

# Qcells Grid Service (Virtual Power Plant) Program (California): Customer Participation Agreement

Thank you for your interest in Hanwha Q CELLS America Inc.'s (together with its affiliates, "Qcells," "we" or "us") Grid Service Program (the "Program"). By participating in this Program, you can help reduce stress on and stabilize your local power grid during times of high energy demand in your area by powering your home with energy stored in your Q.HOME CORE battery system, or potentially other battery systems in the future, of the type specified in Section 1.a. below ("System") instead of from the grid. The Program is open to all Southern California Edison ("SCE"), San Diego Gas & Electric ("SDG&E") and Pacific Gas & Electric Company ("PG&E" and collectively with SCE and SDG&E, each a "Utility" and together the "Utilities") residential customers who have one or more Systems that Qcells (or its designated partners) can remotely control during demand response events (each, a "DR Event"). Participation is subject to your agreement to be bound by these terms and conditions (the "Terms") with Qcells and, with respect to the Terms set forth in Sections 7(a) and 14 below, its partner, Leapfrog Power, Inc. ("Leap").

By signing this agreement, you ("Participant") acknowledge that you have read these Terms and agree to be legally bound by them.

1. **Eligibility.** Qcells in its sole discretion shall determine Participant's eligibility to participate in the Program. Eligibility requirements include:
  - a. Participant must own the following type of System: Q.HOME CORE battery system or potentially other battery systems in the future. Participant's System must be installed and connected with a web-based remote monitoring system during the Program Term (as defined in Section 4 below).
  - b. Participant must be located in a Utility's service territory.
  - c. Participant must receive electric service on a residential rate schedule.
  - d. Participant has a Utility-approved electric smart meter.
  - e. Participant is not simultaneously enrolled in another demand response program offered by a Utility, third-party demand response provider or community choice aggregator ("CCA"). If Participant is enrolled in a competing program, Participant shall first unenroll from such program and then enroll exclusively in the Qcells Grid Service Program.
  - f. Participant must not have previously enrolled in the Qcells Grid Service Program (including through a different marketing and/or installer channel).
  - g. Participant must be 18 years or older.
  - h. Participant must grant Leap authorization to access Participant's Utility data by registering through the Leap webpage link that has been separately provided to Participant by Qcells.
2. **Authority.** Participant may not participate in the Program unless Participant has the authority to control the System and is the "Customer of Record" for the Utility account associated with the address at which the System is installed. By accepting these Terms, Participant represents that Participant has authority to control the System and is the Customer of Record in that manner, and that Qcells can rely on those confirmations in connection with the Program.
3. **Participant System Control Requirements.** By accepting these Terms, Participant grants Qcells remote access to control the System to automatically charge and/or discharge the System during a DR Event. Other than Participant's own operation of the System, Qcells will have exclusive access to the System. Participant will have the ability to set a minimum level of charge as a backup reserve ("Backup Reserve"). Qcells will not draw Participant's System's state of charge below Participant's designated Backup Reserve and will not discharge Participant's System when the state of charge is below the Backup Reserve. Except for honoring Participant's Backup Reserve, Qcells may charge or discharge the Participant's System at any time and to any level.
4. **Program Term.** The "Program Term" begins upon the Participant's execution of this Agreement and successful enrollment of the System into the Program (the "Enrollment Date") and shall continue for one (1) year from the Enrollment Date (the "Initial Program Year"). The Program Term shall automatically renew for successive one-year terms (each, an "Additional Program Year" and, together with the Initial Program Year, each, a "Program Year") unless terminated sooner in accordance with Section 11.
5. **DR Events.** DR Events will be triggered at the discretion of Qcells and without notice to the Participant. DR Events may be triggered the day before, or an hour in advance, and the DR Event hours can be between 4 PM and 9 PM.
6. **Compensation.** As consideration for the Participant's participation in the Program, Qcells will compensate the Participant as follows:
  - a. As appreciation of your support of the Program and commitment to grid stability, Qcells will compensate you based on \$10/kWh multiplied by your contracted Q.HOME battery system size or potentially other battery system size (in kWh), as a credit against the total cost of your System through our arrangement with the Installer.
  - b. Within 30 days of each anniversary of your Enrollment Date, as appreciation for your continuous enrollment of the System in the Program and subject to the terms and conditions herein, Qcells will send to Participant (via the e-mail address provided by Participant during the enrollment process) an electronic prepaid Visa Reward Card (a "Program Gift Card") in the amount of \$10/kWh multiplied by your contracted Q.HOME battery system size or potentially other battery system size (in kWh). Participant shall be solely responsible for reviewing and complying with the Visa Inc. cardholder agreement and all terms and conditions of use (including expiry terms) that are applicable to the Program Gift Card. Users will forfeit any unused funds after the expiration term stated for the Program Gift Card. Limit one Program Gift Card per household per Program Year.
  - c. Qcells may receive compensation as a result of your participation in the Program including, but not limited to load shifting, capacity, voltage management, or any other use of the System energy within the parameters described in Section 3 above. In exchange for Qcells' ability to control the System and receive compensation as a result of your participation in the Program, you will receive the above-stated Program Gift Card(s) and hereby waive any and all claims to further compensation from Qcells or any third party.
  - d. ALL REWARDS ARE PROVIDED "AS-IS." NEITHER QCELLS NOR ANY OF ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, OR AFFILIATES SHALL BE RESPONSIBLE OR LIABLE FOR ANY LOSS, DAMAGE, COST, OR INJURY THAT ARISES FROM OR RELATES TO PARTICIPANT'S USE OR MISUSE OF ANY PROGRAM GIFT CARD.
7. **Participant System Data and Other Information.** Participation in the Program involves Qcells having access to certain Participant personal identifiable information and energy use data, including but not limited to, Participant's name, address, energy usage, utility account number, System information, data generated from the Program and other personal information, collectively referred to as "Data". Participant agrees that Qcells and its employees and representatives, as well as its Program partner, Leap (Leapfrog Power, Inc.), may collect, use, store, and disclose the Data in accordance with Qcells' privacy policy and consumer privacy notice located on our website at <https://us.qcells.com/privacy-policy/> and <https://us.qcells.com/consumer-privacy-notice/>, respectively (which privacy policy terms shall be considered part of this Agreement). Participant further authorizes Qcells to provide any Data to the California Public Utilities Commission upon its request or as otherwise required by law.
  - a. *Participant also acknowledges and agrees that Leapfrog Power, Inc. will process any data provided or made available to Leapfrog Power, Inc. by or on behalf of Participant as set forth in Leapfrog Power, Inc.'s [Usage Data Authorization Terms](#).*
8. **CONTACTING YOU; CALL RECORDING.** Participant agrees that Qcells, and its employees and representatives, as well as its Program partner, Leap, and other service providers (collectively, the "Communicating Parties"), may communicate with Participant using an automatic telephone dialing system and through the

delivery of artificial and/or prerecorded voice messages. These communications may include calls and text messages related to the Program and this Agreement. You agree that the Communicating Parties may make these communications to any telephone number (including any wireless, landline, and voice over IP number) that you have given or give to the Communicating Parties. You also agree that the Communicating Parties may communicate with you by email, which may include marketing related emails, at any email address you have provided or provide to the Communicating Parties. You understand and agree that the Communicating Parties may always communicate with you in any manner permissible by law that does not require your prior consent. You understand that anyone with access to your telephone or your email account may listen to or read these communications, including text messages and voicemail messages. You agree that the Communicating Parties will not be liable for anyone accessing the communications or for any charges that you incur in connection with any communications.

- b. You agree to notify us immediately if any information you have provided to us changes, such as if you change telephone numbers, email addresses or are no longer the subscriber or usual user of a telephone number that you have given to the Communicating Parties. You agree that the Communicating Parties may monitor and record your telephone calls and other communications with the Communicating Parties.
- c. To revoke your consent for calls or text messages made with an automatic telephone dialing system and/or prerecorded and/or artificial voice messages, to the extent you have a right under applicable law, you may write to us at [grid-service-CA@qcells.com](mailto:grid-service-CA@qcells.com) or Hanwha Q CELLS America Inc., 300 Spectrum Center Drive, Suite 500, Irvine, CA 92618, Attention: Business Development. To stop receiving marketing emails, you may contact us as set forth above or follow the opt-out instructions provided at the bottom of any such email (if applicable).

9. **No Warranty; Disclaimer.** Qcells expressly disclaims all warranties of any kind relating to the Program, whether express, implied or statutory including but not limited to any implied warranties for conditions, merchantability, fitness for a particular purpose, title, non-infringement or misappropriation of intellectual property rights.

10. **Indemnification; Limitation of Liability.** In no event will Qcells indemnify you for any loss or injury to you or your property caused by this Agreement or the Program. In no event will Qcells be liable for any direct, indirect, incidental, special or consequential damages arising in connection with the Program, including but not limited to reduced charging of the System during a power outage that causes a loss of power, or any other loss of power for whatever reason. If Participant is dissatisfied with the Program, any of the terms of this Agreement, or believes Qcells has breached this Agreement in any way, Participant's sole and exclusive remedy is to discontinue participation in the Program by terminating this Agreement in accordance with Section 11 below.

#### 11. **Termination.**

- a. *Termination By Qcells:* Qcells has the sole discretion to terminate a Participant's participation in the Program at any time without cause by providing Participant written notice of termination.
- b. *Termination by Participant:* Participant may withdraw from their enrollment in the Program at any time for any reason and without penalty by contacting [grid-service-CA@qcells.com](mailto:grid-service-CA@qcells.com). Please note that Participant's withdrawal from the Program may take up to 60 days to become effective.

#### 12. **General.**

- a. *Entire Agreement.* These Terms are the entire agreement between Qcells, Leap (with respect to the terms in Sections 7(a) and 14) and Participant concerning the Program's eligibility and participation requirements.
- b. *No Assignment.* These Terms may not be assigned by Participant without Qcells' prior written consent.
- c. *Severability and Waiver.* If any provision herein is invalid or unenforceable, the remaining provisions will remain in full force and effect.
- d. *Survival.* Termination of Participant's enrollment in the Program will not affect the obligations and rights under these Terms which are intended to survive such termination.
- e. *CPUC Jurisdiction.* These terms shall be subject to all legal and regulatory requirements applicable to the Program (including, without limitation, any decisions, orders or rules of the CPUC).
- f. *Governing Law.* Except as set forth in the Arbitration Provision below, these Terms are governed by the laws of the State of California.
- g. *Amendments.* These Terms may be changed by Qcells unilaterally and in its sole discretion from time to time by posting the amended Terms on the Program webpage. The amended Terms will be effective on the date specified in the respective posting.

#### 13. **Arbitration Requirement and Class Action Waiver.**

**PLEASE REVIEW THIS ARBITRATION PROVISION CAREFULLY AS IT AFFECTS YOUR LEGAL RIGHTS. YOU, THE BUYER, CAN OPT OUT OF THE ARBITRATION PROVISION AS DESCRIBED IN SUBPART "b" BELOW.**

- a. **General:** This Arbitration Provision describes when and how a Claim (defined below) may be arbitrated. Arbitration is a method of resolving disputes in front of a neutral person (the "Arbitrator") instead of in court in front of a judge and/or jury. This Arbitration Provision is governed by the Federal Arbitration Act, 9 U.S.C. §§ 1-16 (the "FAA"), not by any state arbitration law. Solely for purposes of this Arbitration Provision, "Qcells" means (1) Hanwha Q CELLS America Inc., each of its subsidiaries, affiliates, successors, subcontractors and assigns, and any of their employees, officers, directors and agents; and (2) any other third party that you name along with Qcells as defendants in a single proceeding.
- b. **Opting-Out:** If you do not want this Arbitration Provision to apply, you must send to us a written notice which specifies your name and address, identifies this Agreement, and states that you opt out of the Arbitration Provision. The notice must be signed by you and sent by mail (not electronically) to Hanwha Q CELLS America Inc., Attn: ARBITRATION, 300 Spectrum Center Drive, Suite 500, Irvine, CA 92618. The notice must be postmarked within thirty (30) days after your execution of this Agreement. Opting out will not have any other effect on this Agreement. If you don't opt out, the Arbitration Provision will be effective as of the date of your execution of this Agreement.
- c. **Disputes Subject to Arbitration:** You or Qcells may elect to have Claims arbitrated rather than resolved in court. "Claim" means any past, present or future claim, dispute or controversy between you and Qcells that arises from or relates to this Agreement. "Claim" broadly includes, without limitation: (1) initial claims, counterclaims, cross-claims and third-party claims; (2) disputes based upon contract, negligence, fraud and other intentional torts, constitution, statute, regulation, ordinance, common law and equity; (3) data breach or privacy claims; (4) disputes about (a) information you gave Qcells or facts that occurred before the date of your execution of this Agreement, (b) products or services provided or work performed by Qcells, (c) communications, solicitations or disclosures concerning this Agreement, and (d) financing, payments or the collection of monies owed and the manner of collection; and (5) disputes arising from the relationship(s) between you and Qcells resulting from any of the foregoing.
- d. **Disputes Not Subject to Arbitration:** Notwithstanding the foregoing, the following disputes are not required to be arbitrated: (1) Either you or Qcells may bring an action in small claims court (or an equivalent court), but if the dispute is transferred, removed, or appealed to a different court, you or Qcells may elect to compel arbitration; and (2) disputes about the validity, enforceability, coverage or scope of this Arbitration Provision or any part thereof, which are for a court and not an arbitrator to decide. However, any dispute or argument that concerns the validity or enforceability of this Agreement as a whole is for the Arbitrator, not a court, to decide. Also, you or Qcells may (1) exercise any lawful rights to preserve or obtain possession of property or self-help remedies; (2) obtain provisional or ancillary remedies or injunctive relief (other than a stay of arbitration); or (3) bring an individual action in court that is limited to preventing the other party from using a self-help or non-judicial remedy and that does not involve a request for damages or monetary relief of any kind.

- e. **Starting or Electing Arbitration:** You or Qcells may (a) start an arbitration by filing a demand with the arbitration administrator pursuant to its rules, or (b) require arbitration of a Claim filed in court by filing a motion to compel arbitration. Even if you and Qcells have chosen to litigate a Claim in court, either party may elect arbitration of a new Claim or of a Claim made by a new party in that or any related or unrelated lawsuit.
  - f. **Choosing the Administrator:** The party commencing the arbitration may select either the American Arbitration Association (“AAA”), 120 Broadway, Floor 21, New York, NY 10271 (1-800-778-7879), www.adr.org, or JAMS, 1920 Main St. at Gillette Ave., Suite 300, Irvine, CA 92614 (1-800-352-5267), www.jamsadr.com, to administer the arbitration under their consumer rules. If AAA and JAMS cannot serve, and the parties cannot agree on an alternative, a court with jurisdiction will select the administrator or arbitrator, who must agree to abide by all of the terms of this Arbitration Provision. Any Arbitrator must be a practicing attorney with ten (10) or more years of experience practicing law or a retired judge. If a party files a lawsuit in court asserting Claim(s) that are subject to arbitration and the other party files a motion to compel arbitration with the court which is granted, it will be the responsibility of the party prosecuting the Claim(s) to select an arbitration administrator in accordance with this paragraph and commence the arbitration proceeding in accordance with the administrator’s rules.
  - g. **Jury Trial Waiver:** IF YOU OR QCELLS ELECT TO ARBITRATE A CLAIM, YOU AND QCELLS WILL NOT HAVE THE RIGHT TO PURSUE THAT CLAIM IN COURT BEFORE A JUDGE OR A JURY.
  - h. **Class Action Waiver:** ANY ARBITRATION MUST BE ON AN INDIVIDUAL BASIS ONLY. IF ARBITRATION IS ELECTED, NEITHER YOU NOR QCELLS WILL HAVE THE RIGHT TO: (1) PARTICIPATE IN A CLASS ACTION OR OTHER REPRESENTATIVE ACTION IN COURT OR IN ARBITRATION, EITHER AS A CLASS REPRESENTATIVE, CLASS MEMBER OR OTHERWISE; OR (2) ACT AS A PRIVATE ATTORNEY GENERAL IN COURT OR IN ARBITRATION. ALSO, ABSENT THE WRITTEN CONSENT OF ALL PARTIES, NEITHER YOU NOR QCELLS WILL HAVE THE RIGHT TO JOIN OR CONSOLIDATE A CLAIM WITH CLAIMS OF ANY OTHER PERSON OR ENTITY. An arbitration award shall determine the rights and obligations of the named parties only, and only with respect to the Claim(s) in arbitration. No arbitration administrator or arbitrator shall have the power or authority to waive or modify this Section.
  - i. **Location and Costs:** Any in-person hearing must take place at a location reasonably convenient to the parties or as otherwise agreed to by the parties or ordered by the Arbitrator. The parties shall pay filing, administrative and Arbitrator fees in accordance with the administrator’s rules. However, if you notify Qcells in writing that you cannot pay your share of the fees and could not obtain a fee waiver from the administrator, and if your request is reasonable and in good faith, Qcells will pay or reimburse you for all or part of your fees. The parties shall bear the fees and expenses of their own attorneys, experts and witnesses unless otherwise required by applicable law, this Agreement or the administrator’s rules. If Qcells prevails in an individual arbitration that either you or Qcells commenced, Qcells will not seek to recover its fees or costs from you. However, if the Arbitrator determines that any party’s claim or defense is frivolous or wrongfully intended to oppress or harass the other party, the Arbitrator may award fees and expenses reasonably incurred by the other party if they could be imposed under Federal Rule of Civil Procedure 11.
  - j. **Law Applied.** The Arbitrator shall apply applicable substantive law consistent with the FAA and statutes of limitations and claims of privilege. The Arbitrator may award all remedies that would apply in an individual court action, including, without limitation, punitive damages (governed by the Constitutional standards employed by the courts) and injunctive, equitable and declaratory relief (but only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party’s individual Claim).
  - k. **Arbitration Award:** At the timely request of either party, the Arbitrator shall provide a written explanation for the award. The award shall be final and binding, except for any appeal rights under the FAA, and may be entered as a judgment by any court having jurisdiction. Any finding, award or judgment from the arbitration of any Claim shall apply only to that arbitration. No finding, award or judgment from any other arbitration shall impact the arbitration of any Claim.
  - l. **Survival and Conflict:** This Arbitration Provision binds you and your heirs, successors and assigns, and Qcells and its successors and assigns. This Arbitration Provision shall survive (1) the payment of amounts owed under this Agreement; (2) any sale, assignment or transfer of the Program or this Agreement by Qcells; (3) any bankruptcy if consistent with applicable bankruptcy law; (4) any default or breach; (5) termination or expiration of this Agreement or the Program and/or Participant’s withdrawal from the Program; and (6) work performed or services provided under this Agreement. If this Arbitration Provision conflicts with the applicable arbitration rules or the other provisions of this Agreement, this Arbitration Provision shall govern.
  - m. **Severability:** If any portion of this Arbitration Provision is held to be invalid or unenforceable, the remaining portions shall nevertheless remain in force, except that: (1) if a determination is made that the Class Action Waiver is unenforceable, and that determination is not reversed on appeal, then the Arbitration Provision (except for this sentence) shall be void in its entirety; and (2) if a court determines that a public injunctive relief Claim may proceed notwithstanding the Class Action Waiver, and that determination is not reversed on appeal, then the public injunctive relief Claim will be decided by a court, any individual Claims will be arbitrated, and the parties will ask the court to stay the public injunctive relief Claim until the other Claims have been finally concluded.
14. **LEAP END CUSTOMER DATA AUTHORIZATION TERMS (“LEAP AUTHORIZATION TERMS”).** These Leap Authorization Terms allow you or the entity you represent to exercise your right to disclose your Energy Usage Information (as defined below) and certain Personal information (as defined below) that has been provided to Qcells to Leap for the purpose of providing grid services to you directly or through an authorized partner (i.e., through participation in the Qcells Grid Service Program). These Leap Authorization Terms are a binding legal agreement between you and Leap. Please read these Leap Authorization Terms carefully. By connecting and authorizing your applicable utility account and enrolling in the Program, you acknowledge that you have read, understood, agree with and accept these Leap Authorization Terms.
- a. **Demand Response Provider Authorization.** You authorize Leap to act as your grid services provider, or to act as your agent to authorize a demand response provider or similar on your behalf, and perform or authorize demand response activities and related ancillary services for the purpose of providing flexibility to the electric grid, including reducing or increasing energy demand in response to a signal or pricing mechanism.
  - b. **Prohibited Resources.** You must not use any distributed generation technology using diesel, natural gas, gasoline, propane, or liquefied petroleum gas (collectively, “Prohibited Resources”) to reduce load during any demand response activity or event. You acknowledge and assent that you do not have any Prohibited Resources on-site at your residence and will not use any Prohibited Resources in the event you introduce or bring Prohibited Resources on-site in the future. If you introduce or bring Prohibited Resources on-site at your residence, Leap reserves the right to disconnect your Leap account and access to any demand services provided by Leap or a demand response provider authorized in accordance with these Leap Authorization Terms. If you are a non-residential customer (either an individual or entity), you must complete and sign a [customer attestation form](#).
  - c. **End Customer Data Collection and Use.**
    1. You authorize Leap to collect any usage or consumption data obtained through your utility’s metering infrastructure, which includes energy meters and related systems, (“Energy Usage Data”), which may be associated with any information that can reasonably be used to identify you, your family, household residence, or non-residential customer, such as your first and last name, address, email address and account information (“Personal Information”) and other non-personal information, such as rate schedules, from the applicable utility for the purposes listed in Section 14(c)(3) below. Energy Usage Data and Personal Information are collectively referred to as “End Customer Data.”
    2. You authorize Leap to act as your agent to automatically revoke the transmission of End Customer Data from your utility to Leap on your behalf upon your disenrollment from the demand response service or program.
    3. Leap will use End Customer Data for a variety of purposes including the following:
      - i. to provide demand response, generation, and/or grid services;
      - ii. to build data models to administer and improve demand response, generation and grid services;
      - iii. to send information including confirmations, alerts and support and administrative messages;

- iv. to respond to and resolve invoicing or billing disputes; and
  - v. to communicate with you through email or any other medium that you have authorized to provide you with information, updates and marketing about Leap and our services.
4. Leap may aggregate your Energy Usage Data with that of other end customers in various formats so your Energy Usage Data becomes anonymous and cannot personally identify you. Leap uses this information for various analysis, reporting and program management purposes. This aggregated information is not considered Energy Usage Data or Personal Information and may be shared with third parties Leap does business with.
- d. **Sharing Your End Customer Data.** Leap will not rent, sell or share your End Customer Data with other people or non-affiliated third parties, except with your consent or as necessary to provide grid services as authorized by you in these Leap Authorization Terms. Leap may provide limited access to some of your End Customer Data to the following types of third parties:
- 1. Authorized Partners for Demand Services Programs. Leap is engaged by and collaborates closely with various utilities, demand response services aggregators, and other partners to provide demand response services to end customers.
  - 2. Service Providers. Leap works with a wide range of third party providers, notably database administrators, cloud computing services, advertising services, data analysts, application service providers, connected home service and device providers, and other non-governmental organizations. Leap does not authorize these service providers to use or disclose your End Customer Data, except in connection with providing their services or for the purpose of assisting Leap to provide services to you.