

IM Power Rewards: Water Heater Pilot

STANDARD TERMS AND CONDITIONS

These Standard Terms and Conditions for Customers and the Customer Participation Agreement (collectively, the "**Agreement**") are made and entered into by and between Indiana Michigan Power Company ("I&M"), and Customer for the purpose of evaluating and installing a load control switch (for residential electric water heaters) ("**LCS**") under the Program funded by I&M. I&M and Customer may be referred to in this Agreement individually as a "Party" and collectively as the "Parties." In consideration of the mutual covenants and agreements set forth below, the adequacy and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **ACCESS AND PARTICIPATION.** Customer agrees to support I&M and its contractor and assign a representative to facilitate services provided under this Agreement. Customer acknowledges its intent to have LCS installed. Customer agrees to allow I&M and contractor to access its facilities, energy use and cost information for the purposes of implementing this Agreement. If Customer is a tenant, Customer represents that by signing this document he or she has obtained the property owner's permission to install LCS under this Agreement. Customer agrees not to use the name or identifying characteristics of I&M or its contractors for any advertising, sales promotion, or other publicity of any kind. Customer also confirms that it has not and will not enroll in another demand response or direct load control program with I&M. The Program may be modified or terminated without prior notice and this Agreement is subject to modifications by I&M.
2. **ELIGIBILITY.** I&M determines eligibility of Customers at its sole discretion. I&M may request verification of eligibility requirements at any time during the Program period. Customer agrees to allow the installation of all LCS' provided by I&M under this Program; provided, however, that if the Customer does not install all LCS', then it shall return any uninstalled LCS' to I&M.
3. **DEMAND RESPONSE/LOAD CONTROL PILOT MEASURE.** Customer agrees that the LCS is being provided by I&M at no additional cost in return for active participation in the pilot. If AMI meter data indicates that the LCS is not in use, Customer acknowledges that I&M will not provide bill credits supplied for event participation.
4. **AUDITING, MONITORING AND VERIFICATION.** Customer also agrees to allow I&M and contractor, to access its facilities for the purpose of confirming Customer's participation in the Program, inspecting installed LCS, and verifying the energy savings achieved through the Program. Customer agrees to cooperate with I&M and contractor, as necessary. Customer also agrees to remedy any issue arising from auditing and monitoring results at no additional cost within the timeframe provided by the Program. Customer understands that any incentives may be withheld if Customer refuses to participate in any required verification within a reasonable period. Customer verifies that all LCS' are installed in accordance with all applicable federal, state and local laws and manufacturer's specifications.
5. **CONFIDENTIALITY.** I&M shall keep Customer information confidential. Only contractor and I&M and the Michigan Public Service Commission ("MPSC") shall be granted access to Customer data as needed or required. I&M will not use the name or identifying characteristics of Customer in advertising sales promotion or other publicity without Customer's written approval.
6. **NO WARRANTY.** I&M, ITS AFFILIATES, EMPLOYEES, AGENTS, REPRESENTATIVES, AND CONTRACTORS MAKE NO REPRESENTATIONS OR WARRANTIES, AND ASSUME NO LIABILITY WITH RESPECT TO QUALITY, SAFETY, PERFORMANCE, OR OTHER ASPECT OF ANY LCS INSTALLED PURSUANT TO THIS AGREEMENT AND EXPRESSLY DISCLAIM ANY SUCH REPRESENTATION, WARRANTY OR LIABILITY, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT. NOTHING IN THIS AGREEMENT SHALL BE CONSTRUED TO CREATE ANY DUTY TO, ANY STANDARD OF CARE WITH REFERENCE TO, OR ANY LIABILITY TO ANY THIRD PARTY. I&M, ITS AFFILIATES, EMPLOYEES, AGENTS, REPRESENTATIVES, AND CONTRACTOR SHALL NOT BE RESPONSIBLE FOR COSTS OR CORRECTIONS OF CONDITIONS ALREADY EXISTING IN THE FACILITIES INSPECTED WHICH FAIL TO COMPLY WITH APPLICABLE LAWS AND REGULATIONS.
7. **INDEMNIFICATION; LIMITATION OF LIABILITY.** CUSTOMER AGREES TO INDEMNIFY AND HOLD HARMLESS I&M AGAINST ALL LOSS, DAMAGES, COSTS, EXPENSES AND LIABILITY ARISING FROM ANY CLAIMS RELATED TO ANY PRODUCTS INSTALLED OR SERVICES PERFORMED DURING THE INSTALLATION OR MAINTENANCE OF THE LCS. NEITHER I&M, ITS AFFILIATES, EMPLOYEES, AGENTS, REPRESENTATIVES, AND CONTRACTORS NOR CUSTOMER SHALL BE LIABLE TO EACH OTHER FOR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES RELATED TO THIS AGREEMENT.
8. **MISCELLANEOUS.** This Agreement shall be governed by and construed under the laws of the State of Michigan, without regard to conflict of law rules. The parties agree that all actions, disputes, claims and controversies arising out of or relating to this Agreement or the work performed hereunder will be subject to binding arbitration administered in the county where the Customer is located by the American Arbitration Association under its Commercial Arbitration Rules and judgment on the award may be entered in any court having jurisdiction. Customer shall not assign, delegate or subcontract this Agreement or its duties thereunder, in whole or in part, voluntarily or involuntarily (including a transfer to a receiver or bankruptcy estate) without the prior written permission of I&M. I&M may assign its rights and delegate its duties under this Agreement to any third party at any time without Customer's consent. If any provision of this Agreement is invalid or unenforceable in any jurisdiction, the other provisions in this Agreement shall remain in full force and effect in such jurisdiction and shall be liberally construed in order to effectuate the purpose and intent of this Agreement. The invalidity or unenforceability of any provision of this Agreement in any jurisdiction shall not affect the validity or enforceability of any such provision in any other jurisdiction. The failure of either Party to enforce strict performance by the other of any provision of this Agreement, or to exercise any right available to the Party under this Agreement, shall not be construed as a waiver of such Party's right to enforce strict performance in the same or any other instance. Sections 1 and 4 through 7 shall survive the term of this Agreement.