

AGREEMENT FOR BILLING AND COLLECTION SERVICES

This Agreement for Billing and Collection Services is made and entered into this _____ day of _____ 20__, by and between New Jersey Natural Gas Company (“NJNG”), 1415 Wyckoff Road, Post Office Box 1464, Wall, New Jersey 07719, a New Jersey corporation, and _____, a _____ corporation (“Marketer”).

WITNESSETH:

WHEREAS, NJNG offers certain billing and collection services to marketers eligible to sell natural gas to NJNG’s transportation customers under Billing Option 1 of its Marketer and Broker Requirements Service Classification (“S.C. No. MBR”) as contained in its Tariff for Gas Service (“Tariff”);

WHEREAS, Marketer is eligible to market natural gas on NJNG’s system;

WHEREAS, NJNG wishes to offer and sell to Marketer, and Marketer wishes to purchase from NJNG, certain services related to accounts receivable, billing and collection set forth in this Agreement in accordance with the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements hereinafter contained, NJNG and Marketer covenant and agree as follows:

I.
SERVICES RENDERED

1.1 *Purchase of Accounts Receivable.* NJNG shall purchase Marketer’s accounts receivable resulting from Marketer’s sale of natural gas to NJNG’s transportation customers served under Service Classifications GSL, GSS, FT, RS and IT (hereinafter, “Transportation Customers”) of NJNG’s Tariff. NJNG’s purchase of accounts receivable will be limited to amounts due to Marketer by Transportation Customers upon the provision of natural gas commodity service by Marketer. NJNG’s purchase, if any, of a Marketer’s accounts receivable shall be as set forth in Section IV. Notwithstanding anything contained herein, NJNG reserves the right to deduct from any sums due Marketer hereunder any amounts owed by Marketer to NJNG, including amounts for accounts not subject to Billing Option 1 Service, which amounts are past due but have not yet been paid, or to apply Marketer’s deposit or letter of credit to such past due amounts.

1.2 *Billing and Collection Services.* NJNG shall provide billing and collection services on behalf of Marketer resulting from Marketer’s sale of natural gas to Transportation Customers. Specifically, NJNG shall (i) render monthly bills to Transportation Customers, (ii) receive payments from Transportation Customers, (iii) maintain accounts of Transportation Customers, including the posting of charges, payments, adjustments and other activities required to maintain accurate billing records for the sale of natural gas by Marketer, and (iv) assume responsibility for collecting natural gas commodity charges from delinquent Transportation Customers, including forwarding collection notices to Transportation Customers and any other actions necessary to collect such accounts, up to and including termination or shut-off of such accounts in accordance with the requirements of the New Jersey Board of Public Utilities (“BPU”).

1.3 *Logos, Generic Bill Messages and Quarterly Bill Inserts.* At no additional cost to Marketer, Marketer shall be allowed to include, on the monthly bill to Transportation Customers, Marketer’s logo (in addition to that of NJNG), two (2) lines of text for a generic message to each of Marketer’s Transportation Customers; and a one page bill insert per quarter in accordance with the requirements of the New Jersey Board of Public Utilities. It shall be within the sole discretion of NJNG to include in the monthly bill inserts that are longer than one page. To the extent that NJNG is able to accommodate Marketer’s request to include such a bill

insert, Marketer shall pay NJNG for incremental postage and other expenses, which shall be reflected in NJNG's monthly invoice to Marketer.

1.4 *Meter Reading.* NJNG shall read the meters of Transportation Customers and record the volumes of natural gas consumed by Transportation Customers using its meter reading procedures and cycles, using actual and estimated meter reads. In the months in which actual reads are not taken, NJNG will provide Marketer the estimated monthly reads as determined by NJNG in accordance with its system-wide estimation procedures. As soon as practicable after the end of every tenth billing cycle NJNG shall provide Marketer with monthly reads, associated terms and calculated commodity charges of Transportation Customers taken during those cycles.

1.5 *License.* Marketer hereby grants to NJNG during the term of this Agreement, a nonexclusive, royalty-free revocable license to use, copy, display and distribute Marketer's trademarks and logos (the "Marketer Trademarks") for purposes of branding the Services and providing the Services to Payers in accordance with the terms and conditions of this Agreement. NJNG shall not at any time do or permit any act to be done which may in any way impair the rights of Marketer in the Marketer Trademarks. NJNG's usage of the Marketer Trademarks shall at all times be in accordance with the specifications for use of such Marketer Trademarks provided in writing to NJNG by Marketer. NJNG shall have the right to sublicense Marketer Trademarks to any third party vendor retained by NJNG to provide billing and collection services on NJNG's behalf.

II.

RATE INFORMATION TRANSFER PROCEDURES

2.1 *Transfer of Rate Information.* Upon enrollment of Transportation Customers, Marketer shall provide NJNG each individual customer's billing parameters, which must fall into one of the following categories: (a) fixed commodity price per therm; (b) rebundled total price per therm; or (c) percentage discount off the bundled sales charges. If the billing parameters do not fall into one of these categories, it must be approved by NJNG prior to the commencement of billing. For billing categories (a) and (b), Marketer also shall provide the percentage discount, if any, Marketer is offering budget payment plan customers. For billing category (c), the percentage discount shall be applied to budget payment plan customers.

2.2 *Calculation of Customer Bills.* NJNG will use the billing parameters provided by Marketer to calculate the commodity portion of the Transportation Customers' bills. Marketer shall transfer any and all such billing parameter information to NJNG in a media and format specified by NJNG. Marketer also must provide, in the same media and format, any changes to the current billing parameters on an individual customer basis, including an effective future date. NJNG shall not assume any responsibility for verifying such information.

III.

BILLING AND PAYMENT FOR BILLING AND COLLECTION SERVICES

3.1 *Billing and Payment.* As soon as practicable after the end of each month, NJNG shall invoice Marketer for billing and collection services provided by NJNG in the preceding calendar month. NJNG's invoice shall include the Basic Service Charge and the Billing Option 1 Service Charge reflected in S.C. No. MBR. Marketer shall pay NJNG's invoice within ten (10) days after NJNG sends said invoice. Payment may be made by wire transfer to New Jersey Natural Gas Company, Attention of Laurie McGraw, _____ (ABA Number: _____; Consolidation Account Number: _____).

3.2 *Late Payment.* A late payment penalty shall accrue on any amounts not timely paid by Marketer in accordance with Section 8.9 of the Standard terms and Conditions of the Tariff. NJNG also shall

have the right to access and apply Marketer's deposit or letter of credit to any payment obligations which may be late.

3.3 *Disputed Charges.* If the NJNG receives a customer inquiry regarding its charges, NJNG shall be responsible for resolving the inquiry with the customer. If NJNG receives a customer inquiry regarding the Marketers charges, NJNG shall refer the customer to the Marketer for resolution. In the event the customer and Marketer are unable to resolve their dispute, NJNG reserves the right to withhold payment for disputed charges.

IV. BILLING AND PAYMENT FOR PURCHASED ACCOUNTS RECEIVABLE

4.1 *Billing and Payment.* As soon as practicable after the end of every tenth NJNG billing cycle, NJNG shall determine the amount due and owing to Marketer for natural gas consumed by Transportation Customers served by Marketer that NJNG billed during the relevant billing cycles. The amount due and owing shall equal the commodity charges calculated by NJNG based upon the billing parameters provided for the relevant term volumes of natural gas consumed by Transportation Customers served by Marketer. NJNG shall make payment to Marketer by wire transfer to Marketer, to the attention of _____, no later than fifteen (15) days following the end of every tenth billing cycle.

4.2 *Overpayments by NJNG.* In the event that an overpayment by NJNG to Marketer, NJNG shall deduct the amount of the overpayment from any amounts due Marketer under Section 4.1 of this Agreement or apply Marketer's deposit or letter of credit until such overpayment is paid. If NJNG determines that the overpayment, is significant, Marketer shall make such payment to NJNG as part of its next scheduled payment.

V. TERM

This Agreement shall become effective on the date first set forth above and shall remain in effect for one (1) year, and shall continue in effect from year to year unless and until it is terminated by written notice at least (60) days prior to the expiration of this Agreement or terminated by NJNG in accordance with Article XI of this Agreement.

VI. BILLING ERRORS

If NJNG finds or is notified by Marketer within forty five (45) days of the customer bill date of a billing error, it will make a reasonable effort to correct the error and render the appropriate bill within the time limits permitted by the laws of the State of New Jersey. The forty-five (45) day notification period shall not apply to billing errors caused by NJNG. If correction of such billing error results in an additional payment to Marketer, then NJNG shall pay Marketer the difference between the amount misbilled and the amount that should have been billed had no billing error occurred. If correction of such billing error results in an additional payment to NJNG, then NJNG shall deduct such amount from any amounts due Marketer under Section 4.1 or apply Marketer's deposit or letter of credit until such balance is paid. If NJNG determines that the amount due is significant, Marketer shall make such payment to NJNG as part of its next scheduled payment. At NJNG's sole discretion, Marketer shall compensate NJNG for processing unduly burdensome adjustments of customer billing information due to Marketer error.

VII. LIMITATION ON LIABILITY; INDEMNIFICATION

7.1 *Limitation on Liability.* Notwithstanding anything contained herein to the contrary, in no event shall NJNG or an affiliated company or any of its or their respective officers, directors, employees, agents, or subcontractors be liable to Marketer or any other party, under any theory of tort, contract, strict liability, negligence or other legal theories, for any form of indirect, special, coincidental, or consequential (including without limitation loss of profits) and punitive damages arising in connection with the services, this Agreement and/or NJNG's performance hereunder even if NJNG has been advised, knew or should have known of the possibility of such damages.

7.2 *Indemnification.* Marketer, at its own expense, shall defend, indemnify and hold NJNG, its affiliates, and NJNG and its affiliates' respective officers, directors, employees, agents and contractors harmless against any and all claims, expenses (including, without limitation, attorneys' fees and allocated in-house legal expenses), losses or liabilities resulting from or arising out of (i) Marketer's use of the services rendered pursuant to this Agreement; (ii) any act or omission of NJNG, its employees, officers, directors, agents or representatives in the performance of NJNG's obligations under this Agreement, except if such act or omission is the result of gross negligence, (iii) any act or omission of Marketer, its employees, officers, directors, agents or representatives, contractors or contractors' employees related to this Agreement, or to Marketer's provision of services to Transportation Customers, or (iv) any violations of law, government regulations or orders, or permit requirements by Marketer or Marketer's employees, directors, officers, agents, representatives, or contractors or contractors' employees related to this Agreement, or to Marketer's provision of services to Transportation Customers.

VIII. **CONFIDENTIALITY**

8.1 *Confidentiality Defined.* For purposes of Section 8.1, "Confidential Information" shall mean any hard copy or computer generated information and any information in other tangible form supplied by one party hereto to the other which is clearly marked as confidential or proprietary, or, if orally or visually disclosed, is identified as confidential or proprietary upon disclosure and is also summarized in a written memorandum marked as confidential and proprietary that is delivered by the disclosing party to the receiving party promptly after the disclosure has been made.

8.1-1 *Use of Confidential Information.* Each party hereto agrees (i) to use Confidential Information only in its performance of this Agreement; (ii) not to disclose any Confidential Information or any part thereof to others for any purpose, except in accordance with this Section; and (iii) to limit dissemination of Confidential Information, or any part thereof, to persons who have a need to use or review such Confidential Information, or any part thereof, for purposes of that party's performance hereunder, and who are contractually obligated to treat the Confidential Information in accordance with the terms of this Article. The provisions of this Section, however, do not apply to the following: (i) information publicly available or known through no wrongful act of the receiving party; (ii) information rightfully acquired by the receiving party from third parties authorized to make such disclosure without restriction; (iii) information independently developed by the receiving party as shown by contemporaneous records of the receiving party; (iv) information approved for release by the written authorization of the disclosing party; (v) information previously known by the receiving party, as shown by the receiving party's records; or (vi) information required to be disclosed by a regulatory or governmental authority or action, provided that the receiving party uses its best efforts to provide prior advance notice to the disclosing party of any such disclosure requirement.

8.1-2 *Remedies.* Each party acknowledges that any breach of any of its obligations under this Section is likely to cause or threaten irreparable harm to the other party. Accordingly, each party agrees that the other party shall be entitled to equitable relief to protect its interests, including, but not limited to, preliminary and permanent injunctive relief without the necessity of posting a bond. Such remedy shall not be exclusive of other remedies otherwise available to either party hereto.

8.2 *Terms and Conditions of this Agreement.* The parties agree that all terms and conditions of the Agreement, including the Agreement itself, shall be considered confidential and will not be disclosed to third parties (other than to third party consultants employed by a party provided such consultants shall agree to be bound by the confidentiality terms of this Agreement) without written permission of the other Party, except as required by law. In the event disclosure is required by law, the party obligated to disclose shall notify the other party of such requirement and shall seek a ruling or protective order to maintain confidentiality of the disclosed provisions.

IX. **AUDITS**

9.1 *Notice, Scope and Frequency.* Upon thirty (30) days written notice to NJNG, Marketer shall have the right to commence an audit. The notice of audit shall identify the requested date upon which it is to commence, the projected completion date, the Marketer representatives and the purpose and subject matter of the audit. The scope of the audit and the materials to be reviewed will be mutually agreed to by the parties hereto. No more than one audit may be conducted in any twelve (12) consecutive months while this Agreement remains in effect. Audits shall be conducted during normal business hours and shall be of such records and accounts as may, under NJNG recognized accounting practices, contain information bearing upon (i) the amount being billed to Marketer's end users by NJNG as part of the provision of the Billing Option 1 Service, and (ii) the charges to Marketer for such service.

9.2 *Expenses.* Each party shall bear its own expenses associated with the conduct of the audit, except that special requirements required by Marketer to conduct the audit, will be paid by Marketer.

9.3 *Handling of Materials.* Materials of NJNG reviewed by Marketer in the course of the audit, shall be deemed confidential and shall be treated in accordance with the provisions of Article VIII of this Agreement. The use of audit materials by Marketer shall be limited to the conduct of the audit and the preparation of a report for appropriate distribution by Marketer to those within its organization who need to know the results of the audit and who are contractually obligated to treat such report and the information it contains confidential.

X. **CHANGES**

NJNG may change the terms and conditions and rates and charges contained in this Agreement and any Exhibits, Addenda and Attachments to this Agreement upon providing sixty (60) days written notice to Marketer. In addition, NJNG reserves the right to discontinue or withdraw the Billing Option 1 Service, or any part thereof, upon prior notice to Marketer, without incurring any liability in connection therewith. Notwithstanding any provisions to the contrary, however, changes or withdrawals required by the BPU or other governmental authority having jurisdiction over this Agreement, shall become effective as directed by that authority.

XI. **TERMINATION**

11.1 *Discretion to Terminate.* NJNG reserves the right, in its sole and absolute discretion, to terminate this Agreement, or any portion thereof, upon prior written notice to Marketer, if: (a) Marketer breaches said Agreement or is in default of any obligation hereunder, and the breach or default has not been cured within thirty (30) days from the date Marketer is notified of such breach or default; or (b) Marketer (i) applies for or consents to the appointment of or the taking of possession by a receiver, custodian, trustee, or liquidator of itself or of all or a substantial part of its property; (ii) becomes insolvent; (iii) makes a general assignment for the benefit of creditors; (iv) suffers or permits the appointment of a receiver for its business or assets; (v) becomes subject to any proceeding under any bankruptcy or insolvency law whether domestic or

foreign, voluntarily or otherwise; or (vi) fails to contest in a timely or appropriate manner. or acquiesces in writing to, any petition filed against it in an involuntary case under the Federal Bankruptcy Code or any application for the appointment of a receiver, custodian, trustee, or liquidation of itself or of all or a substantial part of its property, or its reorganization, or dissolution.

11.2 *Surviving Liability.* Termination pursuant to this Section shall not relieve Marketer of any liability incurred prior to the effective date of termination.

11.3 *Collection Costs.* NJNG shall be entitled to receive from Marketer any costs of collection activity including court costs and reasonable attorneys fees incurred to secure payment by Marketer for Billing Option 1 Service.

XII.
NOTICE AND DEMANDS

12.1 *Notices.* All notices requests, demands, or other communications required or permitted under this Agreement shall be in writing and shall be deemed delivered (i) on the date of delivery when delivered by hand, (ii) on the date of transmission when sent by telex, electronic mail or facsimile transmission during normal business hours with telephone confirmation of receipt, (iii) one (1) day after dispatch when sent by overnight courier maintaining records of receipt or (iv) five (5) days after dispatch when sent by registered mail postage prepaid, return-receipt requested all addressed as follows (or to such other addresses as shall be given in writing by either party to the other):

TO NJNG:

Payment: New Jersey Natural Gas Company
1415 Wyckoff Road
P.O. Box 1464
Wall, NJ 07719
Attention: Supervisor, Disbursements

Billing and Notices: New Jersey Natural Gas Company
1415 Wyckoff Road
P.O. Box 1464
Wall, NJ 07719
Attention: Manager of Customer Services – Revenue Cycle

TO MARKETER:

Billing:

Attention: _____

Payment:

Attention: _____

Notices:

Attention: _____

Any changes in the above payment, billing and notice information shall be effective upon notice by one party to the other.

XIII.
WARRANTY DISCLAIMER

Except as provided above, NJNG makes no, and hereby disclaims any, representation or warranty with respect to the services, whether express or implied, including without limitation warranties of merchantability, fitness for a particular purpose, or non-infringement of third party rights.

XIV.
FORCE MAJEURE

NJNG shall not be held liable for any delay or failure in performance of this Agreement resulting from any cause beyond its control, such as acts of God, acts of civil or military authority, government regulations, embargoes, epidemics, war, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, strikes, power blackouts, volcanic action, other major environmental disturbances, unusually severe weather conditions, inability to secure products or services of other persons or transportation facilities, or acts of omission or commission by third parties.

XV.
USE OF BILLING INTERMEDIARY

NJNG, at its option, may provide the Billing Option 1 Service pursuant to this Agreement through a third-party billing intermediary.

XVI.
MISCELLANEOUS

16.1 *Tariff Requirements Govern.* In the event of any conflict between the terms and conditions of this Agreement and those of the Tariff or any regulatory requirements, the terms and conditions of the Tariff or regulatory requirements shall control. However, the parties intend that this Agreement, to the extent not in conflict with the Tariff or regulatory requirements, supplement the Tariff or regulatory requirements, supply necessary operational practices, and be construed to the fullest extent possible in harmony with the Tariff or regulatory requirements.

16.2 *Assignments.* Any assignment by Marketer of any right, obligation or duty, in whole or in part, or of any other interest hereunder, without the written consent of NJNG, shall be null and void. NJNG reserves the right to assign its obligations and rights hereunder, or any part thereof, without the prior written consent of Marketer.

16.3 *Waivers.* No amendment or waiver of any provision of this Agreement and no consent to any default under this Agreement shall be effective unless the same shall be in writing and signed by both parties.. In addition, no course of dealing or failure of a party to strictly enforce any term, right or condition of this Agreement shall be construed as a waiver of such term, right or condition.

16.4 *No Third Party Beneficiaries.* This Agreement shall not provide any person not a party to this Agreement with any remedy, claim, liability, reimbursement, cause of action or other right in excess of those existing without reference to this Agreement.

16.5 *Governing Law.* This Agreement shall be governed by the laws of the state of New Jersey.

16.6 *Entire Agreement.* This Agreement and any all attached Exhibits Attachments or Schedules, constitute the entire understanding between the parties and supersede all prior understandings, oral or written representations, statements, negotiations, proposals and undertakings with respect to the subject matter hereof.

16.7 *Execution in Counterparts.* This Agreement may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same document.

16.8 *Headings.* The headings in this Agreement are for convenience and shall not be construed to define or limit any of the terms herein or affect the meanings or interpretation of this Agreement.

IN WITNESS WHEREOF, the parties through their duly authorized representatives, as they so declare and represent, have entered into this Agreement as of the date first written above.

TRANSPORTER

MARKETER

NEW JERSEY NATURAL GAS COMPANY

1415 Wyckoff Road
P.O. Box 1464
Wall, NJ 07719

(Please print name & address)

(Signature)

(Signature)

(Print Name)

(Print Name)

(Print Title)

(Print Title)

Date:_____

Date:_____