

## VERSANT POWER E-PAY USER AGREEMENT

Please read this E-Pay User Agreement carefully. This Agreement includes disclaimers of liability and other matters of interest to you. By using the E-Pay program, you agree to the terms and conditions of this Agreement.

**SCOPE OF AGREEMENT:** This Agreement covers your use of the E-Pay Program (the "Program") offered by Versant Power. ("Versant Power"). In this Agreement, the words "you" and "your" refer to the Versant Power customer whose name appears on your Versant Power billing statement (that is, the person primarily responsible for payment of the account). The words "we," "our" and "us" refer to Versant Power. The words "your account" refer to the account held by a bank or other financial institution from which payment will be made when you make transactions under the Program. The words "your bank" mean the bank or other financial institution that holds your account. The words "Program" refer to One-Time Payments and Electronic Bill (E-bill) delivery and payment.

**PAYMENTS:** Each time you initiate a transaction, you authorize us or our agent to draw a check or draft or initiate an automated clearing house (ACH) or depository transfer check (DTC) debt in your name on your account, payable to us or our agent, in the amount of the transaction.

**CONSENT TO ELECTRONIC COMMUNICATIONS:** By enrolling in Electronic Billing (E-bill) you consent to receive Communications relating to your account in electronic form. The Communications covered by your consent include (i) your billing statement (ii) all bill inserts or notices contained in your monthly bill statement.

**HOW TO WITHDRAW YOUR CONSENT:** Initially, you may withdraw your consent to receive electronic invoices and communications by not submitting your request to discontinue paper Billing Statements. After paper billing statements are discontinued, if you want to withdraw your consent to electronic Communications, you may un-enroll from the program by accessing our web site at [www.VersantPower.com](http://www.VersantPower.com) and un-enroll from the program.

**ELECTRONIC BILLING:** By enrolling in E-bill, you agree that your bill and all notices included with your monthly bill will be available in electronic format.

**UPDATING OF YOUR RECORDS:** You agree to promptly update your electronic mail address if a change occurs by updating your information through this website.

**RETURNED E-mails:** If emails advising you of the availability of statements are returned to us, we may cancel your enrollment in the E-bill program and resume sending your paper statements in the mail. If this happens, you will need to re-enroll in the E-bill service with your updated information.

**CHARGES:** You are responsible for all charges incurred in connecting to the Program, such as phone or internet service charges. If you choose to schedule a payment or recurring payments through E-Bill using your checking account there will be no convenience fee charged. Although, if you choose to pay using the One-Time payment system our vendor imposes a convenience fee that will be billed as a separate transaction to your account. In addition to the convenience fee, your bank may assess either a customary per-check or item handling charge, depending on your agreement with them. You also agree to pay us a service charge for each dishonored check or draft to reimburse us for any costs of collection your bank may also assess its customary charge for such items.

**DISHONORED REQUESTS FOR PAYMENTS:** If any E-Pay transaction (check or draft drawn by us or our agent in connection with the Program) is not honored by your bank, we have the right to charge the amount of any such transaction to your Account or to collect the amount from you. If this happens, we

may cancel your right to participate in the Program.

**DISCLOSURE OF ACCOUNT INFORMATION TO THIRD PARTIES:** To protect your privacy, we will not disclose any information about your E-Pay transactions to any person, except as follows: 1. As necessary to complete transactions; 2. To verify the existence of your Versant Power Account for a third party, such as a financial institution or credit bureau; 3. To comply with government agency or court orders; 4. To our employees, auditors, service providers, attorneys or collection agents in the course of their duties; 5. To persons authorized by law in the course of their official duties; or 6. If you give us written permission.

**LAWS AND REGULATIONS:** You agree that your access to and use of the Program is subject to all applicable federal, state and local laws and regulations.

**OUR LIABILITY FOR IMPROPER TRANSACTIONS OR PAYMENTS:** Versant Power agrees to make reasonable efforts to ensure full performance of the Program. Versant Power will be responsible for acting only on those instructions sent through the Program which are properly transmitted and actually received and cannot assume responsibility for malfunctions in communications facilities not under its control that may affect the accuracy or timeliness of messages you send. Versant Power is not responsible for any losses or delays in transmission of instructions arising out of the use of any access service provider or caused by any browser software. Versant Power is not responsible should you give incorrect instructions or if your payment instructions are not given sufficiently in advance to allow for timely payment. Versant Power will be responsible for your actual losses if they were directly caused by our failure to complete an Electronic Funds Transfer as properly requested. However, there are some exceptions. We cannot accept liability in the following instances: 1. If, through no fault of ours, your account does not contain enough money to complete the transaction; 2. If the funds in the account are subject to legal process or other encumbrance restricting the transaction; 3. If circumstances beyond our control (such as fire or flood) prevent the transaction, despite reasonable precautions that we have taken; or 4. You knew there was a technical malfunction in the Program but you used it anyway.

**LIMITATION OF LIABILITY:** EXCEPT AS OTHERWISE PROVIDED IN "OUR LIABILITY FOR IMPROPER TRANSACTIONS OR PAYMENTS" AND, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, VERSANT POWER SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, PUNITIVE, EXEMPLARY, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR OTHER DAMAGES ARISING OUT OF OR IN ANY WAY RELATED TO ACCESS TO OR USE OF THE PROGRAM, OUR WEBSITE OR ANY OTHER WEBSITE YOU ACCESS THROUGH A LINK FROM OUR WEBSITE, OR FROM ANY ACTIONS WE TAKE OR FAIL TO TAKE AS A RESULT OF COMMUNICATIONS YOU SEND TO US, OR THE DELAY OR INABILITY TO ACCESS OR USE THE PROGRAM OR OTHER PORTIONS OF OUR WEBSITE, OR FOR ANY INFORMATION, PRODUCTS OR SERVICES ADVERTISED IN OR OBTAINED THROUGH THE WEBSITE, OUR REMOVAL OR DELETION OF ANY MATERIALS SUBMITTED OR POSTED ON OUR WEBSITE, OR OTHERWISE ARISING OUT OF THE ACCESS TO OR USE OF OUR PROGRAM OR OTHER PORTIONS OF OUR WEBSITE, WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE. THIS DISCLAIMER APPLIES, WITHOUT LIMITATION, TO ANY DAMAGES OR INJURY ARISING FROM ANY FAILURE OF PERFORMANCE, ERROR, OMISSION, INTERRUPTION, DELETION, DEFECTS, DELAY IN

OPERATION OR TRANSMISSION, COMPUTER VIRUSES, FILE CORRUPTION, COMMUNICATION-LINE FAILURE, NETWORK OR SYSTEM OUTAGE, YOUR LOSS OF PROFITS, OR THEFT, DESTRUCTION, UNAUTHORIZED ACCESS TO, ALTERATION OF, LOSS OR USE OF ANY RECORD OR DATA, AND ANY OTHER TANGIBLE OR INTANGIBLE LOSS. YOU SPECIFICALLY ACKNOWLEDGE AND AGREE THAT VERSANT POWER SHALL NOT BE LIABLE FOR ANY DEFAMATORY, OFFENSIVE OR ILLEGAL CONDUCT OF ANY USER OF THE WEBSITE. YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY OF THE ABOVE CLAIMS OR ANY DISPUTE WITH US IS TO DISCONTINUE YOUR USE OF THE PROGRAM AND OUR WEBSITE. YOU AND VERSANT POWER AGREE THAT ANY CAUSE OF ACTION ARISING OUT OF OR RELATED TO THE PROGRAM OR THE WEBSITE MUST COMMENCE WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES OR THE CAUSE OF ACTION IS PERMANENTLY BARRED. BECAUSE SOME JURISDICTIONS DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, OR THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, ALL OR A PORTION OF THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

**WARRANTIES:** ALL INFORMATION USED IN CONNECTION WITH THE PROGRAM IS PROVIDED TO YOU ON AN "AS IS" AND "AS AVAILABLE" BASIS. WE RESERVE THE RIGHT TO RESTRICT OR TERMINATE YOUR ACCESS TO THE PROGRAM OR OUR WEBSITE OR ANY FEATURE OR PART THEREOF AT ANY TIME. WE ALSO RESERVE THE RIGHT TO TEMPORARILY SUSPEND OR PERMANENTLY TERMINATE THE PROGRAM OR ANY SERVICE, TOOL OR FEATURE CONTAINED ON OUR WEBSITE AT ANY TIME. VERSANT POWER EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WARRANTIES OF TITLE, AND ANY WARRANTIES THAT MATERIALS ON OUR WEBSITE ARE NONINFRINGEMENT, AS WELL AS WARRANTIES IMPLIED FROM A COURSE OF PERFORMANCE OR COURSE OF DEALING; THAT ACCESS TO THE PROGRAM OR OUR WEBSITE WILL BE UNINTERRUPTED OR ERROR-FREE; THAT THE PROGRAM AND THE WEBSITE WILL BE SECURE; THAT THE WEBSITE OR THE SERVER THAT MAKES THE PROGRAM AND THE WEBSITE AVAILABLE WILL BE VIRUS-FREE; OR THAT INFORMATION IN THE PROGRAM AND ON THE WEBSITE WILL BE COMPLETE, ACCURATE, ADEQUATE, USEFUL, TIMELY, OR OTHERWISE. IF YOU DOWNLOAD ANY MATERIALS FROM OUR WEBSITE, YOU DO SO AT YOUR OWN DISCRETION AND RISK. YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIALS. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM VERSANT POWER OR THROUGH OR FROM THE WEBSITE SHALL CREATE ANY WARRANTY OF ANY KIND. IN CERTAIN JURISDICTIONS, THE LAW MAY NOT PERMIT THE DISCLAIMER OF WARRANTIES, SO THE ABOVE DISCLAIMERS MAY NOT APPLY TO YOU.

**CHANGES:** Versant Power may change the Program and the terms, including fees, set forth in this Agreement at any time. You will be notified of any such change as required by applicable law. YOU UNDERSTAND THAT BY USING THE PROGRAM AFTER A CHANGE BECOMES EFFECTIVE, YOU HAVE AGREED TO IT.

**VIOLATIONS OF RULES AND REGULATIONS:** Versant Power reserves the right to seek all remedies

available at law and in equity for violations of this Agreement, including the right to block access to the Program.

**ACCESS TO PASSWORD PROTECTED/SECURE AREAS:** Access to and use of password protected and/or secure areas of the Program is restricted to authorized users only. You are responsible for maintaining the security of your password and not permitting any other person access through your password. Unauthorized individuals attempting to access these areas of the Program may be subject to prosecution.

**PRIOR AGREEMENTS AND GOVERNING PROVISIONS:** This Agreement terminates and takes the place of all prior agreements you may have with us relating to the Program. This Agreement is subject to the terms and conditions of the Versant Power Online Services Terms and Conditions of Use (the "Website Terms and Conditions"). In the event of any conflict between the Website Terms and Conditions and this Agreement, the Website Terms and Conditions shall control.

**ASSIGNMENTS:** We have the right to assign this Agreement to a subsidiary or affiliate company at any time.

**SEVERABILITY:** In the event any one or more of the provisions of this Agreement shall for any reason be held to be invalid, illegal or unenforceable, the remaining provisions shall remain valid and enforceable.