related to or arising out of, the sale and purchase of the electricity, and supersedes, for the Term, all prior agreements between the Parties, whether written or oral, as to the terms specified herein. This Agreement may not be modified or amended except in a written form that is subsequently duly executed by the Parties hereto. No amendment or modification shall be made to this Agreement by course of performance, course of dealing or consumption of trade, or by the failure of a Party to object to a deviation from the terms of this Agreement.

**27.26. Notices:**

All notices required or permitted to be given under this Agreement shall be in writing and may be sent by facsimile or mutually acceptable electronic means, overnight courier, first class mail or hand delivered. The addresses of the Parties for such notices are set forth in Addendum "A".

**28.27. Authorization of Data:**

Buyer shall, if necessary and as appropriate, designate Seller to the ISO and/or EDC as an authorized recipient of Buyer's current and historical electricity billing and usage data.

**29. Requirements Service:** To the extent that Buyer operates health care or other facilities for which it maintains emergency generators, use of such generators in an outage or Force Majeure situation or for required testing purposes for limited periods is allowed.

**30. Non-Appropriation:** Buyer intends to make all required contract payments for the full term of this Agreement, however, Buyer and Seller agree that if Buyer's governing body is not able to appropriate sufficient funds and has no other legally available funds to continue the purchase of electricity covered by the Agreement, Buyer may terminate this Agreement at the end of Buyer's fiscal year affected thereby, by giving written notice to Seller to that effect, and as of Buyer's termination date, Seller shall have no further duty to supply electricity to Buyer. Buyer agrees to notify Seller in writing of such non-appropriation at the earliest practicable time subsequent to the failure to appropriate.







Champion Energy Services, LLC  
1500 Rankin Road, Suite 200  
Houston, Texas 77073

## Commercial Energy Sales Agreement—Addendum A Texas

### Addendum A

to the Commercial Energy Sales Agreement dated as of 10/23/2012~~01/01/2014~~,  
between  
Champion Energy Services, LLC (“Seller”), and the City of Corpus Christi— (“Buyer”).

Field Code Changed

### Part 1. Definitions:

The following terms shall have the meanings set forth below when used in the Agreement or in this Addendum.

- “Accounts and Meters” means Buyer’s Electric Service Identifier(s) or ESI ID(s) which is a unique number in the ERCOT market given to a Buyer’s Delivery Point(s).
- “Applicable Market Rate” means ERCOT’s applicable Real Time Nodal Load Zone LMP Price.
- “Delivery Point Change Criteria” means the Forecasted Usage of Buyer or the profile or area/zone that served as the basis for Seller’s determination of the initial Contract Price.
- “Delivery State” means the State of Texas.
- “EDC” means the applicable local transmission and distribution service provider (“TDU”).
- “ISO” means the Electric Reliability Council of Texas (“ERCOT”).
- “Profile” means load profile.
- “PUC” means the Public Utility Commission of Texas (“PUC”).
- “RES” means a retail electric provider.

### Part 2. Additional Terms:

- (a) **Metering:** Seller may adjust invoices for any Usage measurement errors in accordance with TDU rules.
- (b) **Pricing:** A Contract Price specified on Exhibit “A” as a Real Time LMP Rate shall mean the Buyer’s price per kWh will be the weighted average Nodal as published by ERCOT for the billing period plus the LMP Adder. The LMP Adder is inclusive of all non-utility charges including ancillary services, congestion, losses, unaccounted for energy, qualified scheduling entity (“QSE”) fees and other ERCOT ISO charges or administrative fees incurred in connection with the delivery of energy.
- (c) **Billing & Payment:** Seller will invoice Buyer the total amount due for electricity delivered to Buyer during each month according to Seller’s regular billing cycle. Such invoice shall also include all applicable Taxes, TDU Charges and other charges allowed pursuant to this Agreement. Payment shall be due within sixteen (16) days after the applicable invoice date. All past due invoices will incur a late payment charge of 5% of the invoice amount and the outstanding balance will accrue interest at the lesser of 1% per month or the maximum amount allowable by law (the “Interest Rate”). Seller charges \$25.00 for each returned check or each ACH. Buyer shall be responsible for any and all costs, attorney and legal fees incurred by Seller for the collection of any outstanding balance owed by Buyer.
- (d) **Repair Services:** Seller consents to Buyer directly instructing the TDU to perform repair services and Seller shall invoice Buyer for the actual costs billed to Seller by the TDU for the performance of such repair services.
- (e) **Buyer Protection Rules:** Buyer and Seller acknowledge and agree that the Buyer Protection Rules enacted by the PUC (Substantive Rules, Section 25, Subchapter R), that were written to protect residential and very small commercial consumers, do not apply to this Agreement. If there is any conflict between the Buyer Protection Rules and this Agreement, the Parties acknowledge that this Agreement will control.

(f) **No On-Site Buyer Generation:** The Contract Price for the Term specified herein is conditioned on Buyer's warranty that, as to the Buyer's Delivery Point(s) at the Service Address(es) listed on Exhibit D, (i) Buyer does not own any on-site generation (except for emergency back-up generation used when the EDC is not capable of delivering energy) or thermal storage capabilities ("On-Site Energy Generation") and (ii) if Buyer, at any time during the Term of this Agreement, intends to purchase On-Site Energy Generation equipment or commence operations in furtherance of On-Site Energy Generation and related services, Buyer will provide Champion with a minimum of sixty (60) days prior written notice. Buyer acknowledges and understands that the use of On-Site Energy Generation during the Term of this Agreement will materially impact both the historical consumption data relied upon by Seller in entering into this Agreement and Buyer's Usage for the remainder of the Term and therefore, use of such On-Site Energy Generation without Seller's written consent is a material breach of this Agreement.

(g) **Texas Prompt Payment Act Terms:** In accordance with the Texas Prompt Payment Act, if Buyer qualifies as a governmental entity (See Texas Government Code, Chapter 2251), payment is due Champion thirty (30) days from the date the electricity is delivered or a correct invoice is received, whichever is the later of the two. If Buyer, in good faith, disputes a payment, Buyer must notify Champion of an error in an invoice submitted for payment by Champion not later than the 21st day after the date Buyer receives the invoice. If the dispute is resolved in favor of Champion, then Champion is entitled to receive interest on the unpaid balance of the invoice beginning on the date the payment for the invoice is overdue. A payment is considered overdue beginning the 31st day (from the date the electricity was delivered or a correct invoice is received, whichever is the later of the two). If the dispute is resolved in favor of the Buyer, Champion shall submit a corrected invoice that must be paid in accordance with Section 2251.021.

The unpaid balance accrues interest as provided by this chapter if the corrected invoice is not paid by the appropriate date. The rate of interest used to calculate the interest amount due, is the rate in effect on September 1st of the fiscal year in which the payment becomes overdue. The interest calculation is one percentage point higher than the prime rate published in the Wall Street Journal on the first business day of July of the preceding fiscal year.

(h) Champion Energy Services, LLC is licensed by the Public Utility Commission of Texas, license number 10098.

### Part 3. Notices

	Buyer's Notice — Addendum		Champion Energy Notices
	Contract Issues	Invoicing	
Attention:			Contract Manager
Address:			1500 Rankin Road, Suite 200
City, State, Zip:			Houston, Texas 77073
Telephone:			281.653.5090
Facsimile:			281.653.1810
E-mail:			Please e-mail your Champion Energy Sales Representative
Federal Tax ID:			20-1466960
Invoice Type:	<input type="checkbox"/> One summary bill to be sent to the Billing Address. <input type="checkbox"/> Individual bills per account, to be sent to the Billing Address. <input type="checkbox"/> Individual bills per account, to be sent to the Respective Service Address.		
Invoice Delivery Method:	<input type="checkbox"/> E-mail bill delivery <input type="checkbox"/> Mail bill delivery		

**Tax Exemption Notice:** If Seller does not receive the proper tax exemption documentation within thirty (30) days of enrollment date, Buyer must petition the Delivery State for any tax refunds due.

\_\_\_\_ Buyer's Delivery Points are not tax exempt  
(Initials)

\_\_\_\_ Buyer's Delivery Points are tax exempt  
(Initials)



IN WITNESS WHEREOF, the Parties, by their respective duly authorized representatives, have executed this Agreement effective as of the Effective Date. This Agreement will not become effective as to either Party unless and until executed by both Parties.

**Buyer:**

**Seller: Champion Energy Services, LLC**

12/5/2013 12/3/2013 12/3/2013 12/3/2013 8/2/2013 10/23/2012

(Signature) (Date) (Signature) (Date)

(Name) (Name)

Authorized Signatory

(Title) (Title)

## Contact Information

### Champion Energy Services, LLC

1500 Rankin Road, Suite 200  
Houston, TX 77073  
**Phone:** 281.653.5090  
**Toll-free:** 877.653.5090  
**Website:** [www.championenergyservices.com](http://www.championenergyservices.com)  
**E-mail:** [support@championenergyservices.com](mailto:support@championenergyservices.com)

Champion Energy is licensed by the Texas Public Utility Commission as a REP to offer and supply electric generation services in Texas. Champion Energy's license number is 10098.

### Public Utility Commission of Texas

PO Box 13326  
Austin, Texas 78711-3326  
**Toll Free:** 1.888.782.8477  
**Fax:** 512.936.7003  
**TTY:** 512.936.7136  
**E-mail:** [customer@puc.state.tx.us](mailto:customer@puc.state.tx.us)  
**Website:** [www.puc.state.tx.us](http://www.puc.state.tx.us)

Customer Protection Division: 512.936.7120

**For Emergencies, Outages and Equipment Service, call your respective TDU ("Poles & Wires" company) below.**

**CenterPoint Energy, Inc.**  
*Houston and surrounding areas*

**Service:** 800.332.7143  
**Outages:** 800.332.7143  
**Website:** [www.centerpointenergy.com](http://www.centerpointenergy.com)

**Oncor**  
*Dallas – Fort Worth and West Texas*

**Service:** 888.313.6862  
**Outages:** 888.313.4747  
**Website:** [www.oncor.com](http://www.oncor.com)

**TNMP**  
*South Central Coast, Far West and North Texas*

**Service:** 888.866.7456  
**Outages:** 888.866.7456  
**Website:** [www.tnmp.com](http://www.tnmp.com)

**AEP Texas**  
*Central, South and West Texas*

**Service:** 877.373.4858  
**Outages:** 866.223.8508  
**Website:** [www.aeptexas.com](http://www.aeptexas.com)