

## **FirstEnergy Home Surge Assist Program Terms and Conditions - Maryland**

Please read this document carefully and keep it for reference. These terms and conditions, together with the Declarations Page, constitute the entire agreement (“Agreement”) between you and the “Provider” identified on the Declarations Page pertaining to the Surge Assist Program (the “Plan”). By entering into this Agreement, you confirm that you purchased FirstEnergy Home Surge Assist Program from FirstEnergy Home. The laws of the state in which your service address is located govern interpretation of this Agreement. Provider may change the terms of, or add new terms to, the Plan and this Agreement at any time in accordance with applicable law. Plan prices are subject to change. THIS AGREEMENT CONTAINS A MANDATORY ARBITRATION PROVISION (INCLUDING A CLASS ACTION ARBITRATION WAIVER). It is important that you read the Arbitration section carefully.

**What Is Covered:** This Agreement is not an insurance policy; it is a service contract. Provider will reimburse you for the repair or, if repair is not feasible, then for the replacement of, residential Electrical Products that fail due to an Electrical Surge during the term of this Agreement. “Electrical Products” means consumer appliances, electronics, and electrical devices valued at \$100 or greater, including window air conditioning units, stoves, ovens, refrigerators, clothes washers, clothes dryers, dishwashers, microwaves, televisions, DVD/Blu-ray players, game consoles, computers, printers, scanners, and smart devices (hubs, cameras, lights, locks, doorbells). “Electrical Surge” means an occurrence of a sudden and non-continuous increase or burst of electricity or electrical current, caused by natural or man-made events including lightning strikes and power returning after an outage, which can accelerate wear and tear and result in the failure of Electrical Products.

This Agreement provides coverage only for Electrical Products which are owned by you or a member of your household and which are located within the perimeter of the main foundation or attached garage at the service address or account identified on the Declarations Page that fail due to the accelerated wear and tear of Electrical Surges. **If the identified service address has multiple units or multiple accounts, a separate Agreement must be purchased for each individual unit or account.**

Repair or replacement costs, and diagnostic fees, are covered only up to the Per-Incident and Annual Limits specified on the Declarations Page, and subject to the exclusions described below. Any repair or replacement charges beyond the Per-Incident or Annual Limits are your responsibility. An “incident” means the particular Electrical Surge causing accelerated wear and tear that leads to a need for repair or replacement of Electrical Product(s). The “Annual Limit” specified on the Declarations Page is the aggregate limit on the amount that Provider will pay for any one or more incidents that occur within an Annual Term of this Agreement. An “Annual Term” of this Agreement means the initial twelve-month term of this Agreement, commencing on the Effective Date of this Agreement and any successive twelve-month renewal term under this Agreement. The “Effective Date” of this Agreement is listed on the Declarations Page.

**What Is Not Covered:** Provider will not be responsible for providing any products and services not specifically listed above in “What is Covered,” including without limitation any of the following: (1) Damage to your home’s electrical system, including the service panel or fuse box and circuit breaker(s); (2) Damage to heating, ventilation, and air conditioning system(s), water heaters, thermostats, security systems, and generators; (3) electrical plumbing equipment including well pumps and sump pumps; (4) medical or life support equipment; (5) plug-in or electric vehicles of any kind; (6) battery operated items and devices that are not plugged in to your electric system; (7) Electrical Products that are damaged by any reason other than an Electrical Surge; (8) Products or items that cannot be replaced with like kind and quality on the current retail market (e.g. antiques); (9) Damage from accident, abuse, and misuse, improper or incomplete installation, or third-party actions; (10) Indirect costs incurred as a result of an Electric Surge, such as loss or corruption of data, programming, program installation or reconfiguration; loss of food or perishable items; (11) Damage to real property, duct work, exhaust systems, pipes or plumbing; (12) Any defect in or problem with an Electrical Product which existed when coverage under this Agreement began; (13) Costs recoverable under any insurance policy, product warranty, home warranty program, or from your utility company; (14) Electrical Products with total replacement value less than \$100.

**How to Make a Claim:** Please follow the process described below to seek reimbursement for repair or replacement costs under the Plan. Provider will not reimburse you for any fees or costs of repairs or replacements without completion of this claim process.

(a) You must call Provider at the telephone number listed on the Declarations Page within twenty (20) days of an Electrical Surge event to provide notice of the event and to request a claim form. The claim form must be completed in full and returned with a copy of a qualified service technician’s invoice within thirty (30) days after the date of the claim form cover letter. A “qualified service technician” is defined as a licensed specialist involved in servicing and repairing residential electronics, electrical equipment, and appliances on a regular and ongoing basis. Provider reserves the right in all cases to decide if a particular service technician is qualified. The qualified service technician’s invoice must be on business letterhead showing the name, address and telephone number of the qualified service technician, and must include: (a) a description of the Electrical Products and damage; (b) itemized statement of diagnostic fees and repair costs, or a statement that the Electrical Product is not repairable; and (c) a statement that the damage was caused by an Electrical Surge.

(b) If the Electrical Product cannot be repaired, Provider will reimburse for the replacement value of the Electrical Product. You must provide a receipt for the purchase of the replacement item with your claim form. Replacement value shall be the typical purchase price of the most similar and like quality product available on the market at the time of the Electrical Surge incident.

(c) Diagnostic fees charged by the qualified service technician not exceeding \$125 will be reimbursed by Provider if your Claim is substantiated as eligible under this Agreement, and provided that such diagnostic fees do not exceed the usual, customary and reasonable charge for such services in the local area in which the services are provided.

You must be current on all payments in order to be covered under this Agreement.

**Term of Coverage and Cancellation:** This Agreement is for a term of twelve (12) months starting on the Effective Date and will renew automatically for additional 12-month annual terms thereafter unless cancelled as provided below. You may cancel this Agreement at any time as described below by notifying Provider at the phone number indicated on the Declarations Page. Provider may cancel this Agreement at any

time for misrepresentation or non-payment by you; for violation of any of the terms and conditions of this Agreement; if required to do so by any regulatory authority; or if Provider, for its convenience and in its sole discretion, makes a commercial decision to generally discontinue the Plan or to discontinue your specific participation in the Plan.

If either of you or Provider cancel this Agreement within thirty (30) days from the Agreement's Effective Date and you have not made any request for reimbursement hereunder, you will receive a full refund of the Plan payments made by you. If either of you or Provider cancel this Agreement more than thirty (30) days from the Agreement's Effective Date, you will receive a refund of any advance payments for coverage that you have made for the period of time beyond the date of cancellation, less the amount of any reimbursement or claim for reimbursement you have received prior to termination. If you move to a new service address, this Agreement will be deemed cancelled by you.

**Price/Billing:** The amount of your monthly charge is provided in the Declarations Page. In addition to your monthly charge, you may be billed for applicable taxes or surcharges associated with your state of residence. Payment may be made in monthly installments, or in full at the commencement of the Agreement or any renewal term(s). The initial charges will be submitted for billing immediately after the Agreement's Effective Date. Each subsequent monthly charge will be submitted for billing on or about the same day of the month as your initial charge was submitted. The charge for this Agreement on your credit card shall serve as the invoice for the service. On notice to you, Provider may change the means by which you are invoiced and billed for your services. By applying for the services, you consent to Provider inquiring about your credit or payment history at any time as it relates to your ability to pay for the services. Failure to timely comply with your payment obligations may result in Provider initiating a collection action and, in the event of such collection action, you agree to pay all fees of collection incurred by Provider, including but not limited to collection agency fees, credit bureau fees, legal filing fees, service of process fees, publication fees, witness fees, reasonable attorneys' fees and recording fees.

**Provider's Limitation of Liability:** TO THE FULLEST EXTENT ALLOWED BY LAW, PROVIDER, ITS PARENT AND AFFILIATES SHALL NOT BE LIABLE FOR INCIDENTAL, INDIRECT, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY THEREOF. TO THE FULLEST EXTENT ALLOWED BY LAW, AND THE LIABILITY OF PROVIDER, ITS PARENT AND AFFILIATES SHALL BE LIMITED TO THREE (3) TIMES THE AMOUNT PAID UNDER THE PLAN BY YOU DURING THE PREVIOUS TWELVE (12) MONTHS.

**Communications:** Provider may provide notifications to you as required by law or for marketing or other purposes via (at its option) email to the primary email associated with your account, mobile notifications, hard copy, or posting of such notice on [www.firstenergyhome.com](http://www.firstenergyhome.com).

**Assignment; Miscellaneous Terms:** This Agreement may be assigned by Provider without notice to you. The section and other headings in this Agreement are inserted solely as a matter of convenience and for reference and shall be given no effect in the construction or interpretation of this Agreement. Any provision hereof that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction, and the provision that is prohibited or unenforceable shall be reformed or modified to reflect the contractual intent to the maximum extent permitted by applicable legal requirements. Unless the context of this Agreement otherwise clearly requires, references in the plural form include the singular and vice versa.

#### **THIS CONTRACT IS SUBJECT TO BINDING ARBITRATION:**

Except as otherwise required by law or as otherwise expressly permitted under this Agreement, any claim, dispute, or controversy between you and Provider that arises from or relates to this Agreement or the Plan (individually and collectively, a "Claim") shall be resolved by binding individual arbitration. This does not apply to any Claim in which the relief sought is within the jurisdictional limits of, and is filed in, a small claims court. All issues relating to the Claim are for the arbitrator to decide, except that issues relating to the validity, enforceability, and scope of this Arbitration Agreement, including the interpretation of Paragraph (3) below, shall be determined by a court and not the arbitrator. If arbitration is chosen by any party, the following shall apply:

(1) NEITHER YOU NOR PROVIDER WILL HAVE THE RIGHT TO LITIGATE A CLAIM IN COURT OR TO HAVE A JURY TRIAL ON A CLAIM, OR TO ENGAGE IN PRE-ARBITRATION DISCOVERY, EXCEPT AS PROVIDED FOR IN THE APPLICABLE ARBITRATION RULES OR AS OTHERWISE EXPRESSLY PERMITTED UNDER THIS AGREEMENT.

(2) The arbitrator is empowered to resolve the dispute with the same remedies available in court, including compensatory damages, but excluding any categories or types of damages that are not recoverable under the "Limitation of Liability" section of this Agreement; attorneys' fees; and declaratory, injunctive, and equitable relief. However, any relief must be individualized to you and shall not affect or include a recovery for or on behalf of any other person or claimant. The arbitrator is also empowered to resolve the dispute with the same defenses available in court, including but not limited to statutes of limitation.

(3) **WAIVER OF RIGHT TO BRING CLASS ACTION AND REPRESENTATIVE CLAIMS.** All arbitrations shall proceed on an individual basis. You and Provider agree that each may bring claims against the other in arbitration only in your respective individual capacities, and in so doing you and Provider hereby waive the right to a trial by jury, to assert or participate in a class action lawsuit or class action arbitration, to assert or participate in a private attorney general lawsuit or private attorney general arbitration, and/or to assert or participate in any joint or consolidated lawsuit or joint or consolidated arbitration of any kind. If a court decides that applicable law precludes enforcement of any of this paragraph's limitations as to a particular cause of action, then that cause of action (and only that cause of action) shall remain in court and be severed from any arbitration. Provider does not consent to, and the arbitrator shall not have authority to conduct, any class action arbitration, private attorney general arbitration, or arbitration involving joint or consolidated claims, under any circumstance.

(4) The arbitration shall be performed in accordance with this Arbitration Provision and the rules of the chosen arbitrator in effect when the Claim is filed. Either party may initiate arbitration, which shall be conducted by the American Arbitration Association ("AAA") pursuant to its Consumer Arbitration Rules ("AAA Rules"), as modified by this Arbitration Agreement. The AAA Rules are available on the AAA's website [www.adr.org](http://www.adr.org), or by calling the AAA at (800) 778-7879. If AAA is unavailable or unwilling to hear the dispute, the parties shall agree to, or the

court shall select, another arbitration provider. Unless you and Provider agree otherwise, any arbitration hearing shall take place in the federal judicial district where you reside. We encourage you to call Provider before filing a claim for arbitration to see if the dispute may be resolved or settled prior to arbitration. Provider will pay all filing, administrative, arbitrator, and hearing costs. Provider waives any rights they may have to recover an award of attorneys' fees and expenses against you. The arbitrator shall apply applicable substantive law consistent with the Federal Arbitration Act, 9 U.S.C. §§ 1 through 16, including but not limited to applicable statutes of limitation, and shall honor claims of privilege recognized at law. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction.

(5) The arbitrator's decision will generally be final and binding, except for limited rights of appeal provided by the Federal Arbitration Act.

(6) Other rights that you would have if you went to court may not be available in arbitration.

This Arbitration Provision shall survive termination of this Agreement and your enrollment in the Plan. Notwithstanding any language in this Agreement to the contrary, this Arbitration Provision shall be governed by federal law, including the Federal Arbitration Act. Notwithstanding any language of this Agreement to the contrary, should any portion of this Arbitration Provision be held invalid or unenforceable by a court or other body of competent jurisdiction, this entire Arbitration Provision shall be automatically terminated, and all other provisions of this Agreement shall remain in full force and effect.

[\[For state requirements please click here.\]](#)

[FE LEGAL 03192021 v.3 (No 30-Day Wait)]