

**THIS AGREEMENT CONTAINS AN ARBITRATION CLAUSE AND A CLASS ACTION WAIVER THAT WILL AFFECT CUSTOMER'S LEGAL RIGHTS. PLEASE REVIEW CAREFULLY.**

**TERMS OF SERVICE**

**THESE TERMS OF SERVICE**, together with the Customer's Introductory Letter, the Third Party Supplier Contract Summary and any and all Renewal Notice(s) (if applicable) (collectively, the "Agreement"), (i) describe your and North American Power and Gas, LLC's ("North American Power" or "NAP") responsibilities and, among other things, contain an arbitration clause and class action waiver that waives each of your and North American Power's rights to sue in court (other than individual action in small claims court), to trial by jury, and to participate in a class action; and (ii) comprise Customer's entire agreement with North American Power regarding the services described herein, and supersedes any oral or written statements made in connection with the Agreement or NAP's provision of natural gas supply. **The purpose of this Agreement is to authorize a change in your retail natural gas supplier.** This Agreement authorizes North American Power to serve as Customer's retail natural gas supplier in the territories of the Natural Gas Distribution Company ("NGDC") for which NAP is licensed as specified in the Introductory Letter and, by accepting service under this Agreement and not exercising your right to cancel/rescind as described below, you agree to be bound to without limitation, qualification or change and to abide by terms of this Agreement. In this Agreement, the words "we," "us," and "our" refer to North American Power, and the words "you" and "your" refer to Customer.

**SERVICE:** Service with NAP ("Natural Gas Supply Service") shall begin on the date your supply service is transferred from your NGDC and/or another supplier to NAP. NAP is a retail supplier of natural gas and is not affiliated with your NGDC. The NGDC will continue to deliver your natural gas to your home or business, and will continue to bill you, and perform any necessary repairs. The NGDC will also respond to emergencies and will remain your point of contact in the case of any emergencies.

**RATES:** NAP will provide Natural Gas Supply Service to you at a Fixed Price and/or Variable Price, as described in more detail below.

**FIXED PRICE:** If your Natural Gas Supply Service is provided at a Fixed Price, your rate will remain consistent for the Fixed Price Period set forth in your Contract Summary. If you do not renew or cancel the Agreement before the last day of the Fixed Price Period and within the NGDC's time frame to effectuate a change in plan, your account will automatically convert to a Variable Price, which will be subject to change each month as set forth in more detail herein.

**VARIABLE PRICE:** If your Natural Gas Supply Service is provided at a Variable Price, such Variable Price will be determined by NAP for each month at its sole discretion based on business and market conditions including, but not limited to, the costs incurred by NAP to procure natural gas to serve your account, transportation costs, balancing fees, storage charges, losses, administrative costs, costs to acquire, marketing costs, profit, applicable taxes, and other business and market considerations. While receiving Natural Gas Supply Service at a Variable Price, you may contact NAP at (888) 313-9086 or visit our website at [www.napower.com](http://www.napower.com) to find out your current Variable Price.

**TERM:** Service with NAP shall begin on the date your supply service is transferred from your NGDC and/or another supplier to NAP. This Agreement will remain in effect until you choose to switch to another service provider and your NGDC successfully changes the service. Unless otherwise agreed, this Agreement shall automatically be renewed on a month-to-month basis until either party provides notification, as provided herein, of their intent to terminate this Agreement.

**FIXED PRICE TERM:** If your Natural Gas Supply Service is provided at a Fixed Price, your Contract Summary contains the period of time for which you will

receive a Fixed Price under this price plan ("Fixed Price Period"). After the conclusion of the Fixed Price Period, your account will automatically convert to a Variable Price, which will be subject to change each month as described in the "Variable Price" section herein. Contact information for NAP and the NGDC can be found herein under the "Contact Information" section.

**VARIABLE PRICE TERM:** If your Natural Gas Supply Service is provided at a Variable Price, this Agreement is a month-to-month contract and can be terminated in accordance with the "Termination" section herein. Customers who terminate while on a Variable Price plan will not incur an Early Termination Fee, as further described in the "Termination" section herein. Contact information for NAP and the NGDC can be found below under the "Contact Information" section.

**TERMINATION:** You shall be obligated to pay for the natural gas provided by NAP according to this Agreement prior to the effective date of any termination. You may terminate this Agreement by notifying NAP or your NGDC that you no longer wish to take Natural Gas Supply Service from NAP. The termination will not become effective until your NGDC successfully switches you to the new service provider of your choice. Until that occurs, your obligations under this Agreement remain in full force and effect.

If you would like to terminate this Agreement after the Rescission Period (as defined herein) and before the end of the Fixed Price Period, you may do so by giving NAP at least 30 days' prior written notice, and NAP will have the right to charge you an early termination fee ("Early Termination Fee") of \$10.00 per month for each month remaining of the then-current Fixed Price Period. For a residential customer, there is no charge for starting or stopping Natural Gas Supply Service if done within the terms of this Agreement (at the end of the Fixed Price Period or while receiving Natural Gas Supply Service at a Variable Price). The delivery of natural gas to you cannot be terminated or interrupted by the NGDC as a result of any dispute between NAP and you, but may be terminated by the NGDC for nonpayment of NGDC charges in accordance with applicable law. If the NGDC purchases the right to receive your payments under this Agreement, your payment obligations may become NGDC charges for purposes of termination of service.

**NORTH AMERICAN POWER RIGHT TO TERMINATE:** NAP may terminate this Agreement for non-payment or any other breach of this Agreement with 30 days' written notice to you, even if the breach is cured by you. NAP reserves the right to terminate this Agreement if the terms of this Agreement become materially uneconomical, if NAP is otherwise unable to continue this Agreement, or if a change in law causes NAP to no longer have the ability to serve you, upon providing 30 days' written notice to you. If NAP terminates this Agreement, you are responsible for all charges owed to NAP through the date that you are switched to another natural gas supplier or returned to the NGDC for service including, but not limited to, any Early Termination Fees, collection fees and/or attorneys' fees. Terminations will not be effective until the next regularly scheduled meter date following the date on which NAP gives notice to the NGDC of the termination.

**RENEWAL:** NAP will send written notice to you at least 30 days prior to the end of your Fixed Price Period. Unless terminated by NAP or you as provided in the "Termination" section herein, this Agreement will automatically continue on a month-to-month basis at NAP's then-current Variable Price, which is subject to fluctuation each month as described in the "Variable Price" section herein. While receiving Service at a Variable Price, you may contact NAP at (888) 313-9086 or visit our website at [www.napower.com](http://www.napower.com) to find out your current Variable Price.

**RESCISSION:** You will receive a confirmation notice from the NGDC confirming the selection of NAP as your natural gas power supplier. You have the right to rescind this Agreement within 7 calendar days after the date on which you receive the confirmation notice ("Rescission Period"). This Agreement is not binding until the Rescission Period has expired without you affirmatively

cancelling this Agreement. To rescind this Agreement, please call (888) 313-9086 or email us at [customercare@napower.com](mailto:customercare@napower.com). You may also rescind this Agreement by contacting the NGDC using the contact information provided below.

**BILLING AND PAYMENTS:** You will still receive one monthly bill from your NGDC for the Natural Gas Supply Service provided by NAP and the Distribution Service provided by your NGDC. You will continue to pay your NGDC directly on the due date as established by your NGDC. You should direct any questions regarding the bill to your NGDC. See “Contact Information” below for NGDC contact information. If the NGDC is unable to read your meter, the NGDC will estimate usage and charges will be calculated accordingly and adjusted on a future bill. Service under this Agreement is conditioned on the NGDC accepting NAP’s enrollment of your account for consolidated billing by the NGDC. If you are not eligible for consolidated billing, you are required to remedy that restriction with the NGDC before NAP can serve you. Should the NGDC cease providing consolidated billing for your account and/or commence billing us for any charges relating to you, NAP will bill you and you will pay NAP for all such charges. You will no longer be eligible for consolidated billing by the NGDC if you have any payments in arrears for 120 or more days, at which point NAP reserves the right to terminate this Agreement and may charge an Early Termination Fee as described in the “Termination” section herein. You will be billed additional charges from the NGDC consistent with its filed tariffs, including but not limited to charges for Distribution Services and taxes. You are responsible for paying any new or increased taxes, fees or other state-mandated charges imposed on NAP or you during the term of this Agreement. NAP will notify you if any new or increased taxes, fees or other charges are imposed. NAP reserves the right to change billing methods at any time and at NAP’s sole and absolute discretion. If you are claiming any tax exemption, you must provide NAP with written documentation of your tax exemption prior to commencement of service under this Agreement.

**BUDGET BILLING:** NAP does not offer budget billing for its supply services under this Agreement.

**LATE OR INSUFFICIENT PAYMENT:** When the NGDC issues you a consolidated bill, all invoiced balances not paid in full by the due date are subject to the NGDC’s late payment policies and procedures. If NAP directly invoices you, you are required to pay NAP invoices within 20 days from the invoice date and NAP reserves the right to charge you interest for any past due invoice amount, at 1.5% per month or the highest amount permissible under applicable law, whichever is less. In addition, you agree to pay NAP its costs incurred in collecting amounts owed us, including but not limited to reasonable attorneys’ fees and returned check charges of at least \$20 plus any applicable bank fees or the maximum fee allowed by law whichever is less. You can pay your bill by mailing it to North American Power, 1500 Rankin Rd, Suite 200 Houston, Texas 77073. If you make a payment for an amount less than the total amount due, NAP has the right to accept such payment without prejudice to any other rights or remedies that it may have against you. In any case, NAP may apply it to your account(s) as a partial payment.

**EMERGENCY:** In the event of an emergency such as a power outage, you should call your NGDC. See “Contact Information” below for the NGDCs’ emergency numbers.

**CUSTOMER INFORMATION AND RELEASE:** You agree to allow your NGDC to release certain information to NAP that will be needed to provide natural gas supply to you. This may include, but is not limited to, account number, billing address, service address, your historical and future usage, payment history, rate classification and credit information. You authorize NAP to release such information to third parties that need to know such information in connection with your natural gas generation service, as well as to its agents, affiliates, contractors, and subcontractors for any billing, collection and/or marketing purposes. These authorizations will remain in effect as long as this Agreement remains in effect. You may rescind these authorizations at any time by either

calling or providing written notice to NAP. NAP reserves the right to reject your enrollment or terminate this Agreement in the event these authorizations are rescinded, you fail to meet or maintain satisfactory credit standing as determined by us, or you fail to meet minimum or maximum threshold consumption levels as determined by us. If you fail to remit payment in a timely fashion, NAP may report the delinquency to a credit reporting agency.

**CUSTOMER COMPLAINTS AND DISPUTE:** If you have any questions or concerns regarding this Agreement or the Natural Gas Supply Service provided by NAP, you can call NAP’s customer service at (888) 313-9086. If you are not satisfied with NAP’s attempt to resolve the issue, you may seek assistance from the New Jersey Board of Public Utilities (“BPU”) or request information from the BPU regarding consumer protection rights under this Agreement. See the “Contact Information” section herein for the BPU’s contact information. If you dispute a bill, you shall notify NAP in writing or by telephone. **ALL CLAIMS OF ANY KIND ARISING OUT OF, RELATING TO OR IN CONNECTION WITH THIS AGREEMENT THAT ARE NOT RESOLVED THROUGH THIS PROCESS WILL BE HANDLED PURSUANT TO THE BINDING ARBITRATION; CLASS ACTION WAIVER PROVISION BELOW.**

**BINDING ARBITRATION; CLASS ACTION WAIVER.** In the unlikely event that you have any complaint or other dispute that is not resolved by NAP or the BPU to your satisfaction, or that we have a dispute with you and are unable to resolve it informally, **we each agree to resolve such a dispute through binding arbitration before the American Arbitration Association (“AAA”) under the Federal Arbitration Act (“FAA”) or small claims court, instead of before any other court. We each agree to arbitrate solely on an individual basis, and understand and agree that this Agreement does not permit class arbitration or any claims brought as a plaintiff or class member in any class or representative arbitration proceeding. The arbitrator may not consolidate more than one person’s claims, and may not otherwise preside over any form of a representative or class proceeding.**

**YOU AGREE THAT, BY ENTERING INTO THIS AGREEMENT, YOU AND NAP ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION OR TO SUE IN COURT (OTHER THAN AN INDIVIDUAL ACTION IN SMALL CLAIMS COURT AS DESCRIBED HEREIN).**

a. Scope. The term “dispute” includes any claim or controversy between you and us concerning or related to your Agreement with us and the electricity or gas supply you receive from us under that Agreement, under any legal theory including contract, warranty, tort, statute or regulation. This includes any dispute concerning arbitrability or the existence, scope, validity, construction or enforceability of this Agreement; such disputes shall be resolved by the arbitrator and you and NAP each waive the right to have those matters resolved by any court, including by a jury trial. Notwithstanding the arbitrator’s power to rule on its own jurisdiction and the validity or enforceability of the agreement to arbitrate, the arbitrator has no power to rule on the validity or enforceability of the agreement to arbitrate solely on an individual basis.

b. Notice of Dispute. If you have a dispute that has not been resolved by NAP customer service or the BPU, send a Notice of Dispute by U.S. Mail to NAP at the NAP Contact Information below with your name, address, contact information, summary of the dispute, and how you would like the dispute resolved. We will do the same with you. If we have not resolved the dispute within 60 days after that notice is sent, either of us may start an arbitration.

c. Small Claims Court Option. As an alternative to arbitration, you may bring an individual case in your county of residence or where you do business or Fairfield County CT if you meet the court’s requirements, so long as it remains an individual case in that court. You may, but are not required to, mail us a Notice of Dispute and give us 60 days to resolve the dispute with you before filing in small claims court.

d. **Arbitration Procedure.** The AAA will conduct arbitration under its Commercial Arbitration Rules or, if you are an individual and the electricity or gas supplied under this Agreement is for personal or household use, or if the value of the dispute is \$75,000 or less whether or not you are an individual or how you use the supply, its Consumer Arbitration Rules, in each case as modified by this Agreement. For more information, see [www.adr.org](http://www.adr.org). To start an arbitration, submit the appropriate form available at <https://www.adr.org/Rules> to AAA and mail a copy to us. In a dispute involving \$25,000 or less, any hearing will be by telephone unless the arbitrator finds good cause to hold an in-person hearing instead. Any in-person hearing will take place in your choice of your county of residence or principal place of business or our principal place of business, Fairfield County, CT. The arbitrator may award the same damages to you individually as a court could.

This provision shall survive termination or expiration of this Agreement.

**RESIDENTIAL CUSTOMER RIGHTS:** In the event that a residential Customer (a) relocates, (b) becomes disabled and is unable to pay for Natural Gas Supply Service, or (c) dies, this Agreement may be canceled with 48 hours' prior notice to NAP. If you cancel this Agreement, you are responsible for paying NAP through the date of the switch to another supplier or return to the NGDC for Natural Gas Supply Service. Switching to a third party supplier is not mandatory and you have the option of remaining with the NGDC for basic Natural Gas Supply Service. You are responsible for cancelling any agreements with any other natural gas supplier from whom you are purchasing natural gas as of the date of this Agreement. As a duly authorized account holder and being 18 years of age or older, you have read the entire Agreement and agrees to be fully bound by this Agreement.

**CONTACT INFORMATION:**

**North American Power and Gas, LLC (Natural Gas Supplier License # GSL-0114) contact information:**

Internet address: [www.napower.com](http://www.napower.com)

Mailing address: North American Power, 1500 Rankin Road, Ste. 200, Houston, TX 77073, Attention: Customer Service Department

Customer Service Telephone Number: 1-888-313-9086

Customer Service Email: [customercare@napower.com](mailto:customercare@napower.com)

**Natural Gas Distribution Company**

In the event of a gas related emergency, such as a gas leak or if you smell gas, you should call your NGDC depending on your provider: PSE&G at 1-800-436-7734, South Jersey Gas at 1-800-582-7060 (customer service at 1-888-766-9900), Elizabethtown Gas at 1-800-492-4009 (customer service at 1-800-242-5830), or New Jersey Natural Gas at 1-800-427-5325 (customer service at 1-800-221-0051).

**BPU Division of Customer Assistance**

The contact information for the BPU Division of Customer Assistance is as follows:

Internet address: [www.bpu.state.nj.us/bpu/assistance/index.html](http://www.bpu.state.nj.us/bpu/assistance/index.html)

Telephone number: 1-800-624-0241

Mailing address:

New Jersey Board of Public Utilities

Division of Customer Assistance

44 South Clinton Avenue, 7th Floor

P.O. Box 350

Trenton, NJ 08625

**FORCE MAJEURE:** Notwithstanding any other provision of the Agreement, if we are unable to carry out any obligation under the Agreement due to a Force Majeure the Agreement will remain in effect but such obligation will be suspended for the duration of the Force Majeure, so long as we use commercially reasonable efforts to remedy our inability to perform. "Force Majeure" means an event not within our reasonable control that we are unable to prevent or overcome in a commercially reasonable manner by the exercise of due diligence. Force Majeure includes, but is not limited to, acts of God; fire;

war; terrorism; flood; earthquake; civil disturbance; sabotage; facility failure; strike; curtailment, disruption or interruption of distribution, transmission, or supply; declaration of emergency by the NGDC; regulatory, administrative, or legislative action, or action or restraint by court order or governmental authority; or any act or omission of a third party not under our control.

**LIMITATIONS OF LIABILITY:** Liabilities not excused by reason of force majeure or otherwise will be limited to direct, actual damages. NAP's liability to you or any third party in connection with this Agreement shall in no event exceed the difference between the reasonable price of replacing any undelivered natural gas and its price under this Agreement. NAP assumes no liability for losses, consequential, incidental, exemplary, indirect or punitive damages, or damages related to third party claims, whether based upon contract, warranty, tort, strict liability, or otherwise. Customer acknowledges and agrees that the NGDC is exclusively responsible for the energy transmission and delivery system, that NAP has no independent control over your NGDC's systems and will have no liability for any of their acts or omissions. NAP does not assume responsibility or liability for losses, consequential, incidental, exemplary, in-direct or punitive damages arising from in-home or building damages. NAP is not responsible for any failure to commence or terminate your Natural Gas Supply Service on the dates stated herein, due to any delay in enrolling you. Nothing in this Agreement shall constitute any waiver of any right you may have under New Jersey or Federal Consumer Protection laws.

**REPRESENTATIONS AND WARRANTIES:** The natural gas sold under this Agreement will be supplied from a variety of sources, and will meet the quality standard of the NGDC. NAP makes no representations or warranties other than those expressly set forth in this Agreement. NAP EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

**TITLE, RISK OF LOSS, AND INDEMNITY:** Title to the natural gas shall pass from NAP to you at your NGDC's designated city gate, and shall constitute the point at which title transfers and the sale occurs. You acknowledge that NAP does not have care, control, or custody of your property or premises, or of any pipelines, including, but not limited to, points of access, or the meter located on or near your premises. You further acknowledge that you are in exclusive control (and are responsible for any damages or injuries caused thereby) of any natural gas at and from such access points. YOU SHALL INDEMNIFY, DEFEND, AND HOLD NAP HARMLESS FROM ANY CLAIMS, INCLUDING CLAIMS FOR PERSONAL INJURY, DEATH, PROPERTY DAMAGE, AND ATTORNEYS' FEES, ARISING FROM ANY ACT OR INCIDENT OCCURRING WHEN TITLE TO NATURAL GAS SERVICE IS DEEMED TO BE IN THE EXCLUSIVE CONTROL OF THE CUSTOMER, DESPITE OUR NEGLIGENCE OR STRICT LIABILITY.

**CHOICE OF LAW:** This Agreement will be governed by applicable federal law and the laws of New Jersey, without regard to its conflict of law principles.

**UCC:** Except as otherwise provided for in this Agreement, the provisions of the Uniform Commercial Code ("UCC") of New Jersey shall govern this Agreement and natural gas shall be deemed a "good" for purposes of the UCC.

**WAIVER:** No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. Failure of either party to exercise any right hereunder shall not constitute a waiver hereunder and shall not impair the exercise of such rights at any later time.

**SEVERABILITY:** If any provision of this Agreement is held by a court or regulatory agency of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall continue in full force without being invalidated in any way.