

## Service Plan Terms and Conditions

**1. Coverage:** This service contract (Contract) will cover the adjustment of the covered heating/cooling system, water heater, electrical system or the replacement of any covered functional part as specified in this Contract. Contract applies to one single property per agreement. Contract covers only one of each system per Contract. Residential applications only.

Constellation reserves the right to inspect and approve any equipment before issuing a new service plan (heat pumps and central air conditioners must be inspected before coverage can occur). We will waive this inspection if the equipment is currently under manufacturer's warranty or if this plan is a continuation of an existing plan issued by Constellation. Any inspections will be performed at our regular schedule of charges.

**2. Service Call:** In order to obtain service under this Contract, call 1-844-823-4663 for service during the hours between 8:00 a.m. and 6:00 p.m. Monday through Friday. All non-emergency service calls and, where offered, inspections (to be completed once a year at the customer's request) will be performed during Constellation's regular working hours (8:00 am to 6:00 pm Monday through Friday). Every attempt will be made to initiate non-emergency service within 48 hours of the time you contact us for service. Service calls will be made under this Contract within our service territory. Customer shall provide Constellation service providers with safe access to and safe working conditions at and around covered products. The ability of Constellation to provide emergency service within 24 hours is contingent upon weather conditions, customer call volume, road conditions and no force majeure events beyond our control including but not limited to flood, fire, strike, acts of God, etc. In the event we determine, at our sole discretion, that there is an emergency situation requiring expedited service, we will make reasonable efforts to expedite service. We will determine, at our sole discretion, which repairs constitute an emergency and will give consideration to covered malfunctions that affect the habitability of the dwelling. At our sole discretion, Constellation reserves the right to charge a \$75 fee for each non-emergency service call performed outside of our regular working hours. If an additional service technician must be called for assistance on a service call, the customer may be charged for the additional labor.

**3. Term:** Coverage begins on the coverage Start Date stated at enrollment or upon inspection by a Constellation authorized service provider. For monthly billing Smart Service, coverage continues for a minimum period of 12 months and will continue in perpetuity thereafter on a month-to-month basis until terminated by either party. Each monthly period will be treated as a separate contract period. Customer will be billed monthly and shall remain in effect until canceled in the manner described herein.

**4. Cancellation:** You may cancel this Contract at any time with written notification to Constellation. If service has been rendered under this Contract, no refunds will be given. If cancellation occurs within thirty (30) days of the date issued, we will refund all amounts paid if service has not been rendered. If canceled within the Initial Term of the Contract and service has been rendered, Constellation is entitled to demand or keep payment for the lesser of Constellation's cost of any service already performed or the full year value of the plan. If cancellation occurs after the Initial Term, refunds will be prorated based on the number of full months remaining under the renewal term of the Contract. Constellation may cancel this Contract prior to the end of the Initial Term for fraud, material misrepresentation, or non-payment by you; or if required to do so by any regulatory authority. Constellation reserves the right to cancel coverage, change terms and conditions and/or pricing with 30 days notice to you in accordance with applicable law. Constellation is not obligated to renew this Contract at any time.

**5. Coverage:** Service coverage will be applicable to customer based on arrangements made at the time of purchase.

a. *General:* The Contract does **not** cover air filters, cabinet parts, decorative trim, accessories, drip pans, leveling legs, catalytic surfaces, finish discoloration, touch up, any associated masonry work or drywall work, repair or replacement of parts involving friable asbestos, and attic units without appropriate flooring. Normal routine maintenance for non-HVAC equipment, such as oiling, inspections (except where otherwise specified), seasonal turn-ons/turn-offs or cleaning of filters, ducts and chimneys (excluding base) is not covered. Service and parts must be provided by a Constellation authorized service provider. For any non-covered repair, Smart Service Plan customers shall receive a maximum discount of 15% to be applied against Constellation standard repair charges. Certain brand restrictions apply. At the time coverage begins, equipment must be in good working condition and meet code requirements.

**If the heating/cooling system, water heater equipment or electrical system component is covered under this Contract but not repairable due to its general condition or due to the inability of the manufacturer to provide suitable parts, Constellation shall have no liability other than to return the monies paid during the current month.**

Replacement parts may not be available for products greater than ten years old. Constellation reserves the right to restrict specific ages and makes of equipment from eligibility due to non-availability of parts, and the choice of parts to be used shall be at the discretion of Constellation. Constellation will put forth its best effort to provide replacement parts, components or systems of similar mechanical capabilities and/or efficiency of the original unit (where available). However, Constellation is not liable to provide exact match in color, type or brand. Constellation is under no obligation to upgrade or make modifications to the original system, components or items covered by this Contract.

Service made necessary as a result of fire, theft, flood, acts of God, accidental damage, abuse, neglect, vandalism, unauthorized alterations or any other abnormal conditions is not covered. Constellation shall not be liable for any consequential or other damages resulting from the failure of the system or any part thereof. Systems with pre-existing conditions, faulty design or installation will not be covered.

This agreement shall not include any mold or mildew evaluation, remediation mold prevention or other related services. Constellation shall not be required to identify, detect, encapsulate, or remove asbestos or products or materials containing asbestos or any other potentially hazardous substances or materials, including but not limited to mold and mildew (collectively "Hazard"). Customer has sole responsibility and liability for the proper identification, removal, disposal or correction of any Hazard at the job location. Customer also has the sole responsibility to remediate any mold-related problems regardless of when and how such problems may accrue. Customer shall indemnify, defend and hold harmless Constellation and its affiliates, contractors and subcontractors to the fullest extent permitted by law with respect to any claims, liability, cost or expense (including but not limited to attorneys' fees) of whatever nature incurred as a result of any Hazard on or relating to customer's premises.

b. *HVAC/Water Heater Equipment:* This Contract does **not** cover roof top units, electric baseboard units, steam or hot water heating systems, air conditioners or heat pumps connected to earth coupled or ground source heat pumps, electric radiant heating, oil-fired or oil-condensing units, combination solid fossil fuel units, commercial applications over 500,000 BTU/HR input, single heating systems that supply more than two heating zones or heating/cooling systems partially or completely powered by solar energy, water heater tanks, tankless water heaters, heat pump water heaters, and water heating systems partially or completely powered by solar energy. Service to repair and/or replace heat exchangers, burner assembly replacements, outside temperature sensors, jacket trim, decorative parts, chimneys, registers, add-on power vents, vent connectors, air filters, fuel lines, fuel storage tanks, fuel shutoff valves, refrigerant, circuit breakers or exposed wiring, humidifiers and air cleaners (unless covered under a separate service plan), digital thermostats (unless installed by Constellation), insulation, duct work, or any otherwise covered part which is inaccessible. Any service work or replacement of parts caused by faulty system design or installation, or the correction of any problem directly connected with the heating system itself, such as thermal expansion devices for water heaters. Any increase in utility bills resulting from use of emergency heat. Any energy saving devices that are added onto the original heating/cooling systems unless otherwise stated above.

This Contract **shall** cover the adjustment, repair or replacement of the functional parts that fail through normal use for: (1) Heat Pumps (outdoor unit) and Central Air Conditioners: fan assembly, defrost control and timers (heat pump only), capacitor, relays (central air conditioner only), controls, transformer, thermal fuses (heat pump only), reversing valves\* (heat pump only), compressor\*, indoor and outdoor coils\*, crankcase heater (external only), valves (central air conditioner only), accumulator, filter dryers and connecting refrigerant lines\*, fan control, and thermostat and exposed wiring; (2) Heating Systems and Forced Warm Air: draft hood (gas only), fan and limit control, electronic ignition (gas only), circuit boards, transformer, built-in draft inducer motor (gas only), fan relay and internal wiring, belts and pulleys, fans, including bearings, housing, blades, motor, and capacitor, door switch, condensate pump, sequencers and limits (electric only), heating elements (electric only), thermostat and exposed wiring, controls, regulator,

gas valves, pilot (up to two) and orifices (gas only), main burner (gas only); (3) Water Heaters: up to 80 gallons, T&P relief valve, water valve (if present), anode, draft hood (gas only), dip tube, temperature control and thermostats (electric only), external and immersion heating coils (electric only), flue baffle (gas only), thermostat (gas only), gas valve regulator (gas only), burner pilot (gas only), ECO safety control (gas only), burner assembly parts, drain cock, and 125 lb. valve. **\*Covered only under manufacturer's warranty.**

c. *In-Home Electrical:* This Contract does **not** cover service entrance cables, light fixture replacement, fire or security alarms, intercoms, doorbells, timers, inadequate wiring capacity, power surge or failure, failure due to rodents or insects, non-approved wiring connections or junctions, low voltage wiring systems, landscape lighting, attic power ventilators, central vacuum systems, direct current (DC) wiring or components, garage door openers, ceiling fans, improper size of panel (overloaded), code violations (local, state or federal), power failure, light bulbs, touch pad assemblies, and remote transmitters.

This Contract shall cover the adjustment, repair or replacement of the following functional parts that fail through normal use: exposed interior wiring; panels and sub-panels (repair only); breakers; fuses; receptacles; GFI receptacles; switches; bathroom built-in exhaust fans (repair only); exposed junction boxes; light fixture repair; outdoor motion-sensor lights; photocells on outdoor lights (no underground wiring).

**6. Limit of Liability:** IN NO EVENT SHALL CONSTELLATION BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, PUNITIVE, INDIRECT OR INCIDENTAL DAMAGES WHETHER IN CONTRACT OR IN TORT FOR INJURY TO PERSON OR PROPERTY RESULTING FROM ANY ACTIONS UNDERTAKEN PURSUANT TO THIS CONTRACT OR THE FAILURE OF THE EQUIPMENT OR ANY PARTS OF THE EQUIPMENT. The sole and exclusive remedy against Constellation or its agents, employees, officers or affiliates for any damages arising from Constellation services, equipment or work shall be limited to repair or replacement of Constellation installed or service equipment and shall not exceed the lesser of (a) the actual damages incurred to your equipment, (b) the replacement value of the equipment provided hereunder, or (c) three times the amount of money actually paid to Constellation under this agreement. In no event shall Constellation have any liability for any damages relating to alleged mold remediation, leakage/spillage of fuels (propane or natural gas) from a storage tank, fuel pipe or any part of the system and/or equipment, or any, consequential, special, incidental damages or exemplary damages. Constellation shall not be required to provide repairs exceeding a cost to Constellation of \$2,000 per Contract year.

**7. Payment Obligation/Prepayment/Late Payments:** Customer agrees to pay each of the payments indicated in this Contract when billed. For billing inquiries, call 1-844-823-4663 between 9:00 a.m. and 4:00 p.m., Monday through Friday.

**8. Default; Default Remedies:** You shall be in default if, (a) you fail to make any payment due under this Contract when billed for same, or (b) you fail to pay any of your debts as they become due, cease to conduct business or dissolve, or (c) a petition either under the Federal bankruptcy laws or any local law providing similar relief is filed by or against you. We may suspend service under this Contract until any amount due under this Contract is fully paid.

**9. Costs and Attorney's Fees After Default:** You agree to pay all court costs and other collection costs (including field collection costs and attorney fees) actually incurred relating to your default.

**10. Miscellaneous:** This Contract supersedes all prior proposals, understandings, negotiations, and all other agreements and discussions, oral or written, between the parties relating to the subject matter of this Contract. The Contract and its Terms and Conditions constitute the entire agreement between the parties and may be modified only by an agreement in writing signed by each party. Any provision of this Contract which may be contrary to law shall not invalidate any of its other provisions. All rights and remedies hereunder are cumulative and not alternative. (We may waive or delay enforcing any of our rights without losing them.)

**11. Assignment:** You may not assign or transfer this Contract without our written consent. We may assign the Contract to any other party including but not limited to another creditor. If we do this, the assignee will have our rights and privileges under this Contract with respect to the unpaid balance assigned.

**12. Governing Law:** The Contract is governed by TEXAS law without respect to any conflicts of law provisions. The parties irrevocably consent to venue and jurisdiction in Harris County, TX (Houston) and agree to waive any right to a trial by jury.

**13. Warranty:** CONSTELLATION MAKES NO WARRANTIES, GUARANTEES, OR REPRESENTATIONS, EXPRESSED OR IMPLIED, AND DISCLAIMS ANY WARRANTY IMPLIED BY LAW, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, CUSTOM OR USAGE.

**14.** Constellation shall collect from customers all taxes required by law and shall remit such taxes to appropriate governmental agencies.

**15.** This contract is issued by a Residential Service Company licensed by the Texas Real Estate Commission. Complaints about this contract or company may be directed to the Texas Real Estate Commission at P.O. Box 12188, Austin, TX 78711-2188, 512-936-3049. The purchase of a residential service contract or home warranty contract is optional and similar coverage may be purchased from other residential service companies or insurance companies authorized to conduct business in Texas.

**16. NOTICE:** CONSTELLATION MAY EITHER USE PERSONS EMPLOYED BY IT, WITHIN THE MEANING OF 22 TAC §539.51, OR MAY PAY PERSONS NOT EMPLOYED BY CONSTELLATION FOR THE SALE, ADVERTISING, INSPECTION, OR PROCESSING OF A RESIDENTIAL SERVICE CONTRACT UNDER TEXAS OCCUPATIONS CODE §1303.304.

Michael Reeder, M-41856, licensed by Texas State board of Plumbing Examiners, 929 East 41st, P.O. Box 4200, Austin, TX 78765-4200, (800) 845-6584.

BGE Home Products & Services, LLC is doing business as Constellation.  
TACLA 00107498R TECL 343159 M-41856 TREC 168 TSCP 684