

RELEASE OF LIABILITY AGREEMENT

This RELEASE OF LIABILITY AGREEMENT (the "**Agreement**") is entered into as of November 22, 2016 between:

Geeks Midnight Owl Power Energy DBA of 4008 Louetta Rd suite, Spring, Texas
77388

(the "**Indemnitee(s)**")

and

Client residential, commercial, solar energy services. of , , Alabama

(the "**Indemnitor(s)**")

(each a "**Party**" and collectively the "**Parties**")

WHEREAS, Indemnitor wishes to hold harmless, indemnify, and defend Indemnitee from any and all Claims, whether alleged or actual, arising from the following services that will be provided: THE UNDERSIGNED AGREES THAT GEEKS MIDNIGHT OWL POWER ENERGY DBA OR ITS REPRESENTATIVE, MAY IMMEDIATELY WITHOUT ANY NOTICE OF THE UNDERSIGNED DISCONTINUE SERVICE HEREUNDER IN THE EVENT OF FAILURE ON THE PART OF THE UNDERSIGNED, HIS AGENTS OR EMPLOYEES TO COMPLY WITH ANY OF THE TERMS OR CONDITIONS OF THIS AGREEMENT IN THE EVENT OF DISCONTINUANCE OF SERVICE BY REASON OF SUCH FAILURE, THE UNDERSIGNED FOR AND ON HIS OWN BEHALF, FOREVER WAIVES AND RELEASES GEEKS MIDNIGHT AND WITH RESPECT TO ANYONE IN OR ABOUT THE SERVED PREMISES AFFECTED BY SUCH TERMINATION, AGREES TO INDEMNIFY AND HOLD GEEKS MIDNIGHT OWL ELECTRICAL POWER ENERGY DBA HARMLESS FROM ANY AND ALL CLAIMS, INJURIES, DAMAGES AND EXPENSES OF EVERY NATURE AND KIND WHICH MAY ARISE OUT OF OR IN ANY WAY BE CONNECTED WITH SUCH TERMINATION OF SERVICE. IT IS UNDERSTOOD AND AGREED THAT SUCH DISCONTINUANCE OF SERVICE SHALL NOT CONSTITUTE A WAIVER BY GEEKS MIDNIGHT OWL ELECTRICAL POWER ENERGY DBA OF ANY RIGHTS OR CLAIMS WHICH IT MIGHT HAVE AGAINST THE UNDERSIGNED AS A RESULT OF HAVING PROVIDED ELECTRICAL SERVICE TO THE UNDERSIGNED. IN THE EVENT THAT IT BECOMES NECESSARY FOR GEEKS MIDNIGHT OWL ELECTRICAL POWER ENERGY TO EMPLOY COUNSEL TO ENFORCE ANY OF THE PROVISIONS OF THIS AGREEMENT OR THE BREACH THEREOF, THEN, IN THAT EVENT THE UNDERSIGNED AGREES TO PAY TO GEEKS MIDNIGHT OWL POWER ENERGY DBA ALL COSTS AND EXPENSES INCLUDING REASONABLE ATTORNEYS FEES INCURRED BY GEEKS MIDNIGHT OWL POWER ENERGY WHETHER OR NOT LITIGATION IS COMMENCED.

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which is hereby acknowledged, Indemnitor(s) and Indemnitee(s) hereby agree as follows:

1. **INDEMNITY AND HOLD HARMLESS.** To the extent permitted by law, Indemnitor will indemnify, hold harmless, and defend Indemnitee from any and all claims, actions, losses, damages, suits, fees, and judgments (hereinafter, "**Claim**"), whether alleged or actual, including all costs and attorney's fees

incurred in defending against the same, arising out of the Indemnitor's sole negligence, willful acts, errors, omissions, and/or misconduct relating to the service described herein.

2. **REPRESENTATIONS ON AUTHORITY OF SIGNATORIES.** Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement and make this Agreement enforceable in accordance with its terms.
3. **INSURANCE.** Indemnitor will purchase and maintain insurance or indemnity protection that is equal to or greater than Indemnitor's obligations under this Agreement.
4. **NOTICE OF CLAIM.** In the event that a Party receives notice of a Claim, that Party must notify all other parties within 10 business days.
5. **DEFENSE**

- a. **Control.** Upon receipt of notice of a Claim, Indemnitor reserves the right to defend and control such Claim in any manner it may deem appropriate. In the event that Indemnitor declines to defend and control the Claim, Indemnatee will have the right to defend and control such Claim in any manner it may deem appropriate.

The Party controlling and defending such Claim reserves the right to select counsel, contractors, experts, and any other third party of recognized competence that are deemed appropriate.

- b. **Cooperation.** All Parties to this Agreement will cooperate fully with the Party defending and controlling any Claims.
6. **SETTLEMENT.** The Party controlling and defending any Claim will be authorized to accept a settlement subject to the following:
 - a. **Indemnitor Control.** In the event Indemnitor is controlling the defense of such Claim, Indemnatee must give full written consent to any such settlement, such consent not to be unreasonably withheld.
 - b. **Indemnatee Control.** In the event Indemnatee is controlling the defense of such Claim, Indemnitor must give full written consent to enter into any such settlement or give consent to an entry of judgment, such consent not to be unreasonably withheld.
 7. **ATTORNEY'S FEES.** In the event any action at law or in equity is required to interpret or enforce the terms of this Agreement, the prevailing Party will be entitled to recover reasonable attorney's fees and costs.

8. **AMENDMENT OR MODIFICATION.** Any amendment or modification to this Agreement will only be deemed valid if executed in writing and signed by all parties.
9. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the Parties and supersedes any previous understanding, arrangement, warranty, or agreement to the matter set forth in this Agreement.
10. **WAIVER.** In no event will any delay, neglect, or forbearance on the part of any

Party in enforcing any provisions of this Agreement be deemed a waiver or limitation of that Party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

11. **ASSIGNMENT.** Except where expressly permitted herein, neither this Agreement nor the rights and obligations of any Party may be assigned without the prior written consent of all Parties subject to this Agreement.
12. **SEVERABILITY.** In the event that any or part of the provisions of this Agreement are held to be invalid or unenforceable, in whole or in part, by a court of competent jurisdiction, those provisions to the extent enforceable and all other provisions will nevertheless continue to be valid and enforceable.
13. **JOINT AND SEVERAL LIABILITY.** Notwithstanding anything to the contrary contained herein, if more than one person or entity is signing this Agreement as Indemnitor, its obligations under this Agreement will be joint and several.
14. **INTERPRETATION.** Wherever the context so requires, words used in the singular include the plural, and words used in the plural include the singular.
15. **GOVERNING LAW.** This Agreement will be governed by, and construed in accordance with, the laws of the State of Texas, without regard to its conflict of laws rules.
16. **JURISDICTION.** The courts of the State of Texas will have exclusive jurisdiction to adjudicate any dispute arising under or in connection with this Agreement.

Indemnitee

Signed: _____ Date: _____

Print: Geeks Midnight Owl Power Energy DBA

Title: _____

Indemnitor

Signed: _____ Date: _____

Print: Client residential, commercial, solar energy services.

Title: _____

Instructions for Your Release of Liability Agreement

LegalNature's release of liability agreement is an excellent way to help parties accomplish their goals by better dividing responsibility for legal risks. The following provides clarification on some of the key aspects of your document.

What is Indemnification and Hold Harmless?

When these terms are discussed independent of each other they have separate meanings. Indemnity is a contractual obligation to repay an indemnified party (the indemnitee) any actual losses that party may incur. The implication of this is that the indemnitee must actually have incurred a quantifiable loss before the obligated party (the indemnitor) is bound to pay. Such losses normally occur where the indemnitee loses a lawsuit or receives a fine.

Hold harmless is similar to indemnity, but goes further. Instead of just being responsible for actual losses, the indemnitor must assume all liability and costs that the indemnitee has incurred. This contractual duty remains even if there is no judgment passed or fine given. Even though there is a difference between indemnity and hold harmless, in practice most courts now consider them to be essentially the same thing.

Broad Indemnity

Broad indemnity is the most extensive form of indemnity there is. With broad indemnity, the indemnitor assumes all risk and liability no matter who is at fault. This form of indemnity is seen as the most beneficial for the indemnitee, but very risky for the indemnitor. The level of risk for the indemnitor is so high that some states, such as California, do not even allow this level of indemnity to take place. Other states will not allow broad indemnity for certain types of contracts.

Intermediate Indemnity

Intermediate indemnity is the most common form of indemnity. With intermediate indemnity, the indemnitor assumes liability if it has contributed to the fault. If the indemnitee is solely at fault, the indemnitor is not liable. However, if even partly at fault, the indemnitor still must assume all liability.

Limited Indemnity

Limited indemnity offers the least protection to the indemnitee, and there are some that do not believe that it should even be a class of indemnity. Limited indemnity holds the indemnitor liable for the portion of fault they are responsible for. This form of liability would exist under tort law even without a release of liability agreement. However, some parties like to formalize this arrangement in writing.

Defense Requirement

The requirement for the indemnitor to actively defend against claims against the indemnitee varies from state to state. For example, the assumption in California is that the indemnitor will automatically have the responsibility of defending any claims, whereas in Illinois the duty to defend must be agreed to as a separate contractual

obligation. By including this requirement, the language in LegalNature's release of liability agreement firmly places the duty to defend on the indemnitor. The defense language also requires the defending party to seek consent before settling any claims.

Executing Your Release of Liability Agreement

If the release of liability agreement is being executed in conjunction with another contract, the release of liability agreement should either be executed before or at the same time as the other contract. Once the release of liability agreement has been completed, simply have all parties sign and date to complete the document. Although not required, it is always a good idea to have the document notarized for extra protection.